



Criminal Protection of the Rights of Future Generations in International Documents

Mostafa Karamipour*¹; Adel Sarikhani²

¹ PhD Graduate in Criminal Law and Criminology from Al-Mustafa Al-Alamiya University Qom, Iran

² Professor of Criminal Law and Criminology, Qom University, Iran

Email: mmkpour@yahoo.com*; adelsari@yahoo.com

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Abstract

The rights of future generations are those by which the natural resources inherited from the previous generation to the current generation are transferred to the future generation. These rights are one of the important topics and the basis of the restoration of intergenerational justice. From the international perspective, three propositions are assumed for this concept: First: protection of natural resources by every generation. Second: the non-incurrence of irreparable damage through the exploitation of natural resources. Third: belonging natural resources to all generations and the lack of justification for their belonging to a particular generation. Concern about the rights of future generations, is the common pain of all humanity, and the misuse of natural resources by the current generation is the cause of this concern for future generations. In this regard, international assemblies have considered it their duty to recognize the rights of future generations and protect them, and have taken important measures in this regard. At first, the concept of the rights of future generations entered international law with the ratification of the United Nations Charter in 1945 and then with the issuance of the Stockholm Declaration of 1972 in the form of binding and non-binding documents, and subsequently entered the domestic laws of countries.

Keywords: *Future Generation; International Documents; Binding Documents; Non-Binding Documents*

Introduction

Protecting the rights of future generations has been the focus of most countries in the field of international law, and in a wide range of national and international legal documents, including the constitutions of countries, declarations, conventions, International treaties have dealt with it. Some of these international documents entail a mandatory aspect and some just entail an advisory aspect .In addition, the interests of the rights of future generations have been mentioned either explicitly or implicitly.

The current generation's wasteful use of existing resources has prompted governments to teach their citizens to respect the rights of future generations and not to violate the needs of those who have not yet entered the world, to consider the rights of future generations in political and legal decisions and to

recognize their legal rights. Although some countries may have started designing innovative approaches to show the voice of the future generations in the policy-making process, but regarding the task of the current generation in relation to the future generations, different opinions have been expressed; Some extreme experts believe that the current generation is like a trustee who must preserve all available resources for future generations and properly hand them over to the next generation. On the other hand, some others believe that all available resources belong to the current generation and they have the right to use them in any way, and they do not have any obligations towards the future generation. There is a third opinion, which is called intergenerational justice; it is the opinion that the current generation, while meeting their needs, should also consider the rights of future generations. (Mousavi, 1380, 144)

In this research, the rights of future generations are examined in international documents; In this regard, in the first part, the related concepts and the position of the rights of future generations in binding documents are examined, and in the second part, the position of the rights of future generations in non-binding documents is examined.

1- Analysis of Concepts

The terms "future generations" and "rights of future generations" are the main and central concepts of this article, the explanation and analysis of which can contribute to the correct understanding of the various dimensions of the issue.

1-1 The Concept of Future Generation:

1-1-1 The Literal Meaning of "Generation":

"Generation" is an Arabic word of infinitive type, and it is used in the meaning of object noun (Akbari, 1319 AH, 53). It also means: "separation from something". In verse 51 of Surah Yassin, it is mentioned in the same sense:

"And when the Trumpet is blown, behold, there they will be, scrambling towards their Lord from their graves! "

"Generation" is also applied to children and descendants because they are separated from their parents (Ragheb Esfahani, 1412 AH, 802). In some verses of the Holy Quran, the word "generation" is expressed in the same sense (Tabarsi, 1406 AH, Vol. 2, 180, Fakhr Razi, 1420 AH, Vol. 5, 347)

"If he were to wield authority, he would try to cause corruption in the land and to ruin the crop and the stock, and Allah does not like corruption" (205/Baqarah). Also, in the narrations of Ahl al-Bayt, peace be upon them, it is also expressed in the meaning of "child" and "progeny". Also, in the narrations of Ahl al-Bayt, peace be upon them, it is also expressed in the meaning of child and progeny. Imam Sadiq (pbuh) says : "Generation means child; And plowing, this is the land. ", and Imam (peace be upon him) said in another place: "Plowing is indeed children "(Majlesi, 1404 AH, vol. 9, 189 and Ayyashi, 1380, vol. 1, 100). Imam Kazem(pbuh) said:" The meaning of generation is children and the meaning of plowing is agriculture and cultivation."(Ibid) And It is also quoted from Imam Sadiq (pbuh) : "Indeed, the meaning of plowing in this case is religion and generation are people" (ibid).

