

Sustaining Earth: Bringing Law, Society and Sustainable Development Together

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Abstract

The world is facing an unprecedented crisis of sustaining life and the earth. There is the need to have a balance between sustainability and governance, and between traditional patterns of 'conflict' and contemporary need for 'cooperation' in international affairs. It is graver than what is generally understood. Contemporary 'urgency' to cope with the issues of Green House Gas (GHG) emission, rising temperature levels, melting of glaciers, regenerating biodiversity, deforestation, etc. has started negatively impacting the environment. Is the situation 'given', considering the size of the global population and consumption patterns? Have the governments failed to deliver in a timely and apt manner to the man-made environmental devastation? Are we too late in 'introspecting' the pitfalls of excluding the 'sustainability' principle from our model of development? Does the present condition indicate a deliberate lapse on our part? The notion of sustainable development is commonplace today. The modern idea of development involves sustainability considerations. But why have we started giving importance to sustainability only now? Major responses to this observation lead us to look into the intriguing relationship between sustainable development, society and law.

This paper focuses on three major aspects of analysis and reflection i.e., Understanding Sustainability and Governance, Politics of Sustainable Development, and Role of Law and Tradition in Sustainable Development. The paper reveals that the contemporary crisis of climate change and the issue of sustainable development are the outcomes of two major aspects of international or global interactions, i.e., prevalence and dominance of a post-war capitalist outlook that side-lined the issue of 'sustainability' from the mainstream developmental discourse, and delay in realisation of the importance of reaching a 'consensus' in dealing with the common threats emerging out of climate change. This paper provides certain normative reflections on the issue of (un)sustainability in modern times and the way forward.

Key Words: Sustainable Development, Climate Change, Politics, UN, Nature, Gandhi.

What ails Earth?

The Times of India (Mumbai: Nov, 11, 2019, p.13) reports that in California, USA, experts translate data into heart-rending melodies to make it 'feel personal'. Earth's climate is changing fast. California sees more frequent cyclones, evidence of the human-caused global warming. This reflects the difficult times faced by the global society. We are now living in what has been described as the Anthropocene era. Anthropocene implies an argument that the impact of human behaviour on the planet over a consolidated period of time has been so significant as to constitute a new geological epoch. This is no more evident than in the challenge of climate change. There is now an overwhelming consensus in the scientific community that climate change is a reality and that it is the result of human activity in the shape of the extensive use of fossil fuels such as oil, coal and gas, which we have been devouring since the dawn of the Industrial Revolution. To put it simply, we have taken carbon that has been stored in the earth's landmass for thousands of years, burnt it and, in the process, released large amounts of carbon dioxide gas into the earth's atmosphere. Carbon dioxide acts as a 'greenhouse' gas, trapping additional heat from the sun in the earth's atmosphere. As a consequence, the temperature in the earth's atmosphere is rising steadily with untold consequences for both people and the planet. In addition, we have cut down vast acres of the world's forests (which could have acted as a carbon sink by absorbing carbon dioxide in the atmosphere) in a relentless pursuit of economic growth. We simply cannot go on like this. There is no option but to meet the challenge of climate change as part of a broader agenda to develop a more sustainable way of living.

This paper attempts to investigate the urgency and possibilities of sustainable development and how societies, state and international organisations can work together with mutual trust. Sole activism on the part of society and state intervention through legal mechanism would not be 'sufficient' to save earth from the evils of global warming and climate change. Arne Ness, an environmental philosopher, propounded the theory of Deep-Ecology. This paper also attempts to understand the interrelationship between society, state and sustainable development through this theory. The term 'deep ecology' was first coined by Norwegian philosopher Arne Naess in 1973. He insisted that for ecological science, facts and logic are the sole criteria of analysis. Without our analysis based on facts and reason, we cannot answer the ethical questions related with ecological conservation and its theoretical foundations. Deep Ecology manifests the psychological understanding of ecological philosophy. Thus, it refers to an egalitarian and comprehensive environmental philosophy. His theory of Deep Ecology criticises the anthropocentric perspective of environmental philosophy. Rather Deep Ecology provides an alternative view of looking towards 'nature' from other species' perspective.

