

# SUSTAINABLE DEVELOPMENT ISSUES



Research Article

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## Embedded Relationship Nature of Human Rights, Industrialization, Environment, Sustainable Development Goals, Constitution, Legislation, and Judiciary

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**Abstract:** Issues of addressing challenges of pursuing Inclusive Sustainable Industrial Development (ISID) complying with Internationally Recognized Human Rights (IHR) without degradation of an environmental ecosystem have attracted researchers and policymakers. Despite sustainable development being promulgated in international and national legal contexts, there is still a gap witnessed in integrating IHR, ISID and environment, Sustainable Development Goals (SDGs), Constitutional and Legislation provisions, and Jurisprudence. Qualitative and quantitative embedded relationship and reinforcing nature of SDGs and Constitution, Judiciary, and Legislations related to IHR, environmental, ISID Jurisprudence, and influence of the principle of sustainable development on the domestic legal regime is analyzed. The paper reveals the pivotal role of the Constitution, Legislation, and Judiciary in establishing a doctrine of sustainable development. Based on the analysis, the paper concludes that the reinforcing and embedded nature between IHR, ISID, environmental protection, SDGs, Constitution, Legislation & Judiciary is undeniable, and this reinforcing

and embedded relationship can be utilized holistically in advancing SDGs. The study reveals significant and varied levels of Embedded Relationship Index between the Constitutional provisions and SDGs, thereby signifying the need to include global legal indicators in SDG progress analysis as an explicit reference, and this extra-legal compliance mechanism can produce positive synergies in realizing SDG objectives. As a case study, the Constitution of India, Legislation, and Judgements pronounced in various Courts in India are considered in this paper. Principles established, analysis model developed, and recommendations made in this paper can be deployed across geographies.

**Keywords:** human rights; ISID, environment; sustainable development; SDG; Constitution; Legislation; Jurisprudence; Judiciary; reinforcing nature; embedded relationship; ERI

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## I. Study Background

### I.1. Introduction

Internationally Recognized Human Rights (IHR) are predominantly relevant to the concept of inclusive growth and Inclusive Sustainable Industrial Development (ISID) while ensuring that no one is eliminated or discriminated against in resource sharing or allocation, development process, economic growth strategy and industrialization. United Nations' (UN) seventeen Sustainable Development Goals (SDGs), together with their 169 targets, constitute the 2030 Agenda for Sustainable Development (SD). As adopted by the UN General Assembly Summit in 2015, SDGs and their associated targets provide a way forward for a triple-bottom-line model of development, drawing together ingredients of equitable, inclusive, sustained economic growth, peace, the rule of law, IHR, and ISID.

The 2030 Agenda is strongly grounded in IHR, ISID, and environmental conservation principles and are clearly reflected in several SDGs; IHR, ISID, and environment are indistinguishably linked, inextricably tied together and endeavor to leave no one behind, and anchor equality and non-discrimination (Feiring and König-Reis, 2020; Spijkers, 2020).

Environmental degradation, non-compliance to IHR, and industrial growth without due adherence to ISID development principles are some of the major problems in the contemporary world, but a common international law promoting ISID while protecting IHR and the environment is unfounded (Olawuyi, 2014; Akyuz, 2021; Suresh and Sundaram, 2022). Changing contours of environment-related crimes coupled with IHR violations create a disastrous impact on all dimensions of SD, be it on the environment and natural resources, economic development and ISID, or social and cultural fabric (Suresh and Sundaram, 2021). Thus, concerted efforts are required from all quarters to reduce all forms of environmental crime and ensure social inclusion and transparency in governance, constituting core requirements of people's well-being and essential conditions for achieving SD. It is also essential to enhance safe and sustainable eco-friendly urban, rural, and industrial ecosystems and communities, to deliver access to a fair and transparent, responsive, and accountable Judiciary system that conforms to IHR standards, to promote a vibrant economic investment and ISID ecosystem that is compatible with ecological preservation and social imperatives, crimeless inclusive model of poverty less gender-balanced society (Suresh and Sundaram, 2021, 2022). Thus to achieve SDG, a key democratic institution essentially needs to encompass elements of good governance, accountability, transparency, and a fair and effective Judiciary system (Du Plessis, 1999; Suresh and Sundaram, 2021).

Various research studies, international reports, and institutions have focused their attention on the global arena of IHR, environmental, and industrialization Jurisprudence (Peel and Osofsky, 2018; Mayer, 2019; Preston, 2021). Despite SD being promulgated in international and national legal contexts in a structured manner, there is still a gap witnessed in literature in integrating IHR, ISID and environmental principles, SDG and their targets, Constitutional provisions, and Jurisprudence. It is imperative that SDGs, Constitutional and Legislation

provisions, and judicial intervention must be analyzed, considering their interdependencies and mutually reinforcing nature. Only a little attempt has been made in the past in this direction. Further, the embedded relationship and reinforcing nature of IHR, ISID, environment, and SDG are rarely analyzed comprehensively. Analyses are confined to SDG dealing with health or water (Scanlon, Cassar, and Nemes, 2004), the right to food and nutrition (Vivero Pol and Schuftan, 2016; Aller, Romero, and Carvajal, 2018), clean energy or related areas (Spijkers, 2020). Earlier studies reveal that the cross-embedded relationship nature of IHR-related treaties and instruments with environment-related SDGs can be utilized holistically in advancing SDGs (Suresh and Sundaram, 2022). Hence analyzing the embedded relationship and reinforcing the nature of IHR, ISID, environment SDGs, Constitutional and Legislation provisions, and Judiciary assumes great importance in this context.

## **I.2. Purpose**

The main objective of the paper is to examine the embedded relationship and reinforcing nature of IHR, ISID, environment SDGs, Constitution, Legislation, and Judiciary in driving a structured transformation process toward inclusive economic growth and industrialization adhering to IHR and ISID values that are environmentally centric and sustainable in a true sense. The perceived gap is addressed through:

- i. understanding of theoretical framework principles of embedded relationship and reinforcing nature between IHR, ISID, environment SDGs, Constitution, Legislation, and Judiciary;
- ii. a systematic review and textual analysis of legally enforceable (by courts) and non-enforceable Constitutional provisions, their relevance and applicability in SDG analysis from the perspective of IHR, ISID, and environment;
- iii. analyzing embedded relationship and reinforcing nature of the Constitution, Legislation, and Judiciary in (a) IHR-related SDGs (IHR-SDGs) and targets of SDG dealing with IHR dimensions (IHRT-SDGs); (b) environment-related SDGs (E-SDGs) and targets of SDG dealing

with environment dimensions (ET-SDGs); (c) ISID related SDGs (ISID-SDGs) and targets of SDG dealing with ISID dimensions (ISIDT-SDGs);<sup>1</sup>

iv. critical analysis of selected landmark Judgements from the perspective of IHRT-SDG, ET-SDG, ISIDT-SDG; and

v. development of a quantitative measure of embedded relationship and relative quantitative analysis of embedded relationship both from Constitutional provision and IHRT-SDG, ET-SDG, and ISIDT-SDG perspectives.

The 2030 Agenda warrants close monitoring of thematic areas of IHR-SDGs, E-SDGs, and ISID-SDGs in relation to IHRT-SDGs, ET-SDGs, and ISIDT-SDGs, respectively. The study presents key components of an embedded relationship and reinforcing nature, as enumerated earlier. As a case study, the Constitution of India, various Legislation, and Judgements pronounced in various Courts in India are considered in this paper. However, principles established, qualitative and quantitative analysis methodology, and recommendations made in this paper can be deployed across geographies.

## **II. Theoretical Framework Principles of Embedded Relationship and Reinforcing Nature between IHR, ISID, Environment SDGs, Constitution, Legislation, and Judiciary**

Principles of SD can be tracked to Stockholm Declaration (UN, 1972). Though a nonbinding treaty in nature, it is recognized that there is “general recognition of interdependence and interrelatedness

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<sup>1</sup> “(i) SDG 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all, i.e., ISIDT-SDG 8.1–8.3, 8.5–8.10, 8.a–8.b, and ET-SDG 8.4; (ii) SDG 9: Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation, i.e., ISIDT-SDG 9.1–9.3, 9.5, 9.a–9.c, and ET-SDG 9.4; (iii) SDG 12: Ensure sustainable consumption and production patterns, i.e., ET-SDG 12.1–12.2, 12.4–12.7, 12.a–12.c, and ISIDT-SDG 12.3, 12.8; (iv) SDG 13: Take urgent action to combat climate change and its impacts, i.e., IHRT SDG 13.3, 13.b, and ET-SDG 13.1–13.2, 13.a; (v) E-SDG 14: Conserve and sustainably use the oceans, seas and marine resources for SD, i.e., ET-SDG 14.1–14.7, 14.a–14.c; (vi) E-SDG 15: Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss, i.e., ET-SDG 15.1–15.9, 15.a–15.c; (vii) IHR-SDG 16: Promote peaceful and inclusive societies for SD, provide access to justice for all, and build effective, accountable, and inclusive institutions at all levels, i.e., IHRT-SDG 16.1–16.10, 16.a–16.b” (UN General Assembly, 2015).

of IHR and environment” seemingly acknowledging a right to an adequate environment. Promotion, protection, and fulfillment of IHR, economic growth, ISID, and environmental sustainability are viewed as complementary objectives at the core of SD. It is imperative to understand environmental protection as an IHR- and ISID-connected issue, and a high-quality environment is a key element of IHR (Boer and Boyle, 2014; Lewis, 2018) and sustained economic growth and eco-friendly industrialization on the principles of ISID.

Philosophical, theoretical, and legal perspectives of IHR, ISID, and the environment are discussed in literature (Leib, 2011; Boer and Boyle, 2014; Suresh, Erinjery, and Jegathambal, 2016; Suresh, 2018; Knox, 2018; Kaltenborn, Krajewski, and Kuhn, 2020; Akyuz, 2021; Knox and Morgera, 2022; Suresh and Sundaram, 2022). The Human Rights Council (HRC) resolution acknowledged many important elements of strengthening nature between IHR and the environment.<sup>2</sup> ISID model is considered as a growth engine for income generation, an enabler, and a facilitator for rapid and sustained improvement and enhancement in living standards coined to offer robust technical solutions to environmentally compatible and sound industrialization, thereby enhancing and reinforcing economic growth and diversification in a socially inclusive and environmentally sound acceptable manner.<sup>3</sup> Even though analysis related to reinforcing nature of IHR and environment and linkage studies between SDG, IHR, and environment, literature still emphasizes studies on long-overdue recognition of IHR, ISID, and environment nexus and their litigation-related matters<sup>4</sup> (Wernham,

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<sup>2</sup> UN General Assembly. Human rights and the environment. Available at: [undocs.org/en/A/HRC/RES/16/11](https://undocs.org/en/A/HRC/RES/16/11) [Accessed 20.09.2022]; UN General Assembly. Analytical study on the relationship between human rights and the environment. Available at: [undocs.org/en/A/HRC/19/34](https://undocs.org/en/A/HRC/19/34) [Accessed 20.09.2022].

<sup>3</sup> UNIDO. Lima Declaration: Towards inclusive and sustainable industrial development. Available at: [https://www.unido.org/sites/default/files/files/2018-12/UNIDO\\_GC15\\_Lima\\_Declaration.pdf](https://www.unido.org/sites/default/files/files/2018-12/UNIDO_GC15_Lima_Declaration.pdf) [Accessed 11.09.2023]; UNIDO. Inclusive and Sustainable Industrial Development. Africa Region. Vienna: UNIDO.

<sup>4</sup> The Danish Institute for Human Rights, (2008). The Rights of Persons with Disabilities and the Sustainable Development Goals. Copenhagen, K.; The Danish Institute of Human Rights, (2017); The Office of the Legal Counsel in collaboration with the Communicable Diseases and Department Environmental Determinants of Health, 2022.

2016; Fraser and Henderson, 2022; Suresh and Sundaram, 2022). Environmental dimensions of IHR, industrial, and business law are rarely addressed in the literature, despite the increase in environmental cases in IHR and industrialization Jurisprudence.

In the past, India adopted an economic development strategy driven by a model of large-scale industrialization without adequate environmental safeguards; development of industrial clusters without much consideration for environmental and pollution abatement infrastructure and without adhering to ISID development models; promotion of small-scale industries, which cannot afford the creation of standalone pollution control measures; energy-intensive hard to abate emission industries; and biochemical-based agricultural technology, which has led to environmental degradation and IHR and ISID violations especially in managing waste and equitable distribution of resources (Suresh, Erinjery, and Jegathambal, 2016; Suresh, 2018; Gill and Ramachandran, 2021; Suresh and Sundaram, 2022). However, it is not possible to conclude that concern for the protection of the environment was not present; after independence, several laws were passed in India to protect the environment.

The Legislature, Executive, and Indian Judiciary have taken several initiatives and proactive measures not only to conserve, protect and improve the environment and uphold IHR and ISID principles in alignment with SDGs. In the Indian scenario, especially in environment conservation and protection-related measures and IHR and ISID values, the Judiciary has played a proactive role. Analyzing the role of the Indian judiciary in the IHR, ISID, and environmental sector is a challenging and interesting task, since the Judiciary has consistently adjudicated measures to conserve, protect and improve the environment and uphold IHR and ISID principles over past decades.

Even before being a signatory to the Stockholm Declaration (UN, 1972), the Government of India (GoI) became cognizant of the hazards of environmental degradation and pollution as early as 1969. Even in First Five-Year Plan (1951–1956) (Planning Commission, First Five-Year Plan (1951–1956), 1950), GoI emphasized rehabilitation of forest areas, and means of communication with forests were also improved during



this plan. Simultaneously, as part of the subsequent five-year planning process, environmental aspects were considered by establishing a link and balance between planning and environmental management.

A significant change that paved the way for environmental law as it exists in India was the Constitution of India (The Constitution of India, 1950) that embodies a framework of protection and preservation of nature without which life cannot be enjoyed. The Indian Constitution is not inert but a living document that evolves and grows over time. Specific provisions of the Constitution on environmental protection can be regarded as the result of dynamic and evolutionary attributes and growth potential of the country's fundamental law.

