



# Distributive Justice And Principles Of Sustainable Development In Environmental Jurisprudence

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## **Abstract:**

Sustainable development is the phenomena that seek to define the reconciliation of the need and the interest of the generations against the use of resources. While the principles of sustainable development lay down the basic idea on which environmental laws are framed; distributive justice is the goal it aims to achieve. The relationship of justice and sustainability is fundamental to various socio-economic theories and helps in curtailing inequalities to achieve environment sustainability. This research paper attempts to highlight the equity in the distribution of the natural resources and who may have right over them. The author further explains the effect of such use of resources by the present generations in relation to the right of future generations over them. The author explicates the need to maintain sustainability of the ecological resources and the co-existing relationship of economic development and environment sustainability. Hence, an equitable distribution of resources among different and same generations necessitates the establishment of a coordinate existence of the socio-economic theories and distributive theory.

**Index Terms** - Sustainable Development, Socio- Economic Justice, Intergenerational Equity.

## **I.INTRODUCTION**

Sustainability as defined; has different dimensions in human resources, ecological resources and other sources of development. But if interpreted in the best possible way it implies a pattern which helps in meeting the needs of the maximum people through an equitable distribution of resources. This principle is most commonly applied to the ecological resources; as it assists in extinguishing the inequalities by helping the people of all divisions and generations to assess the resources in a pre-eminent manner<sup>1</sup>. Equitable distribution of resources is a prerequisite to maintain sustainability and ecological justice. The idea of justice in the environmental jurisprudence is a hybrid mix of the socio-economic and distributive theories of justice

<sup>1</sup> Frances Stewart, 'Sustainability and Inequality', *available at*

[https://www.un.org/en/development/desa/policy/wess/wess\\_bg\\_papers/bp\\_wess2014\\_stewart.pdf](https://www.un.org/en/development/desa/policy/wess/wess_bg_papers/bp_wess2014_stewart.pdf) (last visited 1st January 2025).

and forms a foundation for a stabilized economy. Sustainability though a key issue at the hands of states around the world needs serious considerations; as this shall not be promoted at the cost of the economic development of the state. Hence, it guides them in countering this continuous conflict by framing such rules and legislation that may foster elements of justice by creating stimulation between these dual goals of the state. Indeterminate standards adopted by the states to grow industrialization have had stern effects on our ecosystem. Thus, to envisage justice among intra and inter generations the principles of sustainability come to applicability. Egalitarianism is the idea that the welfare nation are functioning upon to promote equity among its people. It aims at balancing the developmental opportunities of the present generations and the fundamental right to live in a healthy environment by the coming generations. The issue in determining the aforementioned intergeneration's rights is dealing with the questions that 'what' the present generation is willing to leave for the next generation. This antagonism of bestowing equitable resources for ensuring a healthy standard of living persists among intrageneration also where people belonging to different dimensions strive to meet their need for growth and unprejudiced use of resources. An attempt has been made by Philippe Sands to summarize various constituents of principles of sustainable development<sup>2</sup>-

1. To contemplate the needs of current and coming generations i.e. intergenerational equity.
2. To accept the limitations laid down on the utilization and exploitation of such resources.
3. To maintain equitability and place requisite obligations for the distribution of resources among states i.e. intragenerational equity.
4. To uphold integrity in ensuring the developmental opportunities and the right to clean environment.

### 1.1 Statement of Problem-

The present research paper focuses on the elements of distributive justice that could be traced in the environmental jurisprudence and the adoption of principles of sustainable development that have helped in restoring these elements thereby further promoting equity in the distribution of resources. The paper further deals with the role of SC in establishing and ensuring such equitable distribution of resources. The author attempts to analyze the above-mentioned principles in context of prevalent exigencies to achieve such primitive goal of equal and fair opportunity of resources among the people.

### 1.2 Hypothesis-

The equitable distribution of resources is dependent on the co-existing elements of socio-economic and distributive justice.

### 1.3 Research Questions-

1. How principles of sustainable development have helped in restoring the elements of distributive justice?
2. How sustainable development has helped in meeting the conflicts of intra and intergeneration justice in environmental jurisprudence?

<sup>2</sup> G.S. Tiwari, 'Sustainable Development As a Socio-Economic Growth Strategy: Expanding Horizons Of Environmental Law In India', *Journal of the Indian Law Institute*, Vol. 52, No. 3/4, July-December, 2010, pp. 435-452.

3. What role the SC has played in ensuring fair equality of opportunity and countering historical inequality in distribution of resources?

