
HUMAN RIGHTS AND CLIMATE CHANGE

Part-2

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Chapter-4

Future Directions for Human Right to Healthy Environment under International Law

Human Rights (HR) Law has offered remedies to combat Climate Change (CC) in many aspects. The overlapping has also raised a lot of challenges that are faced by states today. Thus, we need to find solutions/remedies that will lead to overcome challenges faced by states. Furthermore, we need to find those remedies that are acceptable by all states. For example, to encourage PP in Environmental decision making, Regulation practiced by the Governments, develop a more diversified Climate Justice mechanism,

In addition to this, I'll argue do we need a new HR to combat CC? Is there a need to recognize Right to Healthy Environment as an independent right?

In this chapter, I'll answer the question **“What steps do states under International Law need to undertake in overlapping between Human Rights (HR) and Environment to combat Climate Change (CC) to overcome the challenges?”**

Encourage Public Participation (PP) in Environment Decision Making

(PP) in Environment decision making is to encourage awareness among the people of states why there's a need to protect environment. By encouraging (PP) awareness among people is raised, the need and importance that can be realized to protect and promote HR in-relation to environment to combat CC. PP helps governments to realize where people face problems and what remedies should states adopt to help people to overcome the problems. PP also helps to understand as to what extent people have access to information regarding environment, encourages development of Environment Jurisprudence as when people become aware of the Environmental Laws, they step forward towards any environmental degradation activity and resort for litigation remedies that leads to development of Environmental Law Jurisprudence.

The Aarhus Convention (AC) is the key convention to encourage PP in environment decision making, i.e. it's a wholesome document that explains access to environmental information, participation in environmental activities, peaceful settlement of disputes.¹ (AC) explains the importance to live in a healthy environment and to protect and improve degraded environment.² The convention basically explains that designated states have become parties to convention as there is need to protect the environment to overcome infringement of HR especially for future generations.³ The key aspects of this convention is that it requires implementation of it in national law and each state party to take legislative, regulatory measures to implement this convention.⁴

On the other hand, under transboundary environmental harm context, it's important to learn here that Recital 23 of Preamble of (AC) explains to bear in mind the provisions of Environment Impact Assessment (EIA) as explained in Espoo Convention.⁵ Article 2(3) of the Espoo Convention explains about the transboundary harm in the case of Environment Impact Assessment (EIA).⁶

Similarly, it's been realized that (AC) ensures right to adequate environment in the light of environmental governance as HR imposes obligations upon states to protect rights of individuals.⁷ "(AC) refersto protection of the planet and its ecosystems by creating participatory democratic system"⁸. The convention establishes good environmental governance as it creates a link between people and the government to protect their right to environment. 'Lee and Abbott agree to the fact that with (AC) involvement of people in

¹See Convention On Access To Information, Public Participation In Decision-Making And Access To Justice In Environmental Matters, 25 June 1998 <<https://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>> accessed on June 26, 2020.

²See Etinski Rodoljub, 'Specific features of human rights guaranteed by the Aarhus Convention'; January 2013; Page 79; <https://www.researchgate.net/publication/314432486_Specific_features_of_human_rights_guaranteed_by_the_Aarhus_Convention/link/58c8f5fd45851591df483f9e/download> accessed on June 26, 2020.

³*Ibid*, at Page 80.

⁴*Ibid*, At Page 81.

⁵See Convention On Access To Information, Public Participation In Decision-Making And Access To Justice In Environmental Matters, 25 June 1998 <<https://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>> accessed on June 26, 2020.

⁶See Convention On Environmental Impact Assessment in A Transboundary Context; Page 3. <https://www.unece.org/fileadmin/DAM/env/eia/documents/legaltexts/Espoo_Convention_authentic_ENG.pdf> accessed on June 26, 2020.

⁷See Milan Pocuca, Marijana Mladenov, Predrag Mirkovic, 'The Analysis of The Aarhus Convention in The Context of Good Environmental Governance'; Economics of Agriculture, Year 65, No. 4, 2018, Page 1617; <https://www.researchgate.net/publication/331278900_The_analysis_of_the_Aarhus_convention_in_the_context_of_good_environmental_governance> accessed on June 26, 2020.

⁸*Ibid*, at Page 1623.

decision making marks the beginning of proceduralisation of environmental law and regulation'⁹.

