

Research on the Ethical Connotation and Specific Standards of the Justice Principle of Property Right Empowerment

Yuanyuan Sun*

Shandong University of Finance and Economics, School of Economics, Shandong, Jinan 250014
**Corresponding author. Email: sunyuanyuan829@163.com*

ABSTRACT

The empowerment of property rights is a process of distributing property to users based on certain principles, which is the premise of the exercise of property rights. In order to realize the fair and reasonable allocation of property rights, the justice principle must be taken as the fundamental principle of property right empowerment. In different historical periods and under different resource conditions, the specific standards of the justice principle of property right empowerment are also different. Through analyzing the historical facts of property right empowerment, it is concluded that the specific standards of the justice principle of property right empowerment mainly include spatial proximity, time sequence, combination of space and time, basic human needs for survival and ecological environment needs. By studying the connotation of the justice of property right empowerment, this paper provides a theoretical basis for the research of the property right empowerment of resources.

Keywords: *Property rights, empowerment, justice, standards*

1. INTRODUCTION

Rawls pointed out that justice was the primary value of social system. As a basic social system, the core value of property right system also lies in justice. Justice is the internal basis for the establishment of property rights, and also the internal standard to measure whether a property right system is reasonable [1]. At present, many scholars have analyzed the connotation of property right justice. Zang Fengyu expounded the meaning of justice [2]. He expounded the practical attribute of Marxist Justice View from the perspective of philosophy, and believed that property obtained in the form of "plunder" and "theft" was unjust. As the core content of property rights theory, justice is also widely used in property right empowerment. Luo Nengsheng thought that property right justice mainly included three basic provisions, namely the legitimacy of the acquisition of property rights, the inviolability of legitimate property rights, and the consistency of responsibility and rights [3]. In addition, Gong Tianping thought that the property right justice includes the justice of property right exchange and correction, which was the legitimacy and rationality of property right system design and property right arrangement [4]. But at present, the research of property right justice mainly focuses on the analysis of its main content, and there are few studies on the ethical connotation and specific standards of justice of property right empowerment. From the perspective of ethics, this study expounds the connotation of justice, and analyzes the specific standards of justice principle of property right empowerment formed under different social

conditions. It makes up for the vacancy of application of justice principle in the field of property right empowerment, and provides theoretical reference for the research of resource property right confirmation.

2. THE ETHICAL CONNOTATION OF JUSTICE OF PROPERTY RIGHT EMPOWERMENT

2.1. The Connotation of Justice

Justice is the just truth, which is connected with fairness and just. In Cihai, it is defined as a positive judgment of right and wrong, good and evil in the fields of politics, law and morality. As a moral category, justice is synonymous with "just". It mainly refers to the behaviour that conforms to certain social moral norms, and judges whether each person has obtained the inherent rights and fulfilled the corresponding obligations. Justice, as a basic category of ethics and politics, usually refers to what people should do according to certain moral standards, which is a kind of moral evaluation. Many famous political scientists and economists have also explained the connotation of justice. Plato and Confucius hold that it was justice for people to occupy his own position according to his rank and to get his own benefits; Rawls believed that justice was fairness; Cicero believed that justice, as a moral law, first confirmed the property relationship between people [5]. Therefore, "justice" is a kind of moral standard. According to this

moral standard, people's behaviour choice is just and reasonable, which is beneficial to the whole human being.

2.2. The Ethical Connotation of the Justice of Property Right Empowerment

Property right economics distinguishes two important concepts of property rights, namely, the empowerment of property rights and the exercise of property rights. The property right empowerment is the premise of the exercise of property rights, which refers to the process of distributing the original ownerless or shared resources to units or individuals for use, that is, the distribution process of property rights [6]. Property right empowerment has been reflected in ancient hunting activities. People distributed the prey according to the principle of primitive equalitarianism. In addition to the head and fur of the beast given to the person who killed the animal, the meat of the prey was divided equally among the hunters, including the hounds. This process was essentially the process of empowerment of property rights.

David Hume, a British philosopher, pointed out that justice appeared with the formation of property rights. Its essence is a man-made virtue with property right as its core and corresponding to loyalty, obedience and chastity [7]. In the early social experience, people felt the infinite benefits brought by society, and began to realize that the chaos and disorder in society was caused by the random distribution of property. At this time, people realized the stable possession of property through reaching a consensus. Thus it formed the moral norms of property distribution. Since then, the concepts of justice and injustice have emerged in human society. In essence, the relationship between people and their property is a kind of moral relationship, which is based on justice. In contrast, "injustice" is the possession of property by violent plunder, rather than distribution through the establishment of moral standards. Hobbes also pointed out that justice originated from contract and corresponding principles. It is justice to fulfil the promise of faith, and injustice to break the promise. Once the contract begins to form, the established order has stability, and every actor should abide by the formed rules of conduct, because these rules can produce the best results in any situation. Therefore, in the process of property distribution, people form a certain moral standard by reaching an agreement or consensus. Under this moral code, the distribution of property rights is fair and reasonable, that is, the property rights empowerment is just. And the moral standards that people unanimously recognize are the justice principles of property right empowerment.

