Sustainable Development and the Law of the Sea

An Introduction

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Introduction

The concept of “sustainable development” was first explicitly put forward by the World Commission on Environment and Development in its report Our Common Future. According to it, sustainable development means such a development as meets the needs of the present without compromising the ability of future generations to meet their own needs.1 The concept, afterwards, has been widely accepted by the entire world community, and gradually reflected in national and international laws and policies.

Despite its different interpretations, this concept contains at least two major elements: (a) consideration of future generations’ interests and needs while considering the present’s; (b) consideration of environmental protection and preservation while promoting economic development. Sustainable development, therefore, should reflect three types of interests of justice: (a) justice to people within a generation – intragenerational justice; (b) justice to people between generations – intergenerational justice; and (c) justice to non-human sentient beings – justice to nature.2 The 2005 World Summit Outcome attributes three key components to the concept of sustainable development: economic development, social development and environmental protection.3 However, while recognising its importance to protect the global environment, the document does not explicitly mention the preservation of the rights to the environment of the future generations.

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One of the major purposes of the concept of sustainable development is to coordinate the relationship between resource uses and environmental protection. Under this concept, they are not contradictory, much less conflict, but can interplay mutually. Environmental protection is necessary to achieve the goal of resource uses which are sustainable and economic benefits deriving from resources can provide the conditions in which environmental protection can best be achieved. Two aspects, however, should be borne in mind in application of the concept. First, it requires effective safeguards to prevent misuse or abuse of the concept which would result in actual unsustainable development under the guise of the concept. Second, the concept is not a fixed state of harmony, but rather a process of change in which the exploitation of resources, the direction of investments, the orientation of technological development, and institutional change are made consistent with future as well as present needs.4

The 1992 Rio Declaration on Environment and Development, therefore, called for all the countries in the world to undertake sustainable development. Its several Principles expressly refer to sustainable development. For example, Principles 3 and 4 state that “the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations” and “in order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it”.5 The remarkable Agenda 21 contains a whole chapter addressing sustainable development of marine resources, calling for States to realise the goals of “integrated management and sustainable development of coastal areas, including exclusive economic zones”, “marine environmental protection”, “sustainable use and conservation of marine living resources of the high seas”, “sustainable use and conservation of marine living resources under national jurisdiction” and “strengthening international, including regional, cooperation and coordination”.6

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