

## **Discussion on the Application Basis of the Sustainable Development**

### **Principle**

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*Abstract: The Gabcikovo-Nagymaros Dams case is one represent that sustainable development principle has been officially stated by the International Court of Justice in International environmental law cases in recent years. Long ago, human beings realized that the opposition between man and nature led to a series of environmental and resource problems. Faced with the stern reality, international environment laws emerge as the times require, and the sustainable development principle has become the basic principle of international environmental law beyond controversy. Only by implementing sustainable development and following the requirements of the development integration and environment can regulate the contradictions between man and the natural environment, adjust the contradictions between generations and rescue the crisis of the future of mankind. The purpose of this paper is to explore the existence basis of this principle from the angle of environmental ethics, jurisprudence and economics, thus revealing the significance of following sustainable development principle.*

*Keywords: sustainable development principle, international environmental law, intergenerational justice, generation equality*

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### **1. GABCIKOVO-NAGYMAROS DAM CASE**

Czechoslovakia and Hungary concluded a treaty in September, 1977, decide to jointly build and run two barrages on the Danube, divert water from the Danube as the boundary to the territory of Czechoslovakia, and operate a dual barrage system in a peak mode. The dam system planned by this Treaty is served for four purposes: power generation, navigation, flood control and regional development. It includes a reservoir. A large part of the reservoir, the power generating canal and the Gabcikovo power station are completely built on the territory of Slovakia, while the second dam is located in Nagymaros, 113 kilometers downstream, where the Danube lies completely on the Hungarian territory. The second smaller hydropower station operates in continuous mode e, while the "Old Danube" is still the border between the two countries and the river water is shared by the two countries.

In 1988, the Hungarian Parliament believed that the ecological benefits of this river are higher than the economic benefits of this project, passed a resolution to continue the project under strict environment protection rules, ordered the government to reevaluate this project. In May, 1989, the Hungarian government suspended the project in Nagymaros and announced that it intended to stop executing part of its part of construction near Gabčíkovo before the project's environmental impact was fully evaluated. However, Czechoslovakia decided to continue building this project and embarked on an "temporary solution" in 1991, and unilaterally cut nearly two-thirds of the Danube into a diversion canal in its territory. Because this decision not only has a significant impact on the Hungarian environment but also on its economy, Hungary formally lodged a protest to Czechoslovakia in February, 1992. In April 1992, the European Community mediated in vain. In May, 1992, the Hungarian government issued a statement, announced the termination of the 1977 Treaty on this project.

In October 1992, Hungary applied to the International Court of Justice, and requested adjudication of the International Court of Justice. In July, 1993, Hungary and Slovakia signed a special agreement to submit the dispute to the International Court of Justice. The agreement requests the International Court of Justice to adjudicate based on the 1977 Treaty, the "rules and principles of international law and other treaties which the Court finds applicable":

(1) Dose Hungary have the right to suspend and subsequently relinquish its part of the Nagymaros and Gabčíkovo project in 1989; (2) whether Czechoslovakia has the right to impose a " temporary solution " in November, 1991", and put the system into operation after October, 1992; (3) what is the effect of Hungary's notification of the termination of the treaty. Both sides also requested the court to decide the legal consequences of its verdict, including the rights and obligations of both sides. 1

For this "a treaty that which was for development and was suspended due to controversy about environmental considerations," both Hungary and Slovakia cite sustainable development in their respective written statements. Hungary even cited "Convention on Biological Diversity" in 1992. The International Court of Justice had fully given sustainable development with profound application significance for this problem, the paragraph 140 of the written judgment in this case quotes this concept in order to achieve the compatibility of concepts and values, and leave the supplementing task with more practical influence to both sides: "In the past 20 years, a large number of documents have developed new norms and standards. Not only when considering new activities, but also when continuing the activities that have already started, all countries must consider the new norms and pay enough attention to the new standards. The sustainable development concept fully expresses the need to reconcile economic development with environmental protection...for this case, both sides should review the environmental impact of the operation of the Gabčíkovo power plant. In particular, they must find a satisfactory solution to the water released by the old Danube channel and the tributaries on both sides of the river. 2 For that reason, sustainable development has been the basis for the final determination of one principle of international environment law.

