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# Sustainable Development Framework to Adopt the Right Approach for a Prosperous Future

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## ABSTRACT

*Sustainable Development is a term used in the UN Burtland report, which shall bring in the need for Nations to act with the utmost care, diligence, and social responsibility in dealing with the issues of Society, Economy, and Nature. At the same time, there are a great number of differences in culture, economic conditions, and the standard of livings in different geographical areas, which is the major concern and the biggest contributor to the imbalances that force people to act without conscience, understanding of the consequences that arise due to their acts. However, the barrier between the North and the South and the Developed and Under Developed Nations has left a huge gap that is still widening daily. The gap between the Rich and the Poor is increasing enormously, which is the greatest grave danger to Society, Economy, and Environment. Therefore it is time for swift action to strike a balance between the three pillars of Sustainable Development which are Society, Economy, and Environment, by bringing the Geographical Balance among the Nations by addressing the issues specific to each region through Innovations, technological transfer, and priority in providing economic support.*

**Keywords:** *Sustainable Development, Economic Support Policies, Social Responsibility, Environmental Impact, Legal Framework.*

## I. INTRODUCTION

Sustainable Development, as defined by the United Nations: The needs and requirements of the present generation are fulfilled with the kind of development which does not hinder the capacity to fulfill the needs and requirements of the next generations. However, it was not until 1997 and Rio + 5 that the social (and third) pillar of sustainable development was added into the equation when the UN General Assembly affirmed that environmental protection, economic Development, and Social Development were three interdependent dimensions of Sustainable development. Such rebalancing of the notion was later confirmed and generalized at the Johannesburg Summit for Sustainable Development in 2002, which, together with a strong

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emphasis on implementation, is the core added value of a summit that otherwise failed to replicate the Rio success. It can be doubted whether more will be added, at least conceptually, by the Rio + 20 Conference on Sustainable Development scheduled for June 2012. If anything, the lack of emphasis in its agenda on the conceptual content of sustainable development underlines that the International Community and the UN consider the matter more or less settled.<sup>1</sup>(Tladi, 2007)

The conception, articulation, and dissemination of sustainable development on the international plane are thus the result of 20 to 30 years of intense UN-led activity, which, in international law terms, is a relatively short time. Also, it is testimony to the International Community's wide support for sustainable development, which, beyond the texts already mentioned, also found its way into many Declarations of States, Resolutions of International Organizations, and, crucially, international Treaties. These founding texts, particularly the Rio Declaration, lay out the core conceptual content of Sustainable development

## **II. THE CONCEPTS AND ELEMENTS OF SUSTAINABLE DEVELOPMENT UNDER THE UN**

UN has put much effort into evaluating the important factors pivotal for Sustainable Development.

- a) **Unilateral Integration:** Sustainable development must be integrated into all economic, social, and environmental policy-making aspects within the nations and while making law under international regimes.
- b) **Intergenerational equity and equality:** Sustainable development must enable the capability of the future progeny to survive without any difficulty and live a dignified life in a far more comfortable manner so that their rights are always protected and it is our responsibility to safeguard their rights and to make ways and means to provide adequate resources for the next generation, which would suffice their requirements.
- c) **Economic Sustenance:** Sustainable development requires economic growth that is inclusive and equitable, as well as environmentally sustainable. The growth that will make prosperous growth which can be replicated easily.<sup>2</sup> (Weiss, 2000)
- d) **Social development with the right deliverables:** Sustainable development must address the needs of all people, including marginalized and vulnerable groups, and promote social equality and justice.

- e) **Environmental Safeguards:** Sustainable development must protect the natural environment and promote the efficient use of natural resources, which is embodied into the judiciary so as to implement the measures and policies that can safeguard the interest of the public at large.
- f) **Effective Governance:** Sustainable development requires effective and transparent governance at all levels, including the rule of law, participation, and accountability.
- g) **Positive Partnerships:** Sustainable development requires partnerships between governments, the private sector, civil society, and individuals to mobilize resources and expertise to achieve common goals.

The UN has also identified 17 Sustainable Development Goals (SDGs) to guide the global community towards sustainable development. These goals range from ending poverty and hunger to promoting gender equality which shall provide the minimum basic needs of water and sanitation that are clean and healthy.<sup>3</sup> (Cordonier Segger & Khalfan, 2004)

In summary, Sustainable development, as envisioned by the UN involves a holistic approach to economic, social, and environmental policy-making that prioritizes intergenerational equity, inclusive economic growth, social development, environmental protection, good governance, and partnership.