Fundamental rights, Directive Principles of State Policy (DPSP), and fundamental duties prescribe fundamental obligations of the State to its citizens and duties of citizens to the State. DPSPs are active obligations of the State; they are policy prescriptions for the guidance of the Government. The preamble of the Constitution assures a socialist model of society and the dignity of the individual. A decent standard of living, clean environment, decent work, and sustained economic inclusive growth are built into it. Be its fundamental rights, fundamental duties, or DPSP, they all contain provisions for IHR, ISID, and environmental protection.

### **III. A Systematic Review and Textual Analysis of Legally Enforceable (by Courts) and Non-Enforceable Constitutional Provisions, their Relevance, and Applicability in SDG Analysis from the Perspective of IHR, ISID, and Environment**

#### **III.1. Approach**

As enumerated earlier, IHR, ISID, and environment compliance provide direction for the deployment of the 2030 Agenda for SD, and similarly, the 2030 Agenda and SDGs can contribute significantly to achieving IHR and ISID while not only preventing environmental degradation but also to conserving ecology and environment. Biodiversity and ecosystem services are essential to achieving the 2030 Agenda

for SD. The role and relevance of IHR, ISID, and the environmental rule of law in achieving SDG have been recognized. A textual analysis of Constitutional provisions is also provided, focusing on possibilities for embedded relationships with IHRT-SDGs, ISIDT-SDGs, and ET-SDGs. Substantive rights, negative and restrictive obligations for States,<sup>5</sup> and States' positive and proactive obligations<sup>6</sup> are analyzed. The section gives various provisions of legally enforceable and non-enforceable Constitutional provisions in the context of SDGs, with a qualifying statement that Constitutional provisions discussed in this paper are not comprehensive or chronological.

### III.2. Textual Analysis

Textual analysis of themes of IHRT-SDGs, ISIDT-SDGs, and ET-SDGs demands several IHRs<sup>7</sup> to achieve their targets. A textual analysis of the Constitution of India, Part III provisions reveals that ingredient requirements of IHRT-SDGs, ISIDT-SDGs, and ET-SDGs are guaranteed under the umbrella of fundamental rights (The Constitution of India, 1950). They are defined as basic human rights of all citizens and are enforceable by Courts subject to specific restrictions. It guarantees fundamental rights that are indispensable for the development of each individual and to which a person has an inherent right by virtue of being a human. Important fundamental rights, i.e., Art. 12–35 of the

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<sup>5</sup> To avoid initiating activities that may hinder equality before the law, IHR, ISID, and environmental objectives.

<sup>6</sup> (i) To protect and comply with IHR and ISID; (ii) to protect the welfare of people; (iii) to secure social order; (iv) for adequate livelihood; (v) to control of material resources distribution to subserve the common good; (vi) for just and humane conditions of work; (vii) to protect wages and labor rights; (viii) procedural obligations for ensuring access to information and performing environmental and social impact assessments; (ix) public participation in environmental decision-making; and (x) remedy mechanisms for IHR and ISID violations.

<sup>7</sup> IHR rights include (i) the right to equality; (ii) principle of equality before the law; (iii) equal protection of the law; (iv) prohibition of discrimination on various grounds; (v) equality of opportunity in employment; (vi) the right for decent work; (vii) the rights against exploitation; (viii) protection of certain rights regarding industrial activities; (ix) multi-faceted fundamental rights relating to the right to livelihood and the right to a wholesome environment; and (x) remedies for enforcement of rights, etc.

Constitution of India in the context of IHRT-SDGs, ET-SDGs, and ISIDT-SDGs imply:

i. No denial to any person equality before the law or equal protection of laws,<sup>8</sup> thereby triggering other rights like gender equality and empowering women and girls, reducing inequalities, equality of resources sharing, right to wholesome environment, access to justice for all for ensuring and promotion of inclusive societies, IHR, ISID, and environment conservation;

ii. Prohibition of discrimination against any citizen on any grounds, thereby not only ensuring gender equality and empowerment of women and girls and oppressed communities but also granting authority to the State to ensure their protective and positive intervention, promoting peaceful and inclusive societies, promotion of IHR values;<sup>9</sup>

iii. Decent work and productive employment-related rights<sup>10</sup> leading to reducing inequalities, promotion of inclusive societies, IHR and ISID principles;<sup>11</sup>

iv. Industrial activities-related rights and compliance<sup>12</sup> leading to the promotion of IHR, environmental conservation, and ISID governance;<sup>13</sup>

v. Legal protection-related rights,<sup>14</sup> thereby promoting peaceful and inclusive societies, providing access to justice for all, building ef-

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<sup>8</sup> Art. 14, the Constitution of India.

<sup>9</sup> Art. 15, 17, 18, the Constitution of India.

<sup>10</sup> Related rights include (i) equality of opportunity for all citizens in matters of public employment; (ii) gender equality; (iii) protective and positive intervention for oppressed communities; (iv) rights against exploitation; (v) prohibition of traffic in human beings and forced labor; and (vi) prohibition of employment of children in factories, work in any factory or mine or engaged in any other hazardous employment.

<sup>11</sup> Art. 16, 23, 24, the Constitution of India.

<sup>12</sup> The aspects would include (i) right to develop with limitations and restrictions; (ii) empowerment of the State to make laws imposing restrictions as deemed fit and comply with a host of rules and relations on labor, environment, and financial both during the development and operation stage; (iii) development of everyone economically and socially, and ecologically responsible; (iv) right to wholesome environment; and (v) access to the rapid response to violations.

<sup>13</sup> Art. 19, the Constitution of India.

<sup>14</sup> (i) The rights in respect of conviction for offenses except for violation of a law in force; (ii) preventing prosecution and punishment for the same offense more than

fective, accountable, and inclusive institutions at all levels, and promoting IHR values;<sup>15</sup>

vi. Multi-faceted fundamental rights<sup>16</sup> leading to the promotion of IHR, ISID, and environment conservation principles;<sup>17</sup>

vii. Remedies for enforcement of fundamental rights and right to Constitutional remedies,<sup>18</sup> thereby promoting peaceful and inclusive societies, providing access to justice for all, promoting IHR, ISID, and environmental conservation principles.<sup>19</sup>

Textual analysis of IHRT-SDGs, ISIDT-SDGs, and ET-SDGs also endeavors States to formulate and adopt Laws<sup>20</sup> for achieving their targets. A qualitative analysis of the Constitution of India, Part IV provisions reveals that guidelines and enablers for attaining IHRT-SDGs, ISIDT-SDGs, and ET-SDGs are discussed under the ambit of DPSP (The Constitution of India, 1950), thereby implying ideals of

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once; (iii) prohibition of self-incrimination; (iv) protection against arrest and detention in custody without being informed; (v) the right to consult, and to be defended by a legal practitioner; and (vi) safeguards against arbitrary arrest and detention.

<sup>15</sup> Art. 20, 22, the Constitution of India.

<sup>16</sup> Relating to (i) the right to livelihood; (ii) the right to live in an environment free of pollution; (iii) the right to a clean and healthy environment free from the danger of disease and infection; (iv) the right to a wholesome environment; (v) embracing clean and environment-friendly solutions, practices, technologies, and industrial processes also fall under the purview of the right to life; (vi) the right to access clean drinking water; (vii) the right to sanitation; (viii) the right to electricity; (ix) the right to housing; (x) the right to food; (xi) the right to health; and (xii) the right to live free from the danger of disease and infection.

<sup>17</sup> Art. 21, the Constitution of India.

<sup>18</sup> (i) The right to appeal to the Honorable Supreme Court through appropriate procedures for the enforcement of the fundamental rights; and (ii) for the implementation and enforcement of any of the fundamental rights, the Honorable Supreme Court is empowered to issue directions or orders or writs, be it in the form of habeas corpus, mandamus, prohibition, quo warranto, and certiorari as appropriate.

<sup>19</sup> Art. 32, the Constitution of India.

<sup>20</sup> Laws related to (i) promotion of welfare of the people; (ii) minimizing the inequalities; (iii) an adequate means of livelihood; (iv) fair distribution of material resources of the community; (v) productive and decent work; (vi) equal justice and free legal aid; (vii) separation of the Judiciary from the executive; (viii) promotion and improvement of environment and improving public health; and (ix) promotion of international peace and security.

constructing a welfare State. DPSP of the Constitution are guidelines for the drafting of Legislation by the Government and are not enforceable by Courts. On the other hand, the principles on which they are based are fundamental guidelines for governance that the State is supposed to apply in the formulation and adoption of Laws. Important DPSP, i.e., Art. 36–51 of the Constitution of India in the context of IHRT-SDGs, ET-SDGs, and ISIDT-SDGs, imply that the State shall:

i. Strive to secure a social order for the promotion of the welfare of people, minimize inequalities in income, and endeavor to eliminate inequalities;<sup>21</sup>

ii. Direct its policy<sup>22</sup> towards achieving ISID and sustainable economic growth;<sup>23</sup>

iii. Secure credible operation of the legal system,<sup>24</sup> promote peaceful and inclusive societies, and build effective, accountable, and inclusive institutions at all levels;<sup>25</sup>

iv. By suitable Legislation,<sup>26</sup> endeavor, conducive work conditions, decent and productive work, gender equality, and promoting sustained inclusive and sustainable economic growth;<sup>27</sup>

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<sup>21</sup> Art. 38, the Constitution of India.

<sup>22</sup> Policy initiatives would include (i) the right to an adequate means of livelihood; (ii) ownership, and control of the material resources of the community for fair distribution; (iii) decentralization of wealth for the operation of the economic system; (iv) equal pay for equal work for both men and women; (v) health and strength of workers; and (vi) preventing child labor.

<sup>23</sup> Art. 39, the Constitution of India.

<sup>24</sup> Initiatives would include (i) access to justice for all; (ii) promoting justice on basis of equal opportunity; (iii) providing free legal aid; (iv) ensuring justice are not denied to any citizen by reason of economic or other disabilities; and (v) taking steps to separate the judiciary from the executive in the public services of the State.

<sup>25</sup> Art. 39A, 50, the Constitution of India.

<sup>26</sup> Legislation includes (i) the right to work; (ii) effective provisions to public assistance in cases of unemployment, old age, sickness, and disablement; (iii) provision for securing just and humane conditions of work and for maternity relief; (iv) living wage; (v) ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities; and (vi) participation of workers in the management of organizations engaged in any industry.

<sup>27</sup> Art. 41–43A, the Constitution of India.

v. Endeavor to protect and improve the environment<sup>28</sup> in a structured manner for SD;<sup>29</sup> and

vi. Promote international peace and security, endeavor to foster respect for international law and treaty obligations, settle international disputes by arbitration, strengthen means of implementation, and revitalize global partnership.<sup>30</sup>

Further, textual analysis of IHRT-SDGs, ISIDT-SDGs, and ET-SDGs also demands that people be responsible and perform actions and duties for achieving its targets, thereby fostering a spirit of commitment to SD. A qualitative analysis of the Constitution of India, Part IVA Art. 51A under the umbrella of fundamental duties (The Constitution of India, 1950), implies the moral commitment and responsibilities of citizens to attain SDGs. They are not legally binding and enforceable by Court and prescribe eleven fundamental duties, and in the perspective of IHRT-SDGs, ISIDT-SDGs, and ET-SDGs,<sup>31</sup> implies that abiding by the Constitution and Law of State, it would result in building effective, accountable, and inclusive institutions, sustained inclusive economic growth and promotion of inclusive societies.

Textual analysis of IHRT-SDGs, ISIDT-SDGs, and ET-SDGs also demands certain administrative relations between Union and States. A qualitative analysis of the Constitution of India, Part XI Chapter II Art. 262 provides for adjudication of any dispute or complaint with

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<sup>28</sup> Initiatives include (i) raising the standard of living by improvement of public health; (ii) securing clean water, and sanitation; (iii) protecting, restoring, and promoting sustainable use of terrestrial ecosystems; (iv) halting and reversing land degradation; (v) halting biodiversity loss; (vi) safeguarding the forests and wildlife; (vii) increased resource-use efficiency; and (viii) greater adoption of clean and environmentally sound technologies and industrial processes.

<sup>29</sup> Art. 47, the Constitution of India.

<sup>30</sup> Art. 51, the Constitution of India.

<sup>31</sup> The fundamental duties in this context would include (i) renouncing practices derogatory to the dignity of women, empowerment of women and girls; (ii) protecting and improving the natural environment including forests, lakes, rivers and wild life, compassion for all living creatures; (iii) developing the scientific temper, humanism and the spirit of inquiry and reform; (iv) safeguarding public property and abjuring violence; and (v) striving towards excellence in all spheres of individual and collective activity.

respect to the use, distribution, or control of waters of, or in, any inter-State River or river valley, water rights as riparian rights were created to resolve State River water disputes.

#### **IV. Qualitative analysis of the Embedded Relationship and Reinforcing Nature of IHR, ISID, Environment, and SDGs with Constitutional, Legislation, and Judiciary**

##### **IV.1. Prelude**

Constitutional provisions are backed by several laws, acts, rules, and notifications. Apart from applicable Constitutional Provisions, there are (i) Major Criminal Acts (The Indian Penal Code, 1860; The Indian Evidence Act, 1872; The Code of Criminal Procedure, 1973), Procedural Laws (The Code of Civil Procedure, 1908); (ii) Minor Criminal Acts, Rules, Regulations, and Local Laws under Indian context.