Judge Weeramantry, the vice dean of the International Court of Justice, pointed out that since the sustainable development principle in this case is a fundamental principle that determine competitive factors, and because it may be play an important role in the process of resolving major environmental disputes in the future, and it needs to obtain more detailed consideration, and this time is the first chance that will receive the attention of this court's judiciary procedure. The case calls for the choice of an intermediate route between the needs of development and the need to protect the environment, which is the sustainable development principle. The sustainable development principle will play an important role in balancing the competitive needs between development and environmental protection. It has been recognized that the pursuit of development cannot cause any material damage to the environment where it is located, "there is no abstract development right, the development right is always related to the tolerance of the environment and it is a right explanation of the development right."

## **2. CONCEPT OF SUSTAINABLE DEVELOPMENT PRINCIPLE**

### **2.1 Basic Meaning of Sustainable Development**

It is generally accepted by academic circles that the sustainable development concept is defined by the World Economic and Development Commission "Our Common Future" in 1987, so-called sustainable development, which requires all countries to promote human beings and the harmonious development between human beings and nature as the goal when choose their development goals and formulate development plans, not only meet the needs of the current generation, but also does not endanger future generations to meet their needs. In fact, this definition is not applicable to the establishment of the sustainable development principle, but gradually gained people' recognition in later research. It includes two important concepts: the concept of "need", especially the basic needs of the world's poor, it should be given special priority to consider; the concept of "restriction", the restriction technical conditions and social organizations impose on the ability of the environment meeting immediate and future needs.<sup>4</sup>

### **2.2 Concrete Manifestation of the Sustainable Development Principle**

The concrete manifestation of sustainable development is four aspects.

First, it is the theory of intergenerational equity put forward by Professor Edith Brown Weiss in George Washington University. For the continued use of the earth's resources, she has a very novel formulation- trusteeship: she believes that each generation is the custodian of the earth's rights of the descendants, and the rights of each generation to exploit and utilize natural resources are equal, and what we are striving for is to achieve that justice. "As a kind of thing, we share the Earth's natural and cultural environment with other members of the modern age and past and future generations."<sup>5</sup> In addition, she also put forward a series of proposals such as the establishment of a planetary rights committee, protection of future generations of

investigators of human rights, investigators who protect the rights of future generations, and users' fees for the planet. According to her viewpoint, intergenerational equity contains three basic principles.

2.2.1 Save choice principle. Each generation should preserve the diversity of natural and cultural resources for future generations in order to avoid unduly restricting the options available when future generations solving their problems and satisfying their values, and enjoy the diversity rights that are comparable to their predecessors.

2.2.2 Save quality principle. Each generation should maintain the quality of the planet (it is the quality of the planet's environment) in order to not pass the worse condition to the next generation no worse than the predecessor, and enjoy the same quality rights as predecessors enjoyed the planets. The preservation of the diversity of choices is not only quantitative, but also includes the quality; the resources that future generations enjoy are consistent with quality the contemporary people enjoyed.

2.2.3. Maintain the principle of touch and access to. Each generation should provide its members with equal access and use the legacy of predecessors and maintain such access and use rights for future generations. She further thought that these intergenerational rights are not individual rights but a collective rights or generational right.<sup>6</sup>

Second, generational justice or call generational justice, namely, all people in the same generation regardless of the difference of nationality, race, gender, level, economic development and culture, they have equal rights for utilizing natural resources and enjoy and good environment. Generational justice require a fair distribution of environment and resources among the contemporary people, emphasize the different development space, namely any regional and national development cannot be at the expense of harm the development of other regions and countries, and emphasize that the human overall and long-term interests are higher than the local and temporary interests.<sup>7</sup>

The theory of generational justice is mainly applicable to the current problems existing in the international community, according to generational justice, people in any one region, nation and country enjoy the right to survive, develop and enjoy on this planet. Therefore, we should prevent the polarization between the rich and the poor among countries, nations and regions. To prevent the polarization between rich and poor must start with the fair optimization and allocation of resources. At present, the survival needs of the poor should take precedence over the luxury needs of the rich. <sup>8</sup> Only this way can guarantee the overall survival and development of mankind.