Just as people's behaviour needs certain values to guide, the confirmation of property rights also needs certain ethics to guide. In the process of property right empowerment, it is necessary to establish a kind of moral principle to ensure the fairness and rationality of property right distribution, and the justice principle is in line with this demand. Only under the justice principle can all kinds

of relations of property rights be coordinated and all kinds of ethical problems of property rights be solved. The justice principle of property right empowerment reflected in different social conditions and different property distribution process. For example, in primitive society, people were unable to fight against nature alone. In order to seek resources to maintain their survival, they had to work together, which determined the principle of common possession of means of production. At the same time, the products obtained through joint labour shall be owned by all members of the society and equally distributed. Under the living conditions of primitive society, in order to ensure that all members can get equal survival opportunities, the principle of equal distribution of labour goods was formed. It is believed that this principle of distribution was formed from the perspective of protecting the right to life, and is the justice principle of empowerment.

3. THE CONCRETE STANDARD OF JUSTICE PRINCIPLE OF PROPERTY RIGHT EMPOWERMENT

In different historical periods, under different resource conditions, different justice standards of empowerment have been formed. These standards have existed since ancient times and have been widely used in different fields of property right empowerment. These are moral principles formed in the practice of human society and widely accepted by people. Under these criteria, the distribution of property rights is just. Through studying on the historical facts of human social property right empowerment, it is concluded that the specific standards of the justice principle of property right empowerment mainly include the following five types.

3.1. Taking Spatial Proximity as Justice Criterion

This criterion means that taking the spatial proximity of land location as the moral criterion of property right empowerment. This criterion has been reflected in the division of territory in primitive society. In primitive society, in order to survive, human beings formed the first formal social organization, clan, with blood relationship as the link. Clan is the most basic social organization and economic unit in primitive society. Due to the multiplication of population, some of the clans expanded their living space and formed a new clan. The combination of the old and new clans formed a tribe. Each tribe has its own territory and name. The living space of each clan in the tribe constitutes the territory of the tribe, which is the land space scope of all clans. Therefore, the space where clan members live naturally formed the territory of this clan. In essence, it is a territorial ownership divided based on the principle of being close to the living place of clan members in space. It can be seen from the division of clan

territory in primitive society that the principle of spatial proximity is one of the oldest principles of property right empowerment. Its original purpose is to ensure people's most basic survival and living space. It is a just principle of empowerment which is widely recognized by people.

3.2. Taking Time Sequence as Justice Criterion

This criterion means that taking the order of acquiring property as the moral criterion of property right empowerment. As one of the two major legal systems, the basic principle of Roman law system is that the ownership of ownerless property belongs to the occupier. The preoccupation of property is regarded as one of the oldest natural ways of obtaining property. This principle was also recognized by many Roman jurists. Gaius pointed out that goods that did not belong to anyone belonged to the prior possessor according to natural reason [8]. Neva also believed that the ownership of goods began with the natural possession of these goods. Goods that could be possessed were things that were acquired on earth, at sea or in the sky. They believed that if human beings could really survive before the "natural system", then the "preoccupation" must become one of their practices, and the ownerless goods would become people's property through the way of "preoccupation". The "ownerless" goods included a wide range of things that can be obtained on land, sea and sky, such as wild animals, gems first discovered, newly discovered land that has not been cultivated before, and so on. According to the principle of preoccupation, these ownerless things belonged to the first person who possessed them and intended to keep them. As one of the ancient ways to obtain property, the principle of "preoccupation" had been continued to be used as the justice principle of property right empowerment. For example, the Spanish mining law stipulated that "Whoever discovered, who owned it". The ownership of mineral resources was determined according to the time sequence of mineral resources' discovery.