It's learnt till now that citizen participation can lead to progressive development of environmental laws and lead to its enforcement as it gives solutions to risks associated with environment and considerably solves the problems for the future. Steele claims to PP is important because it's important to have suggestions to address uncertain environmental impacts to have better decision making for the future.¹⁰ The writer has appreciated UK's move in environmental regulation as UK's participation in Environmental Law marks scope of change.¹¹ The case of Environment Impact Assessment (EIA), in *Berkeley v. Secretary of State for the Environment* an individual claimed to deny the permission granted to build Football Stadium on the banks of river Thames, thus the House of Lords agreed the Secretary of State should have considered (EIA) before the clearance of the project.¹² I agree with the fact that citizen participation in the environment has led to an efficient and effective move.

"The key drawback of (AC) is that it focuses on procedural rather than substantive environmental standards, the convention has vague and weak language and lacks enforcement mechanisms"¹³. I agree with this statement and there's need for sincere commitment by states to address the issues/drawbacks in the (AC). I would like to add here that political commitment by states i.e. state consent for (AC) has led to its recognition and need and importance of the convention realized by states.

In the case of CC, PP plays an important role to combat CC and reduce infringement of HR. It's important to learn that here it is almost impossible to adopt technological changes without any participation of people, as people's involvement encourages in adopting affective and efficient strategies for the futuristic period. 'It's possible with CC technologies i.e. wind energy, carbon capture and storage (CCS)'¹⁴. By adoption of CC technologies, it's possible to check EIA, to provide with information as to what strategies should be adopted to combat CC

⁹See Maria Lee and Carolyn Abbot, 'The Usual Suspects? Public Participation Under the Aarhus Convention'; *The Modern Law Review*; Volume 66, Issue 1, 2003; Page 80.

¹⁰See Jenny Steele, 'Participation and Deliberation in Environmental Law: Exploring a Problem-Solving Approach'; *Oxford Journal of Legal Studies*, Volume 21, Issue 3, 2001; Page 416.

¹¹*Ibid*, at Page 418.

¹²*Ibid*, at Page 419, 420.

¹³See Maria Lee and Carolyn Abbot, 'The Usual Suspects? Public Participation Under the Aarhus Convention'; *The Modern Law Review*; Volume 66, Issue 1, 2003; Page 106, 107.

¹⁴See Maria Lee, Chiara Armeni, Javier de Cendra, Sarah Chaytor, Simon Lock, Mark Maslin, Catherine Redgwell and Yvonne Rydin, 'Public Participation and Climate Change Infrastructure'; *Journal of Environmental Law*; Volume 25, Issue 1, 2012; Page 34.

impacts.¹⁵ The CC technology leads to adoption of effective policies and participation of people in effective and project authorizations.¹⁶

With the PP and political involvement, it becomes easy to bring technological change that also leads to change in the behavior and this joint cooperation of people and government leads to holistic development and policies for the future generations.¹⁷

Apart from the above, it's pertinent to mention that Escazu Agreement (EA) is the key agreement for a directional move towards Environmental Democracy, as its aim is for sustainable development and also adheres to Principle 10 of Rio Declaration.¹⁸ Principle 10 is an important principle of expression for the people/public to respond to environment issues and challenges.¹⁹ The EA also highlights the importance of Right to Healthy Environment as to why it's important for Sustainable Development that leads to Human Development.²⁰ If we link Right to Healthy Environment and Sustainable Development, we can achieve the complex relationship of HR and Environment to combat CC. On the other hand, "EA has shortcomings, i.e. it does not address transboundary matters i.e. people of one state have no right to receive information from another state party"²¹. Thus, it's important to address this issue, if there is no scope to resolve transboundary matters how can sustainable development take place at global level.

It's pertinent to mention the increased efforts for involvement of people in environment decision making, non-governmental organizations (NGOs) have actually put in lot of efforts in shaping and for implementation of policies that have been recognized by people/citizens of state.²² The case of India, "Indian NGOs regarded the enforcement mechanism behind environmental regulations acted in form of Public Interest Litigations resulted in closure of

¹⁵*Ibid*, at Page 51.

¹⁶*Ibid*, at Page 53.

¹⁷*Ibid*, at Page 37.

¹⁸See Domenico Giannino, 'The Escazu Agreement Environmental Democracy and Human Rights'; school of Advanced Study, University of London; <https://www.researchgate.net/publication/334785658_The_Escazu_Agreement_Environmental_Democracy_and_Human_Rights/link/5d41712ba6fdcc370a6f46f7/download> accessed on June 27, 2020.

