

**SUSTAINABLE DEVELOPMENT AND ENVIRONMENT**  
**SUSTANIABILITY: AN ANALYSIS OF SOCIO- ECONOMIC GROWTH**  
**TO ENVIRONMENTAL DEGRADATION**

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**Abstract**

This article examines the concept of sustainable development and environment sustainability with a focus on environmental degradation. The purpose of this capstone is to know the concept of development whether its is actually sustainable or not? And its impact on environmental degradation. Moreover, this also assess efforts made to curb the impact of environmental degradation on the society by Indian Judiciary, legislation through enactment, environmental policies, schemes, guidelines, etc . Excessive emphasis on environmental sustainability could lead to defeat the purpose of development and vice-versa. Though this article attempts to discuss in brief the need to strive towards a balance between environmental sustainability and economic growth. Sustainable development and environment can only be achieved through the integration of policies that connect the environment, the economy and the society. Moreover, we have to understand there are certain values, beliefs, either individual or social, about what is important in life and thus about the ends or objectives which should govern and the shape of public policies. Environmental lawyers, activist, workers act on these environment values, beliefs etc to shape up the future of next generation.

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## INTRODUCTION

The law of environmental protection envisages growing interdependence of economic management and environmental resources and its impact on human life. Essentially, growing debate in recent times about the need for environmental protection has slowly but surely increased the focus on the nature and extent of development, which embraces the ecological dimensions. The protection of environment is needed for sustainable development. The Industrial pollution, degradation of forests, depletion of ozone layer, the green house gases results in global warming and climate which will have an adverse impact on environment and human health. Development that meets the needs of all people is the *leit motif* of constitutional governance<sup>2</sup>.

The term “Environment” includes air, water and land and the interrelations which exist among and between these basic elements and human beings and other living organisms. Besides the physical and biological aspects, the environment embraces the social, economic, political, cultural, religious and several other aspects as well. The environment, thus, is an amalgamation of various factors surrounding an organism that interact not only with the organism but also among themselves. It means the aggregate of all the external conditions and influences affecting life and development of organs of human beings, animal and plants. In *T.N. Godavarman Thirumalpad Vs Union Of India*<sup>3</sup>, the Supreme Court of India observed: “Environment” is a difficult word to define. Its normal meaning relates to the surroundings, but obviously that is a concept which is relatable to whatever object it is which is surrounded. Environment is a polycentric and multifaceted problem affecting the human existence.

This is a difficult word to define. Its normal meaning relates to the surroundings, but obviously that is a concept that is relative to whatever object it is which is surrounded. Used in that sense environment law could include virtually anything, indeed, as Einstein once, remarked, “the environment is everything that isn’t me. However, the environment has now taken on a rather more specific meaning, though, still a very vague and general one and may be treated as covering the physical surroundings that are common to all of us, including air, space, waters, land, plant

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<sup>2</sup> . Journal, Special Issue On Climate Change & Environmental Law, Indian Law Institute

<sup>3</sup> . J.J.R. Upadhyay, Environmental Law, Central Law Agency, Third Edition.

and wildlife. A final introductory thought, but a most important one, is that environmental law is a political discipline. It is political in the narrow sense that major differences can be discerned between political parties as to the correct policy to apply. It may be clarified that within the development of science and technology and with ever-increasing world population, came tremendous changes in the human environment. Such changes upset the eco-laws, shook the balance between human life and the environment and brought enormous problems affecting the environment. In such situation it became necessary to regulate human behavior and social transaction with new laws, design to cope with changing conditions and values. Accordingly a new branch of law, called environment law grew at this stage in order to face the myriad challenges of such system<sup>4</sup>.

