

Legal Framework of Sustainable Development in Algeria

الاطار القانوني للتنمية المستدامة في الجزائر

BAHMED Kenza

Faculty of Law, Algiers 1

knz.bmed@hotmail.com

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Abstract:

Recently, the concept of sustainable development has gained great importance at all levels, especially in light of the exacerbation of environmental problems due to economic development; which aims primarily to increase production and consumption; and achieve people's well-being without taking into account the ecosystems' capabilities. This research paper aims to define the concept of sustainable development and shed light on the most important environmental laws within the framework of sustainable development in Algeria.

Keywords: Sustainable Development; Environmental Protection; Legal Framework; Algeria.

ملخص:

اكتسب مفهوم التنمية المستدامة في السنوات الأخيرة أهمية كبيرة على كافة الأصعدة، خاصة في ظل تفاقم المشاكل البيئية بسبب التنمية الاقتصادية التي تهدف بشكل أساسي إلى زيادة الإنتاج والاستهلاك وضمان رفاهية الشعوب دون الأخذ بعين الاعتبار قدرات النظم البيئية. يهدف هذا البحث إلى تحديد مفهوم التنمية المستدامة كما يسلط الضوء على أهم القوانين البيئية في إطار التنمية المستدامة في الجزائر.

الكلمات المفتاحية: التنمية المستدامة ، حماية البيئة ، الإطار القانوني ، الجزائر.

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Introduction:

Over the last years, the issue of environment and development has occupied an important position at the international and domestic levels and gained a great interest in studies and legal thought. After the Second World War, countries adopted different methods and patterns of development aiming at increasing production and consumption and achieving people's prosperity as well, through following the pattern of economic development that focuses primarily on the industry. This latter came with negatives that were not at the center of attention as that was given to the achieved positives. This development led to increasing environmental degradation as a result of greenhouse gas emissions and industrial waste, to an extent exceeded the level that could be absorbed, and the excessive consumption pattern that accompanied this development created a real threat to the capacity of ecosystems.

In light of the increasing environmental problems, it has become necessary to search for an alternative that guarantees the continuation of development and environmental conservation. With the scientific and technological progress that humanity has known, the attention has increased to the close link between development and environment; the international community has recognized this link and its social, economic, and humanitarian dimensions.

The Stockholm Conference in 1972 is considered a turning point in the history of concern for the environment. At the end of its work, a declaration on the human environment was issued, including the first international document in the principles of inter-state relations concerning environmental matters. The term “sustainable development” was coined in the Brundtland report “Our Common Future”, published by the Brundtland Commission in 1987, which stated for the first time the concept of sustainable development. Consequently, many Countries have accelerated to adopt the principle of sustainable development in the different development areas and domestic legislation.

Thus, what is sustainable development? What is the status of sustainable development in the legislation of Algeria?

Section I: What is Sustainable Development?

This section addresses the concept of sustainable development, its definition, emergence and development, aspects, objectives, and main principles.

A) Definition of Sustainable Development:

In its 1987 report entitled 'Our Common Future', the World Commission on Environment and Development gave the most popular definition to this date "development, which meets the needs of the present without compromising the ability of future generations to meet their own needs"¹. This definition contains two key concepts: the concept of 'needs', in particular the essential needs of the world's poor, to which overriding priority should be given; and the idea of 'limitations' imposed by the state of technology and social organization on the environment's ability to meet present and future needs.²

In 2002, the World Summit on Sustainable Development marked a further expansion of the standard definition with the widely used three pillars of sustainable development: economic, social, and environmental. The Johannesburg Declaration created "a collective responsibility to advance and strengthen the interdependent and mutually reinforcing pillars of sustainable development; economic development, social development, and environmental protection at local, national, regional, and global levels."³

At the national level, the Algerian legislator also stated the concept of sustainable development in law No.03-10 relating to environmental protection within the framework of sustainable development, it means "reconciling sustainable social and economic development with environmental protection, i.e. the insertion of the environmental dimension in a development framework that ensures meeting the needs of present and future generations."⁴

In other words, sustainable development is the social and economic development that takes into consideration environmental protection in the development process.

B) Emergence and Development of Sustainable Development Concept

¹Margherita Pieraccini & Tonia Novitz : Legal Perspectives on Sustainability , Bristol University Press, UK, 2020, p.17.

² John Barry: Environment and Social Theory, 2nd ed, Routledge, 2007, p.299.

³United Nations, World Summit on Sustainable Development: The Johannesburg Declaration on Sustainable Development, 4 /9/2002, p.1.

