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The Sustainable Development In Article Fifty of Constitution of Islamic Republic of Iran

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Abstract

This article review the most important concepts of environment. The right to development and sustainable development has special rules to regular the relationship between people and environment because expanding the societies and appear the new facilities for utilization of nature and industrialization changes this relationship. The right to development and sustainable development try to regular the human conduct and make rules to arrangement environmental action. The right to development and sustainable development has bilateral relationship. The right to development means every body have right to promoting and expend his life but this right is not unconditional, because the environment and natural resources belonging to every person and every generations. The environment must be remaining for other people, therefore sustainable development appear and try to focus on the right of people to use of environment and the right of next generations to enjoyment of environment and the duties of present people to save environment for future people. The constitution of islamic republic of Iran in article fifty accepted the right to development and sustainable development. The review of this concepts in Iran's constitution is our reason to write this article.

Keywords: Constitution of Islamic Republic of Iran, Sustainable Development, The Right to Development, Article Fifty, Environment

1. Preface

Everything around us and on the earth is environment, living or nonliving, animals, plants, air, water, sunlight etc., created our environment and every day and every time we have relationship together, but today with development and expanding industrial instruments the relationship between humans and environment has a lot of variation and changement. Use of nature growing up in 21 Century in land, underground, sea and sky. Human start exploitation of natural resources and the earth face was change. This changes destroy the environment and annihilate it. Any kind of contamination like as thermal pollution, Air, Water and noise pollution, climate change, are emerge and destruction the nature, but human understand if continue this way and destroy the environment they can't live and they convicted to die, for this reason the efforts to preserve nature started all over the world.

All governments try to regular the relationship between people and nature with law. Environmental law was born and human rights has effect on it. Environmental law is newest version and generations of human rights. The right of environment is most important issues in environmental law and (The right to a healthy environment is intended to ensure that everyone has access to clean air, safe water, fertile soil, and nutritious food, as well as the conservation of biological diversity and ecosystem functions, the right to a healthy environment includes both a substantive right to environmental quality and a suite of procedural safeguards to ensure that it is fulfilled, including the rights to information, to participate in decision making and to seek remedies for past, present or anticipated violations.) (Boyd, 2012, 1_2) Environmental law try to promote the respect of environment and (Over the past four decades environmental law has evolved into a legal system of statutes, regulations, guidelines, requirements, policies and case-specific judicial and administrative interpretations that address a wide-ranging set of environmental issues and concerns.) (F. P. Sullivan, 2014, 1) Environmental law formed in international law and domestic law and this branches of law is adapter between men and nature in human rights concepts. Environmental law is a new field of law and (Environmental law is the law regulating the relationship of us to nature, understood both as the world around us.) (Winter, 1998, 38)

Environmental law try to create a legal function to support, protect and defend of nature and the best way to protected from environment is making a guarantee by law because (every individual needs the basic environmental resources, services and goods, while discussing fundamental rights, the fact that equitable access to environmental resources, services and goods has to be ensured as a fundamental right cannot be ignored.) (Belbase, 2009, 2) in order to, the constitutions find environmental concepts to regular the relationship and procedure of environment.

Iran has a lot of natural resources like as petroleum, gas, coal mine, quarry, chalcopyrite, forest etc... that cause Iran's environment precious but this situation increase the used of environment and grow up the exploitation of it and if the government don't control the use of environment maybe use of nature destroy environment. In order to the constitution of Iran has attention to this problem. Iran's constitution has a lot of environmental concept and in this article we want review this constitution. The problematic issue in this article is examination of Iran's constitution approach to environment, the sustainable development and the right to development.

2. Environment In Constitutions

(constitutional law has been defined as the rules which regulate the structure of the principal organized of government and their relationship to each other and determine their principal functions.) (Barker & padfield, 1998, 4) the constitution is a most important text in every legal systems. (constitution is the supreme or highest law of a nation, meaning all other laws must be consistent with it. It establishes the rules that guide and constrain government powers, defines the relationships between institutions, and protects individual rights.) (Boyd, 2012, 3) constitution regularize the framework of power, introduce general themes, regular the relation between people and government, order the public affairs, regularly the duty of parliament, the legislative power, executive, judicature, economy and financial affairs, discuss of sovereignty and the powers deriving and (the constitution of a state is the written document or text which outlines the power of its parliament, government, courts and other important national institutions.) (Barendt, 1998, 1) In addition to, the constitution guarantee the rights of the people and human rights accede in constitutions and all constitutions has a lot of articles about humans rights like as right of life, human dignity, Political participation, right to a fair trial, right of security, safety, equality, inviolate the people property and residence, any kind of Freedom like as freedom of speech, movements, religion, publications and the press, Political parties and associations, societies, assemblies, working, education, private life and information.

