



Intergenerational Equity in Environmental Law: Legal Perspectives, Challenges and Future Directions

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ABSTRACT

Intergenerational equity is the concept which seeks to balance environmental protection and development activities between present and future generations. It provides a framework to the needs of the present without negotiating the ability of upcoming generations to satisfy their needs. This paper evaluates the conceptual foundations of intergenerational equity, its incorporation into international and national legal frameworks, key judicial interpretations, practical challenges in enforcement, and future research directions.

Introduction

“Each generation holds the Earth in trust for future generations.”

Intergenerational equity is a foundational principle in environmental law that emphasizes the man who has received the environment in pristine, is under a duty to keep in pristine form for the generations which are coming next to it.. It is a mechanism to protect and improve the environment and to control or prevent any act or omission likely to pollute the environment. This whole concept is based on the idea that natural resources can only be exploited with adequate consideration of the rights of future generations. It reflected in international environmental agreements and constitutional provisions that recognise the rights of future to a healthy environment.



Meaning of Intergenerational Equity

Intergenerational equity is the right of each generation of human beings to benefit from the cultural and natural inheritance of the past generations as well as the "obligation" to preserve such heritage for future generations. The central theme of the theory of international equity is to protect and improve the environment, conserving the diversity, quality of biological resources and safeguard the renewable resources such as forest, water, air fisheries and soils for the common good of mankind.

In simple terms, Intergenerational equity in environmental law means: **We must not solve today's problems by creating bigger ones for tomorrow.**

Origin of the Intergenerational Equity :

Intergenerational equity developed in the **20th century**. It Developed by **Professor Edith Brown Weiss**, who explained the idea that each generation is a **trustee of the Earth** and no generation has absolute ownership over natural resources. This principle is based on the international instruments such as the **stockholm Declaration,1972 and Brundtland Report,1987** and other international documents such as **Rio Declaration** and **Agenda-21** which initiated the concept of sustainable development.

Edith Brown Weiss formulated three important principles:

Firstly, Conservation of Options –It preserve the biodiversity, ecology and choices for the future.

Secondly, Conservation of Quality – It sustain the environmental quality.

Thirdly, Conservation of Access –It ensure equal access to resources.

The Main Objectives of Intergenerational Equity are as follows :

The main purpose of intergenerational equity is to ensure fairness between present and future generations in the utilisation and control of natural resources with careful consideration and to prevent excessive exploitation of resources.. It aim to balance environmental protection with developmental activities so that the needs of the present generation are met without compromising the ability of future generation to meet their own needs. It focuses on sustainable use, long term environmental planning, environmental justice all time, conservation of resources and prevention of irreversible environmental damage.

How it is recognised under Environmental law ?



1. Constitutional Provisions : Article 48A (Directive Principles of State Policy), It talks about the endeavour of the state to protect the environment and safeguard the Forest and wildlife of the, The Courts explain this article as protecting the environment for present and future generations, it strongly linked to intergenerational equity.

Article 51A(g) (Fundamental Duties), it imposes a duty on citizens of India to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures. It reflects the responsibility toward future generations.

Article 21 includes not only the right to life but also the right of a pollution free environment, this article interpreted by the courts to include the **right to a clean and healthy environment and** used to protect environmental rights of future generations.

Charan Lal Sahu V. Union of India

In this case, the Supreme Court of India examined the Bhopal gas leak disaster (processing of claims) Act, 1985, the court observed that right to live in healthy environment is our fundamental right under article 21 and has to be read with article 48-A and 51-A(g), thereby putting obligation on the state as well as the citizens to protect and improve the natural environment .

2. Environmental legislation : Environmental legislations such as the Environment (Protection) Act,1986 , Water Act,1974 , Air Act,1981, Forest Conservation Act,1980, Wildlife Protection Act,1972, Biological Diversity Act,2002 and National Green Tribunal Act,2010 incorporate the principle of intergenerational equity by taking appropriate measures for the preservation of the natural resources of the earth and essential value of biological diversity and of the ecological, genetic, social, economic, scientific, recreational is a common concern of human kind.

