

Sustainability & Sustainable Development: Protection of Human Rights

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Introduction

According to the report 'our common future' by Ms. Harlem Brundtland, sustainable development is defined as 'sustainable development that satisfies the needs of the present without compromising the ability of future generations satisfy theirs'. This report published in 1987 by the United Nations World Commission on Environment and Development, insists on the need to protect the diversity of genes, species, and all terrestrial and aquatic ecosystems in nature. This is possible in particular via measures to protect the quality of the environment, and by the restoration, development, and maintenance of habitats that are essential to species. This implies the sustainable management of the use of animal and plant population being exploited. In other words, it is the rational management of human, natural, and economic resources that aims to satisfy the essential needs of humanity in the very long term.

Kirpal J observed: "Water is the basic need for the survival of human beings and is part of right of life and human rights as enshrined in Article 21 of the Constitution of India....." There is therefore need to take into account the right to a healthy environment along with the right to sustainable development and balance them. Thus, the right to access to drinking water is fundamental to life and there is a duty on the State under Article 21 to provide clean drinking water to its citizens.

The right to development is also declared as a component of Article 21 in cases like **Samata v. State of Andhra Pradesh**, and in **Madhu Kishore v. State of Bihar**, stated that:

The right to development cannot be treated as a mere right to economic betterment or cannot be limited to as a misnomer to simple construction activities. The right to development encompasses much more than economic well being, and includes within its definition the guarantee of fundamental human rights. The 'development' is not related only to the growth of GNP. In the classic work - 'Development As Freedom' the Nobel prize winner Amartya Sen pointed out that 'the issue of development cannot be separated from the conceptual framework of human right'. This idea is also part of the UN Declaration on the Right to Development. The right to development includes the whole spectrum of civil, cultural, economic, political and social process, for the improvement of peoples' well being and realization of their full potential. It is an integral part of human right. Of course, construction of a dam or a mega project is definitely an attempt to achieve the goal of wholesome development. Such works could very well be treated as integral component for development.

Therefore, the adherence of sustainable development principle is a sine qua non for the maintenance of the symbiotic balance between the rights to environment and development. Right to environment is a fundamental right. On the other hand right to development is also one. Here the right to 'sustainable development' cannot be singled out. Therefore, the concept of 'sustainable development' is to be treated an integral part of 'life' under Article 21.

SUSTAINABLE DEVELOPMENT

Sustainable Development is a simple idea of ensuring a good quality of life for everyone, now and for future generations. In simple words we can say sustainable development means that the present generations should be able to make use of resources to live better lives in such a manner that it does not compromise the ability of future generations. It is about finding better ways of doing things, both

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for the future Seduced.

Sustainability planning should be made on the local, national and international levels. We need to be able to utilize our economic and natural resources in a way that will enhance our lives but not inflict damage to the environment. For example, when trees are cut down for paper production they should be re-planted to prevent massive deforestation of our planet's forests/natural environments. Health & transport – Instead of driving, switching to walking or cycling for short journeys will save you money, improve your health and is often just as quick and convenient.

For sustainable development to occur, there needs to be sustainable economic, ecological and community development. Society needs to be educated about ways in which they can use resources, especially natural, in such a manner that it does not cause harm to the environment and put future generation's lives at risk. Sustainable development implies the fulfillment of several conditions: preserving the overall balance, respect for the environment, and preventing the exhaustion of natural resources. Reduced production of waste and the rationalization of production and energy consumption must also be implemented. Sustainable development is presented as a more or less clean break from other modes of development, which have led and are still leading to worrying social and ecological damage on both a worldwide and a local scale. In order to be sustainable development must combine three main elements: fairness, protection of the environment, and economic efficiency. A sustainable development project must be based on a better developed mode of consultation between the community and the members it comprises. The success of such a policy also depends on consumers accepting certain constraints and citizens observing certain requirements with regard to transparency and participation. Renewable energy sources like wind power and solar power are excellent examples of development strategies that are sustainable. Their sustainability is defined by their reliance upon infinitely available resources that are naturally occurring, constant and free to access. These factors mean that these resources will be indefinitely accessible by humans, which make them sustainable resources. Sustainable development doesn't always refer to environmental sustainability or other green topics. Sustainable development also needs to take economic and social sustainability into account in order to fit within the parameters of sustainable development.

Meaning of Sustainability

The definition of "sustainability" is the study of how natural systems function, remain diverse and produce everything it needs for the ecology to remain in balance. It also acknowledges that human civilization takes resources to sustain our modern way of life.

Sustainability takes into account how we might live in harmony with the natural world around us, protecting it from damage and destruction.

