



Comparative Study of Criminal Protection of the Rights of Future Generations in Iranian Criminal Law and International Documents

Abozar Salari Far¹; Alireza Taheri²; Mostafa karamipour³

¹PhD in Criminal Law and Criminology and Faculty of Islamic Azadeh University, Bandar, Iran

²PhD Student in Criminal Law and Criminology Islamic Azadeh University, Bandar Abbas, Iran

³PhD in Criminal Law and Criminology, Iran

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Abstract

The rights of future generations are one of the important topics of intergenerational justice; By that, the natural resources that have been inherited from the previous generation to the current generation are transferred to the future generation; Worrying about the rights of future generations is the common pain of all humanity, and this research is necessary for this reason. Indiscriminate use of natural resources, in addition to its effects and unfortunate consequences on the current generation, causes concerns for The future generations have also become so that in this regard, the international assemblies consider it their duty to recognize the rights of the future generations and take an important step to protect them, first of all, the concept of the rights of the future generations by approving the United Nations Charter of 1945 and then by issuing a declaration Stockholm entered international law in 1972, which was discussed in binding and non-binding documents, and as a result, it entered the domestic law of some countries. But in the meantime, some believe that Iran's criminal law has not paid attention to the future generations. In this research, we are trying to investigate this issue and answer the question whether Iran's criminal law has paid attention to the rights of future generations or not. Based on the findings of this research, which was written in a descriptive and analytical method, there are clearly principles of the constitution and other special laws, including articles of the Islamic Penal Code, dedicated to the rights of future generations.

Keywords: *Iranian Criminal Law; Constitution; Future Generations; International Documents; Binding Documents; Non-Binding Documents*

Introduction

Protecting the rights of future generations has been seriously considered by most countries in the current situation and is covered in a wide range of national and international legal documents, including the constitutions of countries, declarations, conventions, and international treaties. It has been discussed. Some of these documents have a mandatory aspect and some have an advisory aspect, and in some of these documents, the interests of the rights of future generations are mentioned explicitly and in some of them implicitly. have done Considering the current generation's indiscriminate use of available resources,

governments are encouraged to teach their citizens to respect the rights of future generations and the needs of those who have not yet entered the world. do not damage it and governments should consider the rights of future generations in their political decisions and legally recognize their rights. It is a fact that we owe the people of the future, the existence of the future generations depends on our current decision, we have the ability to harm them, so there must be policies, programs and laws to prevent harm to the future. (2015, 345, L. Hajjar). Finally, these questions are raised whether the Constitution of the Islamic Republic of Iran has paid attention to the rights of future generations in the category of fundamental values of the society or not? And in the constitution, is there a principle that oversees the protection and protection of the rights of future generations? Have the normal laws also paid attention to the rights of future generations or not? And for the violators of the rights of future generations, he has determined a punishment, and is this punishment a deterrent or not?

Analysis of Concepts

The terms "future generations" and "rights of future generations" are the main and central concepts of this article, and the explanation and analysis of these concepts can help to have a correct understanding of the different dimensions of the issue.

The Concept of Future Generations

The lexical concept of generation The word "generation" is an Arabic word and an infinitive, it is used in the meaning of an object noun (Akbari, 1319 AH: 53). It also means separation and separation from something, and it is mentioned in the same meaning in verse 51 of Surah Yass Al-Soor is the same as from al-Ajdath to their Lord, and generation is also applied to children and descendants because they are separated from their parents (Ragheb Isfahani, 1412 AH: 80). In verses of the Holy Quran, the word generation also means Son and offspring have been mentioned (Tabarsi, 1406 AH: 2/180; Fakhr Razi, 1420 AH: 347/5). For example, "And when you strive in the earth, it will be corrupted, and the plow and the offspring will perish, and God does not love corruption; When they get dominion and rule, they will try with all their might to spread corruption in the earth and destroy people's property and lives, while God does not like corruption" (Baqarah: 205). Maraghi and Fakhr Razi have stated in their interpretations that probably they mean descendants (Maraghi, 1404 AH: 5/561; Fakhrazi, 1420 AH: 5/347).