¹⁹See Stephen Stec and Jerzy Jendroska, 'The Escazu' Agreement and the Regional Approach to Rio Principle 10: Process, Innovation, and Shortcomings'; *Journal of Environmental Law*; October 9, 2019; Page 534.

²⁰*Ibid*, at Page 537, 538.

²¹*Ibid*, at Page 544.

²²See Roda Mushkat, 'Public Participation in Environmental Law Making: A Comment on the International Legal Framework and the Asia-Pacific Perspective'; *Chinese Journal of International Law*; Volume 1, Issue 1, 2002; Page 203, 204.

thousands polluting industries”²³. Thus, NGOs have initiated a primary move in initiating environmental democracy.

Overall, “PP includes promise to influence and contribute decisions, PP promotes sustainable decisions by recognizing and communicating the needs and interests of all participants, PP seeks out facilitates the involvement of those potentially affected by decision, PP communicates to participants how their input affected the decision”²⁴.

Waste Management

States can encourage PP at domestic level for waste management mechanisms as this will reduce pollution levels as will combat CC and also protect right to health as discussed in Chapter-1.²⁵ For example, mining, transportation, tourism, medical sectors etc. all produce wastes. ‘The 1972, London Convention wastes can be material, substance or any form’²⁶. Thus, eco-friendly products should be used, recycle and reuse of waste should be encouraged to combat CC and protect HR infringement.

Regulation Under International Environmental Law to combat CC

Regulation can be defined as a technique/initiative undertaken by states to implement new practice and repeal the old practice to protect environment. In context of environment, environmental regulation means “establishing general policies on environment, evaluating possible regulatory options to the environmental issue concerned, implementing regulation through the adoption of regulatory techniques and instruments, enforcing regulation through administrative and criminal sanctions and using mechanisms to monitor and improve the regulatory system”²⁷. If we examine in context of complex relationship between HR and Environment Law to combat CC, all the above said environmental regulation methods can be successful if properly implemented.

²³*Ibid*, at Page 204.

²⁴See Marianne Dellinger, ‘Ten Years of the Aarhus Convention: How Procedural Democracy is Paving the Way for Substantive Change in National and International Environmental Law’; Colorado Journal of International Environmental Law and Policy; Volume 23, Issue 2, September 2012; Page 313.

²⁵See Philippe Sands, Jacqueline Peel with Adriana Fabra and Ruth Mackenzie, ‘Principles of International Environmental Law; Cambridge University Press; Fourth Edition; 2018; Page 611, 614.

²⁶*Ibid*, at Page 610.

²⁷See Stuart Bell, Donald McGillivray, Ole W. Pedersen, Emma Lees, Ellen Stokes, ‘Environmental Law’; Oxford University Press; Ninth Edition; 2017; Page229.

By establishing general policies on environment in context of HR and Environment to combat CC, it means to adopt policies to combat CC for example, to resort to renewable resources of energy to prevent infringement of HR in-relation to environment, encourage Public Participation (PP) as explained above, develop CC litigation mechanism that will be discussed further etc.

Adoption of regulatory techniques is important to curb CC. 'Regulatory techniques should be accountable, transparent and consistent'²⁸. This means that policies, prohibitions and law enforcement, all should follow the said conditions. Thus, if prohibition is imposed upon the use of fossil fuels it may not be acceptable by the society today because the alternate sources of energy are yet to be properly developed. But if targets are fixed for example states should reduce its emissions by certain percentage within this period of time it will be acceptable by states because the states have been granted time period. For example, UK has pledged to reduce its greenhouse gas emissions to zero by 2050.²⁹

In terms of environmental crime, it depends upon the states how do they want to classify environmental crime. Environmental crime can be defined as a crime that is caused in order to cause environmental degradation. It can also be defined as an act that is violation of law. For example, in the case of India, 70% of the crimes smoking or tobacco products.³⁰ Though the Government of India has classified it as crime, but it has not imposed ban upon them because imposing ban upon tobacco products not only for India, but also for any state in the world is absolutely impossible. Thus, the government of states can practice regulation by increasing fines and encourage awareness campaigns. On the other hand, in UK 9,500 people die every year due nitrogen oxide omissions.³¹ The famous Volkswagen emission scandal case where the company was admitted for cheating on emission standards.³² Thus, it's now the question ultimately upon states how to classify environmental crimes.