The Department of Environment was formed in 1980 to approach issues of the environment holistically. This later became the Ministry of Environment and Forests in 1985, and subsequently, in 2014, it was named as Ministry of Environment, Forest and Climate Change (MoEFCC). Environmental Protection Act (EPA), 1986 (The Environment (Protection) Act, 1986) came into force shortly after the Bhopal gas tragedy and is considered as a framework law because it fills many gaps in existing laws. Thereafter many acts and rules pertaining to the environment came into existence as problems began arising. Apart from the air pollution act (The Air (Prevention and Control of Pollution) Act, 1981), the water pollution act (The Water (Prevention and Control of Pollution) Act, 1974), and the environment protection act (The Environment (Protection) Act, 1986), there exist common law doctrines and Constitution provisions touching environmental perspectives. Further, there are statutory remedies such as the law of crimes (The Indian Penal Code, 1860), civil procedure code (The Code of Civil Procedure, 1908), and criminal procedure code (The Code of Criminal Procedure, 1973), which play a very important role in preventing and controlling different kinds of pollution.

Several landmark judgments across countries can be cited on the subject of IHR, ISID, and environmental conservation, especially the

right to a healthy environment and the right to livelihood (Scanlon, Cassar, and Nemes, 2004). A body of Jurisprudence on SDGs and their domestic implementation has evolved in India. With a gamut of judicial leverage,<sup>32</sup> the principle of SD, over a period of time, has occupied a center stage of IHR, ISID and environmental Jurisprudence in India (Suresh, Erinjery, and Jegathambal, 2016; Suresh, 2018; Suresh and Sundaram, 2022).<sup>33</sup>

The Honorable Supreme Court has reiterated SD's importance in the country's environmental legal regime and has contributed immensely to SD, IHR, ISID, and environmental Jurisprudence and has been instrumental in preserving the doctrine of SD. The Honorable Supreme Court emphasized that expression is indeed a principle of development and provided a larger encompassing meaning within its fold and underlined important elements.<sup>34</sup> The Judiciary has, in fact, extended the scope of Art. 32 and 21 of the Constitution as broadly as possible. The tool of a continuing mandamus has been extensively utilized to moni-

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<sup>32</sup> (i) Right to livelihood and food; (ii) right to health; (iii) right to education; (iv) rights of women and children; (v) right to a healthy environment; (vi) clean water and sanitation; (vii) affordable, clean energy and promoting renewable energy; (viii) rights against discrimination; (ix) responsible industrial operations, corporate liability and responsibility especially fossil fuel producers and hard to abate emission industries, Resource Efficient and Cleaner Production (RECP) practices, public trust doctrine; (x) sustainable cities and communities; (xi) protecting life on land and life below water, intra-and inter-generational equity; (xii) an integrated approach of focusing on climate change and other contingent situation on planet and people; (xiii) implementing emission reductions and low-carbon economy measures adhering to Paris Agreement commitments (UN, 2015); (xiv) holistic approach in promoting principles of SD; (xv) ensuring environmental and green taxes, subsidies and carbon credits; (xvi) enforcing statutory and executive obligations; (xvii) energy-related regulations, renewable energy targets and infrastructure for e-mobility; (xviii) right of equality before law; and (xix) augmenting progress on SDGs.

<sup>33</sup> UNEP (2019) Environmental Rule of Law, First Global Report, Job number: DEL/2227/NA.

<sup>34</sup> Development initiatives need to be truly sustainable with a long term view of preservation of natural environment for present and future generations while upholding IHR and ISID values and underlined important elements of (i) intergenerational equity; (ii) use and conservation of natural resources, (iii) environmental protection; (iv) precautionary principle; (v) polluter pays principle; (vi) obligation to assist and cooperate; (vii) eradication of poverty; and (viii) financial assistance to developing countries.



tor the enforcement and implementation of orders by demanding regular updates and reports from concerned Governmental agencies on compliance and progress achieved. The Courts have reminded both the State and the citizens about their duties towards the environment while deciding environmental issues by referring to Art. 48A and 51A(g) of the Constitution. The Indian Judiciary has developed IHR, ISID, and environmental Jurisprudence both through public interest litigations and by its powers to issue appropriate instructions and directions to various statutory authorities to function as per assigned mandate under applicable environmental laws. Further, as a proactive measure, National Green Tribunal (NGT), a specialized tribunal for addressing environmental matters, was established through NGT Act, 2010, thereby leading to an effective, speedy, robust Jurisprudence in effectuating the principle of SD.

The embedded relationship and reinforcing nature of Constitutional provisions with SDGs are analyzed in a qualitative manner. The actual text of IHRT-SDGs, ISIDT-SDGs, and ET-SDGs are analyzed in more detail and is subjected to textual analysis, in which the language of IHRT-SDG, ISIDT-SDG, and ET-SDG is compared with authoritative codifications of various Constitutional provisions. Further, a selective list of landmark judgments of Indian Courts in the context of SDGs, evidencing the reinforcing nature of IHR, ISID, environment Constitution, Legislation, and Indian Judiciary, is discussed with a qualifying statement that the list is not comprehensive or in a chronological manner.

#### **IV.2. Qualitative analysis of the Embedded Relationship and Reinforcing Nature – IHR-SDG 5**

The theme of IHR-SDG 5 is “Gender equality,” and six substantive targets of IHR-SDG 5,<sup>35</sup> three targets on means of implementation and

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<sup>35</sup> Focus on (i) ending all forms of discrimination against all women and girls; (ii) eliminating all forms of violence against all women and girls, including trafficking and sexual and other types of exploitation; (iii) eliminating all harmful practices, such as childhood, early and forced marriage and female genital mutilation; (iv) recognizing and valuing unpaid care and domestic work, and promotion of shared responsibility within household and family; (v) ensuring women’s full and effective participation and equal opportunities for leadership; and (vi) access to sexual and reproductive health and reproductive rights (UN General Assembly, 2015, 2017).

other initiatives provide gender equality and empower all women and girls (Suresh, Erinjery, and Jegathambal, 2016; Suresh, 2017, 2018; Asian Development Bank, 2019). The Honorable Supreme Court of India held that gender-based bias was totally impermissible and wholly unacceptable.<sup>36</sup>

The summary of the embedded relationship of Constitutional provisions with IHR-SDG 5 in a qualitative manner is presented below.

i. IHRT-SDG 5.1: “*End all forms of discrimination against all women and girls everywhere.*”; IHRT-SDG 5.2: “*Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation.*”; IHRT-SDG 5.3: “*Eliminate all harmful practices, such as child, early and forced marriage, and female genital mutilation.*”

— Fundamental rights: 14, 15(1)–15(5), 15(6)(a)–15(6)(b), 21, 21A, 23(1)–23(2), 24;

— DPSP: 38(1)–38(2), 39(f), 45, 51(c); and

— Fundamental duties: 51A(e), 51A(k).

ii. IHRT-SDG 5.4: “*Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies, and the promotion of shared responsibility within the household and the family as nationally appropriate.*”

— Fundamental rights: 14, 15(1)–15(5), 15(6)(a)–15(6)(b), 21;

— DPSP: 38(1)–38(2), 39(a), 39(d)–39(e), 42, 46, 51(c); and

— Fundamental duties: 51A(e).

iii. IHRT-SDG 5.5: “*Ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic, and public life.*”; IHRT-SDG 5.a: “*Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance, and natural resources, in accordance with national laws.*”

— Fundamental rights: 14, 15(1)–15(5), 15(6)(a)–15(6)(b), 16(1)–16(4), 16(4A)–16(4B), 16(5)–16(6), 21;

— DPSP: 38(1)–38(2), 39(a), 39(d)–39(e), 42, 46, 51(c); and

— Fundamental duties: 51A(e).

<sup>36</sup> Charu Khurana and Ors v. Union of India (UoI) and Ors LNIND 2014 SC 942.

iv. IHRT-SDG 5.6: *Ensure universal access to sexual and reproductive health and reproductive rights* as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences.”

— Fundamental rights: 14, 15(1)–15(5), 15(6)(a)–15(6)(b), 16(1)–16(4), 16(4A)–16(4B), 16(5)–16(6), 21;

— DPSP: 38(1)–38(2), 39(a), 39(d)–39(e), 42, 46, 51(c); and

— Fundamental duties: 51A(e).

v. IHRT-SDG 5.b: *“Enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women.”*

— Fundamental duties: 51A(h).

vi. IHRT-SDG 5.c: *“Adopt and strengthen sound policies and enforceable Legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.”*

— Fundamental rights: 15(1)–15(5), 15(6)(a)–15(6)(b), 16(1)–16(4), 16(4A)–16(4B), 16(5)–16(6), 21;

— DPSP: 39(a), 39(d)–39(e), 42; and

— Fundamental duties: 51A(e).

### **IV.3. Qualitative Analysis of the Embedded Relationship and Reinforcing Nature: SDG 8**

The theme of SDG 8 is “Decent work and economic growth,” and seven substantive targets of SDG 8,<sup>37</sup> five targets on means of implementation, policy initiatives, other measures, and trade support, on SDG 8 are proactive measures towards promoting sustained inclusive,

<sup>37</sup> Focus on (i) sustaining per capita economic growth; (ii) achieving higher levels of economic productivity; (iii) improving global resource efficiency in consumption and production and endeavoring to decouple economic growth from environmental degradation; (iv) achieving full and productive employment and decent work; (v) reducing proportion of youth not in employment, education, or training; (vi) eradicating forced labor, ending modern slavery and human trafficking, elimination of child labor, eliminate use of child soldiers, and (vii) protecting labor rights safe and secure working environment, protecting migrant workers (UN General Assembly, 2015, 2017).

sustainable economic growth, full and productive employment, and decent work and achieving ISID model of development (UNIDO, 2013, 2015; UN General Assembly, 2015, 2017).

Displacement of people due to development initiatives need not necessarily be viewed as a violation of fundamental rights under the Constitution, provided resettlement and rehabilitation measures are adequate, responsive, and implemented immediately and effectively; the right to a healthy environment, including SD, are fundamental human right implicit in the right to life.<sup>38</sup> It is imperative to appreciate that fundamental rights provided in Constitution are not unfettered and unregulated. Article 19(6) of the Constitution does provide for reasonable restrictions on fundamental rights; the right to carry on business while causing a nuisance to society is invalid.<sup>39</sup> Industries cannot reap profit at the cost of public health as it violates the principle of ISID. It is essential to evaluate cost-benefit analysis and detrimental effect on workers, the public, and society at large by operating a cluster of polluting industries and discharging untreated industrial trade effluent to rivers as opposed to inconvenience caused, economic loss, loss of employment and labor due to closure of cluster of industries not in compliance with regulations and not taking minimum steps required for combating pollution.<sup>40</sup>

The following summarizes the embedded relationship of Constitutional provisions with SDG 8 qualitatively.

i. ISIDT-SDG 8.1: “*Sustain per capita economic growth* in accordance with national circumstances and, in particular, at least 7 percent gross domestic product growth per annum in the least developed countries.”; ISIDT-SDG 8.2: “*Achieve higher levels of economic productivity through diversification, technological upgrading, and innovation, including through a focus on high-value added and labor-intensive sectors.*”

— Fundamental rights: 21;

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<sup>38</sup> Narmada Bachao Andolan v. UOI and Ors LNIND 2000 SC 1361, AIR 2000 SC 3751, (2000) 10 SCC 664, MANU/SC/0640/2000.

<sup>39</sup> Abhilash Textile and Ors v. The Rajkot Municipal Corporation AIR 1988 Guj 57, 1987 GLH (2) 447, (1987) 2 GLR 1325, MANU/GJ/0095/1988.

<sup>40</sup> MC Mehta v. UoI and Ors LNIND 1987 SC 663, AIR 1988 SC 1037, (1987) 4 SCC 463, MANU/SC/0396/1987.

— DPSP: 38(1)–38(2), 39(a)–39(c); and

— Fundamental duties: 51A(h), 51A(j).

ii. ISIDT-SDG 8.3: “Promote development-oriented policies that support *productive activities, decent job creation, entrepreneurship, creativity and innovation, and encourage the formalization and growth of micro-, small- and medium-sized enterprises*, including through access to financial services.”; ISIDT-SDG 8.5: “By 2030, achieve *full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value*.”; ISIDT-SDG 8.6: “By 2020, substantially *reduce the proportion of youth not in employment, education or training*.”; ISIDT-SDG 8.7: “Take immediate and effective measures to *eradicate forced labor, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labor, including recruitment and use of child soldiers, and by 2025 end child labor in all its forms*.”; ISIDT-SDG 8.8: “Protect labor rights and *promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment*.”

— Fundamental rights: 15(1)–15(5), 15(6)(a)–15(6)(b), 16(1)–16(4), 16(4A)–16(4B), 16(5)–16(6), 19(1)(g), 19(6), 21, 23(1)–23(2), 24;

— DPSP: 38(1)–38(2), 39(a)–39(f), 41–43, 43A, 46; and

— Fundamental duties: 51A(e), 51A(h), 51A(j).

iii. ET-SDG 8.4: “Improve progressively, through 2030, *global resource efficiency in consumption and production and endeavor to decouple economic growth from environmental degradation*, in accordance with the 10-Year Framework of Programmes on Sustainable Consumption and Production, with developed countries taking the lead.”

— Fundamental rights: 19(1)(g), 19(6), 21;

— DPSP: 38(1)–38(2), 39(a)–39(c), 42, 47, 48, 48A, 51(c);

— Fundamental duties: 51(g)–51A(j); and

— Relations between the Union and the States: 262.

iv. ISIDT-SDG 8.9: “By 2030, devise and implement policies to *promote sustainable tourism that creates jobs and promotes local culture and products*.”

- Fundamental rights: 15(1)–15(5), 15(6)(a)–15(6)(b), 16(1)–16(4), 16(4A)–16(4B), 16(5)–16(6), 19(1)(g), 19(6), 21, 23(1)–23(2), 24, 29(1);
- DPSP: 38(1)–38(2), 39(a)–39(f), 41–43, 43A, 46, 48A, 49; and
- Fundamental duties: 51A(e)–51A(j).

v. ISIDT-SDG 8.10: “Strengthen *the capacity of domestic financial institutions to encourage and expand access to banking, insurance, and financial services for all.*”

- Fundamental rights: 16(1)–16(4), 16(4A)–16(4B), 16(5)–16(6), 19(1)(g), 19(6), 21;
- DPSP: 38(1)–38(2), 39(a)–39(c); and
- Fundamental duties: 51A(e), 51A(h), 51A(j).

vi. ISIDT-SDG 8.a: “*Increase Aid for Trade support for developing countries, in particular least developed countries, including through the Enhanced Integrated Framework for Trade-related Technical Assistance to Least Developed Countries.*”; ISIDT-SDG 8.b: “*By 2020, develop and operationalize a global strategy for youth employment and implement the Global Jobs Pact of the International Labor Organization.*”

- Fundamental rights: 19(1)(g), 19(6), 21;
- DPSP: 38(1)–38(2), 39(a)–39(c), 51(c); and
- Fundamental duties: 51A(e), 51A(h), 51A(j).