The last two decades have seen a great churning about the harmonious relationship between environment and economic development that involves Green House Gases emission and rise in earth's temperature (Shaw: 2014, p.613). The world is facing 'environmental' problems. Environmental issues can no longer be overlooked by nation-states in their process of economic development as they have done in the past. Problems that the world collectively faces are atmospheric pollution, global warming, sea and oceanic pollution and ozone layer depletion. These are majorly related to, directly or indirectly, Green House Gases emission. Since these problems are borderless, it is impossible for nation-states to solve these problems individually. It is not possible to gauge accurately the amount of harm done to the environment by a country. Damage is mostly collective and collateral. Initially, almost till 1970s, states were unwilling to sit across the table and negotiate on environmental issues. Economic growth did not include environmental considerations. Other than states, cooperation of transnational organizations, Non-Governmental Organizations, and polluting and polluted states is desirable to deal with the issue.

Nature is considered by many of us as 'given', irrespective of differences in our socio-cultural orientations. Nature and Environment are used interchangeably in common parlance. But, if we focus on the problems that the world is facing in terms of climate change and increased inequality, we need to carefully understand the term 'nature'. In different cultures, nature has been differently understood with two major variants: First, we believe that we are part of nature. Second, a major stream of understanding construes nature to include mountains, trees, rivers, physical and biological world, and is related to us. The second argument of understanding believes that man is the centre of activity. The first wave of understanding is generally found in Non-Western societies like China, India, Japan, etc. The second wave of understanding of nature has predominance in Western societies. Anthropocene is a new dominant buzzword that lays emphasis on the 'increasing' influence of human activities over nature. This Anthropocene mindset has one major problem. It does not recognize human beings as an 'inherent' part of 'nature'. This leads to the concurrence that human activities negatively impact the environment (Norstrom et al., 2014). In Indian tradition, Nature is regarded as a part of 'being'. In contemporary India too, one finds many communities living with rich tradition of reverence for nature. Religion, traditions and customs shaped this love for nature and has helped in consolidating the faith in the 'non-destructive' use of natural resources. Indian tradition proclaims the necessity to have a 'non-harmful' relation with nature. Being is 'inconceivable' as per Indian tradition and thought about nature. The knowledge tradition in India that starts with the four Vedas - Rig, Sam, Yajur and Atharva, are full of hymns celebrating 'mother-nature'. In *Atharva Veda*, it is narrated that man's association with nature is primeval. Earth is made of five elements called *panchmahabhoot*. These are Earth, Fire, Water, Sky and Wind. Indian tradition reflects an unprecedented reverence towards environment. The adage *Vasudhaiv Kutumbakam* (whole world is our home) epitomizes it. This would have been the reason that led to the popularization of 'mother-land' in the Indian discourse of nation. This traditional knowledge is recognised in the Indian constitution as well in terms of 'preserving environment' as one of the fundamental duties of Indian citizens. Article 51 A (g) makes it a fundamental duty of every citizen in India to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures. Article 48 A in Part IV of the Indian constitution states the need for protection of the environment and safeguarding the forests and wildlife of the country. In India, in the state of Tamil Nadu, the present forest cover is almost 17 percent against the national expectations of 33 percent. Many media reports suggest (Sadhguru: June 11, 2018, p.8) that there would be a situation of dried rivers in Tamil Nadu by 2025-30 though Tamil Nadu has traditionally been an agriculturalist state. What have been the reasons for this relatively recent 'natural backlash' and how to deal with this situation remain the most important questions that civil society and government have to deal with in present times. There are a few very obvious solutions that exist in the public domain, like using water carefully, saying 'no' to deforestation, no economic growth at the cost of environmental degradation, planting trees, saying 'no' to plastic pollution and use of fossil fuel. But sadly, this does not happen. In the post-1954 era, major nation-states focussed on a development model that 'severely' harmed the environment and endangered 'sustainability' of resources. International politics is equally to be blamed for 'deliberately' neglecting the real issues in the name of half a century long 'cold-war'.

