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On the Value Stand of Environmental Law

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Abstract

It is found from the different perspectives of the analysis on anthropocentrism and ecocentrism that strong anthropocentrism is difficult to get out of the excessive self-consciousness that is arrogant to the natural environment, and that there are inextricable theoretical defects and practical problems in ecocentrism. The confrontation between the two has promoted anthropocentrism to evolve to produce a new and more reasonable value-weak anthropocentrism. Weak anthropocentrism can not only overcome the various drawbacks in strong anthropocentrism and ecocentrism, but also avoid damaging the principal status of human and trigger human respect to natural environment; It can not only help to build advanced and mature criminal legislation on environmental pollution, but also actively guide human to make use of environment rationally; It can not only help effectively punish the criminal behavior of serious pollution of environment, and will not hinder human needs of survival and social development. In the sense, the environmental value of weak anthropocentrism is the best choice for the criminal legislation on environmental pollution.

Key words: Anthropocentrism; Ecocentrism; Weak anthropocentrism; Position

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INTRODUCTION

In general, the value orientation of environmental law refers to anthropocentrism and ecocentrism. In 1970s, the criminal laws on the environment of all countries could be said as almost based on anthropocentrism. Until the middle and late 1970s the unilateral high-speed development of economy brought about deteriorating environmental pollution and a series of environmental incidents, such as Japan's two Minamata disease events during the 1950s-1960s and Germany's groundwater pollution incident in the 1970s, etc. People gradually realized that the previous legislation only concerned about human interests but neglected the protection of environment. Therefore, they put forward the value stand of ecocentrism aiming to protect ecological elements.

1. BRIEFING OF ANTHROPOCENTRISM

The two concepts of anthropocentrism and ecocentrism firstly appeared in the West and were proposed by environmental ethics. Anthropocentrism holds that in the relationship between human and environment, human consciousness is the subject and environment is the object, and that all human activities should take human interests as the ultimate objective. Mr. Yu Mouchang, the director of Chinese Society of Environmental Ethics and the professor of Graduate School of Chinese Academy of Social Sciences, believes that anthropocentrism is a "human-centered view whose essence is that everything should be human-centered to serve the interests of human and meet the needs of human." (Yu, 1994)

The environmental stand of anthropocentrism has existed since the ancient times. Apart from the human sense of divine reverence to the mysterious nature in ancient times due to the backwardness of civilization and simplicity of tools, anthropocentrism is becoming more apparent with the awakening of human self-consciousness. The expression of anthropocentrism firstly appeared in the

West, dating back to the Greek philosopher Protagoras in the fifth century BC, who believes that “human is the scale of everything”. A hundred years later the Greek philosopher Aristotle advocates that all animals are created by nature for human beings. In the Europe of Medieval Times when the theology prevailed, it can be found from the “Geocentric Theory” of Ptolemy to the *Bible* where God said to man Noah, “Everything that lives and moves will be food for you. Just as I gave you the green plants, I now give you everything” that anthropocentrism of this period was covered with a layer of theological veil. The later modern anthropocentrism put aside the veil of medieval theology, claiming to achieve human purpose with the help of human reason. The representatives are Kant who advocates “only human (because of rational) are eligible for moral care” and Locke who proposes the subjectivism that “human is the master of nature who dominates everything”. They hold that human do not have a direct obligation to animals. Animals are not rational existences but only the tools to achieve purposes. Human is the master of the nature.

