

PRINCIPLE OF INTERGENERATIONAL AND INTRA-GENERATIONAL EQUITY UNDER INTERNATIONAL ENVIRONMENTAL LAW

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ABSTRACT

The availability of natural resources is very limited due to massive and uncontrolled utilization by the previous generations. The paper attempts to provide the notion of intergenerational and intra-generational equity in the arena of environmental laws. The intergenerational concept includes the inter-temporal utilization of natural resources. The concept helps to uphold the balance between the utilizing and recycling of any resources. On the other hand, intra-generational equity means the fair use of global natural resources by the present generation. Both of these concepts are important to maintain the sustainability. These two concepts are considered to be the main strength to the doctrine sustainability to maintain proper balance in the use of natural resources.

Keywords: *Intergenerational, Intra-Generational, Non-Renewable Resources, Sustainable Development*

I. INTRODUCTION

We used to hear from our parents and grandparents that at their time the world was different, the -atmosphere at that time was much better, the taste of fruits and vegetables were better and there was no such hot weather like now days, and many other things. Even if we can remember our childhood, we will be able to differentiate that world from this one. This indicates that over the timeframe, we are going through lots of changes on daily basis. Throughout this study, such changes have been explored with reference to intergenerational and intra-generational equity under international environmental law.

II. RESEARCH AIM

So, a question arises that what has happened to the world now, why the world is changing? How do we can keep the earth in a stable and good condition? The answer lies in two concepts, those are, the concept of Intergenerational Equity and intra-generational equity. These principals deal with using of earth's resources for this generation and for the future generation, and its impact upon the state of earth. This equitable principals are based upon the concept of

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sustainable development, it means using of earth's resources in such a manner that it can meet the present needs as well as the future needs of the living creatures.

III. RESEARCH OBJECTIVE

These principals are universally acceptable. In this regard another ambiguity may arise that whether these principals are "soft laws" or customary international laws. A famous phrase is used in this respect, that is "common but differentiated responsibilities" this principals signifies valuable perspective in respect of controversies in relation to the environment and economic developments.

IV. INTERGENERATIONAL EQUITY

It signifies the rights and interests of the present and future generation regarding the renewable and non-renewable resources of earth. Many contemporary international instruments deals with the use of the resources available and to make them available for future generation. Peoples have recognized the value and importance of the resources available and what may happened in future if the resources will not be available. The concept of sustainable development has been introduced which refers the use of resources should be done in such a manner that those resources shall also be available to meet the future needs. United Nation General Assembly has defined sustainable development as the development which meets the needs of the present without compromising with the availability of resources to meet the needs of the future generation¹. Sustainable development provides not only man made wealth but it also provides wealth made by nature. It also concern about the quality of life of the human beings, man-made wealth continues improvement of quality of life but it must be supported by the natural wealth². Sustainable development was introduced for the first time by the United Nations with a view to accomplish three aspects of development, those are, environmental protection, economic development and social development, this is affirmed by the United Nation Development Program³. United Nation concentrating on managing and protecting the natural resources for the development of social and economical aspects, this is much required to accomplish the goals of the concept of sustainable development. One of the primary object of the concept of intergenerational equity is the development of resources by one generation enhance the opportunity of economic sustainability for the future generation⁴.

¹ Un.org, 'A/RES/42/187 Report of the World Commission on Environment and Development', in , , 2007, <<http://www.un.org/documents/ga/res/42/ares42-187>> [accessed 10 November 2016].

² E Weiss, 'Our Rights and Obligations to Future Generations for the Environment', in *The American Journal of International Law*, vol. 84, 1990, 198.

³ R Galli, 'The United Nations Development Program, "Development," and Multinational Corporations', in *Latin American Perspectives*, vol. 3, 1976, 65-85.

⁴ M Pagell, S Dobson & I Gavronski, 'Sustainable Operations', in *Scholarpedia*, vol. 5, 2010, 10421.

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Intergenerational equity contains inter-temporal implications in respect of the utilization of the resources, it tends to a fair utilization of resources by human generations in past, present and future, it tries to construct a balance of consumption of resources by existing societies and the future generations. Inter-temporal aspects tries to make a balance between the distribution of resources and recycling of resources to a good extend, which is a very concerning issue due to the growing degradation of environment and depletion of resources. This concept has been supported by the domestic laws, The Supreme court of Philippines held in *Minors Oposa v Secretary of the Department of Environment and Natural Resources*⁵, that each generation has the responsibility for future generations to preserve natural resources for full enjoyment of the natural ecology⁶. The concept of intergenerational equity promotes socio-economic development and it makes a bridge between social and economic development with environmental protection.

The evolution of sustainable development as a customary international law is also has been described by the Vice President of ICJ, in *Gabeikovo-Nagymaros Project*, they claimed that sustainable development is not a concept, it is far ahead of that, as it has become the modern customary international law.

3rd principal of Rio declaration mentioned about the concept of intergenerational equity, it was stated that development must be done in such a manner, as it equably meet the environmental and developmental needs of the present as well as the future generation. The main object of this principal is that to make sure the rights of the future generation upon the non-renewable resources, which might be abused by the present generation. 15th Principal of the Rio declaration has been documented as the most significant part as to sustainable development; it states that as per the capabilities of the states, precautionary steps should be taken by the states to ensure the protection of the environment. Any stride which may cause environmental degradation should be neglected. In other words it can be said that the legislation and the appropriate government is empowered to prevent and attack the reasons of environmental degradation. In the 16th Principal of the Rio declaration it is stated that the National Powers should emphasis the promotion of the internationalization of environmental cost and the use of fiscal instrument, in principal, the polluter should be responsible for the restoration of such pollution and the polluter may be compelled to compensate for that environmental degradation.