Terminological Concept of Generation

The term "generation" has a clear meaning when it is related to a specific genealogy, but when its abstract perspective is placed beyond the framework of the family; It will have an ambiguous meaning. A separate way to abstract this term is that the group of people in terms of categories related to statistics and demographics are the current generation, which others easily define as the future generations, as those who come after the last person of the current generation who It is in the past, they are born, they are defined. (Saed Vakil, 1390: 48). In other words, the term "future generations" refers to all unborn people of the future with a specific geographical area (ibid.).

The Concept of the Rights of Future Generations

Lexical concept of rights Rights is the Arabic word and the plural of right, and several meanings have been stated for it in the dictionary by lexicographers, among them, in the dictionary, the word means proof, anti-falsity, and fixed existence (Tarihi, 1416 AH, vol. 1, p. 545 and Fayoumi, 1405 AH, vol. 2 , 143). It is also used in the meaning of absolute existence, that is, the essence of the Most High (Tahanvi, 1996, vol. 1, 683). Ragheb Esfahani says: Right basically means agreement and conformity (Ragheb Esfahani, 1416 AH, 105). They believe in the meaning of truth; All the meanings of right in the word go back to proof and obligation (Madkor, 1964 AD, 419). Many lexicologists have emphasized the word

"proof" as the main meaning of "right" (Ibn Manzoor, 1418 AH, vol. 10, 49 and Ibn Faris, 1404 AH, vol. 2, 15).

Terminological Concept of Rights

In jurisprudence books, several definitions for the word "right" have been given by jurists; The late Sheikh Ansari (may Allah be pleased with him) in his book *Makasib* calls it "a form of ability and mastery" (Ansari, 214, 1375). In fact, the owner of the right has the power and ability to seize and exploit the object of the right or leave it. Islam is a special ability that is credited to someone for something, and according to that ability, he can take possession of that thing and benefit from it" (Georji, 2018, 281). The rights of the future generations are the rights due to which the interests of one generation, whether natural or otherwise, inherited from the past, are transferred to the future generation, whereby the protection of these rights is considered as a necessity. which requires avoiding harmful and irreparable activities.

Supporting the Rights of Future Generations in Iran's Criminal Law

The protection of the rights of future generations is supported by the legislator in the highest law of the country, i.e. in the constitution, as well as in some ordinary laws. In the negative dimension, they have reacted and punished the aggressors. But the important point is that the laws that are passed regarding the protection of the rights of the future generations should be appropriate, efficient and have a strong enforcement guarantee, and the proportion between the crime and the punishment should be observed. Because one of the most important concerns of the thinkers of criminal law is the proportionality of crime and punishment, and for each crime, what amount of punishment has been determined and whether the determined punishment is proportional to the crime committed or not? The lack of proper law and the disproportion between the crime and the foreseen punishment causes the crimes against the rights of the future generations to increase day by day. Therefore, it is necessary for the predicted laws to have a guarantee of strong implementation and deterrence. In the present era, due to the indiscriminate use of natural resources, the world has faced a fundamental challenge, and the continuation of this process will lead to the loss of the rights of future generations. And the possibility of the survival of living beings on the planet will face a fundamental danger, which is necessary to take measures and measures by the current generation so that the future generations can benefit from natural resources like the current generation.

Protecting the Rights of Future Generations in the Constitution of Iran

The most important law that is at the highest level of national regulations and is one of the most advanced principles in the field of directive and supervisory laws and laws protecting the equality of generations at the macro level is the Constitution; In the 45th and 50th articles, it explicitly deals with the rights of the future generations, which in the 45th article of the constitution has the following provision: "Anfal and public wealth such as favorable or abandoned lands, mines, seas, lakes, rivers, and other public waters, mountains, valleys, forests, reeds, natural forests and pastures that are not private, inheritance without heirs and properties of unknown owners and properties general which is returned from the usurpers, it is at the disposal of the Islamic government to act on it according to the public interest, the law determines the details and order of use of each one. In this principle, he listed some general commonalities that belong to all generations. In the principle of fifty constitutions, the right to a healthy environment has been explicitly recognized for the future generations and in this principle it has been stipulated as follows: "In the Islamic Republic, the protection of the environment, which the present generation and the generations to come, must be in It is considered a public duty to have a growing social life. Therefore, economic and other activities that are associated with environmental pollution or irreparable destruction are prohibited. Fortunately, the Constitution of the Islamic Republic of Iran looks at the rights of future generations, which is one of the guiding concepts for environmental rights. It is