After the twentieth century, especially when industrial society developed and natural environment was severely damaged, people began to doubt the environmental stand of anthropocentrism which was once deeply rooted and began to argue that anthropocentrism led to global environmental problems. Some scholars, led by the American environmental ethics scholar B. G. Norton, have proposed the modern anthropocentrism, or weak anthropocentrism to be contrary to strong anthropocentrism in the past. Norton believes that strong anthropocentrism only pursues the “good feeling” of individuals and drives people to plunder nature according to their own needs, but weak anthropocentrism advocates “good thinking” based on rational behaviors, guiding people to live in harmony with the nature and make rational use of the nature (Sun, 2012). It is simple to say that weak anthropocentrism is a revision of the traditional anthropocentrism or strong anthropocentrism (Xu, 2007, p.4). Although it is still a kind of anthropocentrism whose starting point and destination lies at human interests, survival and development, it makes rational restrictions and choices on human needs and recognizes human moral responsibility to other natural bodies while endorsing human superiority and subjectivity. Apparently, weak anthropocentrism is more progressive than anthropocentrism and should be more backed by people.

2. BRIEFING OF ECOCENTRISM

The view of ecocentrism is just contrary to anthropocentrism, advocating human activities should be based on the interests of environment. The reason to propose ecocentrism is because its advocators believe that although anthropocentrism guides people to fully play the initiative and creativity to build a human civilization in the process of understanding and transforming the world,

it also led to the nature’s repeated revenges due to human positioning as the owner of the nature and the wanton conquer and request to natural environment. Whether it is strong anthropocentrism or weak anthropocentrism, they only led to more serious environmental problems. Therefore, with the development of environmental ethics in the 1970s, ecocentrism, as a new environmental value, gradually attracted people’s attention and was supported by a considerable number of people. Ecocentrism holds that environment not only has the value as a tool used by people, but also has its intrinsic value for its own existence, development and reproduction independent of human’s will. Human beings and environmental elements are morally equal. Human needs can not have a priority in the event of interest conflict with environmental elements. They must uphold the value stand of ecocentrism and the intrinsic value theory of nature, promote the ecological environment to a sufficiently high level, then they can resolve the unprecedented crisis between human and natural environment.

3. THE CONFRONTATION BETWEEN THE VALUES OF ANTHROPOCENTRISM AND ECOCENTRISM

Specifically, the confrontation between the values of anthropocentrism and ecocentrism is mainly focused on the following aspects.

3.1 On the Utilitarian View of Nature

Anthropocentrism believes that in the relationship between human and environmental factors, human have superiority and human needs are the first to be met. Human are able to become the owners of environment through their practical activities, and natural environment has the value only as a tool used by human. There are also some obvious divergences between strong anthropocentrism and weak anthropocentrism on the utilitarian view of nature: Strong anthropocentrism not only considers that human are superior and have absolute dominance over natural environment, but also are free to destroy any non-human natural object as needed; weak anthropocentrism holds that human needs can not be unbridledly expanded but must be rationally restricted. Human has moral and protective responsibilities to the nature. Ecocentrism argues that the relationship between human and natural environment should not be based on utilitarianism but be equal as the common members of the ecosystem. The development and use of natural environment must be carried out within a reasonable range. Anthropocentrism, especially strong anthropocentrism blindly exaggerates its dominant position and sees the natural environment as a tool for achieving human purposes, which will inevitably lead to wanton development, destruction of environmental elements and eventual retaliation by the nature.

The author believes that on the utilitarian view of nature, weak anthropocentrism and ecocentrism are reasonable. They are different only in the equality of human and natural environment, but both oppose the wanton human predatory behaviors focusing on immediate interests, oppose the pure utilitarian environmental values, and advocates of the rational limit of development and utilization of the nature. There is no essential difference between the two. It can be seen from this point that anthropocentrism is gradually aware of its incorrect view in the confrontation with ecocentrism, accepts the rational view of ecocentrism, revises and develops itself through the way of weak anthropocentrism.

3.2 On the Intrinsic Value Theory of Natural Environment

Both anthropocentrism and ecocentrism recognize that the natural environment is valuable to human, but ecocentrism advocates that natural environment, like human beings, has a self-intrinsic value independent of foreign objects on the grounds that natural environment exists prior to human and its value also precedes human. Natural objects are interdependent, self-created and self-developed. Their existence is to maintain the balance of ecosystems, is the demand for life, not for human needs. Many advanced creatures have the same ability to evaluate as human, so they have intrinsic values. Anthropocentrism, on the other hand, believes that the natural environment does not have an intrinsic value. Value is human's subjective evaluation in the natural environment and did not exist before human. Only human can be the subject of value and have an intrinsic value.