### **III. SUSTAINABLE DEVELOPMENT DEFINITIONS ALONG WITH FRAMEWORK FOR UNDERSTANDING SUSTAINABILITY**

Sustainable development is a broad concept that spans all the sectors of the economy, Social, and environment, which has a single solution for all the current problems that humanity and the environment face. The needs of the present generation are fulfilled with the kind of development which does not compromise the capacity to fulfill the need of future generations. Sustainable development aims to balance economic, social, and environmental considerations to achieve long-term prosperity for all.

There are many definitions of sustainable development, but one of the most widely cited is the one presented by the Brundtland Commission in 1987. According to this definition,

Sustainable development: Needs of the present generation are fulfilled with the kind of development which does not compromise the capacity to fulfill the need of future generations. This definition emphasizes the intergenerational aspect of sustainability and the importance of balancing economic, social, and environmental considerations.

In order to better understand sustainability, it is useful to consider the three pillars of sustainable

development: the sustenance of the development happens if there is the right balance between economic growth, social needs, and safe environmental methods.<sup>4</sup> (Tarasofsky, 2010)

Economic growth is achieved if resources are evenly spread amongst the larger population, which is balanced based on the criteria of rich and economically poor shall bring efficiency to the economic system with larger sections meeting their needs and would work for growth as a coordinated effort, which will bring sustainable economy and will replicate itself into other pillars of sustainable development. Social sustainability refers to a society's ability to meet its members' needs, including providing basic services and protecting human rights.

Environmental equilibrium is a must for sustainability to come within the system. Also, it is a reference for future generations on how the guiding principles and the jurisdictional policies are stringent to bring discipline in the style of present operation.<sup>5</sup> (Shelton, 2010)

In order to achieve sustainable development, it is important to consider the interrelationships and interdependencies between these three pillars. For example, a healthy environment is essential for long-term economic growth, providing the natural resources and services needed for human well-being and economic activity. At the same time, a thriving economy can support social development by creating jobs and providing economic opportunities for individuals and communities.<sup>6</sup> (Bodansky, 2007)

The Framework for understanding sustainability will include the main principles and concepts that evolved from the previous judgments and became famous precedents for evaluating the basis of justice and equity. Among the important ones are deduced based on the kind of benefits it brings to the general public and the nature considered when making these judgments; polluter pays is the principle that holds the person or entity responsible for the repairs and pays compensation for the damages done. The precautionary principle is when certain activity is done by an individual or an entity whose act shall raise concerns or alarm a threat to humans or the environment.

It is the responsibility of the entity or person to eliminate that harm and restore the status co. The decisions that are made today should always consider the future generations' needs that would not compromise their future existence, and this is governed by the principle called Inter-generational equity.

Sustainable development can only happen when there is environmental equilibrium among the nations to balance all the important aspects that impact the future of the next generation. A framework for understanding sustainability includes the three pillars of sustainable development and key critical principles for the justice system to deliver the right judgments so

that every action made and ensures the situation is corrected for present and future generations. It is important for individuals, organizations and governments to consider these principles and concepts in order to achieve sustainable development and ensure a better future for all.<sup>7</sup> (Segger, 2017)

#### **IV. THE LEGAL EVOLUTION OF SUSTAINABLE DEVELOPMENT**

Sustainable development is pivotal for the overall growth of nations. It is a right paradigm that all should accept, as the consequences of human actions are detrimental to the earth.

Sustainable development is significant to be carried out as the current trends are changing very quickly, and drastic steps need to be taken to remedy the fast-changing dynamics in the world, with the environment taking a worst hit along with the economy suffering. There is no food security for many underdeveloped nations, and other issues related to health care are rampantly spreading; their right fore step with the right action is of prime importance.

Sustainable development has also widely penetrated the legal domain. This emblematic 'concept' has found its way into an ever-increasing number of international legal instruments. Promoted by the United Nations is central to many Resolutions, Declarations, Conventions, and international judicial decisions. Sustainable Development interests international lawyers, but its uncertainty also sparks their perplexity. The very eminent way to define once done in the Burtland report as the development that caters to the needs of the present generation and leaves room for the future generation's requirements to be accomplished is called 'Sustainable Development.' Though symbolic, this definition is not apt when providing clues for the legal characterization of the notion. Coupled with its multifaceted nature – its texture will inevitably vary according to who uses it and for what purpose – academic commentators have dealt with the legal nature of Sustainable development with either skepticism or suspicion.<sup>8</sup> (Jodoïn & Segger, 2013)

For some, the answer to its relationship to the law is straightforward: Sustainable development does not belong to the law; it may be an important philosophical or political objective, but it is not legal. Its connection with the law is restricted because it may contribute to law formation. As a political objective, it will impact international negotiations and, as such, may influence the content of the law while remaining separate from it. Others need to avoid the issue of ascertaining the legal nature of Sustainable development by pointing to its need for more relevance. Beyond its potential characterization as an international legal norm, these commentators argue that a more relevant and fruitful approach concentrates not on the legal nature of Sustainable development itself but on the various principles essential to its realization,

which aggregate around this 'conceptual matrix.' A variant of this approach considers sustainable development not as a legal principle but as a new branch of international law.