based on the idea that the current generation should use natural resources in such a way that the future generations will be able to meet their needs and interests. The content of the fifth principle is important from the point of view that it directly recognizes the sustainable development and the rights of current and future generations. One of the important points in the 50th principle of the constitution is that the existence of the environment is considered necessary for the transcendental human life. Today's generation and the next generation should have a growing social life in it. In fact, it can be said that the Constitution has accepted the priority of environmental protection for the sublime life of mankind in its entirety. It is natural that this economic and social development should be adapted to environmental and biological requirements and not that environmental protection should be adapted to development. (Ramadan Qawamabadi, 2015, 263). In the aforementioned principle, two of the clear examples of violation of the rights of future generations; It means "pollution" and "destruction". And pollution has different dimensions, and a definition that is inclusive of people and hinders others is difficult, and the 1973 Marple Convention has defined evacuation as one of the examples of pollution (Shilton, 1389, 184). In Note 2 of Article 688 of the Islamic Civil Code, pollution is defined as follows: "Environmental pollution means the spreading or mixing of foreign substances into the air, soil, or ground to the extent that its physical, chemical, or biological quality is impaired." To change in a way that is harmful to human beings or other living beings or plants or works or buildings. Degradation means any kind of change in natural resources so that the balance of nature and biodiversity are seriously endangered. And based on the mentioned principle, environmental protection, which is one of the clear examples of the future generations, has been considered as a "public duty". It has established a collective obligation for the government and individuals of the nation. Because the environment is one of the most fundamental rights, and the importance of this issue is such that without it, man cannot continue his natural life, and therefore, according to the principles 45 and 50 of the Constitution, benefiting from the gifts of nature is reserved. It does not belong to one generation, and its use should be done correctly and according to justice, so that the future generations can also experience a healthy life under its protection, and the current generation has no right to abuse it in its exploitation, and to the limit. destroying the rights of future generations Ignore it.

Normal Rules

In Iran's criminal law, although there is no law under the title of "protecting the rights of future generations", it has addressed some examples of the rights of future generations among various laws. In this research, we will limit ourselves to mentioning two cases. 1-2-2-Islamic Penal Code In addition to the principles mentioned in the constitution that pay attention to intergenerational rights, normal laws and regulations have been approved in this regard. These laws and regulations in their positive aspect, in the form of action, have decreed support programs aimed at preserving and developing the environment, and in the negative aspect, they have predicted punitive measures in the form of reactive policies, and in cases Many have gone to the extent of applying the guarantee of criminal executions to the offenders in this environment (Omidi and Yousefipour, 1393, 10). In the normal laws, including, in the Islamic Penal Code approved in 1375, in Article 680, regarding the hunting or hunting of animals. Wild animals are protected and in Article 688, threats against public health such as contaminated drinking water supply or distribution of contaminated drinking water, unsanitary disposal of human and animal excreta and waste materials, dumping poisonous substances in rivers, garbage in the streets, and the illegal killing of animals and... has indicated. In the positive aspect, the aforementioned materials have actively applied their policy of supporting the future generations in the field of safe and sufficient water, preventing the unsanitary disposal of human and animal wastes, and the dumping of poisonous substances in the rivers. The negative aspect is sufficient in the form of reaction and punishment such as imprisonment and payment of fines to the violators, and in Article 680 of the Islamic Civil Code, hunting or hunting of protected wild animals is discussed, and in Article 688, some important examples are also mentioned. The rights of future generations have been paid, including polluting drinking water, unsanitary disposal of human waste, and pouring poisonous substances into rivers.

Radiation protection law approved in 1368 Article 1 of the said law has stated the objectives of the above law and it has been stipulated as follows: "In view of the increasing use of radiation (rays) in various matters and the need to protect employees, people, future generations and the environment against the harmful effects of radiation, the following regulations have been compiled has been". As it can be seen, this law also deals with the protection of future generations, and in paragraph 5 of article 3, it also refers to future generations, including the provisions of this law, including all matters related to protection against radiation on the surface. The country is one of the following: 5- Protection of employees, people and future generations in general and the environment against the harmful effects of radiation.

