

SUSTAINABLE DEVELOPMENT IN INDIA WITH CONSTITUTIONAL PERSPECTIVE

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Abstract

Although there is little clarity in sustainable development, most attempts to define it involve some mix of equity, the environment, and development. The focus of proponents of sustainable development varies, though, with regards to what needs to be created, what needs to be sustained, how to connect development and environment, and how long these connections should last. The researcher has tried to clarify the concept through the economic, environment & social perspective through its principles and fundamental rights to see its implication Constitutionally through doctrinal data analysis.

Keywords: sustainable development, status, sustainable development goals, Constitutional perspective

Introduction

There has been extensive resource exploitation through deforestation, mining, and animal slaughter ever since industrialization and the modernization of human society began. Globally, it was understood that this kind of abuse of nature would drive humanity as a whole towards utter collapse rather than progress. As a result, it became necessary to strike a balance between the preservation of the ecosystem and the advancement of human society, a point that was emphasised at many international forums. "Sustainable development" refers to the process of striking a balance between environmental preservation and human needs.¹

Sustainable development

Sustainable development refers to the dealing that intended to meet the needs of the present without compromising the ability of future generations to meet to meet their own needs.²

Sustainable development was defined in detail in a study published by the World Commission on Environment under the title "Our Common Future". "Sustainable Development" means "Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs." The Norwegian prime minister at the time, Ms. GH Brundtland, served as the commission's chair. The report was referred to as the "Brundtland Report" informally.

Under Agenda 21 of the United Nations Conference on Environment and Development, which was held in Rio de Janeiro, Brazil, in June 1992, the concept has been further investigated³.

The Indian judiciary's implementation of this concept has been greatly aided by the Supreme Court and the High Courts in particular. The Parliament has passed several laws to address the problem of environmental deterioration. It is interesting to note that, under Article 32 or Article 226 of the Indian Constitution, PILS (public interest litigations) brought about the bulk of environmental lawsuits that

¹ [https://blog.ipleaders.in/sustainable-development-in-india-constitutional-perspective/#:~:text=Union%20of%20India%20and%20Ors%2C%201996%20\(popularly%20known%20as%20the,the%20right%20to%20life%20under.](https://blog.ipleaders.in/sustainable-development-in-india-constitutional-perspective/#:~:text=Union%20of%20India%20and%20Ors%2C%201996%20(popularly%20known%20as%20the,the%20right%20to%20life%20under.)

² Brundtland Commission report, 1987, Page - 200.

³ Article 3 (1) of UNFCCC.

previously appeared in court.

The Indian Supreme Court defined sustainable development as a strategy and policy for ongoing social and economic advancement without endangering the environment or natural resources, the health of which is essential for ongoing operations and future growth. The Court recognised our obligation to the next generation.

History

The Swedish delegation initially suggested a worldwide conference on the human environment to the UN General Assembly in 1968. As a result, Stockholm, Sweden, hosted the United Nations Conference on the Human Environment. The conference was the first significant effort to address environmental protection issues on a global scale. The conference's primary goal was to support and offer directives for international organisations and governments about environmental protection. The Magna Carta on Human Development, or the 26 principles that were established at the meeting, is commonly referred to as the Stockholm Declaration.

Together, the initial few tenets formed the foundation of sustainable development. Several concepts pertaining to sustainable development were covered even in the 1992 Rio Declaration on Environment and Development, also referred to as the Earth Summit or Rio Summit. Furthermore, the concepts of sustainable development were prioritised above all else in any global endeavour to save the environment⁴.

The perception

"Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs," according to the Brundtland Report (1987). Therefore, sustainable development necessitates preserving natural resources for future generations and refraining from overusing them all at once.

It mostly concentrates on three topics:

Economic: Through the creation of products and services needed for growth.

Environment: Preservation of biodiversity and natural resource conservation.

Social: Improving living standards through equitable distribution of income and natural resources.

Theories of sustainable development

Important tenets of the sustainable development idea were acknowledged in Agenda 21 and the 1992 Rio Declaration. They are listed in the following order:

1. Equity between generations.
2. Conservation and use of natural resources.
3. Environment protection.
4. The principle of precaution.
5. The principle of polluter pays.
6. The need to assist and collaborate.
7. The eradication of poverty.
8. The Public Trust Principle.