1-1-2 Terminological Concept of "Generation"

The term "generation" has a clear meaning when it is related to a specific genealogy, but when its conceptual perspective goes beyond the framework of the family, it will have a vague meaning. A certain way to conceptualize this term is to consider a group of people as the current generation according to categories related to statistics and demographics. So that the "Future generation" is easily defined as

"people born after the last dead person of the current generation". In other words, the term "future generations" refers to all future unborn people in a specific geographical area. (Saed Vakil, 2010, 48).

1-2 The Concept of "The Rights of Future Generations"

1-2-1 The Literal Meaning of "Rights"

The rights of future generations are the rights due to which the benefits of one generation, whether natural or otherwise, inherited from the past, are transferred to the next generation. According to this transfer, protection of these rights is considered as a necessity, which in turn requires avoiding harmful and irreparable activities.

2- International Criminal Protection of the Rights of Future Generations in International Documents

The existing legal documents in both domestic and international dimensions have established principles and rules to support and protect the needs, health and well-being of present and future generations. In recent decades, legal tools have been paying attention to the rights of future generations significantly and increasingly, in such a way that most of the legal documents such as declarations and treaties have mentioned these rights. This concept made its way into the international law literature in the 1970s with the issuance of the statement of the "Human Environment Conference" as the largest conference organized by the United Nations from June 5 to 16 in Stockholm.

Since then, this concept has been mentioned in most of the international statements and also in the introduction of most of the global and regional treaties. The domestic laws of many countries also consider respecting the needs of the future generation (Ramazani Qawamabadi, 2016, 241). Meanwhile, Iran is one of the countries that has addressed the rights of future generations in the principles of the constitution (the 45th and 50th principles of the Constitution of the Islamic Republic of Iran).

The domestic laws of some countries, such as the Constitution of India, have stated goals for their environmental policies, such as: preventing, supporting and improving the quality of the environment so that future generations can surely enjoy clean air, clean water and a healthy environment.

Also, a California law has stated: "The government's intention is to create and support conditions where humans and nature can continue to live in full harmony to fulfill the current social and economic needs of the current and future generations. »¹

The "Clean Air, Protection and Environmental Restoration" code in the United States of America, has put one of the goals of implementing the fourth article of this code, to reduce the harmful effects of acid accumulation. Also, one of the specified cases in this code, based on the findings presented in the Congress, refers to the rights of the present and future generations. Clause 5 of the fourth article of the said code, declares that: "The current and future generations of Americans will be adversely affected by the delay in the measurements and the provision of appropriate solutions to these issues. Therefore, based on what was said before, the evidence indicates that the concept of equality of generations regarding the benefit of the environment comes from the instinctive motivation of mankind for self-preservation and the survival of the generation, and the rights of future generations, is of interest to many countries."²

2-1 Criminal Protection of the Rights of Future Generations in Binding Documents

Mandatory rights, which are also called "hard rights", bear the international responsibility for the actions of governments. According to Article 38 of the "Statute of the International Court of Justice", binding sources include international treaties, custom, general legal principles and international judicial

¹California "Public Resources" Code.

²The Clean Air Act.

procedure. Basically, every binding legal rule, is the one that determines the international responsibility of governments and forces governments to compensate for damages. International legal documents often refer to the rights of future generations. Regarding the foundation of the rights of future generations, various contents can be seen in international documents. In this section, binding sources, global and regional international treaties, related judicial procedures and general legal principles are examined.

2-1-1 International Treaties on a Global Scale

Treaties in international law have the highest position among the main legal sources, listed in Article 38 of the Statute of the International Court of Justice. This fact is also emphasized in the sources of international environmental law. In an international dispute, the first source referred to by the International Court of Justice for the peaceful settlement of disputes is treaties and conventions. Because the obligations and rights of governments and the guarantee of the implementation of obligations are clearly mentioned in it. Also the acceptance and accession of a government to it, is optional. The principle of "relativity of treaties" is the main one that has been emphasized in the law of treaties, so that governments are required to comply with the legal rules that they have accepted in the form of treaties (Pourezat, 1398, 178).

