

A BRIEF HISTORY OF SUSTAINABLE DEVELOPMENT PRINCIPLES AND ITS IMPLEMENTATION IN INTERNATIONAL LAW AND INDONESIAN LAW

Agit Yogi Subandi¹

Abstract

In the beginning, humans wanted change in life. Especially in terms of human thought which was centered on God or nature (Theocentric), then later shifted to being centered on humans themselves (Anthropocentric). However, with this change, humans actually destroy their own habitation, because they exploit nature for their own interests and this actually becomes self-destruction. Based on this, a concept emerged to balance what humans need with what nature wants (the concept of natural law), namely sustainable development. This concept continues to develop until now, but the manifestation of the concept seems difficult to apply in life in countries. Therefore,

Keywords: *Sustainable Development; History; Implementation; international law; national law; environmental law;*

I. INTRODUCTION

Two basic elements of the concept of Sustainable Development (SD), namely 'development' and 'sustainability'.² According to Mochtar, the characteristic of a constructive society is a change.³ The changes referred to include material and metaphysical changes. The direction of this change can be for good or for bad. Almost every country, especially developing countries, directs its policies towards this development, and the thing that is always echoed is that modern society always thinks towards development. However, building is also a big problem nowadays. Because building requires support from natural resources available in nature. Based on this, a concept called 'sustainability' emerged.

The concept of "sustainability" is not simple, but complex. From an operational perspective, there are many things that need to be considered and interrelated. Therefore, it is important to increase understanding of sustainable development, especially for decision makers at the macro and micro levels, in order to achieve the development goals themselves.⁴

¹Lecturer of Law Faculty, Universitas Lampung, agit.yogi@fh.unila.ac.id

²Tomislav Klarin, 2018. The Concept of Sustainable Development: From its Beginning to the Contemporary Issues, Zagreb International Review of Economics & Business, Vol. 21, No. 1, p. 67-94, p. 68. <<https://sciendo.com/pdf/10.2478/zireb-2018-0005>>

³Mochtar Kusumaatmadja, Konsep Hukum Dalam Pembangunan, PT. Alumni, Bandung., p. 19.

⁴Askar Jaya, 2004, *Konsep Pembangunan Berkelanjutan (Sustainable Development)*, Program Pasca Sarjana IPB, Bogor.

One of the important issues facing economic development is how to respond between the fulfillment of development needs on the one hand and efforts to preserve the environment on the other.⁵A problem can be taken, for example, Management of water resources. This management must pay attention to the relationship between humans and their environment.⁶Or for example, coal mining and other mineral mines, must take into account the preservation of nature, so that human life continues and nature is preserved. That is, sustainable development is needed to minimize the negative impacts of development that have an impact on the environment.⁷

We can see, in today's century, human civilization today is very capitalistic and consumptive. This has encouraged humans to have a greedy appetite for available natural resources without considering the safety aspects of the environment and humans themselves. Modern humans are sick with hedonism who are never satisfied with material needs. This hedonism is the main cause of damage to the environment today. In addition, humans also assume that the available natural resources are material that must be exploited for the sake of fulfilling consumptive human needs. Therefore, environmental management is directed at optimizing natural resources as a mere supplier of material needs.⁸

Certain authors link the meaning of development to economic development and the term “underdeveloped regions” (later called “Third World Countries”), introduced by US President Harry Truman in the mid-20th century, denotes regions with a much lower standard of living than developed regions. .⁹

Based on this description, it is necessary to return to the initial spirit of this SD principle, so that it can be remembered again, how the struggle in the environmental field was. Therefore, the focus of the discussion in this article, will be more to discuss how is the history and politics of SD in international law? And how is it implemented in national law? At the beginning, we will first discuss the history of SD and then discuss how it is implemented.

⁵Fauzi. A. 2004, *Ekonomi Sumber Daya Alam dan Lingkungan, Teori dan Aplikasi*, Gramedia Pustaka Utama, Jakarta.

⁶Nadia Astriani. 2020. *Pengaruh Aliran Hukum Alam Dalam Pengelolaan Sumber Daya Air Di Indonesia*, Jurnal Poros Hukum Padjadjaran, Volume 2, Nomor 1, November, 179-197, p. 179. <<http://jurnal.fh.unpad.ac.id/index.php/jphp/article/view/333/249>>

⁷Ferina Ardhi Cahyani. 2020. Upaya Peningkatan Daya Dukung Lingkungan Melalui Penerapan Prinsip Sustainable Development Berdasarkan Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup, *Indonesian State Law Review*, Vol. 2 No. 2, April, 168-179, p. 174.

⁸Suardi. 2014. Problematika Penerapan Prinsip *Sustainable Development* Dalam Pengelolaan Lingkungan Hidup Dan Implikasinya Terhadap Pemenuhan Ham, *Fiat Justisia Jurnal Ilmu Hukum Volume 8 No. 4, Oktober-Desember.*, p. 616.

⁹Estevo, G. 2010. Development. In W. Sachs (Ed.), *The Development Dictionary: A guide to knowledge as power* (2nd ed.) (pp. 1-23). London, New York: Zed Books., p. 2.