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 the present and future generations. In recent decades, legal instruments have been significantly and increasingly The rights of future generations are considered. Most of the legal documents such as declarations and treaties have mentioned this right. This concept was introduced in the 1970s by issuing the statement of the Human Environment Conference as the largest conference organized by the United Nations from June 5 to 16 in Stockholm. The literature of international law found its way. After that, this concept has been mentioned in most of the international statements and also in the introduction of most of the world treaties and many regional treaties. The domestic laws of many countries also pay attention to the needs of the future generation (Ramazani Qawamabadi, 2016, 241). In the meantime, Iran is one of the countries that actually have 45 and 50 constitutions that address the rights of future generations.

The domestic laws of some countries, such as the Constitution of India, have stated goals for their environmental policies, which include preventing, supporting and improving the quality of the environment so that future generations have clean air, clean water and a healthy environment. make sure The Clean Air Law based on the protection and restoration of the environment in the United States of America, one of the objectives of the implementation of the fourth article of this law is to reduce the harmful effects of acid accumulation, which is one of the things specified in this law based on the findings presented in Congress refers directly to the rights of the present and future generations. Clause 5 of the fourth article of the said law declares that: "The current and future generations of Americans will be adversely affected by the delay in measurements and providing appropriate solutions to these issues. Therefore, Based on what was said before, the evidence indicates that the concept of equality of generations in relation to benefiting from the environment comes from the instinctive motivation of mankind for self-preservation and the survival of the generation, and the rights of future generations are It is the attention of many countries " In this speech, international documents are reviewed and expressed on two levels, binding and non-binding. 1-3- Criminal protection of the rights of future generations in binding documents Mandatory rights, which are also called "hard rights". It is the international responsibility 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 procedure. Basically, every binding legal rule determines the international responsibility of governments and forces governments to compensate for damages. International legal documents often refer to the rights of future generations, and different statements of the basis of the rights of future generations can be seen in international documents. In this speech, binding sources, global and regional international treaties, related judicial procedures and general legal principles are examined and explored.

International Treaties on a Global Scale

Treaties in general international law have the highest position among the main legal sources in Article 38 of the Statute of the International Court of Justice, and this issue is also emphasized in the sources of international environmental law. In the event of 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 surrounding the treaty and the guarantee of the

implementation of the obligations are clearly mentioned in it and acceptance And joining a state to it is optional. The principle of relativity of treaties is the main one that has been emphasized in the law of treaties, so governments are required to comply with the legal rules that they have accepted in the form of treaties (Pourezzat, 1398, 178). The development of international environmental law, especially in the structural dimension, has caused the function of treaties to increase significantly compared to the customs and general principles of law and other sources of international law, and all the duties and obligations of countries in the international community in the form of treaties be explained unilaterally, multilaterally, regionally and internationally, and conventions and treaties are considered hard rights and have a guarantee of implementation, and member states of a convention in case of violation or violation of the provisions It will have international responsibility. In fact, joining, accepting, signing or ratifying a convention means recognizing it, so the committed government should not take actions that conflict with the spirit of the convention (Naghizadeh, 1391, 97). According to Article 2 of the Vienna Convention approved in 1969, the following is stated in the definition of international treaties: "Treaty is an international agreement concluded between countries in writing and subject to international law, regardless of its specific title. And regardless of whether it is reflected in a single document or in several related documents, which may, depending on the case, be one of the titles such as: convention, agreement, protocol, treaty, agreement, agreement, etc. be named" (Pourhashmi, 2015, 68). The process of forming international treaties in the last two decades in the form of the United Nations organization is a suitable process, in this regard, examples of international treaties should be mentioned. We refer to the concept of the rights of future generations:

- 1- The introduction of the International Convention on the Regulation of Whaling approved in 1964 states: "The nations of the world have a common interest that must be preserved for the benefit of future generations." 2- Article 4 of the Convention on the Protection of the World Cultural and Natural Heritage approved in 1972 states: "Each of the member states of this Convention accepts that the obligation to recognize, tell, protect and publicize the cultural heritage located in its territory (mentioned in Articles 1 and 2) And transferring it to future generations is the responsibility of the government in the first stage, and in order to achieve this goal, the aforementioned government will resort to its maximum available resources and, if necessary, by seeking international assistance and cooperation, especially Financial, artistic, scientific and technical efforts will be made." 3- Article 4 of this convention also stipulates with the awareness of the countries about their duty to ensure the identification, protection, protection, introduction and transmission of the cultural and natural heritage existing in their territory to the next generations. 4-Preface to CITES international trade convention, species of wild animals and plants at risk of extinction and destruction, Washington also introduced these irreplaceable species and the importance of preserving them for the present and future generations, from all sources and preventing Be aware of excessive exploitation. 5-Also, the preamble of the "CMS" Convention on the Protection of Migratory Wild Species of BON approved in 1979 stipulates: "The contracting parties are aware that all generations have the duty to preserve the resources of the planet for future generations and are obliged to 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 harms the importance of this water as the rights of future generations, which is one of the foundations of the common interests of humanity. is paid
- 2- The preamble of the 1992 Framework Convention on Climate Change, which is one of the most important international environmental treaties, refers to the decision of countries to preserve the climate system for current and future generations. 7-Also, clause 1, article 3 of the Climate Change Convention, by using the phrase "should" explicitly refers to the protection of climate systems for the benefit of the present and future generations, this article declares: "Members should protect the water system and support the air equally and based on common responsibilities and with its capabilities for the benefit of the current generation and the future

generation, so advanced countries should be the leaders in the fight against climate change and its adverse effects. be (Pourhashmi, 2015, 68). 8-Also, the last paragraph of the preamble of the Rio Convention on Biological Diversity adopted in 1992, which is one of the most important environmental treaties, like the Climate Change Convention, refers to the members' decision to preserve and sustainably use biodiversity for the benefit of future generations. The present and future have been specified. The last paragraph of Article 2 of the mentioned convention: "Sustainable use of resources, in the sense 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." 9- Article 2 of the Convention on the Protection and Use of Transboundary Water Resources and International Lakes approved in 1992 stipulates: "Water resources must be protected to the extent that they meet the needs of the present generations, without compromising the ability of future generations to to weaken the provision of their needs" In this article, the principle of sustainable development considers the needs of both present and future generations.

- 3- 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 in combating desertification and mitigating the consequences of drought." were carried out to protect the interests of current and future generations" 11- In the introduction of the New York Convention approved in 1997 regarding the exploitation rights of transboundary waterways and international lakes for non-shipping purposes, it is also mentioned: "The countries of the world, by planning a framework convention on the use, development, preservation, management and protection International waterways and optimal and sustainable exploitation of these waterways will be assured to supply the materials of today's generation and future generations. 12- Also, in the introduction of the Aarhus Convention approved in 1998, which is a new type of environmental treaty in which environmental rights are linked with human rights, it refers to the preservation and improvement of the environment in line with the interests of the present and future generations. According to Article 1 of the Aarhus Convention, cooperation is declared to protect the rights of present and future generations. 13- Article 3 of the Framework Convention on Tobacco Control approved in 2003 states the purpose of the convention and its protocols as follows: "Protecting the current generation and future generations against the harmful health, social, environmental and economic effects of tobacco use and contact with tobacco smoke. Therefore, it is considered that international treaties at the global level directly or indirectly seek to clarify and recognize the concept of rights. Future generations are one of the basic concepts of international law.

International Treaties in Regional Scope

The rights of future generations, in addition to international treaties on a global scale, have also attracted the attention of the drafters of international law in many regional treaties. We mention some examples of international treaties in the region that deal with the concept of rights of future generations:

The introduction of the Kuwait Regional Convention for cooperation on the protection of the marine environment against pollution in 1978 stated: "Aware of the importance of cooperation and coordination of actions on a regional basis with the aim of protecting the marine environment for the benefit of all It has stakeholders including future generations. 2- The introduction of the Convention on the Protection of North-East Atlantic Marine Areas approved in 1992 also stated as follows: "Maritime areas must be preserved in a sustainable manner to meet the needs of the present and future generations." 3- Article 1 of the above Convention for the Protection of Biological Diversity and Protection of Priority Wildlife Areas in North America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama) in

1992, which aims to protect, as much as possible, terrestrial and coastal marine biological diversity. In the Central American region, it has been mentioned for the benefit of the present generation and the future generations, and mentioning the phrase "to the extent possible" to a large extent reduces the decisiveness of the approvals of this convention regarding the concept of equality of generations and causes ambiguity and differences in interpretation. This is a convention.