⁴ Article 4, law No.03-10, relating to environmental protection within the framework of sustainable development, 19/7/2003, official gazette No.43.

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The concept of sustainable development went through several stages from 1972 to 2015, and it explicitly appeared in 1987.

The Stockholm Conference (1972) is considered to be the first important event in the history of modern environmental consciousness. The conference adopted a preamble, 26 principles, and an action plan for the human environment. The conference was very significant because, firstly, it formally recognised the importance of environmental concerns at the national level and transformed them into an international issue. Secondly, it bridged, for the first time, the concerns related to environment and development and stressed their inseparability. Thirdly, it gave active support to the development of national environmental policies, leading to the creation of various national agencies and ministries. Finally, the non-governmental organizations (NGOs) that participated in the conference later contributed significantly to raising the worldwide environmental consciousness.¹

In 1987, the World Commission on Environment and Development (WCED), which had been set up in 1983, published a report entitled “Our common future”. The document came to be known as the “Brundtland Report” after the Commission's chairwoman “Gro Harlem Brundtland”. It established guiding principles for sustainable development as it is widely recognised today. This report considered to be the first document that mentioned Sustainable development explicitly, and included its common definition “the development that meets the needs of the present without compromising the ability of future generations to meet their own needs”.²

On the 20th anniversary of the Stockholm Conference, the UN General Assembly called to hold the UN Conference on Environment and Development (UNCED or Rio) in Rio de Janeiro from June 3 to 14, 1992. It attracted the largest attendance ever for an event of its kind (representatives from 175 countries and over 100 heads of states). Rio was a stunning success in terms of international consensus and new legal authorities. It produced two non-binding documents: the Rio Declaration, the Agenda 21 plan of implementation, and led to the formation of the UN Commission on Sustainable Development.³

Agenda 21 is a unanimously adopted, minutely detailed, nearly 500-page “action plan” for managing the environment in the 21st century. It lays out numerous policies, plans, programs, processes, and other guidance for intergovernmental organizations (IGOs) and national governments to follow, in order to implement the international legal documents produced at Rio. Agenda 21 gives a deeper meaning to the concept of “sustainable development” through its four sections and 40 chapters. The first section (Chapters 2–8) covers the social and economic dimensions, the second section (Chapters 9–22) deals with conservation and management of resources for development, the third section (Chapters 23–

¹Santanu Rakshit: Revisiting Environmental Concern: the role of the United Nations in Development Management, *Journal of Political Ecology* Vol. 22, 2015, p.201.

²United Nations General Assembly: Our Common Future, Report of the world commission on environment and development, 1987, p.43.

³Nanda & Pring: International Environmental Law & Policy for the 21st Century, Martinus Nijhoff Publishers, Boston, 2013, pp. 108-109.

32) focuses on strengthening the role of major groups, and the fourth section (Chapters 33–40) addresses the means of implementation.¹

UNCED led to the formation of the UN Commission on Sustainable Development. The CSD was entrusted with the global pursuit of sustainable development and its primary objective was to provide a follow-up to the summit's priorities and review the implementation of Agenda 21.²

Five years later, the Rio+5 Conference was held in New York, it was the first comprehensive status review of work to implement the UNCED's agreements. This Conference aimed to revive and strengthen the commitment to sustainable development, find out failures and identify their reasons, recognize achievements, set priorities, and determine problems that had not been addressed sufficiently in Rio. This Conference concluded that little progress had been made, for instance, social injustice and poverty, greenhouse gases, the release of toxic substances into the atmosphere, and solid waste had continued to rise since 1992. At the end of the conference, two main programmes were adopted: the “Programme of Work of the Commission for 1998-2002” and the “Programme for the Further Implementation of Agenda 21”; an action plan for the following five years.³

In 2012, The United Nations held a Conference on Sustainable Development (UNCSD or “Rio+20”) in Rio de Janeiro, Brazil. This conference marks the 20th anniversary of the U.N. Conference on Environment and Development (UNCED) in Rio in 1992, and the 10th anniversary of the World Summit on Sustainable Development (WSSD) in Johannesburg, South Africa. This conference had known the attendance of more than 115 Heads of States and more than 50,000 other participants. Rio+20 aimed at ensuring renewed political commitment to sustainable development, monitoring the progress and implementation gaps in achieving already agreed commitments, and addressing new and emerging challenges.