In the West, interestingly, the term 'nation' emerged from the root - nation meaning '*nasci*' (meaning to be born) and nature also comes from Latin root - *natura* that too originates from '*nasci*' (Baindur, 2015). So, the political concept of nation and nature owe its origin from the same root '*nasci*' that means 'to be born'. Here, nature is what we are born in and born with. In Vedas, one cannot conceive of life without nature. We could live in a world that could easily sustain the needs of people for thousands of years. Equally, we find that 'nature' is regarded as 'essential' for human growth and development in almost all the major traditions of the world. Here, it becomes pertinent as to how do we start thinking about 'saving earth' for human sustenance. What went wrong, how and why? We discuss this in the next part of the paper, which focusses on the understanding and dynamics of sustainable development.

Sustainable Development: As suggested in the Report of World Commission on Environment and Development, titled 'Our Common Future' (WCED Report: 1987), Sustainable Development is a thesis that believes in "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". The commission is also popularly known as 'Brundtland Commission' (Jennifer A. Elliott: 2006, p.7), named after the head of the Commission Mr. G H Brundtland. This definition is set as the reference point for further academic discussions related to sustainable development. The report resorts to the 'positive' side of human-capabilities and appeals for global cooperation on the issue of sustainability. This report is also a reminder of the ills that are committed by humanity in post-industrialised society. The World Commission on Environment and Development first held its meeting in 1984 and underlined the hard facts about human development before us (See WCED Report: 1987). The report mentions the challenges that have emerged out of the growing viciousness of events like Bhopal Gas Tragedy, 1984 that killed more than 2,000 people due to gas leak; drought-triggered situation, which led to a development crisis in Africa with almost a million people killed and 36 million at risk. The United Nations General Assembly (UNGA) started focussing on environmental and sustainability issues in 1970s. It was only after the discussion in Stockholm Conference, 1972 that United Nations Environmental Programme (UNEP) was formed. Thereafter, UN took many initiatives in terms of internationalising the issue of sustainability, like the 1985 Vienna Convention for protection of the Ozone Layer; the 1992 Convention on Biodiversity; these initiatives have been milestones in creating a jurisprudence of Environmental Law in its initial format.

In their paper titled 'A Culture of Sustainability', Felix Wagner and Marcus Andreas (2012) state that we need to cultivate a culture of sustainability that conducts itself in day-to-day life of a society. Merely having 'inter-governmental' tie-ups may fail to sustain the earth. The decisions taken at the international level must come to reality and 'awareness' about those decisions need to be percolated to the level that is participatory and inclusive. Merely governments cannot secure this uphill task of conserving 'nature' amidst the rat-race towards capitalist development. We need to go beyond what we discuss and decide across the table. As per the details provided in *Seuddeutsche Zeitung*, Germany 2011, only 43 percent of Germans are familiar with the concept of sustainable development, but do not understand it technically (Falix Wagner and Marcus Andreas, 2012). Similarly, a large number of Americans consider rising temperatures to be just a myth and that there have always been such environmental inconsistencies (Judith Blau, 2017). In many other countries also, awareness about the reasons and consequences of climate change is dismal. Sustainable development asks for an agreement, across the globe, among policy makers and civil society members to consider 'environment' as an equally important variable of decision-making as other economic and social variables.

The Politics of Sustainable Development: There are many different definitions of sustainable development coming from different disciplines and with different beliefs. It is about a sustainable relationship between human beings and nature. Reflections and ideas about sustainable development have a long and diversified history. Different cultures nurtured different types of sustainable traditions or theories that directly or indirectly lead to emphasising the idea of 'sustainability' and 'conservation of nature'. In modern times, it is conceived that law has started regulating the multiple and continuously expanding territory of development. Resource management, integration of markets, global patterns of lifestyle, urbanization and use of modern technology as an inseparable ingredient of all aspects of human life seem irrevocable elements of 'development'. History proves that all human endeavours have conceived and acted upon some sense of development. Such a design of development has received global recognition by governments in particular and global society in general. Our social relations have primarily started emerging as that of consumers and producers (Baindur: 2015, pp.1-3).