3. International Environmental Law Regime: Intergenerational equity is firmly reflected in international instruments such as :

Firstly, Stockholm Declaration (1972), this declaration proclaimed that human impact on environment with emphasis on control of pollution and conservation of natural resources for present and future generations.

Secondly, Brundtland Report (1987), As per this report, States shall use and manage the environment and natural resources for the benefit of present and future generations.



Thirdly, Rio Declaration (1992), A series of principles defining the rights and responsibilities of the states in this area which reinforces long-term environmental protection.

Fourthly, Paris Agreement (2015), the main aim of this agreement is increase the ability to adapt the adverse impact of climate change and low greenhouse gas emissions development in a manner that does not threaten food production. .

Fifthly, Kyoto Protocol (1997), Under this conference, to achieve stabilisation of greenhouse gas concentration in the atmosphere and to enable the economic development to proceed in a sustainable manner.

4. Law of Climate Change Governance : Climate law is one of the most apparent expressions of intergenerational equity. The convention on climate change which are aimed at preventing global climate change and the eradication of biologically diverse species. **The Inter-Governmental Panel on Climate Change (1988)**, which guides the human being about their responsibility of protecting the environment and how the human activities results in climate change. Today, Greenhouse gas emissions imposes costs on future generations. Laws context the **emission reduction targets, carbon budgets, and net-zero goals** reflect obligations to future people.

Urgenda v. Netherlands

In this case, it demonstrates how intergenerational equity operates in environmental law by holding governments legally responsible for protecting both present and future generations from the long-term harms of climate change.

5. Judicial Interpretation and Precedents : The Courts play a important role in applying the intergenerational equity. It is essential that the people should be aware of the adverse consequences of environmental pollution and they should not only protect and improve the environment, but also ensure compliance of anti-pollution laws and to take help of the judicial forum to enforce such laws to maintain ecological balance. Judicial response to almost all environmental education has been very positive in India.

Oposa v. Factoran (Philippines)

In this case, The Supreme Court recognised the concept of intergenerational equity and allowed the children to represent future generations. They claimed that large scale deforestation violated their rights to



a healthy environment and prejudice the rights of the future generations. The Court applied the doctrines like Public trust doctrine, Right to life and dignity and expanded the locus standi.

6. Integrated Natural Resource Management : Intergenerational equity influences laws managing Forests, Fisheries, Water Resources, Mineral extraction, energy resources, oceans and marine resources, wildlife, coastal resources, groundwater, genetic resources and biodiversity. It recognises the need for all countries to take immediate action in a flexible manner on the basis of clear priorities to use and control the natural resources for the next generations by using reusable items and properly recycling and composting, conserving energy and choosing energy efficient appliances and also boycotting the harmful products which creates the environmental degradation and generate adverse impacts on the future generations.

7. Laws Promoting Sustainable Development : Sustainable Development means a combination of developmental and environmental imperatives. It is a policy and strategy to achieve economic development without depleting natural resources and without harming the environment for posterity. It incorporate intergenerational through:

Environmental Impact Assessments (EIAs), it is a mandatory legal process and a decision making tool that evaluates the potential environmental, social and health impacts of a proposed project before its approval and implementation.

Precautionary Principle, it is to ensure that a substance or activity posing a threat to the environment is prevented from adversely affecting the environment, even if there is no conclusive scientific proof of linking that particular substance or activity to environmental damage.

Polluter Pays Principle, the one who is responsible for spoiling the environment, reinstating in its original shape.

Vellore Citizens Welfare Forum V. Union of India

In this case, the court observed that the precautionary and polluter pays principles are accepted as a part of the customary international law and hence there should be no difficulty in accepting them as a part of our domestic law which protects and safeguards the rights of present as well as future generations.