Once again, sustainable use, sustainable use is to use nature in a sustainable manner. For renewable resources, sustainable use is the utilization under the premise of retaining its optimal renewables performance. For non-renewable resources, sustainable use is to preserve and the use without exhausting it.

In international environment law documents, words with similar meaning of "sustainable use" are "fair use," "wise use," "proper use," "prudent use "and so on. In many cases, these words are interchangeable with "sustainable use". The core of sustainable use is to ask people

to hold an "extent" when they use natural resources. This "extent" is the regeneration ability and sustainability of natural resources. Immoderate exploitation and utilization of natural resources exceed the limit of supporting capacity of the environment, the development of human society will lose its material and energetic support and development will eventually be unsustainable.

The principle 16 and principle 8 in "United Nations Declaration of the Human Environment" are also reflected the methods and requirements of sustainable use. Firmly grasping the degree of utilization, using natural resources at the same time, also grasping nature's own recovery and recycling ability, is the key to achieve sustainable use.

Finally, environment and development integration, environment and development integration is the theme of the 1992 UN Conference on Environment and Development. On the one hand, environment and development integration require actually considering the need to protect the environment when formulating economic and other development plans. On the other hand, it requires fully considering development needs when pursuing environmental protection goals.

In 1972, Indian Prime Minister Gandhi said at the Stockholm Conference on the Human Environment, poverty in developing countries is the biggest environmental issue. To eliminate poverty is an indispensable prerequisite for achieving sustainable development, Developing countries regard economic development as the top priority for national development, there is nothing to be said against it, but they cannot immoderately develop, claim and even destroy the environment. However, the developed countries have more responsibility over developing countries in the global environment and natural resources, regardless of their historical reasons or scientific and technological conditions. We oppose a few developed countries to limit the economic development of developing countries through the name of environmental protection.

It can be seen from the connotation of the sustainable development principle that the principle of sustainable development not only insists on the harmony between mankind and nature, but also requires the realization of all-round development of mankind on the basis of harmony between the two; it is the integration of environment and development on this basis. Under the sustainable development principle, both environment and development should not be overlooked, when can find effective ways to protect the environment, we should try our best to achieve the development goal. The development right is a basic human right which is recognized by international law, we cannot give up eating for fear of choking. However, the environmental problem is one that we must always face in the development process. We must not blindly choose to develop our economy and kill the goose that lays the golden eggs instead.

### **3. THEORETICAL BASIS OF SUSTAINABLE DEVELOPMENT PRINCIPLE**

The sustainable development principle not only exists in the content of international environment law, which is a comprehensive guideline covering environmental ethics, law,

economics and many other aspects. For its principle application, we can explore from different theoretical basis.

### **3.1 The ethical foundation of the sustainable development principle**

As the environmental ethics concerned, the relationship between man and nature and the relationship between man and man, and the relationship between man and society interact and interplay, this effect has been increasingly verified in the modern social and ecological fields. Since the Industrial Revolution, under the guidance of a deep-rooted mechanical world outlook, human society has paid a heavy price for every accomplishment and progress, although the one-sided pursuit of economic growth deduced by anthropocentrism has achieved industrial civilization, human beings have caused severe vengeance of nature. The influence of industrialism on the material world has created an ecological threat and the relationship between man and nature has deteriorated into an ecological crisis.

There are debates between anthropocentrism and non-anthropocentrism on the ideology roots and solutions caused by environmental crisis. Anthropocentrists believe that the emergence of an environmental crisis has nothing to do with anthropocentrism, and the key of solving environmental problems lies in truly entering anthropocentrism. Non-anthropocentrists believe that the current environmental problems that mankind faced are due to the persistence of anthropocentrism, in order to fundamentally resolve the environmental crisis, we must completely go beyond anthropocentrism. At this point, we will not discuss the dispute between the two doctrines, from the perspective of environmental ethics, we understand the sustainable development principle under the modern standards, we need to change the traditional values that take human beings' interests as the final measure, and establish the sustainable development with new nature value judgment and significance analysis.