Globally, the politics of environmental governance has also raised certain questions on the integrity of various international institutions in the recent past. The world has yet to come to terms with deciding the 'common' understanding of sustainable development. One of the major problems in universalizing the understanding of sustainable development is the non-acceptance of sharing penalties equally by nation-states. The reason for this non-acceptance is the fact that few nation-states have contributed more than others in polluting the environment. The issue of the politics of sustainable development revolves

around the debate - If USA and China have contributed the most to environmental decay, how can there be 'equal' distribution of punishment and rewards in sustainable and environmental governance? Can we do away with the 'Let the polluter pay' paradigm? What should be the parameters of environmental justice in restoring a fine balance between nature and society? These remain the most debated aspects related to the politics of sustainable development.

Climate change leading to adverse changes in global temperature, precipitation and sea level is an acute issue that needs to be handled globally. Global warming, due to the Green House Gas impact, is an issue that is deliberated upon and dealt with by global environmental governance institutions. Many of the environmental experts agree that global warming is the epicentre of problems like melting of glaciers and Antarctic and Arctic ice peaks. Storms, floods, droughts and coast-side cyclones have been frequently occurring in recent times. Climate change would have a greater impact on developing nations since they are not equipped to deal with it, in terms of technological advancement that would fight with the ill impact of climate change. Global warming is caused by the incremental accumulation of Green House Gases; every nation's emissions add to the total stock and hence, the price of each nation's unwarranted emission is to be shared by all nations. While a few nations are responsible for the bulk of emissions, the rest of the nations have to bear the brunt of the impact! The Intergovernmental Panel on Climate Change (IPCC), established in 1988 by the World Meteorological Organization (WMO) and the United Nations Environment Programme (UNEP) have worked in collaboration in the recent past in locating problem areas and the existing norms of environmental governance that need either a change or modification. As per IPCC records, the global temperature may rise by 2.0-4.5 degree Celsius by the closing of this century. If required measures are not taken to reduce the emissions globally, it would result in unprecedented environmental hazards. United Nations Framework Convention on Climate Change (UNFCCC), established in 1992, had inquired into the proposed responsibilities of the member nations on the basis of their historicity, economic model, and on the basis of equity that seems at the centre of climate change and sustainable development debate globally. It is surprising to know that the largest share of historical and present day emissions comes from developed nations. This fact compels us to reflect on the desired share of developing nations in shouldering the responsibilities in reducing emissions and to avoid further harm to the global environment. As much harm to the global environment has been done through the Western model of development, the principles of equity and parity direct the West to bear much of the responsibilities in addressing this unsustainable model of development!

The then Prime Minister of India, Smt. Indira Gandhi's presence in Stockholm Conference in 1972 certainly added a new chapter of 'Thinking Environmentally'. In this conference, it was resolved for the first time that the political societies in particular and global societies in general can no longer ignore the role of environment in human lives and human development. It is conceived that humans have a human right to have an adequately befitting environment to sustain life on this earth. It must be ensured that states around the globe adopt the principles of intergenerational equity in the use/consumption of environmental and natural resources. If the states ignore this, there must be certain restrictions imposed on these states on use of environment and natural resources. The idea of environmental conservation is reiterated with newer emphasis. This implies directions on how to use natural resources so that intergenerational equity can be ensured and environmental conservation is managed without compromising the needs of the present generation. Biodiversity and ecosystems need to be protected and states must adopt adequate national standards to abide by the principles of eco-conservation. It is also agreed that the states must ensure that their developmental agenda must not harm the possibilities of eco-conservation and sustainable development in their neighbouring states. If it happens, it is desired to bring a 'legal regime' to mitigate those possibilities of inter-state environmental harm. There should be a 'damages regime' to counter these environmentally harmful activities of such states. Being the only head of the government in the conference, the presence of Smt. Indira Gandhi played an important role in emphasising the importance of sustainable development.