- 4- Regional Convention on Climate Change (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama) adopted in 1993 also in Article 1, participation in the protection of the right of every human being in the current generation and future generations to live in an environment suitable for providing His health and well-being is the goal of the convention
- 5- The introduction of the Convention on the Protection of the Marine Environment of the Caspian Sea (Tehran Convention) adopted in 2003 also refers to the concept of the rights of future generations. For example, the contracting parties (Azerbaijan, Islamic Republic of Iran, Kazakhstan, Russian Federation and Turkmenistan) (Aware of the destruction of the environment of the Caspian Sea as a result of pollution caused by various sources of human activities, including the discharge of harmful, dangerous substances, waste materials and other pollution caused by marine sources and not settling on land, with a firm decision In preserving the living resources of the Caspian Sea for the present and future generations, with the awareness of the necessity of guaranteeing the non-harmfulness of land-based activities for the environment of the Caspian Sea, considering the risks caused by water level fluctuations that the environment of the Caspian Sea and its characteristics It threatens its unique ecological and hydrographic status, emphasizing the importance of protecting the environment of the Caspian Sea and acknowledging the importance of cooperation between the Caspian coastal governments and relevant international organizations, with the aim of protecting and maintaining the marine environment. the sea Caspian
- 6- The introduction of the strategic environmental assessment protocol approved in 2003 on the SPOO Convention on the assessment of environmental effects in the transboundary environment, has pointed out the benefits of paying attention to maintaining and improving the health and well-being of the current generation and future generations.
- 5- Article 4 of the African Convention on the Conservation of Nature and Natural Resources (African Union) approved in 2003 under the title of political duties obligates the contracting countries to take all necessary measures to achieve the goals of the convention, especially preventive measures with sufficient attention to the value of adopt and implement moral and traditional values as well as scientific knowledge and taking into account the interests of current and future generations. that the future generations will have the opportunity to understand the experience of knowing and taking care of the areas that have been far away from human interference for a relatively long time." They are areas where international law has paid attention to the protection of the rights of future generations.

International Judicial Procedures

The International Court of Justice in the case of the territory of England and Northern Ireland against 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. One of the points raised in the judgment of the court in the cases of nuclear tests of New Zealand, France, Australia and France was the reference to the rights of the future generation. In addition, the OPOSA case is one of the most famous decisions in the field of equality of future generations with respect to the environment. It is related to the complaint filed by some Filipino children with an institution called Ecological Network of the Philippines in 1993 against the Environment and Natural Resources Organization of that country, which is known as *Minors Oposa v.*

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. (Pourhashmi, 1395, 68). In fact, in this case, the court examined the concept of the responsibility of the present generation towards the future generation (Hosseini, 1390, 104), despite the fact that such a ruling was considered among the rulings issued in the domestic laws of countries. can be done, but we should make great efforts as a stimulus and encouragement to spread this concept. In the case of John Mayne in 1993, the dispute between Denmark and Norway regarding the delimitation of the proportional maritime border between Danish land, Greenland and Norway, John Mayne, the judge on the issue Justice emphasized and as a result, judge "Vira Mantri" paid attention to environmental considerations as a part of fairness, and the heritage of the future generation is also included in the considerations (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 public commitment reflected in Article 21 of the Stockholm Declaration regarding the human environment as a part From the collection of international law, it pays attention. In addition, the International Court of Justice in its judgment in the case of Nagimaros-Gabskiu dispute between Hungary and Czechoslovakia in 1997 emphasizes that "the issue of the environment is not an abstract and subjective concept, but rather the space in which humanity lives and life and The health of humanity depends on the quality of the environment, and in this framework, the life of future generations should also be taken into consideration. Therefore, according to the ruling of the court, it can be seen that the rights of future generations are very important in this context. Also, regarding the rights of future generations and its connection with the "common heritage of humanity", it can be said that "the position between International Law of the Sea" subject of the International Convention on the Law of the Sea approved in 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, which was formed based on the Rome Statute of 1998, institutionalized the concept of "rights of future generations" as the highest international judicial authority and placed crimes against "humanity" under its jurisdiction. Therefore, international judicial and quasi-judicial institutions have taken fundamental steps in order 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 judicial and non-judicial authorities. International was (Pourhashmi, 1395, 68)

Criminal Protection of the Rights of Future Generations in Non-Binding Parliaments