## **V. THE CONCEPTUAL STANDARDS OF SUSTAINABLE DEVELOPMENT**

### **(A) The Origination of the Sustainable Development**

Early Origins of an intimate connection between nature preservation (or wise management) and Economic development – at the heart of sustainable development – can be traced back to the 19th and 18th centuries. But the modern understanding of the concept and its recognition at the International Community level is largely the result of a vast UN-led promotion operation. This operation officially started in 1972 with the Stockholm Conference on the Human Environment. Although 'sustainable development' was not yet mentioned, the Stockholm Declaration of Principles established the link between environmental protection and economic development. It was some 15 years later, the expression 'sustainable development' was formulated, and the WCED, another UN creation, articulated the first version of its meaning. The most fundamental landmark in sustainable development's history is, however.<sup>9</sup> (Khalfan, 2007)

The 1992 Rio Conference on Environment and Development and its famous Declaration of Principles bring sustainable development within the legal sphere. Although non-binding, the principles of the Rio Declaration are formulated in strong legal terms. It is also undeniably a Declaration of legal principles about Sustainable development, as the expression appears in 12 different principles. Consequently, it is viewed as the keystone of the conceptual articulation of sustainable development. At Rio, officially endorsed by the world community, sustainable development also became the unavoidable paradigm of environment/development relations.

### **(B) Sustainable Development means Inter-generational Equity, along with Intra-generational Equity which is capable of progressive integration**

A synthesis of these core documents shows that the meaning of 'sustainable development can be reduced to combining two principles that can be considered axiomatic to understanding sustainable development: Intergenerational and intragenerational equity. Intergenerational equity refers to the first dimension of the proposition and relates to the adjective 'sustainable.' This principle is at the core of the Brundtland Report's definition and is included in principle 3 of the Rio Declaration. The nations should ensure that they are only using that much for their need as it requires them to live with dignity, beyond which they need to support other nations unable to meet basic needs. This way, there will be an earth-friendly process that will drive the way for the current and the generations to come in the future.



In other words, environmental preservation is necessary to ensure equity between generations; without it, the 'sustainability' of Development must be maintained. Intragenerational equity refers for its part to the second dimension of the expression, the 'development' part. It requires equity in the distribution of development outcomes within one generation as much internally (within one national society) as internationally (between developed and developing states). However, when read together, these two principles only confer on the expression 'sustainable development' and its specificity. The development will be sustainable only when both intergenerational (environmental protection) and intragenerational (equitable economic and social development) equity are guaranteed, and this is to be achieved through their progressive integration process and the will to adopt.<sup>10</sup> (Birnie, 2006-2007)

The major concern is environmental protection, as anything else can wait. However, the damage is caused to the environment. In that case, it is an irreparable loss to mother earth, and we cannot provide the same healthy, clean environment to the next generations. Reconciliation of environmental protection and economic and social development through integration is commonly seen as the core philosophy underlying the concept.

For some, integration is equal to sustainable development itself. However, to equate sustainable development with the principle of integration would be unduly restrictive. Sustainable development is an objective that the International Community must strive to achieve, whereas the integration of environmental protection and economic and social development is not. Rather, it is how sustainable development will be achieved. Hence, rather than being sustainable development, integration is the key technique for its realization.<sup>11</sup> (Bodansky, 2017)

### **(C) Connected Standards and Principles**

Beyond these essential components of sustainable development, a vast array of legal standards and principles is closely connected to its realization. When implemented, these integrate environmental protection and economic and social development and thus help achieve sustainable development. Some derive from the principle of intergenerational equity, and others from intragenerational equity. Important standards for achieving sustainable development inspired by intragenerational equality match the principles of more general but well-differentiated objectives and responsibilities.

According to which, given their particular contribution to the degradation of the environment, developed countries have a shared but heavier responsibility in working towards sustainable development. This concretely translates into differential treatments and differentiated legal commitments, with developed countries endorsing heavier sustainable development



commitments than developing countries.

