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Right to Development and Environment Conservation

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ABSTRACT

Growing environmental problems of modern age capture attention of the global society. Man, as a major factor in the process of disturbing the optimal environmental balance, is considered to be the most responsible for the emergence of the environmental crisis that manifests itself in all spheres of life. Due to a growing number of environmental problems that require urgent attention, it is necessary to increase awareness of the problems that surround us. In the future, it is necessary to develop environmental (“green”) economy, rationalize consumption, and instil a higher level of environmental awareness into future generations, in order to reduce environmental problems to a minimum level. It should be borne in mind that the environmental dimension is the underlying component of sustainable development of modern mankind. Human societies have long seen a rapid increase in today's global economy; The economy, which has been in existence since at least the mid-1400s, is experiencing post-crisis problems The rapid growth of technology has been part of this expansion that has strengthened the global labour divide and the importance of remote events for all. This segregation of labour allows for further expansion into limited production, and extends everywhere to expand markets and provide cheaper services and resources to increase residual value It is becoming increasingly clear that globalization is not just about saving object manifests itself on a global scale. In the midst of a global phenomenon, the most obvious is the massive movement of goods and services around the world, the flow of cash, data and information especially and people. In addition, there are technological advances and multilateral cultural communications, aided by free improvement trade in a wide range of highly segregated goods and in migration and tourism. Political change and environmental concerns play a key role.

I. INTRODUCTION

Environment and Development are invariably related to each other. They are considered are considered as cut out of the same cloth. Environment consequences of industrialization and economic development and the pollution of air, water, and soil, on which our life depends, is

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the high or dear cost which man has to pay for economic progress.³ While the developed countries environment problems area as a result of industrialization and technological development, in poor countries these problems are due to less development. Since the developed countries are facing environment crisis, they argue that the developing countries will also have to face the same crisis if they make the same development. On the other hand, poor countries feel that the greatest source of pollution is poverty. While speaking before U.N. Conference on Human Environment at Stockholm, then Prime Minister Mrs Indira Gandhi has said that *for the developed countries development might be the cause of distraction of environment, for a country like India it was the primary means for improving the standard of living, to make available food products, water, cleanliness, shelter, to bring about greenery in deserts and to make hills and mountains worth living.* Environment and Development are inseparable to each other. Even the developing countries cannot afford to ignore the environmental consequences of the process of development. Hence an essential and grave problem is to maintain harmony between Environment and Development. The future of developing countries largely depends on several other human rights. The U.N. Charter describes economic development and respect for human rights as the twin foundations of friendly and peaceful relations among the nations.⁴ Economic development and human rights are thus intimately connected with each other. Development is related to the social and economic rights through the roots of human rights. Thus economic development and human rights are clearly harmonizing to each other.

II. RIGHT TO DEVELOPMENT

There is great chaos over the right to development. Developed countries as well as developing countries both are fighting over it. This chaos is related to its origins, formulations, ambit, existence and nature. Although this controversy is basically among international jurist, its implications go deep for the future of U.N. system as well as mankind. The “*Declaration on the Right to Development*” adopted by the General Assembly⁵ provides that the right to development is an inalienable human right by virtue of which every human person and all persons are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.⁶ States have the primary responsibility for the creation of nation and international

³ R.P. Anand. “Development and Environment : the case of Developing Country”, I.J.L. Vol,20(1980) p.1.

⁴ Article 55 of the Declaration

⁵ Resolution 41/128 dated 4th December, 1986 of the General Assembly.

⁶ Article 1of the Declaration.

policies with a view to facilitating the full realization of right to development.⁷

III. INDIAN CONSTITUTION AND ENVIRONMENT CONSERVATION

The Constitution of India is the supreme law of the country. The country must function in accordance with the noble ideals and principles of the Constitution. These ideals and principles are essential for the general development of a nation. The Indian Constitution deals with a different way of life, from basic legal principles to sustainable development. The Constitution **establishes the fundamental rights**, which are a **decent aspect** of a **person's** life in society. From **the** right to equality to the protection of the environment, **the Constitution emphasizes the general well-being of the individual. Global awareness of the need to adapt to environmental protection** in the **1970s** led the Indian government to **adopt** the 42nd **Constitutional** Amendment (1976). The said amendment added Art.48A to the Directive Principles of State Policy. A similar responsibility sanctioned upon on every citizen in the form of Fundamental Duty under Article **51(A) (g). Articles 48A and 51 (A) (g) of the Indian Constitution deals exclusively with environmental protection.**

Article 48A it declares:-“the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country”.

