



Sustainable development: Need of the day

Dr. Vishal Khare

Assistant Professor, Law the College of Law & Legal Aid, Shahdol, Madhya Pradesh, India

Abstract

Environmental pollution is a potential danger to human life. The developing countries in the world are exploiting natural resources recklessly in order to satisfy the need of their citizens and thus the 'so-called need with greed' constitute the major cause of the degradation of the environment. Though, steps are being taken to maintain the equilibrium between the development and preservation of the environment but they are still lagging behind. The State, therefore, being the owner of the natural resources of the nation is duty bound to evolve various effective measures and means so that the air, water, and natural resources are made available to the present and the next generation both in their natural form. Sustainable development, indeed, seeks to harmonize the conflict between development and environment.

Keywords: sustainable, development, environmental pollution, need

Introduction

Since Independence, India has travelled a long way on the path of progress and industrialization to achieve a better quality of life. A developing country like ours cannot afford to ignore the growing needs of teeming millions, but this development should have to resonate with the preservation of the environment. We all of us know the fact that the earth provides enough to satisfy the every man's need but not every man's greed. It is the greed of the mankind which has brought environment degradation and pollution. Preservation of the eco-system is a immutable duty under the Constitution – a fine balance must be struck between environmental protection and development. Many regions in India are biodiversity 'hotspot', known to host a staggering variety of flora and fauna. However they are under the constant threat of environmental degradation and rapid depletion of natural resources, due to various factors, including the desire to earn quick money. Consequently, a major challenge in this backdrop is to arrive at a successful model of sustainable development – one that aims to preserve the rich ecosystem, while addressing the economic needs of the people in the modern age. Protection of the environment now-a-days should be a priority of the State so that the development could be sustained and a clean and pure air, water and other natural resources could be made available to the future generations.

Objectives

The main objective of study is to examine in brief various steps taken at the conventions and submits held at the world level as well as statutory laws enacted by the Indian Parliament in this regard. The contribution of the judiciary in protecting the environment shall also be discussed.

What is sustainable development

Development has by now been recognized as a human right. In developing countries, the problem of environment is mainly

because of industrialization and development of modern technology. Contrary to this fact, the environment problem in the underdeveloped countries is due to over population, poverty, illiteracy and lack of awareness. The economic development of the country is very much necessary not only from the view point of the nation but also from the socio-economic interest of the citizens. Thus the developmental activities should be carried out in such a manner that it would not have adverse effect and impact on the environment and as well as on the natural resources. Both must go side by side without damaging the existence of each other. In other words, sustainable development means a process by which the development and environment co-exists and passed to the future generation for their use and enjoyment with dignity. There cannot be development without protection of environment, nor can there be conservation of environment without development.

Concept of sustainable development

The term sustainability has been derived from the Latin word *sustinere* which means to hold up, to endure, to bear, to support, to provide for, to maintain, to sanction, to keep up, to prolong, to support the life^[1]. Sustainable development means an integration of development and environmental imperatives. Development possesses both economical and ecological sustainability for developmental planning^[2]. Sustainability means "to give support to", 'to keep up'^[3]. Sustainable development is a pattern of social and structural economic transformation, which optimizes the social and economic benefits available in the present without jeopardizing the likely potential for similar benefits in the future.

The concept of sustainable development had come to be known as early as in 1972 in the Stockholm Declaration. The Declaration states that, "Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of 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 generation.”

The concept had been further discussed under Agenda 21 of UN Conference on Environment and Development. Therefore, the development strategy ought to be three fold –

1. That human beings should be able to enjoy a decent quality of life;
2. That humanity should become capable of respecting the finiteness of the biosphere, and
3. That neither the aspiration for good life, nor the recognition of bio-physical limits should preclude the search for greater justice in the world ^[4].

The Brundtland Report (1997) explaining the inter-dependence of conservation and sustainable development said:

“Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their, own needs ... Sustainable development requires meeting the basic needs of all and extending to all opportunity to satisfy their aspirations for a better life.”

In *Bombay Dyeing & Mfg Cp, Ltd (3) v. Bombay Environmental Action Group and Ors* ^[5] referring to a number of decisions it was stated that whereas need to protect the environment is priority, it is also necessary to promote development. The harmonization of the two needs led to the concept of sustainable development so such that it has become the most significant and focal point of environmental degradation and judicial decisions relating to the same. Sustainable development, simply put, is a process in which development can be sustained over generations.

International conventions and summits

Since environment protection being a global problem, a number of conferences, conventions and summits have been convened in this regard. A few of them are discussed herein below.

