

# JUDICIAL INTERPRETATION ON SUSTAINABLE DEVELOPMENT TO PROTECT THE FUTURE INDIAN SCENARIO

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## ABSTRACT

*Sustainable development is the development that meets the needs of the present without compromising the ability of future generations to meet their own needs. It represents endeavour towards integration between environment and development which marked the debate on protection of environment in the early seventies and late eighties of the last century. The journey from Stockholm to Rio via Brundtland Report highlights the shifting focus on one and the other and final culmination into this harmonious integration. The Rio Declaration, unlike the Stockholm declaration, attaches greater importance to social environment over physical environment. It achieves a balance between the substantive requirements of sustainable development and procedural requirements for implementing environmental protection. With human rights as the focus of sustainable development, the Declaration attempts to create a harmonious and equilibrated world society. Justice, equity and fair play become key words in the present task of restructuring the world community on the basis of sustainable development. In the above backdrop, the author of this paper has tried to evaluate the international endeavour to protect the environment including the sustainable development goals. This paper also includes a quick review of the numerous laws and the fundamental values inherent in the Indian Constitution. Through its several epoch-making judgements on environmental protection, the Indian judiciary has reinforced the notions of polluter pays principle and precautionary principle. Thus, environmental development symbiosis is noted to be a favoured societal objective aiming at achieving social welfare and benefit of clean and healthy environment as well as economic progress for everybody. Environmental protection is as much a part of the right to life as addressing everyone's needs via the development process.*

**Keywords:** Environment, Sustainable Development, Supreme Court of India

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## **Title: JUDICIAL INTERPRETATION ON SUSTAINABLE DEVELOPMENT TO PROTECT THE FUTURE INDIAN SCENARIO**

### **1. INTRODUCTION**

Human beings live in both natural and social world. Our technological development has strong impacts on the natural as well as social components. Development cannot be perceived as development only for a privileged few who would have a high standard of living and would derive all the benefits. Development has to be visualised in a holistic manner where it brings to all, not only for the present generation, but also for the future generations. There is a need to inter link social aspects to development and environment.

While the United Nations Charter of 1945<sup>4</sup> marked the beginning of the regime of international human rights law, the Stockholm Declaration of 1972<sup>5</sup> is generally regarded as the starting point of the international framework for environmental protection.

Environmental contamination has long been a problem in India. As a result, Articles 47, 48, and 48A were already included in the Constitution by the framers. The state is entrusted with a set of responsibilities under these articles to protect the environment and conserve the country's natural resources. The Parliament added Article 51(1)(g) into the constitution since India was a signatory to the Stockholm Declaration of 1972. Individuals have a responsibility to maintain and improve the natural environment, including forests, lakes, rivers, and wildlife, as well as to have compassion for living creatures, according to this article. Apart from that, the Parliament passed numerous anti-pollution laws, such as the Environmental (Protection) Act 1986<sup>6</sup>, The Water (Prevention and Control of Pollution) Act 1974, The Air (Prevention and Control of Pollution) Act 1981, The Hazardous Wastes (Management and Handling) Act 1972, The Biological Diversity Act 2002<sup>7</sup>, etc. to protect the Environment.

The Supreme Court of India is a well-respected institution; in general, the public views the Supreme Court of India favorably compared to the state's legislative and executive branches. The Supreme Court has successfully dealt with a complex, multifaceted, and rapidly increasing and changing field of technology and multi-disciplines. Judicial activism has resulted in numerous developments and has provided the valuable raw material for the development of a comprehensive Indian environmental law. Thus, in the sphere of environmental justice administration, the Supreme Court of India has stood tallest not only before the legislature and executive but also before its counterparts in developed and developing countries, whether old or young.

India's Constitution guarantees that the judiciary is free from the influence of the legislative and executive branches, making it less susceptible to pressure from both governing bodies.

### **2. LAW ON SUSTAINABLE DEVELOPMENT:**

The Sustainable Development Act is an important piece of legislation aimed at promoting environmentally friendly practices and a more sustainable future for our planet. It recognizes the urgent need to reconcile economic growth with environmental protection and social progress, and provides guidance on how to achieve this balance. The law encourages the use of renewable energy sources, the adoption of cleaner technologies, and the reduction of greenhouse gas emissions. It also promotes sustainable agriculture, forest management, and fisheries practices, as well as the conservation of biodiversity.

