

Environment And Sustainable Development: A Critical Study Of The Role Of International Laws In Preserving Environment And Promoting Sustainable Development

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Synopsis

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Introduction

A good environment helps all round development of one's personality and a bad environment inhibits its development. It affects living beings both directly and indirectly. Right from mother's womb, one needs unpolluted air to breath, unpolluted water to drink, nutritious food to eat and hygienic condition to live in. These elements are Sine Qua non for sound development of human personality. Environmental pollution is the biggest menace to the human race on this planet today. It means adding impurity to environment. The environment consists of earth, water, air, plants and animals. If we pollute them, then the existence of man and nature will be hampered.

The environment Protection Act 1986, defines environments follows: "Environment includes water, air and land and the inter relationship which exists among and between water, air, and land and human beings, other living creatures, plants, micro-organism and property"²

Statutory definition of environmental pollution is provided in Environmental (protection) Act, 1986 is an exhaustive form. According to the Act, environmental pollution "Mean the presence in the environment of any environmental pollutant"³

Pollution may be defined as any direct or indirect alteration of the physical, thermal, biological or radioactive properties of the environment that creates an actual or potential hazard to the health safety or welfare of any living species. Also pollution may said to be any inserting of any foreign matter in the wrong place and in quantities that are too large which eventually cause harm human and other living organism. Environmental pollution occurs when pollutants contaminate the natural surroundings. Pollutants are the key elements or components of pollution which are generally waste materials of different forms. Pollution disturbs our ecosystem.

Environment pollution comprises in different forms; air water soil radioactive noise and light pollution. With the coming of the industrial revolution, humans were able

² Sec 2(9)

³ Sec2(c)

to advance further into the 21st century. Technology developed rapidly, science became advanced and the manufacturing age came into view. With all of these came one more effect, industrial pollution.

Sustainable Development

Sustainable development has its roots in ideas about sustainable forest management which were developed in Europe during the seventeenth and eighteenth centuries. In response to a growing awareness of the depletion of timber resources in England, John Evelyn argued that "sowing and planting of trees had to be regarded as a national duty of every landowner, in order to stop the destructive over-exploitation of natural resources" in his 1662 essay *Sylva*. In 1713 Hans Carl Von Carlowitz, a senior mining administrator in the service of Elector Frederick Augustus I of Saxony published *Sylvicultura oeconomica*, a 400-page work on forestry.

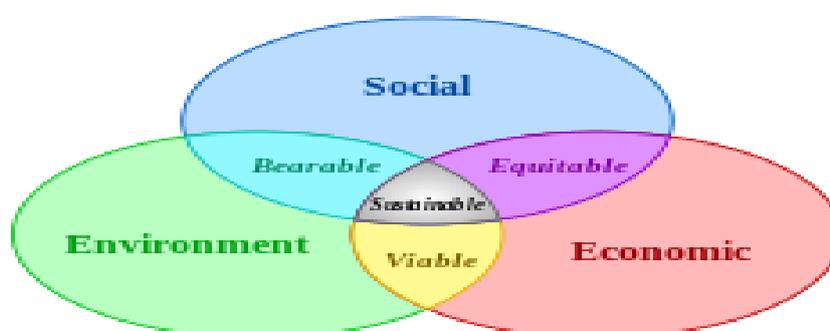
Building upon the ideas of Evelyn and French minister Jean- Baptiste Colbert, Von Carlowitz developed the concept of managing forests for sustained yield⁴. His work influenced others, including Alexander Von Humboldt and Georg Ludwig Hartig, leading in turn to the development of a science of forestry. This in turn influenced people like Gifford Pinchot, first head of the US Forest Service, whose approach to forest management was driven by the idea of wise use of resources, and Aldo Leopold whose land ethic was influential in the development of the environmental movement in the 1960s.

Following the publication of Rachel Carson's *Silent Spring* in 1962, the developing environmental movement drew attention to the relationship between economic growth and development and environmental degradation. Kenneth E. Boulding in his influential 1966 essay *The Economics of the Coming Spaceship Earth* identified the need for the economic system to fit itself to the ecological system with its limited pools of resources. One of the first uses of the term sustainable in the contemporary sense was by the Club of Rome in 1972 in its classic report on the Limits to growth,

⁴ Ulrich Grober: *Deep Roots-‘A conceptual history of sustainable development’* 2007

written by a group of scientists led by Dennis and Donella Meadows of the Massachusetts Institute of Technology. Describing the desirable "state of global equilibrium", the authors wrote: "We are searching for a model output that represents a world system that is sustainable without sudden and uncontrolled collapse and capable of satisfying the basic material requirements of its entire people.

