

SUSTAINABLE DEVELOPMENT IN INDIA

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INTRODUCTION

No development is possible unless there is exploitation of natural resources. It is also true that as soon as there will be exploitation of natural resources, there will be pollution in the environment or there will be degradation of the environment. Therefore, neither exploitation of natural resources nor degradation of the environment can be completely stopped to ensure sustainability of the nation and accordingly, the effort of the nation should be that how wisely and skillfully exploitation of resources are being done for development and how the degradation of the environment could be minimized with the adoption of the policy on replenishing the resources and restoring the damaged environment. This is the mechanism under which neither there will be compromise with the developmental rate nor there will be irreversible damage to the environment. This is a fact which has been accepted globally. As every concept has its own history of origin, similarly, the concept of sustainable development has certain historical incidents and it cannot be made sure that from which date the very concept is working to strike a balance between development and environmental protection.

A HISTORICAL PURVIEW OF THE CONCEPT OF SUSTAINABLE DEVELOPMENT

Historically speaking, the internationally acclaimed definition of sustainable development was for the first time pronounced in “World Commission on Environment and Development” in the year 1987¹. The commission pointed out that ‘Sustainable Development’ means the development that meets with the needs of the present without compromising the ability of the future generation to meet with their own needs. Prior to 1987 in the year 1972 the concept of sustainable development was discussed in a different nomenclature, that is, measures to be

¹ The Commission sees the "possibility for a new era of economic growth, one that must be based on policies that sustain and expand the environmental resource base. An we believe such growth to be absolutely essential to relieve...poverty" (p.1). Growth will come through better managing technology and social organization (p.8). Available at <http://public.wsu.edu/~susdev/WCED87.html> (last visited on 28.02.2017)

taken for the protection of the environment not only for the present but also for the future generation. The expression ‘for present and future generation’ can be found in proclamation number 6² and 7³. Along with this principle number 1⁴ and 2⁵ of the Stockholm declaration also provide the concept of sustainable development.

In this regard, the history of the origin of the concept of sustainable development can be traced back from the year 1969 because of the Santa Barbara oil spills⁶ incident, where most of the nations expressed their concern about the development which should be associated with sustainability idea. The jurists claim that the concept of sustainability can further be traced back in the year 1713⁷. In the modern days the World Summit on Sustainable Development (WSSD)⁸

² “.....To defend and improve the human environment for present and future generations has become an imperative goal for mankind-a goal to be pursued together with, and in harmony with, the established and fundamental goals of peace and of worldwide economic and social development.”

³ “To achieve this environmental goal will demand the acceptance of responsibility by citizens and communities and by enterprises and institutions at every level, all sharing equitably in common efforts. Individuals in all walks of life as well as organizations in many fields, by their values and the sum of their actions, will shape the world environment of the future”

⁴ “Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations. In this respect, policies promoting or perpetuating apartheid, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated.”

⁵ “The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.”

⁶ on January 28, 1969, a “blowout” erupted below the platform and, before it was plugged, more than 3 million gallons of crude oil spewed from drilling-induced cracks in the channel floor. For weeks national attention was focused on the spill’s disturbing, dramatic images. Oil-soaked birds, unable to fly, slowly dying on the sand. Waves so thick with crude oil that they broke on shore with an eerie silence. Thirty miles of sandy beaches coated with thick sludge. Hundreds of miles of ocean covered with an oily black sheen. But the spills impact went far beyond the fouled beaches. The disaster is considered to be a major factor in the birth of the modern-day environmental movement. Available at http://www2.bren.ucsb.edu/~dhardy/1969_Santa_Barbara_Oil_Spill/Home.html (Last visited on 28.02.2017)

⁷ The concept of sustainable development was originally synonymous with that of sustainability and is often still used in that way. Both terms derive from the older forestry term “sustained yield”, which in turn a translation of the German term “nachhaltiger Ertrag” is dating from 1713. According to different sources, the concept of sustainability in the sense of a balance between resource consumption and reproduction was however applied to forestry already in the 12th to 16th century. The history of the concept of sustainability is however much older. Already in 400 BCE, Aristotle referred to a Greek concept in talking about household economics. This Greek household concept differed from modern ones in that the household had to be self-sustaining at least to a certain extent and could not just be consumption oriented. Available at <http://rethinkingprosperity.org/a-short-history-of-sustainable-development/> (Last visited on 28.02.2017)