The development of international environmental law, especially in the structural dimension, has led to the increase of the functions of treaties significantly, compared to the customs and general principles of law and other sources of international law. Therefore, all the duties and obligations of countries in the international community are often explained in the form of bilateral, multilateral, regional and international treaties.

In this context, conventions and treaties, considered among "strict rights", have a guarantee of implementation, so that a violation of the provisions of the convention by the member states, will follow international responsibility. In fact, accession, acceptance, Signing or approving a convention means recognizing it, so the committed government should not take actions that conflict with the spirit of the convention (Naghizadeh, 2011, 2017).

According to Article 2 of the Vienna Convention (1969), the following is stated as the definition of international treaties:

"A treaty is an international agreement concluded between countries in writing, that is subject to international law issues. Regardless of its specific title and of whether it is reflected in a single document or in several related documents, it may, depending on the case, be referred to as one of the following titles: convention, agreement, protocol, treaty, contract, and memorandum of understanding." (Pourhashmi, 2015, 68). The process of international treaties in the last two decades in the organizations of the United Nations is suitable. In this regard, we mention examples of international treaties that deal with the concept of the rights of future generations:

- The preface of the International Convention on the Regulation of Whaling" (1964) stated: "The nations of the world have a common interest that must be preserved for the benefit of future generation.
- Article 4 of the "Convention on the Protection of World Cultural and Natural Heritage" (1972) states: "Each of the member states of this Convention accepts that the obligation to recognize, tell, protect and promote the cultural heritage located in its territory (mentioned in Articles 1 and 2) And transferring it to future generations, is the duty of the government in the first stage and in order to achieve this purpose, the mentioned state will participate in efforts by resorting to its maximum available facilities and, if necessary, by seeking international assistance and cooperation, especially financial, artistic, scientific and technical assistance. "

- Article 4 of this convention also specifies the need for countries to be aware of their duty to ensure the identification, protection, protection, introduction and transfer of the cultural and natural heritage existing in their territory to future generations.
- preamble of the” Convention on International Trade in Endangered Species of Wild Fauna and Flora” (SITES) (Washington -1973) , also, by introducing these irreplaceable species and the importance of preserving them for the present and future generations, has considered all resources and preventing excessive exploitation of them.
- Also, the preamble of the “Convention of Conservation of Wild Migratory Species”(CMS) (Bon-1979) stipulates: "The contracting parties are aware that all generations have the duty to preserve the resources of the planet for future generations and they are obliged to ensure the reasonable preservation and use of this heritage where it is used." In addition, the “Paris Convention” regarding the protection of North-East Atlantic waters, has addressed the importance of this water loss as the rights of future generations, which is one of the foundations of the common interests of humanity.
- In the preamble of the “Framework Convention on Climate Change “(1992), which is one of the most important international environmental treaties, the decision of countries to preserve the climate system for current and future generations is mentioned.
- Also, the first paragraph of Article 3 of the Climate Change Convention by using the phrase "should" has explicitly pointed to the need to protect climate systems for the benefit of current and future generations. This article states:” "Members should support the climate system equally and based on common responsibilities and with their capabilities for the benefit of the current and future generations, so developed countries should be the leaders in the fight against climate change and its effects.” (Pourhashmi, 2015, 68)
- Also, the last paragraph of the preamble of the “Convention on Biological Diversity” (1992-Rio), which, like the” Convention on Climate Change”, is one of the most important environmental treaties, refers to the decision of the members to preserve and sustainably use biodiversity to protect their interests. Current and future generations have been specified. The last paragraph of Article 2 of the aforementioned convention provided: "Sustainable use of resources, means that the use is done in a way and to an extent that does not lead to a long-term reduction of resources, in such a way that the needs of future generations are met."
- In the last paragraph of the preamble of the “United Nations Convention to Combat Desertification in Countries Exposed to Severe Drought or Desertification, especially in Africa”, it is stated as follows: "The signatory countries are determined to take appropriate action to combat desertification and mitigate the consequences of drought." They acted to protect the interests of current and future generations.
- In the preamble of the “Convention on the Rights of Exploitation of Transboundary Waterways and International Lakes for Non-Shipping Purposes “(1997-New York), it is also mentioned: "The countries of the world, by planning a framework convention, will make sure of use, development, preservation, management and support of international waterways and the optimal and sustainable exploitation of these waterways to supply current's generation and future`s generations interests. “
- Article 3 of the” Framework Convention on Tobacco Control” (2003) states the purpose of the convention and its protocols as follows: "Protecting the current and future generations from harmful effects on health, and harmful social, environmental and economic effects of Tobacco use and exposure to tobacco smoke.”

