Chapter Four

INTERNATIONAL LAW STANDARDS:
THREE DIMENSIONS

4.1 Sustainable Development: A Three-dimensional Concept

This chapter aims to review the salient features of international law relating to sustainable development. This is done through an evaluation of the basic constituent elements of sustainable development – the economic, social and environmental dimensions encapsulated by international economic law, international human rights law and international environmental law. The importance of sustainable development at a basic level, shows the relevance of international norms to life, livelihoods and environments.

Although the international law relating to sustainable development grows out of several branches, norms and principles of public international law, its roots are most firmly embedded in international environmental law. The history of international environmental law shows that many different issues have been engulfed within the subject and new issues will continue to be embraced. Some issues like sustainable development and its constituent elements have solicited controversy. Alexander Gillespie, in deciphering the depths of environmental ethics and in attempting to ascertain why the environment is protected in the international arena, shows how nations, like individuals, create environmental laws and policies which often are not successful as they are riddled with inconsistencies and ultimately contradictory in purpose. Nations protect the environment for different reasons, and these ethical, economic or other distinctions are reflected in laws and policies.

Although the notion of sustainable development emerged from international environmental law, it is evolving as a concept encapsulating the three-dimensional relationship of economic development, environment and human rights. Like human

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development, sustainable human development and social development, it can accommodate issues that go beyond purely economic interests in development. Its central tenet of reconciling environment and development, allows this notion to go to the core of balancing conflicting interests including FDI, human rights and environment, and the interests of TNCs and host countries. Justice, equity and development also find expression in the sustainable development discourse. It is therefore useful to evaluate to what extent international law in the spheres of economy, environment and human rights integrate this conception, in the sense of balancing these countervailing considerations.

It has been stated with respect to the different approaches on business regulation:

Thinking about what type of international business regulation would be in the interest of developing countries in general, and poor households in particular, is a worthwhile exercise. The ability to draw on ongoing progress in the three fields of global regulation based on international law would provide a far more realistic basis for debate than voluntary initiatives based on business ethics and brand image.

4.2 International Environmental Law

International environmental law in its current manifestations evolved predominantly over the last three decades. While many trace its origins back to the early 1970s, some writers go back further to the second half of the 19th century. From this point Sands traces several distinct periods of development: from the bilateral fisheries treaties in the nineteenth century up to the creation of the new international organizations; from the creation of the UN to the UN Conference on the Human Environment (UNCHE), Stockholm, 1972; from that point to the United Nations Conference on Environment and Development (UNCED) in 1992; and then from UNCED to date. The last was a period marked by intensive standard-

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5 E.V.K. Fitzgerald, *Regulating Large International Firms*, UNRISD Technology, Business and Society Programme Paper no. 5, at p. 18; the three fields envisage the economic, environmental and social.