Following are some of the essential principles propounded by the doctrine of sustainable development:

- **INTER-GENERATIONAL EQUITY**<sup>8</sup>:

The principle of inter-generational equity is an essential concept that highlights the significance of ensuring that the upcoming generations have access to the same resources, opportunities, and quality of life as the current generation. It requires taking a long-term view of our actions and making decisions that prioritise sustainability and the well-being of future generations. This principle is particularly pertinent in the context of environmental issues, where our actions today have far-reaching consequences for the planet and the generations to come

- **CONSERVATION OF NATURAL RESOURCES:**

The doctrine of sustainable development primarily focuses on the conservation of natural resources for the long-term sustainability of our planet. The world community is obliged to safeguard and preserve vital resources such as water, air, soil, and minerals for the benefit of future generations. By adopting measures that curtail the consumption and waste of these resources, emphasis is given to the importance of their continued availability well into the future.

- **ERADICATION OF POVERTY:**

<sup>4</sup> <https://www.un.org/en/about-us/un-charter>

<sup>5</sup> <https://stockholmdeclaration.org/about/>

<sup>6</sup> <https://cpcb.nic.in/env-protection-act/>

<sup>7</sup> <https://prsindia.org/billtrack/the-biological-diversity-amendment-bill-2021>

<sup>8</sup> <https://publicadministration.un.org/en/Intergovernmental-Support/Committee-of-Experts-on-Public-Administration/Governance-principles/Addressing-common-governance-challenges/Intergenerational-equity#:~:text=What%20is%20it%3F,term%20needs%20of%20future%20generations>

The world communities also focused on the need to prioritise the eradication of poverty when it comes to sustainable development. For a better world, it is essential to provide opportunities for education, access to healthcare, and job creation to individuals and communities to break the cycle of poverty and achieve long-term economic stability.

- **PROTECTION OF ENVIRONMENT:**

As responsible inhabitants of this planet, nations around the globe endorsed it as their collective duty to safeguard the environment and to take proactive measures to conserve our natural resources and preserve the exquisite beauty of the world. The prime focus was given towards reducing carbon footprint, which can be achieved through simple yet impactful actions such as using energy-efficient appliances, driving less, and adopting sustainable modes of transportation. Additionally, the measures of recycling and choosing eco-friendly products were also highlighted to minimise the impact on the environment.

- **FINANCIAL ASSISTANCE TO DEVELOPING COUNTRIES:**

The issue of protecting the environment is an issue that affects everyone on the planet, but it is perhaps felt most acutely by developing nations. Such countries often lack the resources and infrastructure necessary to address environmental problems, which can have devastating consequences for their populations. As a result, the world has come together to increase financial assistance to these nations to help them protect the environment and mitigate the effects of climate change. This can be done by provision of grants or loans that can be used to fund projects aimed at reducing greenhouse gas emissions, preserving biodiversity, or otherwise protecting the environment or through the provision of technical assistance and capacity-building programs that can help these nations develop the expertise and infrastructure necessary to address environmental problems on their own. Financial assistance can play a critical role in helping developing nations protect the environment. Not only can it help these nations mitigate the effects of climate change and preserve their natural resources, but it can also help them build a more sustainable future.

- **COOPERATION AND ASSISTANCE:**

Collaboration and mutual support are critical to achieving sustainable development goals. At the international level, it is the duty of nations to make significant progress towards creating a more sustainable future for all. By sharing knowledge and resources internationally, we can generate innovative solutions to challenges and ensure that our actions have a positive impact on the planet and society.

- **PRECAUTIONARY PRINCIPLE:**

The precautionary principle<sup>9</sup> is a fundamental principle that advocates that in instances where there is a potential threat to human health or the environment, measures ought to be taken to prevent harm, even in the absence of definitive scientific evidence to support such action. This approach is commonly employed in domains such as food safety, environmental preservation, and public health policy, where the ramifications of inaction could be dire. While some contend that the precautionary principle may be excessively cautious and impede innovation, others believe that it is an essential safeguard against potentially hazardous practices and products. The decision as to whether or not to apply the precautionary principle in a given situation requires careful evaluation of all available evidence and the potential risks and benefits of various courses of action.

- **POLLUTANT PAYS PRINCIPLE<sup>10</sup>:**

The pollutant pays principle is a widely recognised environmental policy that seeks to hold polluters accountable for the adverse effects of their activities on the environment. This principle requires that those who cause pollution bear the financial burden of mitigating the harm caused by their actions... The primary objective of this principle is to encourage individuals and organisations to adopt responsible environmental practices by reducing their pollution levels and taking proactive measures towards environmental conservation. Overall, the pollutant pays principle is a just and effective method of tackling environmental issues while promoting sustainable development.