In 1980 The International Union for the Conservation of the Nature published a world conservation strategy that included one of the first references to sustainable development as a global priority. Two years later, the United Nations World Charter for Nature raised five principles of Conservation by which human conduct affecting nature is to be guided and judged. The term sustainable development was used at the time of Cocoyoc declaration on environment and development in the early 1970's⁵. Sustainable development means an integration of developmental and environmental imperatives. To be sustainable, development must possess both economical and ecological sustainability. It indicates the way in which developmental planning should be approached.⁶ Present generation should be modest in their exploitation of natural resources has found widespread international approval⁷. The concept of Sustainable Development has grown since its inception at the international fora. It has acquired different dimensions in terms of economic growth, development and environment protection.



⁵ Michael Redclift, "sustainable development-exploring the contradictions"³²(1987)

⁶ Gurdip singh, "Environmental law-international and national perspectives"²¹⁰(1995)

⁷ Maltese proposal- UN General Assembly of 1967.

An unsustainable situation occurs when natural capital (the sum total of nature's resources) is used up faster than it can be replenished. Sustainability requires that human activity only uses nature's resources at a rate at which they can be replenished naturally. Inherently the concept of sustainable development is intertwined with the concept of carrying capacity. Theoretically, the long-term result of environmental degradation is the inability to sustain human life. Such degradation on a global scale should imply an increase in human death rate until population falls to what the degraded environment can support. If the degradation continues beyond a certain tipping point or critical threshold it would lead to eventual extinction for humanity.

Environmental sustainability concerns the natural environment and how it endures and remains diverse and productive. Since natural resources are derived from the environment, the state of air, water, and the climate are of particular concern. The IPCC Fifth Assessment Report⁸ outlines current knowledge about scientific, technical and socio-economic information concerning climate change, and lists options for adaptation and mitigation. Environmental sustainability requires society to design activities to meet human needs while preserving the life support systems of the planet. If the degradation of natural and social capital has such important consequence the question arises why action is not taken more systematically to alleviate it. Cohen and Winn close with the realization that contrary to economic theory many firms are not perfect optimizers. They postulate that firms often do not optimize resource allocation because they are caught in a "business as usual" mentality.⁹

| | | |
|---|-----------------------------|-----------------------|
| Consumption of non-renewable resources | State of environment | Sustainability |
|---|-----------------------------|-----------------------|

⁸ Climate change 2014:Impacts, Adaptability & Vulnerability: Geneva(Switzerlnd)IPCC

⁹ Cohen, B & Winn, M.I 2007: Market Imperfections, Opportunities & sustainable entrepreneurship

Journal of Business Venturing 22(1): 29 to 49

| | | |
|---|---------------------------|-----------------------------|
| More than nature's ability to replenish | Environmental degradation | Not sustainable |
| Equal to nature's ability to replenish | Environmental equilibrium | Steady state economy |
| Less than nature's ability to replenish | Environmental renewal | Environmentally sustainable |

Some of the salient features of sustainable development are as follows;

- Inter generational equity
- Use and conservation of Natural Resources
- Environmental protection
- The precautionary principle
- The polluter pay principle
- Obligation to assist and cooperate
- Eradication of poverty
- Financial assistance to the developing countries

The concept of sustainable development further received importance in the Stockholm Declaration on Human Environment¹⁰. Environment protection and development were conceptualized as two sides of a coin inseparable from each other. The conference was a remarkable achievement as 114 nations participated in it and agreed on declaration of principles and an action plan. In the developing countries most of the environmental problems are caused by under development, these countries must direct their efforts to development and the need to safeguard and improve the environment. The natural growth of population continuously presents problem for the preservation of the environment. Adequate policies and measures should be adopted to overcome these problems.

