

Comparative Study on Marine Environmental Protection Legislation Between China and Japan from The Perspective of International Environmental Law

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Abstract. With the development of the economy and the rapid expansion of the global population, the effective utilization of marine resources has become an important way to alleviate the burden of the global population and environmental pressure. After entering the 21st century, the ocean is a strong driving force to promote the sustainable development of human society, however, with the development of industry, many countries have more or less fallen into the “vicious circle” of developing at the expense of the ecological environment for economic benefit. In recent years, a large number of chemicals by human activities and exploitation at sea has caused an imbalance of ecological environment in large area of sea areas; Discharging a large amount of industrial wastewater into the ocean, has deepened the degree of eutrophication is greatly and resulting in frequent red tides; the dumping of land waste makes it impossible for marine life to survive, and a large number of marine plants and animals died. In order to protect the natural environment, International environmental law was concluded in Stockholm, Sweden, in 1972. Both China and Japan are maritime powers, and detailed marine environmental protection laws and regulations have been formulated on the basis of international environmental law. This paper makes a comparative analysis on the similarities and differences of marine environmental protection legislation between China and Japan, and it is believed that Japan pays more attention to the protection of the domestic environment, while China has assumed more responsibilities as a big country in the legislation of marine environmental protection.

Keywords: International Environmental Law, marine environmental protection, the common destiny of humans, harmonious development.

1. Introduction

With the rapid development of the modern economy, the marine environment has been greatly polluted, and in order to protect the marine environment, the United Nations Convention on the Law of the Sea has emerged, on the basis of which many countries have carried out corresponding legislation in accordance with their marine development and protection strategies [1]. Both China and Japan have increased the control and control of land-based pollutants in order to reduce the impact of land-based pollution on the marine environment, but there are great differences in the policy objectives, policy environment and responsibility for marine environmental governance. Japan's more prominent success stories in marine environmental governance include the management of the inland sea and the management of Lake Biwa in He Xian Prefecture, the Global Programme of Action for the Protection of the Marine Environment from Land-based Pollution, the Pacific Northwest Action Plan and the Basic Law of the Oceans, for example, the Japanese government's plan to discharge Fukushima nuclear wastewater into the Pacific Ocean has been widely criticized by countries around the world. Compared with Japan, although China started relatively late in the legislation on marine environmental protection and its environmental protection effect is weaker than Japan's, China has adopted the same strategy both inside and outside in terms of responsibility, and the Law of the People's Republic of China on Marine Environment Protection clearly states that it wants to protect and improve the marine environment [2, 3].

2. Analysis of the trend of Sino-Japanese environmental protection legislation based on natural conditions

2.1. The concept of sustainable development in Japan's environmental protection legislation

Surrounded by the sea, Japan is a typical maritime country, Japan attaches great importance to the protection of the marine environment and resource management legislation. Japan has made it clear in environmental laws such as the Basic Law on the Environment, the Natural Environment Protection Act and the Basic Law on Biodiversity that the environmental interests of future generations should be protected. Japan's Basic Law on the Oceans clearly states that the purpose is "to protect the marine environment and the sustainable exploitation and use of the oceans". Article 18 of Japan's Basic Law on the Oceans stipulates that, taking into account the important impact of the oceans on the protection of the Earth's environment, such as the prevention of global warming, the State shall take the necessary measures to protect and improve the living environment, ensuring marine biodiversity, reduce sewage discharges to the oceans, prevent the dumping of waste into the oceans, promptly remove oil pollution caused by ship accidents, protect the marine natural landscape and protect other marine environments. At the same time, it is also proposed in Japan's Basic Marine Plan (2013-2017) that people should improve their understanding of the ocean and increase their opportunities for practical contact with the ocean by holding large-scale participatory activities. For example, through Ocean Day and Ocean Month, relevant subjects organize coastal cleaning and other ecological experience activities to enhance the public's understanding of the marine environment. In addition, relevant subjects cooperate with aquariums, museums, and marine science and technology museums through media and networks to transmit various information related to marine ecological protection. For example, advertising magazines publicize the environmental status of the Seto Inland Sea to promote residents' understanding of environmental protection and participate in the implementation of administrative policies.