Regulation is practiced as a mechanism to combat degradation caused to the environment. 'Gunningham and Holley write that states should practice smart regulation whereby, states

²⁸*Ibid*, at Page 232.

²⁹See UK becomes first major economy to pass net zero emissions law; (27 June, 2019); <<https://www.gov.uk/government/news/uk-becomes-first-major-economy-to-pass-net-zero-emissions-law>> accessed on June 13, 2020.

³⁰See Bhasker Tripathi, '70% Of Environmental 'Crimes' Involved Smoking Or Tobacco Products' (India Spend, 28 October, 2019) <<https://www.indiaspend.com/70-of-environmental-crimes-involved-smoking-or-tobacco-packaging/>> accessed on June 29, 2020.

³¹See Stuart Bell, Donald McGillivray, Ole W. Pedersen, Emma Lees, Ellen Stokes, 'Environmental Law'; Oxford University Press; Ninth Edition; 2017; Page 265.

³²*Ibid*.

should work out strategies, recognize opportunities for effective and efficient outcomes’³³. I would like to argue that in smart regulation strategies/policies implemented by states should be such that they should be acceptable by all i.e. business corporations, citizens of state, eco-friendly technological governance and laws that are easy for compliance/implementation. Furthermore, there’s need for proper waste management strategies as with the era of technology E-Waste contains metals and toxic substances that needs to be regulated as the e-waste released in the environment is harmful for human health that leads to infringement of HR as it affects the health of the people, by increasing all forms of pollution especially water and land pollution.³⁴ Thus, the current E-Waste strategy leads to infringement of HR in-relation to environment that leads to CC.

From the above we can conclude that states should adopt and practice techniques in order to protect environment and combat CC.

HR and CC: Litigation Mechanism

It’s important to have separate environmental courts and tribunals to overcome problem of environmental disputes as this will help to build environmental jurisprudence and decisions will be used as precedent in future environmental claims.

Litigation is an important tool of development in area of complex relationship between HR and Environment to combat CC, because litigation leads to sought for injunction and remedies to damage caused to the environment. Furthermore, it also helps to check to what extent people are concerned to protect Right to Healthy Environment and protect their rights from being infringed. In other words, courts are basically forum or branch of government that usually interprets law drafted by legislature and where people raise issues of concerns and claims are administered.³⁵ By encouraging CC litigation, laws are developed, PP is encouraged, development of environmental jurisprudence takes place that also attracts attention of journalists as well and also whether laws of the government are efficient enough or not. Thus, CC litigation helps to combat HR infringement and promote and protect Right

³³See Neil Gunningham and Cameron Holley, ‘Next-Generation Environmental Regulation: Law, Regulation, and Governance’; Annual Review of Law and Social Science; 12:273-93; 2016; Page 281.

³⁴See Sabaa Ahmad Khan, ‘E-products, E-waste and the Basel Convention: Regulatory Challenges and Impossibilities of International Environmental Law’; Review of European, Comparative & International Environmental Law; Volume 25, Issue 2, 2016; Page 248, 249.

³⁵See Brian J. Preston, ‘The Contribution of the Courts in Tackling Climate Change’; Journal of Environmental Law; Volume 28, Issue 1, 2016; Page 11, 12.

to Healthy Environment. On the other hand, it's important that for successful Environment Litigation, it's important for courts to possess characteristics that will enable them to successfully handle environmental disputes, i.e. 'the courts should run by judges who are knowledgeable in environmental matters'³⁶; 'develop environmental jurisprudence by pinpointing both environmental problems and suggesting possible solutions'³⁷. Furthermore, it's important to encourage peaceful dispute resolution for the environmental harm caused.³⁸ All these factors encourage the complex relationship between HR and Environment to combat CC, as CC litigation combats HR infringement.

Townsend argues that HR Courts take human dignity very seriously but only to decide issues regarding HR, but very little consideration has been given to tackle environmental issues.³⁹ 'The courts have not been able to overcome CC problems or lay global standards for environmental degradation, but only explained how it violates HR'⁴⁰ Thus, it can be argued the need to recognize the Right to Good Environment as an independent right to overcome environment problems. It can be further argued that states should have their separate acts to tackle the problem of CC.

In India, National HR Commission has laid report on Environment where it has explained that it's important to recognize Environmental Right as an independent right to reach to sustainable future.⁴¹ On the other hand, Public Interest Litigation has been filed time and again in India. In the case of 'Ridhima Pandey v. Union of India'⁴², "the nine-year-old claimant sought for creation of national greenhouse gas inventory and national carbon budget and also argued the fact that India's commitment to Paris Agreement sought stricter action to combat CC"⁴³.