8. Procedural Entitlement for Future Generations : Procedural rights authorises the present generation to represent and protect the environmental interest of future generations through access to justice, public



participation in environmental decision making and judicial review of environmentally harmful actions. Through these procedural safeguards, the law ensures that decisions taken today do not prejudice the interest of the future generation. Some legal systems innovate by giving future generations a voice such as Guardians for future generations and allowing representatives standing rules in environmental matters.

Why Intergenerational Equity is Matters ?

Intergenerational equity matters because it ensures that **today's decisions do not unfairly harm future generations**, especially in the use of natural resources and environmental protection. This principle promotes sustainable development, responsible decision making and long term environmental protection and improves ecosystem. It preventing the over exploitation of natural resources and environmental degradation. It helps safeguard biodiversity, human well being and ecological balance for the future generations.

Principles of Intergenerational Equity:

The principle of intergenerational equity has found a support with an international as well as national laws in its recent origin. The **1972 Stockholm Declaration** refers to it in Principle 1 and 2. In this context , the environment is viewed more as a resource basis for the survival of the present and future generation.

Principle 1 said that man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of quality but he has the duty as to keep it sake for the upcoming generations. This generation though holds the right to enjoy the nature, but it also has to be protected for the generations which are coming after it.

Principle 2, this principle suggests that the natural resources of the earth including air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of the present and future generations through careful planning or management, as appropriate.

Principle 3 of the Rio Declaration of 1992 says that the right to development must be fulfilled so as to equitably for the present as well as future generations. This principle of intergenerational equity found support in the **rio summit**..

Principle of Sustainable Development says that the rights of people to the nature should be reasonable, balanced, just and equitable.



Doctrine of Public Interest is also suggests that man is the joint owner of the gifts of nature. It belongs to every living being. Right to safe and pristine environment has been recognised as a part of the right of life. The human being do not only have the right to enjoy the environment, but it also have a duty to safeguard the environment for future.

In the catena of cases , the principle of intergenerational equity has been highlighted:

K. Guruprasad Rao V. State of Karnataka

This case is filed as a PIL and it is ordered by the court that minor activity within the radius of 1 km from the Jambunatheswara Temple should be stopped. The court explained the scope of intergenerational equity that safeguards the interest of present generation and protection of historical monumental wealth for future generation.

Goa Foundation V. State of Goa

In this case , The honourable Supreme Court of India was dealing with the question of Locus Standi. It was said by the court that 4 principles, intergenerational equity, Sustainable Development, Precautionary Principle and Polluter Pay Principle. It is essential that the future generations should inherent atleast that much as the present inheritance.

State of Meghalaya V. All Dimasa Students Union

In this case, the court said that the natural resources exist for all including the succeeding generations. They are not suppose to be used only by present generations.

Challenges in Implementation:

Intergenerational equity faces major challenges including it is treated as a principle or guideline not as a binding legal right. There is no universally accepted because the future generations cannot represent themselves in court or policy making process. It is challenging to predict the necessity, value, quality and priorities of future generations. Governments may stand against the binding obligations that limi short term economic growth. These issues highlight the gap between prescriptive principles and enforceable rights.



Recommendations

Intergenerational equity should be explicitly recognised the constitutional provisions for present and future generations. Improving the effectiveness of environmental impact assessment which focuses on effect on future generations. Government must implement long term planning mechanisms particularly in climate change, resource management and urban growth . Introduce legislative measures permitting authorised representation including youth organisations and trustees, to represent future generations in legal proceedings. Natural resources should be managed using the principle of sustainability, preservation and precautions , which ensuring their availability for future generations.

Conclusion

Intergenerational equity can be achieved only by replacing short term decisions with long term responsibility. It requires that the present generation holds the resources effectively for future and it must be supported by public participation, legal assistance and long term planning. States should integrate the laws and policies which ensure the economic development does not compromise the future generations.

References

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