We now live in a modern, consumerist and largely urban existence throughout the developed world and we consume a lot of natural resources every day. In our urban centers, we consume more power than those who live in rural settings and urban centers use a lot more power than average, keeping our streets and civic buildings lit, to power our appliances, our heating and other public and household power requirements. That's not to say that sustainable living should only focus on people who live in urban centers though, there are improvements to be made everywhere- it is estimated that we use about 40% more resources every year than we can put back and that needs to change. Sustainability and sustainable development focuses on balancing that fine line between competing needs- our need to move forward technologically and economically, and the needs to protect the environments in which we and others live. Sustainability is not just about the environment, it's also about our health as a society in ensuring that no people or areas of life suffer as a result of environmental legislation, and it's also about examining the longer term effects of the actions

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humanity takes and asking questions about how it may be improved.

What are human rights?

Human rights are the basic rights and freedoms that belong to every person in the world, from birth until death. They apply regardless of where you are from, what you believe or how you choose to live your life. They can never be taken away, although they can sometimes be restricted – for example if a person breaks the law, or in the interests of national security. These basic rights are based on values like dignity, fairness, equality, respect and independence. But human rights are not just abstract concepts – they are defined and protected by law. In Britain our human rights are protected by the Human Rights Act 1998.

Environmental Rights

The right to a clean environment and sustainable development is fundamental and closely connected to the right to health and well-being. It is of fundamental importance to note that there is a strong connection between the quality of the environment and the health of the people living and/or exposed to those environments. The responsibility for the provision of a safe and healthy environment is outlined in a range of legislation and different sections of the Constitution. Section 24 of the Constitution provides that everyone has a right to an environment that is not harmful to their health and well-being; and to have the environment protected for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation; promote conservation; and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development. The Constitution further places an obligation in terms of section 152 (1)(b) and (d) on the part of local government as stipulated in sections 4(2)(d) and 4(2)(i), 73(1) and (2) of the Municipal Systems Act 32 of 2000 to ensure that the right to a clean and healthy environment is fulfilled.

Basic Principles of Sustainable Development

The basic principles of sustainable development make it possible to harmonise the various sectoral and development strategies with the horizontal strategy on sustainable development and they also provide a general type of guidance for determining the strategy's priorities, more specifically defined and tasks, the frameworks and means of implementation, in a coordinated and harmonized way. The basic principles are as follows:

The Principle of Holistic Approach: Things must be viewed as a system of inter-related elements, the elements themselves also being systems in treating with one another. Any intervention may trigger ripple effects even in remote systems. Local challenges can be adequately addressed relying on knowledge of the wider environment and global trends alike.

The Principle of Intra-generational and Inter-generational Solidarity: The interests of sustainable development are focused on people. The development and environment needs of present generations must be addressed without compromising the ability of future generations to meet their own needs.

The Principle of Social Justice: The right to adequate conditions for living must be recognized and fundamental human rights must be guaranteed for all. All people should have equal opportunities for acquiring knowledge and skills required to become worthy members of society.

The Principle of Sustainable Management of Resources: Sustainable management of resources with a view to the limitation of the carrying capacity of the environment; by using natural resources in a prudent and thrifty way it preserves resources required for future development. Biodiversity is

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also a natural resource and we attach high priority to its conservation.

The Principle of Integration: In the course of elaborating, evaluating, and implementing sectoral policies, plans, and programmes, economic, social, and environmental considerations and their relationship must also be taken into account to ensure that they can mutually reinforce each other. Local, regional, and national activities must be coordinated.

The Principle of Utilizing Local Resources: Efforts should be made to supply the needs of communities on a local level, from local resources. Local features and diversity should be preserved. Preservation and sustainable utilization of the man-made environment and cultural heritage are also very important tasks.

The Principle of Public Participation: Adequate access to information affecting social/economic life and the environment, to information on decision making processes must be provided for all. People's knowledge about sustainable development, its social/economic and environmental implications, and about sustainable solutions and approaches must be clarified and enhanced. Public participation in decision making should be strengthened.

The Principle of Social Responsibility: To enable sustainable development and to make a higher quality of life possible, unsustainable pattern of production and consumption must be changed. Businesses social responsibility must be strength ended, along with cooperation between the private and the public sector.

The Principle of Precaution and Prevention: The precautionary approach means that wherever the possibility of severe or irreversible damage is perceived, a lack of complete scientific certainty may not be used as an excuse for delaying effective action to prevent damage to the environment or endangering human health. Human activities must be planned and carried out in line with this precautionary principle and activities damaging or polluting the environment endangering natural systems and human health must be prevented and-where it is not possible-reduced, and finally, damages must be restored to their original state as far as possible.

The Polluter Pays Principle: Prices must reflect the real costs paid by society for activities involved in consumption and production as well as for their impacts, including the costs of using natural resources. Those engaged in activities damaging/polluting the environment must pay for damage caused to human health or the environment.

Relationship between Human Rights and Sustainable Development Paradigm

There are three areas for United Nations Development Programme (UNDP) action:-

- Providing support for institutions of governance, with an emphasis on building the human rights capacity of these institutions and providing direct support to human rights institutions.
- Developing human rights based approach to sustainable human development.
- Contributing to the human rights policy dialogue and United Nations conference follow-up

The challenges of human rights, sustainable development and security are so closely entwined that none can be talked effectively in isolation. Collective and multifaceted efforts are required of human rights development practitioners, now more so than ever.