Here, the experience of the United States is also worth introducing. American society puts scientific knowledge and information at the core of decision-making and proposes to deepen the understanding of the ocean, improve the level of knowledge, continuously provide more information for management and decision-making, and then improve the level of scientific decision-making and the ability to deal with various changes and meet challenges. The United States has also carried out marine environmental protection education for the public. Through education programs, they have improved the knowledge level and the environmental awareness of the whole society.

2.2. The concept of sustainable development in China's environmental protection legislation

China has formulated Agenda 21 for China's Oceans as a policy guide for the sustainable development and use of the oceans. Article 1 of the Marine Environment Protection Act, for example, defines the legislative purposes of "protecting and improving the marine environment, protecting marine resources, preventing pollution damage, maintaining ecological balance, safeguarding human health and promoting sustainable economic and social development". For example, the legislative purpose of the Island Protection Law is to "protect the ecosystem of the island and its surrounding sea areas, rationally exploit and utilize the natural resources of the island, safeguard the rights and interests of the state and promote sustainable economic and social development", and the state implements the principle of "scientific planning, protection priority, rational development and sustainable use" of the islands. The 2030 Agenda for Sustainable Development sets out the goal of "protecting and sustainably utilizing marine and marine resources for sustainable development".

In general, although China and Japan have great differences in natural environmental conditions and economic development models, the trend of legislation on marine environmental protection in the framework of international environmental law is becoming more and more stringent.

3. Analysis of the differences between the legislation of Marine Environmental Protection in China and Japan

3.1 Analysis of Japan's marine environmental protection legislation

Japan mainly implements land-based pollution control policies through comprehensive means such as law, administration, economy and education. First of all, the legal system of pollution prevention and control is relatively perfect. In the course of the management of the Inland Sea, general laws have been adopted: the Basic Law on the Environment, the Law on the Prevention and Control of Water Pollution, and so on, and the Special Measures for Environmental Protection in the Inland Sea of The City of Ludo and local regulations, which provide the basis and guarantee for the implementation of the policy. In addition, the implementation plan of local governments and pollution emission standards are without exception higher than national standards, secondly, the central government to use more guidance and coordination of administrative means to provide a large amount of information and data to help local governments to formulate scientific and feasible land-based pollution control policies, and thirdly, the central government in the process of inland management of the domestic market many times using economic means, such as providing local governments with appropriate financial resources to improve sewage treatment facilities, pollution prevention facilities, environmental monitoring system and other infrastructure. In addition, Japan's attempts in the emissions trading right market have created a situation of reducing the cost of government governance and promoting technological innovation of enterprises. Japan enacted the Environmental Education Act in 2003, the second country after the United States to formally enact the Environmental Education Act. Government-led publicity and education has enhanced public acceptance of pollution control policies and enhanced the public's sense of mission to protect the environment, thus strengthening the effectiveness of policy implementation.

After years of practice, Japan has accumulated more successful experience in environmental protection, and its domestic environment has been significantly improved. For example, Japan's garbage classification model has been widely praised, effectively solving a large number of domestic treatment problems. As an economically developed country, Japan's marine environmental protection legislation and management is at a higher level [4].

3.2 Analysis of China's marine environmental protection legislation

Since the 1970s, China has issued a series of environmental laws and regulations. Moreover, the protection of the marine environment is an international work, and my country has actively responded to international calls, actively participated in joint international law enforcement actions to protect the marine environment, participated in many international conferences and acceded to many international treaties. Through years of unremitting efforts, China has basically formed a system of laws and regulations on the protection of the marine environment with Chinese characteristics. In the area of marine environmental protection legislation, China has led the establishment of the China-Japan Friendship Environmental Protection Center with Japan's environmental protection department, seeking international cooperation to strengthen the restoration and protection of the marine environment ecology. The Environmental Protection Law came into force at the end of 1989, and since then China has had its first Basic Law in the field of the environment [5]. Its appearance gives further legislative basis for the prevention and control of marine environmental pollution. It can be said that it is a comprehensive law to adjust the protection of the national marine environment and pollution prevention and control. In order to make the Marine Environment Protection Law and other basic legal policies better implemented, and to a greater extent to prevent and control marine environmental pollution, China has introduced a series of laws closely related to the protection of the marine environment. These include: the Law on the Administration of the Use of the Seas, the Fisheries Act, the Law on the Prevention and Control of Air Pollution, etc.