Charles R. Mannis, while reflecting on the interface of biodiversity, biotechnology and traditional knowledge protection and the role of law and science, observed that the Convention on Biological Diversity (CBD 1992) that was considered to be a primer for Earth Summit in Rio de Janeiro in 1992 very clearly charted out the role and importance of sustainable use and conservation of biodiversity and how the use of biotechnology and laws are inseparable to ensure the desired success. Art 8(j) of the CBD, 1992 clearly specifies and appeals to the member-states to 'respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity, and to promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices, and encourage the sharing of benefits arising from the utilization of such knowledge, innovations and practices'. So far, 187 nations have rectified it. This convention recognised the role of traditional knowledge systems, its advantages in environmental conservation and biodiversity protection, and role of law in making it sustainable at the global level. Here, it seems evident that the importance of recognizing and adopting the traditional knowledge systems in the modern process of development was felt and accepted at such a large level amongst a majority of nations. Otherwise, the

popular perception dichotomizes between the traditional and modernity as the two opposite binaries that never meet! It also makes evident how much damage could have been done while failing to recognize this fact in setting up the modern concept of development based on modern science and technology. Politically speaking, here a majority of the states accepted their follies when they failed to accept the worth of community-based traditional knowledge systems in preserving the eco-systems and biodiversity! Nevertheless, it is better to be late than never!

Bio-violence is an outcome of a developmental agenda that the liberal-democratic state followed in the post-1945 era extensively. It seems ironical that the same world is quite willing to reverse the process of development to save humanity from natural violence! Preserving the earth will remain a priority over all prospective models of development. Barry Kellman in seminal text suggested the repercussions of such type of modernity agenda of globalization. Everything doesn't seem so sacrosanct about globalization considering the environmental damages it may have caused! Kellman mentions about the latest terrorist threats to the world. This threat is based on chemical and biological weaponry. Some captured terrorists globally have been identified with the possession of the knowledge of biotechnology. They were found researching the ill-impact of deadly pathogens that can be devastating in an unprecedented manner. The computers and hard drives that were seized from them confirmed that some terrorist groups were planning to harm humanity by the use of genetics, biotechnology. This has become a great challenge to deal with in the global context. Bio-violence is primarily about the destruction of living organisms. Bioweapons are quite silent when functional.

Law and Sustainable Development:

Role of judiciary is reiterated in multifarious ways in streamlining the developmental governance with sustainability assurance. In India, post 1980s, judiciary has shown its role in ensuring that the legislation and execution of policies do not affect the environmental needs of society, thus adding the value of sustainable development as one of the prominent aspects of human governance and development. How the law is being conceived to be useful in eco-conservation and regulating sustainable development principles in a socio-politico-economic set up is a task upscale in modern democracies. Dunu Roy in his article "A Subaltern View of Climate Change" very cogently explored the dichotomous principles that are applied in the legal regime of sustainable development. India emits one-third of Green House Gases (GHGs) compared to the world average; then why should the country bear a burden similar to those nations that have an equal or higher level of GHGs emission? What about the principles of equity that need to be applied in legislating the international laws to regulate sustainability? Roy fixed the examples in the article that establishes a play of politics in the legal regulations of the sustainability principles in current times. Still the world has to come together and recognize that much of the harm to the environment is done by developed nations compared to developing nations. The article reveals how the poor lived within the 'carrying' capacity of earth and how the rich mitigated the environment in a global context. In the lack of finances to afford modern technology, the poor of the world are found living on the basis of traditional knowledge systems that seem eco-friendly.

Remarkable has been the success of judicial activism in the area of environmental protection in India. Indian Supreme Court, while recognizing and referring to the UN Conference on the Human Environment in 1972 (Stockholm Conference), and Rio Declaration 1992, had emphasised the Polluter pays principle and Precautionary principle, the intergenerational equity principle, the Absolute Liability principle, the Public Trust doctrine and the Reversal of Burden of Proof. This has extensively imbibed the sustainability principles into the constitutional design and functioning in India post Stockholm Conference 1972. This has led to ensuring a better regulatory regime where pollution and direct environmental damages are prohibited by law and judicial pronouncements in India. Indian Forests and wildlife are protected through laws and judicial decisions and activism. Although there are multiple central and state laws, there is a continuous watch-guarding of forest conservational activities by the Indian Supreme Court. This jurisprudential injunction has started showing the preservation of environment in India in a considerable manner. Still India needs to go a long way in respecting the eco-diversity in a manner that the coming generations do not complain of an unsustainable life and inharmonious flora and fauna relationship. The challenging aspects are two-fold now, first being the proper execution of these principles and laid-down laws, and second being the compromise of the environmental legal regime to foster economic development. It is seen at times that governments (central and state governments) were found involved in infringing these sustainable laws to attract capital and investments in lieu of targeting promising economic development.