Marx said: "nature its own is not the human body, which is the inorganic body of man, and man lives by nature, that is to say, nature is the separated body of human beings. The physical life and spiritual life of human are inseparable from the natural world, which means that nature cannot be separated from itself, because man is a part of nature. "However, the practice of modern society has largely put the nature opposed to man, people courageously start endless mad plunder of nature, and the meaning of nature's existence for man has been stripped away. Calling for scientific values to make value judgments requires people to return to nature and reflect quietly.

The "sustainability" of development intrinsically requires the proper handling of intergenerational and generational relations and avoids intergenerational and generational conflicts. The establishment of intergenerational and generational ethics, to achieve intergenerational continuity and generational equity is the basic premise of sustainable development. Intergenerational ethics expands the object of moral care from the present generation to the future generations, and extends the internal ethical relationship between the present generation to the ethical relationship between the present and future generations, and

further expand the scale of ethical concern and thinking. Achieving generational justice requires a relatively large-scale adjustment of the vested interests of all countries, especially the developed countries. It is not easy to achieve generational justice. As Ben Boole, an Australian scholar, points out that the fair implementation of generational justice is full of political, economic, social and practical difficulties, if governments of all countries take the generational justice seriously, they encourage the organization of society, the operation of industry and commerce, and the people's life style to reform deeply.

The core of the sustainable development concept is justice and harmony from ethical viewpoint. Justice includes intergenerational justice and generational justice in different regions and different populations; and harmony is the harmony between man and nature in global scale. The core requirement of justice is achieved by the distribution of social members' interests and in a balanced manner with rights and obligations. The generational justice is an international political and economic order that adjusts inequality, eradicate world poverty and seek common development. Justice first is a matter of reality; secondly, it is an ideal problem. Human society pursues sustainable development; it should first meet the specific requirements of generational justice. Only achieving generational justice can guarantee social stability and promote social development.

As UNESCO secretary-general Mayor said, "People are both the first leading role and the ultimate goal of development". The sustainable development principle reflects the high concern on people. It not only focuses on the interests of the contemporary people, but also pay close attention to the interests of future generations. To respect the future generations is to respect ourselves. Respect nature is to respect you. Only in this way, sustainable development truly point to the future and seek strong ethical support.

### **3.2 Legal basis of the sustainable development principle**

When talking about legal basis, it is necessary to contact the value of law. The value of law is the basic performance that the law meets the needs of human existence and development, namely the usefulness of law to human beings. Whether anthropocentrism or non-anthropocentrism, the application of legal principles in law must have driving force for social development and progress and serve human society.

Generally speaking, the basic values of law should be order, freedom, justice and efficiency. Order is the foundation to guarantee other rights and values. So is the natural order, the order of nature is the major premise for the overall development of mankind in the global environment. Freedom is the pursuit of human for one thousand years, which is not a single, indulgent, disordered freedom, but is general freedom of all human, it is the freedom between man and nature, respect among people, and on the basis of protecting each other. As for justice, Edgar Bodenheimer thought that justice "has a Proteus-like face, changing all the time, can present different shapes at any time, and has a very different appearance". As far as the author understands, the essential justice is fair and reasonable, and it is lawful and realistic. Efficiency

is a concept in economics, modern scientific and technological society in pursuit of efficiency, the formulation and implementation of the law in order to guarantee development of fast and efficient in the stability of social order in the to a large extent.