As an emerging developing country with a large economy, China has the responsibility and obligation to learn from developed countries in marine environmental protection legislation and management, so as to make China's development more sustainable.

3.3 The optimization strategy of marine environmental protection

In the context of the continuous development of the political concept of "promoting the modernization of national governance system and governance capacity", China should absorb and learn from the marine ecological environment governance experience of major marine countries and regions such as the United States, Japan, the European Union and ASEAN, based on the current situation of its marine ecological environment and the disadvantages of the current marine management system and mechanism, and constantly improve marine governance laws and regulations Policy system, make every effort to build a relatively complete planning system, strengthen scientific research and scientific and technological innovation, promote stakeholders to actively participate in marine ecological governance, strengthen regional cooperation, and promote the modernization of China's marine ecological governance system and governance capacity [6].

At the end of the 20th century, China put forward the strategy of vigorously developing the marine economy and incorporated the development and utilization of marine resources into the national development plan. However, under the increasingly rigorous situation of marine ecological environment, the Chinese government began to adjust its strategic policies, pay attention to the construction of ecological civilization, and take a series of measures to control marine pollution, repair marine ecosystem, protect biodiversity and deal with emergencies. Generally speaking, China's marine ecological governance has achieved initial results, and the marine environment has improved [7]. However, the level of governance modernization is not high, and the governance system and governance capacity need to be improved. The modernization of marine ecological environment governance is an important part of national governance modernization. Improving the modernization level of ecological environment governance is very important for maintaining oceanic health, improving the ability to adapt to changes in the marine environment, and sustainable development. The United States, Japan, the European Union, ASEAN, and other major marine countries and regions started their research on marine ecological environment governance earlier and accumulated valuable experience with their characteristics. Based on the current situation of marine ecological environment, China should actively learn from the advanced experience and lessons of marine ecological environment governance of the world's major marine countries, and explore and improve the road of modern governance of marine ecological environment with Chinese characteristics. At present, China's marine ecological environment legal system is still relatively weak. Most legislations are single laws and regulations, and the industry is prominent [8]. The legislative system lacks corresponding provisions on regional marine ecological environment governance. The legalization and institutionalization of marine ecological environment governance need to be strengthened.

3.3.1. Establish and improve the legal system

China and Japan are committed to improving the protection of the marine environment through deepening legislation, but there are some differences in emphasis between the two countries. In the future, both countries should, on the basis of the existing laws on the protection of the marine environment, constantly improve and refine the legal system of marine environmental protection, clarify the types of crimes that cause pollution of the marine environment, and increase the penalties for the pollution of the marine environment [9].

In other words, it is necessary to further enrich the types of legal liability for environmental violations, no longer limit the liability for environmental violations to civil liability, but expand to administrative liability and criminal liability.

3.3.2. Strengthen the sense of participation in international affairs and the sense of responsibility of the international community

As an area that occupies 70 percent of the earth's space, the ocean is an important space for the future survival and development of mankind, but also because of its own circulation, mobility and the whole human being closely linked, the whole earth is in an inseparable, insular marine ecological environment system. The development and perfection of the legal system of marine environmental protection in China should be carried out under the guidance of the community of human destiny, in the face of the current marine situation, and actively participate in the global marine environment governance [10]. Under the guidance of the community of human destiny, all countries in the world should unite to deal with the deterioration of the marine environment and the unreasonable exploitation and utilization of resources. We will promote the construction of a community of human destiny and deepen maritime cooperation.

4. Conclusions

Under the background of the deepening degree of marine development and utilization and the gradual exposure and widespread concern of global climate and maritime ecological environment problems, developed maritime countries have made more in-depth exploration and made remarkable achievements in national, regional, and local marine ecological environment governance.

In recent years, both China and Japan have stepped up efforts to protect the marine environment and pass legislation to increase the binding force of marine environmental protection. Looking at the differences between China and Japan in the legislation of marine environmental protection, the author thinks that the strategy of marine environmental protection based on the fate of the human community should be promoted. All countries in the world should work together to protect the marine environment, increase environmental protection measures on the basis of rational exploitation of marine resources, crackdown on pollution of the marine environment, and jointly protect the marine environment shared by mankind.

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