Solace lies with the inclusion of these sustainable developmental principles in legislation, execution and celebrating the various environmental philosophies of the world. Indian tradition of environmental protection is a great sight to look for remedial jurisprudence. Gandhi, a great social thinker, activist and environmentalist, is celebrated by many modern Western environment thinkers, like Arne Naess, Johan Galtung and E. F. Schumacher. Arne Naess celebrated the Gandhian thought in

pronouncing the idea of Deep Ecology. Indian scriptures have celebrated the idea of ecological harmony and preservation at length. Mary Christina Wood reiterated the limitations of laws about environmental preservation and to live a sustained life. Human systems that are bound by trust need to be invoked in establishing a harmonizing ecological balance. Law is one of the important tools of human governance, but not the omnipotent one. It has its limitations. Societies need to have a constructive dialogue and bring out a consensus on a universal programme of a sustainable life around the globe. Economic and political considerations, as the prominent tools of national power and hegemony, need to be kept aside to promise sustainable development.

The modern idea of development is conceived as primarily an economic one. It is understood as the primary indicator of national growth. It is narrowly defined in terms of GDP, national income, per capita income and prosperity in general. Economic well-being, its opportunities and prospects are the major concerns and parameters of different governments around the globe. Capital, Concrete and Chip have become the cardinals of modern idea of development. Many discussions that involved a direct or indirect intent to enquire into the relationship between law and the sustainability of development-model were the backdrop of this critical commentary. As to how this modern development promises similar fruits to many generations that are to come and how law can be an instrument in negating the ill-impact of this model of development, has been the focal point of this research endeavour. Are there any other factors contributing to development? The only parameter used to measure the development of the community was taken to be the Gross Domestic Product (GDP). This certainly promises its advantages, but on the other hand, it had certain limitations as well. It can scarcely provide an answer about the nature of relationship of human society with the environment. What cost this development entails is a missing story in this grand narrative of economic development. Resource management, integration of markets, global patterns of lifestyle, urbanization and use of modern technology as the inseparable ingredient of all aspects of human life seem irrevocable elements of 'development'. History has proven that all human endeavours have been conceived and acted upon some sense of development. Such a design of development has received global recognition by governments in particular and global society in general. Our social relations have primarily started emerging as of consumers and producers (Baindur: 2015, pp.1-3).

Sustainable development is most commonly defined as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". In simple expression, it suggests 'development that is sustainable'. Development can be defined as a collective process of change toward improvements in quality of life for human beings and their communities, and sustainability can be seen to refer to the need for development to be integrated, socially, economically and environmentally sound, oriented to the long-term, and hence, able to last. In other words, we understand sustainable development in terms of international law, presumes acceptance, debate and integration between economic growth, social justice (that includes human rights as well) and environmental protection goals, towards participatory improvement (community living) in collective quality of life for the benefit of both present and future generations. The term 'sustainable development law' describes a fast emerging body of international legal principles and instruments which address the interactions between global environmental, economic and principles of social justice (including human rights law), towards development that can continue for the benefit of present and future generations. Why these developed nations are worrying about sustainability and sustainable development in the recent past? What led the nations to deliberate over this issue without compromising on the prospects of economic wellbeing? How can the principles of sustainability be infused and measured in all the major policies of the governments around the globe? Is sustainable development all about drying up of the natural resources in an increasingly populated global society? Is it an admittance of human crisis? How can law be instrumental in the process of sustainable development? Or what role law would play to ensure sustainable development? Modern History is also a reference point where it seems that global society has come up with a concept of development that, in an unprecedented manner, interacts with the objective of achieving the goal of 'human comfort'.