Therefore, it is understood that international treaties at the global level directly or indirectly seek to explain and recognize the concept of the rights of future generations as one of the basic concepts of international law.

2-1-2 International Treaties in Regional Scope

The rights of future generations have attracted the attention of international law makers in many regional treaties in addition to international treaties. In this regard, we mention examples of regional international treaties that deal with the concept of rights of future generations:

- The preamble of Kuwait's regional "Convention for Cooperation On the Protection of the Marine Environment Against Pollution" (1978) has stated as follows: "Aware of the importance of cooperation and coordination of regional measures aimed at protecting the marine environment for the benefit of all parties, include future generations."
- The preamble of the "Convention On the Protection Ff North-East Atlantic Marine Areas "(1992) also stated as follows: "The marine areas must be preserved in a sustainable manner to meet the needs of the present and future generations."
- In Article 1 of the " Convention On The Protection Of Biological Diversity and the Protection of Priority Wildlife Areas in North America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama) " (1992), the purpose of the convention ,as much as possible , to protect terrestrial and coastal marine biological diversity in the Central American region has been mentioned for the benefit of the present and future generations .Mentioning the phrase "as much as possible" reduces the decisiveness of the provisions of this convention regarding the concept of equality of generations, which causes ambiguity and differences in the interpretation of the convention.
- In the regional "Convention On Climate Change (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama) "(1993) also in Article 1, participation in supporting the right of every human being in the current and future generations to live in an environment suitable for his health and welfare, has been specified as the goal of the convention.
- The preamble of the "Convention On the Protection of the Marine Environment of the Caspian Sea" (Tehran Convention) (2003) also refers to the concept of the rights of future generations.

As an example in the preamble it is stated: the contracting parties (the Republic of Azerbaijan, the Islamic Republic of Iran, the Republic of Kazakhstan, the Russian Federation and Turkmenistan) being aware of the destruction of the environment of the Caspian Sea due to pollution caused by various sources of human activities, including the discharge of harmful substances, dangerous, waste materials and other pollution caused by sea and land sources, with a firm decision to preserve the living resources of the Caspian Sea for the present and future generations. Being aware of the necessity of guaranteeing the harmlessness of land activities for the environment of the Caspian Sea, considering the dangers caused by water level fluctuations that threaten the environment of the Caspian Sea and its unique ecological and hydrographic characteristics, with emphasis on the importance of protecting the environment of the Caspian Sea and acknowledging and cooperation between the Caspian coastal governments and with relevant international organizations, with the aim of protecting and maintaining the marine environment of the Caspian Sea.³

- The preamble of the "Strategic Environmental Assessment Protocol (SPOO) On The Convention on the Assessment of Environmental Effects in the Transboundary Environment (2003), has pointed out the benefits of paying attention to maintaining and improving the health and well-being of the present and future generations.

The aforementioned statements and conventions are examples of cases in the region, in which international law has paid attention to the protection of the rights of future generations.

³Preamble of the Convention on the Protection of the Marine Environment of the Caspian Sea. (2003)

2-1-3 International Judicial Procedures

The International Court of Justice (ICJ) in the case of the territory of England and Northern Ireland v Iceland in 1974, about two years after the 1972 Stockholm Declaration, pointed to the issue of the common heritage of humanity and the rights of future generations and believed that governments should respect the rights of future generations in using common resources and take steps to protect the rights of future generations.

Also, one of the points raised in the judgment of the court in the cases of nuclear tests of New Zealand, France, Australia, was referring to the rights of the future generation rights. The OPOSA case is another famous judgment in the field of equality of future generations on environment, which is related to taking action by some Filipino children against the Environment and Natural Resources Organization of that country, by the Philippine "Ecological Network Institute" in 1993. This case known as *Minors v OPOSA*.