II. DISCUSSION

Brief History of Sustainable Development Initial Thoughts

Agree or not, humans have had a negative impact on the environment, endangering the survival of the Earth and future generations.¹⁰ Some environmentalists say, that every day 195 km of tropical rain forest is lost to roads, agricultural land and other uses, 98 km² of land has been turned into desert, 1.5 million tons of toxic wastes are released into the environment, 50 to 100 plant species and animals become extinct due to deforestation.¹¹ In addition, population growth by tens to hundreds of thousands of people per day, has increased the demand for food, water, shelter and other resources. Because of this phenomenon, the planet Earth becomes hotter, the rain becomes slightly acidic, and the tissues of life are torn apart.¹²

More than 200 years ago, the first questions arose about the impact the evolution of our civilization had on our planet's environment and resources. In 1798, Thomas Robert Malthus (1766-183), an English demographer and political economist, wrote "An Essay on the Principle of Population". He predicts the world's population will eventually starve or at least live to a minimum, as food production cannot keep pace with population growth.¹³ He believed that the population was controlled by "misery, evil and moral restraint".¹⁴

According to Robert Malthus, to balance population growth (birth) and food growth (production), food productivity must be increased. This can be done by optimizing natural resources that can be managed in the form of goods and services. Because the level of human satisfaction with goods and services is not limited, then the optimization of the depletion of natural resources can be achieved regardless of the nature of the limited natural resources. The next result is the process of environmental degradation in the form of environmental destruction and pollution.¹⁵

As it is known, that in the 17th century to the 20th century, Europe experienced a very high moral degradation, which was caused by competition for power in terrible ways, one of which was the exploitation of nature for industry and war.¹⁶ As also quoted by Rodgers Peter, that Malthus wrote "population, when

¹⁰Tomislav Klarin, Op.cit., p. 67.

¹¹Suardi. loc.cit. Lihat juga, Yusuf Hilmi Adisendjaja. 2003. *Analisis Dampak Pembangunan Terhadap Lingkungan Suatu Tinjauan Ekologis*, makalah yang disampaikan pada acara Musyawarah Kerja Nasional Jaringan Himpunan Mahasiswa Biologi Indonesia dan Seminar Lingkungan Hidup Bandung, 29 September 29, p. 1.

¹²Suardi. Op.cit., p. 616-617.

¹³Thomas Robert Malthus, 1798. *An Essay on the Principle of Population*, J. Johnson, in St. Paul's Church-Yard, London., p. 118.

¹⁴Bâc Dorin Paul, *A History Of The Concept Of Sustainable Development: Literature Review*, p. 576.

¹⁵Suardi. Op.cit., p. 624-625.

¹⁶Lihat Bab mengenai Sejarah Hukum Internasional, Mochtar Kusumaatmadja. 2003. *Pengantar Hukum Internasional*, PT. Alumni, Bandung., p.

uncontrolled, increases in geometric ratios and human livelihoods in arithmetic ratios".¹⁷

According to Tangi, the idea of development is related to the concepts of imperialism and western colonialism of the past, and in that period implied the development of infrastructure, political power, and economic policies, which made imperialism an excellent tool for marginalizing and reducing the power of certain countries.¹⁸

This is also related to the shift of the center of thought from theocentric to anthropocentric. A "-centrism" is a world view or way of looking at things that places certain values or groups at the center.¹⁹ That is, the center of thought changes, namely the transfer of the central point of thought from God to humans. So Anthropocentrism is a world view that considers humans as the most important thing in the Universe, or at least on planet Earth. Meanwhile, Theocentrism is a world view that considers God as the most important thing in the Universe.

As written by Richardson, The essence of the anthropocentric approach, namely humans as the center of thought, one of which is towards nature, is that humans are above nature and have the right—divine or otherwise—to conquer it, and this phenomenon is often referred to as the theory of domination, namely an approach that has two main aspects—religious and secular.²⁰ And this Tradition, realized through industrialism, has become allied and interwoven with the secular: the scientific-rationalist concept, based on the ideas of Bacon, Newton and Descartes, that planet Earth exists for the benefit of, and exploitation by, mankind.²¹ Humanity is seen as separate from the rest of life on earth—and superior to it.

According to Fauzi, from an economic perspective, there are at least three main reasons why economic development must be sustainable. The first involves moral reasons. Contemporary society enjoys goods and services produced by natural resources and the environment, so it is morally necessary to pay attention to the availability of these natural resources for future generations. Moral obligations include not exploiting natural resources that could damage the environment, which could deprive future generations of the same services. Second, from an ecological point of view, for example, biodiversity has a high ecological value, so that economic activities should not only be aimed at the utilization of

¹⁷Rogers Peter, Jalal K., Boyd J. (2008) – An Introduction to Sustainable Development, Earthscan, London., p. 20.

¹⁸Tomislav Klarin, loc.cit.

¹⁹Anthropocentrism, Encyclopedia.com: <<https://www.encyclopedia.com/history/modern-europe/czech-and-slovak-history/anthropocentrism>>

²⁰Richardson, D. 1994. 'The Green challenge: philosophical, programmatic and electoral considerations', in D. Richardson and C. Roots (eds) *The Green Challenge*, London: Routledge, pp. 4.

