

Sustainable Development and Liability for Environmental Damage

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Abstract. Sustainable development is the way to deal with the environmental crisis. How to achieve sustainable development is a practical problem that mankind has been facing. To overcome the problem of sustainable development, how to deal with damage to the ecological environment itself is very important and urgent. Environmental damage liability is to require the perpetrator who causes environmental damage to bear the consequences of the state. As a new form of liability, environmental damage liability needs to be studied from the concept itself. In order to promote the legal responsibility of environmental damage, we must make clear its connotation, characteristics and significance.

Introduction

Sustainable development is a topic of common concern in the world today. Sustainable development pays more attention to the harmonious relationship between man and nature, more respect for the natural environment itself. At present, the environmental crisis is becoming more serious, therefore the ecological environment damage is gradually found and attention. Environmental damage liability is to require the perpetrator to cause environmental damage to bear the consequences of the state. The liability of environmental damage is put forward to prevent human's harm to the environment itself, and promote the sustainable development. Throughout the world, the liability of environmental damage is still in the initial stage of research and practice, environmental damage liability should become a new important research topic.

I. The Origins of Liability for Environmental Damage

1.1 Appeared at the world environment summit

In 1972, the Stockholm Declaration achieved at the first global environmental summit, required States to ensure that their activities do not harm the environment of other countries or areas outside their own countries, and that environmental pollution or other damage should be undertaken and compensated. Stockholm Conference put forward the proposition of environmental damage liability. In 1992, the Global Environment Summit was re-convened to form the Rio Declaration on Environment and Development, which reaffirmed the State responsibility for environmental damage compensation [1]. Although the two global summits put forward the issue of liability for environmental damage, the concept of environmental damage liability defined vague. From the two documents formed by the summit, the summit pointed out that the environmental damage liability is more environmental pollution or broken ring caused by personal or property damage civil liability, but damage to the environment itself is not the legal responsibility of its focus.

In 2001, the United Nations Environment Program adopted "the Montevideo Program for the Development and Periodic Review of Environmental Law for the First Decade of the Twenty-first Century", urging States to enact legislation on liability for damage to the environment in domestic law [2]. In 2009, the United Nations Environment Program discussed "Experts Meeting on the Draft Guidelines for the Development of National Legislation on Liability, Response Action and Compensation for Damage caused by Activities dangerous to the Environment" [3]. The draft further provides for environmental damage liability and compensation issues for the less developed countries to provide environmental damage liability legislation reference. The international community has given sustained attention to the environmental damage liability and continuously

promoted the implementation and enforcement of environmental damage liability, thus providing a new way for sustainable development.

1.2 National legislation and policy responses

Driven by the International Environmental Summit, the United States took the lead began to focus on environmental damage, developed and adopted “Comprehensive Environmental Response, Compensation and Liability Act”. The Act establishes super-fund projects to deal with highly polluting and hazardous wastes, and the legal liabilities for breaching this law include not only compulsory removal of pollution, compensation for all clean-up costs, but also compensation for environmental losses; EPA can also take any necessary administrative measures to protect public health and environmental interests [4]. In 2004, the EU issued “the Environmental Liability Directive on Preventing and Remedying Environmental Damage” which is responsible for damage to the environment itself, excluding traditional environmental infringement. The EU makes a formal distinction between “traditional damage” and “environmental damage”, “traditional damage” only refers to personal injury and property damage. Under the EU “Directive on Environmental Liability for the Prevention and Remediation of Environmental Damage”, Germany enacted” the Law on Prevention and Recovery of Environmental Damage” in 2007, which expressly provides for damages not applicable to persons and property and only applies to Damage to biological species and habitats, damage to water quality, and damage to soil [5]. The United States, the European Union and Germany have developed a system of liability for damage to the environment itself.