This cases is the first (civil and political rights) and second generations of human rights (economic, social and cultural rights) but we have three generations of human rights and the third generations of human rights is solidarity. This generation of human rights involve the right of peace, the rights of development, right to natural resources, right to communicate and communication, right to participation in cultural heritage, rights to intergenerational equity and sustainability and the right to environment and clean environment.

The right to environment means human have rights to enjoying of clean nature and (Protecting human rights and safeguarding the environment, along with achieving peace and security, are fundamental values of modern international society.) (Nyka, 2012, 3) This part of human rights is very important and today's most constitutions has attention to this topic because create the suitable circumstance for enforcement and implementation of other aspects of human rights, without good and clean environment we can not speak about others human right and this part of human rights has effective rule in enjoyment of life. (The starting point for associating human rights with environmental issues dates back to the 1970s, with the preparation of the Stockholm Declaration on the Human Environment.) (Boer, 2013, 5) Principle 1 of this Declaration say: (Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being and he bears a solemn responsibility to protect and improve the environment for present and future generations.)

Today the most constitution all over the world has especial chapter or articles about environment that regular the relationship of citizens and environment and (more constitutions around the world are explicitly protecting environmental rights and the values of a clean and healthy environment) (Daly,2012, 71)

3. Iran's Constitution And Environment

After the revolution in Iran the constitution was change and the new constitution was born. In this constitutions we can find a lot of new concepts that related to environment like as Protect and respect the people rights of environment. The Iran's constitution doesn't recognize the people right of environment in special article but has a three articles that related to environment. Articles 45, 48 and 50 is most important articles in Iran's constitution that show the approaches of constitutional legislator in Iran.

Article 50 of the Constitution of the Islamic Republic of Iran take special approach a bout environment. The right to a healthy environment is not explicitly stated in the Constitution, but rather as the environment is a place dedicated to the growing social life of humans. In fact, a healthy environment is ichnography for social life of the people in Iran.

The Constitution of the Islamic Republic of Iran recognizes the concept of sustainable development and the right to development and the need to protect of environment. Article 50 of the Constitution recognizes the right to development and the right of future generations to exploit and benefit from the environment. The term "present as well as the future generations" has well identified the concept of sustainable development, which has emphasized the need for both generations to use the environment for sustainable development.

Article 50 of Islamic republic of Iran say: The preservation of the environment, in which the present as well as the future generations have a right to flourishing social existence, is regarded as a public duty in the Islamic Republic. Economic and other activities that inevitably involve pollution of the environment or cause irreparable damage to it are therefore forbidden. This article has three important element of environment including Sustainable Development, The Right to Development and duty of people and government for preservation of environment.

4. Sustainable Development In Iran's Constitution

The right to development was born by the United Nations in 1986 in the Declaration on the Right to Development that adopted by the United Nations General Assembly resolution 41/128. Article 1 of this Declaration say: (The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized. The human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both international covenants on human rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.)

According to this declaration, people have right to develop his or her life but the most duty for achieve development refer to government and government must provided the suitable circumstances to earn development. In environmental concepts people have right to use of nature and natural resources to develop and expand their society, environmental programs, socioeconomic, sociocultural and other human activity. Iran's constitution accepted the right to development and in another term of article 50 of the Constitution, "flourishing social existence", can be seen as a reference to the right to development, which is another example of solidarity. The

people in Iran have right to use of environment for accomplishment but this using of nature must limited and watchfulness of environment.