The U.N. Conference on Human Environment, 1972 is considered as Magna Carta of environment protection and sustainable development. The basic principles laid down in the conference included (i) man has the fundamental right to freedom, equality and adequate conditions of life in an environment of a quality that permitted a life of dignity as well being, and (ii) man bears a solemn responsibility to protect and improve the environment for present and future generations.

The U N Conference on Environment and Development, 1992, popularly known as “Earth Summit” paved the path of sustainable development. It forced the people worldwide to rethink how their lives affect natural environment and their resources. The Rio Declaration in principles called upon the States to develop national laws regarding liability and compensation for victim of pollution and other environmental damages. Precautionary Principle is incorporated in Principle 15. Principle 16 reiterates the proposition that polluter must pay, which is known as “Polluter Pays principles”. This declaration is of utmost importance to India. National Environment Tribunal Act is the direct outcome of this

convention. In Convention on Climate Change, 1992 among other things stress was given to the application of new technologies on terms which make such an application economically and socially beneficial and determined to protect the climate system for present and future generations.

Convention on Biological Diversity, 1992 affirmed that the conservation of biological diversity is a common concern of humankind. The States have sovereign rights over their own biological resources and they are responsible for conserving and using them in a sustainable manner, because biological diversity is being significantly reduced by certain human activities.

The Second U N Conference on Human Settlements (HABITAT-II), 1996 affirms that everyone has the right to adequate standard of living for themselves and their families, including adequate food, clothing, housing, water, and sanitation and to continuous improvement of living conditions. The Conference adopted goals and principles for adequate shelter for all and sustainable development in an urbanizing world.

World Summit on Sustainable Development, 2002 was held in Johannesburg. The Declaration reaffirmed their commitment to sustainable development. It also assumed collective responsibility to advance and strength the interdependent and mutually reinforcing pillars of sustainable development- economic development, social development and environmental protection at local, national, regional and global level. The Summit Further re-affirmed certain development goals; such as by 2020, to achieve a significant improvement in the lives of at least 100 million slum dwellers, as proposed in the “Cities without slums” initiative, to ensure that, by 2015, children everywhere, boys and girls alike will be able to complete a full course of primary schooling. etc.

Legislative enactments in India

It is well settled that the environmental law is a part of law of the land. The first important step was taken in this regard by insertion of article 48-A and Article 51 –A in the Constitution of India by the Constitution (Forty Second Amendment) Act, 1976. Article 48-A and 51-A (g) read as under:

48-A. Protection and improvement of environment and safeguarding of forests and wild life- The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

Article 51-A. Fundamental duties

It shall be the duty of every citizen of India----
(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.

Articles 14, 21 and 51-A (g) are to be read together ^[6]. For the protection of environment, the

Apex Court has drawn the following conclusions:

- a. It is a constitutional duty not only of the State but also of every citizen to protect and improve the environmental and natural resources of the country.
- b. Though Art. 48-A nor 51-A neither is judicially enforceable by itself, it becomes enforceable through the expanding interpretation of Art. 32, so that in case of a failure of the foregoing duties, the Supreme Court or a

High Court would entertain a petition under Art. 32 or 226, as a Public Interest Litigation brought by any individual^[7] or institution^[8] in the locality or any social action group^[9], even by a letter^[10].

- c. Even where, for the protection of human life, the Court had previously directed the Government to construct a boundary wall around a test-firing range, the Court may modify its earlier order by a direction to set-up a barbed wire fencing in order to prevent the cutting down of numerous trees which would cause an ecological disaster^[11].

In *M.C. Mehta v. Union of India*^[12] the Supreme Court directed the Central Government to state all the steps taken since the insertion of this Article for the protection and improvement of environment and also place before the Court its national policy to review the quality of environment.

In *Sachidanand Pandey v. State of W.B.*^[13] the Court opined that when it was called upon to give effect to the directive principles or fundamental rights, it is not to shrug its shoulder and say that priorities are a matter of policy and so it is for the authorities to make the relevant policies. In appropriate cases, the court may give necessary directions which it considers just and proper^[14].

The Indian Parliament with a view to protect environment in the country has enacted various laws e.g. Forest Act, 1927; Wild Life (Protection) Act, 1972; Water (Prevention and Control of Pollution) Act, 1974; Forest (Conservation) Act, 1980; Air (Prevention and Control of Pollution) Act, 1981; Environment (Protection) Act, 1986; National Green Tribunal Act, 2010.