### **Vellore Citizen's Welfare Forum v. Union of India<sup>11</sup>**

The Supreme Court has declared that the polluter pays principle is an essential feature of the sustainable development.

- **PUBLIC TRUST DOCTRINE**

The ethical principle of the Public Trust Doctrine holds immense significance for public officials and organisations. Its fundamental premise is that those entrusted with public resources or occupying public positions must act in the best interests of the public without any personal gain or benefit. This principle also emphasises the importance of transparency, accountability, and responsibility in all decision-making processes.

<sup>9</sup> [https://www.europarl.europa.eu/thinktank/en/document/EPRS\\_IDA\(2015\)573876](https://www.europarl.europa.eu/thinktank/en/document/EPRS_IDA(2015)573876)

<sup>10</sup> <https://www.thehindu.com/sci-tech/energy-and-environment/making-indias-polluters-pay/article62016024.ece>

<sup>11</sup> <https://indiankanoon.org/doc/1934103/>



Adherence to these principles enables public officials to serve the public with honesty, fairness and accountability, thereby maintaining public confidence in their actions and decisions...

**M.C.Mehta v. Kamal Nath and Others<sup>12</sup>**

The public trust doctrine, as discussed by court in this judgment is a part of the law of the land.

**3. INDIAN SCENARIO**

In recent years, India has taken notable strides in enacting regulations that support sustainable development. The country has recognised the importance of balancing economic growth along with environmental protection and social progress to create a sustainable future. The establishment of the National Green Tribunal in the year 2010 is one example of India's commitment to sustainable development. This specialised court hears cases related to environmental disputes and has the authority to enforce penalties and fines against individuals and companies that violate environmental regulations. Additionally, the Forest Rights Act, which was passed in 2006, recognises the rights of forest-dwelling communities to live in and sustainably utilise forest resources. The act also mandates that their consent be obtained before any development projects can take place in their forests. Additionally, India has made great strides in promoting renewable energy, with the National Solar Mission being a prominent example, thereby reducing India's dependence on fossil fuels and promoting sustainable energy production. Indian laws and policies are a testament to India's strong commitment to sustainable development. India is working towards a sustainable future for all its citizens by finding a balance between economic growth, environmental protection and social justice.

India hosted the G-20 summit in 2023, where leaders from around the world came together to deliberate on the concept of sustainable development. The focus was on finding ways to balance economic growth with environmental protection and social progress. The Indian government presented its plans to promote renewable energy, reduce carbon emissions, and ensure access to basic necessities like clean water and healthcare. The summit resulted in several agreements and initiatives to promote sustainable development, including investments in green infrastructure, education and training programs, and public-private partnerships. The G-20 leaders acknowledged the importance of sustainable development for the future of our planet and committed to taking action to achieve it.

The Indian judiciary has also recognised the principles of sustainable development doctrine, including the polluter pays principle, precautionary principle, protection of environment, pollution-free environment.

**4. PROTECTION OF ENVIRONMENT- THE NATIONAL ENDEAVOUR**

As a consequence of the Stockholm Declaration of 1972, the States were required to adopt legislative measures to protect and improve the environment. Accordingly, Parliament of India inserted two Articles i.e., 48 A<sup>13</sup> and 51A(g)<sup>14</sup> in the Constitution of India in 1976. Article 48 A of the Constitution rightly directs that the state shall endeavour to protect and improve and safeguard forests and wildlife of the country. Similarly, Clause (g) of Article 51A imposes a duty on every citizen of India, to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures. The cumulative of articles 48A and 51A(g) seems to be that 'state' as well as 'citizens' both are now under constitutional obligation to conserve, perceive, protect and improve the environment. The phrase 'protect and improve' appearing in both the Articles seems to contemplate and affirmative government action to improve the quality of environment and not just to preserve the environment in its degraded form. Apart from constitutional mandate to protect and improve the environment, there are a plenty of legislations on the subject, such as The Water (Prevention and Control of Pollution) Act, 1974; The Water (Prevention and Control of Pollution) Cess Act, 1977; The Wildlife (Protection) Act, 1972; The Forest (Conservation) Act, 1980; The Air (Prevention and Control of Pollution) Act, 1981, The Environment (Protection) Act, 1986; Public Liability Insurance Act, 1991, The National Environment Tribunal Act, 1995, The National Environment Appellate Authority Act, 1997; The National Green Tribunal Act, 2010; The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. All these Acts have given due importance for the protection of environment as a whole.

