

DISCUSSION ON THE SUSTAINABLE DEVELOPMENT CONCEPT

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1. Introduction.

The purpose of this essay is to define the concept of sustainable development and verify its application in the Argentine legal system.

In order to do it, firstly we will take a look at the main international conventions related with sustainable development. The second step will be to how the sustainability concept was incorporated into Argentine fundamental legislation, mainly in the constitution, through the 1994 reform, and into the General Law of the Environment.

2. Sustainable Development – Definitions

The following are definitions that can be found in international conventions. These definitions were selected among others because they can give a good idea of the different elements included in the concept of sustainable development.

“Development that meets the needs of the present without compromising the ability of future generations to meet their own needs”¹

“Sustainable development means the progressive change in the quality of life of human beings, which places it as the centre and primordial subject of development, by means of economic growth with social equity and the transformation of methods of production and consumption patterns, and which is sustained in the ecological balance and vital support of the region. This process implies respect for regional, national and local ethics and cultural diversity and full participation of people in peaceful coexistence and in harmony with nature, without prejudice to and ensuring the quality of life of future generations”.²

Same items inside the definitions, however, can be a little been confusing. Current and future generations cannot be clearly separated, as humanity is a continuous flow. Moreover, rational a proper use of natural resources cannot be confused with froze it; but to take into account future needs.

3. Sustainable Development in Stockholm, Rio and Johannesburg

It is worth mentioned the way the “sustainability” concept was treated in the Stockholm, Rio and Johannesburg convention.

¹ Report of the World Commission on Environment and Development, 1987

² Convention for Cooperation in the Protection and Sustainable Development of the Marine and Coastal Environment of the Northeast Pacific, Antigua, Guatemala, February 18, 2002, article 3

The Report of the United Nations Conference on the Human Environment (Stockholm, 5-16 June 1972)³, mentions its indirectly, in relation of the “benefit of present and future generations through careful planning or management”, as follows:

“Declaration of the United Nations Conference on the Human Environment, Chapter 1

Principle 2

The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.”

Twenty years after, the United Nations Conference on Environment and Development (Rio de Janeiro, 3-14 June 1992)⁴, states in the Principle 4 a very clear and direct principle regarding sustainable development, as follows:

*“Rio Declaration on Environment and Development (1992)
Annex 1*

Principle 4

In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.”

The United Nations World Summit on Sustainable Development (Johannesburg 2002)⁵ was even more specific and comprehensive. Resolution 1 includes a Declaration on Sustainable Development with seven points that reaffirm the commitment of the different nations to sustainable development and assume a collective responsibility to advance in that way (see as follows).

“Resolution 1

Annex

Johannesburg Declaration on Sustainable Development

From our origins to the future

- 1. We, the representatives of the peoples of the world, assembled at the World Summit on Sustainable Development in Johannesburg, South Africa, from 2 to 4 September 2002, reaffirm our commitment to sustainable development.*
- 2. We commit ourselves to building a humane, equitable and caring global society, cognizant of the need for human dignity for all.*
- 3. At the beginning of this Summit, the children of the world spoke to us in a simple yet clear voice that the future belongs to them, and accordingly challenged all of us to ensure that through our actions they will inherit a world*

³ United Nations Conference on the Human Environment (Stockholm, 5-16 June 1972)

⁴ United Nations Conference on Environment and Development (Rio de Janeiro, 3-14 June 1992)

⁵ United Nations World Summit on Sustainable Development (Johannesburg 2002)

free of the indignity and indecency occasioned by poverty, environmental degradation and patterns of unsustainable development.

4. As part of our response to these children, who represent our collective future, all of us, coming from every corner of the world, informed by different life experiences, are united and moved by a deeply felt sense that we urgently need to create a new and brighter world of hope.

5. Accordingly, we assume a collective responsibility to advance and strengthen the interdependent and mutually reinforcing pillars of sustainable development . economic development, social development and environmental protection at the local, national, regional and global levels.

6. From this continent, the cradle of humanity, we declare, through the Plan of Implementation of the World Summit on Sustainable Development and the present Declaration, our responsibility to one another, to the greater community of life and to our children.

7. Recognizing that humankind is at a crossroads, we have united in a common resolve to make a determined effort to respond positively to the need to produce practical and visible plan to bring about poverty eradication and human development.”

On the other hand, Resolution 2 from the same Convention includes an action plan for each region. Articles 73 and 74 are related to the region of Latin America and the Caribbean. They ask for cooperation and action on the fields of biodiversity, water resources, vulnerabilities and sustainable cities, social aspects, including health and poverty, economic aspects, including energy, and institutional arrangements, among others.

