SUSTAINABLE DEVELOPMENT AND PRECAUTIONARY PRINCIPLE

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ABSTRACT

An improvement in human wellbeing that allows us to meet the needs of the present without compromising the ability of future generation to meet their own needs, is called sustainable development in the context of environmental matter.

"Sustainable development is development that also talks about the necessities of the present situation without comparing it to the future demands”.

The concept of Sustainable Development for the first time seemed in 1987 by Brundtland Report, signaling of the adverse environmental consequences of fiscal growth and globalization, which tried to find possible solutions to the problems arrived by industrialization and population growth.

Keyword: Improvement, Development, Necessities, Globalization, Possible Solutions, Industrialization, Population growth
INTRODUCTION

The first conference was held in 1972 on human environment in Stockholm, Sweden. In this conference 113 states became its member and also representatives from 19 international organizations attended conference and it was the first international conference for the international environmental issues. A group of 27 experts has drawn a line between environment and economic policies.

This conference played a catalytic role in promoting the subsequent adoption of international agreements concerned with ocean dumping, pollution from ships, and the endangered species trade. It also adopted the “Stockholm Declaration on the Human Environment,” which comprised forward-looking principles, such as Principle 13167, that declared the need for integration and management in development preparation to allow for environmental protection.

ENVIRONMENTAL SUSTAINABILITY

Sustainability is an essential component of competitiveness strategy of the country. Environmental sustainability for the coming years became an essential ingredient of corporate strategy and success of market place. The increasing pressure of the world economic system on the lack natural resources as well as on the environment as a whole, will in future lead to a following demand of the society for business, entities, to attain corrective measures without any delay. From the eyes of the firms many have viewed these measures as a burden of additional cost to competitiveness. Though, if one closely judge, an increase in environmental controls is not necessarily compatible with global competitiveness if a close connection is drawn among competitiveness, technological change and sustainable development. Sustainable development is a universal principle to which every one of the globe (including consumer and government) must contribute; if we all are to meet present’s needs without compromising the ability of the future generations to meet their own”. For acquiring this aim corporate have to work with governments and civil society partners to develop and put in place the appropriate legal, institutional and financial framework conditions-globally, regionally and nationally (Business and Development, 2010).
APPLICATION OF THE CONCEPT OF SUSTAINABLE DEVELOPMENT

In *Karnataka Industrial Areas Development Board v. C. Kenchappa*¹, the land were acquired for development, however, by the High Court issued direction to the authority concerned to leave one km. area from the village limits as a free zone or green area to maintain ecological equilibrium. It was held by the Supreme Court that if directions in question are rigorously implemented, the authority concerned could not acquire any land for development. In the view of matter, the said directions were liable to be set aside.

SUSTAINABLE MANAGEMENT OF RESOURCES

To make informed decisions in maintenance of sustainable development, decision-makers at all levels must be able to integrate economic, social and environmental considerations. The Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals (the Directive) is the key federal policy that formally integrates environmental and sustainable development considerations into federal government decision-making through application of strategic environmental assessment (SEA). SEA provides an orderly method to aid identify environmental risks and opportunities early in proposal development by considering influences such as institutional, governance, legislative, biophysical, social, and economic, on the achievement of strategic objectives. The Directive also supports the government’s method to sustainable development.

The department has put three stages based on review process of proposals submitted to ministers or to Cabinet (i.e., screening, preliminary scan, detailed analysis)². This contains consideration of the proposal’s potential contribution to the achievement of the objects and aims of the Federal Sustainable Development Strategy and the 2030 Agenda for Sustainable Development.

The stage of screening aids to determine assessment consistent with the targets of the Directive on release and the command of the department. The preliminary screening is an analysis to determine

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¹ A.I.R. 2006 S.C. 2038
the potential for essential good and bad effects of environment through examination. The preliminary scan aids to determine the most appropriate level of review.

A detailed analysis may be required for preliminary scan, they are as follows:

- It indicates the proposal is likely to result in an essential environmental effects (good, bad or both);
- There is a high level of risk concerned with the proposal’s expected outcomes; or
- There is a public concern about the environmental effects of the proposal.

Finally, once a proposal is publically announced, a statement of the environmental effects determined from the detailed analysis will be released.

**BASIC FEATURES OF SUSTAINABLE DEVELOPMENT**

1. Environmental problems as a major cause of current development crises.
4. Use of renewable resources of water.
5. Use of biodegradable material.
7. Changes in awareness and ethics as prerequisites.
8. Involvement of public and private sectors.