3.3. Taking the Combination of Space and Time as the Justice Criterion

This criterion means that taking the combination of land spatial position and time sequence as the moral criterion of property right empowerment. The subjects in different spatial positions all have the right to obtain property rights. They obtain the property rights in turn. This principle has been embodied in the democratic system in Athens in ancient Greece. In the historical process of the formation of Athenian democratic political system, Cleisthenes's reform marked the establishment of Athenian democracy. He divided Athens into ten tribes. Each tribe elected 50 representatives for forming a 500 members meeting, which was elected once a year and could not be reappointment, thus it increased the chances for each citizen to be elected as representatives. At the same time, a general was elected

from each tribe to form a ten general committee to command the army in turn, but it must be re-election once a year and can be reappointment. Both of them must be re-election every year, and the citizens took turns to hold office, which reflected the Athenian democratic concept. The president of the National People's Congress, the organ of state power, also had a term of office, which was elected by election and the citizens could take turns on duty. This social system of governance in turn embodied the principle of combination of space and time. Citizens from different tribes gained the dominion over the tribe in turn. Aristotle mentioned in his comment on Greek democratic politics that "the common people must have the highest rights. Political affairs are decided by the will of the majority, and the will of the majority is justice". Therefore, this criterion is a justice principle widely accepted by the majority of people.

3.4. Taking the Basic Human Needs for Survival as the Justice Criterion

This criterion means that taking meeting the most basic human right to survival as the moral criterion of property right empowerment based on the requirements of basic human rights. Human rights, also known as basic human rights or natural rights, refers to the basic rights enjoyed by human beings. The concept of "basic human rights" can be traced back to the origin of human beings. Based on different understandings, many scholars have put forward different views on the concept of human rights. It was not until 1776 that the concept of "basic human rights" began to be stereotyped. Finally, in the Universal Declaration of Human Rights adopted by the United Nations General Assembly in 1948, the basic human rights were stereotyped. To sum up, the basic human rights include at least 12 fixed rights, namely, the right to survival, equality, social security, environment, self-determination, development, know, receive a fair trial, security, basic freedoms, education and peace. Among all these basic rights, the right to survival is put in the first place, which is the primary right of human beings. Only by obtaining a reliable right to survival, can it be possible to exercise political, economic, social and cultural rights on the basis of ensuring the necessary material life and security. Therefore, in order to maintain the right to survival, it is a justice principle widely accepted by people that taking the basic human needs for survival as the principle of property rights empowerment. This principle is also reflected in the empowerment of property rights. For example, in 2010, the United Nations declared that access to safe and clean water resources, as a basic human right, is essential for the enjoyment of life and other rights. As one of the essential material conditions for human survival, the empowerment of clean water should be based on the basic human needs for survival.

3.5. Taking the Ecological Environment Needs as Justice Criterion

This criterion means that the needs of the ecological environment should be given priority in the process of property right empowerment, in order to protect the ecological environment and maintain the normal function of the ecosystem. In order to meet the needs of human economic and social development, the excessive development and utilization of resources has also brought about the destruction of ecological environment. For example, the lower reaches of the Yellow River Basin in China were cut off, and the tail lakes in the Tarim River Basin disappeared. The problem of ecological environment is not only related to the environment itself, but also closely related to the development of human society [9]. If the ecological environment is destroyed, on the one hand, the human society will lose the foundation of development, on the other hand, the most basic human right to survival will also be threatened. In 1972, the Declaration on human environment adopted by the United Nations Conference on human environment pointed out that protecting and improving the ecological environment has become an urgent goal to be achieved. Therefore, meeting the resources needs necessary for the ecological environment, such as water, forest and biological resources, is a necessary condition for human survival and the coordinated development of the environment and human society. It is a legitimate and reasonable demand. This principle reflects in many natural resource management. For example, rotational grazing system is implemented in pastoral areas in China. Large grasslands are divided into grazing areas, and grazing and recreation are carried out regularly in a certain order. This is an economic and effective way to use grassland resources, which is formulated on the principle of protecting the normal function of grassland, so as to avoid damage to grassland caused by overgrazing and livestock trampling. In addition, our country stipulates that trees are not allowed to be cut during the period of forest resource prohibition, and the measures such as limiting forest cutting are all based on the principle of ecological environment demand, which is the justice criterion.

4. CONCLUSION

Justice, as a moral criterion, is the fundamental principle that property right empowerment should follow. The justice of property right empowerment means that the moral principles of property rights distribution are formed through negotiation or consensus. Under this criterion, the fairness and rationality of property rights distribution can be guaranteed. Under different resource and social conditions, in order to realize the fair allocation of resources, five specific standards of justice principle of property right empowerment have been formed. These standards include that the spatial proximity, time sequence, combination of space and time, human basic needs for

survival and ecological needs. Through analyzing of the historical facts of property right empowerment, this study obtains the specific criterion of the justice principle. However, due to the fact that property right empowerment has started since the primitive society, with a long history and various ways of empowerment, it still needs to be verified whether the classification of empowerment and the summary of specific standards of justice are detailed. Therefore, in the future research, we should continue to investigate whether there are other ways of property rights empowerment and the corresponding justice criteria to ensure the comprehensiveness and accuracy of the specific standards of justice principle of property right empowerment.

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