In general, the author agrees more with anthropocentrism on the intrinsic value theory of natural environment, holding that natural environment having intrinsic value independent of human is wrong with the reasons as follows: (a) Although the nature exists before human, it can not be said that its value exists prior to human. What preexist are just the objective properties such as color, structure, shape and weight, etc., which are not the same with values. (b) The nature indeed, as ecocentrism claims, can perform the function of reproduction as lives, but the ability to survive and reproduce is not equal to intrinsic value. In addition to the characteristics of self-development and evolution, intrinsic value also requires to have a purpose of survival and ability to evaluate, which are unique for human beings with consciousness and practical ability. The so-called purpose of survival of other non-human advanced creatures is only a habit of living or inertia, an objective result of evolution under the natural law of survival. The so-called value evaluation ability that they show is only a physiological ability to reflect. There are only factual problems in them without consideration of value, and goods and bads are ultimately evaluated by human. (c) Value is not an objective property of natural environment

but a subjective evaluation to natural environment. Our judgment on the intrinsic value of natural environment can not escape the human vision, and in fact, can only be the value recognized by human even if natural environment has an intrinsic value. Leaving the value recognized by human, many objective things or phenomena are just facts without the differences from good to bad. (d) Although the author does not recognize the internal value theory of environment, from the perspective of nature conservation, it to a certain extent impacts the environment tool value theory which was regarded as a criterion, and guides people to pay more respect to and cherish the nature. It has important enlightenment and reference for people to form a more scientific environmental value.

3.3 On the Morality of Nature

Based on the support of intrinsic value theory of natural environment, ecocentrism holds that natural environment is also ethical and moral. Morality exists not only between human, but also between human and environment. Human and natural environment should be morally equal. Anthropocentrism, on the other hand, believes that natural environment is not conscious and can not have morality. Morality only exists between human. Weak anthropocentrism has made some improvements on the basis of strong anthropocentrism. Although it still does not recognize the moral equality of human and natural environment, it recognizes that other organisms are also members of the life bonds, so we have a certain ethical relationship with them (He, 2002, p.345).

The author believes that morality requires two-way communication and exists only between human. Human and natural environment can never be morally equal. At this point, weak anthropocentrism pays more attention to environment protection than strong anthropocentrism, recognizing that human have an unshirkable moral responsibility for natural environment and that human should respect and protect the nature. However, this responsibility is not a direct moral responsibility for natural environment but an indirect moral obligation. Human are closely related to the nature, and for the overall and long-term interests of mankind, human must be friendly to natural environment in order to maintain the harmonious relationship with environment and avoid bringing disasters caused by depletion of resources and damage of environment to future generations. The moral concern of natural environment is in fact out of the concern and moral responsibility to human descendants, not out of the morality to natural environment.

CONCLUSION

Strong anthropocentrism is difficult to get out of the excessive self-consciousness acting recklessly to natural environment, and ecocentrism can not properly

resolve the theoretical flaws and practical difficulties, the confrontation between the two has promoted anthropocentrism to evolve to produce the new and more reasonable value-weak anthropocentrism, which can not only overcome the various drawbacks in strong anthropocentrism and ecocentrism, but also avoid damaging the principal status of human and trigger human respect to natural environment; it can not only help to build advanced and mature criminal legislation on environmental pollution, but also actively guide human to make use of environment rationally; it can not only help effectively punish the criminal behavior of serious pollution of environment, and will not hinder human needs of survival and social development. In the sense, the environmental value of weak anthropocentrism is the

best choice for the criminal legislation on environmental pollution.

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