These are all reflected in the Rio Declaration, but also find expression in various treaty regimes closely connected with sustainable development, as the conventions related to Biodiversity, are also related. However, any list of principles and standards that must be respected to achieve sustainable development can be partial. Also, it is because of the concept's intrinsically evolutive nature.<sup>12</sup> (Morgera, 2010)

#### **(D) Progressively Evolving Process**

Sustainable development is not a static concept, and what needs to be done to achieve it evolves according to circumstances, and in particular according to the time, the area, or the subjects concerned. Sustainable Development will vary over time, as Sustainable Development is not immune to social, environmental, or scientific evolutions. The range of standards and principles that need to be respected to achieve sustainable development depends on these evolutions and needs to adapt accordingly. Such temporal variability of the content of Sustainable development is also an implicit requirement of the principle of intergenerational equity, which demands adopting a long-term perspective.

What it requires will also depend on the characteristics of the state concerned, particularly its financial and technological capabilities. As noted earlier, intragenerational equity implies common but differentiated responsibilities in pursuing Sustainable Development and modulation of commitments based on states' capabilities and levels of development.

The standards that need to be respected in pursuing sustainable development will thus vary according to whom they apply, and the same level of commitment as that of a developed state will not be required of a developing one. Accordingly, some principles informing the content of Sustainable Development may apply only in certain contexts and to certain subjects. For example, it might be inappropriate to expect a developing country to abide by the precautionary principle to the same extent as a developed state or to commit to financial and technology transfers.

## **VI. THE LEGAL SENSE AND NATURE OF SUSTAINABLE DEVELOPMENT**

Sustainable Development's legal nature depends upon two preconditions: its legal scope and penetration into one of the recognized sources of international law. There is little disagreement that a proposition can be legal only if formulated to have legal effects or, in other words, that it is legal in scope. The Rio Declaration, the main Framework for the reference of sustainable development is crafted in and around the rights and obligations and uses prescriptive language.

Also, it applies to many binding and non-binding documents, including a proposition relating to sustainable development. Such propositions are mostly formulated to produce legal effects within the international legal order. However, more than the legal scope of a proposition, in and of itself, is required to make it law. The proposition must also be recognized as binding; it must be a good rule of law, and, traditionally, a rule will be recognized as valid only if it emanates from one of the sources of international law, notably conventions, custom, and general principles of law. Only then will it be recognized as a positive norm of international law. So the question that needs to be answered is whether propositions relating to sustainable development have penetrated these international law sources and given rise to valid law rules.

## **VII. RELATIONSHIP WITH WRITTEN INTERNATIONAL LAW**

Over the last 30 years, Sustainable Development has received wide support in many non-binding international legal documents. It finds expression in countless Declarations of states, resolutions of international organizations, programs of action, and codes of conduct.

To the extent that these various instruments are not recognized as among the traditional sources of international law, they cannot give rise to a valid and more judiciously valid rule concerning sustainable development without considering the legal strength of its creation.

It is included in over 300 conventions, and a brief survey of these is revealed from the point of view of the categories of conventions at stake, the location of the proposition relating to Sustainable development, and the function attributed to it. References to sustainable development can indeed be found in One hundred twelve multilateral treaties, roughly 30 of which are aimed at universal participation. <sup>13</sup> (C. Esty, 2006)

A significant part of the inclusion of sustainable development in customary law is the location of this inclusion. A common impression among international lawyers is that even though sustainable development receives recognition in many treaties, this recognition is of little legal significance since such references are mainly confined to the preamble, which is not binding. However, the empirical analysis shows that 207 of these references are to be found in the operative part of the conventions, which is technically binding on the parties. A closer study further reveals that, for the most part, sustainable development is referred to as an objective that contracting parties must strive to achieve, occasionally with an indication of the types of measures to be undertaken to that effect.

Then, sustainable development has widely penetrated treaty law. However, unlike non-binding instruments such as the Rio Declaration, formulating provisions relating to sustainable development in formally binding international treaties can be flexible. The wording can be

vague and imprecise, characterized by the use of the conditional, and the provisions are often closer to setting out an incentive than purporting to be strictly constraining.

### **VIII. RELATIONSHIP WITH CUSTOMARY INTERNATIONAL LAW**

Although there is a stringent objection from academic scholars to the generalization of the rule of customary international law and regulation concerning sustainable development has been fierce and is based on several arguments. Suppose some see enough evidence of opinion juris and state practice to prove the existence of a customary rule. Be it a very abstract and general one that requires case-by-case concretization, others avoid this difficult question by emphasizing that the relevance of sustainable development is to be found elsewhere than in its legal nature, and notably in the influence it exerts on international law as a new branch of that discipline. Yet another stream of commentary denies that sustainable development has reached the stage of being a customary norm or is even capable of that.