### SUSTAINABILITY AND SUSTAINABLE DEVELOPMENT

The concept of sustainable development is central to the recent and future development of environmental law and policy. The idea of 'sustainability' (indicating the state of something being sustainable in the long term) has always been considered as part of the system of land-use planning within the UK. The principle of 'sustainable development' which has gained credibility within the international law. Moreover, the word 'growth' in relation to sustainable may be defined as 'Sustainable Growth' as growth that is possible to continue without causing economic problems and economic growth that is possible to sustain without causing environmental problems. The United Nations defines sustainable development as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs".

The term "sustainable" was first introduced into political language by the club of Rome, an international association of scientists, business executives, public officials and scholars. This was in a report called "The limits to growth" published in 1972. The report disputes the idea of growth that contrasts the present with the past, and looks at the future as a continuous possibility

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<sup>4</sup>. Stuart Bell & Donald McGillivray, Environmental Law, Universal Law Publishing Co. Pvt Ltd, New Delhi, Fifth Edition.

S.C. Shastri, Environmental Law, Eastern Book Company, Fifth Edition.

for further growth and improvement since the idea failed to recognize that resources are finite, thus growth based on resources cannot be infinite. There are several definitions of sustainability. While some have defined sustainability in relation to the ability of man to preserve the available natural resources and not overuse the resources in a way that it will be deficient in the future; others have defined it in relation to policy making. But the definition given by the United Nations Commission on Economic Development in its 1987 Brundtland report seems to be generally acceptable. In its report titled *Our Common Future*, sustainability is defined as that which “meets the needs of the present without compromising the ability of the future generations to meet their own goals” (United Nations, 1987)<sup>5</sup>. Although, some writers have found this definition to be problematic, yet most of them believe that it meets aspects of sustainability. Environmental sustainability has become increasingly important as we witness more extreme weather changes, global warming and environmental degradation. As the world population grew, the need for more resources also increased. In order to meet the increasing demand for these resources, more industrial activities also grew around the world. Moreover, the recent UN agenda of sustainable development through “Sustainable Development Goals”(SDGs) which are as follows:

- Goal 1: End Poverty In All Its Form Everywhere
- Goal 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture
- Goal 3: Ensure healthy lives and promote well-being for all at all ages
- Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all
- Goal 5: Achieve gender equality and empower all women and girls
- Goal 6: Ensure availability and sustainable management of water and sanitation for all
- Goal 7: Ensure access to affordable, reliable, sustainable and modern energy for all
- Goal 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all

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<sup>5</sup> . Nkechinyere V. Attah, *Environmental Sustainability and Sustainable Growth: A Global Outlook* University of Pennsylvania ScholarlyCommons, 2010

- Goal 9: Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation
- Goal 10: Reduce inequality within and among countries
- Goal 11: Make cities and human settlements inclusive, safe, resilient and sustainable
- Goal 12: Ensure sustainable consumption and production patterns
- Goal 13: Take urgent action to combat climate change and its impacts
- Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development
- Goal 15: Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss
- Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels
- Goal 17: Strengthen the means of implementation and revitalize the global partnership for sustainable development<sup>6</sup>.

In *Indian Council for Enviro-Legal Action Vs. Union Of India*<sup>7</sup>, the court explained:

“While economic development should not be allowed to take place at the cost ecology or by causing widespread environment destruction and violation, at the same time, the necessity to preserve ecology and environment should not hamper economic and other developments. Both development and environment must go hand in hand, in other words, there should not be development at the cost of environment and vice versa but there should while taking due care and ensuring the protection of environment”.

### Definition of Environmental Sustainability

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<sup>6</sup> . <http://www.un.org/sustainabledevelopment/sustainable-development-goals/>

<sup>7</sup> . S.C. Shastri, Environmental Law, Eastern Book Company, Fifth Edition.

According to *BusinessDictionary.com*, Environmental sustainability is defined as maintaining the factors and practices that contribute to the quality of environment on a long-term basis. Another definition of environmental sustainability has been given by Daly (1973, 1974, 1992, &1999) and Daly & Cobb (1989):

1. Output rule: Waste emissions from a project or action being considered should be kept within the assimilative capacity of the local environment, without unacceptable degradation of its future waste absorptive capacity or other important services.