²¹Dick Richardson. "The politics of sustainable development", in, Susan Baker. 1997. *The Politics of Sustainable Development, Theory, policy and practice within the European Union*, Routledge, London and New York., p. 42.

natural resources and the environment, which in the end will threaten ecological functions. The third factor, the need to pay attention to sustainability, are economic reasons. The economic reasons are still controversial, because it is not known whether economic activities meet sustainability standards. As we know, the dimensions of sustainable economics are quite complex, so they often come from the economic aspects of sustainable development. measurement of intergenerational welfare, maximizing intergenerational welfare maximization.²²

The Rise of Industrial Society

The rise of industrial society in the late eighteenth and nineteenth centuries led to the emergence of an anthropocentric rather than a biocentric way of thinking.²³As Orton also points out, it is in this context that humans begin to think about the basic contradiction between the limitations of the Earth, and its natural self-regulation system operating within its limits, and the expansive nature of industrial society.²⁴So there must be something, to borrow Richardson's term, that can 'bridge' between these gaps.²⁵That is, there needs to be a concept that can be operated in dealing with a gap. Thus, SD emerged from the need to integrate the concerns of underdeveloped countries into international environmental politics, namely to reconcile environmental protection with future economic growth.²⁶

By the mid-twentieth century the industrial worldview, based on the conquest of nature, materialism and consumption, had achieved almost universal acceptance. In the industrialized world, consumers and politicians seek ever-increasing material standards of living; in least developed countries (LDC) politicians seek to emulate the achievements of the established industrial countries. The achievement of economic growth which is measured quantitatively through gross national product (GDP) or through GNP per capita is a milestone of success.²⁷It wasn't until the 1960s that the industrial worldview was seriously challenged, by emerging biocentric thinkers and practitioners in the so-called 'Green Challenge'.²⁸

The essence of biocentric analysis is that humans are part of nature, not above it; that all forms of life, of which mankind is only one, are interconnected in a self-contained biosphere (planet Earth). Therefore, the part (human) cannot dominate the whole (natural world). So, by trying to conquer this planet, by imposing human domination, humanity is threatening its own existence. This self-destruction, it is

²²Fauzi. A. loc.cit.

²³Richardson, D. 1994. *The Green challenge*, Op.cit. p. 4.

²⁴Orton, D. 1994. 'Struggling against sustainable development', *Z Papers* 3:13-19., p. 19.

²⁵Richardson, D. 1994. 'The Green challenge', op.cit., p. 41.

²⁶Anne E. Egelston. 2013. *Sustainable Development: A History*, Springer, London., p. 26.

²⁷Dick Richardson. "The politics of sustainable development", Op.cit., p. 41.

²⁸Richardson, D. 1994. *The Green challenge*. Op.cit., p. 4-11.

suggested, can be seen in the language of terrorism, genocide, destruction, pollution, and exhaustion.²⁹

Environment Becomes a Global Issue

After World War II, the world has entered a long period of peace. Almost all countries focus on managing development, including Indonesia. However, there is something that has been forgotten by the rapid development, namely environmental problems, which are getting worse from time to time. A novel published on September 27, 1962, entitled "Silent Spring" by Rachel Carson, jolted the world's attention and eyes on environmental issues.

The concept of sustainable development developed in the 70s and especially in the 80s of the last century.³⁰The term was introduced in the World Conservation Strategy published by the United Nations Environment Program (UNEP), the International Union for Conservation of Nature and Natural Resources (IUCN), and the World Wide Fund for Nature (WWF) in 1980.³¹

1972 Stockholm International Conference

Responding to environmental issues, the United Nations initiated a conference with the theme of the global environment, which was held in Stockholm. The United Nations Conference on the Environment on 5-16 June 1972 in Stockholm, was the first world conference to make the environment a major issue.³²The conference was attended by 113 delegates from various countries and only two heads of state namely Olaf Palme from Sweden and Indira Gandhi from India. And this conference is the beginning of the birth of environmental diplomacy (Birth of Environmental Diplomacy).³³During this meeting, a resolution was issued to establish the United Nations Environment Agency (UNEP). And every June 5 is celebrated as World Environment Day.

In terms of substance, this conference recommends that development be carried out with due regard to environmental factors.³⁴Given this recommendation, the conference assumed that environmental protection would significantly hinder economic growth, and this created widespread opposition around the world.³⁵Because the initial thinking of sustainable development is trying to

²⁹Schumacher, EF 1974. *Small is Beautiful*, London: Abacus., p. 10-11, p. 246-247.

³⁰Tomislav Klarin, *Op.cit*, p. 68.

³¹Suardi. *Op.cit.*, p. 620.

³²United Nations, *Conferences*, United Nations Conference on the Human Environment, 5-16 June 1972, Stockholm: <https://www.un.org/en/conferences/environment/stockholm1972>

³³International Institute for Sustainable Development: <https://www.iisd.org/articles/stockholm-and-birth-environmental-diplomacy>

³⁴Suardi. *Op.cit.* p. 616.