The judgment of the court refers to this matter: "Each generation is responsible for maintaining the necessary balance and harmony in order to make full use of a healthy and balanced ecology. (Pourhashemi, 1395, 68). In fact, in this case, the court examined the concept of responsibility of the present generation towards the future generation (Hosseini, 2010, 104). In spite of the fact that such a judgment is considered as the internal laws of countries, but we should make great efforts as a stimulus and incentive to spread this concept.

In the John Mayne case in 1993, the dispute between Denmark and Norway regarding the delimitation of the maritime border between Denmark, Greenland and the Norwegian islands, The Judge John Mayne, emphasized the issue of fairness and as a result, The Judge Vira Mantri ruled on environmental considerations as part of fairness and the heritage of the future generation (Afrogh, 2018, 312).

Also, the International Court of Justice, in its advisory opinion on the threat of using or using nuclear weapons, connects the environment and future generations, and the pays attention to public commitment, reflected in Article 21 of the Stockholm Declaration, regarding the human environment, as a part of international law.

In addition, the International Court of Justice in its judgment in the case of *Nagimaros v Gabský Nodre* in the dispute between Hungary and Czechoslovakia in 1997, emphasized that "the issue of the environment is not an abstract and subjective concept, but rather it is the space in which humanity lives and life and the health of humanity depends on the quality of it, and in this framework, the life of future generations should also be considered. Therefore, according to the judgments of the ICJ, it can be seen that the rights of the future generations are very important in this context.

Also, regarding the rights of the future generations and its connection with the "common heritage of humanity", we can refer to "the international seabed authority", as the subject of the International Convention on the Law of the Sea (1982); which was established in order to objectify the concepts of "common heritage of humanity" and "rights of future generations".

In addition, the International Criminal Court (ICC), based on the Rome Statute (1998, as the highest international judicial authority, institutionalize the concept of "rights of future generations" and has included crimes against "humanity" in its jurisdiction. Therefore, international judicial and quasi-judicial institutions have taken fundamental steps to protect the rights of future generations, and in the future, we can witness the development of the institutionalization of the concept of "the rights of future generations" in international judicial and non-judicial authorities. (Puorashmi, 68, 1395)

2-2 Criminal Protection of the Rights of Future Generation in Non-Binding Documents

Non-binding documents are described as advisory rules that do not guarantee criminal enforcement. These rules are also called "soft rights" which play a valuable role in achieving the rights of future generations. Soft rights refer to international guidelines that lack the necessary conditions and specifications for real international legal rules (Handel, 1990, 7) which are said to have unique effects. It is also possible that "soft rights" become an international rule following "hard rights". Soft legal documents are usually created in official situations, as the final document of a conference, declaration, resolutions of international organizations, agenda, guide, etc. (Fitzmaurice, 1992, 199). The effects that such documents have, are different and jurists have given different opinions about it; Some experts believe that because these documents do not have a binding aspect, the use of the word "rights" does not seem right for them, and basically, soft rights are a well-known false term. In fact, soft rights are created when governments have decided to reach a consensus on the issue, they have negotiated and in this regard, they are simply expressing their opinion that what is their ultimate goal? (Fitzmaurice: 199) In general, soft law determines the process and direction of the development of international law, and expresses the government's belief about a subject.

On the other hand, some international jurists are of the opinion that soft law is a procedure that helps the doctrine of law, and it is a criterion that determines a rule. in other words; The concept of soft rights is placed somewhere between "rights" and "non-rights", because on the one hand, it only expresses encouraging rules in accordance with the rules of the subject, of course, of a secondary nature, and on the other hand, by influencing international practice, and by preparing the groundworks, leads to the establishment of a legal rule. (Handel.7-8)

The term soft law was used first in international law and economics, and in fact, the necessity of economic relations, flexibility and freedom required to create it. The existence of different governments with conflicting interests and different degrees of development, makes it very difficult to reach an international legal agreement in the field of economics. For this reason, soft law, soon and simply, founded a significant place in this part of international law (Seidel 1989, 42).

