

## **The Concept of the Environment: A general understanding.**

Under section 2 of the National Environment Statute 1995, the environment is defined as: The physical factors of the surroundings of human beings, including land, water, atmosphere, climate, sound, odour, taste; biological factors of animals and plants, and the social factors of aesthetics, and including natural and the built environment.

Basically the environment constitutes the aggregate complex of sub-systems which include the following natural elements: soil, water, atmosphere, plants and animals, which co-actively or singly respond to physical, chemical and biological conditions induced by social, cultural, economic and development activities of human beings.

### **Environmental Law:**

Law is a rule or method according to which actions or phenomena co-exist or follow each other. It is a body of rules or actions of conduct prescribed by the controlling authority and having a binding legal force.

Law relating to environmental management is environmental law. These are laws relating to the use, protection and conservation of the environment. The purpose of this law is to protect the ecosystem balance within the life systems and to ensure that the changes in balances will not be catastrophic. It is meant to promote the protection, enhancement and wise use of the environment.

### **Functions of Environmental Law:**

1. To encourage protection of environmental integrity of ecosystems, human health and wellbeing of the society.
2. To ensure economic growth and development in an environmentally responsible manner. And that environmental protection is integrated with economic decisions in the earlier stages of development planning.
3. To prevent or mitigate environmental impact of development and of government policies, programs and decisions
4. To provide government leadership in environmental management
5. To enable shared responsibility of all citizens in environmental management
6. To establish adequate environmental standards and monitor changes in environmental qualities.

## **General sources of Environmental Law:**

1. Statutes (laws made by parliament). There are main statutes and subsidiary statutes e.g. those made by local governments, central government such as by-laws, ministerial orders etc.
2. The Common Law (Law applicable in England- Uganda was a colony of England so some laws of England apply in Uganda.)
3. Case Law (Decisions of the Court especially the High court and above i.e. what the High court may decide in a particular case can become a law).
4. Treaties
5. Conventions
6. Declarations

## **Overview of the regulatory process**

There is need for agencies implementing environmental protection goals to develop strong enforcement regimes that demonstrate a commitment to achieve the environmental protection goals. But they must also be flexible and realistic in order to effectively implement the protection programs.

Different approaches are needed to achieve compliance with environmental controls. Some may be well suited to regulation of specific kinds of pollution or to other peculiar situations or circumstances. Often, a combination of tough enforcement, flexibility, and overall sensitivity to environmental protection goals can best be accomplished through an integration of one or more approaches.

Before possible approaches for facilitating a system of environmental regulation can be explored, the regulatory system itself must be understood. At each stage of that process, there are opportunities for anticipating and addressing the combined need for tough enforcement and flexibility in attaining compliance with applicable environmental controls.

### **a. Establishing environmental protection goals:**

The process of environmental regulation is started when a government determines that a particular environmental problem is serious enough to warrant correction by government action. The Government then establishes an environmental protection goal. Such a goal is contained in the nation's constitution e.g. to establish a general right to a healthy and safe environment. In some governments the general goal is set in the statute. The goals can be expressed as specific targets and /or as generalised policies. The goals are regarded as enforceable requirements to which the public and industry must adhere.

### **b. Developing an implementation strategy:**

Once environmental protection goals have been established, decision makers must develop a strategy for implementing and enforcing those goals. The overall objectives of a system of environmental regulation are relevant to the selection of an implementation and enforcement strategy. The objectives vary depending on the nature and severity of the environmental problems facing the nation.

Implementation of environmental laws may require consideration of institutional factors and decision makers will need to determine whether particular environmental problems are best addressed at a national, regional or local level. And at each level of government, policy makers implementing new or restructured environmental protection systems must allocate the authority, responsibility and resources for promulgating, administering and enforcing the new requirements. The decisions are often influenced by existing resource constraints e.g. it makes little sense to create a regulatory program that requires frequent inspections of numerous factories in a country where the number of available qualified inspectors is limited, unless there is a parallel increase in the number of qualified inspectors.