The flexible formulations relating to sustainable development mean evidence of opinion juris and state practice of an obligation to develop sustainably is impossible to ascertain. However, to conclude that no such general obligation does not mean that sustainable development does not find reflection in custom.

### **IX. THE AREAS OF OPERATION FOR SUSTAINABLE DEVELOPMENT WITHIN INTERNATIONAL LEGAL NORM**

#### **(A) Sustainable Development as Interstitial Norm**

In a thought-provoking contribution reacting to arguments that it was a customary principle, Lowe offered an analysis of sustainable development's normative character, according to which it cannot be a primary rule but can claim normative status as an element of the judicial reasoning process as this principle offers solutions to multiple problems that are being faced.

There is little doubt that sustainable development is perceived as an objective for the international community. It has been qualified as such by the ICJ in the Pulp Mills case and by the vast majority of treaties referring to it.<sup>14</sup> (Alam, 2006)

#### **(B) Sustainable Development as an Obligation of Means**

Obligations are many to consider while reviewing the cases, and rules are laid accordingly. Unlike obligations of result, which require achieving the result defined by the obligation, obligations of means require only the deployment of all possible means to achieve the result without promising to achieve it. Suppose the subject needs only to endeavor to achieve the result rather than be obliged to reach it. In that case, it is because, in the case of obligations of means,

achieving this result is more unpredictable and not fully under the subject's control. The obligation thus contains only a duty to employ best efforts, a category of obligations known to international law as 'due diligence obligations.

### **(C) The Principles and Tools in Understanding Sustainable Development**

Whether the requirements of an obligation of means are met is generally assessed in the abstract by comparing the state's conduct to a 'standard conduct' meeting those requirements. In international law, this standard conduct is expected from a good government. The specific circumstances of each case will also be considered, including the state's development level. Beyond these general assessment criteria, some are specific to the obligation to promote Sustainable Development. Despite its flexible nature, at a minimum, it requires intra- and intergenerational equity and the integration of environmental considerations into economic development projects.

Also, it means that an identifiable list of measures will normally be expected from states in the fulfillment of their obligation to promote sustainable development; such a list will include, among other things, precaution, prevention, sustainable use, inclusive decision-making, financial and technology transfers, and poverty eradication. Sustainable development thus imposes an obligation of means on legal subjects, an obligation to strive to achieve or promote it. The measuring tools for evaluating the fulfillment of this obligation will vary according to the circumstances of each case. However, the actual conceptual content of Sustainable Development requires that, at minimum, states integrate environmental considerations into economic development projects, prevent environmental damage, and cooperate. Additionally, conventional obligations relating to Sustainable Development may constrain state conduct further by specifying the measures that must be adopted to fulfill their obligation.<sup>15 (Ong, 2006)</sup>

## **X. CONCLUSION**

Therefore the only way that we all can have harmonious relationships with continuous equity between the current generation and the generations to come is possible with Sustainable Development, which is a boon to us and to the judiciary, where the process is clear as to what measures need to be adaptive and how the implementation process is followed, and this is a clear measuring stick that Judges can effectively use in understanding the various issues under Sustainable Development norms. Having resorted to Sustainable Development in the interpretation process may legitimize a dynamic interpretation of treaty rules and, in certain circumstances, lead the judge to go as far as to revise the Treaty.

These outcomes result from progressively integrating, generally, environmental norms into a

treaty that could have taken them into account, as well as from the balancing exercise between conflicting norms and interests that Sustainable Development requires. Sustainable Development's interpretative function is thus particularly significant for the power and degree of liberty it grants to judges. However, it is only rarely that disputes are brought before the judiciary, and however powerful the interpretative function may be, Sustainable Development can extend beyond that function only. Ignoring its formalization as a primary rule of law aimed at regulating conduct in hundreds of treaties to limit it.

As attractive as the judicial function may be, its quantitative role in implementing international law still needs to be dynamically amended in its course and effectiveness in order to improve its stand towards the nation as unbiased irrespective of the nation which is seeking justice. The primary enforcers of international norms remain the states themselves, and although judges may use Sustainable Development needs to be addressed to them. It is addressed to legal subjects, i.e., states. States are under an obligation to pursue Sustainable Development; an obligation of means binds them, and by implementing these countless treaties, they contribute, day after day, to progressively making sustainable development requirements real and seeing the goal being achieved.

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