

# Research on the Basic Issues of the Risk Prevention Principles of International Environmental Law under the Background of International Relation

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**Keywords:** International relations; international environmental law; risk prevention

**Abstract:** Along with realism, irreversibility and neo-liberal institutionalism, it has become the most influential western international relations theory in contemporary times, and it is gradually gaining momentum. The principle of risk prevention is put forward in view of the lag and irreversibility of environmental degradation, and has been listed as one of the basic principles of international environmental law by many environmental jurists. Social experience means that human beings live in society, and the emergence and growth of laws are all aimed at solving the practical problems of human life and existence. International social life also leads the emergence and development of international law including international environmental law. As far as international environmental law is concerned, since the international environmental problems at that time were not prominent, they have not attracted much attention from all countries. Although there are sporadic local treaties such as the protection of seals and migratory birds, they are not related to idealism. In order to deal with and solve specific environmental problems, the international community has formulated a series of international legal documents and developed many important principles as the legal basis for dealing with various environmental problems. This paper mainly reveals to some extent the theoretical root of the emergence and development of international environmental law, and predicts the future development prospects of international environmental law.

## 1. Introduction

Generally speaking, there is a natural genetic relationship between international law and international relations, because the adjustment object of international law is international relations, and international law is only the legal expression form of international relations [1]. Together with realism, neo-realism and neo-liberal institutionalism, it has become the most influential western international relations theory in the contemporary era, and gradually has the trend of coming from behind [2]. The principle of risk prevention is put forward in view of the lag and irreversibility of environmental degradation, and has been listed as one of the basic principles of international environmental law by many environmental jurists. The environmental problems dealt with by the principle of risk prevention are more special, that is, there is considerable scientific uncertainty in environmental risks [3]. Social experience means that human beings live in society, the generation of law and the growth of law are all to solve the practical problems of human life and existence. The life of the international community also guides the generation and development of international law, including international environmental law. The theoretical basis of constructivism, the topics discussed, the angles, methods and ideas of examining problems are closely related to philosophy, or have distinct philosophical characteristics.

Since the emergence of modern international relations theory, it has exerted great influence on the development of international law. For example, idealistic international relations theory has strongly promoted the prosperity of international law after World War I [4]. As far as international environmental law is concerned, because the international environmental problems were not prominent at that time, it was far from attracting the attention of all countries. Although there were some sporadic and local treaties such as protecting seals and migratory birds, they had nothing to do with idealism [5]. The principle of risk prevention in international environmental law means that "in order to protect the environment, countries should apply preventive measures widely according to

their own capabilities, and when there is a threat of serious or irreversible damage, they should not delay taking cost-effective measures to prevent environmental degradation on the grounds of lack of scientific and sufficient evidence" [6]. In order to deal with and solve specific environmental problems, the international community has formulated a series of international legal documents and developed many important principles as the legal basis for dealing with various environmental problems. The principle of risk prevention is an important legal principle developed in international environmental law to deal with environmental risks with scientific uncertainty. The rise of Constructivism in the context of the rapid development of globalization has a positive impact on the theory and practice of international environmental law [7].

## **2. Some basic issues of the risk prevention principle**

### **2.1. The concept and status of the risk prevention principle**

Although the word "risk prevention principle" has been explicitly used in some international and regional treaties, the Rio Declaration and other major international declarations have never explicitly stipulated the status of "principle", but more use the words "preventive measures" or "preventive methods" to describe it [8]. His theory is based on the criticism of realism. He thinks that although the international community is in anarchy, the international mechanism and system can ease the restriction of anarchy on the country and play an independent role. International cooperation should be a normal and frequent phenomenon. In this field, constructivism mainly refers to a systematic sociological methodology, that is, starting from the MACRO-WHOLE of socialization and standardization, to study the social system, the individuals that make up the system and their concepts, identities and behavioral practices [9]. At the same time, opponents of the implementation of the risk prevention principle can also use the uncertainty of these three necessary conditions to impede the implementation of the risk prevention principle. The process of applying the principle of risk prevention must be open, informed, democratic, involve potentially affected parties, and review the scope of alternatives, including inaction. It originated from domestic law, moved to the stage of international law, and finally returned to the domestic law system of all countries. In the system of international law, it can only be said to be an important and controversial provision of international law being formed [10].

### **2.2. The internal logic and constituent elements of the risk prevention principle**

The principle of risk prevention emphasizes that even if there is no clear and sufficient scientific basis and causal relationship, measures can be taken to prevent serious or irreversible damage threats. At the same time, with the continuous extension of the international environmental system, an international institutional network system can be gradually established, and the systems in various problem areas are becoming more and more relevant. The central words of constructivism in its theoretical part are: social structure, actors, shared ideas and construction. Once the idea was put forward, it got a lot of support, because it changed the old stereotype of passive treatment after the event to solve environmental problems, and provided people with a new way of thinking to solve environmental problems. The development of science and technology always brings risks with the benefits of human life. The principle of risk prevention aims at not all environmental risks, but significant environmental risks, that is, environmental risks to a certain extent as stipulated by law may lead to the application of the principle of risk prevention. However, we find that the effect of such a provision is not good, but it only makes the connotation of this principle more confusing in practice and dispute settlement, and increases the risk of trade protectionism and trade liberalization shocks. This logic confusion only increases public costs and arbitrary discretion of decision makers.