In China, the 18th National Congress of the Communist Party of China made it clear that “vigorously promote the construction of ecological civilization”, “to improve the ecological environmental protection responsibility system and environmental damage compensation system. The Third Plenary Session of the 18th Party Central Committee pointed out: “establish a complete system of ecological civilization system, with the system to protect the ecological environment”. The Eighth Central Committee of the Party pointed out that “the most stringent environmental protection system”. September 2015, the CPC Central Committee and State Council issued the “ecological civilization reform program”, program 33rd expressly provides that “strict implementation of the ecological environment system damage compensation system”, “improve the environmental damage compensation legal system, assessment methods and Implementation mechanism... For the damage caused by the ecological environment, the degree of damage and other factors to determine the amount of compensation according to law. December 2015, the CPC Central Committee General Office of the State Council issued a special “eco-environmental damage compensation system reform pilot program”, the program clearly states that the program is only applicable to the ecological environment of their own damages, excluding personal and property damage compensation. Although the issue of environmental damage in China has been a great deal of attention, China has no special ecological damage compensation legal system, environmental damage liability judicial practice is not yet mature.

II. The Connotation of Liability for Environmental Damage

2.1 The occurrence process of environmental damage

To understand the environmental damage, we must first restore the environmental pollution or damage to the whole process. Environmental pollution or damage directly to the environmental factors after the production, the first environmental elements caused by pollution or damage to people through the environmental elements of pollution are affected, such as cadmium rice and cancer villages. Environmental pollution or damage can directly affect the human body and property, can be indirectly through the violation of environmental factors to the adverse effects of personal and property. From a relatively static point of view, environmental pollution or broken ring can only stay in the environmental elements of the infringement, does not produce indirect personal or property damage. Since damage to the environment itself is not easily perceived directly, environmental damage has been quietly accumulating and continuing to ferment.

2.2 The nature of environmental damage

Environmental interests are the nature of environmental damage. The environmental interests behind the phenomena of environmental damage are the security interests of human survival and development. Environmental interests are the overall interests of mankind, can not be segmented, can not be owned by a single person, not exclusive, can only be the enjoyment of all humans. Environmental interests are the common interests of mankind. Environmental damage is also the common interests of mankind, rather than a person's interests. Although environmental interests are not personal interests and property interests, they provide security for the personal interests and property interests. Environmental interests are the basis of human interests. Environmental benefits not only involve the contemporary people to meet the good ecological environment, but also related to the next generation or next generations to meet the needs of a good ecological environment.

2.3 Analysis of the meaning of environmental damage

At present, there are two kinds of voices in the field of environmental damage. One kind of sound is the environmental damage of generalized concept, which includes damage to the environment itself and environmental tort, which is damage to person and property rights. The other is the narrow sense of environmental damage, specifically refers to the damage to the environment. Because environmental damage to people and property has already been concept of environmental infringement, tort law has already written regulations on environmental infringement. Therefore, environmental damage simply refers to damage to the ecological environment itself is more practical significance. Because the fact that damage to the environment itself has long been ignored, the current stage of urgent need to enter the field of vision. As a result the definition of environmental damage is more appropriate to use the narrow concept.

More importantly, the definition of environmental damage in a narrow sense is in line with the spirit of the CPC Central Committee. The CPC Central Committee General Office, the State Council issued the "ecological environment damage compensation system reform pilot program". The program defines the definition of ecological damage "Environmental factors such as the atmosphere, surface water, groundwater, soil, and biological factors such as plants, animals and microorganisms, and the degradation of ecosystem functions that constitute these elements, are caused by pollution of the environment and destruction of the ecology". The program stated that "the legal provisions relating to personal injury, loss of personal and collective property, compensation and other applicable tort liability law" do not apply to the program. As the basic direction of China's future ecological and environmental damage compensation legislation, the program makes the concept of ecological environmental damage specific, specifically refers to damage to environmental factors and ecological functions, no longer contains the connotation of environmental infringement. Environmental damage has become the specific term in the environmental law.

III. Characteristics of Environmental Damage Liability

Liability for environmental damage refers to the legal responsibility that should be borne by the environmental quality degradation and ecological function impairment. The environmental damage is the fact of legal liability, which only refers to the adverse consequences that should be borne to the damage to the environment. Environmental damage liability is an important part of environmental liability, which includes environmental damage liability. Environmental damage liability has its own characteristics.