**INDIAN APPROACH AND CONSTITUTION OF INDIA: RIO EARTH SUMMIT AGENDA 21**

**The Earth Summit**

Agenda 21 is the environmental development action plan for future. It is not legally binding but forms the basis for a new international partnership for sustainable development and environmental protection worldwide.
Agenda 21 was the major document of the Rio Conference and was planned to deal with some basic problems of natural resources and to provide help to the developing world. The main aim or the primary issue of the Agenda 21 is to ensure the development proceed for the sustainable development: “the system of incentives and penalties which motivate economic behavior must be reoriented to become a strong force for sustainability.”

Another aim is to ultimately eradicate poverty from the world for the better standard of living through access to shelter and improving the quality of water and also by improving the sewage and the drainage system of the country.

Agenda 21 addresses to all groups and professions involved in the achievement of its goals. This will lead to a rise in the transfer of environmental technologies and throws the light on the need of finance from industrialized to the developing.

Agenda 21 is also drawn to achieve the sustainable use atmosphere, seas, oceans and freshwater and marine organisms. The final and the very important object of the Agenda 21 is improved management of chemicals and wastes. It is observed that the one third of the deaths in the world is caused by the food and water.

Issues of Agenda 21 was not agreed prior to the conference for forest protection, desertification, financing and how would it be implemented. It is believed that the minimum amount of funding needed to implement Agenda 21 was not committed. For the funding process environmentalism is concerned very costly and also involves high cost technologies and expensive measures.

Heavy financial countries as a creditors were requested to provide debt relief to poorest indebted countries which are pursuing for structural adjustment. For this issue government agreed for the strong solution to be found for the debt issues of low and middle income nations.

The Rio Earth Summit prejudiced all the UN conferences, which have judged the relationship between human rights, population, women settlements and need for the sustainable development.

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PRINCIPLES OF SUSTAINABLE DEVELOPMENT

As we throws light on social, economic, and environmental side of sustainable development we look at the:

- Precautionary principle
- Polluter pay principle
- Eradication of poverty
- Inter generalization equity
- Public trust doctrine
- Eradication of poverty:

The first Sustainable Development Goal aims to “End poverty in all its forms everywhere”. Its aim is to remove poverty from the country for the better and the suffice development of the country as a whole. Its main aim is to eradicate extreme poverty from the society and implement nationally appropriate social protection system and measures.

- Intergeneralizatio of equity:

Generally in a local families savings are kept for the emergencies with the members of the families for the future requirement by the next generation. As if the family secured the savings it will be fruitful to the next generation and if the families is debited with loan the next generation had also to pay for it⁴. Equity in general sense is equality among all.

Thus, with regard to sustainable development intergeneraliztion of equity means securing the resources of today for the benefit for the future generation⁵.

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⁴The Role Of Social And Intergenerational Equity In Making Changes In Human Well-Being Sustainable, Https://Www.Ncbi.Nlm.Nih.Gov/Pmc/Articles/Pmc4165836/, Last Assessed On 02nd February 2018

⁵Equity Need For Development On Sustainable, Http://Www.Businessdictionary.Com/Definition/Intergenerational-Equity.Html, Last Assessed On 02nd February 2018
• **Public trust doctrine:**

According to Supreme Court “**doctrine of public trust**” which existed in Roman and English law, has been incorporated in Indian law. As per this doctrine, natural resources are held by the state as “Trustee” of the public. However, natural resources can be disposed of only in a manner that is consistent with the nature of such a trust. A high degree of judicial scrutiny is laid down on any action of the government that attempts to restrict the use of natural resources freely available for the public.

**PRECAUTIONARY PRINCIPLE**

Environmental scientists play a key role in society’s responses to environmental problems, and many of the studies they perform are intended ultimately to affect policy. The term **PRECAUTIONARY PRINCIPLE** had its origin in German word *Vorsorgeprinzip* means a foresight- which could have given positive and negative impression attached with precaution principle.

The precautionary principles states that if there is a risk of severe damage to humans and the environment, absence of unquestionable, conclusive or definite scientific proof is not a reason for inaction. The precautionary came up with the new methods, proposed as a new guideline in environmental decision making.

The Precautionary principle is one of the most contentious principles in contemporary international development⁶. Precautionary Principle is a strategy to cope with possible risks. It is a legal rationale basis of governmental action in the context of inconclusive scientific evidence. In general it is "better safe than sorry".

"When there is an threat to any activity or any act done which can raise a threat in a society or to the environment and also to human health, precautionary principle should be taken as a measures solution although even if some cause and effect relationships are not fully established scientifically.

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The principle applies to secure the human health and the environment for the development of the society. The moral statement behind the precautionary principle is that human being is responsible to preserve, protect, and to restore the economy globally on which the lives are dependent of each and every individual.

