

Intergenerational justice: satisfying needs instead of greed

Intergenerational justice is an integral part of such concepts as sustainable development, social justice, children's and youth rights, global warming and climate change. It is the concept of fairness or equitable rights between generations, children, youths, adults and survivors and also between present, past and future generations. Rio 2012 must reiterate that sustainable development based on social, equity, economic growth and environmental preservation is in contradiction with development based purely on economic growth and bring governments back into action. Sustainable development must get a political endorsement that can be achieved only through transparent governance and regulation – and not through a free market regime.

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The search for justice is as old as human civilization itself. This search has been becoming more inclusive over the centuries. Moving from the struggle for rights of underdogs like slaves, it has progressed to include all sections of humanity irrespective of caste, gender, race, religion and age. The United Nations Convention on the Rights of the Child (UNCRC) of 1989 is the latest human rights convention oriented towards guaranteeing just and fair treatment to all children and is now ratified by almost all countries to include the future generations as well. In the process of operationalizing the UNCRC the global community has asserted its commitment to the future generations. This commitment however is still far from being adequate.

Conceptual overview

The concept of intergenerational justice which underlies various theories of justice was put forth in 1974 by economist James Tobin, who wrote: "The trustees of endowed institutions are guardians of the future against the claims of the present. Their task in managing the endowment is to preserve equity among generations."¹ The unsustainable use of natural resources leads to intergenerational injustice.

Perceiving ourselves as a collective whole, it is easy to argue that we are obliged to be concerned about the fate of people in future generations. But the question is how and to what extent our present actions and decisions must be oriented to the future. Theoretical discussions on these aspects have been mainly a concern of the post human rights declaration era, as political philosopher John Rawls made clear. Rawls considered political constitutions and the principles of economic and social arrangements as major institutions and defined justice as the way in which these institutions distribute fundamental rights and duties and regulate the sharing of advantages from social cooperation. Having accepted the principles of liberty, equality and fraternity, he combined them with the principles of justice. Equality then becomes equality of fair opportunity and fra-

ternity the principle of difference.² What is essential however is agreement on "the proper distributive shares": "The principles of justice simply are the principles for regulating distribution that will be chosen by people in a society where the circumstances of justice hold."

Does this principle extend to the future generations? Each generation must put aside a suitable amount of capital in return for what it received from previous generations, that enables the latter to enjoy a better life in a more just society. "It is a natural fact that generations are spread out in time and actual exchanges between them take place only in one direction. We can do something for posterity but it can do nothing for us. The only reciprocal exchanges between generations are virtual ones."³

Redefining posterity

Is this intergenerational reciprocity practical or real? Since only posterity can bring to fruition our projects or our contributions, this cannot be done on the basis of contractual relationships. While the present generation can bind itself to do something for the future, the future is not yet there to be party to the contract. This is where the idea of community becomes useful. A community is constituted by members of a collective that understand themselves as having certain continuity over time and who see "their own interest as bound up with those of future members of that collective."⁴ It is in a community where members of a collective find "a sense of identity that spreads across time." As this community exists at local, national, regional and global levels, concern for its future members must also exist at all these different levels.

Hence justice considerations apply to relations which are beyond the present one. This is particularly true in the case of distributive justice. In some sense the present generation exercises power over the future ones, and has the possibility of using up resources in such a way that it negates the rights of the future ones. The future has no way of controlling

the present. Moreover the present generation even has power over the very existence of the future ones. This could be an even greater influence than that on the current generation, where the influence would at most affect the survival of the people. This is enough ground for asserting rights to future persons, though there could be contrary arguments.

Another attempt to define future generations has been made by the University of IDWA in an attempt to reconcile human interests with those of Nature, which are distinguishable but not separable. Sociologist Elise Boulding has proposed that 'future generations' can be defined in terms of "the 200 years present" that is a period of time beginning from 100 years in the past and ending with 100 years in the future, from any point of the present:

"A continuously moving moment, always reaching out one hundred years in either direction from the day we are in. We are linked with both boundaries of this moment by the people among us whose lives began or will end at one of those boundaries, three and a half generations each way in time. It is our space, one we can move around directly in our lives, and indirectly by touching the lives of the linkage people, young and old, around us."⁵

This approach and understanding makes the idea of community more real and concrete. If one lives at any moment she/he is continuously in relation directly or indirectly with a 100 year span of time in both directions of past and future. This concept of time-space helps to understand the inheritance from the past and relations or interconnections with the future. It cannot be doubted that we are essentially linked to other generations, past and future because these linkages are in the realm of our personal experiences. A similar approach helps one to see the linkages with children as they need their rights to be represented, which becomes the obligation of the adults (duty bearers). So also the rights of the future generations become the obligation of the present one.