3.1 The subject of responsibility is broad

Any human activities or production activities exceeding environmental capacity to the environment or intentional destruction of the ecological environment of the behavior, once the ecological environment itself to determine the damage caused by the fact that it should bear the responsibility for environmental damage. The natural person, the enterprise legal person, the government may become the environmental damage responsibility bearer.

3.2 Prosecutors are legally binding

Once the damage to the ecological environment, the ecological environment itself can not be prosecuted, only on behalf of the people to protect the public interest in the environment can claim, the state law to give the prosecution of the government, prosecutors, environmental protection public interest groups, can investigate the responsibility of those who destroy the environment. Prosecution subject has strict requirements, can not arbitrarily give up the right to sue.

3.3 Responsibility with the restoration of compensation

The environmental damage is carried out by the perpetrator, depending on the circumstances. The ecological restoration may be carried out as well as the economic compensation. Therefore, the liability for environmental damage is mainly a kind of restorative liability. Once the damage to the ecological environment, need to bear the responsibility of repairing the damaged ecological environment, once can not be repaired, the need to give some economic compensations, thereby reducing or mitigating the adverse effects of environmental damage.

3.4 Responsibility is complex

Environmental damage to the object is the natural environment, the natural environment without signs of life, can not perceive the extent of damage, and the damage results with multiple causes, with variability, the need to use technical means to identify the damage facts and the link between environmental damage, the need for technical standards and the degree of environmental damage, this technical requirement makes the environmental damage liability even more complex.

IV. The Significance of Environmental Damage Liability

4.1 Promote the sustainable development practice

Sustainable development is a kind of ideological and theoretical civilization. Environmental damage liability is a kind of institutional civilization. Ideological and political civilization is the basis of institutional civilization. Institutional civilization is the crystallization of ideological and theoretical civilization. Institutional civilization reflects the connotation of ideological civilization. The responsibility of environmental damage from the perspective of institutional construction to sustainable development to the forefront of the practice of environmental damage liability system is the institutionalization of sustainable development theory extension of the theory of sustainable development of practical expansion.

4.2 Strengthen the rigid environmental protection

The responsibility of environmental damage is based on the current status of the legislation vacancy of ecological environment damage, the deterioration of the ecological environment, environmental law is not rigid, in order to cause people to concern about the ecological environment itself, put the environmental infringement prevention barrier forward, promote environmental damage by separate legislation, highlight the environmental law to protect the ecological environment of its own mission, so that the normal return of environmental law to its legal status in the past. The establishment of legal responsibility for environmental damage is one of the most stringent environmental protection systems, the prerequisite and basis for the implementation of the most stringent environmental protection system. If there is no legal liability mechanism for environmental damage, the most stringent environmental protection system can only be empty slogans.

Conclusion

On the road of sustainable development, people pay more and more attention to the environment itself, and the environmental damage liability comes into being. Environmental damage is caused by man-made damage to the ecological environment itself. As well as the behavior target, the

behavior object is the environmental damage phenomenon behind the environmental interests. Environmental damage will lead to environmental degradation and degradation of ecological functions, which is one of the main causes of deterioration of the ecological environment. Environmental damage is the logical starting point of current environmental problems. The responsibility of environmental damage is the legal response to the fact of environmental damage. It is the product of the times when the environment itself continues to worsen, the level of people's environmental cognition rises, the construction level of environmental law is improved and the degree of civilization develops. The responsibility of environmental damage should be a kind of legal responsibility to repair the environmental quality and restore the ecological function, which is different from purely civil liability, administrative liability and criminal responsibility. The establishment of environmental damage liability is intended to echo the ecological environment itself in the theory of sustainable development, to protect the environmental interests behind the phenomenon of environmental damage, intended to strengthen the rigid nature of environmental law, intended to promote the most stringent environmental protection system specific Implementation.

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