⁸ Johannesburg Summit 2002 - the World Summit on Sustainable Development - brought together tens of thousands of participants, including heads of State and Government, national delegates and leaders from non-governmental organizations (NGOs), businesses and other major groups to focus the world's attention and direct action toward meeting difficult challenges, including improving people's lives and conserving our natural resources in a world that is growing in population, with ever-increasing demands for food, water, shelter, sanitation, energy, health services and economic security. Available at <https://sustainabledevelopment.un.org/milestones/wssd> (Last visited on 28.02.2017)

in the year 2002 at Johannesburg has played a significant role in providing complete and efficient analyses of the concept of sustainable development and how the nation should achieve this by ensuring the coexistence of sustainability and development of the nation.

After the Brundtland commission report of 1987, most of the countries have tried to adopt the concept of sustainable development in the respective domestic field, however, it was more easier for the nations to adopt this policy in the National environmental policy after participating in the Rio de Janeiro conference of 1992.

SUSTAINABLE DEVELOPMENT IN RIO DECLARATION 1992

There are total 27 principles proclaimed in Rio declaration of 1992⁹. However, not all the principles deal with the concept of sustainable development. Here, only those principles would be examined which are closely associated with the concept of sustainable development. Principle 1 of the Rio declaration specifically states that the human beings should be at the middle of the very concept of sustainable development. And this is required to be followed in order to enjoy the healthy and productive life which could only be possible when the human beings are living in harmony with nature¹⁰. Principle 4 clearly states that one of the essential characteristics of sustainable development is that nation should not look the environmental protection in isolation with the developmental process¹¹. Principle 5 asserts that nation and the people should take all possible steps to ensure the elimination of poverty because that is one of the essential requirement of sustainable development to be achieved¹². Principle 7 clarifies the position of developed nation while explaining that there is no question that the developed nation shall not acknowledge the responsibilities enshrined under the concept of sustainable development and the kind of pressure that amounts to others because of their technological

⁹ The Rio Declaration states that long term economic progress is only ensured if it is linked with the protection of the environment. If this is to be achieved, then nations must establish a new global partnership involving governments, their people and the key sectors of society. Together human society must assemble international agreements that protect the global environment with responsible development. Available at http://www.sustainable-environment.org.uk/Action/Rio_Declaration.php (Last visited on 28.02.2017)

¹⁰ Principle-1-Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

¹¹ Principle-4- In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

¹² Principle-5- All States and all people shall cooperate in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world.

advancement and financial soundness¹³. Principle 8 is very clear on claiming that to achieve the aims and objectives of sustainable development the nations should done away with all those practices which are unsustainable with regard to production and consumption of natural resources¹⁴. Principle 9 forces the nations to improve the capacity building to achieve the sustainable development through the exchange of knowledge with regard to science and technology¹⁵. Principle 12 provides an avenue for the establishment of international economic system by following that not only the economy growth but also the sustainable development both can be achieved¹⁶. Principle 20 clarifies that in order to achieve the full success of sustainable development in its full strength the role of women cannot be denied and nations should encourage women to take advanced participation to achieve the sustainable development in its full spirit¹⁷. Principle 21 states that to make a better future the involvement of the youth is essential and their strength, capacity and ideas should be utilised to achieve sustainable development¹⁸. Principle 22 asserts that if the nations segregate the participation of the indigenous people, then the achievement of sustainable development in its full shape cannot be possible¹⁹. Principle 24 states that the nations should discourage the whole affair and should negotiate the crisis in non-war front to achieve the sustainable development²⁰. Finally, principle

¹³ Principle-7- States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit to sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.

¹⁴ Principle-8- To achieve sustainable development and a higher quality of life for all people, States should reduce and eliminate unsustainable patterns of production and consumption and promote appropriate demographic policies.

¹⁵ Principle-9- States should cooperate to strengthen endogenous capacity-building for sustainable development by improving scientific understanding through exchanges of scientific and technological knowledge, and by enhancing the development, adaptation, diffusion and transfer of technologies, including new and innovative technologies.

¹⁶ Principle-12- States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

¹⁷ Principle-20- Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development.

¹⁸ Principle-21- The creativity, ideals and courage of the youth of the world should be mobilized to forge a global partnership in order to achieve sustainable development and ensure a better future for all.

¹⁹ Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.

