

MODULE 9 - ENVIRONMENTAL RIGHTS

OBJECTIVES

After the study of this e-content module the learners will be able:

1. To define, right, legal right, moral right, livable environment, duty and environmental rights.
2. To differentiate between: Legal Rights and Moral Rights, Rights and Duties, Pollution and Depletion.
3. To explain the effects of pollution and depletion.
4. To give the features of moral rights.
5. To give William T. Blackstone's view about environmental rights.
6. To explain the reason for the entitlement of clean environment.
7. To give the details of provisions made in Indian Constitution to protect environment.
8. To give Kantian Theory of Rights.
9. To give main difficulties with Blackstone's view.
10. To explain why Blackstone's view fails to solve the difficulties related to his view on environmental rights.
11. To give relationship between pollution control and conservation.
12. To give reasons for the protection of environment for future generation.
13. To write the reasons behind the logic not to protect environment for future generation.
14. To give John Rawls suggestions in relation to environmental protection for future generations.

SUMMARY

This program is all about to protect rights of human related to their living environment. Moral right of human being is also discussed. Livable environment of present & future generations is also discussed.

TRANSCRIPTION

Legal Rights

A right is person's entitlement to something. A person has a right when that person is entitled to possess something or to act in a certain way. In other words that person is entitled to have others act in a certain way towards him or her. The entitlement may be derived from a legal system that permits or empowers the person to act in a specified way or requires others to act in certain ways toward that person.

This entitlement is called a legal right. Legal rights are limited to the particular jurisdiction within which the legal system is in force.

Moral Rights or Human Rights

Entitlement can also be derived from a system of moral standards independent of any particular legal system. These rights are called moral or human rights and are based on a set of standards or principles. These norms and principles specify that all human beings are permitted or empowered to do something or are entitled to have something done for them.

Moral rights unlike legal rights, are usually thought of as being universal insofar as they are rights that all human beings of every nationality possess to an equal extent, simply by virtue of being human beings. Moral rights have three important features:

First, moral rights are tightly correlated with duties.

Second, moral rights provide individuals with autonomy and equality in the free pursuit of their interests, and

Third, moral rights provide a basis for justifying one's actions and for invoking the protection of others.

Livable Environment

William T. Blackstone has argued that the possession of a livable environment is not merely a desirable state of affairs, but something to which each human being has a right.

A livable environment is not merely something that we would all like to have. It is something that others have a duty to allow us to have.

Because we each have a right to a livable environment, our rights impose on others the correlative duty of not interfering in our exercise of that duty. This right, moreover, should therefore be incorporated into our legal system.

Environmental Rights : India & Global Context

Several nations have now introduced amendments to their constitutions that grant their citizens environmental rights. India has also made significant provisions in its Constitution to protect the environmental rights of its citizens. The Directive Principles of State Policy of the Indian Constitution clearly states, "The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country". The Fundamental Duties in the Indian Constitution bestows upon every citizen the duty "to protect and improve the natural environment including forests, lakes, rivers and wildlife, and have compassion for living creatures". Likewise, specific instructions have also been laid down for local bodies and the administration at various levels to ensure the preservation of various aspects of the environment for the welfare of its citizens.

Blackstone's Concept of Environmental Rights

Blackstone's concept of environmental rights is based on the 'Kantian Theory of Rights'. According to this theory all human beings have a moral duty to treat each other as ends not as means therefore human beings have a correlative duty to support & respect the development of another's capacity which is chosen freely and rationally for himself or herself.

The main difficulty with Blackstone's view is that it fails to provide some meaningful guidance on some pressing environmental choices. For example:

- How much pollution control is really needed?
- Should we have an absolute control on pollution?
- How far should we go in limiting property rights for the sake of the environment?
- Who should pay for the costs of preserving the environment?

So far as Blackstone's view is concerned it fails to provide the ways to handle such questions because it suggests only simple and absolute ban on pollution.