#### **IV.4. Qualitative Analysis of the Embedded Relationship and Reinforcing Nature: SDG 9**

The theme of SDG 9 is “Industry, innovation and infrastructure,” and five substantive targets of SDG 9,<sup>41</sup> three targets on means of implementation, policy initiatives, and other initiatives are proactive

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<sup>41</sup> Focus on (i) developing quality, reliable, sustainable, and resilient infrastructure; (ii) promoting inclusive and sustainable industrialization; (iii) increasing access of small-scale industrial and other enterprises to financial services; (iv) upgrading infrastructure and retrofitting industries to make them sustainable, with increased resource-use efficiency and greater adoption of clean and environmentally sound technologies and industrial processes; and (v) enhancing scientific research, upgrading technological capabilities of industrial sectors, encouraging innovation and substantially increasing number of research and development workers (UN General Assembly, 2015, 2017).

measures toward building resilient infrastructure, promoting inclusive and sustainable industrialization, and fostering innovation.

The right to pursue any lawful trade or business is obviously subject to such reasonable restrictions and conditions as may be considered fit by the governing authority, indispensable to the safety, health, peace, order, and morals of the community. Noise made, odors generated, and hazards as an outcome of some occupations need to adhere to regulations of their business location. Further, the dangerous and hazardous nature of raw materials used, manufactured, stored, or sold requires special expertise and qualifications in parties permitted to use, manufacture, store, or sell them.<sup>42</sup> The Honorable Supreme Court of India<sup>43</sup> observed that mere directions are inconsequential unless a rigid implementation mechanism is laid down. Continuation of industrial activity is permitted when there is in place a functional primary effluent treatment plant. The establishment of functional common effluent treatment plants within the stipulated period shall be the responsibility of the pollution control board.<sup>44</sup> Industries need to constantly upgrade technologies and facilities in the larger interest of workers and the public in general. In one instance, Sub-Divisional Magistrate<sup>45</sup> directed the stoppage of the mixing of carbon in two rubber industries due to the absence of dissemination prevention equipment, and the Honorable High Court sentenced that the dissemination of carbon black in the environment is causing a public nuisance and also affecting respiratory organs of people.

The health of citizens and access to a clean environment should be given utmost priority, and manufacturers of the automobile industry have an obligation to adopt new technologies to reduce the adverse impact of vehicles produced on the environment and public

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<sup>42</sup> Cooverjee B. Bharucha v. The Excise Commissioner and the Chief Commissioner, Ajmer, and Ors LNIND 1954 SC 2, AIR 1954 SC 220, 1954 SCR 873, MANU/SC/0010/1954.

<sup>43</sup> Paryavaran Suraksha Samiti and Ors v. UoI and Ors MANU/SC/0222/2017, 2017 (3) SCALE 651, (2017) 5 SCC 326, 2017 (6) SCJ 14.

<sup>44</sup> Paryavaran Suraksha Samiti and Ors v. UoI and Ors MANU/SC/0222/2017, 2017 (3) SCALE 651, (2017) 5 SCC 326, 2017 (6) SCJ 14.

<sup>45</sup> P.C. Cherian v. State of Kerala MANU/KE/0090/1981.



health.<sup>46</sup> However, the Courts or Tribunals alone will not be able to ensure environmental protection unless and otherwise, their orders are properly implemented and statutory authorities act diligently in congruence with the law. While Judiciary has performed a creditable function in environmental protection, it is imperative that citizens and State also need to deliver their responsibilities.<sup>47</sup>

The summary of the embedded relationship of Constitutional provisions with SDG 9 in a qualitative manner is presented below.

i. ISIDT-SDG 9.1: “Develop *quality, reliable, sustainable and resilient infrastructure, including regional and transborder infrastructure*, to support economic development and human well-being, with a *focus on affordable and equitable access for all*.”; ISIDT-SDG 9.2: “*Promote inclusive and sustainable industrialization* and, by 2030, significantly raise *industry’s share of employment and gross domestic product*, in line with national circumstances, and double its share in the least developed countries”; ISIDT-SDG 9.3: “*Increase the access of small-scale industrial and other enterprises*, in particular in developing countries, to *financial services, including affordable credit, and their integration into value chains and markets*.”; ET-SDG 9.4: “By 2030, *upgrade infrastructure and retrofit industries to make them sustainable, with increased resource-use efficiency and greater adoption of clean and environmentally sound technologies and industrial processes*, with all countries taking action in accordance with their respective capabilities.”; ISIDT-SDG 9.5: “*Enhance scientific research, upgrade the technological capabilities of industrial sectors* in all countries, in particular developing countries, including, by 2030, *encouraging innovation and substantially increasing the number of research and development workers per 1 million people and public and private research and development spending*.”; ISIDT-SDG 9.a: “*Facilitate sustainable and resilient infrastructure development* in developing countries through *enhanced financial, technological and technical support* to African countries, least developed countries,

<sup>46</sup> MC Mehta v. UoI and Ors LNIND 2018 SC 551, AIR 2018 SC 5194, 2018 (14) SCALE 263, MANU/SC/1205/2018.

<sup>47</sup> Noyyal River Ayacutdars Protection Association and Ors v. The Government of Tamil Nadu and Ors LNIND 2006 Mad 3127, 2007 1 LW 275, MANU/TN/7824/2006.



landlocked developing countries and small island developing States.”; ISIDT-SDG 9.b: “Support *domestic technology development, research, and innovation in developing countries*, including by ensuring a *conducive policy environment* for, inter alia, *industrial diversification and value addition to commodities*.”; ISIDT-SDG 9.c: “Significantly *increase access to information and communications technology* and strive to provide *universal and affordable access to the Internet* in the least developed countries by 2020.”

— Fundamental rights: 15(1)–15(5), 15(6)(a)–15(6)(b), 16(1)–16(4), 16(4A)–16(4B), 16(5)–16(6), 19(1)(g), 19(6), 21;

— DPSP: 38(1)–38(2), 39(a)–39(c), 42, 43, 43A–43B, 46, 48, 48A, 51(c); and

— Fundamental duties: 51A(e)–51A(j).

#### IV.5. Qualitative Analysis of the Embedded Relationship and Reinforcing Nature: SDG 12

The theme of SDG 12 is “Responsible Consumption and Production,” and seven substantive targets of SDG 12,<sup>48</sup> four targets on means of implementation, with a wide range of themes, enable the decoupling of inclusive economic growth from natural resource use and material consumption and chemicals and deploy waste valorization. Decoupling is considered imperative due to the rapid depletion of natural resources and Environment, Economic, and Social (EES) considerations (UN General Assembly, 2015, 2017). Decoupling and other initiatives on SDG 12 is a proactive initiative towards migrating to a sustainable business model and circular economy, triple bottom line, and Environment, Social, and Governance (ESG) reporting (Suresh, Erinjery, and Jegathambal, 2016; Suresh, 2017, 2018; Asian Development Bank, 2019).

<sup>48</sup> Focus on (i) sustainable management and efficient use of natural resources; (ii) halving per capita global food waste at the retail and consumer levels and reduce food loss along production and supply chains; (iii) environmentally sound management of chemicals and all wastes throughout their lifecycle; (iv) substantially reduce waste generation through prevention, reduction, recycling and reuse; (v) encourage companies to adopt sustainable practices and integrate sustainability information into their reporting cycle; (vi) promoting public procedure practices that are sustainable; and (vii) sustainable tourism (UN General Assembly, 2015, 2017).

A clean environment has become a fundamental right that too right to a wholesome environment and can be viewed as a combined effect of Art. 21, 48A, 51A(g) of the Constitution. The Constitution assures the protection of life and personal liberty, which includes the right to fresh air. While science and technology are extensively deployed in manufacturing and services as a measure to enhance the quality of life, there is definitely a reasonable element of peril or hazard intrinsic in the very adoption of such tools and methods. Though it may not be difficult to eliminate such hazards or risks, however, it is possible to take necessary precautionary steps for locating such industries in a designated zone with adequate safeguards, thereby resorting to the least-risk situation and maximizing safety requirements.<sup>49</sup> Despite the scenario wherein industries charged for causing pollution may be of vital importance to the nation's economy, they cannot be permitted to operate at the cost of ecology. So, every industry needs to demonstrate before State authorities and the Court that they are conducting their operations and business in an area of demarcated guidelines and in an eco-friendly manner. The Honorable Supreme Court of India<sup>50</sup> observed that while provisions of the Constitution and statutory guard a person's right to fresh air, clean water, and a pollution-free environment, the source of the right is an incontrovertible common law right to a clean environment.

Through a landmark judgment triggering a deep-seated transformation in scope and usefulness of the absolute liability principle, the Honorable Supreme Court<sup>51</sup> found the strict liability principle is inadequate to protect citizens' rights and replaced it with the absolute liability principle. The Court held that liability for dangerous things must be absolute and not only strict, and thus, as against the principle of strict liability, the concept of absolute liability has also evolved. The Court observed that strict liability, evolved in *Rylands versus Fletcher*, 1868,<sup>52</sup>

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<sup>49</sup> MC Mehta v. UoIAIR 1987 SC 965.

<sup>50</sup> Vellore Citizens Welfare Forum v. UoI and Ors LNIND 1996 SC 1344, AIR 1996 SC 2715, AIR 1996 SC 2826, MANU/SC/0686/1996.

<sup>51</sup> MC Mehta v. UoI LNIND 1986 SC 539 1987, AIR 1987 SC 1086, (1987) 1 SCC 395, MANU/SC/0092/1986.

<sup>52</sup> [1868] UKHL 1.

has several exemptions; thereby, companies are not fully held to assume liability. Act of God has been regarded as one of the potential limitations of the principle of strict liability. Absolute liability, on the other hand, provides companies with no defense or exemptions and can be viewed as a part of Art. 21 of the Constitution. The Court wanted corporations to be made fully accountable and liable for the future undeserved suffering of innocent citizens and held that a hazardous enterprise has an absolute non-delegable duty to the community. Thus, an enterprise engaging in a hazardous or inherently dangerous activity or operation, and if harm has resulted to anyone due to an accident in the operation of such activity, then defaulting enterprise shall be strictly and absolutely liable to compensate all those affected by the accident. Given lacunae in regimes may be exploited by those who may not be sensitive to environmental challenges, and thus, the creation of the absolute liability principle by the Honorable Supreme Court<sup>53</sup> is a well-recognized testament to adopting international principles and recasting them factoring Indian context. The Honorable Courts and Tribunal have upheld polluter pay and precautionary principle on various occasions and have become a part of the law of the land as enumerated below:

i. Principles of environmental law should always be considered, and anyone in violation of those principles should be made to pay compensation;<sup>54</sup>

ii. On one occasion, pollution was caused by the sinking of ships and oil spills in territorial water; a blanket of oil layer was formed on the surface of the sea, polluting the marine ecosystem. No proper adherence to pre-voyage due diligence and negligence was attributable. The sinking of the ship was not by accident; elements of men's rea could be identified. The ship was directed to continue with its voyage, despite one of the pumps and generator having been identified to be non-functional. Respondents were liable for degradation, damage, and

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<sup>53</sup> *Municipal Corporation of Greater Mumbai v. Ankita Sinha and Ors* LNIND 2021 SC 393, MANU/SC/0815/2021.

<sup>54</sup> *Sterlite Industries (India) Ltd. v. Tamil Nadu Pollution Control Board and Ors* Appeal Nos. 57 and 58 of 2013 [Appeal Nos. 22 and 23 of 2013 (SZ)] Decided On: 08.08.2013, MANU/GT/0070/2013.

pollution of the marine ecosystem and hence liable to pay environmental compensation;<sup>55</sup>

iii. The Honorable Supreme Court of India<sup>56</sup> upheld the settlement of claims pertaining to victims of the Bhopal gas leak disaster. In an earlier judgment, the Court passed an order to provide immediate and substantial relief to victims. Union Carbide Corporation was directed to pay \$ 470 million to UoI towards the settlement of claims on or before 31 March 1989. The Court directed that all civil proceedings related to disaster would stand concluded, and all criminal proceedings would be quashed in terms of settlement;

iv. Exercising authority for the benefit of a particular industry having polluting activities is considered arbitrary in nature. Acts (The Water (Prevention and Control of Pollution) Act, 1974; The Environment (Protection) Act, 1986) did not permit the State to grant an exemption to a particular class of prohibited polluting industries near to lake area. Granting permission is contrary to the perspective of public interest and in contradiction to the right to clean water under Art. 21 of the Constitution. With a view to ensuring complete justice and compliance with the principles of SD, the Honorable Supreme Court of India<sup>57</sup> issued directions to refer technical issues to expert bodies such as Appellate Authority under the appropriate Act.<sup>58</sup> The Court referred to the formulation of the precautionary principle and new burden of proof. The Court observed that the concept of precaution warrants anticipation of likely environmental harm and hazards and proactive policies, systems, and measures to mitigate it or adopt the least environmentally harmful activity with adequate safeguards. Thus, the approach towards precautionary duties should not only be triggered by anticipation of probable hazard but also based on scientific assessment of risk profiling and risk potential;

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<sup>55</sup> Samir Mehta v. UoI and Ors MANU/GT/0104/2016.

<sup>56</sup> Union Carbide Corporation and Ors v. Union of India (UoI) and Ors AIR 1992 SC 248, 1991 (2) SCALE 675, (1991) 4 SCC 584, MANU/SC/0058/1992.