### **2.3. Conflicts caused by the risk prevention principle**

Because the connotation of risk prevention principle is vague and the specific provisions are highly uncertain, Rio Declaration tries to limit it to prevent the dilemma of risk judgment and the

crisis of abuse of discretion. These are the responses of international environmental legislation to the new changes in the international social environment in the international environmental system. Although the responses are far from enough, they are still struggling. Constructivism observes the world and examines international relations from the perspective of "people" with subjective concepts and subjective cognitive functions. In essence, it is a constructivist proposition on people, their concepts and the relationship between people and society. Once non-compliance occurs, it will inevitably have a series of effects on the actor country, such as the failure to fulfil the obligations of regularly eliminating certain substances as stipulated in the international environmental treaties or the corresponding changes in its competitive position in the international economic field. Therefore, many scholars have summarized the core elements or components of the risk prevention principle, with subtle differences. Thus, we can confirm the constitutional status of the right to privacy by interpreting the terms of personal dignity.

### **3. Constructivism Theory and the Development of International Environmental Law**

#### **3.1. About the international system structure**

The international architecture of constructivism mainly refers to social structures such as meaning, value and concept, rather than the power structure of pure material power described by neo-realists. Its essence is "distribution of ideas". Existence is not only an existing material existence, but also an existence influenced by thinking. Because, after all, the world is only the world that people know. However, some countries believe that this kind of power is needed to make its operation more efficient. In addition, if the accused party takes the initiative to invite, the Compliance Committee can also collect relevant information in the accused country to better perform its functions. The application of the principle of risk prevention can only be based on adequate scientific basis, that is, some form of scientific analysis is necessary only if fantasy or speculation does not lead to the application of the principle of risk prevention. Although with the development and popularization of network communication, the traditional concepts of freedom of housing rights and communication secrets are being injected into new meanings, and the uncertainty of this concept is hindering the protection of rights, this hindrance has been identified as benign. For this reason, the power structure includes not only the structure of material forces such as military and economic forces, but also the structure of ideological forces such as ideas and knowledge forces.

#### **3.2. On the interactive relationship between state behavior and the international system**

Constructivist scholars believe that the interaction of national actors constructs the international system, which in turn constructs the behavior and attributes of national actors, because interaction produces shared knowledge, which is the key factor to construct international political culture. The goal orientation of "exploring the transition of international political environment from Locke culture to Kant culture" and pursuing the peace and friendship of the international community, which more clearly shows the value pursuit of constructivism similar to philosophy. However, some scholars hold the opposite view. They believe that "the diversity of interpretation of the principle of risk prevention and its far-reaching influence on some applications show that it has not yet become a principle of international law." One of the unavoidable difficulties in applying cost-effectiveness is that the value of human and plant life health, air cleanliness, biological safety and other goals cannot be accurately measured with money, so the costs or benefits of such goals cannot be directly compared with the real economic benefits. Environmental protection and risk prevention initially avoided the destruction of the environment caused by economic quantification, but finally returned to this seemingly reasonable method for evaluation. Whether in concept or in specific operations, arbitrariness and uncertainty of value judgment severely weaken the principle of risk prevention. Culture, in turn, establishes the identity and interests of the state, which takes actions commensurate with them only when it has the identity and interests.

### 3.3. On the issue of national interest

In the view of constructivist scholars, the definition of the national interests of a sovereign country should not only be based on the internal objective conditions and material conditions of the country, but also consider the influence of the rules, systems and values of the international community on the country. In fact, compared with the personification of rationalism, which sets the country as a "rational economic man", constructivism deeply analyzes the individualism and humanity. It reveals that the actor is composed of individuals, and the pluralistic role of individual will constructs the common concept of the country, thus influencing international politics. Even comparing the country to human being, it is a "person" with ideas and subjectivity, rather than an objective symbol. Some scholars believe that this principle has become a universal principle of international law and is emerging as a legal norm of international law. However, with the rapid development of all aspects of social life, especially the rapid development of modern science and technology, the complexity and scientific uncertainty of environmental problems have greatly increased. This search warrant gives the government the power to search the domicile of a criminal suspect in order to obtain criminal evidence without providing evidence of illegal activity or evidence of criminal facts in the houses being searched. The role of enemy constructs Hobbes culture, the role of competitor constructs Lock culture, and the role of friend constructs Kant culture. Only Hobbes culture is the real self-help system.

### 4. Conclusions

Since the emergence of modern international relations theory, there are many schools of theories and different viewpoints. However, liberalism and constructivism have far-reaching influence on the emergence and development of international environmental law. When analyzing the system structure and the country, it is actually a rational proposition that truly recognizes reality, but it is full of idealistic passion for the international community to reach a friendly Kantian cultural state. At present, it is widely believed that this principle is an emerging international customary law, and some scholars believe that it is one of the basic principles of international environmental law. Since the reform and opening up, especially since the mid-1990s, China's environmental protection has started to develop rapidly. However, there are still some problems, one of which is that the legislative concept can not meet the new requirements of the development of the times. The confirmation of the right of privacy in the Constitution not only reflects the legal concept that the Chinese people are paramount and the Constitution law is paramount, but also highlights the superiority of the socialist legal society. The new concept of international relations of the "Community of Human Destinations" which takes China's thought of harmony and harmony as its gene will surely promote the continued development of international environmental law with the fundamental purpose of safeguarding the interests of sustainable human existence.

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