UN Environmental Governance document states that it has become a pertinent global challenge to govern the plants and other natural resources in recent times. In a globalized world that is complexly interconnected, nations cannot take this liberty to think separately about the issues concerning environment and other resources necessary for sustaining human life on earth. Environment does not recognize national boundaries and sovereignty. Environment is something that we own collectively. Environmental hazards taking place in one nation may affect many other nations. To ensure minimal environmental degradation through developmental policies becomes the responsibility of all nations being a part of the global community of nations. That is why UN encourages the infusion of sustainable principles into the regional and national developmental policies. Not only UN encourages, rather it collaborates with national / regional governments to achieve the set goals to ensure better environmental governance. Poverty alleviation is one such goal that UN targets to achieve. Fishing creates almost half of the jobs globally. To regulate the practice of fishing through such laws that promise sustainable life of resources vis-à-vis of humans is the objective of global governance. Non-sustainable use of our natural resources, like water, agricultural land,

forests and green covers, fisheries and sea-life, may cause a threat to the community / local and national economies around the globe. Present environmental legal instruments are found inadequate to deal with the degradation of resources and environment. In the backdrop of such events, it is conceived to have specific legal and managerial instruments to manage environmental protection. The UN sub-programmes focus on four major goals i.e., sound science for decision-making, international cooperation, national development planning and international policy setting and technical assistance to have a better framework / regime for environmental protection.

Sustainable development prioritises ecological integrity and protection, and plays a defining role in the process of human development. This has also created situations of conflict between 'development' and 'sustainable development' at different levels. At times, it is being found tough to integrate with capitalism, social justice, and citizens participating in an environmentally aware civic space. This is the point where law has its relevance to create conditions that prioritize environmental integrity and protection. In this way, sustainability assumes to function as a *Grundnorm*. This underpins the urgency to institutionalize the principles of sustainability through legal regime. This becomes defensively imperative to incorporate in times of legal liberal paradigms, which presently govern the growth-oriented political economy and national sovereignty in the global sphere. The warning signs are there for all to see. Rising sea levels, the undermining of our ecosystems, biodiversity under threat, desertification and the depletion of water resources present us with a number of significant environmental and public policy challenges. Globally, each year we are using 50% more of the earth's resources than the planet can replenish (WWF, 2012, p 16). Planet earth is being degraded in front of our very eyes. The human impact of all of this becomes clearer each day, with threats to human health, livelihoods and food security.

Many critics have observed that sustainable development demands new laws (or modifications in existing laws). Contrary to that, it is a parallel possibility (that is not recognized often) that sustainability can be achieved by upholding many principles of existing legal regime. We may make incremental changes in these laws to deal with the issues of environmental protection. This requires an integrated legal regime as well - the incorporation of environmental issues into political, social and economic decision-making. Integration at all levels / forms of governance is quite necessary. In its absence, it is seen that there is an imbalanced legal regime that exhibits higher level integration of sustainability principles at top level of governance and lower level incorporation of sustainability principles at intermediate or bottom level of governance. As a result, it halts the prospects of intermediate or bottom level government institutions to match with the national level goals.

Population is also a persistent challenge in dealing with the issue of sustainable development. The population-resources ratio is also one of the neglected principles of governance globally. There is a direct relationship between the use of natural resources and the per capita income. The differences between European nations and the Third World nations in this regard is not a secret. North American nations, European nations and developed nations like Australia and New Zealand have a better purchasing power parity and hence, they can exploit much of the natural resources. In this process, they have also developed in terms of their technological advancement and modernization. This gives these developed nations an edge to have better control over natural resources globally. Developed nations are not only developed in their economies; rather, these nations hold an advantageous positioning in terms of power-relationships in global politics. This has led to the incorporation of those principles of sustainability in global legal regimes that suit their interest and position in global affairs in general. Third World nations are in a disadvantageous position. These nations are habitats of majority of the world's population, but their economic development and national power do not allow them to avail similar chances of resource usage. Also, by virtue of being underdeveloped and dependent on developed economies for technological advancement, it is seen that these Third World nations were systematically 'compelled' to infringe upon the universal principles of sustainability to develop and to grow their dependent and impoverished economies. Now the question surfaces as to what extent it would be rational to expect Third World nations to follow or induce the so-called similar principles of sustainability in their process of development! This requires a very timely and rational critique of universal principles of sustainable development. How can we expect to have a similar legal environmental regime for dissimilar and iniquitous world? Third World nations were found discriminating mostly against the proposed credibility of a sustainable environment due to their failure to use advanced technology that is relatively less harmful to the environment. First World nations are in an advantageous position. In such a global positioning, it seems imperative on the part of developed nations to help developing nations in their technological advancement in a manner that the 'development model' of these Third World developing nations can integrate much of the universal principles of sustainability without compromising on their socio-politico-economic development.