Furthermore, this conference dealt with two main themes: Green Economy in the Context of Sustainable Development and Poverty Eradication; in which government delegations agreed that each country has the right to choose its green economy approach and policy mix, assessing national priorities and adopting measures to national institutions and economic systems. For the second theme; Institutional Framework for Sustainable Development (IFSD); many stakeholders agreed that reforming the current international processes and institutions on environmental issues could benefit the effectiveness and efficiency of environmental protection.⁴

Lately, in 2015, the United Nations held the Sustainable Development Summit, and 193 world leaders attended the summit to formally adopt the global Sustainable Development Goals. SDGs are a set of 17 goals designed to benefit all people in all countries of the world,

¹ United Nations: Conference on Environment & Development Rio de Janeiro, Brazil, 3 to 14 June 1992 : AGENDA 21, p. 1, link : <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf>

² Hannes R. Stephan & Fariborz Zelli: International Organisations and the Global Environment, The Role of International Organisations in Global Environmental Governance, January 2009, p.3.

³ Earth Summit, available at: <https://www.un.org/esa/earthsummit/>, consulted on: 12/12/2019.

⁴ Jane A. Leggett and Nicole T. Carter: Rio+20 The United Nations Conference on Sustainable Development, Congressional Research Service, June 2012, p.1, pp.5-6.

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aiming at ending extreme poverty, fighting inequality and injustice, and fixing climate change. The SDGs are the outcome of a negotiation process that included the UN member states and also unprecedented involvement of civil society and other stakeholders, which contributed to the representation of a wide range of interests and perspectives.¹

C) Objectives of Sustainable Development

Based on the Brundtland Report, sustainable development can be associated with three types of objectives:²

The objectives of the economic system are particularly: maximizing the amount of produced goods and provided services; optimizing the efficient use of mineral resource flows, biological, energy, and information flow; using adaptation technologies for mineral resources and products reprocessing.

The objectives of the social system are as follows: ensuring equitable distribution of goods and services between social partners at the local, national, or global level; providing sufficient training for all members of society in the socio-economic process; creating, using, and adapting permanent structures and processes for the management of political, institutional or related information systems to ensure social and economic flexibility and self-regulation of the social and economic structure; improving economic, social, and environmental correlation systems; maintaining the cultural diversity.

The objectives of the ecological system are reflected in; preserving biodiversity in support of the possibility of adaptation of the changing conditions of the geographical biosphere; using compliance mechanisms of self-regulation and the natural cycle times in the biosphere.

D) Main Principles of Sustainable Development

The major principles of sustainable development were made at the 1992 Rio de Janeiro Declaration on the Environment and Development. It is a compact set of 27 principles, promoted the following principles:³

- The centrality of human beings to the concerns of sustainable development.
- The primacy of poverty eradication.
- The importance of the environment for current and future generations and its equal footing with development.

¹ UN Sustainable Development Summit, available at: <https://www.un.org/sustainabledevelopment/summit/>, consulted on : 12/12/2019.

² Dan Cristian Duran et al. The objectives of Sustainable Development: Ways to Achieve Welfare, 4th World Conference on Business, Economics, and Management (WCBEM), Procedia Economics and Finance (26), 2015, pp.215-216.

³ UN General Assembly: Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, pp. 1-5.

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- “Polluter pays” principle; the polluter must compensate for the damage caused to the environment.
- Using the precautionary approach in economic activities of states to protect the environment.
- Effective cooperation between states to prevent the activities that cause environmental degradation.
- Reducing unsustainable patterns of production and consumption and promote the appropriate demographic policies.
- Information exchange between states about the natural disasters or activities that may have harmful transboundary impacts.
- Enacting and developing effective national laws for environmental protection.
- Environmental protection must involve all social groups: women, youth, and indigenous people.
- Peace, development, and environmental protection are interdependent and indivisible.

E) Aspects of Sustainable Development:

There are three aspects of sustainable development that have usually been recognized in the comprehensive debate and usage of the term since its appearance, they are economic, social, and environmental aspects.¹

An economically sustainable system must be able to produce goods and provide services continually, sustain manageable levels of government and external debt, and prevent severe sectoral imbalances that harm agricultural or industrial production.

An environmentally sustainable system must maintain a secure resource base, avoid over-exploitation of renewable resources, and depletion of non-renewable resources only to the extent that appropriate alternatives are made for investment. This involves the conservation of biodiversity, atmospheric stability, and other ecosystem functions which are not usually considered to be economic resources.

A socially sustainable system must achieve distributional equity, sufficient provision of social services including health and education, gender equity, and political accountability and participation.