- **Prayer of precautionary principle consist of two elements:**

  (a) *The principles is to be applied only in the cases in which there is an adverse impact on the human health with serious effect.*

  (b) **Governmental should take some action even though “complete” scientific proof is not available. These situations are referred to as illustrations of scientific uncertainty.**

**ORIGIN OF PRECAUTIONARY PRINCIPLE**

The first step taken by UN for the environmental issues was in 1972 at UN conference on Human Environment in Stockholm, Sweden. Then after the Brundtland Commission on environment formally came and convened by UN in 1983. The commission’s main aim was to focus on the natural resources and human environment and also for the results of that decline for economic and social development. It was sin the mutual interest of all nations to implement policies for sustainable development7.

Over the past two decades, the Principle has been built-in into approximately twenty international environmental treaties and agreements The first premeditated incorporation of the Precautionary Principle in environmental policy was at the United Nations Conference on Environment and Development (UNCED) also known as the Earth Summit. The principle themes discussed were:

1. Sustainable Development and

2. Environment.

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JUDICIAL TRENDS FOR PRECAUTIONARY PRINCIPLE

The Indian Courts have particularly embraced the precautionary principle.

In Vellore Welfare Citizens V. Union of India\(^8\): The petitioner filed a PIL under Article 32 of the Indian Constitution. The PIL was filed for causing the pollution to the Palar river due to discharge of the effluents by the tanneries and the industries in Tamil Nadu. More, the Tamil Nadu Agricultural University Research Centre, Vellore found that nearby 35,000 hectares of agricultural land has become either fully or partially unfit for cultivation. The problem was raised before the Supreme Court was whether the tanneries should be allowed to continue to operate at the cost of lives of lakhs of people. The Supreme Court of India noted that: “tough the leather industry is of the major importance to the country for generating Foreign exchange and also for providing employment avenues it has no right to destroy to ecosystem and to degrade the environment. The Court recognized that development and ecology opposed to each other, is no longer acceptable; ‘Sustainable Development’ is the answer. The Supreme Court of India confirmed the decision in Vellore Citizen’s Welfare Forum v. Union of India upholding the precautionary principle as a part of environmental law of India\(^9\).

In AP Pollution Control Board v. Prof. MV Nayudu the Supreme Court comprehensively reviewed the precautionary principle. An application was submitted by a company to the Pollution Control Board for permission to set up an industry for production on “BSS Castor Oil Derivatives”. Later the letter had been received by the company and the Board did not give no objection certificate to the industry of the site proposed. The Pollution Control Board, while rejecting the application for consent stated that the factory fell under the red category of polluting industry and will not be desirable to locate an industry.

The appeal filed by the company against the Pollution Control Board the court noted that uncertainty in science in the environmental conference to formulate new legal theories and rules of evidence. One of these is the precautionary principle.

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\(^8\) Air 1996 Sc 2715 : (1996) 3 Scc 647
\(^9\) M.C. Mehta V. Kamal Nath
In *Narmada BachaoAndolam v. Union of India*\(^\text{10}\), the Court was called upon to decide various legal questions arising from the Sardar Sarovar Project involving the construction of a dam on the Narmada River. An environmental clearance had been given for the project. At the time it was granted there was no obligation to obtain any statutory clearance. Nevertheless, the environmental clearance was challenged. It was further supposed that the execution of the project, having diverse and far reaching environmental impacts and without proper planning of mitigating measures was a violation of fundamental rights of life of the affected people guaranteed under Article 21 of Constitution of India.

It was that the construction of Sardar Sarovar dam would bring considerable improvement in environment concerning whole of the area and demerits of such project. Merely on point of a meagre damage like submerging of areas, the construction of such major beneficial project cannot be stopped.

In *Ratlam Municipal Corporation v. Vardichand*\(^\text{11}\), it was held that where there existed a public nuisance in a locality due to open drains, heaps of dirt and public excretion by human for want of lavatories and consequential breeding of mosquitoes, the court could require the municipality under Section 133 of Cr.P.C. and in view of Section 123 of the municipalities Act to abate the nuisance by taking affirmative action on a time bound basis. When such order was given the municipality could not take the plea that notwithstanding the public nuisance financial inability validly exonerated it from statutory liability.

**CONCLUSION**

The precautionary principle is a bunch of principles for ecologically sustainable development. The concept of precautionary principle is to taking healthy measures to prevent environmental damage. The precautionary principle will not apply if there is no considerable scientific uncertainty but there is a threat of serious or irreversible environmental damage. In putting the precautionary principle there must be a proportionality of replies or cost effectiveness of margins of fault to show that the selected precautionary principles measures is not unduly costly as the precautionary

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\(^\text{10}\) Air 2000 S.C. 3751  
\(^\text{11}\) Air 1980, 1622
principle prescribe to take a better precaution before implementing any act to the society and it was adopted by the Rio conference as the main aim or the primary issue of the Agenda 21 is to ensure the development proceed for the sustainable development. Thus, precautionary principle in today’s era plays an essential role in the support of Sustainable Development and also for the economic development of the society in environmental scheme.