³⁵Anne E. Egelston. *loc.cit.*

overcome environmental problems by focusing on ways, in which economic growth can occur without environmental damage.³⁶

That is, this concept is a win-win solution between development and the environment. As Sundari Rangkuti said, the Stockholm Conference discussed environmental problems and solutions, so that development can be carried out by taking into account the carrying capacity of the environment (eco-development).³⁷Based on this, the Conference gained political traction gradually over the next 15 years, until in the early 1980s, it continued to decisively promote the concept.³⁸And the conference is in line with the desire of the United Nations to overcome and repair the environmental damage that occurs.³⁹

1982 UNEP Special Session

In 1982, UNEP held a special session to commemorate the 10th anniversary of the world environmental movement (1972-1982) in Nairobi, Kenya, as a reaction to dissatisfaction with the current environmental management.⁴⁰In the special session it was agreed to establish the World Commission on Environment and Development (WCED) and tasked the Secretary General of the United Nations to establish WCED.⁴¹The United Nations elected Norwegian Prime Minister Mrs Harlem Brundtland as chair and Sudan's former foreign minister, Mansyur Khaled as deputy. According to Brundtland, Report from the United Nations (1987), one of the factors that must be faced to achieve sustainable development is how to repair the environmental destruction that has sacrificed the needs of economic development and social justice.⁴²

The task of this Commission is to formulate a "global agenda for change", including (1) a long-term environmental strategy for 21st century development; (2) suggesting a development pattern that takes into account the interrelationships between population, natural resources, the environment and economic development; (3) suggest better ways for the international community to respond to environmental challenges; (4) contribute to shared perceptions of long-term environmental issues as well as the actions needed to develop the environment in the work agenda for the decades to come and manifest the aspirational goals of the world community.⁴³

³⁶Ibid.

³⁷Suardi. loc.cit.

³⁸Anne E. Egelston. loc.cit.

³⁹Suardi. loc.cit.

⁴⁰Ibid. p. 620.

⁴¹Armida Salsiah Alisjahbana & Endah Murniningtyas. 2018. Tujuan Pembangunan Berkelanjutan di Indonesia: Konsep, Target dan Strategi Implementasi, Unpad Press, Bandung, pi

⁴²Suardi. loc.cit., p. 620.

⁴³Armida Salsiah Alisjahbana & Endah Murniningtyas. Op.cit., p. i-ii.

During 1984-1987 the commission consulted in public hearings with the government, business, political circles, non-governmental organizations, indigenous people in various parts of the world, so as to obtain a fairly representative picture of the challenges faced, which are summarized in the WCED report. : "Our Common Future."⁴⁴

Efforts to Define Sustainable Development

It was in this WCED report that the formulation of "Sustainable Development" was born. According to WCED Sustainable Development, sustainable development is "development that meets the needs and aspirations of the present without compromising the ability to meet future needs".⁴⁵ Thus, sustainable development is a process of change from the exploitation of natural resources, the direction of investment, the orientation of technological development and institutional changes to be built into an action that focuses more on future needs without ignoring the present. And this essentially requires a prerequisite, namely a strong political will.⁴⁶

According to Klarin, the concept of sustainable development is based on the concept of development (socio-economic development in line with ecological constraints), the concept of needs (redistribution of resources to ensure quality of life for all) and the concept of future generations (possibility of long-term use of resources to ensure the necessary quality of life). for future generations).⁴⁷

1992 UNCED Conference

The United Nations initiated the Conference on Environment and Development in Rio de Janeiro, Brazil in 1992. This meeting was attended by 108 heads of state and is said to be the largest head-of-state meeting to date. So the name of this meeting is known as the Earth Summit. It was also accompanied by the presence of 2,400 representatives from non-governmental organizations and 17,000 other people at the parallel activities of the Global Forum non-governmental organizations which have consultative status.

After the WCED "Our Common Future" report spread around the world, the effort to turn sustainable development patterns into operations grew.⁴⁸ Various initiatives are developing in the field of tackling climate change and biodiversity. It all boils down to this Conference, which is 20 years after the First Environmental Summit Conference in Stockholm, Sweden, June 1972 which gave birth to the UNEP institution, based in Nairobi, Kenya.⁴⁹

⁴⁴Ibid.

⁴⁵WCED (World Commission on Environment and Development). 1987. Our common future. New York: Oxford University Press., p. 40.

⁴⁶Armida Salsiah Alisjahbana & Endah Murniningtyas. Op.cit., p. ii.

⁴⁷Tomislav Klarin, loc.cit., p. 68.

⁴⁸Suardi. loc.cit.

⁴⁹Armida Salsiah Alisjahbana & Endah Murniningtyas. loc.cit.

This UNCED conference resulted in the world's first agreements, among others, (1) the "Rio Declaration on Environment and Development"; (2) realizing the "Agenda 21" of the Sustainable Development Action Program; (3) agreement on the Climate Change framework convention; (4) conventions on biodiversity; (5) a global consensus statement on the management, conservation and sustainable development of various types of forests.⁵⁰

Thus, sustainable development combines economic growth, social justice and environmental protection. It seeks to alleviate poverty, while conserving natural resources that will inevitably be consumed in the process of improving the quality of life in developing countries, especially in less developed countries. Furthermore, sustainable development seeks to expand economic growth while celebrating diversity and expanding public participation.⁵¹

Tujuan tersebut bisa dicapai melalui empat elemen tujuan pembangunan berkelanjutan: (1) Pertumbuhan dan keadilan ekonomi; (2) Pembangunan sosial; (3) Konservasi sumberdaya alam (perlindungan lingkungan); (4) Pemerintahan yang baik (good governance). Keempat elemen tersebut saling mendukung satu dengan lainnya, menciptakan tujuan pembangunan yang berkaitan dan berkelanjutan.⁵²

Pasca KTT bumi banyak digelar pertemuan global penting berkenaan dengan lingkungan hidup seperti Earth Summit tahun 1997 di New York, Amerika Serikat, yang menghasilkan Tujuan Pembangunan Milenium (Milenium Development Goals), KTT Pembangunan Berkelanjutan (World Summit on Sustainable Development) tahun 2002 di Johannesburg, Afrika Selatan, dan yang terakhir Rio+20 pada tahun 2012 di Rio de Janeiro, Brasil.