¹⁰ UN Conference on Human Environment 1972

The concept of sustainable development received further boost in the “world conservation strategy”¹¹. The ASEAN agreement ¹² is an early contractual model wherein the parties in article 1 undertook to preserve biodiversity and to guarantee the continuing productivity of the natural resources under their jurisdiction in accordance with scientific principles and with the goal of sustainable development. The term ‘sustainable development’ was defined comprehensively in the Brundtland commission report by World commission on Environment and Development¹³ named after the chairman of the commission Ms. G.H. Brundtland¹⁴

Sustainable development is development that meets the needs of the present without compromising the ability of the future generations to meet their own needs¹⁵. According to the report the concept of sustainable development contains two key elements

- i) The concept of ‘needs’ , essential needs of the world’s poor, to which priority should be given
- ii) The idea of ‘limitations’ imposed by the state of technology and social organization on the environment’s ability to meet present and future needs.

Sustainable development is a process of change, in which economic and fiscal policies, trade and foreign policies, energy agriculture and industrial policies aim to induce development paths that are economically, socially and ecologically sustainable. The report emphasized the need for integration of economics and ecology for sustainable development. The concept of sustainable development shall include environment and development policies with the following objectives: reviving growth, generating jobs, food, energy, water and sanitation, controlling

¹¹ ICUN, UNEP & WWF in 1980

¹² 9th July 1985

¹³ Set up by General Assembly of the UN in 1983

¹⁴ Prime minister of Norway

¹⁵ ‘ our common future’ world commission on environment and development (1987)

population, conserving and enhancing the resource base, reorientation of technology¹⁶. It is evident from the content of the report that for achieving sustainable development economy and ecology have to merge together.

World conservation union, UN environment program and world wild fund jointly produced a document¹⁷ defining sustainability as a state that can be maintained indefinitely and development as the increasing capacity to meet human needs and improve the quality of human life. The EARTH SUMMIT ¹⁸ (united nation conference on environment and development) one of the largest UN conferences wherein more than 150 countries participated was mainly inspired by Brundtland report, further emphasized the significance of sustainable development and immediate global actions to support the same.

The Rio declaration consists of 27 principles which guide the behavior of nations towards more environmentally sustainable patterns of development. Agenda 21 is a dynamic programme and a voluntary action plan. It is a comprehensive blue print for local, national regional and global actions for sustainable development in the 21st century. Boutros Ghali¹⁹ in his address to the UN general assembly “Agenda 21 is a comprehensive and far reaching programme of action for sustainable development and it constitutes the centerpiece of international cooperation and coordination activities within the United Nations system for many years to come”.

The preamble of Agenda 21 provides “humanity stands at a defining moment in history. We are confronted with a perpetuation of disparities between and within nations and the continuing deterioration of the ecosystems on which we depend for our well being. Integration of environment and development will lead to the fulfillment of basic needs, improved living standards for all, better protected and managed ecosystems and a safer and more prosperous future. No nation can achieve

¹⁶ ibid

¹⁷ ‘caring for the earth: a strategy for sustainable living’ (1991)

¹⁸ Held in Rio de Janeiro in 1992

¹⁹ UN General secretary in September 1992

this goal on their own, but we can in a global partnership for sustainable development". Thus Agenda 21 lays emphasis on the international cooperation for achieving the goal of sustainable development. It addresses the pressing problems of today and also aims at preparing the world for the challenges of future.

The United Nation commission on sustainable development is an active commission of the United Nations economic and social council (ECOSOC) ²⁰ the most extensive document of the Rio Summit. The main function of the commission is to ensure effective follow up of the Rio conference, as well as to enhance international cooperation for the integration of environment and development issues. The commission is required to provide appropriate recommendations to the general assembly, through the economic and social council on the basis of an integrated consideration of the reports and issues related to the implementation of Agenda 21. The establishment of the commission on sustainable development was a significant step, but the commission has to rely on political rather than authority to integrate global environmental and economical policies. Its success will depend on the quality of participation from various nations for their consensus on global sustainable development goals.