It can be seen from value pursuit of law that the sustainable development principle reflects its scientific value orientation in international environmental law. First, beyond the scope of human social order, the pursuit and protection of order has been extended to the whole ecosystem of nature. The "butterfly effect" of environmental problems determines that no country can be immune to global environmental crises. Therefore, all countries in the world beyond the interests of the state as far as possible; help each other, jointly develop, thus creating a world where man and nature coexist peacefully and orderly, then protect earth's environment, thus realizing sustainable development. Secondly, the vengeance of the natural world for decades is the best footnote to the concept of freedom, and people have realized that freedom is not unlimited demand and unlimited squander. Thirdly, the embodiment of justice exists mainly in the two basic meanings of intergenerational justice and generational justice. Each generation has the basic right to live and develop; this right cannot be deprived by previous generation, saving and protecting natural resources is the embodiment of justice among generations. And among modern people, regardless of the existence of various differences, everyone has the basic right to survive and develop, as stated earlier; survival demand of the poor should take precedence over luxurious demand of the rich. As for efficiency, decades of experience make people understand, the rapid development can be obtained from the presumptuous plunder of the environment for a short while, but it is the expense of decades or even hundreds of years irreparable and serious damage, this one-sided transient efficiency is an obstacle to the sustainable development, the current ecological crisis is the best example. Therefore, from the purpose of establishing the law and the ultimate pursuit, sustainable development has its existence and the necessity of long-term existence.

### **3.3 Economics theory of sustainable development principle**

To do everything possible to promote economic growth has long been a topic of interest for economists. However, when people simply regard pursuing economic growth as their entire social progress, a lot of economists have seen the hidden crisis behind the one-sided economic growth. What makes people from the self-glorification that blindly insists on economic growth is called "The Limit of Growth" research report by the Club of Rome in 1972. Correspondingly, Simon, optimist representative "last resource" (translated "no limited growth"), the book focused on criticizing the limitation theory of economic growth. Simon believes that "in any economic sense, natural resources are not limited," "the quantity of natural resources we can get, and more important, the utility that such resources may provide us are never known" "Our energy supply is not limited to the amount of energy the planet has right now, so energy is infinite in any sense."

The scientific nature and rationality of the sustainable development principle lies in the fact, which is the dialectical and abandoned result that economic growth limit theory put forth by the pessimists and on the limitless economic growth advocated by optimists. The sustainable development principle does not choose the zero-growth path as the pessimists do, and even some extreme environmentalists require people in the "no production, no birth, no farming, no factories, no breeding, no logging, no hunt, no fishing, no travelling, no throw away, no building" state, don't do anything, and do not like as optimistic think development of science and technology will bring people unlimited resources, science and technology will solve any difficulties in the economic growth process, economic growth will never be constrained by resources blindly optimistic.

The sustainable development principle is not a compromise on the arguments of both economic growth limit and infinity, but it is a more rational and realistic choice based on the rationality of both sides. In 1966, U.S. economist K. E. Boulding proposed a "spacecraft economic theory" that differed from the previous "shepherd economy" growth pattern. He thought the economic system should be a "space shuttle type" closed circulatory system, the economic development should be resource reserve type and rehabilitation and welfare types, the rational development model should recycle natural substances and make the limited space and resources used reasonably and for a long time. This viewpoint reflects the representation and application of sustainable development principle in economics.

#### **4. CONCLUSION**

The sustainable development principles as a powerful comprehensive and overlapping basic principle, the sustainable development principle involves many fields, the above are to understand the exiting necessity and guiding meanings of the principle of sustainable development from environmental ethics, legal value and economic theory, we must recognize that the of sustainable development principle is the fundamental principle of international environmental law principles. As Mr. Pan said, the environment problems not only focus on some micro issues, and should focus on some fundamental problems on the macroscopic, relations between man and nature does not handling, it is the essence of the current global environmental problem. For this reason, the basic principle of international environment law, the harmonious development between human and nature is the most basic principle. If violate the big principles, and other environmental problems can't be discussed at all.

There is no denying that the sustainable development principle still has many flaws and ambiguity in the implementation of specific legal system and practice. In 2009, United Nations Copenhagen climate change and framework conference have consensus without end results, which made us understand that the sustainable development road is not flat, it still need more efforts and devotion, but the author believes that the sustainable development principle must and eventually have been guiding the development of international environment law and always help the human to realize the value pursuit of order, freedom, justice and efficiency.

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