²⁰ Principle-24- Warfare is inherently destructive of sustainable development. States shall therefore respect international law providing protection for the environment in times of armed conflict and cooperate in its further development, as necessary.

27 clarifies that in order to take the further development of the concept of sustainable development the cooperation from various nations are of utmost importance²¹.

Therefore, it was a kind of responsibility imposed to the participating nations that they should adopt the concept of sustainable development in the respective environmental law and policy. It was more challenging for the developing countries to quickly adopt this concept of sustainable development and qualify the international requirement to follow the parameters associated with fulfilling the ambition of sustainable development. India, being the developing country has enacted environmental laws not only to combat the water and air pollution, but also taken steps to protect and preserve forest and wildlife. However, this needs to be examined that whether India has adopted the very concept of sustainable development at the domestic level environmental laws.

SUSTAINABLE DEVELOPMENT IN INDIA

In India, there are many environmental legislations, for example, the Wild life (Protection) Act, 1972, the Water (Prevention and Control of Pollution) Act, 1974, the Forest (Conservation) Act, 1980, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986, et cetera. Surprisingly, none of the above-mentioned environmental legislations speak of the concept or principle of sustainable development. However, in the year 2010 the National Green Tribunal Act was passed and in this legislation section 20 clearly mentions that the tribunal shall apply principle of sustainable development at the time of giving orders, decision or award²².

It is interesting to note here that in the year 2006 Ministry of environment and Forest declared the notification of National Environment Policy²³ and in that policy the principle of sustainable development has been incorporated meticulously.

²¹ Principle-27- States and people shall cooperate in good faith and in a spirit of partnership in the fulfilment of the principles embodied in this Declaration and in the further development of international law in the field of sustainable development.

²² **20. Tribunal to apply certain principles.** –The Tribunal shall, while passing any order or decision or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle. Available at [http://lawmin.nic.in/ld/regionallanguages/THE%20NATIONAL%20GREEN%20TRIBUNAL%20ACT,%202010.\(19%20OF%202010\).pdf](http://lawmin.nic.in/ld/regionallanguages/THE%20NATIONAL%20GREEN%20TRIBUNAL%20ACT,%202010.(19%20OF%202010).pdf) at Page 9 (Last visited on 28.02.2017)

²³ Sustainable development concerns in the sense of enhancement of human wellbeing, broadly conceived, are a recurring theme in India's development philosophy. Available at <http://envfor.nic.in/sites/default/files/introduction-nep2006e.pdf> at Page 7 (Last visited on 28.02.2017)

Even though policy in India is not enforceable by the court of law unlike the provisions of legislation and no legislation in India incorporates the principle of sustainable development for the purpose of striking a balance between sustainability and development of the nation.

2030 AGENDA FOR SUSTAINABLE DEVELOPMENT

In September, 2015 India participated in the conference organised by the United Nations at New York for the 2030 agenda for sustainable development. In this meeting a set of 17 new sustainable development goals have been established²⁴. The member nations have taken the pledge to end poverty everywhere permanently. It is now high time for India to amend the existing laws or bring new laws incorporating the principles of sustainable development, so that the above-mentioned 17 new sustainable development goals can be implemented²⁵.

INDIAN JUDICIARY ON SUSTAINABLE DEVELOPMENT

Though, India has not only participated in the Stockholm declaration of 1972 but also to Rio declaration of 1992, yet, neither could amend the existing environmental law to incorporate the principle of sustainable development nor could bring any new set of legislation to show that India was serious on the implementation of sustainable development within the nation to ensure that there is coexistence of sustainability and development of the nation. In this regard, the credit goes to the honourable Supreme Court of India, who finally accepted the principle of sustainable development as part of the law of the land in the year 1996.

In *Vellore citizens welfare forum case*²⁶ the honourable Supreme Court of India had to strike a balance between development and environmental preservation. In this case, the apex court pointed out that the tanneries industries are the example of development of the nation, however, because of harmful chemicals which are discharged from the tanneries and, since, polluting the nearby water bodies including agricultural land therefore, because of non-availability of any comprehensive legislation to provide a balance between environmental preservation and

²⁴ The concept of the SDGs was born at the United Nations Conference on Sustainable Development, Rio+20, in 2012. The objective was to produce a set of universally applicable goals that balances the three dimensions of sustainable development: environmental, social, and economic. Available at <http://www.in.undp.org/content/india/en/home/post-2015/sdg-overview.html> (Last visited on 28.02.2017)