Resource Depletion : Future Concern

The depletion of most scarce resources lies far in the future and the effects of their depletion are primarily a concern for future generations. Pollution is a problem concerned primarily with renewable resources like air and water. Resource depletion, however, is concerned with finite non-renewable resources that will be around tomorrow only if they are left over from today. Hence, conservation is the only way of ensuring a supply for tomorrow's generations.

Resource depletion raises two very important issues before us. Number one, why should we conserve resources for future generations, and number two for the sake of arguments even if it is accepted then yes if it is necessary then how much resources should we conserve?

It appears that we have an obligation to conserve resources for future generations because they too have an equal right to the limited resources of this planet and we all have an equal right towards them & if that is so then by using these resources by depleting these resources the present generations is violating the equal right of the future generation to these future resources.

Rights of Future Generation: Opposite Thought

However it is interesting to note an opposite school of Thought. Some writers have claimed that it is a mistake to think about the rights of future generations. Three important reasons have been shown to support this particular view saying that future generations do not have any rights. First, future generations cannot intelligently be said to have any right simply because they do not exist and they may never exist. Future generation future people exist only in the imagination, and imaginary entities cannot have any right any rights and cannot be acted on any way whatsoever except in imagination.

Second, if future generations have environmental rights, it might lead to the absurd conclusion that we must sacrifice the entire civilization for their sake.

Third, it can be said that someone has a certain rights only if it is known that certain interests are there which that right protects.

If these arguments are correct, then the present generation is uncertain about how future generations will exist and what they will like. Hence, these reasons do not allow the present generation to worry about the environment rights of future generation. But it is also unjust for the present generation to leave nothing for the future generations. In

this regard John Rowals has suggested that a just way of distributing the resources between generations be determined.

GLOSSARY

Right: A right is person's entitlement for something.

Legal Right: Entitlement derived from legal system.

Moral Right: Entitlement because of simply by virtue of being human beings.

Duty: Actions to be taken by a person for the fulfillment of others environmental rights.

Pollution: Undesirable change in the environment which is harmful to life.

Depletion: Eradication of natural resources which are non-renewable.

FAQs

Q1. Define Right, Legal Right, Moral Right, and Duty.

Ans: Right: A right is person's entitlement for something.

Legal Right: Entitlement derived from legal system.

Moral Right: Entitlement because of simply by virtue of being human beings.

Duty: Actions to be taken by a person for the fulfillment of others environmental rights.

Q2 . Define Livable Environment.

Livable Environment: A livable environment is not merely something that we would all like to have. It is something that others have a duty to allow us to have.

Q3. Define Environmental Rights.

Ans: Entitlement for environmental and natural resources to live healthy life.

Q4. Differentiate between:

1. Legal Rights and Moral Rights
2. Rights and Duties
3. Pollution and depletion

Ans:

1. Legal rights are extended by the legal system. Moral rights are derived from norms and principles of the society.

2. Rights are entitlement for something. Duties are responsibility to extend that thing.

3. Pollution is undesirable change in environmental components, Depletion is eradication of natural resources.

Q5. Explain the effects of pollution and depletion.

Ans:

1. Undesirable shift in the ecosystem.
2. Deterioration of environmental components.
3. Undesirable impacts on life.

Q6. Give the features of moral rights.

Ans : Moral rights have three important features:

1. Moral rights are tightly correlated with duties.
2. Moral rights provide individuals with autonomy and equality in the free pursuit of their interests.
3. Moral rights provide a basis for justifying one's actions and for invoking the protection of others.

Q7. Explain the reason for the entitlement of clean environment.

Ans : Clean environment is necessary for survival of life.

Q8. Give the details of provisions made in Indian Constitution to protect environment.

Ans : The Directive Principles of State Policy of the Indian Constitution clearly states, "The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country".

Q9. Give relationship between pollution control and conservation.

Ans: Pollution control is a form of conservation.

Q10. Give reasons for the protection of environment for future generation.

Ans : Because they too have an equal right to the limited resources of this planet and we all have an equal right towards them.