

# GIMPA LAW & ETHICS POLICY PAPER

## ENVIRONMENTAL INEQUALITY & INTERGENERATIONAL EQUITY IN THE WAKE OF COVID-19: LOOKING FOR PEARL IN A PILE OF TRASH

### Executive Summary

On Wednesday, 8<sup>th</sup> July 2020, Mr. John Darko, a Lecturer at the GIMPA Faculty of Law delivered via Zoom the 10th session of the GIMPA Law and Ethics Web Series on the theme “*Environmental Inequality and Intergenerational Equity in the wake of COVID-19: Looking for Pearl in a Pile of Trash.*” This Session was moderated by Mr. Godwin Dzah, also a Lecturer at the GIMPA Faculty of Law.

COVID-19 is considered as the largest global public health crisis in a century. It has however not only presented health problems, but also affected the global economy. That notwithstanding, it seems as though the environment may be the winner once the dust is settled. The slump in oil prices, predicated by a virtual halt in air travel, vehicular movements and industrial production, has eased the pressure on the environment, by way of a significant reduction in pollution.

Thus, even though it appears inconceivable, at first instance, to fathom any good phenomenon emanating from this pandemic, our natural environment may have been given a well-deserved break. However, the full effect of COVID-19 has not been fully assessed. Yet, it is being observed that the pandemic is having a positive impact on the environment, as it has contributed to the reduction in the amount of pollutants produced by the consumption of fossil fuels, for example. Herein lies the pearl in this pile of trash, the silver lining in this gloomy COVID-19 cloud.

There is thus a positive impact of the otherwise dangerous pandemic on the environment. It is clear that the COVID-19 pandemic presents the current generation with an opportunity to bequeath a better world to the next generation. There is therefore the need to sustain this positive impact, especially for those otherwise affected by environmental hazards, in order to safeguard the environment, and thereby help future generations to meet their own environmental needs.



## I. Introduction

Environmental Inequality occurs when poor and less powerful people are exposed to hazards generated by big corporations or other entities or persons, who are more powerful and who do not suffer the environmental burdens from their actions. In Ghana, some of the poorest communities suffer the environmental burden of environmental pollution from mining and other activities. Many of these poor communities reside along the major polluted rivers in the country, for instance. Also, most of the communities affected are minority groups. It is as a result of Environmental Inequality, that Environmental Justice exist – with the aim of holding individuals and/or entities who benefit from generating environmental hazards accountable for their actions. Intergenerational Equity on the other hand is the idea that every generation holds the earth in common with members of our species, the current generation and with past as well as future generations. These principles have their roots in the Rio and Stockholm Declarations. These Principles therefore acknowledge the sovereign right of all States to exploit their natural

resources pursuant to their own environmental and developmental policies. However, they are required to equitably meet developmental and environmental needs of both present and future generations. The natural resources which must be safeguarded include air, water, land, flora and fauna and especially representative samples of natural ecosystems for the benefit of present and future generations through careful planning or management. COVID-19, with its devastating effect on the global economy and health system, is a timely reminder of our collective responsibility to safeguard our natural environment. The reduction in pollution globally, albeit forced, could serve as the catalyst to finding innovative ways of ensuring environmental sustainability into the future. The paradox of Environmental Inequality and Intergenerational Equity in the wake of COVID-19 therefore leads us to one conclusion: it highlights the need to live in our environment in a way that benefits future generations as well as vulnerable communities within this current generation.



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## II. The Problem of Environmental Injustice

Human activities have had negative effects on the environment and generated several hazards, including the following:

- **Deforestation:** According to a United Nations Report on Sustainable Development, 290 million hectares of native forest cover was lost between 1990 and 2015, due to clearing and wood harvesting. There has also been a 45% increase in raw timber production since 1970 (i.e. 4 billion cubic meters in 2017), although it is estimated that at least 50% of the global timber supply were procured illegally;
- **Extinction of Animal Species:** It is also estimated that around 1 million animal species are threatened with extinction. For instance, more than 40% amphibian species are threatened with extinction and more than 500,000 of the estimated 5.9 million terrestrial species have insufficient habitat for long term survival without habitat restoration;
- **Soil Degradation:** This results from land use or conversion, over exposure to chemicals, erosion, monoculture farming and over-grazing. It is thus estimated that 12 million hectares of farmlands get degraded and destroyed as a result every year;
- **Air Pollution and Climate Change:** The constant burning of fossil fuels and other industrial activities has caused the concentration of Carbon Dioxide to rise from 280 parts per million (ppm) 200 years ago, to about 400 parts per million (ppm) in recent times – which is likely to increase global temperatures to the dreaded Two Degrees Celsius;
- **Water Pollution:** In Ghana, it is estimated that about 60% of our water bodies are polluted;
- **Overpopulation:** The population of the world now stands at 7.7 billion people, which represents an increase of about 5.1 billion from 1950 when global population stood at around 2.6 billion people. It is thus estimated that the world's population will likely increase to 9.7 billion people in the year 2050, and then peak at almost 11 billion people in or around the year 2100; and
- **Noise Pollution:** This affects an estimated 100 million people globally. It is one of the serious environmental problems in contemporary times. The sources of this type of pollution include industrial noise, specifically emanating from the transportation sector (including aircraft movements), weddings, funerals, religious and other social activities. These hazards usually impact people inequitably.