A special session of the United Nation general assembly Earth Summit Plus Five²¹ witnessed the participation from more than 170 countries besides participation from hundreds of environmentalists and NGO's to review the progress made in achieving the goal of sustainable development. The Earth summit plus five could not yield a key note political statement setting a course for sustainable development. Instead a brief and vague programme of action was adopted "we commit ourselves to work together in the spirit of global partnership to reinforce our joint efforts to meet the needs of the present and future generations"²²

²⁰ Chapter 38 of Agenda 21 set up on 16th February 1993

²¹ Held at New York in June 1997

²² Editorial 'Earth summit fails' The Tribune on 1st July 1997

Kyoto conference also popularly known as Green House Conference²³ witnessed delegates 159 nations reached a historic accord calling for mandatory cuts in emission of green house gases by industrialized nations in the next millennium to help save the planet from global warming.

The Global Environment Facility²⁴ directed the industrialized nations to enforce stringent emission norms and limit pollution levels to save the world from an impending ecological disaster. It is submitted that environment protection should be carried along with sustainable development. It is necessary to identify the salient features of sustainable development and follow them religiously so as to save planet earth from further exploitation.

The United Nations organized a ten day world summit on sustainable development ²⁵ with an object of coordinated international action to fight poverty and protect the global environment. The summit concluded by adopting a declaration named as “Johannesburg Declaration on Sustainable Development”. It was reinstated in Johannesburg declaration that Rio summit was a significant milestone that set a new agenda for sustainable development. Accordingly the representatives of the people assumed a collective responsibility to advance and strengthen the interdependence and mutually reinforcing pillars of sustainable development. The declaration welcomed and supported the emergence of stronger regional groupings and alliances to promote regional cooperation, improved international cooperation and promote sustainable development.

The Johannesburg declaration on Sustainable development declares that

- 1) We, the representatives of the peoples of the world, assembled at the world summit on sustainable development in Johannesburg, South Africa, reaffirm our commitment to sustainable development

²³ Held in Kyoto, Japan on 11th December 1997

²⁴ Sponsored by UN general assembly in April 1998

²⁵ In Johannesburg, South Africa from sept 2 to 4, 2002

- 2) We commit ourselves to build a humane, equitable and caring global society cognizant of the need for human dignity for all
- 3) At the beginning of this summit, the children of the world spoke to us in a simple yet clear voice that the future belongs to them
- 4) As part of our response to these children who represent our collective future all of us coming from every corner of the world are united and moved by a deeply felt sense that we urgently need to create a new and brighter world of hope
- 5) Accordingly, we assume a collective responsibility to advance and strengthen the interdependent and mutually reinforcing pillars of sustainable development
- 6) From this continent the cradle of humanity we declare, through the plan of implementation and this declaration, our responsibility to one another, to the greater community of life and to our children

Herman Daly²⁶ suggested three rules for sustainable development²⁷

- Harvest renewable resources only at the speed at which they regenerate
- Limit wastes to the assimilative capacity of the local ecosystem or release those wastes elsewhere where they can be assimilated
- If you use a non renewable source, require that part of the profit be put aside for investment in a renewable substitute resource.

Framing of Sustainable development progress according to the circles of Sustainability used by United Nations²⁸