Sustainable development is relates concept with the right to development and (at the core of sustainable development is the need to consider three pillars together: society, the economy and the environment.)(Strange, Bayley, 2008, 27) We have a lot of international programs and conference about this concepts all over the world, for instance the United Nations conference on the human environment (Stockholm conference) in 1972, World Commission on Environment and Development (Bruntland Commission) in 1983, the first UN Earth Summit resulted in the Rio Declaration in 1992, World Summit on Sustainable Development in 2002, the United Nations Conference on Sustainable Development in 2012 and we have a important declaration in this topic like as Rio Declaration on environment and development.

Principle 1 of Rio declaration say: (Human beings are at the centre of concerns for sustainable development, they are entitled to a healthy and productive life in harmony with nature.) The development is: (the act or process of developing, growth, progress, and Sustainable development is: development that meets the needs of the present without compromising the ability of future generations to meet their own needs.)(Strange, Bayley, 2008, 24) Sustainable development in environmental framework means we must use of environment without destroy it because environment isn't allocation of this people. Environment must be save for next generations and next generations have right to enjoy and use of clean environment. Environment for Present generations is custody and percent generations are trustee and the scope of using of environment is limited thereupon, present generations has environmental responsibility. People at this time aren't the only owner of land, they are lessee and when finish they tenantry must deliver the land to others and Present generations must use of environment to remain for next generations. Principle 3 of Rio Declaration has this approach: (the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.) In the United Nations environment programme sustainable development means (development that meets the needs of the present without compromising the ability of future generations to meet their own needs.)(Sustainable development provides a framework for humans to live and prosper in harmony with nature rather than living, as we have done for centuries, at nature's expense.)(Dernbach, Mintz, 2011, 532)

The constitutions of Iran recognizing the environment as belonging to the present and future generations who will reside in the near future. Iran's constitution accepted this approach and in article 50 (at the first line of this article) say: (The preservation of the environment, in which the present as well as the future generations have a right to flourishing social existence...) this sentence show in Iran the environment has to owner: present people and next generations, therefore, present people must conservation and keep environment for next generations. The constitution to protecting the environment for the next generations prescript the state, the people and all the inhabitants of this land are required to protect of environment, Because the right to the environment is not just for current citizens and future generations must enjoyment of it. but this approach doesn't means the present generations couldn't use of environment because all people have right to development. In fact sustainable development try to regular the needs of present generations to enjoying of environment and saving it for next generations. For achieve sustainable development all people have duty to preservation of environment especially the government.

In principle 2 of Rio declaration we can see the duty of government for save environment: (States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.) and in principle 10, the citizen must have incorporation to save nature: (Environmental issues are best handled with the participation of all concerned citizens, at the relevant level.)

According to article 50 of Iran's constitution all people and government have especial duty to save environment, But the government duty is most importantly because government has power and a lot of instrument and do a lot of work and exploitation of nature and this actives maybe has effect on environment. Article 45 also named the sense of environment and in the last line of this article prescript that the islamic government must use of this equipment to save public interest. (Public wealth and property, such as uncultivated or abandoned land, mineral deposits, seas, lakes, rivers and other public water-ways, mountains, valleys, forests, marshlands, natural forests, unenclosed pastures, legacies without heirs, property of undetermined ownership, and public property recovered from usurpers, shall be at the disposal of the Islamic government for it to utilize in accordance with the public interest. Law will specify detailed procedures for the utilization of each of the foregoing items.) The environment should be used as a place for the development of citizens in order to remain healthy and sustainable for future generations and this is not only responsibility of the Government, all people in this land and everyone has a public duty to protect of environment and should not have a devastating economic impact on it. a according article 50, the government of Iran and all people have a general duty to protect of environment and should not have a detrimental economic impact on the environment, and their use and exploitation by all segments of society must be conserved, "any economic activity that entails environmental pollution or irreparable destruction" are prohibited by constitution explicitly.

5. Conclusion

The right to environment insert in most constitutions and regular the relationship between man and his natural geographical environment. The right to environment and the right to a clean and healthy environment for human life, have important relationship with and the right to development and sustainable development. The constitution of the islamic republic of Iran has referred to various environmental concepts like as article 45, which considers environmental elements and article 48 that taking about environmental justice. According article 50, the universe is a trust in the human hands, the human being and Present generations have right to development but the people must save environment for future generations. for this preservation of environment the people and government have public duty but according to article 45, the islamic state and government has more important duty for save environment and the task of the government to protect the environment more than of citizens and it must take the initiative to protect it for future generations.



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