## **FUNDAMENTAL GLOBAL ENVIRONMENTAL THREATS**

There are several threats that lead to Global environmental threats. Examples of these include:

1. **Human Population:** According to the UN projection, more than 90% of the increase will occur in the poorest countries and 90% of the growth is already in the big cities. Rapid population growth affects the environmental quality e.g. forest encroachment for agriculture, proper disposal grounds, exhaustion of resources etc.
2. **Loss of biodiversity-** There is deterioration of the biodiversity of life on earth in three basic biological systems that support the world environment and these include forests, grasslands, and croplands. Because of need for food, firewood, etc. which creates growth deterioration. Grassland areas have shrunk from 70% as overgrazing turns land bare.
3. **Ocean pollutants and resource damage (water pollution).** Chemical contaminations, litter, oil spills, are common pollutants in the oceans, rivers, lakes and seas. Such pollutants affect the quality of water and quality affects use.
4. **Global warming:** Green house gas emissions lead to unpredictable climatic changes such as global warming which accelerates global climate change e.g. El nino. Greenhouse gases may be from industrial pollutants.

## **THE CONCEPT OF SUSTAINABLE DEVELOPMENT**

The Concept was popularised globally by the report of the World Commission on Environment and Development, which was the common future published in 1987. All environmental laws are aimed at achieving this concept. The report defined the concept of sustainable development as the concept that “meets the needs of the present without compromising the need of the future generations to meet their own needs.” The concept requires that the use of resources should be on

a sustainable basis so as to meet economic, social, cultural, ecological and spiritual needs of the present and future generations.

### **History of Sustainable Development:**

**Pre-Capitalist mode of production:** During this period the ownership of natural resources was communal. Thus every member of the society was entitled to use the natural resources in the manner that could not prejudice the interest of the community. In this period one could argue that there was equilibrium between production and consumption therefore they were environmentally friendly e.g. shifting cultivation. But with increasing technology and level of population the equilibrium between production and consumption was reduced. The impact of man's activities on the natural resources increased. There emerged a more complex interrelationship between mankind and the global resource base and the encompassing environment e.g. more cutting of trees, more pollution, people owning fixed land, more loss of trees for industrial development and human settlement etc. therefore there appeared environmental problems.

The decades of the 1960's and 1970's were marked by intensification and spread of pollution. There was growing awareness of environmental problems based on the recognition of the importance and complexity of interrelationships between mankind, global resource base and the encompassing environment.

The concern about environmental problems intensified in the 1970's. In 1972, a group of professionals drew up a document called "The Blue Print for Survival", which was published in the ecologist of 1972. That document noted that the task of every generation is to create a sustainable society which gives the fullest satisfaction possible to its members.

Under international law, the first concern was envisaged in the **Stockholm Declaration** which developed the concept of eco-development which was defined as "Development at regional and local levels consistent with the potentials of the areas involved, with attention given to the adequate and rational use of the natural resources and the application to technological styles and organisation forms that respect the natural ecosystems and local socio-cultural patterns".

In 1980, the **World Conservation Strategy** argued for international and national strategies for the conservation of living resources. The strategy proposed that sustainable development can be achieved through three means:-

- a. Maintain essential ecological processes and life support systems
- b. Preserving genetic diversity
- c. Ensuring sustainable utilisation of species and ecosystems.

In 1982 the **World Charter for Nature** emphasised that optimal sustainable productivity of all resources should comply with conservation and protection.

In 1987, the **Brundtland Report** clearly defined the concept of sustainable development.

In 1992, there was the **Rio Declaration** which emphasised 5 important elements of sustainable development as:

- a) Emphasis on quality of life rather than sustained production of commodities
- b) Integrating pollution, natural resources and the whole environment as an economic resource.
- c) Treating the whole environment as an economic resource
- d) Differentiating between developed and developing countries' responsibilities for global environmental damage and for response measures to potentially damaging activities.
- e) Concern with broader national policies, strategies and practices.