<sup>57</sup> AP Pollution Control Board v. MV Nayadu and Ors LNIND 1996 SC 1344, (1999) 2 SCC 718, AIR 1999 SC 812, MANU/SC/0686/1996.

<sup>58</sup> The National Environment Appellate Authority Act, 1997.

v. The polluter pays principle necessitates that absolute liability of harm to the environment extends to both compensating victims of pollution and the cost of restoring environmental degradation. The process of SD also involves the remediation of damaged environments. Private companies responsible for contaminating soil and underground water need to compensate community that is affected by pollution and should take necessary steps to clean the polluted environment and restore it back to its original position;<sup>59</sup> and

vi. Due to interference with the natural course of the river, the Court held that the concerned organization pays compensation by way of costs for restitution of the environment and ecology of the area. Polluter pays concept warrants that liability for harm to compensate not only victims but also the cost of restoring environmental degradation and reversing the damaged ecology of the polluter.<sup>60</sup>

The responsibility of industries for adhering to RECP is vital. It is imperative to recognize that a mere issue of a consent order by State authorities for production did not entitle industries to discharge industrial trade effluents without adhering to discharge standards. Industries need to adhere to stipulations and conditions mentioned in the consent order, and any failure to comply with the requirement of the establishment of an effluent treatment plant shall result in a lapse of consent.<sup>61</sup> Industries need to curtail emission-intensive processes like the closure of coal gasifier units and need to switch over to Piped Natural Gas (PNG) or clean technology as a part of responsible production practices.<sup>62</sup> It is essential that industries should switch over to the adoption of natural gas instead of coke/coal in order to conserve a great historical monument from deteriorating effects of air pollution, and a regular review of compliance is essential, including the

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<sup>59</sup> Indian Council for Enviro-Legal Action and Ors v. UoI and Ors AIR 1996 SC 1446, 1996 (2) SCALE 44, (1996) 3 SCC 212, MANU/SC/1112/1996.

<sup>60</sup> MC Mehta v. Kamal Nath and Ors MANU/SC/1007/1997, [1996] Supp1 SCR 12, 1996 (9) SCALE 141, (1997) 1 SCC 388; MC Mehta v. Kamal Nath (2002) 3 SCC 653, AIR 2002 SC 1515, [2002] 2 SCR 477, LNIND 2002 SC 209.

<sup>61</sup> Narula Dyeing & Printing Works v. UoI and Ors LNIND 1995 GUJ 9, AIR 1995 Guj 185, 1995 GLH (1) 679, MANU/GJ/0177/1995.

<sup>62</sup> Babubhai Saini v. Gujarat PCB MANU/GT/0078/2022.

shutdown of industries that are not able to comply with switching over to natural gas.<sup>63</sup> Industrial establishments in proximity to residential colonies pose environmental concerns, and the problem is compounded, especially when industrial clusters are formed in contradiction to zoning or development plans. It is a prudent approach that once a development plan had earmarked area for residential usage only, then end use of demarcated land needed to be maintained, thereby implying right to life in Art. 21 of the Constitution includes the right to environment.<sup>64</sup>

The summary of the embedded relationship of Constitutional provisions with SDG 12 in a qualitative manner is presented below.

i. ET-SDG 12.1: “Implement the 10-year framework of programs on *sustainable consumption and production*, all countries taking action, with developed countries taking the lead, taking into account the development and capabilities of developing countries.”; ET-SDG 12.2: “By 2030, achieve the *sustainable management and efficient use of natural resources*.”; ET-SDG 12.4: “By 2020, achieve the *environmentally sound management of chemicals and all wastes throughout their life cycle*, in accordance with agreed international frameworks, and significantly *reduce their release to air, water, and soil in order to minimize their adverse impacts on human health and the environment*.”; ET-SDG 12.5: “By 2030, substantially *reduce waste generation through prevention, reduction, recycling, and reuse*.”; ET-SDG 12.a: “Support developing countries to strengthen their *scientific and technological capacity to move towards more sustainable patterns of consumption and production*.”

- Fundamental rights: 19(1)(g), 19(6), 21;
- DPSP: 38(1)–38(2), 39(a)–39(c), 42, 47–48, 48A, 51(c);
- Fundamental duties: 51(g)–51A(j); and
- Relations between the Union and the States: 262.

<sup>63</sup> MC Mehta v. UoI and Ors LNIND 1996 SC 2207, 1997 (1) SCALE 61, AIR 1997 SC 734, MANU/SC/0175/1997.

<sup>64</sup> Lakshmipathy and Ors v. State of Karnataka and Ors AIR 1992 Kant 57, MANU/KA/0006/1992; V. Lakshmipathy v. the State of Karnataka ILR 1991 KARNATAKA 1334, 1991 (2) KarLJ 453, MANU/KA/0408/1991.

ii. ISIDT-SDG 12.3: “By 2030, *halve per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses.*”

- Fundamental rights: 19(1)(g), 19(6), 21;
- DPSP: 38(1)–38(2), 39(a)–39(c), 47–48, 48A, 51(c); and
- Fundamental duties: 51A(g)–51A(j).

iii. ET-SDG 12.6: “Encourage companies, especially large and transnational companies, *to adopt sustainable practices and to integrate sustainability information into their reporting cycle.*”

- Fundamental rights: 19(1)(g), 19(6), 21;
- DPSP: 38(1)–38(2), 39(a)–39(c), 42, 47–48, 48A, 51(a)–51(d);
- Fundamental duties: 51(g)–51A(j); and
- Relations between the Union and the States: 262.

iv. ET-SDG 12.7: “Promote *public procurement practices that are sustainable, in accordance with national policies and priorities.*”

- Fundamental rights: 19(1)(g), 19(6), 21;
- DPSP: 38(1)–38(2), 39(a)–39(c), 42, 47–48, 48A, 51(c); and
- Fundamental duties: 51(g)–51A(j).

v. ISIDT-SDG 12.8: “By 2030, ensure that people everywhere have the *relevant information and awareness for SD and lifestyles in harmony with nature.*”

– Fundamental rights: 15(1)–15(5), 15(6)(a)–15(6)(b), 16(1)–16(4), 16(4A)–16(4B), 16(5)–16(6), 19(1)(a)–19(1)(g), 19(6), 21, 21A, 23(1)–23(2), 24, 25(1)–25(2), 28(1)–28(3), 29(1)–29(2), 30(1), 30(1A), 30(2), 32; and

– DPSP: 38(1)–38(2), 39(a)–39(f), 39A, 41–43, 43A, 45–46, 48A, 49, 51(a)–51(d); and

– Fundamental duties: 51A(a)–51A(k)

vi. ET-SDG 12.b: “Develop and implement tools to *monitor SD impacts for sustainable tourism that creates jobs and promotes local culture and products.*”

– Fundamental rights: 15(1)–15(5), 15(6)(a)–15(6)(b), 16(1)–16(4), 16(4A)–16(4B), 16(5)–16(6), 19(1)(g), 19(6), 21, 23(1)–23(2), 24, 29(1);

– DPSP: 38(1)–38(2), 39(a)–39(f), 41–43, 43A, 46, 48A, 49; and

– Fundamental duties: 51A(e)–51A(j).



vii. ET-SDG 12.c: “*Rationalize inefficient fossil-fuel subsidies that encourage wasteful consumption by removing market distortions, in accordance with national circumstances, including by restructuring taxation and phasing out those harmful subsidies, where they exist, to reflect their environmental impacts, taking fully into account their specific needs and conditions of developing countries and minimizing the possible adverse impacts on their development in a manner that protects the poor and the affected communities.*”

- Fundamental rights: 19(1)(g), 19(6), 21;
- DPSP: 38(1)–38(2), 39(a)–39(c), 42, 47–48, 48A, 51(c); and
- Fundamental duties: 51(g)–51A(j).

#### **IV.6. Qualitative Analysis of the Embedded Relationship and Reinforcing Nature: SDG 13**

SDG 13 on climate action is a significant issue and undoubtedly a critical factor in environmentally sustainable growth in countries that are at risk from climate change impacts (UN General Assembly, 2015, 2017). Climate change has many interlinkages with other IHRT-SDGs, ISIDT-SDGs, and ET-SDGs. Various initiatives subsequent to UNFCCC Paris Agreement have led to sufficient financial and other resources flowing to climate change. Judicial intervention for the deployment of cleaner fuels, including PNG, compressed natural gas, biogas, propane, butane, and others that facilitate the reduction of carbon dioxide emissions, is considered a proactive measure in addressing climate change challenges.<sup>65</sup>

The embedded relationship of Constitutional provisions with SDG 13 in a qualitative manner is presented below.

i. ET-SDG 13.1: “*Strengthen resilience and adaptive capacity to climate-related hazards and natural disasters in all countries.*”; ET-SDG 13.2: “*Integrate climate change measures into national policies, strategies, and planning.*”

- Fundamental rights: 19(1)(g), 19(6), 21;
- DPSP: 38(1)–38(2), 39(a)–39(c), 48A, 51(c); and

<sup>65</sup> Utkarsh Panwar and Ors v. Central Pollution Control Board and Ors MANU/GT/0106/2021.



— Fundamental duties: 51(g)–51A(j).

ii. HRT-SDG 13.3: “Improve *education, awareness-raising, and human and institutional capacity on climate change mitigation, adaptation, impact reduction, and early warning*.”; ET-SDG 13.a: “Implement the commitment undertaken by developed-country parties to the *UN Framework Convention on Climate Change* to a goal of *mobilizing jointly \$ 100 billion* annually by 2020 from all sources to address the needs of developing countries in the context of *meaningful mitigation actions* and transparency on implementation and fully *operationalize the Green Climate Fund* through its capitalization as soon as possible.”; IHRT-SDG 13.b: “Promote mechanisms for *raising capacity for effective climate change-related planning and management* in the least developed countries, including *focusing on women, youth, and local and marginalized communities*.”

— Fundamental rights: 15(1)–15(5), 15(6)(a)–15(6)(b), 16(1)–16(4), 16(4A)–16(4B), 16(5)–16(6), 19(1)(a)–19(1)(g), 19(6), 21, 21A, 23–24, 25(1)–25(2), 28(1)–28(3), 29(1)–29(2), 30(1), 30(1A), 30(2), 32;

— DPSP: 38(1)–38(2), 39(a)–39(f), 39A, 41–43, 43A, 45–46, 48A, 49, 51(a)–51(d); and

— Fundamental duties: 51A(a)–51A(k).

#### **IV.7. Qualitative Analysis of the Embedded Relationship and Reinforcing Nature: E-SDG 14**

E-SDG 14 on life below water addresses a set of problems becoming increasingly serious for reasons related to their direct impacts and indirect stresses they place on the environment (UN General Assembly, 2015, 2017). For example, ocean acidification, overfishing, marine pollution, and eutrophication are resulting in the deterioration of coastal and marine ecosystems. E-SDG 14 has seven substantive targets<sup>66</sup>

<sup>66</sup> Focus on (i) preventing and significantly reducing marine pollution; (ii) sustainably managing and protecting marine and coastal ecosystem; (iii) minimizing impacts of ocean acidification; (iv) regulating harvesting and ending illegal fishing, unreported and unregulated fishing, and destructive fishing practices; (v) conserving coastal and marine areas; (vi) increasing scientific knowledge and developing research capacity and transferring marine technology; and (vii) providing access for small-scale artisanal fishers to marine resources and markets (UN General Assembly, 2015, 2017).

that collectively aim to preserve the health and well-being of marine ecosystems and three targets focusing on means of implementation.

State and Government authorities are under a legal obligation to control marine pollution and protect the coastal environment. The establishment of integrated aquaculture farms on modern lines requires careful evaluation of likely hazards, degradation of marine ecology, coastal environment, and aesthetic uses of sea coast” and in-depth analysis of such development initiatives is required factoring livelihood rights of fishermen and farmers living in coastal areas.<sup>67</sup> It is prudent to declare ecologically sensitive areas undergoing severe environmental degradation due to increased human intervention, recognizing the socio-economic importance of waterbody as vulnerable wetlands to be protected and critically vulnerable coastal areas.<sup>68</sup> Coastal Regulation Zone notifications are issued in the interest of protecting the environment and ecology in coastal areas, and hence construction raised in violation of such regulations cannot be lightly condoned.<sup>69</sup>

The summary of the embedded relationship of Constitutional provisions with E-SDG 14 in a qualitative manner is provided below.

i. ET-SDG 14.1: “By 2025, *prevent and significantly reduce marine pollution* of all kinds, in particular from land-based activities, including marine debris and nutrient pollution.”

- Fundamental rights: 19(1)(g), 19(6), 21;
- DPSP: 38(1)–38(2), 39(a)–39(c), 48A, 51(c);
- Fundamental duties: 51(g)–51A(j); and
- Relations between the Union and the States: 262.

ii. ET-SDG 14.2: “By 2020, sustainably *manage and protect marine and coastal ecosystems* to avoid significant adverse impacts, including by *strengthening their resilience*, and take action for their restoration in order to achieve *healthy and productive oceans*.”; ET-SDG 14.3: “Minimize and address the *impacts of ocean acidification*, including

<sup>67</sup> S. Jagannath v. UoI and Ors AIR1997SC811, MANU/SC/0188/1997, [1996] Supp9SCR848, (1997)2SCC87.

<sup>68</sup> Vaamika Island (Green Lagoon Resort) v. UOI and Ors. MANU/SC/0836/2013, (2013)8SCC760.

<sup>69</sup> Piedade Filomena Gonslves v. State of Goa and Ors. MANU/SC/0239/2004, (2004)3SCC445, [2004]2SCR1135.

through enhanced scientific co-operation at all levels.”; ET-SDG 14.c: “Enhance the *conservation and sustainable use of oceans and their resources* by implementing international law as reflected in the UN Convention on the Law of the Sea, which provides the *legal framework for the conservation and sustainable use of oceans and their resources*, as recalled in Para. 158 of “The future we want.”