The judicial system of every country is also empowered to promote the canon of 'sustainable development'. Legislature of every country has introduced many enactment as laws for protection and restoration of environmental degradation, by virtue of that the judiciary plays a very significant role in interpreting those enactments in relation to the doctrine of Sustainable development⁷.

In India, most number of cases relating to environment comes before the Ld. Courts Under Art. 226 and Art. 32 of the Constitution, which refers writ petitions which is also known as Public Interest Litigation (PIL), the first case on which the Ld. Court has emphasizes its jurisdiction in relation to sustainable development in the case of *Vellore*

⁵ *Minors Oposa v Secretary of the Department of Environment and Natural Resources*, in *ILM*, , 1994.

⁶ A Kiss & D Shelton, *Guide to international environmental law*, in , Boston, Martinus Nijhoff Publishers, 2007.

⁷ P Diwan & P Diwan, *Environment administration, law and judicial attitude*, in , New Delhi, Deep & Deep Publications, 1992.

Citizen Welfare Forum vs. Union Of India, in this case the Supreme court held that there is no vacillation in promoting the precautionary principal and the polluter pays principal, these are also the part of the environmental laws in India⁸. The court also held that making compensation by the polluter is also a part of the doctrine of sustainable development.

A principal arises from “ Veil Of Ignorance” by Rawls, that from the actual position every generation has the responsibility to defend the renewable and non-renewable resources for those the original position would not get into knowledge, which generation they are going to be a part of⁹. Every state should enhance the environmental policies in such a manner that it does not unfavorably affect the development of undeveloped and developing countries, in present as well as in the future it is also not authorized to hamper the better conditions for living for all¹⁰.

V. INTRA-GENERATIONAL EQUITY

Intra-generational equity is different from intergenerational equity. It deals with the equality among the same generations as far as the utilization of resources are concern. It includes fair utilization of global resources among the human beings of the present generation¹¹. The concept of intra-generational equity provides rights and duties to every person of a single generation to use and take care of the renewable and non-renewable resources moderately among the members of the generation¹². In a developing country like India the rule of intra-generational equity is applicable to certain extend, as in this kind of developing countries more resources are required for development of the country and to ensure economic stability. Industrialization is the key for the development of these countries which requires more and more renewable and non-renewable resources, in that that the legislature must enact strict environmental laws in relation to the implementation of the rules specified in the doctrine of intra-generational equity, and it must be firmly interpreted by the judiciary system of the nation¹³. The administration of every country must be very conscious regarding the implementation of the rules framed by the legislature in relation to the protection of environment and the laws related to the execution of the rules in respect of the intra-generational equity¹⁴. The resources which are not preserved for the future generation and are available for the current generation must be equally distributed among all the members of the present generation. To a certain extend it becomes very difficult regulate those resources among all the members of the generation due to national territories, international

⁸ Vellore Citizen Welfare Forum vs. Union Of India, in , , 1996.

⁹ 3 Allan V Kneese., in , , 1988.

¹⁰ A Carlisle, 'The United Nations Conference on The Human Environment Stockholm 1972', in *The Forestry Chronicle*, vol. 48, 1972, 118-118.

¹¹ S Islam & A Jolley, 'Sustainable development in Asia: the current state and policy options', in *Natural Resources Forum*, vol. 20, 1996, 263-279.

¹² R Rambousky et al., 'Structural Relaxation and Viscous Flow in Amorphous ZrAlCu Above and Below the Glass Transition Temperature', in *MSF*, vol. 225-227, 1996, 83-88.

¹³ H Tiwari, *Environmental law*, in , Faridabad, Allahabad Law Agency, 2005.

¹⁴ 'The law and administration relating to protection of the environment', in *Environmental Pollution (1970)*, vol. 6, 1974, 75.

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provinces, condition of the international society and many more, but it may be done impliedly, globalization can make things better and easier for proper implementation of the doctrine¹⁵.

Intergenerational equity and intra-generational equity both requires sustainability. Proper distribution of renewable and non-renewable resources is the key of the concept of sustainable development. Where intergenerational equity tries to distribute among present and future generation; intra-generational equity deals with the distribution of resources between the members of the same generation¹⁶. Due to the lack of proper execution of the doctrine of sustainable development, the present environment of the entire earth is in question, the rule of intergenerational equity and intra-generational equity must be followed to save the world from the present situation, global warming is one of the main reasons for degradation of the environment, it not only harms the environment of earth but also injures surviving ability of the living creature¹⁷.

VI. CONCLUSION

Proper distribution of renewable and non-renewable resources are not enough to ensure the environmental security, proper disposal of those resources after utilization and recycling of the available resources are also very much important for execution of the laws framed for the protection of environment and promotion of sustainable development¹⁸. Sustainable development now become necessity for the present condition of the earth, otherwise our future generation shall be deprived of the resources and facilities, which we are availing for us, the resources available for our generation are to be equally distributed among all of us as the member of the current generation¹⁹. Intergenerational and intra-generational equity are two hands of the doctrine of sustainable equity, the concept of intra-generational equity possess a procedure in respect of the allocation of resources among the members of a generation²⁰.

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¹⁵ J Thornton & S Beckwith, *Environmental law*, in , London, Sweet & Maxwell, 1997.

¹⁶ I Vojnovic, 'Intergenerational and Intragenerational Equity Requirements for Sustainability', in *Envir. Conserv.*, vol. 22, 1995, 223.

¹⁷ D Cooper & J Palmer, *The environment in question*, in , London, Routledge, 1992.

¹⁸ D Rijadi, *Marine pollution from tanker oil spills in the Straits of Malacca*, in , , 1994.

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