In general, soft rights include statements, declarations and instructions. Most of the declarations issued by the United Nations General Assembly are also of this category. Although these rights do not have a legally binding effect. Although Its mandatory effect is far weaker than other binding documents, it has found a special place in the development of international law, because it announces the general policy that governments should adopt in different fields in a way that is possible, by repeatedly applying by that government. Since the governments agree to the rules by accepting and implementing them, as their behavioral guide, this acceptance and frequent observance of non-mandatory rules can be a guide for the creation of customary rights. In other words, the most important function of these rights should be the expansion of international custom (Porahashmi, 1395, 172). With this perspective, we will refer below to the concept of the rights of future generations in some international documents in soft law:

2-2-1 Stockholm Conference

The Stockholm Conference issued three documents, all three of which are non-binding:

1. a resolution related to financial and organizational arrangements
2. A declaration consisting of 26 principles, which is known as the "Stockholm Declaration".
3. An instruction that included 109 recommendation letters. (Sands. 1994.393) Most lawyers are of the opinion that although the Stockholm Declaration was accepted during an official conference, it is not binding. In fact, these principles will not have legal obligations just by being in the declaration, and only remains to the extent of moral obligations for the government. (Hasan, 1991, 72).

The Stockholm conference was not a law-making conference and the declaration issued in it, is known as soft rights. However, many of the principles contained in the aforementioned declaration, including the principle of the sovereign right of states over natural resources and the principle of international cooperation had become a part of customary international law in the field of environment previously, and as a result its binding basis was derived from custom and not from declarations. At the same time, it can be confirmed that a large number of countries have included all or part of the Stockholm Declaration in their domestic laws (kis, 2002, 384).

Many principles of the declaration of the United Nation's "Conference on Man and the Environment"⁴ are dedicated to the concept of "rights of present and future generations", which shows the importance of the mentioned concept. Regarding criminal protection of the rights of future generations, several principles have been established in this field. For example, in the first principle it is stated: "It is fundamental rights to freedom, equality, suitable conditions and living in an environment that allows him to live with dignity and happiness, and includes the responsibility to preserve and improve the environment for the present and future generations "

And also under Article 6 of the Stockholm Declaration, it is stated that: "Protecting the environment and improving it for the current and future generations is a priority for humanity and a task that must be done in a coordinated and synchronized manner with the predetermined fundamental goals of peace and economic and social development all over the world.

Similarly, in the end of Article 7, it is clearly stated that: "The conference requests governments and people to unite their efforts in order to protect and improve the environment for the resources of the current people and future generations."

2-2-2 Rio Declaration

One of the most important documents of the United Nations that is related to the rights of future generations is the "Rio Declaration", which was approved by the agreement of all countries. It is one of the non-binding documents that the governments have a consensus on. Professor "Annand" in his evaluation of the "Rio conference" believes: "The documents used in Rio are not legally binding and are mentioned in vague and unclear language that do not require any legal, political or even moral obligations." (hossain.1997,729) Although the "Rio conference "was doomed to failure, it had an important achievement. This declaration was accepted by the consensus of developed and developing countries, contrary to the "Charter of Economic Rights and Duties of Countries", which lacked the positive votes of important developed countries (Ibid.: 845).

In the "Rio Declaration" (1992) regarding the environment and development, it has mentioned the rights of future generations in several cases. Among other things, paragraph b of the first principle stipulates: "Forest resources and lands must be sustainably managed in such a way that they meet the social, economic, environmental, cultural, and spiritual needs of the present and future generations." These needs include the need for food, fodder, livestock, medicine, fuel, shelter, employment, recreation, nest for animal, landscape diversity, reservoirs and sources of carbon absorption and other forest reserves.

2-2-3. 21st Century Agenda

Although this document does not foresee binding performance, it can be assumed that since its basis was the expression of the lowest level of environmental rules necessary for sustainable development

⁴Stockholm Declaration. (1972)

within the countries, its acceptance in the domestic laws of the countries on a wide scale is a has created a practical procedure regarding its rules. (Saunders. 1998, 143)

In the final part of the first paragraph of the preamble of Agenda, which is the third document of the “Rio Conference”, it is mentioned that: "The basic needs of all human beings should be met and their living standards improved, ecosystems better protected and managed and a safe future and more happily expected for the world"

It is mentioned in the third principle: "It is necessary to have the right to development in such a way that it meets the needs of the current generation and the future generations alike."⁵

And in the 4th principle of the mentioned declaration, it is clearly stated: "With the aim of achieving sustainable development, environmental protection is an integral part of development and cannot be considered separately from it."