2. Input rule:

- Renewable resources: (e.g., Forest, fish) harvest rates of renewable resources inputs must be kept within regenerative capacities of the natural system that generates them.
- Non-renewable: depletion rates of non-renewable resource inputs should be set below the historical rate at which renewable substitutes were developed by human invention and investment according to the Serafian quasi-sustainability rule. An easily calculable portion of the proceeds from liquidating non-renewable should be allocated to the attainment of sustainable substitutes.

### INDIAN JUDICIARY AND SUSTAINABLE DEVELOPMENT( IMPLEMENTATION OF SUSTAINABLE DEVELOPMENT IN INDIA)

There were various factors which led to and become the guiding factor to pass various laws relating to environment by the Indian Parliament. These factors cumulatively created an atmosphere to legislate on various aspects of environment including the umbrella legislation - the Environment Protection Act, 1986<sup>8</sup>. In June 1972, the First U.N (International) Conference on Human Environment was held in Stockholm declared that: 'to defend and improve the human environment for present and future generations has become an imperative goal for mankind.' Therefore, it called upon Government and people of the world to exert common efforts for the preservation and improvement of the human environment. The then Prime Minister of India,

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<sup>8</sup> . S.C. Shastri, Environmental Law, Eastern Book Company, Fifth Edition.

Mrs. Indira Gandhi, was the first head of the State to address this Conference and voiced her concern about the eco-imbalances, environmental degradations and pollution problem. Till now India is one of the signatories of this Conference and to preventing environmental degradation, it has passed various statutes to improve and to protect the environment<sup>9</sup>. From the beginning of the attendance in the Stockholm Conference in 1972, India has passed various major laws on environment, namely:

1. Water (Prevention and Control of Pollution) Act, 1974,
2. Air (Prevention and Control of Pollution) Act, 1981,
3. Environment (Protection) Act, 1986,
4. National Environment Tribunal Act, 1995,
5. National Green Tribunal Act, 2010.

The Supreme Court of India has also pointed out that the U.N. Conference on Human Environment created awareness for environment Protection. The concept of 'Sustainable Development, was also introduced for the first time by the Stockholm Conference of 1972 and now a days this concept has been accepted as a part of the Customary International Law<sup>10</sup>. The supreme of India recognizes the following some principle of sustainable development, which we may called that is a policy or a strategy for continued economic and social development without detriment to the environmental and natural resources of which continued activity and further development depends.

(a) Inter-General Equity: - Principle 3 of the Rio de Janerio Declaration states that, “the right development must be fulfilled so as to equality meet developmental and environmental needs to present generations.” The Supreme Court of India has also upheld this principle in the case of Bombay Dyeing Environmental Action Group. The main object behind the principle is to ensure

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<sup>10</sup> . S.C. Shastri, Environmental Law, Eastern Book Company, Fifth Edition.

that the present generation should not abuse the non-renewable resources so as to deprive the future generation its benefit.

(b) The Precautionary Principle: - Principle 15 of the Rio de Janeiro Declaration states that, “in order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there is a threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.” Indian Supreme Court also adopted this principle but modified form i.e. the Court explained that this principle has led to the special principle burden of proof in environmental cases where burden as to absence of injuries effect of the actions proposed is placed on those who want to change the status quo.

(c) Polluter Pays Principle:- Principle 16 of the Rio de Janeiro Declaration states that, “national authorities should endeavour to promote the internationalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to public interest and without distorting international trade and investment” It is clear from the above note that, the object of the above principle is to make polluter liable not only for the compensation to the victim but also for the cost restoring of environmental degradation<sup>11</sup>.