Keprihatinan Negara Berkembang

The dynamics of national development, on the one hand, is expected to contribute to improving the quality of life for its people, but on the other hand it can also raise concerns about the permanent decline in environmental quality in the long term.⁵³

As stated by the Deputy Secretary General of the United Nations – Amina Muhammad, in the Sustainable Infrastructure Investment forum organized by the Economy Social Council (ECOSOC). He emphasized the importance of new breakthroughs to involve the private sector in the development financing process, especially in developing countries. According to him, one of the difficulties in mobilizing investment is the private sector's misconception of the risks of investing

⁵⁰Ibid.

⁵¹Cordonier Segger, MC, & Khalfan, A. (2004). Sustainable development law principles, practices and prospects. Oxford: Oxford University Press., p. 3.

⁵²International Conference on Public Health, Sustainable Development Goals, http://theicph.com/id_ID/icph/sustainable-development-goals/

⁵³Suardi. Op.cit. p. 617.

in developing countries, as well as the lack of understanding of the targets for sustainable development goals. In this regard, the United Nations has an important role to play in directing and coordinating global efforts to encourage increased investment.⁵⁴

In this case, of course, we can understand that, developed countries certainly have sufficient finances to invest, but developing countries, on the one hand, need these investments for their national interests, for example to fulfill jobs. If this interest does not see SD as an important thing, then of course what this SD aspires to will not develop significantly.

Millennium Development Goals (MDGs)

In 2000, the Millennium Development Goals declaration also grew, namely the efforts of 186 countries spearheaded by developing countries that are concerned with the social aspects of development with an emphasis on poverty alleviation, hunger alleviation, gender equality, reducing infant mortality to be realized also in global cooperation.⁵⁵ While this process is ongoing, developments in world politics are worrying.

Armed disputes in the Middle East region drag the United States in the arena of conflict. The events of September-11 in 2002 exploded in New York and prevented the World Leaders' Agreement on renewing the world's commitments to Agenda 21, namely Sustainable development, as agreed at the World Summit on Sustainable Development, June 2002, in Johannesburg, South Africa.⁵⁶

The ideals of the Agenda 21 Sustainable Development and Poverty Agenda programs, were carried away by the armed political conflicts that raged in the Middle East. Even so, the third Summit, also dubbed "Rio+20" was held in Rio de Janeiro, Brazil, June 2012. And produced the document "The Future We Want" which contains a "common vision" about the aspired future and accompanied by "renewing political commitment" to realize sustainable development.⁵⁷

The power of the idea of Sustainable Development that was born in 1987 is unbreakable. A new generation grew in 2012 in the world and carried the flag of the struggle to uphold Sustainable Development.⁵⁸

The essence of the concept of sustainable development comes from the Triple bottom line concept, which implies a balance between the three pillars of sustainability – environmental sustainability which focuses on maintaining the quality of the environment necessary to carry out economic and quality activities. community life, social sustainability that seeks to ensure human rights and equality,

⁵⁴Kementerian Luar Negeri. Sustainable Infrastructure Investment [,https://kemlu.go.id/newyork-un/en/news/13978/sustainable-infrastructure-investment](https://kemlu.go.id/newyork-un/en/news/13978/sustainable-infrastructure-investment)

⁵⁵Armida Salsiah Alisjahbana & Endah Murniningtyas. Op.cit., p. ii-iii.

⁵⁶Ibid., p. iii.

⁵⁷Ibid.

⁵⁸Ibid.

preservation of cultural identity, respect for cultural, racial and religious diversity, and economic sustainability necessary to safeguard the natural, social and human resources necessary for income and livelihoods. standard.⁵⁹

Complete sustainable development is achieved through a balance between all of these pillars, but the conditions required are not easy to achieve, because in the process of achieving its goals, each pillar of sustainability must respect the interests of other pillars so as not to drag them in. imbalance. Thus, while certain pillars of sustainable development become sustainable, others can become unsustainable, especially when it comes to ecological sustainability, on which overall development capacity depends.⁶⁰

The eight MDGs are as follows: (1) Reducing poverty and hunger, (2) Achieving universal education; (3) Improving gender equality and empowering women, (4) reducing child mortality, (5) improving maternal health, (6) eradicating HIV, malaria and other diseases, (7) ensuring environmental sustainability, (8) developing a global partnership for development.⁶¹