²⁵ NITI Aayog has been entrusted with the role to co-ordinate 'Transforming our world: the 2030 Agenda for Sustainable Development' (called as SDGs). Moving ahead from the Millennium Development Goals (MDGs), SDGs have been evolved through a long inclusive process for achievement during 2016-2030. Available at <http://niti.gov.in/content/niti-aayogs-role> (Last visited on 28.02.2017)

²⁶ *Vellore Citizens Welfare Forum v. Union of India* [AIR1996 SC 2715 at 2720]

protection of the industries, the Supreme Court had to adopt the international sound principle of sustainable development while claiming that this principle has become a part of the customary international law, therefore, this principle can be accepted as part of the law of the land. In this case the Supreme Court also observed that the traditional concept of development and environmental preservation are opposed to each other is no longer acceptable, because, the sustainable development is the answer. Finally, the Supreme Court clarified that the essential principles of sustainable development in India would mean precautionary principle, polluter pays principle and intergenerational equity.

In *Ganesh wood case*²⁷ the apex court in India while invalidating the action of the forest-based industries established the fact that the principle of intergenerational equity is not only the centre of forest preservation but also at the centre of this concept of sustainable development.

In *Indian Council*²⁸ case the honourable Supreme Court examined the concept of sustainable development and observed that the development should not be allowed at the cost of the degradation of the environment and at the same time protection measures of the environment should not be as such to hamper the development of the nation. Both should go hand in hand.

In the *Taj trapezium*²⁹ case the apex court in India specified that the development of the nation is essential for economic growth of the country but at the same time environment or ecosystem should also be protected. The sustainable development is the concept which can take care both the sides.

In *Narmada dam*³⁰ case the honourable Supreme Court critically examine the concept of sustainable development and stated that the development means economic growth of the nation. The apex court also mentioned that the international principle of sustainable development in India would mean that the rate of development should be tolerable by the nature or by the ecology. In the other words, the nation should develop to that extent which can be sustained by the nature with or without mitigation.

²⁷ State of Himachal Pradesh v. Ganesh Wood Products, [AIR 1996 SC 149]

²⁸ Indian Council for Enviro-Legal Action v. Union of India (1996) 5 SCC 281

²⁹ M.C. Mehta (Taj Trapezium Matter) v. Union of India : (1997) 2 SCC 353

³⁰ Narmada Bachao Andolan v. Union of India 2000 (10) SCC 664

In *MC Mehta*³¹ case the apex court made a very good observation that any mining activity done while maintaining the principle of sustainable development is the good example of balancing, whereas, any act of mining which goes beyond the principle of sustainable development, there exist banning. Therefore, balancing the mining activity with the environmental protection and banning such activities because such activity would lead to degrade the environment, both are two sides of the concept of sustainable development.

In *Kerala rare earth*³² case the honourable Supreme Court examined the scope of section 18 of the Mines and Minerals (Development and Regulation) Act, 1957 and stated that when there is a statutory provision which prescribes the central government to take conservation and systematic development of the minerals and the state government is adhered to the concept and principle of sustainable development as because it is now constitutional mandate, therefore, allegation that government is not following the mandates of sustainable development is not acceptable.

Overall, in India the acceptability of the principle of sustainable development has been made a great success because of the intervention of the courts in India. It is not the legislature, but the honourable Supreme Court of India who accepted that the principle of sustainable development is part of the law of the land. Based on this observation most of the steps are now been taken to ensure that development and preservation of environment both should go hand in hand.

CONCLUSION

The principle of sustainable development is very well accepted in India and now available in most of the developmental projects to ensure that there is a coexistence of sustainability and development of the nation. It is true fact that the environmental policy in India provided many avenues where the principle of sustainable development could be utilised to achieve the higher goals of preservation and development. However, environmental legislations have also equally frustrated the application of the principle of sustainable development. Though, the principle of sustainable development has been borrowed from the international platform but because of the judicial intervention in India a successful attempt to apply this principle in number of cases

³¹ M.C. Mehta v. Union of India (2009) 6 SCC 142

³² State of Kerala v. Kerala Rare Earth and Minerals Limited AIR 2016 SC 1817

have been witnessed. India has many commitments to be fulfilled as they have been worked out in 2030 agenda for sustainable development goals.