India is a developing nation that mostly relies on its natural resources to fuel its industrialization and urbanisation. However, in order to strike a balance between environmental preservation and sustainable development, our nation is now required to follow international standards. Guidelines in this regard

⁴ Ibid 1.

have occasionally been issued by the Indian Constitution and the Supreme Court of India, which is the country's highest court.

With the aid of seminal case laws, let us attempt to comprehend the growth of sustainable development in India from both a constitutional and judicial standpoint⁵.

India's Constitutional Directives for Sustainable Development

The Indian Constitution's Preamble

The Indian Constitution's Preamble describes our nation as "socialist," emphasising the importance of social concerns. It also represents the state's obligation to ensure that everyone has access to a respectable, pollution-free level of living. Maintaining a social life free of pollution is crucial to attaining social growth through industrialization and urbanisation.

Fundamental rights

The right to life and right to live in a healthy environment

Article 21 of the Constitution of India guarantees all people a fundamental right to life and personal liberty.

R. L. & E. Kendra Dehradun and Ors. vs. State of UP and Ors., 1985 (popularly known as Doon valley case)

The first indication of distinguishing the right to live in a healthy environment as a part of Article 21 came from the significant decision in this case. R. L. and E. Dehradun put in writing to the Supreme Court of India about the manipulation of the flora and fauna and its destructive power due to limestone mining in Mussoorie forest.

It was inferred that quarrying disturbs the environment, which impacts human life and breaches Article 21 of the Constitution. The petition was considered by the Supreme Court of India in accordance with Article 32 of the Indian Constitution. The submission posits that the court's order is grounded in the fundamental principle of sustainable development, known as the "Principle of Polluter Pays."

In M. C. Mehta vs. Union of India, 1987 (oleum gas leakage case), Once more, the Indian Supreme Court subtly stated that living in a pollution-free environment is a basic human right guaranteed by Article 21 of the Constitution.

Yet in Charan Lal Sahu Etc. Etc vs. Union of India and Ors., 1989, The Indian Supreme Court ruled that Articles 21, 48A, and 51A of the Constitution provide the right to life, liberty, and clean air and water (g). It is the state's responsibility to take action to safeguard the rights granted by the constitution. In Vellore Citizens Welfare Forum vs. Union of India and Ors, 1996 (commonly referred to as the Tamil Nadu Tanneries case), the Supreme Court ruled that several constitutional provisions, such as the right to life under Article 21 of the Indian Constitution, can be used as a basis for the "Precautionary Principle" and the "Polluter Pays Principle," two fundamental concepts of sustainable development.

It is evident from an analysis of the Supreme Court of India's aforementioned findings that the right to a healthy environment is guaranteed by Article 21 and needs to be upheld in the interest of sustainable development.

Right to livelihood

In Olga Tellis and Ors. vs. Bumbai Municipal Corporation and Ors. Etc., 1985, The Apex Court ruled that in order to achieve the objectives of sustainable development, the right to livelihood must be maintained since it is a component of the right to life under Article 21 of the Indian Constitution. The petitioners in this case contest government initiatives that were taken down from the pavements in Bombay. It was argued that taking residents out of their homes robs them of their right to support

⁵ Ibid.

themselves. The petitioner further argued that the state owed duty to all its residents to provide for their basic needs. Additionally, it was decided that social development objectives related to the environment shouldn't interfere with citizens' fundamental rights.

In Banwasi Sewa Aashram vs. State of U.P. and Ors., 1986 Adivasis and other forest inhabitants, who filed the petition, claimed that they were using the forest as their home and source of income and that some of the land had been designated as reserved forest while the government had acquired other land to build a thermal power plant, forcing them to leave their homes. The Supreme Court issued orders protecting the rights of the Adivasis and other occupants, allowing the land to be acquired only after the state government promised to give these people certain amenities.

In Pradeep Krishen vs. Union of India and Ors., 1996, The petitioner contested the Madhya Pradesh government's decision to permit nearby tribal and village residents to gather Tendu leaves from sanctuaries and national parks. The petition's justification was that this kind of incursion is reducing the amount of forest cover and harming the ecosystem's restricted area. The Supreme Court of India ordered the state government to ensure that there should be no damage or shrinkage of the forest cover due to forest dwellers while finding a balance between the protection of the environment and the fundamental right to life. The court based its decision on the principles of sustainable development.