- Fundamental rights: 19(1)(g), 19(6), 21;
- DPSP: 38(1)–38(2), 39(a)–39(c), 48A, 51(c); and
- Fundamental duties: 51(g)–51A(j).

iii. ET-SDG 14.4: “By 2020, effectively *regulate harvesting and end overfishing, illegal, unreported and unregulated fishing and destructive fishing practices* and implement science-based management plans in order to *restore fish stocks* in the shortest time feasible, at least to levels that can produce maximum sustainable yield as determined by their biological characteristics.”; ET-SDG 14.5: “By 2020, *conserve at least 10 percent of coastal and marine areas, consistent with national and international law* and based on the best available scientific information.”; ET-SDG 14.6: “By 2020, *prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, eliminate subsidies that contribute to illegal, unreported and unregulated fishing* and refrain from introducing new such subsidies, recognizing that appropriate and effective special and differential treatment for developing and least developed countries should be an integral part of the World Trade Organization fisheries subsidies negotiation.”; ET-SDG 14.7: “By 2030, *increase the economic benefits to small island developing States* and least developed countries from the *sustainable use of marine resources, including through sustainable management of fisheries, aquaculture, and tourism*.”; ET-SDG 14.a: “*Increase scientific knowledge, develop research capacity, and transfer marine technology*, taking into account the Intergovernmental Oceanographic Commission Criteria and Guidelines on the Transfer of Marine Technology, in order to *improve ocean health and to enhance the contribution of marine biodiversity* to the development of developing countries, in particular, small island developing States and least developed countries.”

- Fundamental rights: 19(1)(g), 19(6), 21;
- DPSP: 38(1)–38(2), 39(a)–39(c), 48, 48A, 51(c); and

- Fundamental duties: 51(g)–51A(j).
- ET-SDG 14.b: “Provide *access for small-scale artisanal fishers to marine resources and markets.*”
- Fundamental rights: 19(1)(g), 19(6), 21;
- DPSP: 38(1)–38(2), 39(a)–39(c), 43B, 48, 48A, 51(c); and
- Fundamental duties: 51(g)–51A(j).

#### **IV.8. Qualitative Analysis of the Embedded Relationship and Reinforcing Nature: E-SDG 15**

Serious concerns relating to E-SDG 15 include continued loss of land productivity, declining biodiversity, and poaching and trafficking of wildlife. E-SDG 15 has seven substantive targets<sup>70</sup> that ensure the conservation and restoration of terrestrial and freshwater ecosystems and five targets focusing on means of implementation.<sup>71</sup>

The State has a larger role in managing a natural resource meant for free usage by the public. Public trust is an order for the State to use public property for public purposes and is derived and evolved under Art. 21, thereby protecting the fundamental rights of people. Thus, the Government has an obligation to maintain public resources like beaches, parks, public places with historical importance, etc., under public trust doctrine principles, and any unregulated development in public resources would deprive the public of the quality of life as

<sup>70</sup> Focus on (i) ensuring conservation, restoration and sustainable use of terrestrial and inland freshwater ecosystems; (ii) implementation of sustainable management of all types of forests, halting deforestation, restoring degraded forests and increasing afforestation; (iii) combating desertification, restoring degraded land and soil; (iv) reducing the degradation of natural habitats, halting the loss of biodiversity; (v) promoting fair and equitable sharing of the benefits arising from the utilization of genetic resources; (vi) ending poaching and trafficking of protected species of flora and fauna; and (vii) preventing the introduction and significantly reducing the impact of invasive alien species (UN General Assembly, 2015, 2017).

<sup>71</sup> UN General Assembly (2015) General Assembly resolution 70/1, Transforming our world: the 2030 Agenda for Sustainable Development, A/RES/70/1 (25 September 2015). Available at: [undocs.org/en/A/RES/70/1](https://undocs.org/en/A/RES/70/1) [Accessed 14.09.2022]; UN General Assembly (2017) Work of the Statistical Commission pertaining to the 2030 Agenda for Sustainable development. Available at: [undocs.org/en/A/RES/71/313](https://undocs.org/en/A/RES/71/313) [Accessed 19.09.2023].

stated under Art. 21 of the Constitution.<sup>72</sup> Beneficiaries of the seashore, running waters, air, forests, and ecologically fragile land are the public rather than a few individuals or private entities. The State, as a trustee, has the legal duty to protect and improve natural resources. Such publicly available resources cannot be converted into private property or ownership. The Government is expected to adopt a larger degree of judicial scrutiny, especially on taking any action having long-term bearing like the change of land use, etc. Under these circumstances, Government, as a trustee of certain public resources, has to perform in a diligent manner and has a larger obligation to protect such resources.<sup>73</sup>

If the issue of ecology is of litigation, Art. 48A and 51A(g) of the Constitution are to be taken into consideration, and the Courts have the power to interfere and prohibit executive decision if it leads to environmental degradation.<sup>74</sup> Urban local bodies also have a crucial role in protecting the environment and, specifically, preventing pollution in rivers.<sup>75</sup> Further, natural resources are held by State in the capacity of a trustee, and hence State has an obligation to maintain and protect them for public use and prevent the depletion of resources and environmental degradation; thus, the role of the State is to be viewed as a positive intervention.<sup>76</sup> A Municipal Council with a mandate to preserve public health and provide sanitation facilities cannot cite financial inability or crisis in delivering its expected duties.<sup>77</sup> Moreover, taking into consideration Art. 48A and 51A(g) of the Constitution, it can be said that it is the duty of the State and citizens to protect, preserve, safeguard, and improve the environment and vital natural resources. Hence the

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<sup>72</sup> *MI Builders Pvt. Ltd. v. Radhey Shyam Sahu and Ors* AIR 1999 SC 2468, MANU/SC/0999/1999, (1999) 6 SCC 464.

<sup>73</sup> *Intellectuals Forum, Tirupathi v. State of AP. and Ors* LNIND 2006 SC 119, AIR 2006 SC 1350, 2006 (2) SCALE 494, MANU/SC/8047/2006.

<sup>74</sup> *Sachidanand Pandey and Ors v. The State of West Bengal and Ors* LNIND 1987 SC 159, AIR 1987 SC 1109, 1987 1 SCALE 311, MANU/SC/0136/1987.

<sup>75</sup> *MC Mehta v. UoI and Ors* LNIND 1988 SC 14, AIR 1988 SC 1115, (1988) 1 SCC 471, MANU/SC/0586/1988.

<sup>76</sup> *Shailesh R. Shah v. the State of Gujarat* 2002 GLH (3) 642 MANU/GJ/0206/2002.

<sup>77</sup> *Municipal Council, Ratlam v. Vardichan and Ors* LNIND 1980 SC 287, AIR 1980 SC 1622, (1980) 4 SCC 162, MANU/SC/0171/1980.

preservation of the environment and sustaining ecological balance cannot be viewed as an exclusive responsibility of the Government, and it is the fundamental duty of every citizen to protect the environment as enshrined in Art. 51A(g) of the Constitution.<sup>78</sup> Neglect or failure to abide by or to perform a duty is tantamount to betrayal of fundamental law, which the State and citizens are bound to uphold and maintain.<sup>79</sup> Compliance with laws in the context of the protection of flora and fauna can be viewed as an integral part of the preservation of ecological balance and the prevention of environmental damage.<sup>80</sup>

The following summarizes the embedded relationship of Constitutional provisions with E-SDG 15 qualitatively:

i. ET-SDG 15.1: “By 2020, ensure the *conservation, restoration, and sustainable use of terrestrial and inland freshwater ecosystems and their services, in particular forests, wetlands, mountains, and drylands*, in line with obligations under international agreements.”; ET-SDG 15.8: “By 2020, introduce measures to *prevent the introduction and significantly reduce the impact of invasive alien species on land and water ecosystems and control or eradicate the priority species*.”; ET-SDG 15.9: “By 2020, integrate ecosystem and biodiversity values into *national and local planning, development processes, poverty reduction strategies, and accounts*.”

- Fundamental rights: 19(1)(g), 19(6), 21;
- DPSP: 38(1)–38(2), 39(a)–39(c), 48A, 51(c);
- Fundamental duties: 51(g)–51A(j); and
- Relations between the Union and the States: 262.

ii. ET-SDG 15.2: “By 2020, promote the implementation of *sustainable management of all types of forests, halt deforestation, restore degraded forests, and substantially increase afforestation and reforestation globally*.”; ET-SDG 15.3: “By 2020, *combat*

<sup>78</sup> Rural Litigation and Entitlement Kendra and Ors v. State of Uttar Pradesh and Ors AIR 1987 SC 359, 1986 (2) SCALE 1083, 1986 Supp(1) SCC 517, MANU/SC/0111/1986.

<sup>79</sup> Kinkri Devi and Ors v. State of Himachal Pradesh and Ors AIR 1988 HP 4, 1988 (1) ShimLC 32, MANU/HP/0002/1988.

<sup>80</sup> Tarun Bharat Sangh, Alwar v. UoI and Ors AIR 1992 SC 514, 1992 Supp(2) SCC 448, MANU/SC/0094/1992.

*desertification, restore degraded land and soil, including land affected by desertification, drought, and floods, and strive to achieve a land-degradation-neutral world.*"; ET-SDG 15.4: "By 2030, ensure the *conservation of mountain ecosystems, including their biodiversity*, in order to enhance their capacity to provide benefits that are essential for SD."; ET-SDG 15.5: "Take urgent and significant action to *reduce the degradation of natural habitats, halt the loss of biodiversity*, and, by 2020, *protect and prevent the extinction of threatened species.*"; ET-SDG 15.a: "Mobilize and significantly *increase financial resources from all sources to conserve and sustainable use biodiversity and ecosystems.*"; ET-SDG 15.b: "Mobilize significant resources from all sources and at all levels to *finance sustainable forest management* and provide adequate incentives to developing countries to advance such *management, including for conservation and reforestation.*"; ET-SDG 15.c: "Enhance global support for efforts to *combat poaching and trafficking of protected species*, including by increasing the *capacity of local communities to pursue sustainable livelihood opportunities*

- Fundamental rights: 19(1)(g), 19(6), 21;
- DPSP: 38(1)–38(2), 39(a)–39(c), 48A, 51(c); and
- Fundamental duties: 51(g)–51A(j).

iii. ET-SDG 15.6: "Promote *fair and equitable sharing of the benefits* arising from the *utilization of genetic resources and promote appropriate access to such resources*, as internationally agreed."

- Fundamental rights: 15(1)–15(5), 15(6)(a)–15(6)(b), 19(1)(g), 19(6), 21;
- DPSP: 38(1)–38(2), 39(a)–39(c), 48A, 51(c); and
- Fundamental duties: 51(g)–51A(j).

iv. ET-SDG 15.7: "Take urgent action to *end poaching and trafficking of protected species of flora and fauna and address both demand and supply of illegal wildlife products.*"

- Fundamental rights: 19(1)(g), 19(6), 21;
- DPSP: 38(1)–38(2), 39(a)–39(f), 39A, 48A, 49, 51(c); and
- Fundamental duties: 51(g)–51A(j).



#### **IV.9. Qualitative Analysis of the Embedded relationship and Reinforcing nature: IHR-SDG 16**

The theme of IHR-SDG 16 is “Peace, justice and strong institutions,” and five substantive targets of IHR-SDG 16,<sup>81</sup> seven targets on means of implementation, and other initiatives promote peaceful and inclusive societies for SD, provide access to justice for all and build effective, accountable, and inclusive institutions at all levels.

The enactment of new pollution control laws or sustainability laws need not repeal existing penal laws. In fact, the Honorable Supreme Court of India<sup>82</sup> declared that the enactment of new pollution control laws doesn’t repeal Section 133 of the Code (The Code of Criminal Procedure, 1973). Section 133 of the Code has not been impliedly repealed by coming into existence of the Act (The Water (Prevention and Control of Pollution) Act, 1974). Section 133 still has a reasonable level of relevance in the context of environmental pollution. Further, it was made clear that the arena of this section and pollution laws are not identical in nature. The right to live includes the right to enjoy pollution-free water and air. In the event of impairment of quality of life by derogation of laws, a citizen has the right to recourse Art. 32 of the Constitution to eliminate water or air pollution that is detrimental to the quality of life. Public interest litigation must not be misused to satisfy personal grudges and enmity.<sup>83</sup>

The summary of the embedded relationship of Constitutional provisions with IHR-SDG 16 in a qualitative manner is presented below.

i. IHRT-SDG 16.1: *“Significantly reduce all forms of violence and related death rates everywhere.”*

<sup>81</sup> Focus on (i) significantly reducing violence and related death rates; (ii) ending abuse, exploitation, trafficking, and violence against and torture of children; (iii) significantly reducing illicit financial and arms flows, strengthening recovery and return of stolen assets and combating organized crime; (iv) substantially reducing corruption and bribery; (v) providing legal identity including birth registration (UN General Assembly, 2015, 2017).

<sup>82</sup> State of MP v. Kedia Leather & Liquor Ltd. and Ors LNIND 2003 SC 686, AIR 2003 SC 3236, 2003 (6) SCALE 736, MANU/SC/0625/2003.

<sup>83</sup> Subhash Kumar v. State of Bihar and Ors LNIND 1991 SC 13, AIR 1991 SC 420, 1991(1)SCALE 8, MANU/SC/0106/1991.

