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Sustainability Through Judicial Actions in India

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ABSTRACT

Sustainability is regarded a much broader phenomenon, embracing ethical norms for the survival of living matters, the rights of future generations and the institutions responsible for ensuring that such rights are fully taken into account in policies and actions. Moving towards sustainability will, therefore oblige a concerted process of change. A change takes place against a context in which much of the structure and approach of the past (unsustainable) practices say little of the models of practices required for a (sustainable) future. Sustainability exists beyond compliance with legal requirements. However, if we accept that sustainability involves a concern for the social as well as environmental changes that take place in relation to human activities then compliance to legislations which confronts the structure and approach of past (unsustainable) practice to build a new structure required for a (sustainable) future could be an approach if we want to move towards sustainability.

The present study has been carried out to analyse the role of government legislations in general and judiciary in particular in the process of sustainable development. An attempt has been made to develop hypothesis that role of government legislations/actions of judiciary in case of non-compliance of the environmental legislation could be an important weapon to achieve the goal of sustainability. Though government legislations and intervention of judiciary is not the only way to move towards sustainable development, but it may be an important component of policy framework for the sustainable development, particularly in the era of globalisation. To substantiate this hypothesis we have discussed some of the landmark judgements on environment degradation by the Indian Apex Court during the recent past.

The study has highlighted that in the face of continuous depletion of natural resources and environmental degradation the Indian judiciary has come forward to check such unsustainable developments. The study concludes that judicial actions can play an important role by protecting natural resources of a country like India, where industrial sector is more concerned with financial performance rather than sustainable performance. The study strongly advocate that enactment of more legislations for the preservation of natural resources and their compliance is an important way to act in a country like India in the era of globalisation where the pressure to exploit the natural resources due to the

free entry of multinational companies will further increase.