“Resolution 2

A. Sustainable development in Latin America and the Caribbean

73. The Initiative of Latin America and the Caribbean on Sustainable Development is an undertaking by the leaders of that region that, building on the Platform for Action on the Road to Johannesburg, 2002,³⁶ which was approved in Rio de Janeiro in October 2001, recognizes the importance of regional actions towards sustainable development and takes into account the regions singularities, shared visions and cultural diversity. It is targeted towards the adoption of concrete actions in different areas of sustainable development, such as biodiversity, water resources, vulnerabilities and sustainable cities, social aspects, including health and poverty, economic aspects, including energy, and institutional arrangements, including capacity-building, indicators and participation of civil society, taking into account ethics for sustainable development.

74. The Initiative envisages the development of actions among countries in the region that may foster South-South cooperation and may count with the support of groups of countries, as well as multilateral and regional organizations, including financial institutions. As a framework for cooperation, the Initiative is open to partnerships with governments and all major groups.”

4. Sustainable Development in the Constitution of Argentina.

The old version from the Argentine Constitution, dated from 1856, was reformed in 1994. Among the amendments, a new chapter was introduced in the Constitution⁶ (“Capítulo II, nuevos derechos y garantías”), including the called third generation rights, that were not considered in the old version. The new Article 41 refers to environmental rights and sustainable development, and includes the advances in the area since the above mentioned Conventions.

“Constitution, 1994

Chapter II, new rights and warranties

Article 41. All the inhabitants have the right to a sound and balanced environment, apt for human development. Economic activities have to satisfy present needs without compromising the needs from future generations, and they have the commitment to preserve the environment...

Artículo 41.- Todos los habitantes gozan del derecho a un ambiente sano, equilibrado, apto para el desarrollo humano y para que las actividades productivas satisfagan las necesidades presentes sin comprometer las de las generaciones futuras; y tienen el deber de preservarlo...”

During the discussions in the Convention⁷ that introduced the amendments mentioned above, these were some of the arguments from Conventional Elva Roulet, regarding Article 41, (). This arguments show how international developments influenced the Constitution reform:

“...It is a new right, from the third generation ones...”

“...During the period from 1972 to 1992, year of the Rio de Janeiro Summit, a very important scientific research clarified many problems affecting Earth...”

“ ...a set of principles and declarations were established in the Rio Convention...”

“...the Declaration on Environment and Development stated a fundamental principle, the human right to a sound and productive living, in armony with nature...”

“... all recent constitutions – Spain, Portugal, Peru, and the state constitutions reformed after 1993 include this theme...” “...during this Convention we analyzed 122 projects from representatives, and 6 from NOGs...”

⁶ Constitución de la Nación Argentina, www.infoleg.gov.ar

⁷ Debates Constitución 1994, www.infoleg.gov.ar

5. Sustainable Development in the Argentina General Environmental Law.

On November 6, 2002, Law 25,675⁸, called “General Environmental Law” was approved in Argentina. This law sets minimal requirement and general policies for environmental protection in all the Country. However, Provinces have the right to complement these requirements or include more severe ones.

The mentioned Law includes several articles related to sustainable development. Its content has been very influenced by the United Nations Conferences mentioned above.

Among these articles is it worth mentioning:

“Article 1: This Law establishes minimal requirements in order to achieve a sustainable and fair management of the environment, preservation and protection of biodiversity and sustainable development.

Article 2: The national environmental policy must follow the following objectives:

.....

d) Promote rational and sustainable use of natural resources”

Furthermore, Law 25,675 set various principles for environmental policies in Argentina, among them the “sustainability principle”:

“Sustainability principle: Social and economic development and use of natural resources must be subject to a correct environmental management, in order not to affect the balance between present and future generations”.

As we can see, both Argentine Constitution and General Environmental Law have incorporated the concept of sustainable development, based on the United Nations Conventions. However, it is also true that the promulgation of the mentioned Law is quite recent, and, although important as declaration of principles, sustainable development has not been fully incorporated in actual government policies up to now (that in example subsidies fossil fuels, and promoted an increase on natural gas consumption despite rapid reserves depletion in the production basins).

6. Conclusions

- The concept of “sustainable development” has been accepted since the last part of XX century.

⁸ Ley 25.675, www.infoleg.gov.ar

- It involves a rational and proper use of resources, in order to balance needs of present and future generations.
- The Rio and Johannesburg United Nations Conventions made important declarations on this issue, that influenced national legislations.
- Argentine Constitution and legislation has recognized “sustainable development” as a policy principle. However, its application is still in an early stage in this Country.

Bibliography

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