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- Fundamental rights: 14, 21, 32;
  - DPSP: 38(1)–38(2), 39(a), 39A, 50, 51(a)–51(d); and
  - Fundamental duties: 51A(a)–51A(k).
  - ii. IHRT-SDG 16.2: “*End abuse, exploitations, trafficking and all forms of violence against and torture of children.*”
    - Fundamental rights: 14, 21, 21A, 24, 28(1)–28(3), 32;
    - DPSP: 38(1)–38(2), 39(a), 39(f), 39A, 50, 51(c); and
    - Fundamental duties: 51A(k).
  - iii. IHRT-SDG 16.3: “*Promote the rule of law at the national and international levels and ensure equal access to justice for all.*”
    - Fundamental rights: 13–14, 17, 18(1)–18(4), 20(1)–20(3), 21, 22(1)–22(7), 32;
    - DPSP: 38(1)–38(2), 39(a), 39A, 50, 51(c); and
    - Fundamental duties: 51A(a)–51A(k).
  - iv. IHRT-SDG 16.4: “*By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets, and combat all forms of organized crime.*”
    - Fundamental rights: 13–14, 19(b), 19(3), 20(1)–20(3), 21, 22(1)–22(7), 32;
    - DPSP: 38(1)–38(2), 39(a), 39A, 50, 51(a)–51(d); and
    - Fundamental duties: 51A(c), 51A(i).
  - v. IHRT-SDG 16.5: “*Substantially reduce corruption and bribery in all their forms.*”; IHRT-SDG 16.6: “*Develop effective, accountable, and transparent institutions at all levels.*”; IHRT-SDG 16.7: “*Ensure responsive, inclusive, participatory, and representative decision-making at all levels.*” IHRT-SDG 16.8: “*Broaden and strengthen the participation of developing countries in the institutions of global governance.*”
    - Fundamental rights: 14, 15(1)–15(5), 15(6)(a)–15(6)(b), 16(1)–16(4), 16(4A)–16(4B), 16(5)–16(6), 17, 18(1)–18(4), 19(1)(a)–19(1)(g), 19(6), 20(1)–20(3), 21, 21A, 22(1)–22(7), 23(1)–23(2), 24, 25(1)–25(2), 26(a)–26(c), 27, 28(1)–28(3), 29(1)–29(2), 30(1), 30(1A), 30(2), 32;
    - DPSP: 38(1)–38(2), 39(a)–39(f), 39A, 40–43, 43A–43B, 44–48, 48A, 49–50, 51(a)–51(d);
    - Fundamental duties: 51A(a)–51A(k); and

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- Relations between the Union and the States: 262.
  - IHRT-SDG 16.9: “By 2030, provide *legal identity for all, including birth registration.*”
  - Fundamental rights: 21;
  - DPSP: 38(1)–38(2), 39(a)–39(c), 39A;
  - Fundamental duties: 51(g)–51A(j); and
  - Relations between the Union and the States: 262.
  - vi. IHRT-SDG 16.10: “*Ensure public access to information and protect fundamental freedoms* in accordance with national Legislation and international agreements.”
  - Fundamental rights: 19(1)(g), 19(6), 21;
  - DPSP: 38(1)–38(2), 39(a)–39(c), 42, 47, 48, 48A, 51(c);
  - Fundamental duties: 51(g)–51A(j); and
  - Relations between the Union and the States: 262.
  - vii. IHRT-SDG 16.a: “*Strengthen relevant national institutions, including through international co-operation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime.*”
  - Fundamental rights: 19(1)(g), 19(6), 21;
  - DPSP: 38(1)–38(2), 39(a)–39(c), 42, 47, 48, 48A, 51(c);
  - Fundamental duties: 51(g)–51A(j); and
  - Relations between the Union and the States: 262.
  - IHRT-SDG 16.b: “*Promote and enforce non-discriminatory laws and policies for sustainable development.*”
  - Fundamental rights: 14, 15(1)–15(5), 15(6)(a)–15(6)(b), 16(1)–16(4), 16(4A)–16(4B), 16(5)–16(6), 17, 18(1)–18(4), 19(1)(a)–19(1)(g), 19(6), 20(1)–20(3), 21, 21A, 22(1)–22(7), 23(1)–23(2), 24, 25(1)–25(2), 26(a)–26(c), 27, 28(1)–28(3), 29(1)–29(2), 30(1), 30(1A), 30(2), 32;
  - DPSP: 38(1)–38(2), 39(a)–39(f), 39A, 40–43, 43A–43B, 44–48, 48A, 49–50, 51(a)–51(d);
  - Fundamental duties: 51A(a)–51A(k); and
  - Relations between the Union and the States: 262.

#### **IV.10. Summary of Key Components of the Embedded Relationship and Reinforcing Nature between Constitutional Provisions and SDGs**

The study also examined key components of the embedded relationship and reinforcing nature between Constitutional provisions and SDGs with due emphasis on (i) the conceptual relationship between Constitutional provisions and IHRT-SDGs, ISIDT-SDGs, and ET-SDGs; (ii) non-compliance of IHRT-SDGs, ISIDT-SDGs, and ET-SDGs resulting in threats to Constitutional principles; (iii) mutual reinforcement of IHRT-SDGs, ISIDT-SDGs and ET-SDGs and Constitution protection; and (iv) extraterritorial dimensions of Constitutional provisions and IHRT-SDGs, ISIDT-SDGs, and ET-SDGs (Suresh and Sundaram, 2022).

With the low and extremely embedded relationship of Constitutional provisions with IHR-SDG 5<sup>84</sup> and IHR-SDG 16<sup>85</sup> respectively, IHR-SDG 5 and IHR-SDG 16 adopt the language that expresses IHR principles in an implicit and explicit manner. With the moderately embedded relationship of Constitutional provisions with SDG 8,<sup>86</sup> SDG 9,<sup>87</sup> and

<sup>84</sup> Reflects (i) the conceptual relationship between Constitutional provisions principles and IHR-SDG 5 (IHRT-SDG 5.5, 5.a); (ii) non-compliance of IHR-SDG 5 resulting threats to Constitutional principles (IHRT-SDG 5.1–5.3, 5.c); (iii) mutual reinforcement of IHR-SDG 5 and Constitution protection (IHRT-SDG 5.4, 5.b); and (iv) extraterritorial dimensions of Constitutional provisions and IHR-SDG 5 (IHRT-SDG 5.6).

<sup>85</sup> Reflects (i) the conceptual relationship between Constitutional provisions principles and IHR-SDG 16 (IHRT-SDG 16.1–16.2); (ii) non-compliance of IHR-SDG 16 resulting threats to Constitutional principles (IHRT-SDG 16.6–16.7, 16.9, 16.10); (iii) mutual reinforcement of IHR-SDG 16 and Constitution protection (IHRT-SDG 16.4–16.5, 16.a–16.b); and (iv) extraterritorial dimensions of Constitutional provisions and IHR-SDG 16 (IHRT-SDG 16.3, 16.8).

<sup>86</sup> Reflects (i) the conceptual relationship between Constitutional provisions principles and SDG 8 (ISIDT-SDG 8.2, 8.5–8.6, ET-SDG 8.4); (ii) non-compliance of SDG 8 resulting threats to Constitutional principles (ISIDT-SDG 8.1, 8.7); (iii) mutual reinforcement of SDG 8 and Constitution protection (ISIDT-SDG 8.3, 8.9–8.10); and (iv) extraterritorial dimensions of Constitutional provisions and SDG 8 (ISIDT-SDG 8.a–8.b).

<sup>87</sup> Reflects (i) the conceptual relationship between Constitutional provisions principles and SDG 9 (IHRT-SDG 9.2); (ii) non-compliance of SDG 9 resulting threats to Constitutional principles (ET-SDG 9.4); (iii) mutual reinforcement of SDG 9 and Constitution protection (ISIDT-SDG 9.1, 9.3, 9.b); and (iv) extraterritorial dimensions of Constitutional provisions and SDG 9 (ISIDT-SDG 9.5, 9.a–9.c).

SDG 12;<sup>88</sup> SDG 8, SDG 9, and SDG 12 adopt the language that implicitly and explicitly expresses ISID and environmental principles. Despite an underdeveloped situation in addressing climate change challenges, with the minimum number of targets pertaining to SDG 13, a moderate level of embedded relationship is witnessed between Constitutional provisions with SDG 13.<sup>89</sup> SDG 13 adopts a language that explicitly and implicitly expresses IHR and environmental principles. With the low embedded relationship of Constitutional provisions with E-SDG 14<sup>90</sup> and E-SDG 15;<sup>91</sup> E-SDG 14 and E-SDG 15 adopt the language that expresses environmental principles in an explicit and implicit manner.

### **V. Quantitative Characterization of Embedded Relationship and Determination of ERI**

The previous section provided insight into the embedded relationship and reinforcing nature of Constitution provisions with

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<sup>88</sup> Reflects (i) the conceptual relationship between Constitutional provisions principles and SDG 12 (ISIDT-SDG 12.3, ET-SDG 12.5, 12.7, ISIDT-SDG 12.8, ET-SDG 12.b); (ii) non-compliance of SDG 12 resulting threats to Constitutional principles (ET-SDG 12.4); (iii) mutual reinforcement of SDG 12 and Constitution protection (ET-SDG 12.2, 12.6, 12.c); and (iv) extraterritorial dimensions of Constitutional provisions and SDG 12 (ET-SDG 12.1, 12.a).

<sup>89</sup> The embedded relationship between Constitutional provisions and SDG 13 reflects (i) the conceptual relationship between Constitutional provisions principles and SDG 13 (ET-SDG 13.2, IHRT-SDG 13.3); (ii) non-compliance of SDG 13 resulting threats to Constitutional principles (ET-SDG 13.1); (iii) mutual reinforcement of SDG 13 and Constitution protection (ET-SDG 13.a); and (iv) extraterritorial dimensions of Constitutional provisions and SDG 13 (IHRT-SDG 13.b).

<sup>90</sup> The embedded relationship between Constitutional provisions and E-SDG 14 reflects (i) the conceptual relationship between Constitutional provisions principles and E-SDG 14 (ET-SDG 14.6); (ii) non-compliance of E-SDG 14 resulting threats to Constitutional principles (ET-SDG 14.3, 14.5); (iii) mutual reinforcement of E-SDG 14 and Constitution protection (ET-SDG 14.1–14.2, 14.4, 14.7, 14.b); and (iv) extraterritorial dimensions of Constitutional provisions and E-SDG 14 (ET-SDG 14.a, 14.c).

<sup>91</sup> The embedded relationship between Constitutional provisions and E-SDG 15 reflects (i) the conceptual relationship between Constitutional provisions principles and E-SDG 15 (ET-SDG 15.6, 15.9, 15.c); (ii) non-compliance of E-SDG 15 resulting threats to Constitutional principles (ET-SDG 15.4–15.5, 15.7); (iii) mutual reinforcement of E-SDG 15 and Constitution protection (ET-SDG 15.2, 15.8); and (iv) extraterritorial dimensions of Constitutional provisions and E-SDG 15 (ET-SDG 15.1, 15.3, 15.a–15.b).

SDGs in a qualitative manner. However, it is imperative to develop a quantitative assessment of the embedded relationship between Constitutional provisions and SDG. Hence study evolved the ERI, a deterministic number on a scale of 0–5, as a quantitative measure of embedded relationships and their reinforcing nature. The number of Constitutional articles that deal either explicitly or implicitly with concerned IHRT-SDG, ISIDT-SDG, and ET-SDG is computed and compared with a maximum number of Constitutional articles that deal either explicitly or implicitly across all IHRT-SDGs, ISIDT-SDGs, and ET-SDGs. A similar exercise is also conducted for each SDG.

The mathematical expression of ERI is given below:

$$ERI_i = \frac{x_i}{\text{Maximum}x_1^n} \times 5 \quad \text{Equation 1}$$

Where  $ERI_i$  = ERI of given IHRT-SDG, ISIDT-SDG, ET-SDG, or given SDG as applicable, on a scale of 0 to 5

$x_i$  = Number of Constitutional articles covered in given IHRT-SDG, ISIDT-SDG, ET-SDG, ISIDT-SDG, or given SDG as applicable

$n$  = Total number of targets for SDGs

$$ERI_j = \frac{y_j}{\text{Maximum}y_1^n} \times 5 \quad \text{Equation 2}$$

Where  $ERI_j$  = ERI of given Constitutional provision like fundamental rights, DPSP, fundamental duties, etc., on a scale of 0–5

$y_j$  = Number of fundamental rights, DPSP, and fundamental duties articles covered in the given SDG

$n$  = Number of SDGs

Table presents IHRT-SDG wise, ISIDT-SDG wise, ET-SDG wise, SDG wise, and Constitutional provisions like fundamental rights, DPSP, fundamental duties ERI in a quantitative manner computed based on textual analysis and mathematical modeling of embedded relationship.

