CHAPTER 10

Environmental Rights and Investment in Ethiopia
A Strenuous Relationship

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Abstract

Environmental rights are emerging rights in the arena of international human rights law and international environmental law. Though the jurisprudence of the rights is still in its formative stages, they are being recognized in the sphere of international law and have been influencing municipal legislation aiming for environmental sustenance. This development is greatly influenced by the new development paradigm – sustainable development – that recognizes the need to engage in environmentally friendly development programs and activities.

This paper is devoted to identifying the problems related to the implementation of environmental rights and their links with investment in Ethiopia. Hence, the finding of the research reveals that the investment legislation, investment policy, and the practice of the investment organs have not given environmental rights significant emphasis. Even though the constitution of Ethiopia¹ and the environmental impact assessment law of the country² require public participation to give an opinion on projects affecting the environment, the right is not yet enforced. In other words, there is no clear procedure as to how communities participate in investment projects, which could negatively affect their environment. Hence, environmental rights and investment undertakings in Ethiopia are not well linked together owing to the aforementioned challenges. Eventually, the research has come up with legal and implementation gaps and indicates the way forward for the legislature or policy makers for the better implementation of environmental rights in Ethiopia.

Keywords


² Environmental Impact Assessment Proclamation No. 299/2002, Federal Negarit Gazeta, Year 9, No. 11 (hereinafter referred to as the EIA proclamation).
The Concepts and Link Between Sustainable Development and Environmental Rights

1.1 The Concept of Sustainable Development

The concept of ‘sustainable development’ attempts to assess or quantify development in relation to the impact of its range of effects or potential effects on the local and global environmental media at risk. The ‘environmental viability’ of a given activity or process may then be determined independently of or in addition to other considerations and form part of the decision whether that activity is appropriate in its proposed form. More importantly, sustainable development is particularly concerned with wider national or regional trends and the longer-term consequences of social and commercial developments, confronting decision makers with choices between the more immediate, quantifiable merits of a proposed course of action and the more speculative benefits of present ‘self-denial’ for future generations. A common definition of the concept is “development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs.”

The 1992 United Nations Conference on Environment and Development (UNCED) – ‘The Earth Summit’ – which was held in Rio de Janeiro produced four major policy aims, including Agenda 21, which was a program of action applicable throughout the world to achieve a more sustainable pattern of development for the next century. In addition, a new UN Commission on Sustainable Development (CSD) was set up to monitor progress on Agenda 21 and held its first meeting in New York in June 1993. The Earth Summit recommended that individual countries should prepare strategies and action plans to give national effect to these agreements. Agenda 21 placed great emphasis on the need for all sectors of society to participate in the formation of effective national strategies for sustainable development. As the report makes clear, if sustainable development is to make a real impact, it will require the active participation of those with similar interests, in alliance with governments.

In addition to its environmental roots the concept of sustainable development which emerged in the 1980s draws also on the experience of several decades of development efforts. For instance, in the 1950s and 1960s, the focus of economic progress was on growth and increases in output, based mainly on

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5 Lesson, *supra* n. 4, 38.
6 Ibid.
7 Ibid.