

Role of Supreme Court in Sustainable Development of Environment and its protection in India (To Study of Uttarakhand State)

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Received: April 2, 2017 | **Accepted:** May 31, 2017 | **Online:** June 30, 2017

Abstract

This paper study of the concept of sustainable development and contribution of Indian Supreme Court in establishing the norms of sustainability for the government and the development of environment protection.

Keywords: Role of Supreme Court | Sustainable Development | Environment Protection | Environmental law | Uttarakhand State

Introduction

Sustainable development is necessary and most important in all cases of environment and also in all of the Nations of the world. Now a days sustainable development has protected environment and world. It make balance between environment and development. It is true that in a developing country there shall have to be developments. Time has now come to check and control the degradation of the environment. Law Courts also have a duty towards the society for its proper growth and further development and also by reason of definite legislations in regard thereto. It is a plain exercise of the judicial power to see that there is no such degradation of the society and there ought not to be any hesitation in regard thereto but does that mean and imply stoppage of every development programme, the answer is 'NO'. There shall have to be proper balance between the development and the environment so that both can co-exist without affecting the other. The Supreme Court of India has made immense contribution to environmental jurisprudence of our country. It has entertained quite a lot of genuine public interest litigation

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(PIL) cases or class-action cases under Art. 32 of the Constitution. So have the High Courts under Art. 226 of the Constitution. These Courts have issued various directions on a number of issues concerning environment as part of their overall writ jurisdiction and in that context they have developed a vast environmental jurisprudence. They have used Art. 21 of the Constitution of India and expanded the meaning of the word life in that Article as including a right to a healthy environment. Thus, the responsibility lies on the Supreme Court and the various High Courts to deal with these cases with caution of high degree. It is only then that we will achieve our goal which is to secure a pollution-free development. Thus this study deals with the role of these courts in Environmental protection.

The development of Indian environmental law has happened, for the most part, over the last three decades, with a significant level of polarization around the latter half of this period. Therefore, a paper detailing “recent developments in India” would necessarily involve a thorough discussion of most relevant environmental issues and their consequences. The development of the law in this area has seen a considerable share of initiative by the Indian judiciary, particularly the higher judiciary, consisting of the Supreme Court of India, and the High Courts of the States. The paper will dwell on this aspect and its effect on the strength of the legal framework. Legislative schemes and initiatives have been created in most areas involving the environment, albeit with some degree of overlap. The role of the

administration, although a critical factor in the success of any environmental management programme, has seen its share of problems of scale and definition. The essence of the existing law relating to the environment has developed through legislative and judicial initiative. Since the latter is responsible for the most recent developments, this paper will attempt to lay the foundation for understanding through a discussion of legislation and administrative rules, and then detail development of the law and environmental principles through the discussion of judicial decisions.

Meaning of sustainable development

Sustainable development (SD) is a pattern of economic growth in which resource use aims to meet human needs while preserving the environment so that these needs can be met not only in the present, but also for generations to come sometimes taught as ELF-Environment, Local people, Future. In 1987, the United Nations released the Brundtland Report, which included what is now one of the most widely recognised definitions: "Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs."

Origin of the concept of sustainable development

The concept of sustainable development is not a new concept. It came to be known as early as in 1972 in the Stockholm declaration. It had been stated in the declaration that:

“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 generation.”

But the concept was given a definite shape in a report by World Commission on Environment, which was chaired by the then Norway Prime Minister, Ms. G. H. Brundtland. The report was popularly known as “Brundtland Report” which had been further discussed under agenda 21 of UN Conference on Environment and Development held in June 1992 at Rio de Janeiro, Brazil.

At the World Summit on sustainable development in Johannesburg, the world community agreed that poverty eradication and access to clean energy have to go hand in hand. At the Summit, the European Union took the initiative to form a group of like-minded countries which are willing to agree on timetables and targets for increasing the use of renewable energies. India was also invited by some European countries to join this initiative.

Various principles of 'Sustainable Development':

Some of the basic principles of 'Sustainable Development' as described in 'Brundtland report' are as follows: -

- I. **Inter-Generational Equity:** The principle talks about the right of every generation to get benefit from the natural resources. Principle 3 of the Rio declaration states that:

"The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations." The main object behind the principle is to ensure that the present generation should not abuse the non-renewable resources so as to deprive the future generation of its benefit.

- II. **The Precautionary Principle:** This principle has widely been recognized as the most important principle of 'Sustainable Development'. Principle 15 the Rio declaration states that:

"In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost effectiveness measures to prevent environmental degradation." in other words it means

- 1) Environmental measures by the state government and the local authority must anticipate, prevent and attack the causes of environmental degradation.

- 2) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

- 3) The 'onus of proof' is on the actor or the developer to prove that his action is environmentally benign.

- III. **Polluter Pays Principle:** Principle 16 of the Rio declaration states that:
"National authorities should endeavor to

promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment."

It is quite obvious that the object of the above principle was to make the polluter liable not only for the compensation to the victims but also for the cost of restoring of environmental degradation. Once the actor is proved to be guilty, he is liable to compensate for his act irrelevant of the fact that whether he's involved in development process or not.

Sustainable development is a pattern of resource use that aims to meet human needs while preserving the environment so that these needs can be met not only in the present, but also for the future generations. The term was used by the Brundtland Commission which coined, what has become the most often-quoted definition of sustainable development as development that "meets the needs of the present without compromising the ability of future generations to meet their own needs."

Role of Indian Judiciary

The role of the judiciary is thus of the greatest importance. The judiciary, at a national level, is faced with the task of explicating the law of sustainable development, case by case.

Incrementally a body of environmental jurisprudence is emerging. In performing this task, national judiciaries will be assisted by the exchange of judicial decisions, information and experience between jurisdictions.

Review of Related Literature

The Supreme Court has interpreted the right to life and personal liberty to include the right to wholesome environment. The Court through its various judgments has held that Sustainable Development and the mandate of right to life includes right to clean environment, drinking-water and pollution-free atmosphere.

In Vellore Citizens Welfare Forum vs. Union of India: elaborately discussed the concept of sustainable development' which has been accepted as part of the law of the land.

In the decision of the Supreme Court in Narmada Bachao Andolan v. Union of India wherein it was observed that "Sustainable development means what type or extent of development can take place, which can be sustained by nature/ecology with or without mitigation." In this context, development primarily meant material or economic progress.

Mr. M. C. Mehta brought a unique and historic case before the Supreme Court of India for including instruction of environmental awareness as a compulsory subject in schools throughout the country.

The Court ordered that:

- Environmental Awareness has become a compulsory subject in all educational institutions from school to University level all over the country.

India is the only country where environmental awareness has become a compulsory subject in schools and colleges.

- The cinema theaters are required to show environmental information for each showing.
- Television and radio networks must broadcast regularly scheduling programming on environmental issues. Millions of students in the country are being provided environmental education as a result of this case. More than a million Eco-clubs have been established in schools throughout India. Apart from classroom studies, students are getting an opportunity to work at the grassroots level with communities to strengthen the cause of environmental protection and Sustainable Development. Seeking information from government agencies and public bodies will help citizens to fight for their environmental rights and to force the policy makers to switch over to Sustainable Development.

Conclusion

The courts have attempted to provide a balanced view of priorities while deciding environmental matters. The environment and the development are two sides of the same coin and anyone of these cannot be sacrificed for the other. On contrary, both are equally essential for our better future. In this situation, responsibility lies on the Supreme Court and the High Courts to deal with these cases with caution of high degree, only then we will achieve our goal to secure pollution free developed country for our next generation.

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