Right to healthy environment has been incorporate directly and indirectly into the judgments of the superior courts in India and this link between environmental quality and right to life has been first established in the case of *Charan Lal Sahu Etc. Etc. vs. Union of India and Others*<sup>12</sup> which is also known as the *Bhopal Case*. In *Subhash Kumar vs. State of Biha*<sup>13</sup>, Supreme Court interpreted the fundamental right granted under Article 21 of the constitution of India and held that, right to life include right to whole some environment, which is also means right of enjoyment of pollution free water and air for full enjoyment of life. Through these cases Supreme Court recognises the right to wholesome environment as part of fundamental right. In

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<sup>11</sup> . Razdan. K. V., Air Pollution, Legislative Controls and Judicial Response. Available at: <http://www.nieindia.org/bulletin/bull-PDF/V15/B15-239.pdf>.

<sup>12</sup> . 1990 AIR 1480, 1989 SCR Supl. (2) 597.

<sup>13</sup> . AIR 1991 SC 420/ 1991 (1) SCC 598.



*M.C. Mehta vs. Union of India & others*<sup>14</sup>, which is also known as the Oleum Gas Leak case, the Supreme Court introduced the new concept of managerial liability- ‘absolute and non-delegable’ liability for disasters arising out from the storage or use of hazardous materials from their factories, the enterprise must ensure that no harm has been cause because of the fact that negligent occurred or not. In *Vellore Citizen Welfare Forum vs. Union of India*<sup>15</sup>, the Supreme observed that, the companies’ are vital for countries development, but having regard to pollution the doctrine of ‘sustainable development’ must be adopted by them as the balancing concept and the ‘precautionary principle’ and the ‘polluter pays principle has also be accepted as the part of the law. In *M.C. Mehta vs. Kamal Nath*<sup>16</sup>, the court held the natural resources such as air, sea, waters and the forests has such a great importance to the people as a whole that by leasing ecologically fragile land to Motel management, the State Government committed a serious breach of public trust.

In *M. C. Mehta vs. Kamal Nath*<sup>17</sup>, the Supreme Court made it clear that, ‘any disturbance of the basic environment elements, namely air, water, and soul, which are necessary for life, would be hazardous to life.’ Thus the court in exercise of jurisdiction under Article 32 can not only award damages but also levy fine for the environmental pollution. In *Abhilash Textiles vs. Rajkot Municipal Corpn*<sup>18</sup>. the Gujarat High Court made it clear that ‘the petitioners cannot be allowed to reap profit at the cost of the the public health.’ In another case of *Wing Commander Utpal Barbara vs. State of Assam*<sup>19</sup>, the court declared that the total ban on the use of the plastic bags by the Magistrate under Section 144 of the Criminal Procedure Code is the violative of freedom of trade and business under Article 19 (1) (g) of the Constitution of India. The remedy instead of ban could have been to take appropriate steps regulating its use and disposal and to resort to appropriate legislation for it. In this way, the superior Court introduces a balance between the development and the environment, which is the basic need of any human being.

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<sup>14</sup> .1987 SCR (I) 819.

<sup>15</sup> .AIR 1996 SC 2715.

<sup>16</sup> .(1997) 1 SCC 388

<sup>17</sup> . Supra note 6

<sup>18</sup> . AIR 1988 Gau 78

<sup>19</sup> . AIR 1999 Gau 78.

### CONCLUSION

The principle of sustainable development sometimes looks problematic because it demands the growth of economy and protection of environment at same time. But it is not possible with the single effort of authority concerned, it is duty of every individual, group, association, etc to protect and preserve the ecology and environment and make earth a better place to live for present generation and future generations.

Location of industry is another problem which needs to be solved. In this regard it will advisable that, when the industry is hazardous, it should not be located in a particular place where the huge number of people is residing or should not be near a colony, considering the happiness, health of the inhabitant. It relates to the provision of Article 48A and 51A (g) of the Directives Principles of State Policy. In this regard we can just hope that, the Judiciary play an important role to protect the environment as well as help for the Industrial development in India by adopting the policy of Sustainable development.

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