**5. JUDICIARY'S ROLE TOWARDS SUSTAINABLE DEVELOPMENT AND ENVIRONMENT**

Indian Judiciary has historically played a pioneering role in environmental law enforcement and compliance. The Constitution of India enables Courts to play a proactive role. Article 226 provides power of judicial review of every action of the State or its instrumentality. Under Article 32, the Supreme Court can enforce the Fundamental Rights of individuals and can issue any corresponding writ, direction or order to rectify official action that is illegal, in contravention of procedure, unreasonable, irrational or mala fide. The Supreme Court of India can exercise Suo moto jurisdiction meaning 'on its own', or through Public Interest Litigation, another important concept. The efforts of the Indian Judiciary resulted in enactment of the National Green Tribunal Act,

<sup>12</sup> <https://indiankanon.org/doc/1514672/>

<sup>13</sup> <https://indiankanon.org/doc/871328/>

<sup>14</sup> <https://pib.gov.in/newsite/printrelease.aspx?relid=105411>

2010<sup>15</sup> by the Parliament, that proposes to efficiently and expeditiously dispose of cases relating to environmental protection and conservation of forest and natural resources including enforcement of legal rights relating to environment and giving relief and compensation for damages to persons and for matters enumerated therewith or incidental thereto. Thus, the Indian judiciary developed the concept of 'Environmental Jurisprudence'. The Supreme Court has ruled that Article 21 covers a wide range of rights, some of which are implicit and others which are explicitly enumerated as fundamental rights. Through the Supreme Court and its creative interpretation, the fundamental right to life and personal liberty guaranteed by Article 21 has been extended to environmental protection.

In **M.C. Mehta v. Union of India**<sup>16</sup>, the apex court while relying on Article 48A of the Constitution directed the Central Government and the State Governments and various local bodies and Boards under various statutes to keep appropriate measures for the protection and control of pollution of water. In **M.C. Mehta (2) v. Union of India** the Supreme Court of India held that under Article 51 A(g), it is the duty of the Central Government to introduce compulsory teaching of lessons of at least for one hour in a week on protection and improvement of natural environment in all the educational institutions of the country.

In the **Bhopal Gas Leak Tragedy, M.C. Mehta v. Union of India**, the Supreme Court ordered a privately owned company, that had permitted the emission of noxious gases, to compensate the victims of the gas leak and thereby evolved the doctrine of absolute liability. In *Vellore Citizen Welfare Forum v. Union of India*, the apex court observed that the sustainable development is a balancing concept between ecology and development. The court has elaborately discussed the concept of sustainable development which has been accepted as a part of the law of the land. However, the Precautionary Principle and Polluter Pays Principle are essential features of sustainable development. The Precautionary Principle was emphasized in the Principle 15 of the Rio Declaration 1992. The Precautionary principle in the context of municipal law means,

- Environment measures should be taken by the state governments and the statute should attack the causes of environmental degradation.
- Where their threats of severe and irreversible damages, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.
- The onus of proof is on the actor or the developed industrialists to show that his action does not affect environment.

The Polluter Pays Principle means the absolute liability to harm to the environment extends not only to compensate the victims of pollution but also at the cost of restoring the environmental degradation. Remediation of the damaged caused to the environment is a part of the process of sustainable development and as such polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology. This Principle in view of the Rio Declaration also envisages the 'Environment Impact Assessment'. These decisions demonstrate the judicial acumen in gradual expansion of the ambit of Article 21 to increase the state's responsibility towards its citizen's total well-being, a fundamental goal of our Constitution. The expansion of locus standi has also contributed in giving momentum and achieving the goal of socio-economic justice in India.

## **6. ENVIRONMENTAL PROTECTION: THE JUDICIAL APPROACH**

There are numbers of the following judgments which clearly highlight the active role of judiciary in environmental protection these are follows:

- **The Right to A Wholesome Environment**

**Charan Lal Sahu vs UOI**<sup>17</sup>

The Supreme Court in this case said, the right to life guaranteed by Article 21 of the Constitution includes the right to a wholesome environment.

**Damodhar Rao vs. S. O. Municipal Corporation Hyderabad**<sup>18</sup>

The Court resorted to the Constitutional mandates under Articles 48A and 51A(g) to support this reasoning and went to the extent of stating that environmental pollution would be a violation of the fundamental right to life and personal liberty as enshrined in Article 21 of the Constitution.