Section II: Areas of Sustainable Development in the Algerian Law

¹ Nada Milosavljevic&JelenaSimicevic: Sustainable Parking Management; Practices, Policies, and Metrics, 1sted, Elsevier, 2019, pp.141-142.

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Algeria, like many other countries, has taken the initiative to apply the concept of sustainable development in various areas. In the legal field, the Algerian legislator issued law No.03-10 of 19/7/2003, relating to environmental protection within the framework of sustainable development, in addition to many laws that stipulate the need to protect the environment and its elements. This chapter deals with the most significant national laws concerned with sustainable development in different areas.

A) Environmental Protection:

Law No.03-10 of 19/7/2003; is considered to be the first law that came to identify the rules for environmental protection within the framework of sustainable development, it aims in particular at the following:¹

- Determining the basic principles and rules of environment management.
- Promoting sustainable national development by improving living conditions and working to ensure a sound living framework.
- Prevention of all forms of pollution and damage to the environment by preserving its components.
- Repairing the damaged environment.
- Promoting the ecological and rational use of available natural resources, as well as the use of clean technologies.
- Supporting the media, raising awareness, and participation of the public and the various actors involved in the environmental protection measures.

This law is based on a set of sustainable development principles:²

- Preserving biological diversity.
- Non-degradation of natural resources.
- Replacing the harmful action to the environment with another that is less dangerous.
- Integrating arrangements related to environment and development when preparing and implementing sectoral plans and programs.
- Preventive activity principle and correcting environmental damage with priority at the source.
- “Precaution Principle” through taking actual and appropriate measures to prevent the risk of environmental damage.

¹Article 2 , law No.03-10.

²Article 3, law No. 03-10.

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- “Polluter Pays” principle.
- Informing about the state of the environment and participating in the procedures and decisions related to the environment.

B) Sustainable Development of Territory

The Algerian legislator issued law No.01-20 of 12/12/2001, relating to territory planning and its sustainable development, in which the state initiates and manages the national policy for planning and sustainable development of the territory. This latter is conducted in contact with the regional groups within the jurisdiction of each, as well as in consultation with economic and social aids for development, and citizens participate in the preparation and implementation of this policy in accordance with the applicable legislation and regulation.¹This national policy aims at harmoniously developing the whole national region based on the characteristics and qualifications of each regional space.

And it aims at:²

- Creating appropriate conditions for the development of national wealth and equal fortunes; and prosperity among all citizens.
- Encouraging the appropriate distribution among regions of the pillars and means of development to relieve pressures on the coast and cities; and upgrade mountain areas, high plateaus, and the south.
- Supporting rural regions and areas experiencing difficulties and activating them for the sake of achieving stability of their inhabitants.
- Re-balancing the urban environment and upgrade the regional, national, and international functions of cities.
- Protecting and valuing ecologically and economically vulnerable spaces and groups.
- Protecting regions and populations from the dangers associated with natural fluctuations.
- Laying out national unity foundations, respecting the requirements of national sovereignty, and defending the territory.

C) Sustainable Development of Tourism

The Algerian legislator issued law No. 03-01 of 17/2/2003, relating to the sustainable development of tourism, in which tourism development aims to raise tourism production

¹ Article 2, law No. 01-20, relating to planning and sustainable development of the territory, 12/12/2001, official gazette No.27.

² Articles 4-5, law No. 01-20.

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capabilities through tourism investment while ensuring valuing the national tourism heritage. In terms of its goals, it falls within the national policy for planning the territory and its sustainable development¹.

According to this law, there are many types of tourism due to the multiplicity of tourist areas and different activities, for instance: cultural tourism; business and conference tourism; heat tourism and treatment with seawater; marine heat tourism; leisure and recreational tourism.²

D) Protection of Mountain Areas

Law No. 04-03 of 23/6/2004 relating to the protection of mountain areas within the framework of sustainable development included the definition of mountain areas, their classification, and planning within the framework of sustainable development.

Mountain regions are all the spaces formed from mountain ranges or masses characterized by geographical characteristics such as terrain, height, and slope, as well as all the areas close to them related to the economy, factors of planning the territory, and the ecosystems of the intended mountain space, which in turn are considered to be mountainous areas. In addition to the mountain masses, they are mountainous areas that constitute a harmonious geographical, economic, and social entity.³

E) Management and Protection of Green Spaces

The Algerian legislator released law No. 07-06 of 13/5/2007 relating to the green spaces management, protection, and development. This law comprised the definition of these spaces, classification, objectives, management tools, and their sustainable development.