Some of the main problems that have not been resolved until the end of the MDGs era (UN, 2016) are as follows: (1) There is still a wide gap between poor households and households, between rural and urban areas, (2) There is still gender inequality (Fig. 1), (3) There are many conflicts (wars etc.,) which are a real threat to human development, (4) Millions of poor people live in poverty and hunger, without access to basic services, (5) Climate change and environmental degradation undermine progress obtained, and the poorest groups are the most affected.⁶²

Sustainable Development Goals (SDGs)

In the United Nations Conference (UN) held in Rio de Janeiro (Brazil) in June 2012, a sustainable development agenda called the Sustainable Development Goals (SDGs) was discussed. The SDGs are a set of goals, targets, and indicators for sustainable development that are universal. The SDGs are a continuation and expansion of the Millennium Development Goals (MDGs) that have been carried out by countries since 2001 until the end of 2015.⁶³

The 70th General Assembly of the United Nations (UN) in September 2015 in New York, United States, became a new historical point in global development. A total of 193 heads of state and world governments were present to agree on a new universal development agenda contained in a document entitled Transforming Our World: the 2030 Agenda for Sustainable Development—consisting of 17 Goals and

⁵⁹Tomislav Klarin, Op.cit, p. 68.

⁶⁰Ibid.

⁶¹International Conference on Public Health, Op.cit.

⁶²Ibid.

⁶³Ibid.

169 Targets that are valid from 2016 to 2030. This document is known as the Sustainable Development Goals or SDGs.⁶⁴

The SDGs are a continuation of the Millennium Development Goals (MDGs) agreed upon by UN member states in 2000 and ended at the end of 2015.⁶⁵ On the website of the United Nations Development Program (UNDP), it is written that, the Sustainable Development Goals (SDGs), also known as the Global Goals, were adopted by the United Nations in 2015 as a universal call for action to end poverty, protect the planet, and ensure that by 2030 all people enjoy peace and prosperity. The 17 SDGs that have been defined, have been integrated—recognizing that actions in one area will affect outcomes in other areas, and that development must balance social, economic and environmental sustainability. Countries have committed to prioritizing progress for those who are lagging behind. The SDGs are designed to end poverty, hunger, AIDS, and discrimination against women and girls. Creativity, knowledge, technology,⁶⁶

Implementation in International Law to National Law Implementation in International Law

The binding provisions of the concept of Sustainable Development have received wide support in various non-binding international legal documents.⁶⁷ Such non-binding documents can be referred to as soft law.⁶⁸ But at least soft law has a relationship with hard law (which is defined as binding law, as was the case with UNCLOS 1982). There are two relations, namely soft law as an alternative in making agreements and soft law as part of the process of making multilateral agreements.⁶⁹ For example, prior to making international treaties, the United Nations passed resolutions as part of the multilateral treaty-making process. For example in the Space Convention. In 1963, the United Nations General Assembly approved two resolutions on outer space which later became the basis of the Outer Space Treaty. UN Resolution 1884 called on countries to refrain from placing WMDs in outer space. The United Nations Resolution 1962 established the legal principles on space exploration, which stipulates that all countries have the right to freely explore and use outer space.

⁶⁴Sekar Panuluh & Meila Riskia Fitri. 2016. *Perkembangan Pelaksanaan Sustainable Development Goals (SDG) di Indonesia*, Briefing Paper, Infid, Jakarta., p. 4 [.https://www.sdg2030indonesia.org/an-component/media/upload-book/Briefing_paper_No_1_SDGS_-2016-Meila_Sekar.pdf](https://www.sdg2030indonesia.org/an-component/media/upload-book/Briefing_paper_No_1_SDGS_-2016-Meila_Sekar.pdf)

⁶⁵Ibid.

⁶⁶The SDGs in action: <https://www.undp.org/sustainable-development-goals>

⁶⁷Virginia Barral. 2012. Sustainable Development in International Law: Nature and Operation of an Evolutive Legal Norm, *The European Journal of International Law* Vol. 23 no. 2, 377-400, p. 383-384. <<https://academic.oup.com/ejil/article/23/2/377/487236>>

⁶⁸Lihat, Atip Latipulhayat. 2021. *Hukum Internasional: Sumber-Sumber Hukum*, Sinar Grafika, Jakarta, p. 89-93.

⁶⁹Ibid., p. 90-91.

We can see in the previous discussion, the concept of SD as a very important discourse, has been declared by countless countries. There are also international organization resolutions such as those carried out by the United Nations, in this case by the General Assembly in 2015, in Resolution A/RES/70/1 entitled, "Transforming our world: the 2030 Agenda for Sustainable Development"⁷⁰ besides that, it has also been stipulated in several action programs such as the MDGs and SDGs, then the establishment of special UN institutions in the environmental field such as UNEP and UNCED, and a code of ethics that becomes a reference for countries. But what about the actual implementation from a legal point of view? How is the binding power? Of course, this is an issue that really needs to be discussed, because it is related to the obligations and compliance of countries in implementing this SD principle.