Various human rights debates and approaches towards sustainable development wherein United Nations agencies have gone a considerable way towards reflecting these realities in practice including though defining a common understanding of a human rights based approach to development co-

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operation, embodied within the United Nations Common Programme Guidelines, Sustainable development has come to be accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting ecological systems. The Supreme Court has held that there is no hesitation in holding that “sustainable development” is a balancing concept between ecology and development and has been accepted as a part of the customary International law.

Thus, the right to development encompasses within its ambit, all human rights and fundamental freedoms including the right of self-determination. The right to development is a multi-dimensional character, incorporating all civil, political, economic, social and cultural rights necessary for the full development of the individual and protection of his dignity. Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of equality that permits a life of dignity, wellbeing and bears a solemn responsibility to protect and improve the environment for present and future generation. The Declaration therefore says that in the developing countries, most of the environmental problems are caused by underdevelopments. The Declaration suggests safe actions with prudent care for ecological balance. It is necessary to avoid massive and irreversible harm to the earthly environment and strive for achieving present generation and the posterity a better life in an environment more in keeping with human needs and hopes.

The Indian Judiciary has been well aware of international development in the field of environmental law and is molding and developing the environmental jurisprudence in the light of international conventions treaties and agreements. The judiciary by taking recourse to international environmental principles is not only reinforcing, strengthening and widening the environmental jurisprudence in India but also making the executive and legislative wings of the state proactive in the field of protection and improvement of the environment. In fact, relying on some international environmental principles, the Indian judiciary has been able to face some of the challenges relating to environmental protection very successfully in the absence of appropriate domestic legislation in the concerned field. The Supreme Court relying on the international concept of sustainable development, which calls upon the States to bear solemn responsibility to conserve and use environment and natural resources for the benefit of present and future generations, has given some important decisions relating to environment. The courts are also applying very successfully many principles that are emanating from the international concept of sustainable development. Supreme Court of India interpreted the Polluter Pays Principle by stating that the absolute liability to the environment extends not only to compensate the victims of pollution, but also the cost for restoring the environmental degradation. Thus, it includes environmental costs as well as direct costs to the people or property. Again, in **Indian Council for Enviro Legal Action v. Union of India**, (1996) 3 CC 212 at 247, The Supreme Court expressed the view that remediation of the damaged environment is part of the process of ‘sustainable development’ and the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.

The first case in which the apex court applied the doctrine of ‘sustainable development’ was **Vellore Citizens Welfare Forum v. Union of India**, AIR 1996 SC 2715, This is considered to be the most important case so far as the evolving of the environmental law and the contribution of the Indian Supreme Court towards that direction. It was observed that the traditional concept that development and ecology are opposed to each other is no longer acceptable. ‘Sustainable Development’ is the term coined for this purpose. It was also observed that our legal system having been founded on the British common law, the right of a person to pollution free environment is a part of the basic jurisprudence of the land.

The planet Earth which is inhabited by human beings and other living creatures, including animals

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and birds, has been so created as to cater to the basic needs of all living creatures. Living creatures do not necessarily mean the human beings, the animals, the birds, the fish, the worms, the serpents, the hydras, but also the plants of different varieties, the creepers, the grass and the vast forests. They survive on fresh air, fresh water and soil. They constitute the essential elements for survival of 'life' on this planet. The living creatures including human beings, lived peacefully all along, but when the human beings started acting inhumanly, the era of distress began which in its wake brought new problems for survival. In the process of adjudication on the environmental matters, the Supreme Court has actually come up with the new pattern of 'judge-driven implementation' of environmental administration in India. In fact, the judiciary in India has created a new environmental jurisprudence.

An important case in this regard is **Subhash Kumar v. State of Bihar**, wherein it was observed that 'Right to life' is a fundamental right under Article 21 of the Constitution and it includes the right of enjoyment of pollution free water and air for full enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws, a citizen has the right to have recourse to Article 32 of the Constitution. Through this, the Supreme Court recognized the right to a wholesome environment as part of the fundamental right to life. This produced a compulsion to take positive measures to improve the environment. In this context, we can consider a 'rights based approach' to environmental issues. People have a right to a healthy environment and governments have a duty to ensure that it is not violated. This inevitably shifts the role of law to a pivotal position as a tool of sustainable development.

Difficulties for achieving sustainable development:

There are two major issues that prevent sustainable development from happening. The first is expensive. While the long term cost of sustainability does prove to be less expensive. While the long term cost of sustainability does prove to be less expensive than traditional development, the creation of sustainable project may be far more expensive in the first phase. The second major issue is that there is not a generally accepted need for sustainable development. This is an education issue that may take many years to resolve.

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