Also, the “Universal Charter of Nature” (1982) has also stated: "Man must acquire a knowledge that will provide and strengthens his ability to use natural resources in a way that preserves species and ecosystems for future generations. "

In addition, the preamble of the “North American Agreement on Environmental Cooperation” (1993) also addressed the following points to the countries: the importance of protecting, supporting and improving the environment in their territories and the essential role of cooperation in regions to achieve sustainable development for the health of the present and future generation.

2-2-4 UNESCO Declaration

Another example that emphasizes the responsibility of the present generation towards the rights of future generations is the UNESCO declaration. In February 1994, a meeting of experts was held under the supervision of UNESCO and the COSTEA association to compile the “Universal Declaration of the Rights of Future Generations over the Present Generations” (Ramazani Qawamabadi, 2019, 412).

The revised version of the UNESCO declaration (1994) was obtained. In its 29th meeting in November 1997, the UNESCO⁶ General Conference approved the declaration, “The Responsibility Of The Present Generation Towards Future Generations” , in which article 1 deals with the needs and interests of future generations.

Article 2 refers to the freedom of choice for future generations. Article 3 emphasizes the protection of mankind by the present generation. According to Article 4, the current generation is responsible for protecting life on earth, and inheriting the earth is the responsibility of the current generation for future generations .Article 5 emphasizes the protection of the environment, and for this purpose, the protection by present generation to the natural resources necessary for human life and its development for the future generation, and commitment to prevent the future generation from being exposed to pollution that may endanger their health or existence and consideration to the possible effects of important and large projects before implementation, , for future generations.

According to Article 7 of this declaration, the current generation has assumed the responsibility of identifying, supporting and providing tangible and intangibles cultural heritage and transferring them to future generations. Finally, the present generation must guarantee that they will educate the future

⁵Although the exact terms of the “rights of future generations” are not mentioned in this paragraph, paying attention to its content, implicitly refers to the concept.

⁶United nations educational and Scientific and Cultural Organization.

generations in peace and security according to the principles of international law, human rights and fundamental freedoms.

Nairobi Declaration (1997) also considers the rights of the future generation. Paragraph 8 of the Declaration is about the role and duty of UNEP and emphasizes the international efforts to preserve the international environment for the benefit of the present and future generations and the achievement of sustainable development. The “program for the development and periodic review of environmental rights for the first decade of the 21st century (2001) is another nonbinding document on the topic. The program purpose is to strengthen the effectiveness of environmental rights for the benefit of future generations, according to paragraph 9.

Also, the last principle of the statement of the “World Summit on Sustainable Development in South Africa” (Johannesburg-2002) has paid attention to the current and future generations. As It is noted , non-binding documents also seek to recognize the concept of generational rights. The rights of futures are one of the basic concepts of international law in the field of environment.

Conclusion

Today, the excessive use of the global natural resources has faced a serious challenge, in such a way that its continuance, will violate the rights of future generations and ultimately threaten the survival of living beings on the planet. Therefore, it is necessary for the current generation to take measures in this field so that the future generations can benefit from natural resources just like the current generation. In this context, the international community protects the rights of future generations by setting rules in binding and non-binding documents, and in many international treaties on regional and global scales, as well as in national regulations, this rights are recognized.

The careful recognition of these rights in the international community instilled the belief in people and governments that natural resources do not belong to a specific generation but belong to all people and generations, to solve their needs. Because there is no reason that the natural resources just belong to the current generation and their superiority to the future generations, of course, the current generation has the right to use these gifts, but in contrast has the duty to protect these resources and transfer them to the next generation as well, as if as God's successors, should leave this divine trust to the future generations. This causes unity between generations and guarantees sustainable development and enjoyment of natural resources for all generations. Failure to comply with this right will be allowing the oppression of future generations, which its responsibility is on the current generation. Governments also have the duty to take necessary measures to protect the rights of future generations. Therefore, the rights of future generations are an important discussion on fairness between generations, because each generation is obliged to observe fairness with the next generation in interaction with nature.