According to Barral, in addition to several resolutions and programs, SD is also expressed in a number of international agreements that cannot be ignored. According to him, this SD principle has existed in more than 300 conventions, and a brief survey related to SD, and the functions associated with it. Reference to sustainable development can indeed be found in 112 multilateral agreements, about 30 of which are aimed at universal participation.⁷¹

In Barral's opinion, in international law, SD is a goal. As a goal, the status of SD is already a principle in the Customary of international law as referred to in Article 38 (1) (b) of the Statute of the International Court of Justice (ICJ). Although, according to Barral, this principle is very general, with a high level of abstraction and requires a case-by-case review of the evidence.⁷²

Based on this, this situation shows that, to some extent, by consensus, the international community has agreed on the relevance of SD to international law.⁷³ We can see from the empirical analysis which shows that there are 207 references found in the operative part of the convention that are technically binding on the parties, then, further studies reveal that most of the sustainable development is referred to as a goal that the contracting parties must strive to achieve. , sometimes with an indication of the type of action to be taken to achieve that goal.⁷⁴ However, despite the fact that this is the case, the general impression among international jurists is that, although sustainable development is recognized in a large number of treaties, this recognition has no legal significance as the reference is mainly limited to preamble, which is not binding.⁷⁵

⁷⁰General Assembly, A/RES/70/1: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf

⁷¹Look, Virginie Barral. Op.cit, p. 384.

⁷²Ibid., p. 388.

⁷³Ibid., p. 384.

⁷⁴Ibid.

⁷⁵Ibid.

Clearly, then, sustainable development has penetrated a lot of treaty law. However, unlike non-binding instruments such as the Rio Declaration, the formulation of provisions relating to sustainable development in formally binding international treaties can be somewhat flexible. The wording can be vague and imprecise, characterized by conditional use, and the terms are often closer to setting incentives than they are meant to be strictly restrictive. For some people, because of its lenient nature, such a provision will not be able to give birth to a valid rule of international law. However, the softness of the obligations regulated in a provision of the agreement should not be a barrier to its validity and binding legal nature.⁷⁶

According to Weil, "the non-binding or weak nature of certain provisions included in the agreement ... has nothing to do with their legal nature". He also argues that many conventional provisions that establish incentives, such as those in which the parties commit to 'strive to' or 'promote', are in themselves a perfect rule of law; and those rules are valid norms of international law.⁷⁷

Following this line of thinking, soft laws relating to sustainable development do not prevent them from being valid normative propositions; on the contrary, it only increases the appreciation margin of the parties in the performance of their obligations.⁷⁸Of course, in many cases the conventional provisions relating to sustainable development are too lenient to impose obligations on countries to develop sustainably. But they may still impose obligations on states to 'strive to achieve' or 'promote' sustainable development. Such an obligation, an obligation of means, far from depriving it of a normative character, is simply a norm with a different object: not one that asks for the result to be achieved, but only the means that must be put in place to try to achieve that result. Such conventional provisions can clearly give their normative to sustainable development. However, the relative effect of the agreement means that any conventional provisions relating to sustainable development, in principle, will only bind the parties to the agreement. To ascertain whether sustainable development benefits from a common normative reach, it must find reflection in customary international law.⁷⁹

Based on this description, the binding power of international law in this elementary school lies in customary international law. From an *Opinion juris* point of view, the binding nature of SD can thus result from a wealth of resolutions, declarations, treaties, programs of action, international and national judicial decisions, national laws, and conventional provisions that refer to the SD, at least insofar as the formulations are. These are quite similar legal rules. Obviously provisions relating to sustainable development sometimes vary widely from one

⁷⁶Ibid.

⁷⁷Weil, 'Observations de M. Prosper Weil', Annexe: Observations des membres de la Commission sur le rapport provisoire, 60-1 AIDI (1983) 366, at 370.

⁷⁸Virginia Barral. loc.cit.

⁷⁹Ibid.

instrument to another. However, there is still an overarching coherence between them as sustainable development is almost always defined as a goal to be achieved.⁸⁰

For example, the principle of intergenerational equity is formulated in the third principle of the Rio Declaration which states that "The right to development must be fulfilled in order to fulfill development and the environment fairly".⁸¹The principle of intergenerational justice implies that the use of natural resources by the current generation must not sacrifice the interests or needs of future generations. This principle also implies that the current generation has an obligation to use natural resources sparingly and wisely and to conserve the available natural resources in sufficient quality and quantity to be used by future generations.⁸²

Based on that principle, countries adopt these values into national law, and SD as its goal. So actually the state can be said to be implementing an opinion juris in its country.

Implementation in Indonesian National Law

In the Indonesian constitution, which is stated in the 1945 Constitution of the Republic of Indonesia, Article 28H paragraph (1) states that "Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy environment and have the right to health services".

Another article that regulates the environment is Article 33 paragraph (4) which reads "The national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity".

On a philosophical, sociological, and juridical basis, the environment is the national interest of the Indonesian state, and is the most important concern in the state. However, since independence until the change in environmental law, there are many reasons why Indonesia needs to adopt this principle into law enforcement in this environmental field.

There are many environmental related problems in Indonesia. As well as high population growth. This growth, indirectly, causes pressure on land by overuse. It is undeniable that degradation occurs on land that is used excessively and exceeds its natural carrying capacity and capacity.⁸³In addition, the use of natural resources for the implementation of development is closely related to the environment and spatial planning.⁸⁴

⁸⁰Ibid., p. 388.

⁸¹Rahmadi's destiny. 2011. *Hukum Lingkungan di Indonesia*, Rajagrafindo, Jakarta., p.15.