Non-binding documents are described as advisory rights and have no guarantee of criminal execution, and are also named "soft rights" which play a valuable role in realizing the rights of future generations. International actions that lack the necessary conditions and specifications for real international legal rules (Handel, 1990, 7), are said to have unique effects. It is also possible that soft law follows "Hard rights" become an international rule. 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 works that have such documents are different and jurists have given different opinions about it; Some people believe that these documents do not have a binding aspect, and the use of the word rights does not seem correct to them, and basically, soft rights is a famous wrong term. In fact, soft rights are created when governments decide reach a consensus regarding the issue they have negotiated and in this regard, they simply express their opinion on what their ultimate goal is (Fitzmaurice: 199)..in general soft rights determine the process and Development path It is international law, and it expresses the government's heartfelt 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 or is an indicator that determines a rule, and 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, by undermining From below, it leads to the establishment of a legal rule. (Handel.7-8) The term soft law was first used in international law and economics. In fact, the necessity of economic relations required flexibility and freedom. The existence of different governments with conflicting interests, different degrees of development, makes it very difficult to reach an international legal agreement in the field of economy. For this reason, soft law, soon and simply, found a significant place in this part of international law (seidel. 1989.42). In general, soft law includes 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 binding legal effect or its binding effect is far weaker than other binding documents, but it has found a special place in the development of international law, because the general policy that the government should be adopted in different fields, he declares. In such a way that it may influence the governments by using it repeatedly. Since the governments agree to certain rules by accepting and implementing it. that is 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 (Pourhashmi, 1395, 172). In this view, below, we will refer to the concept of the rights of future generations in some international documents in soft law:

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. Third, a guideline that included 109 recommendations (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 are merely present in the declaration of legal obligations. They will not have and they will only remain as moral obligations for governments (Hasan, 1991, 72). The Stockholm Conference was not a law-making conference and the declaration issued in it is known as soft law. However, many of the principles contained in the said declaration were previously part of customary international law in the field of environment and mostly in the general field of international law. It was internationalized and its binding basis was derived from customs and not from declarations. Principles such as the sovereign right of governments over natural resources, the principle of international cooperation. 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 Nations Conference on Man and the Environment are dedicated to the concept of "rights of present and future generations", which shows the importance of the mentioned concept, and regarding the criminal protection of the rights of future generations, several The principle is established in this regard. which is stated in the first principle: "He has fundamental rights to freedom, equality, suitable conditions and living in an environment that allows him to live with dignity and happiness, and he has the responsibility to preserve and improve the environment for the present generation and the next generation." take the future" Also, under the principle 6 of the Stockholm Declaration, it is stated that: "Protecting the environment and improving it for the current and future generations is a priority goal for humanity and a duty that must be coordinated and synchronized with the realization of the fundamental goals of peace." and the economic and social development around the world that has been determined before" is also clearly stated in the clauses of the 7th principle that: "The conference requests governments and people to protect and improve the environment in For the resources of the current people and future generations, unite their efforts" Declaration of Rio

One of the most important documents of the United Nations Conference, which is related to the rights of future generations, is the Rio Declaration, which was approved by the agreement of all countries,

and it is one of the non-binding documents on which the Governments have a consensus. Professor "Anand" in evaluating the conference Rio 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. They are not" (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 did not have the support of the positive votes of important developed countries (Hossain: 845). In the Rio Declaration in 1992 regarding the environment and development, it has mentioned the rights of future generations in several cases: Clause B of the first principle stipulates that: "Forest resources and lands must be managed sustainably in such a way that they are 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, It is shelter, employment, recreation, animal shelter, landscape diversity, reservoirs and sources of carbon absorption of other forest products.

Agenda of the 21st Century

Although this document does not foresee binding behaviors, it can be assumed that since its basis was the expression of the lowest level of environmental rules necessary for sustainable development within the countries, its acceptance in the domestic laws of the countries in a wide manner is a (Saunders. 1998, 143) in the final part of the first paragraph of the introduction of Agenda 21, which is the third document of the Rio Conference, it is pointed out that: "the basic needs of all human beings should be met and the standard of living May they develop, ecosystems be better protected and managed, and a safer and more prosperous future awaits 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." And in the principle of the aforementioned four statements, it has been clearly stated: "In order to achieve sustainable development, environmental protection is an integral part of development and cannot be considered separately from it." Also, the World Charter of Nature approved in 1982 has also stated: "Man must acquire knowledge that will preserve and strengthen his ability to use natural resources in a way that preserves species and ecosystems for the present generation and provide future generations"

In addition, the preamble of the North American Agreement on Environmental Cooperation approved in 1993 also stated: "The importance of protecting, supporting and improving the environment in their territories and the essential role of cooperation in their regions to achieve sustainable development for the health of the generation." It is the present and the future.