²⁶ An economist at the World Bank

²⁷ Shantha kunar ' Introduction to Environmental law' edition 2005

²⁸ Melbourn(Sydney, Australia) 2011

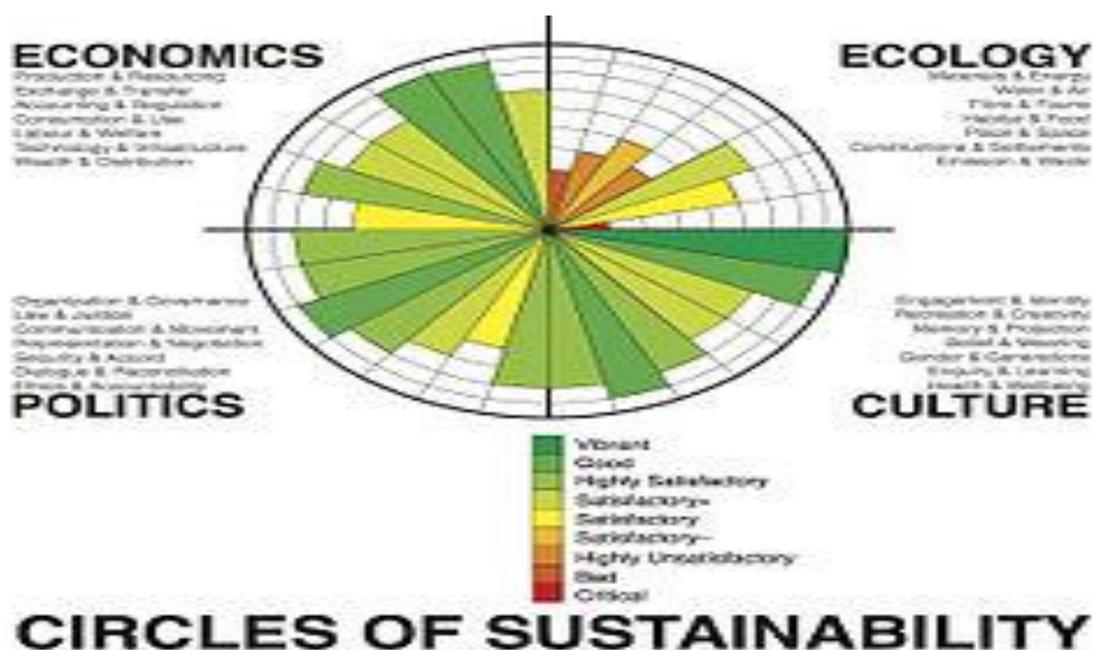


Figure 1 Resolution adopted by the General Assembly on 25 September 2015

Transforming our world: the 2030 Agenda for Sustainable Development

The GENERAL ASSEMBLY adopts the following outcome document of the United Nations summit for the adoption of the post-2015 development agenda:

Preamble

This Agenda is a plan of action for people, planet and prosperity. It also seeks to strengthen universal peace in larger freedom. We recognize that eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development.

All countries and all stakeholders, acting in collaborative partnership, will implement this plan. We are resolved to free the human race from the tyranny of poverty and want and to heal and secure our planet. We are determined to take the bold and transformative steps which are urgently needed to shift the world on to a sustainable and resilient path. As we embark on this collective journey, we pledge that no one will be left behind.

The 17 Sustainable Development Goals and 169 targets which we are announcing today demonstrate the scale and ambition of this new universal Agenda. They seek to build on the Millennium Development Goals and complete what they did not achieve. They seek to realize the human rights of all and to achieve gender equality

and the empowerment of all women and girls. They are integrated and indivisible and balance the three dimensions of sustainable development: the economic, social and environmental. The Goals and targets will stimulate action over the next 15 years in areas of critical importance for humanity and the planet.

Sustainable Development Goals:

Goal 1. End poverty in all its forms 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

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

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

Conclusion

The present century is the century of urban revolution. Due to rapid growth of urbanisation, industrialisation and changing global plans and policies there has been a tremendous effect on the environment. Sometimes the development plans are not followed and the land reserved for the certain purposes are encroached for construction and commercial purposes. This has an adverse effect on protection and preservation of environment. The Indian judiciary has shown its concern to the problems of urbanisation and industrialisation and the need for protecting and preserving the environment.

Two essential features of sustainable development are;

- The precautionary principle
- The polluter pay principle

Law is a regulatory of human conduct but no law can indeed effectively work unless there is an element of acceptance by the people in society. No law works out smoothly unless the involment is voluntary. There should be awareness amongst the public and an element of acceptance of laws, if we want the laws to be enforced and pollution to be controlled. The Supreme Court of India has made a remarkable contribution in this regard. As per the Supreme Court guidelines in *M.C.Mehta vs Union of India*²⁹ judgement, the subject of environment has been made as a compulsory subject in schools colleges and universities to give awareness to students. The Supreme Court also has also issued certain directions;

- 1) Enforce as a condition of licence on all cinema halls regarding their duty to exhibit free of cost messages on environment in each shows undertaken by them.
- 2) To show every day in cinema halls short films on pollution and its effect on environment.

²⁹ (1992)1 SCC 358

- 3) To telecast and broadcast every day on prime time programmes about five to seven minutes by Doordarshan and All India Radio on awareness about protection and preservation of environment from pollution

People should be reminded that they share the earth and its resources with the other species that keep the ecosystem balanced, if the balance is gone then the life of every single species is threatened and even humans will not be spared from this.