#### **1.4 Research Objective-**

1. To understand the concept of sustainable development in environmental jurisprudence.
2. To understand the elements of distributive justice in context of distribution of environment resources.
3. To study the relationship between the distributive and socio-economic justice in ensuring fair equality of opportunities to use resources.
4. To understand how distributive justice can be achieved through maintenance of intra and inter-generational equity of resources.
5. To study the role that the SC has been playing over years to achieve the objective of sustainability in use of environmental riches.

## **II.DISTRIBUTIVE JUSTICE AND ITS ELEMENTS IN ENVIRONMENT LAW**

The burdens and benefits arising out of the fundamental frameworks of different socio-economic and political process, affecting the lives of the varied sections of society, shall be equally distributed among them. This theory of justice helps in countering the prevalent questions of each economy and guides the government in framing the policies to rule out the factors creating hindrances to meet such goals. It gives the reader an insight of the ideal society. The theory of distributive justice in its literal or strict sense concentrates on promoting a moral idea of justice which enables all the individuals to acquire equal resources and further inscribes a problem as to how this equal distribution shall be made. The strict principle of equality as laid down in this theory raises complexities in its interpretation for specifying requisite levels of measurement and does not reach a satisfactory solution. In contemporary times the governments are paying attention towards economic development policies vis-à-vis the distributive share one is entitled to. It inculcates the elements of welfare principle of distributive justice in its policies to assure the minimum level of well-being upon its citizens.

Rawls theory of differentiation stands in opposition to this strict interpretation of distributive justice. Rawls theory of distributive justice herein marks a shift from the strict notions of distributive justice and introduced the concept of the Difference Principle. This principle focuses on bringing a significant change in the lives of the least advantaged. The stumbling block in the effective implementation of Rawl's policy is its reliability on various assumptions to produce authentic principles.

### **2.1 'Original position' In Resolving Environmental issues-**

Rawls believe in creating a society where the people are ignorant of their backgrounds i.e. where they are unaware of the other related factors such as race or sex etc. He considers it as an original position where the individual is ignorant of prejudices that he may be subject to for being a part of the society. His theory lays down the fundamental rules that may govern such distribution among generations and introduced the principle of risk-aversion according to which rich shall forgo some of his share and have little of something. He stresses upon the need that it shall be better to sacrifice some rather than being born in the world where

there shall be nothing. The literal interpretation of this principle explains the concept of tragedy of common use i.e. where an individual shall be free to use a resource that may be available in common jurisdiction. An unrestricted or irrational use of such resources may bring them to a stage of depletion. Therefore, he encouraged people to take more risks to suppress the tragedy of commons by initiating cooperation among the various divisions of society. An outright dependency on the idea of 'reason' to ensure justice makes its adoption difficult among all the states.

## **2.2 Rawls theory on 'Fair Equality of Opportunity'-**

This aspect of Rawls's theory extended a fair equality of opportunity for use of primary goods by the future generations, irrespective of their caste or class. It lays down that justice requires an excessive concentration of resources shall be avoided and ecological harm shall be controlled to allow future generations an opportunity to equally access resources. As inequitable and excessive use of resources is narrowing the opportunities and reasonable goals that coming generation shall be entitled to. Therefore, to preserve such opportunities a balancing approach should be adopted towards environmental resources. The applicability of this principle differs for both renewable and non-renewable resources. Though the exploitation of later resources will consider hindrances for its use by the current generations and establishment of just institutions. But the present generations need to take the responsibility to take all such measures that may help in combating environmental harms while making an economic use of such resources. He further suggested adoption of 'substitution' as a measure to create opportunities and make such resources available for all the people of the society. Despite of the advantages that this option may offer, a precautionary approach should be exercised while adopting it as technological measures cannot be a long time substitute for natural resources.

Therefore, the application of distributive theory of justice depends upon the implementation of different principles in accordance with the requisite interpretation of different policies. The theory is based on the welfare, egalitarian, difference and libertarian principles of justices. The nation states accommodate these principles to ensure equitable distribution and fair equality of opportunity for use of such resources<sup>3</sup>.

## **III. PRINCIPLES OF SUSTAINABLE DEVELOPMENT IN ENVIRONMENT LAW**

The concept of sustainable development first introduced in "Earth Summit" in 1992 enabled the nation states to adopt it as a guiding principle in framing varied legislations for ensuring an equitable distribution of resources. The most widely accepted definition states it as phenomenon integrating the various social, economic and environmental factors to achieve the paramount well-being of the present and the future generations. Sustainable development help in deriving the most appropriate measures in facing the innumerable ecological challenges. It gives the government numerous possibilities to explore various factors, opportunities and restrictions in interpreting and balancing geographical resources. A balancing approach shall be the idea of the nation states i.e. allowing the promotion of both the environmental and economic development needs.