Based on this law, green spaces refer to the urban areas that are not built and totally or partially covered with plants located within urban areas or areas to be built. For instance⁴: Urban and neighboring yards of the city, public parks and places of rest, vegetarian and decorative gardens, collective, residential and private gardens, and urban forests.

F) Protection of Protected Areas

The protection of protected areas is represented in their classification and management within the framework of sustainable development in accordance with law No. 11-02 of 17/2/2011; which defines the protected areas; classifications; how the classification process is carried out; effects, and management.

¹ Articles 9 - 10, law No. 03- 01, relating to the sustainable development of tourism , 17/2/2003, official gazette No.11.

² Article 3, law N 03-01.

³ Article 2, law No. 04-03, relating to the protection of mountain areas within the framework of sustainable development, 23/6/2004, official gazette No. 41.

⁴ Article4, law No. 07-06, relating to the management of green spaces; protection; and development within the framework of sustainable development, 13/5/2007, official gazette No.31.

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Protected areas are every region or part of a municipality or municipalities; as well as areas belonging to public property; which are subject to special regulations determined by law in order to protect animals and plants and the terrestrial, marine, and coastal ecosystems.¹

Protected areas are classified based on their ecological reality into seven classes, they are national yard, natural yard, complete nature reserve, nature reserve, management reserve of citizens and species, natural site, and biological corridor.²

G) Promotion of Renewable Energies

The Algerian legislator released Law No. 04-09 of 14/8/2004 relating to the promotion of renewable energies within the framework of sustainable development, including the definition of renewable energies, promotion goals, mechanisms, and promotion tools.

This law defines renewable energies as the forms of electrical, kinetic, thermal, or gas energies obtained from the conversion of solar radiation, wind power, geothermal heat, organic waste, water energy, and biomass utilization techniques. They are also a group of methods that allow a significant economy in energy by resorting to bioclimatic engineering techniques in the construction process.³

H) Prevention of Major risks and Disaster Management

Law No.04- 20 of 25/12/2004 relating to the prevention of major risks and disaster management within the framework of sustainable development defined the major risks and the principles of prevention, and determined the goals of disaster management and prevention of major risks system, in addition to the role of information and training in this field.

Based on this law, it is described as a "major risk " every potential threat to the human being and his environment that may occur due to exceptional natural hazards or by human activities⁴. And it is described as a disaster management system when a natural or technological danger occurs that results in damages to the human, social, economic, or environmental level; the sum of the legal arrangements and measures taken in order to ensure optimal conditions for information, rescue, aid, security and assistance, and the intervention of additional and specialized means. This system aims at:⁵

- Improving knowledge of the dangers and enhancing their monitoring and anticipation, as well as developing preventive information about these risks.
- Taking into account dangers in the use of land and construction.

¹ Article 3, law No. 11-02, relating to the protection of protected areas within the framework of sustainable development, 17/02/2011, official gazette No. 13.

² Article 4, law No. 11-02.

³ Article 3, law No. 04-09, relating to the promotion of renewable energies within the framework of sustainable development, 14/8/2004, official gazette No. 52.

⁴ Article 2, law No. 04-20, relating to the prevention of major risks and disaster management within the framework of sustainable development, 25/12/2004, official gazette No. 84.

⁵ Articles 4-7, law No. 04-20.

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- Reducing the degree of vulnerability to persons and property.
- Establishing arrangements targeting the harmonious and adapted sponsorship to each disaster of a natural or technological source.

I) Management, Control, and Disposal of Waste

According to Law No. 01-19 of 12/12/2001 relating to the management, control, and disposal of waste, waste is the remains resulting from the processes of production, conversion, or use, in general, every material, product, or movable that the owner or possessor disposes or removes. And it is classified into private waste including hazardous special waste, household waste, and solid waste.¹ This law aims to define the methods of waste management, control, and disposal, based on the following principles:²

- Prevention and reduction of waste production at the source.
- Organizing waste sorting, collection, transport, and treatment.
- Valuation of waste by reusing, recycling, or using methods enabling obtaining usable materials or energy.
- Environmental rational treatment of waste.
- Informing and sensitizing citizens about the dangers arising from waste and its effects on health and the environment, as well as all measures are taken to prevent, reduce, and compensate for these dangers.

Conclusion:

The topic of sustainable development is of great importance not only in the lives of the present people but also for future generations. Algeria, like other countries, has realized this fact and recently has taken the initiative to adopt the principle of sustainable development and develop the appropriate policies in accordance with its requirements. This is demonstrated in the adaptation of a set of laws in different areas within the framework of sustainable development, aiming at protecting the environmental elements and achieving their sustainability.

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