Environmental poverty as our legacy

The idea of intergenerational considerations was taken up by political leaders in Stockholm at the UN Consultation on Human Environment (UNCHE) in 1972 and has since been debated on various oc-

1 J. Tobin, "What Is Permanent Endowment Income?" *American Economic Review* 64, May 1974.

2 J. Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971).

3 Ibid., cited in V. Muniz-Fraticelli, "Achieving Intergenerational Justice Through Education." Available from: <www.scribd.com/doc/26475623/Achieving-Intergenerational-Justice-Through-Education>.

4 J. O'Neill, *Ecology, policy and politics: human well-being and the natural world* (London: Routledge, 1993), cited in *ibid*.

5 E. Boulding, "The Dynamics of Imaging Futures," *World Future Society Bulletin* 5, Sept-Oct 1978, p.7.

casions, often reaching agreement. But in practice, progress has not been so steady, rather the contrary. In 1972 the UNCHE put forward 26 principles and 129 recommendations, but no legally binding outcomes were agreed upon.

The World Commission on Environment and Development report (Brundtland Report), 'Our Common Future' of 1987 was a milestone, as it introduced the concept of sustainable development, defining it as "development that meets the needs of the present without compromising the ability of the future generations to meet their own needs."⁶ According to this report the pursuit of sustainable development was an important goal for all the nations in the interest of the future generations.

The Rio 1992 Earth Summit adopted several legally binding environmental treaties, particularly, the UN Framework on Climate Change (UNFCCC) and the 1992 Convention on Biological Diversity. In a certain sense the Earth Summit was a starting point. It was attended by 108 heads of State, 172 governments and some 2400 NGO persons and reflected the concerns of the 1980s particularly those from the WCED report of 1987, referred to above.

The Summit highlighted intergenerational justice or equity as an underlying principle of all environmental and developmental concerns. This was accepted by all participating nations. It was recognized that the rights of the future generations have to be respected while pursuing the needs of the current one. These recognitions were to be brought into the realms of policies and laws by conceding nations.

The 3rd principle, "the right to development must be fulfilled so as to equitably meet developmental and environmental needs of the future generations,"⁷ summarized the spirit of the commitment to the future. The 21st principle "the creativity, ideals and courage of the youth of the world should be mobilized to forge a global partnership in order to achieve sustainable development and better future for all" calls for an action plan involving the young people towards creating a better future for all.

Much has happened since Rio, the essence of which was in reaching binding commitments and creating consequent obligations on the part of the nations across the world. The same spirit prevailed in the deliberations at Kyoto five years later and the adoption of the Kyoto protocol in December 1997. The protocol, which finally came into force in February 2005, has been signed by 195 countries. Under it 37 countries agree to reduce emissions of greenhouse and other gases to prescribed levels. Despite

legally binding provisions regarding reduction, the efficacy of the measure were neutralized through the flexible mechanisms.

In the final analysis the protocol and related mechanisms has had only marginal effect in reducing global gas emissions. The absence of binding levels of reduction for developing countries was used as the reason that the USA did not ratify this Protocol. Australia, though it ratified the treaty, has not implemented it. Moreover the practices of legally binding responsibilities and the role of national governments have been greatly eroded by new economic policies based on trade liberalization and a lean state. This was further accentuated by the geo-political security concerns of the first decade of the new century.

Subsequent meetings such as those in Johannesburg 2002 and in Copenhagen in 2009 have not inspired much confidence among people world the over. The latest conference, in Cancun, even risked negating whatever gains remained out of the Kyoto protocol agreements. These agreements had binding targets for the developing countries to reach regarding the emissions of green house gases (GHG) based on climate service. It also took into account the historical fact of the developed countries having used up much of the carbon absorptive capacity of the biosphere and therefore being more liable to reductions as against the poor economies.

Last year's Climate Change Conference in Cancun was seen by most participants and the media as an improvement over Copenhagen. While it did adopt an outcome document, which is viewed as positive for the multilateral climate system, it did little to pave the way to save the planet from climate change. It instead passed the burden of climate mitigation to developing countries, threatening to abandon "the legally binding and top down Kyoto protocol system and to replace it with a voluntary pledge system."⁸

Nevertheless it is urgent to strike a sustainable relationship between nature and humans for the benefit of future generations including children. As pointed out by Rio +20 conference Secretary General Sha Lukang, two decades have not brought the world closer to eradication of poverty; on the contrary the world has moved further into environmental crisis and climate change. It is this environmental poverty that the future generation will inherit.

Challenges ahead

Rio 2012 must reiterate the conviction that sustainable development based on social, equity, economic growth and environmental preservation is in contradiction with development based purely on economic growth. It is often said that Rio 92 was all about bringing civil society and the corporate sector

to sustainability issues. Rio 2012 must now bring governments back to take action. Sustainable development including the rights of the future generations can be achieved only through transparent global governance, not through a free market regime.