<sup>3</sup> Oluf Langhelle, "Sustainable Development and Social Justice: Expanding the Rawlsian Framework of Global Justice" *Environmental Values*, Vol.9, No.3, August 2000, pp. 295-323.

### 3.1 Historical background-

The Brundtland report defines it as a principle focusing on expanding its scope to provide an equitable opportunity to satisfy the fundamental elements to live a better life.<sup>4</sup> The aim was to balance the needs of the people of present and future generations and the parallel limits of the environment to meet such needs. These principles are a check against the persisting inequalities of resources among the generations and are inscribed in Stockholm Declaration of 1972. Whereas; Rio Declaration in its principle 2 and 4 recognizes this obligation to protect the environment while maintaining the consequential right of an individual to have access to environmental resources to lead a quality life. This integral relation of the development and sustainability goals has been an international concern receiving widespread recognition under treaties and conventions and is prominently expounded in the 2002 Johannesburg Declaration on the sustainable development. The declaration is an attempt to restore a harmonious environment and restructure the society on the elemental principles of justice and fair play as highlighted through the use of sustainable development.

### 3.2 Objective of Sustainable Development-

These principles yearn the utmost priority in the development list of the growing nations for ensuring security and welfare by eliminating inequalities. This idea of an all-round development and welfare is imbibed in the constitutional provisions of these democratic nations. In India a duty is imposed upon the states to uphold these principles in the form of fundamental duty and directive principles of the state policy. Each generation is obliged to conserve the natural resources and act as a custodian for the rights of their future generations i.e. to inherit same heterogeneity of resources<sup>5</sup>. The central aim of introducing this principle was to balance the developmental and social welfare needs of a state. These are the parallel objectives of equitable importance i.e. the environmental protection shall not suffer at the hands of the capitalist and be harmonized.

### 3.3 Principles of Sustainable Development-

The Precautionary Principle of sustainable development helps the state to take required action that is needed to meet the unprecedented challenges to the environment. It helps in forecasting the harm that may be caused due to the developmental activities that the state may undertake to promote its economic interest<sup>6</sup>. Hence, it stands both in conflict and compliance with the theory of ecological justice. Polluter pay principle holds the polluter responsible to compensate the sufferers for the loss that he/ she may suffer due to the degradation of the environment. This principle is mentioned under the Rio declaration, wherein, the states promote the internationalization of the cost of environmental protection and its use for satisfying economic needs. The intergenerational obligation to maintain the resources could be traced through the public trust doctrine of sustainable development. It makes the state liable and imposes restriction on the exploitation of the natural resources for commercial purposes to protect the interest of future generations vested in the usage of such resources.

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<sup>4</sup> Supra Note 2.

<sup>5</sup> J. K. Summers and L. M. Smith, 'The Role of Social and Intergenerational Equity in Making Changes in Human Well-Being Sustainable', available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4165836/> (last visited 2<sup>nd</sup> January 2025).

<sup>6</sup> Dr. Paramjit S.Jaswal, Dr.Nishtha Jaswal and Vibhuti Jaswal '*Environmental Law*', Allahabad Law Agency, Faridabad, 2019, pp. 140-141.

### 3.4 Sustainable Development promotes Intergenerational Equity of resources-

The international conventions have been of paramount consideration in promoting this intergenerational equity. It is accentuated in the reports and declarations of the United Nations and is discernible in the Brundtland report. These reports seek to define 'equity' of resources among different sections of the society i.e. each individual shall be entitled to minimum quality and quantity of resources. It is a robust measure adopted by nation states around the world to eradicate the persisting inequities wherein the whole burden rests on the weak and frail. It raises a moral obligation on the present generations to preserve the needs of the future generations. The idea of sustainability raises two connotations i.e. weak and strong sustainability. Where weak sustainability associates it with economic development, the stronger perspective focuses on providing environmental justice by encouraging egalitarian use of resources.

### 3.5 Sustainable Development A Step Towards Achieving Socio-Economic Justice-

The fundamental idea of constitutional governance is that it promotes a development that meets the needs of all the people. The legislations governing the environment law are formed on this integration of the development and sustainability and helps in combating poverty by promoting socio-economic justice. Economic growth shall solicit sustainability to environmental issues and contribute towards egalitarianism. This marks a paradigm shift in maintaining an esteemed social and political order<sup>7</sup> by propelling mutual integration of resources as evident in Johannesburg Declaration in 2002<sup>8</sup>.