UNESCO Statement

Another example that emphasized the responsibility of the present generation towards the rights of future generations is the UNESCO statement. In February 1994, a meeting of experts under the supervision of UNESCO and the COSTEA association was held to compile the Universal Declaration of the Rights of Future Generations on the Present Generations. was formed (Ramadani Qawamabadi, 2019, 412). A revised version of the declaration adopted by UNESCO in November 1994 was obtained. In its 29th meeting in November 1997, the UNECO General Conference approved the declaration, the responsibility of the present generation towards the future generations, which Article 1 addresses the needs and interests of future generations. Article 2 refers to the freedom of choice of future generations. Article 3 preserves and protects humanity by the present generation. has emphasized According to Article 4, the current generation is responsible for protecting life on earth, and the responsibility of inheriting the earth for future generations is the responsibility of the current generation. Article 5 emphasizes the protection of the environment, and for this purpose, the current generation must use the necessary natural resources in order to protect human life and its development for the future generation and commit that the

future generation will not be exposed to pollution that may endanger their health or existence, and they must consider the possibility of the consequences of important projects before this that their implementation should be considered for future generations and before the implementation of big plans, their consequences for future generations should be considered. According to Article 7 of this declaration, the present generation is responsible for identifying, supporting and providing tangible cultural heritage or Intangible and has taken over their transfer to future generations. Finally, the present generation must guarantee that they will teach the future generations in peace and security according to the principles of international law, human rights and fundamental freedoms.

Also, paragraph 8 of the Nairobi Declaration on the Role and Task of UNEP, which was approved in 1997, emphasizes international efforts to preserve the international environment for the benefit of the present generation and future generations and to achieve sustainable development. The purpose of the program for the development and periodic review of environmental rights for the first decade of the 21st century approved in 2001 based on paragraph 9 is to strengthen the effectiveness of environmental rights for the benefit of future generations. Also, the last principle of the statement of the World Summit on Sustainable Development in South Africa Johannesburg, which was approved in 2002, has paid attention to current and future generations. As a result, non-binding documents also seek to recognize the concept of the rights of future generations as one of the basic concepts of international law. They are international in the field of environment.

Conclusion

In today's era, the indiscriminate use of natural resources has faced the world with a serious challenge, and the continuation of this practice has caused the rights of future generations to be violated, and ultimately the possibility of the survival of living beings on the planet will face a fundamental danger, which is necessary. The current generation should take measures and measures in this field so that the future generations can benefit from natural resources like the current generation, which the constitution and normal laws of most countries have addressed this right and in the criminal law of Iran, although that there is no separate law under the title of protecting the rights of future generations, but in the Constitution of the Islamic Republic of Iran, principles 45 and 50 explicitly address the rights of future generations, and it is suggested that in normal laws to respect the rights of future generations The future laws should be approved by describing and determining its criteria and criteria in order to implement the mentioned principle in the constitution. In the international community, by setting rules in binding and non-binding rights, it protects the rights of future generations, and in many international treaties on a regional and global scale, as well as in national regulations, these rights are It was recognized and the thorough identification of these rights in national and international laws instilled the belief in the minds of people and governments that natural resources do not belong to a specific generation and that nature and its resources belong to all humans and It is generations and it was created to meet their needs and there is no reason that natural resources belong to the current generation and their superiority over the future generations, and the current generation has the right to exploit and use these blessings; On the other hand, they also have the obligation and duty to protect these resources and transfer them to the future generations, and as God's successors, to leave this divine trust to the future generations, which causes solidarity between generations and guarantees sustainable development and the enjoyment of all generations. It comes from natural resources and not respecting this right will be allowing oppression to the future generations, the guarantee and responsibility of which lies with the current generation, and the governments have the duty to take the necessary measures to protect the rights of future generations. do Therefore, the rights of the future generations are an important discussion in the direction of fairness between generations, and each generation is obliged to observe fairness with the next generation in interaction with nature.

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