## III. Challenges

The challenges regarding Environmental Inequality and Intergenerational Equity in the wake of COVID-19, include the following:

- **COVID-19 may not eliminate the numerous environmental issues which presently exist:** The pandemic has resulted in a reduction in pollution generally. A reduction in emission of pollutants is due to the lack of demand for and consumption of fossil fuels. This is due to the fact that temporarily, at least, fewer people are chasing the finite resources of the world. However, once economic activities resume in full force, the problem of environmental pollution and degradation may worsen;
- **There seems to be no immediate correlation between COVID-19 and environmental issues:** COVID-19 affects people directly in terms of their health, for instance. However, we seem to lose sight of the fact that evidence suggests that COVID-19 is zoonotic i.e. it emanated from animals and passed on to human beings; and
- **COVID-19 and Environmental issues are transnational in nature and do not respect physical boundaries:** Environmental problems are situated within the context of the global commons i.e. an activity happening in one part of the world can have consequences and/or affect another part of the world. It is in this same light that COVID-19 which emanated from one part of the world has all but crippled the global economy, bringing many industries to a standstill. The question that remains is as follows: Is this the starting point for sustaining reductions in environmental hazards by the present generation to meet our needs, whilst safeguarding the ability of future generations to meet their own needs as well?

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## IV. Policy Recommendations

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- **Lawsuits must be initiated to test the law and create precedents in the area of Environmental Inequality and Intergenerational Equity:** Environmental justice issues must be a priority and legal practitioners ought to be encouraged, by the relevant Bar Associations, for instance, to take up such public interest matters on a *pro bono* basis even;
- **Legal Education:** The various Law Faculties in Ghana, for instance, must include modules on Environmental Law, Natural Resource Law and related areas as compulsory subjects for all students, to prepare them for practice in these allied fields;
- **International Cooperation to help achieve global public good:** Even though there is a plethora of Environmental agreements, multilateralism seems to be declining as evidenced by the withdrawal of some States from important international agreements. Cooperation between States will solve the free rider problem where States become signatories to treaties but do not abide by them;
- **Enforcement of rules to ensure accountability:** For instance, sustainable mining can occur only if rules are enforced to ensure that companies who degrade the environment pay heavily for their activities. Increasing the cost of pollution by enforcing strict punishments for environmental pollution, for example, is a means of achieving this. We must thus conscientize people about existing laws in this field and enforce them;
- **Focus on interspecies justice:** Legislation for the protection of wildlife and regulating trade in them must be strictly enforced. We need to therefore promulgate contemporary legislation and move away from outdated laws which were inherited from the colonial era;
- **Ensuring that host communities maximize benefits from corporations:** There should be a concerted effort in ensuring employment opportunities for indigenes of communities, where industrial activity that have the potential of affecting the natural environment take place i.e. ensuring that they benefit from such activities;
- **Balancing the utilization of resources with environmental conservation:** In the international arena, developing countries must promote their interests regarding development, while balancing it with the impact on the environment and its impact on future generations. For example, we can stop new mining projects where possible, and account for our use of resources already exploited; and
- **African States must generally adopt a progressive view of law-making:** All laws should not emanate from the Executive, especially when they are part of the Legislature or a substantial part thereof as is the case in Ghana. A strict adoption of separation of powers would ensure more accountability in this area. Legislators must thus be allowed to submit private member's bills and thereby adopt a bottom up approach by incorporating the views of the individuals and communities, for whom laws prohibiting environmental pollution, for example, are made.

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## V. Conclusion

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Despite the fact that the COVID-19 pandemic presents many problems and appears very morbid, it may very well prove to be the catalyst for environmental justice. It presents the current generation a unique opportunity to bequeath a better world to the next generation. It offers a starting point for the sustenance of the reduction in environmental hazards, to help the victims of such activities in our contemporary times, whilst ensuring that future generations are able to meet their own environment needs.



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