Doctrine of sustainable development: its salient principle

According to Brundtland Report, Sustainable Development means development that meets the needs of the present without compromising the ability of the future generation to meet their own needs. Some of the salient principles of sustainable development as culled out from Brundtland Report and other international documents are as under:

1. Inter-generational equity,
2. use and conservation of natural resources,
3. environmental protection,
4. The Precautionary Principle,
5. Polluter Pays Principle;
6. Obligation to assist and co-operate.
7. Eradication of poverty, and
8. Financial assistance to the developing countries.

Herman Daly, an Economist at the World Bank suggested three rules for Sustainable Development. These rules are

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

Principle 3 and Principle 4 of the Rio Declaration, 1992 also

deals with the principles of Sustainable Development.

Principle 3 proclaims the right to development must be fulfilled so as to equitably meet developmental and environmental need of present and future generations.

Principle-4 proclaims: in order to achieve sustainable development, environmental protection shall constitute all integral part of the development process and cannot be considered in isolation.

Courts and sustainable development

The Courts while adjudicating the matters involving sustainable development have strike a balance between development and environment. Though by now, number of cases been decided the Apex Court and High Courts in our country. Some of the cases having great impact on the protection of environment and its preservation are mentioned below.

*Rural Litigation and Entitlement Kendra, Dehradun v. State of Uttar Pradesh*¹⁵ popularly known as Doon Valley Case, was the first case in India involving issues relating to environment and development, the Court observed that: 'We are not oblivious of the fact that natural resources have got to be trapped for the purpose of the social development but one cannot forget at the same time that tapping of resources have to be done with the requisite attention and care so that ecology and environment may not be affected in any serious way, there may not be depletion of water resources and long term planning must be undertaken to keep up the national wealth. It is always to be remembered that these are permanent assets of mankind and are not intended to be exhausted in one generation.'

In *M C Mehta v. Union of India*^[16] the Lordships of the Apex Court observed that: 'When science and technology are increasingly employed in producing goods and service calculated to improve the quality of life, there is certain element of hazard or risk inherent in the very use of science and technology and it is not possible to totally eliminate such hazard or risk altogether. We can only hope to reduce the element of hazard or risk to the community by taking all necessary steps for locating such industries in a manner, which would pose least risk of danger to the community and maximizing safety requirement.

In *Indian Council for Enviro-Legal Action v. Union of India*^[17] (known as Coastal Zone Protection case) the Apex Court emphasized the importance of the Doctrine of Sustainable Development and said that while economic development should not be allowed to take place at the cost of ecology or by causing wide spread environmental 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 otherwise there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment.

In *Vellore Citizen's Welfare Forum v. Union of India*^[18] The Supreme Court pointed out that the traditional concept that development and ecology are opposed to each other is no longer acceptable concept. The Court further observed that sustainable development has come to be accepted as viable

concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting eco-system.

In *M.C. Mehta v. Union of India* ^[19] the Court emphasized the significance of the principle of sustainable development and held that sustainable development is one of the principles underlying environmental law and that the precautionary principle and the polluter pays principle are the two essential features of sustainable development.

In *K.M. Chinnappa v. Union of India* ^[20] the Lordships of the Apex Court observed that it cannot be disputed that no development is possible without some adverse effect on the ecology and environment, and the projects of public utility cannot be abandoned and it is necessary to adjust the interest of the people as well as the necessity to maintain the environment, the balance has to be struck between the two interests. Where the commercial venture or enterprise would bring in results, which are of more useful for the people, difficulty of a small number of people has to be bypassed. The comparative hardship has to be balanced and the convenience and benefit to a larger section of the people has to get primacy over comparatively lesser hardship.

Conclusion and Suggestions

It is true that increased industrial activities are responsible for the depletion of natural resources and degradation of environment to a great extent. It is also said that the development is not at all possible without some adverse effect on environment. Then at this juncture, the need is to evolve the various ways and means so that the development and environment both exist and passed over the future generation. Indeed, the concept of the sustainable development is based on the notion that the natural resources should be exploited in such manner that would augment not only the economic prosperity of the nation but also eradicate the poverty and inequality and to improve the quality of life of the present generation especially in the underdeveloped countries and the water, air, environment and other natural resources are passed on to the next generation, and are made available to them in their original form for their enjoyment. It is submitted that the Courts in India have played a very active role in resolving the intricate issues of environment. The Courts have very often insisted and directed the Government from time to time to maintain balance between development and environment as both are very essential for the existence of modern society. Thus the sustainable development has become the primary need of the day and therefore, the protection of environment should be the national priority.

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