Article 51(A) (g) it declares:-“to protect and improve the natural environment including forest, lakes, rivers and wildlife, and to have compassion for living creatures”.

The amendments also **made some** changes **to** the Seventh **Schedule** of the Constitution. **"Forest"** and **"Wildlife"** **have been moved** from the State List to the Concurrent List, **reflecting** the Indian MP's **desire** to **prioritize** environmental protection by **putting** it on the national agenda. **Citation of** judges **adds** to fundamental rights. In several environmental cases, the courts **followed** the **wording** of **Article 48A**. And interpret **this** as an **“obligation”** of government, including **the** courts, to protect the environment.

IV. ENVIRONMENTAL LAWS IN INDIA

Apart from the Constitution of India, there are legislations that deal exclusively with the environmental protection.

- The Wildlife (Protection) Act, 1972
- The Water (Prevention and Control of Pollution) Act, 1974
- The Air (Prevention and Control of Pollution) Act, 1981

⁷ Article 3 of the Declaration

- The Environment (Protection) Act, 1986
- The Hazardous Waste (Management and Handling) Rules, 1989
- The Public Liability Insurance Act and Rules, 1991
- The Municipal Solid Wastes (Management and Handling) Rules, 2000
- The Noise Pollution (Regulation and Control) Rules, 2002

V. INTERNATIONAL CO-OPERATION FOR REGULATION OF ENVIRONMENT CONSERVATION

Prior to 1972, there were many treaties, conventions and declarations in existence but the subject of environment conservation had been dealt with by those international treaties, conventions and declarations in only a fragmentary manner.

- **THE STOCKHOLM CONFERENCE OF 1972:** The Stockholm Conference has been rightly reckoned as the first major attempt to solve the global problems of Conservation and regulation of human environment by international agreement on a universal level. It mobilized and concentrated the attention of the international cooperation for environment conservation. The main contributions of this Stockholm Conference of 1972 on Human Environment comprise of:

- i- *The Declaration on the Human Environment*
- ii- *The Action Plan for the Human Environment*
- iii- *The Resolution on Institutional and Financial Arrangements*
- iv- *The Resolution on Designation of a World Environment Day*
- v- *The Resolution on Nuclear Weapons Tests*
- vi- *The Resolution on the Convening of a second Conference*
- vii- *Decision to refer to Governments recommendations for action at the national level.*

The Stockholm Declaration of 1972 broadly recognizes global issues and has eventually come up with 26 principles on environmental issues. The main purpose of the Stockholm Declaration was to save the world from all the evils that were destroying the environment, to preserve natural resources, to control the pollution and to protect from several other environmental issues. In other words, we could say that the main purpose was to save the earth, there even is a slogan of the Stockholm Declaration, 1972 i.e., “*Only One Earth*”.

- **UNITED NATIONS ENVIRONMENTAL PROGRAMME (UNEP) 1972**

The United Nations Environmental Programme (UNEP) was founded in June 1972 as a result of the Stockholm Conference on the Human Environment. The UNEP is the coordinating body for the United Nations' environmental activities. It has played a significant role in identifying and analysing global environmental problems, developing regional and international environmental programs and conventions, and promoting environmental science and information. Among its most important tasks is assisting developing countries in implementing environmentally sound policies and practices. Since 1997, in response to the environmental requirements of Agenda 21, UNEP has also published its Global Environment Outlook (GEO), a comprehensive report on global state of the environment. Its headquarters are in Nairobi, Kenya.

- **THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (CITES) 1975**

Concerned about the overexploitation of many vulnerable species as a result of unregulated international trade, governments adopted the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 1973. The treaty entered into force in 1975 and now has 183 Parties. The Convention places a joint responsibility on producer and consumer Parties for managing wildlife trade sustainably and preventing illegal trade. CITES regulates international trade in over 36,000 species of plants and animals, including their products and derivatives, ensuring their survival in the wild with benefits for the livelihoods of local people and the global environment. CITES has taken in the lead raising awareness of the surge in illegal trade in wildlife and in taking a coordinated approach to the fight against illegal wildlife trade, including through the establishment of the International Consortium on Combating Wildlife Crime (ICWC), a collaborative effort of five inter-governmental organizations (CITES, INTERPOL, the United Nations Office on Drugs and Crime, the World Bank and the World Customs Organization) working to bring coordinated support to the national wildlife law enforcement agencies and to the sub-regional and regional networks that, on a daily basis, act in defence of natural resources.