Conclusion: The Way Forward

Laws have their own limitations. Law is state-centric. It can only regulate something that falls within the jurisdiction of the state. This state-centrism, jurisdiction-centrism limits the scope of law to regulate the environmental governance globally (Shaw: 2014, p.614). The indifference of major global powers, like, USA, in the intergovernmental regime of sustainable development, sends negative messages to the world community. Initial withdrawal of USA from Paris Accord in 2015 can be cited as an example of this nature. Until the major global power does not cooperate and create a general consensus on the issue that deals with the sustenance of future generations, it hardly seems promising to be actualised. Fortunately, USA agreed to the Paris Accord resolution in 2018.

Paulo Moura, Ian Parry and Catherine Pattillo ([Shift Away From Coal](#), The Times of India: Mumbai, Nov. 18, 2019, p.12) makes a case for Indian leadership in dealing with the intergovernmental mechanisms to tackle the global menace of climate change. They bring about the facts that, *'Air pollution from fossil fuels causes between one and five lakh premature deaths in India a year, from higher rates of respiratory and heart diseases, stroke and cancer. India is also vulnerable to global warming, because its agriculture is exposed to extreme weather and changing precipitation patterns and a large share of its population live in coastal areas at risk of rising sea levels'*.

Solar energy is available at a cheaper price than coal in many countries. India has also shifted its gears towards greener solar energy resources. Though China and India are considered the two largest polluters, both developing economies, yet the striking fact is that India is found doing well in meeting its target not to let the decadal temperature increase by 2 degrees Celsius and keeping it well below 1.5 degrees Celsius.

Bhutan can be cited as an ideal example where they do not see their development in isolation from sustainability. India, though a prominent polluter, has done well in its compliance to control the use of fossil fuel and greenhouse gas emission. Hope remains visible on the canvass of earth that is persistently threatened by climate change. The need of the hour is to evolve an international and national mechanism where every aspect of constitutional right and economic development are to be treated beyond national and individual entitlements. Bhutan, the most carbon-negative country of the world poses a question before us. And this question is - why this tiny most carbon negative country is also one of the happiest countries of the world? David Zurick (2006) in his article, *'Gross National Happiness and Environmental Status in Bhutan' (2006)* explains that 'The premise of Gross National Index (GNI) is that development should not be limited to consumption and the accumulation of wealth but, rather, should seek to maximize happiness by attending to the shared needs of humanity'. In this way, Zurick indicates that Environmental conservation through minimising green-house gases exemplifies the most important example of shared needs of humanity.

As Kishore Mandhyan, in his article (2019), *'A Note on Earth based Jurisprudence and Ecological Economics'*, categorically underlines that, 'Most people appreciate a clean, beautiful and sustainable environment accessible to all, and most communities do not discriminate on the basis of class, race, caste or creed, and respect human rights and animals. Yet, each is trapped in a cycle of consumption and production which despite positive attitudes, lead to contradictory behavior of states and individuals... Can ecological economics as a thought system (rather than a discipline) account for this aspect of human life in the current global-historical cycle?' The need of the hour is that, irrespective of their historic-politico-cultural differences, countries develop an intergovernmental organisational setup where 'trust' keeps member states moving towards better global environmental conservation and sustainable development. Sustainability in the present world cannot solely be established through the intervention of law only. With apt legislation, both negative (punitive) and positive (incentivising), the challenge of climate change can be overcome. Along with this, civil society and economic developmental models need to collaborate to bring about a 'detoxed' earth. For that, countries/states need to change their outlook, to transcend their 'statism' to 'globalism'. Only then can we see a sustained earth, sustained society and sustainable social system.

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