### 3.6 Intra and Intergenerational Conflict in Distribution of Resources-

The ecological justice around the globe aims at providing fairer distribution of resources that the ecosystem grants to an individual. There is continuous conflict between the use of such resources by the present and coming generations. The fundamental objective of the distributive justice is that it claims to provide an even-handed distribution of the scarce resources. This idea of justice helps in combating this inequality in distribution and availability of resources. The dual idea of distribution as mentioned above grants the rights and the consequent obligatory duties upon the subjects of the ecosystem. These principles are elucidated in the Article 1 of the United Nation Convention on Biological Diversity. The convention focuses on conserving the biological diversity and sharing utilitarian benefits arising out of the equitable distribution. While the former deals with the elements of intergenerational equity the latter dispenses the objective of equity among the intrageneration. The conflict among these ideas of equity is long-standing. The purpose is to balance the growth needs of the present generations without compromising the rights of the future generations as a fundamental basis of sustainability. This relationship between two ideologies of distribution of resources is based on various hypotheses. The authors have laid down numerous notions about the relationship that these ideologies share i.e. the idea of facilitation, independency and the continuous friction. The interpretation seeks to define numerous determinative factors that may affect the distribution of such resources i.e. the proposal of substitutability, technological factors, effect of growing population on the quality and the quantity of the ecological resources. The inter-relationship between these factors has a direct or indirect impact on the share that the ecosystem bestows on each individual. For example, the imposition

<sup>7</sup> Stefanie Glotzbach and Stefan Baumgartner, "The Relationship Between Intragenerational and Intergenerational Ecological Justice" *Environmental Values*, Vol.21, No.3, August 2012, pp.331-355.

<sup>8</sup> Ibid.

of restriction on the use of environmental resources and the population growth may facilitate better access to these resources among the people of same and different generations.

### 3.7 Legislative Framework-

The legislative framework that defines the use of sustainable development principles was drawn through the international conventions and declarations. The Indian government has worked towards widening the scope of environment jurisprudence through framing legislations that are based on the fundamental of sustainability and ecological justice. The Parliament aims to achieve these goals by instilling these objectives in the conceptual framework of these laws. The Environment Protection Act, 1986; Biological Diversity Act of 2002; Wildlife Act of 1972 and other rules and regulations affixed to it aim at ensuring the maximum utilization of existing resources and uphold the components of equitable distribution. Simultaneously the parallel legislations of Water act, Air act and the Noise pollution act helps in combating this issue of increasing pollutants in the atmosphere and its adverse effect on the breathing space of the varied beings of the environment.

## **IV.ROLE OF THE COURTS IN ADOPTING A SOCIO-ECONOMIC APPROACH IN THE ENVIRONMENT PROTECTION.**

Environment Protection is indispensable feature of sustainable development and is elucidated in the constitutional provisions itself i.e. Article 38, 39 (b) and (c), 47, 48-A and 51-A (g). These provisions accentuate the social economic goals to ensure justice and bringing a transformation in the society by eradicating the challenges of discriminatory access and distribution of resources. It infuses the elements of sustainability in achieving such goals and maintains a minimum standard of living and welfare for each individual. These articles adopt a stabilizing approach while working its goal for economic development and environmental protection. Right to clean environment which is quintessential for a healthy life is a fundamental right bestowed upon every individual under Article 21 of the constitution<sup>9</sup>. This inseparable right of healthy environment and right to life have allowed the judiciary to take measures that are indispensable for granting and controlling the pace of development as and when necessitated to ensure environment sustainability. An adequate development of the resources will be appreciated in an environment that is protected and balanced. It is pre-requisite to meet the unavailability of adequate resources among the people. It is the least advantaged who suffers the most due to over-exploitation of ecological resources for the development purposes; undermining the duty or the obligation it owes to the environment. These unscrupulous activities destroy the minimal source of survival that these people depend upon and are also detrimental to both the growth opportunities and environmental resources. Therefore, judiciary has come forward to take appropriate steps to balance these corresponding needs of preserving ecosystem and encouraging development and the same was upheld in the case of *Citizen, Consumer and Civic Action Group v. Union of India*<sup>10</sup>. The court identified the society's need to prosper but not at the cost of environment. The courts have embraced a steady approach to ensure ecological sustainability and maintaining

<sup>9</sup> *N.D.Jayal v. Union of India*, A.I.R. 2004 SCC 362

<sup>10</sup> *Citizen, Consumer and Civic Action Group v. Union of India*, A.I.R. 2002 Mad.298.

development needs thereby contributing to the wholesome growth of the country. This approach was also adopted in the case of *Amarnath Shrine, in Re v. Union of India*<sup>11</sup>.