- **NAIROBI DECLARATION 1982**

It is a partnership between governments, civil society and the private sector, working towards a prosperous Western Indian Ocean Region with healthy rivers, coasts and oceans. The programme aims to address the accelerating degradation of the world's oceans and coastal areas through the sustainable management and use of the marine and coastal environment. It pursues its vision by providing a mechanism for regional cooperation, coordination and collaborative

actions; it enables the Contracting Parties to harness resources and expertise from a wide range of stakeholders and interest groups; and in this way it helps solve inter-linked problems of the region's coastal and marine environment.

- **VIENNA CONVENTION 1985**

By the late 1970s, scientists were able to prove that chemical substances that were used in air conditioners, refrigerators, and aerosol cans were causing damage to the ozone layer. In 1985, a huge hole was discovered in the ozone layer over Antarctica. This hole allowed hazardous levels of ultraviolet (UV) radiation to reach the earth's surface. The Vienna Convention for the Protection of the Ozone Layer was signed in 1985 under which UN member countries recognized the importance of curbing damage to the ozone layer. As per the Convention's provisions, countries agreed to adopt the Montreal Protocol to further the goals of the Vienna Convention.

- **MONTREAL PROTOCOL 1987**

The Protocol was signed in 1987 and entered into force in January 1989. The protocol gives provisions to reduce the production and consumption of ODSs to protect the ozone layer.

1. It phases down the use of ODSs in a stepwise, time-bound manner.
2. It gives different timetables for developing and developed countries.
3. All member parties have specific responsibilities related to the phasing out of various groups of ozone-depleting substances, controlling ODS trade, reporting of data annually, controlling export and import of ODS, etc.
4. Developing and developed countries have equal but differentiated responsibilities.
5. However, both groups of nations have time-bound, binding, and measurable commitments under the protocol, making it effective.
6. Under the protocol, there is a provision for it to be amended and adjusted according to the new scientific, economic, and technological advancements made.
7. The Protocol has undergone nine amendments or revisions.
8. The governance body for the protocol is the Meeting of the Parties. Technical support is given by the Open-ended Working Group. Both meet once every year.
9. The Parties are aided by the Ozone Secretariat, which is based at the headquarters of the UN Environment Programme (UNEP) at Nairobi.

10. It has been ratified by 197 Parties (196 member states of the UN plus the EU) making it the first United Nations treaty to be ratified by every country in the world.

- **RIO EARTH SUMMIT 1992**

The United Nations Conference on Environment and Development (UNCED), also known as the Rio de Janeiro Earth Summit, Rio Summit, Rio Conference, and Earth Summit was a major United Nations conference held in Rio de Janeiro (Brazil) from 3 to 14 June 1992. 172 governments participated, with 116 sending their heads of state or government. The Rio Summit led to the development of the following documents:

1. *Rio Declaration on Environment and Development*
2. *Agenda 21- Sustainable Development*
3. *Forest Principles*

The first document called the *Rio Declaration*, in short, contained 27 principles that were supposed to guide countries in future sustainable development. *Agenda 21* is an action plan concerning sustainable development, but it is non-binding. The *Forest Principles* is formally called ‘Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests’. It makes many recommendations for conservation and sustainable development forestry and is non-binding. *The following legally binding agreements (Rio Convention) were opened for signature:*

1. Convention on Biological Diversity (UNCBD)
2. Framework Convention on Climate Change (UNFCCC)
3. Convention to Combat Desertification (UNCCD)

- **KYOTO PROTOCOL 1997**

It was adopted in Kyoto, Japan on 11 December 1997. Total 84 countries are signatories of the Kyoto Protocol and 192 countries are parties of the Kyoto Protocol. It is an international treaty to reduce greenhouse gas emissions. Kyoto Protocol applies to 6 greenhouse gases; carbon dioxide, methane, nitrous oxide, hydro fluorocarbons, per fluorocarbons, sulphur hexafluoride. Kyoto Protocol is based on the principle of common but differentiated responsibilities, keeping in mind the socio-economic development of the concerned countries and the polluter pays principle. It is one of the important international environment protocols. The protocol’s first commitment period started in 2008 and ended in 2012. 36 countries had participated in the first commitment period. 9 countries opted for flexibility mechanisms since their national emissions

were greater than their targets. Hence these countries funded emissions reductions in other countries. Although the 36 developed countries had reduced their emissions, global emissions increased by 32 % from 1990 to 2010. The financial crisis of 2007-08 was one of the major contributors to the reduction in emissions.