Right to freedom of speech and expression and the right to know

Every Indian citizen is guaranteed the fundamental rights of freedom of speech and expression as well as the right to know under Article 19(1) of the Indian Constitution. The majority of matters pertaining to environmental preservation and sustainable development are enmeshed in PILs as a result of Indian citizens exercising their right to do so, and this article has been essential in the evolution of environmental jurisprudence in India.

In Tehri Vidrohi Sangharsh Samiti and Ors. vs. State of Uttar Pradesh and Ors., 1990 the government's decision to build the Tehri Dam was closely examined by the Supreme Court of India, which also ordered the government to do a thorough environmental impact assessment before to beginning construction. The public's opinion and the media were the only forces that forced the government to take appropriate action and safeguard the ecology. As a fundamental right, the Indian people must be made aware of each government initiative that has an impact on the ecosystem's health and social life.

Right to carry on trade or business

The Apex Court has consistently emphasised the need of sustainable development, which includes more brittle basic rights like the right to life and treated Article 19(1)(g) as secondary in a number of situations where trade or business impacts the ecosystem or human life.

In M.C. Mehta vs. Union of India and Ors., 1987, Water contamination was occurring as a result of the tanneries' factory effluents being released into the Ganga river. The Supreme Court gave them an order to cease operations right away, arguing that while closing these tanneries might result in job losses and a reduction in income, environmental and public health are more important.

In Sushila Saw Mill vs. State of Orissa and Ors., 1995, It was decided that article 19(1)(g) of the Constitution was not violated by prohibiting sawmills inside or close to the protected area of forest.

Fundamental duties

Every Indian citizen is obligated by Article 51A(g) of the Indian Constitution to preserve and enhance the natural environment and to show compassion for all living things.

In accordance with the tenets of sustainable development, which include the preservation of natural resources, safeguarding the environment, and requiring everyone to assist and collaborate, everyone has a responsibility to contribute to the attainment of sustainable development objectives. Thus, the

Indian Constitution's core obligation fervently supports the idea of sustainable development.

Directive principles of state policy

Article 47 of the Indian Constitution states that it is the state's duty to raise the standard of living and public health of its citizens. It instructs the state to outlaw the ingestion of poisonous chemicals because they are bad for one's health. It is only in a clean atmosphere that one can carry out this constitutional duty.

A new directing concept was added to the Constitution in 1976 with the 42nd Amendment, and it is outlined in Article 48-A. This principle directs the state to maintain the nation's forests, wildlife, and environment.

In Indian Council for Enviro-Legal Action Etc. vs. Union of India and Ors. Etc., 1996 (popularly known as the BICHHRI village case), Environmentalists filed the writ because the plant was negatively affecting the health of residents in Bichhri hamlet in the Rajasthan district of Udaipur. The plant produced a poisonous slug that seeped far into the ground, contaminating and making unfit for human consumption the water in the streams and wells. The Supreme Court ordered the closure of the polluting facility, asked the villages to seek reparations, and instructed the government to implement corrective measures.

This historic ruling upheld the "Polluter Pays Principle" and underlined the state's obligation to protect the public's health.

Public Interest Litigation

The Indian Constitution grants writ jurisdiction to the Supreme Court and the High Courts, respectively, in Article 32 and Article 226. The Supreme Court and the High Courts may issue any directives, orders, or writs under these articles. In the Indian context, judicial activism through writs plays a major role in developing environmental jurisprudence. Public interest litigation (PIL) and the loosened locus standi rule allow people and organisations to get involved in environmental preservation and sustainable development issues.

It has been shown that PILs filed under Articles 32 and 226 are superior to tort or public nuisance remedies because they are quicker, less expensive, and give direct access to the higher courts.

It's crucial to remember that most of the historic case laws covered in this article began as straightforward PILs asking for court intervention, but they went on to shape India's legal landscape⁶.

Conclusion

Although it is a relatively easy concept to comprehend, sustainable development is nonetheless incredibly challenging to put into practice. It is undoubtedly difficult to manage the nation's growth to deal with global situations and to give its people a healthy social life by conserving the environment in a country like India, where there is immense variation in every aspect of life.

Through an examination of the rulings rendered by the highest court in a number of cases, we may strive to comprehend the complexities of the circumstances facing our nation and work towards sustainable development.⁷

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⁶Ibid.

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