⁸²Ibid.

⁸³Widiatmaka, et al, 2015. "Daya Dukung Lingkungan Berbasis Kemampuan Lahan di Tuban, Jawa Timur", *Jurnal Manusia dan Lingkungan*, Volume 22, Number 2, July, p. 248.

⁸⁴Ibid.

Environmental problems are increasing day by day, this indicates that environmental policies have not been successful. Exploitation of natural resources and the environment has led to the deterioration of the environmental quality of natural resources. This of course affects the carrying capacity of the environment.⁸⁵

Both of these things have tended to be unplanned and unsustainable, resulting in a decline in the quality and function of the environment, including the natural resources in it.⁸⁶ However, it does not mean that the law in Indonesia does not discuss the carrying capacity. In general, the topic regarding the carrying capacity and carrying capacity of the environment has been stipulated in legal provisions, as a basis for consideration in development, which has been mandated since the enactment of Law Number 4 of 1982 concerning Basic Provisions for Environmental Management. Then this Law was revised with the provisions of Law Number 23 of 1997 concerning Environmental Management and Law Number 32 of 2009 concerning Protection and Management of the Environment (UU 32/2009), which in general the topic is about the function of carrying capacity and power. environmental support as the basis for planning and control is increasingly clarified.

As stated in Article 1 point 7, Law 32/2009, the carrying capacity of the environment is defined as the ability of the environment to support human life, other living things, and the balance between the two. According to Sudanti, the carrying capacity of a region can decrease due to human activities or from natural forces such as natural disasters.⁸⁷ In terms of legal provisions, the SD Principles are set forth in Law 32/2009, and are defined in Article 1 paragraph (3) of the Law. According to Suardi, planning and an integrated social learning process, its political viability depends on the full support of the community through its government, social institutions, and business activities.⁸⁸

According to Emil Salim, the concept of sustainable development is based on five main ideas, namely: First, the development process must take place continuously, continuously, and continuously, which is supported by natural resources, environmental quality, and humans who develop continuously as well. ; Second, natural resources (especially air, water, and land) have a threshold, where their use will reduce their quantity and quality; Third, the quality of the environment is directly correlated with the quality of life; Fourth, that the current pattern of natural resource use should not rule out the possibility of choosing other options or options in the future; and fifth, sustainable development presupposes transgenerational solidarity,⁸⁹

⁸⁵Risno Mina, 2017. "Pelaksanaan Izin Lingkungan di Kabupaten Banggai Sebagai Upaya Perlindungan", *Jurnal Bina Hukum Lingkungan*, Volume 1, Number 2, p. 208.

⁸⁶Widiatmaka, et al, loc.cit.

⁸⁷Sudanti, 2012. "Evaluasi Daya Dukung Lingkungan di Wilayah Industri Genuk, Semarang", *Prosiding Seminar Nasional Lingkungan dan Pengelolaan Sumber daya Alam di Semarang*, p. 111.

⁸⁸Suardi. Op.cit., p. 621.

⁸⁹Ibid.

The implementation according to Emil Salim, to carry out sustainable development requires an ecosystem approach by looking at the interdependence of each component of the ecosystem. In order for sustainability to be maintained, there must be a commitment to every component of life support and government intervention by involving non-governmental organizations. The business world, which has been accused of being the perpetrators of causing damage and pollution, must understand its responsibilities to the environment which can be realized in the form of paying compensation for environmental services which can later be used to finance the restoration of a damaged or polluted environment. In developed countries, environmental compensation costs have been budgeted in advance in the company's financing and expenditure plans.⁹⁰

According to Suardi's research, the concept of SD in legal construction in Indonesia, such as environmental destruction and pollution, should be qualified as a violation of human rights, as an implementation of the principles of Sustainable Development. According to him, if we observe that the definition of human rights in Law 39 of 1999 is very limited and narrow because the word "set" which is basically "equipment" seems to limit it to certain parts, namely specifically for humans, then this is emphasized by the definition of human rights violations. every act of a person or group of people including state apparatus, whether intentional or unintentional or negligence which unlawfully reduces, hinders, limits, and/or revokes a person's human rights or those guaranteed by this law, and does not obtain,⁹¹

III. CONCLUSION

From a world history perspective, fighting for the environment for the future has come a long way, so that a goal has been achieved, namely balancing development and sustainability. This issue was later realized by the United Nations, as an effort to maintain environmental sustainability in development. Various declarations and necessary instruments have been made to make SD a universal goal and be applied by all countries. And as a politician, the state and businessmen, become the main focus in achieving this goal. Because if both of them do not have the political will, then this goal will fail to be achieved. With this main focus, the effort to realize this goal is certainly a challenge. In terms of international law, efforts to realize universal norms have been prepared by the United Nations so that they can be applied in all countries. However, there are many international legal experts who question the binding power of this SD. Its binding power comes from customary international law. Where countries have adopted SD as a goal to maintain their country's environmental sustainability. And in terms of national law, every country has goals and ideals in running its government and protecting its citizens. In the context of Indonesia, the environment is the goal of the state.

⁹⁰*Ibid.*, p. 621-622.

⁹¹*Ibid.*, p. 626.

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