- **THE STOCKHOLM CONFERENCE 2001**

Stockholm Convention is a global treaty that was adopted by the Conference of Plenipotentiaries in 2001 and came into force on 17th May 2004. It was introduced to protect human health from harmful POPs suspended in the air for a long period of time. The convention aims to reduce or eliminate the use of Persistent Organic Pollutants (POPs) through the active measures of the member states. Persistent Organic Pollutants are carbon-based organic chemical substances that display the following properties once they are released into the environment:

- **Lifespan** – They remain in the environment for long periods of time counted in years.
- **Distribution** – The natural carriers like soil, water and air distribute it throughout the environment
- **Food Chain** – They become a part of the food chain by getting accumulated in the fatty tissue of living organisms including humans
- **Toxicity** – They are termed as toxic for both humans and wildlife.
- **Bioaccumulation** – The POPs get accumulated in the fatty tissues and its concentration gets magnified. The species including at the higher level of the food chain absorb greater concentrations of POPs and carry it along. The exposure to POPs can cause following effects:
 - Cancer
 - Allergies
 - Hypersensitivity
 - Damage to the central and peripheral nervous systems
 - Reproductive disorders, and
 - Disruption of the immune system

- **PARIS AGREEMENT 2015**

It is a multilateral agreement within the United Nations Framework Convention on Climate

Change (UNFCCC); signed to reduce, mitigate greenhouse-gas-emissions. Currently, 195 UNFCCC members have signed it. However, US President Donald Trump has announced his withdraw from the agreement by November 2020 but the new President of US Joe Biden has confirmed the re-joining of this agreement. The agreement talks about 20/20/20 targets, i.e. Carbon Dioxide emissions reductions by 20%, work on increasing the renewable energy market share by 20% and the target to increase energy efficiency by 20%.

The goals of the Paris Agreement are:

- *To curtail the rise of global temperature this century below 2-degree Celsius, above pre-industrial levels; and also pursue efforts to limit the increase to 1.5 degrees Celsius.*
- *Develop mechanisms to help and support countries that are very vulnerable to the adverse impacts of climate change. An example would be countries like the Maldives facing threat due to sea-level rise.*
- *Confirms the obligation that developed countries have towards developing countries, by providing them financial and technological support.*

- **UN CLIMATE ACTION SUMMIT 2019**

Recently, **the UN Secretary-General called all the member states at the UN Climate Action Summit 2019 held in New York, US.** The summit expects member's states to lay realistic plans to enhance their contributions to climate change mitigation. The Secretary-General has prioritized the **six action areas**, which are recognized as having high potential to curb greenhouse gas emissions (GHGs) and are also critical to achieve the goals of the Paris Agreement and the **Sustainable Development Goals**.

Energy Transition

Energy efficiency offers a potential 40% of the emission reductions, yet only a few countries make specific commitments to improve energy efficiency in their climate plans. Therefore at the summit, a new **Three Percent Club** was launched. It includes governments and international organizations that are committed to a **3% annual global increase in energy efficiency** across their economies and businesses. India is a member of Three Percent Club. It also pledged that it will increase renewable energy capacity to **beyond 175 GW by 2022**.

Nature-Based Solutions

The summit sought to adopt new initiatives, developed by the **Nature-Based Solutions Coalition** (co-led by China and New Zealand). It includes efforts to conserve and restore

marine and terrestrial ecosystems, promote regenerative agriculture and the greening of supply chains, and advance innovative financing mechanisms to scale-up nature-based solutions and also highlighted the importance of valuing nature in governance, decision-making and finance.

Cities and Local Action

Cities are key to securing our climate future and successfully implementing national climate plans. It consumes more than two-thirds of the world's energy and is the places where the effects of the climate emergency are already severely felt, particularly amongst the most vulnerable populations. Advancing mitigation and resilience at urban and local levels can be achieved by new commitments on low-emission buildings, mass transport and urban infrastructure and resilience for the urban poor.

Resilience and Adaptation

The **IPCC** Special Report on the Impacts of Global Warming of 1.5°C states that urgent and transformational adaptation action is needed, yet adaptation action is not keeping pace with the scale of impacts. Therefore, the summit sought to advance global efforts to address and manage the impacts and risks of climate change, particularly in those communities and nations most vulnerable. India also pledged to spend approximately \$50 billion in the next few years on the *Jal Jeevan Mission* to conserve water, harvest rainwater and develop water resources.

