

Sustainable Development - National and International Perspectives.

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Introduction

Economic growth has been the prime concern of Nations. Economic growth cannot be achieved without causing harm to the environment. The growth of industrialization and technology has resulted in the large scale development in the world. The development has not been without a price. It is at the cost of depletion of natural resources and endangering the environment to higher levels. Many species of plant and animal kingdom have become extinct or are at the verge of extinction. The pollution human activity has caused is also immense. Air, Water, Soil and Noise pollution is at a alarming rate threatening all forms of life on the planet. Development has thus been at the root cause of the problem. Thus the need to conserve the environment and preserve it for the next generation has resulted in the evolution and development of the concept of Sustainable Development globally.

Definition- Sustainable development has been defined in the Brundtland Report as "*Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.*"

The word ‘needs’ used in the definition focuses primarily on the needs of the world’s poor which needs to be given priority. The definition also focuses on the ‘ limitation’ imposed by the State of the technology and social organization on environments ability to deal with present and future needs of the people.

Meaning- The idea behind Sustainable Development is that today’s human society must fulfil its needs of today without comprising the ability of future generations to fulfil theirs. Thus, it would require us to organize our societies to exist for the long term. It would involve the balancing of the needs of the present and future generations together. The preservation of the environment and natural resources to this end becomes imperative.

Sustainable Development and India-

The responsibility of protecting the Environment primarily rests upon the shoulders of the State.

Fundamental rights and fundamental duties under the Indian Constitution-

Art.21 of Part III of the Constitution guarantees right to life and reads as follows, "*No person shall be deprived of his life or personal liberty except according to procedure established by law.*" Article 21 includes the right to clean environment and sustainable development when read along with Directives. The Supreme Court has reiterated that the right to pollution free environment is included in the right to life under Art.21. The Supreme Court in *Rural Litigation and Entitlement Kendra Dehradun v/s State of UP*, (Doon valley case), ordered the stopping of mining activity in the area. The SC held it was necessary to protect the rights of the citizens.

M.C. Mehta v. Union of India, popularly known as the Oleum Gas Leak case, was decided by the Supreme Court in 1986.

The Court held that any enterprise that is engaged in an inherently dangerous activity is 'absolutely' liable to compensate all those affected by an accident. The key feature of the judgment was the principle of 'absolute liability', in which no exceptions (such as an 'act of God') are brooked.

Art.48-A, lays down that "The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country." This Article was added in the Constitution by the 42nd Amendment Act in 1976, which ratifies the Stockholm Conference of 1972. It can be said to be the foundation of Environment jurisprudence in India.

Article 51-A (g), lays down that "It shall be duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures." Also added in the Constitution by the 42nd Amendment Act, in 1976.

Public Interest Litigation-

Any public spirited Lawyer, NGO, Citizen can file PIL where community interest is involved. It is a class action on behalf of the society or group. The principle of locus standi

has been liberalized by the Supreme Court thus paving way for the filing of PILs concerning environment issues before the High Courts and the Supreme Court.

Public Interest Litigation under Art.32 and 226 can be initiated by the citizen in the Supreme Court and High Court if the quality of life is endangered because of any law.

Various Principles and doctrines laid down by the Indian judiciary while deciding environmental cases in India.

Doctrine of absolute liability- In Union carbide corporation vs Union of India, the supreme court laid down the the principle of absolute liability without out exemptions. If a enterprise is running a hazardous activity and if any harm is caused due do it, for example get away of poisonous gas the enterprise would be obligated tu repair everyone who is influenced by the the accident and this risk will not be subject to any exemptions. Thus, the Supreme Court established new trend of absolute liability without any exemption.

Polluter pays principle- Recently, Polluter pays the principle has become a a very popular concept. The fundamental basis of this principal is that if you create a mess it's your duty to clean it as well. Environmental law while applying the principle, polluter pays principal , supports a remedial methodology which repairs the natural harm caused by the Polluter to the environment. In in Vellore citizens welfare forum vs Union of India the Supreme Court laid down that the concept of polluter pays principle is important essential feature of sustainable development.

Precautionary principle- In Vellore citizens forum case Supreme Court developed three concepts for precautionary principle.

These include - environmental measures adopted must be able to anticipate, prevent and attack the causes of the environmental degradation, the lack of scientific certainty cannot be used as a reason for postponing measures, the burden of proof is on the polluter to show that his action is benign.

Public trust doctrine- The public trust doctrine denies the private ownership of certain resources like sea, water, air and forest as such resources are of a great importance to the people as a whole.

The public trust doctrine was discussed by the Supreme Court in M C Mehta vs Kamal Nath and others. The Supreme Court laid down that the public trust doctrine is a part of the law of the land.

Doctrine of sustainable development- The Brundtland report lays forth the concept of sustainable development. Sustainable development is that development which meets the needs of the present generation without compromising the ability of the future generations to fulfil their own needs. Hence the Courts must maintain a balance between the development and environment.

The doctrine of sustainable development has been discussed by the courts in the case of Rural litigation and entitlement Kendra vs State of UP and in the Vellore citizens welfare forum case.

National Legal Framework can be summarised: - The Indian Parliament has passed a number of Laws relating to the protection of environment.

The Forest Conservation Act,1927, The Wildlife(Protection) Act,1972, The Air(prevention and control of pollution) Act,1981, Water(prevention and control of pollution)Act,1974, The Environment Protection Act,1986,Hazardous Waste (management, handling and trans-boundary movement)Rules 2008,The Public Liability Insurance Act,1991,National Green Tribunal Act,2010.Water (Prevention and Control of Pollution) Act, 1974; Water (Prevention and Control of Pollution) Act, 1974;

International Concerns on Sustainable Development-

The Stockholm Declaration(1972), emphasizes a balance between the environmental protection and the economic development. It maintains that in order to provide the maximum benefit to the people, the States should consider integrating their economic development with protection of the environment. The States definitely have a sovereign right to utilize their natural resources, yet they must utilize it in a manner not harmful or in a manner not adversely affecting the environment.

The World Charter for Nature (1982), specifically deals with the environment protection in relation to economic development. Specific principles of environment protection must be utilized for economic development.

The Rio Declaration(1992) emphasises that States must apply the precautionary principle in balancing between the economic development of the nation and the protection of environment.

Earth Summit 2012 - The United Nations Conference on Sustainable Development (UNCSD), also known as Rio 2012, Rio+20 or Earth Summit 2012 was the third international conference on sustainable development held by the UN aimed at reconciling the economic and environmental goals of the world community. Earlier summit was held in 1992 as the United Nations Conference on Environment and Development (UNCED), and in the 2002 World Summit on Sustainable Development (WSSD) in Johannesburg.

UN Decade for Sustainable Development- The UN celebrated (2005-2014) the decade on sustainable development globally to focus on the concept of sustainable development.

Conclusion-

The concept of sustainable development has been widely recognised and applied by Nations. It is the duty of the State to preserve the environment and this duty has been cast on it by the the Constitution of India. The Courts in India are applying the concept of sustainable development while deciding cases involving environmental issues. The judiciary has been active while filling the gap caused due to lack of necessary legislations. Thus judiciary is applying new and innovative techniques while deciding on environmental issues. Necessary and adequate legislations should be made by the State. The judiciary has to be sensitive while deciding environmental issues. Public awareness, education and inspection can also help in realising the concept of sustainable development.

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