**Table:**  
**IHRT-SDG wise, ISIDT-SDG wise, ET-SDG wise, SDG wise,**  
**and Constitutional provisions wise ERI in a quantitative manner**

SDG targets		ERI	SDG targets		ERI	SDG targets		ERI
IHRT	5.1	1.042	ISIDT	9.b	1.927	ET	14.c	0.729
IHRT	5.2	1.042	ISIDT	9.c	1.927	ET	15.1	0.781
IHRT	5.3	1.042	ET	12.1	0.938	ET	15.2	0.729
IHRT	5.4	0.938	ET	12.2	0.938	ET	15.3	0.729
IHRT	5.5	1.354	ISIDT	12.3	0.833	ET	15.4	0.729
IHRT	5.6	0.938	ET	12.4	0.938	ET	15.5	0.729
IHRT	5.a	1.354	ET	12.5	0.938	ET	15.6	1.094
IHRT	5.b	0.052	ET	12.6	1.094	ET	15.7	0.938
IHRT	5.c	1.094	ET	12.7	0.885	ET	15.8	0.781
ISIDT	8.1	0.365	ISIDT	12.8	3.698	ET	15.9	0.781
ISIDT	8.2	0.365	ET	12.a	0.938	ET	15.a	0.729
ISIDT	8.3	1.927	ISIDT	12.b	2.240	ET	15.b	0.729
ET	8.4	0.833	ET	12.c	0.885	ET	15.c	0.729
ISIDT	8.5	1.927	ET	13.1	0.729	IHRT	16.1	1.198
ISIDT	8.6	1.927	ET	13.2	0.729	IHRT	16.2	0.833
ISIDT	8.7	1.927	IHRT	13.3	3.646	IHRT	16.3	1.875
ISIDT	8.8	1.927	ET	13.a	3.646	IHRT	16.4	1.406
ISIDT	8.9	2.240	IHRT	13.b	3.646	IHRT	16.5	5.000
ISIDT	8.10	0.990	ET	14.1	0.781	IHRT	16.6	5.000
ISIDT	8.a	0.625	ET	14.2	0.729	IHRT	16.7	5.000
ISIDT	8.b	0.625	ET	14.3	0.729	IHRT	16.8	3.073
ISIDT	9.1	1.927	ET	14.4	0.781	IHRT	16.9	0.625
ISIDT	9.2	1.927	ET	14.5	0.781	IHRT	16.10	0.938
ISIDT	9.3	1.927	ET	14.6	0.781	IHRT	16.a	0.885
ET	9.4	1.927	ET	14.7	0.781	IHRT	16.b	5.000
ISIDT	9.5	1.927	ET	14.a	0.781			
ISIDT	9.a	1.927	ET	14.b	0.833			



SDG	Number of articles covered				ERI
	Fundamental rights	DPSP	Fundamental duties	Others	
IHR-SDG 5	107	51	12	0	1.436
SDG 8	149	114	38	0	2.542
SDG 9	144	104	48	0	2.500
SDG 12	88	128	53	6	2.323
SDG 13	117	70	37	0	1.892
E-SDG 14	30	77	40	1	1.250
E-SDG 15	43	88	48	3	1.537
IHR-SDG 16	348	156	81	7	5.000
SDG	Fundamental rights	DPSP	Fundamental duties	Others	
IHR-SDG 5	1.537	1.635	0.741	0.000	
SDG 8	2.141	3.654	2.346	0.000	
SDG 9	2.069	3.333	2.963	0.000	
SDG 12	1.264	4.103	3.272	4.286	
SDG 13	1.681	2.244	2.284	0.000	
E-SDG 14	0.431	2.468	2.469	0.714	
E-SDG 15	0.618	2.821	2.963	2.143	
IHR-SDG 16	5.000	5.000	5.000	5.000	

## VI. Conclusion and Recommendation

Several man-made and natural factors cause irreversible damage to the environment apart from having significant negative impacts on human well-being and eventually deterring the achievement of IHR and ISID (Suresh and Sundaram, 2022).<sup>92</sup> Obligations of the Government under IHR and labor law are crucial as they are interlinked to the attainment and enjoyment of safe, clean, healthy, and sustainable environment and provide a sturdy basis for understanding

<sup>92</sup> UN HRC, (2012) Report of the Independent Expert on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment: preliminary report. Available at: [undocs.org/en/A/HRC/22/43](https://undocs.org/en/A/HRC/22/43) [Accessed 20.09.2022].

and implementing IHR obligations relating to environment and industrialization (Knox, 2018; Knox and Morgera, 2022). IHR and environmental law frameworks have yet to be integrated despite the interrelated relationships between the two domains, as recognized by the 1972 Stockholm Declaration (UN, 1972). IHR law includes obligations relating to the environment that encompass both procedural and substantive obligations.<sup>93</sup> Environmental law as a discipline revolves around some of the basic principles which encompass its essence. These principles include SD, precautionary principle, polluter pays principle, public trust doctrine, and intergenerational equity. A negative impact on one SDG target has appalling multiplier effects on other targets of SDGs linked to IHR, environment, social, industrial, and economic growth. “Leaving no one behind” commitment encourages a more IHR and ISID-friendly interpretation and its application to all SDGs. These reflective characteristics, coupled with the reflection of IHR, ISID, and environment provisions in the 2030 Agenda and inextricably linked attributes of IHR, ISID & environment, and SDGs, lend to the analysis of reinforcing nature of Constitutional and Legislation provisions and Jurisprudence with SDGs.

Qualitative and quantitative embedded relationship and reinforcing nature of SDGs and Constitution, Judiciary, and various Legislations related to IHR, environmental, ISID Jurisprudence, and influence of the principle of SD on the domestic legal regime is analyzed. Reflection of IHR, ISID, and environmental aspects in the Constitution and Legislation is evident from textual analysis. Two arguments can be cited to characterize reinforcing nature (i) legally enforceable and non-enforceable Constitutional and Legislation provisions incorporate IHR and ISID principles to include an environmental dimension when environmental degradation averts complete fulfillment of guaranteed rights, and (ii) legally enforceable and non-enforceable Constitutional and

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<sup>93</sup> UN HRC (2009) Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights, A/HRC/10/61 (15 January 2009). Available at: [undocs.org/en/A/HRC/10/61](https://undocs.org/en/A/HRC/10/61) [Accessed 14.09.2022]; UN HRC (2013) Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox – Mapping report, A/HRC/25/53 (29 December 2013). Available at: [undocs.org/A/HRC/25/53](https://undocs.org/A/HRC/25/53) [Accessed 14.09.2022].

Legislation provisions demonstrate a new substantive IHR and ISID to a safe and healthy environment and sustained economic growth. Similar views are also found in the literature (Shelton, 2006). A substantial number of Constitutional and Legislation provisions demonstrate how environmental protection contributes to the enjoyment of IHR and ISID. Most importantly, fundamental rights, especially the right to life under Art. 21, as provided under Constitution and interpreted by Judiciary, have immensely helped develop Indian Jurisprudence on IHR, ISID, and the environment.

From Constitutional and Legislation provisions and judgements discussed above, it is evident that:

i. There are substantive rights for an adequate and decent standard of living; decent work enabled through the ISID development structure;

ii. There exist a group of negative and restrictive obligations for the Government so as to avoid initiating activities that are likely to hinder IHR, ISID, and environmental objectives or other such activities annulling their obligation to comply with IHR, ISID, and environmental governance;

iii. There are Government positive and proactive obligations to promote social order, protect and comply with IHR and ISID, livelihood, control and equitable distribution of material resources, humane conditions of work, wages and labor rights, sustained economic growth, respect for international law and treaty obligations;

iv. There are also procedural obligations, thereby ensuring access to information and conducting environmental and social impact assessments and industrial developments;

v. That fundamental right and duties of every individual to take part in Government initiatives and in the conduct of public affairs is acknowledged;

vi. That Government should proscribe discrimination and ensure equal and effective protection against discrimination, which shall also apply to equal enjoyment of IHR and ISID relating to a safe, clean, healthy, and sustainable environment and decent work and labor rights, and sustained economic growth;

vii. That Governments have an obligation to facilitate public participation in environmental decision-making in order to protect

IHR and ISID against environmental harm and exploitation of the labor force;

viii. That Government should provide an “effective remedy” for IHR and ISID violations which shall also encompass remedies for violations of IHR and ISID pertinent to environmental and labor issues, including delivering access to judicial and other procedures for effective remedies; and

ix. The concerned Government needs to establish a robust mechanism for the enjoyment of a safe, clean, healthy, and sustainable environment, including enforcing effective legal and institutional frameworks for safeguarding against environmental harm and full accomplishment of IHR and ISID due to their interlinkages.

All the above findings are also in alignment with earlier studies<sup>94</sup> (Knox and Morgera, 2022; Suresh and Sundaram, 2022). It is evident that the reinforcing and embedded nature between IHR, ISID, environmental protection, SDGs, Constitution, Legislation & Judiciary is undeniable, and the embedded relationship nature established in this paper can be correlated with direct embedded and cross-embedded relationships of IHR-related treaties and instruments, and environment-related treaties and instruments with SDGs (Suresh and Sundaram, 2022).

Multi-faceted growth and awareness of IHR, ISID, and environmental governance throw substantial challenges, and RECP practices, sustainable technologies, and dissemination assume importance.

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<sup>94</sup> UN General Assembly (1948) Universal Declaration of Human Rights. Available at: [undocs.org/en/A/RES/217\(III\)](https://undocs.org/en/A/RES/217(III)) [Accessed 14.09.2022]; UN General Assembly (1966) International Covenant on Civil and Political Rights. Available at: [treaties.un.org/doc/Treaties/1976/03/19760323\\_06-17\\_AM/Ch\\_IV\\_04.pdf](https://treaties.un.org/doc/Treaties/1976/03/19760323_06-17_AM/Ch_IV_04.pdf) [Accessed 18.09.2022]; UN CESCR (2002) General Comment No. 15: The Right to Water (Art. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/2002/11 (20 January 2003). Available at: [undocs.org/en/E/C.12/2002/11](https://undocs.org/en/E/C.12/2002/11) [Accessed 14.09.2022]; UN CRC (2013) General comment No. 16 on State obligations regarding the impact of the business sector on children’s rights, CRC/C/GC/16 (17 April 2013), Available at: [undocs.org/en/CRC/C/GC/16](https://undocs.org/en/CRC/C/GC/16) [Accessed 20.09.2022]; UN HRC (2019) General Comment No. 36: on Art. 6 of the International Covenant on Civil and Political Rights, on the right to life, CCPR/C/GC/36 (3 September 2019). Available at: [undocs.org/en/CCPR/C/GC/36](https://undocs.org/en/CCPR/C/GC/36) [Accessed 20.09.2022].

Strong driving factors<sup>95</sup> necessitate seamless integration of IHR, ISID, environment, SDGs, and legal aspects (Suresh and Sundaram, 2022). The SD approach is essential to secure long-term economic development and industrialization and make the economy resilient to future contingencies. Despite the fact SD is promulgated in international and national legal contexts in a structured manner, there is still a gap witnessed in enforcement and implementation, and hence the role of the Judiciary assumes great importance in this context. Provisions of the Constitution of India, Legislation, and the Indian Judiciary have elucidated several dimensions of IHR, ISID, and environment linkage and thus paving the way for developing IHR, ISID, and environmental Jurisprudence in India in alignment with the philosophy of SDGs. Indian Judiciary acts as a proactive facilitator in fostering SD and IHR, ISID, and environmental law to further SDGs progress. The Honorable Supreme Court of India has contributed immensely to SD Jurisprudence and has been instrumental in preserving the doctrine of SD.

It is evident from the above discussion that linking IHR, environment, and Constitutional and Legislation provisions with the SDG theme and extra-legal compliance mechanism of SDG can produce positive synergies in realizing SDG objectives (Suresh and Sundaram, 2022). Growing awareness of this reinforcing nature contributes to enjoying IHR, a healthy environment, sustained economic growth, and industrialization. Analyzing the reinforcing nature of Constitutional and Legislation provisions and Jurisprudence on IHR, ISID, and environmental provisions can facilitate accelerating SDGs progress. A significant level of reinforcing nature raises awareness and builds

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<sup>95</sup> (i) Changing institutional framework from IHR, ISID and environmental perspective; (ii) signatory of various international and regional treaties and instruments; (iii) resource uncertainty and security; (iv) technological advances like use less and produce more; (v) need and growing business opportunities for sustainable green infrastructure, RECP, circular economy and eco-industrial park and industrial clusters development including retrofitting of existing assets; (vi) Government initiatives on infrastructure and industrialization and Public-Private Partnership legal framework and environmental risk allocation models; (vii) complexity of nature of environmental crimes coupled with IHR and ISID violations involved in rapid urbanization and industrialization in pursuit of economic gains; (viii) complex nature of law of torts and criminal law embedded in IHR, ISID and environmental law; (ix) corporate ESG compliance and reporting; and (x) competitive pressure, cost and profit issues.

a postulate by making environmental degradation and IHR and ISID violations as a potential threat to the attainment of SDGs.

The Constitutional and Legislation framework provides a clear moral and legal justification for immediate and urgent action to uphold IHR values and drive inclusive economic growth along the lines of the ISID development model while protecting the environment. Despite a number of Legislations, Constitutional directives, and duties related to IHR, ISID, and environmental provisions and the setting up of HRC and pollution control boards, and industrial development corporations all over the country, there are still several challenges in curbing environmental degradation coupled with violations of IHR and ISID principles. Hence a multi-pronged approach is required on the industrial and urbanization,<sup>96</sup> legal,<sup>97</sup> and capacity-building fronts<sup>98</sup> to tackle the problem of large-scale environmental hazards effectively and to evolve robust foundations in the environment and industrialization-related litigations while complying with IHR and ISID principles and achieve progress in SDG (Suresh and Sundaram, 2022).

IHR, ISID, and environmental laws, rules, and regulations must be widely understood, respected, and enforced to advance SDGs. Adoption and monitoring of legal indicators for SDGs are considered to provide a balance between sustained economic growth, IHR values, ISID principles, and environmental compliance through economic benefits by way of increased resource efficiency, innovation, and reduced cost for environmental management while complying with IHR and ISID principles.

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<sup>96</sup> Initiatives would include (i) establishing state-of-the-art industrial infrastructure and eco-industrial parks; (ii) retrofitting traditional industrial parks; (iii) creating environmental infrastructure; (iv) practicing circular economy principles; (v) promoting sustainable and smart urbanization; and (vi) ESG reporting.

<sup>97</sup> Initiatives would include (i) implementing and enforcing clear, unambiguous laws; (ii) strengthening IHR, ISID, and environmental Legislation; (iii) ensuring accountability and transparency of public authorities in their decision-making process; (iv) a multi-stakeholder consultative process in development initiatives; (v) placing sustainability and SDGs at center of Judicial decision-making; and (vi) incorporating legal indicators for SDG progress analysis.

<sup>98</sup> Capacity-building exercise initiatives essential for advancing SDG include (i) IHR, ISID, and environmental awareness; (ii) education, and sensitizing on SDGs; and (iii) wider dissemination of Constitutional and Legislation provisions on IHR, ISID, and environmental Jurisprudence.

Embedded relationships and reinforcing nature also signify the need to include global legal indicators in SDG as an explicit reference. Compliance with Constitutional and Legislation provisions and Jurisprudence could promote more effective implementation and monitoring, wherein the approach is to view the global environment and climate change as common apprehension of humankind. Provisions of the Constitution, Legislation, IHR, ISID, and environmental Jurisprudence can be dovetailed in the form of global legal indicators in assessing SDG progress, and this extra-legal compliance mechanism can produce positive synergies in realizing SDG objectives.

This paper provides insight into how IHR, ISID, and environmental stipulations and recommendations, established through Constitutional and Legislation provisions and Jurisprudence, can be utilized holistically for achieving progress in SDGs. Principles established, analysis model developed, and recommendations made in this paper can be deployed across geographies.

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