- **Public Nuisance: The Judicial Response**

**Ratlam Municipal Council v. Vardhichand**<sup>19</sup>

The judgment of the Supreme Court in instant case is a land mark in the history of judicial activism in upholding the social justice component of the rule of law by fixing liability on statutory authorities to discharge their legal obligation to the people in abating public nuisance and making the environmental pollution free even if there is

<sup>15</sup> [https://www.indiacode.nic.in/handle/123456789/2025?sam\\_handle=123456789/1362](https://www.indiacode.nic.in/handle/123456789/2025?sam_handle=123456789/1362)

<sup>16</sup> [https://highcourt.cg.gov.in/artical/Role\\_Judiciary\\_Pro\\_Env.html](https://highcourt.cg.gov.in/artical/Role_Judiciary_Pro_Env.html)

<sup>17</sup> <https://leap.unep.org/countries/in/national-case-law/charan-lal-sahu-petitioner-v-union-india-respondent-and-rakesh>

<sup>18</sup> <https://indiankanoon.org/doc/205063/>

<sup>19</sup> <https://main.sci.gov.in/jonew/judis/4495.pdf>

a budgetary constraints., J. Krishna Iyer observed that, “social justice is due to and therefore the people must be able to trigger off the jurisdiction vested for their benefit to any public functioning”. “Thus, he recognized PIL as a Constitutional obligation of the courts.

- **Judicial Relief Encompasses Compensation to Victims**

**Delhi gas leak case: M.C. Mehta v. Union of India**

In instant case, the Supreme Court laid down two important principles of law:

- I. The power of the Supreme Court to grant remedial relief for a proved infringement of a fundamental right (in case if Article 21) includes the power to award compensation.
- II. The judgment opened a new frontier in the Indian jurisprudence by introducing a new “no fault” liability standard (absolute liability) for industries engaged in hazardous activities which has brought about radical changes in the liability and compensation laws in India. The new standard makes hazardous industries absolutely liable from the harm resulting from its activities.

- **Fundamental Right to Water**

The fundamental right to water has evolved in India, not through legislative action but through judicial interpretation. In **Narmada Bachao Andolan v. Union of India and Ors.**<sup>20</sup>, the Supreme Court of India upheld that “Water is the basic need for the survival of human beings and is part of the right to life and human rights as enshrined in Article 21 of the Constitution of India ... and the right to healthy environment and to sustainable development are fundamental human rights implicit in the right to life.

## 7. **SUGGESTIONS & CONCLUSION**

Thus, after the analysis of above cases, we find that, the Supreme Court is, at the present time, stretching the different legal provisions for environmental protection. In this way, the judiciary tries to fill in the gaps where there is laciness of the legislation. These new innovations and developments in India by the judicial activism open the numerous approaches to help the country. In India, the courts are extremely cognizant and cautious about the special nature of environmental rights, considering that the loss of natural resources can't be renewed. There are some recommendations which need to be considered.

- **PUBLIC AWARENESS**

In India, media is the fourth pillar of the popular government. It plays an exceptionally essential and compelling part in the general improvement of the country. The effect of media can be seen in the different trials directed by it just by publishing them in their media. Accordingly, the issue of environmental pollution can be checked by making mindfulness in the general population, in which media's part is extremely critical. The compelling agency of correspondence not just influences the mind of the individuals but is also capable of developing thoughts and desirable attitudes of the people for protecting environment.

- **REGULAR INSPECTION**

There is a requirement for a standard review apparatus, which can inspect and examine periodically every one of those exercises which are threatening the environment. This would be a successful step towards environment protection, since prevention is better than cure.

- **ENVIRONMENTAL EDUCATION**

There is no means for any law, unless it's an effective and successful implementation, and for effective implementation, public awareness is a crucial condition. Therefore, it is essential that there ought to be proper awareness. This contention is additionally maintained by the Apex Court in the instance of **M.C Mehta vs UOI**, in this case, Court directed the Union Government was obliged to issue directions to all the State governments and the union territories to enforce through authorities as a condition for license on all cinema halls, to obligatory display free of expense no less than two slides/messages on environment amid each show. Moreover, Law Commission of India in its 186th report made a proposal for the constitution of the environment court. Hence, there is an urgent need to strengthen the hands of judiciary by making separate environmental courts, with a professional judge to manage the environment cases/criminal acts, so that the judiciary can perform its part more viably.

<sup>20</sup> <https://main.sci.in/jonew/judis/17165.pdf>