Over the same period a concern with intergenerational justice has surfaced in other international human rights instruments, notably the UN Convention on the Rights of the Child (UNCRC), which came into force in 1990 and now has 194 States Parties. The declaration on the survival, protection and development of children, agreed to at the World Summit for Children that year concludes: "We do this not only for the present generation but for all generations to come. There can be no task nobler than giving every child a better future."⁹

Twelve years later, the declaration at the UN General Assembly and Special Summit [United Nations General Assembly Special Session] (UNGASS) on Children in May 2002 reiterates that the nations have obligations to the future generations: "We must safeguard our natural environment with its diversity of life, its beauty and its resources, all of which enhance the quality of life, for the present and future generations."¹⁰ The plan of action agreed by 190 world leaders recognized the urgency of acting on various environmental problems and trends to ensure the well-being of children and committed to measures to manage, protect and conserve our environment in a sustainable manner: "A number of environmental problems and trends, such as global warming, ozone layer depletion, air pollution, hazardous wastes, exposure to hazardous chemicals and pesticides, inadequate sanitation, poor hygiene, unsafe drinking water and food and inadequate housing, need to be addressed to ensure the health and well being of children."¹¹

The wealth of knowledge and experience that has emerged since the UNCRC needs to be understood in the context of children's rights. The much discussed phenomena of anthropogenic global warming and climate change, aggravated by loss of biodiversity threaten the earth to an unprecedented degree, and will directly affect future generations, including children living today and those yet to be born. This demands global instruments which are binding and geared to defending the ecological rights of the present and future generations. This includes the call for recognition of ecological rights of children and much more.

It is relevant to quote from a Memorandum to the UNEP High Level Expert Meeting on the New

6 Brundtland report to Rio 2012: Sustainable development forum. Available from: <www.rio2012/trademarks.org/node/3423>. 2. A. Gosseries, "Theories of intergenerational justice: a synopsis," S.A.P.I.E.N.S., 2008

7 Available from: <www.unep.org/Documents.Multilingual/Default.asp?DocumentID=78&ArticleID=1163>.

8 See: M. Khor, "Complex Implications of the Cancun Climate Conference," *Economic and Political Weekly* XLV, no.52.

9 Available from: www.unicef.org/wsc/declare.htm.

10 UNGASS Declaration, "A World Fit for Children," New York, 2002. Available from: <www.unicef.org/specialsession/wffc>.

11 Ibid., p.23.

Future of Human Rights and the Environment presented by Burns H. Weston on 30 November 2009:

“Anthropogenic global warming and consequent climate change that, together with accelerating biodiversity loss worldwide, now pose threats to life on Earth as we know it, and to a degree unparalleled since the dinosaurs. Building on the pioneering work of Georgetown University law professor Edith Brown Weiss, the project set out to answer intriguing and, indeed, generally unexplored legal questions: Is it possible for US law, the law of other countries, indigenous peoples’ law, and/ or international law to define the rights of future generations to a clean, healthy and sustainable environment?”¹²

Opportunities at Rio 2012

While concerns of sustainability and commitment to future generations have been an integral part of the advance of justice and human rights understanding

for two decades, this has not been matched by the necessary actions. So the challenge now is not only to reiterate these commitments to future generations from the position of justice but also to rebalance the economic and social concerns. Rebalancing would mean bringing the State back to the social and regulatory realms of political action by assuming responsibilities both to make services equitably available and to regulate free-market approaches.

Markets are inherently competitive and follow the logic of survival of the fittest which is contrary to the concept of equity that is a necessary condition for sustainability. Mahatma Gandhi’s assertion that the “earth provides enough to satisfy every man’s need, but not every man’s greed” still holds true. Thus regulation of the free market economy and transparent governance are urgently needed. Rebalancing would further involve reaching a consensus on development as the measure of well-being of all people. This

will demand a new kind of economic planning focusing on the well-being of the poorest person on the earth, as Mahatma Gandhi envisioned, and based not on altruism but on rights and justice. If Rio 2012 contributes to this it will be one step forward.¹³

Further any step that would be taken must be followed through with binding instruments. The future needs to be enabled, as stated by Antoine de Saint-Exupéry: “As for the future your task is not to foresee it but to enable it.”¹⁴ This enabling can be achieved only through creating appropriate mechanisms and in this regards the proposal from World Council for Future to appoint a “legal representation or a Guardian” is interesting.¹⁵ Some of the countries have such institutions already. Setting up of an international Ombudsperson or calling for such arrangements nationally, can be a concrete outcome of Rio 2012 towards sustainability and enabling of the future, which amounts to guaranteeing intergenerational justice. ■

12 B.H. Weston, “Recalibrating the law of humans with the laws of nature: Climate change, human rights and intergenerational justice,” 2009. Available from: <www.vermontlaw.edu/cli>.

13 See: Rio 2012, *Another opportunity to making progression in climate change*. Available from: <www.stakeholderforum.org/st/outreach/index.php/day9item6>.

14 Antoine de Saint-Exupéry, *Citadelle* (The Wisdom of the Sands), Paris, 1948.

15 Cited in World Future Council, “Guarding our future: How to include future generations in policy making.” <www.worldfuturecouncil.org/fileadmin/user_upload/PDF/brochure_guardian3.pdf>.