Industry Transition

Many countries including India formed a new **Leadership Group for Industry Transition** that seeks to decarbonize energy intensive industries. Energy-intensive sectors like steel, cement, aluminium, aviation and shipping are expected to be responsible for **release of 15.7 giga tonne of GHGs emission** by 2050. It is necessary to reduce emissions in the immediate term and accelerate the transition to a low-carbon industrial development while pursuing efforts to reach **net-zero carbon emissions by 2050**. This target has been decided at Costa Rica summit (A pre-summit to CoP 25 of UNFCCC).

Finance

The summit sought to mobilize public and private sources of finance to drive decarbonisation of all priority sectors. It seeks to align public and private finance with a **net zero economy** (carbon emission). In addition, the summit highlighted three additional key areas: **Mitigation Strategy**: to generate momentum for ambitious Nationally Determined Contributions (NDCs) and long-term strategies to achieve the goals of the Paris Agreement.

Youth Engagement and Public Mobilization: to mobilize people worldwide to take action on climate change and ensure that young people are integrated and represented across all aspects of the Summit.

Social and Political Drivers: to advance commitments in areas that affect people's well-being, such as reducing air pollution, generating decent jobs, and strengthening climate adaptation strategies and protect workers and vulnerable groups. New technologies and engineering solutions are already delivering energy at a lower cost than the fossil-fuel driven economy. Since, solar and onshore wind are now the cheapest sources, they can become a source of new bulk power in virtually all major economies. In this regard International Solar Alliance is a step in the right direction. The **Carbon trading should be reinvigorated**. New carbon pricing must reflect the true cost of emissions, from climate risk to the health hazards of air pollution.

Costa Rica's ground breaking role in climate mitigation is worth emulating by the world economies. More than 98% of Costa Rica's energy is renewable and forest cover stands at more than 53% after painstaking work to reverse decades of deforestation. In 2017, the country ran for a record 300 days solely on renewable power.

VI. RECENT ENVIRONMENT PROTECTION CAMPAIGN

In the recent years, there have been many campaigns of environment protection. We the people are becoming much conscious about the climate change, global warming, ozone layer depletion and other environmental issues. Now they started realising that the mother earth is only our home and we cannot survive long without protecting her flora n fauna. This general awareness has led to many campaigns for environment and its protection. All the environment protection campaigns have primarily focused on the issue of collective efforts to protect, preserve and promote green environment in order to tackle the crisis of climate change.

- **ACTNOW CAMPAIGN**

The ActNow campaign was launched at the UN Climate Change Conference (COP 24) in December 2018 as a global call to individual action on climate change. The campaign is a critical part of the UN's coordinated effort to raise awareness, ambition, and action for climate change and accelerate implementation of the Paris Agreement. It is primarily an online and social media campaign that seeks to educate and encourage individual actions, mainly by adjusting consumption patterns. ActNow highlights the impact that collective action can have at this critical moment in our planet's history. The more people act, the bigger the impact. It harnesses advances in Artificial Intelligence (AI) to spur behaviour change.

- **SCHOOL STRIKE FOR CLIMATE (FRIDAYS FOR FUTURE)**

It is a movement that began in Sweden in August 2018 by Greta Thunberg to protest against the lack of action on the climate crisis. Hashtags *#FridaysForFuture* and *#Climatestrike* became so popular that many students and adults began to protest outside of their Parliaments and local city halls all over the world. *#Climatestrike* is a global event to demand an end to the age of fossil fuels & climate justice for everyone. It is a wake-up call to our generation to solve the greatest environmental challenge in human history.

VII. CONCLUSION

It is clear from above discussion that protection and preservation of environment are necessarily related to development. The Stockholm Conference on Human Environment was neither a beginning nor an end but an unprecedented opportunity to break new ground in the management of a world in which all of us live. The Conference has served to identify those areas which rules of international environment law, acceptable to have international community as a whole, can be laid down. A major topic that of inter-relationship between environment and development is now supported by both developed and developing countries. In the end it may be noted that for economic development use of energy is indispensable. But increasing use of energy adversely affects nature's balance. It, has, therefore, been rightly suggested that we should take a goal view of the energy problem based on ecological considerations. Many campaigns are launched for the sustainable development in order to save and protect the environment with regard to climate change.

“The More People Act, The Bigger The Impact. ActNow, Give Earth a Chance”