References

- Ahmed, Abdulaziz, 1998, Criminal protection of the fetus, Darul-Nahdah, Cairo.
- Akbari, Abdullah bin Hossein, 1419 AH, al-Tabayan fi Arab al-Qur'an, Riyadh, Bayt al-Afkar al-Dawliyya.
- Ayashi, Muhammad bin Masoud, 2001, Tafsir Al-Ayashi, Volume 1, Tehran, School of Islamic Studies.
- Balas, Christopher, 2010, generational mentality; A psychoanalytic perspective on the difference between generations, translated by Hossein Payandeh, Arghanoun Philosophical Quarterly, No. 19.

- Dehkhoda, Mohammad, 1998, Dehkhoda Dictionary, Volume 2, Tehran, Amir Kabir Publications.
- Farahani Fard, Saeed, Mohammadi, Youssef, 2013, Quran, Environmental Challenges and the Basics of Environmental System in Islam, Ethical Researches, No. 21.
- Fitzmaurice, M.A, 1992, international Environmental Law as a Special Field, Netherland, year book of international Law, Vol.XXV, 199.
- Handl G., 1990, Environmental security and Global Change; The Challenge of the Tnternational Law, year book of international Environmental Law. 7.
- Hasan. P, 1991, Biodiversity and international Law, S Bilderbeek, los press, 72.
- Hossain' K, N' Al- Nauimi et al 1997, The Rio conference and post –Rio: The New International Economic Order, International Legal Iessus Arising under the United Nations, Decade of international Law, 729.
- Ibn Abi al-Hadid, Abdul Hamid bin Heba Allah, 1404 AH, Interpretation of Nahj al-Balaghah, vol. 20, Qom, School of Ayatollah al-Marashi al-Najafi.
- Jafari Langroudi, Mohammad Jafar, 2006, Law Terminology, Tehran, Ganj Danesh Library.
- Johari, Hamad bin Ismail, 1417 AH, Sahaha (Tajul Lagha and Sahaha Al-Arabiyya), Volume 4, Research by Abd al-Ghafar Attar, Dar al-Alam Lelmaline.
- Khairy, Ahmad Al-Kabash, 2002, Criminal Protection of Human Rights, Dar al-Jamaein.
- Kis.A , Shelton.D, 2002 international Environmental Law , Transnational Publisher , 384.
- Majlisi, Mohammad Baqir, 1404 AH, Bihar al-Anwar, Volume 9, Beirut, Al-Wafa Institute.
- Mousavi, Seyyed Fadlullah, 2001, International Environmental Law, Tehran, Mizan.
- Naghizadeh, Alireza, 2017, Review of the right to environment and the right to development in additional environmental conventions of the Islamic Republic of Iran, Viewpoint Quarterly.
- Puorhashemi, Seyyed Abbas et al, 2015, the formation and development of "the concept of the rights of future generations" in international environmental law, environmental science and technology.
- Ragheb Esfahani, Hossein bin Muhammad, 1412 AH, Words of the Qur'an, Beirut, Al-Dar al-Shamiya.
- Raijian Asli, Mehrdad, 2005, supportive victimology, Tehran, Dadgostar Publication.
- Ramezani Qawamabadi, Mohammad Hossein, 2019, from Rio to Rio; In the pursuit of a sustainable generation, Journal of Legal Research, No. 62.
- Razi, Muhammad bin Abi, Mukhtar al-Sahah, 1981, Dar al-Kitab al-Arabi, Beirut.
- Rubin Hossein, Abdullah, 1404 AH, Dar al-Nafas, vol.1.
- Saed wakil, Amir and Asgari, Pouria, 2013, the third generation of human rights, Tehran, Majd Publications.
- Sands' PH, 1994, Environment community and international Law, Harvard international Law Journal, Vol 30, No 2.393.
- Saunders P.m, 1998, Moving on from Rio: Resent Initiatives on Global Forest Issues, Canadian year book of international Law, 143.

Sarokhani, Bagher, 1996, Introduction to Encyclopedia of Social Sciences, Tehran, Kayhan Publications.

Seidl- Hohenveldern, 1989, International Economic Law, 42.

Tabarsi, Fazl bin Hasan, 1406 AH, Al-Bahrin Majmam fi Tafsir al-Qur'an, Vol. 2, Beirut, Darahiya al-Tarath al-Arab.

Tareehi, Fakhreddin, 1408 AH, Majma Al-Bahrin, Tehran, Al-Thaqafeh al-Islamiya publishing school.

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