The courts have laid down rules and regulations to govern these principles through judicial precedents. They have worked upon placing this right on the high- pedestal and do not allow it to vanish by any development projects. To achieve these co-existent objectives a harmonious construction of legislations has been adopted by courts and could be witnessed in the case of *Indian Council for Enviro-Legal Action*<sup>12</sup>. It was held in this case that both these objectives of sustainability and development shall go hand in hand and due care shall be taken to sustain healthy ecological balance. In *State of Himachal Pradesh v. Ganesh Wood Products*<sup>13</sup>, the court underlined the importance of intergenerational equity and relative developmental aspects for regulating growth opportunities of a state. But it also raised attention towards the need for present generation to endorse an equitable perspective in use of natural resources. Further, the apex court in *Vellore Citizens*<sup>14</sup>, has augmented the salient features of sustainable development i.e. conservation of natural resources, precautionary principle, eliminating poverty and ensuring intergenerational justice. The court recognized the precautionary and polluter pay principle accounts for the essential attribute of the sustainable development and is acknowledged as the law of environmental jurisprudence at the both national and international level. It takes into consideration the renewability and the non-renewability of the resources before determining its impact and calculating the cost imposed on the defaulter. In *M.C. Mehta v. Union of India*<sup>15</sup> (also known as CNG case), the court applies the principles of sustainable development to combat the increasing effect of pollution on the health of the people of Delhi. The court appreciated the development steps initiated by the auto-mobile industry but confront the state to take balancing measures to meet the standards of ecological sustainability. It held that priority shall be given to the environment over the economic issues and orders the government to anticipate and prevent the environmental degradation by foreseeing such causes. Also, the apex court in *Animal and Environment Legal Defence Fund v. Union of India*<sup>16</sup>, ensures that the developmental activities does not impact the basic right of livelihood of the tribal people by guarantying them an equitable distribution of resources. The court directs the government to make attempts to conserve the fragile ecology.

## **V.SUGGESTIONS AND CONCLUSION**

The continuous consumption of natural resources has made them exhaustive which has widened the inequalities for its future use. A strict interpretation of distributive justice to allow fair equality of opportunities is a vague assumption, as in a country like India in which the ecological resources are most unevenly distributed, it does no good. The current development goals demand the sustainability and growth principles to walk hand-in-hand. With the advent of globalization, the issue is not restricted to the boundaries of certain states and is a global concern. Therefore, the states shall come together to take mutual decisions

<sup>11</sup> *Amarnath Shrine, in Re v. Union of India*, Suo Moto Writ Petition (Civil) No. 284 of 2012.

<sup>12</sup> *Indian Council for Enviro-Legal Action v. Union of India*, 1996 SCC (3) 212

<sup>13</sup> *State of Himachal Pradesh v. Ganesh Wood Products* (1995) SCC (6) 363

<sup>14</sup> *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647.

<sup>15</sup> *M.C. Mehta v. Union of India*, (2002) 4 SCC 356 and 363.

<sup>16</sup> *Animal and Environment Legal Defence Fund v. Union of India*, (1997) 3 SCC 549.

to sustain a healthy life and environment for its people and ensuring an equality in the distribution of resources entitling them a fair opportunity for such use. This goal has been acknowledged under various conventions and attempts have been made to achieve it; but it demands a proper administration in the prevalent era where there is a continuous rift between the developmental needs and the human rights. To achieve these millennium goals of sustainability and the idea of justice, a harmonious balance of the socio-economic and distributive aspect of a theory or legislations shall prevail. Inequities, in whatever form, disrupt this idea of sustainability. For example- the countries around the globe consider poverty among the other numerous factors that are responsible for the persisting inequalities in access to the use of basic resources. The government shall develop a capacity to keep a track of the contemporary socio-economic and environmental positions by defining the realistic goals to be achieved and the necessary restrictions or obligations to be imposed against such use. The Sustainable development goals demand the nations to analyze their cost benefit relationship i.e. the relative impact of the costs undertaken by the states on the wholesome benefit posited on its people. The requisite authorities shall take stringent actions to maintain an equipoise of these current needs and adopt the idea of substitutability i.e. use of other resources as substitutes to balance the increasing inequities among the different sections of the society. Also, the law laid down by the apex courts as precedents while addressing such issues, shall hold supremacy in framing legislation on this subject. Therefore, sustainable development goals have received predominance not only in the environment policies but in all the aspects of social and economic policies of the states to uphold the principles of egalitarianism.

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