³⁶See Brian J. Preston, 'Characteristics of Successful Environmental Courts and Tribunals'; Journal of Environmental Law; Volume 26, Issue 3, 2014; Page 377.

³⁷*Ibid*, at Page 387, 388, 390

³⁸*Ibid*, at Page 384.

³⁹See Dina Townsend, 'Taking dignity seriously? A dignity approach to environmental disputes before human rights courts'; Journal of Human Rights and the Environment, Volume 6, Issue 2, 2015; Page 225.

⁴⁰*Ibid*.

⁴¹See Ashish Kothari & Anuprita Patel, 'Environment and Human Rights'; National Human Rights Commission; January 2006; Page 93
<https://www.researchgate.net/publication/301205306_Environment_and_Human_Rights> accessed on June 20, 2020.

⁴²See Ridhima Pandey v. Union of India (March 2017); <<https://elaw.org/petition-ridhima-pandey-v-union-india-march-2017>> accessed on June 20, 2020.

⁴³See Report of Ivano Alogna and Eleanor Clifford, 'Climate Change Litigation: Comparative and International Perspectives'; (British Institute of International and Comparative Law, 16 January, 2020) Page 8,9<https://www.biiicl.org/documents/88_climate_change_litigation_comparative_and_international_report.pdf> accessed on June 22, 2020

In the case of UK, Townsend argument does not fit appropriately because UK has separate CC Act, 2008 and baselines have been set to reduce carbon emissions.⁴⁴

Need for Recognition of Right to Good/Healthy Environment

A pertinent question arises if there's need for recognition of Right to Good/Healthy Environment and how this right is relevant to combat CC and promote infringement of HR. Furthermore, it's important to understand how recognition of right is relevant to combat CC. HR for healthy environment lays down the fact that protection of environment is utmost priority and also preparation and enforcement of laws at global level.⁴⁵ Furthermore, states should follow three duties, duty to respect, duty to protect and duty to fulfil to protect HR in relation to environment.⁴⁶ Similarly, Hodkova argues the fact that recognition of Right to Healthy Environment is important as all states will be obliged to uniformly implement the norms.⁴⁷ She further argues recognition of right to healthy environment is important because of increasing concern by state to tackle environmental issues and different approaches adopted by states to protect environment will be integrated into uniform approach once healthy environment right is recognized, for example waste management.⁴⁸ In addition to this binding legal norm will provide a legal status, providing individuals additional legal protection to protect the human interests by protecting environment.⁴⁹ Right to Development can be properly understood with the recognition of Right to Healthy Environment as states can choose the suitable economic development mechanism that will not infringe HR of individuals to protect environment.⁵⁰ When environmental rights are independently recognized separate jurisprudence can be built.

On the other hand, Lewis supports the fact that it's important to recognize rights to Good/Healthy Environment as an independent right because it will help to avoid duplication

⁴⁴*Ibid*, at Page 5.

⁴⁵See Rebecca Bratspies, 'Do we need human right to healthy environment'; Santa Clara Journal of International Law; Volume 13, Issue 1, 2015; Page 67.

⁴⁶*Ibid*, at Page 65, 66.

⁴⁷See Iveta Hodkova, 'Is There A Right to A Healthy Environment In The International Legal Order?'; Connecticut Journal of International Law; Volume 7, Issue 1, 1991; Page 65.

⁴⁸*Ibid*, at Page 80.

⁴⁹See Jennifer A. Downs, 'A Healthy and Ecologically Balanced Environment: An Argument for a Third Generation Right'; Duke Journal of Comparative & International Law; Volume 3, Issue 2, 1993; Page 378.

⁵⁰See James T. McClymonds, 'Human Right to a Healthy Environment: An International Legal Perspective'; New York Law School Law Review; Volume 37, Issue 4, 1992; Page 603.

of laws and similar emphasis will be given to environmental laws as HR Laws to protect rights of people to combat CC.⁵¹ I agree with Lewis because when duplication of laws is avoided then it's easy to understand flaws in the law in any for the future. Furthermore, this leads to proper interpretation by courts and also build environmental jurisprudence to combat CC and protect rights of the people.

Do we need a New HR for CC?

HR in-relation to environment has offered remedies to combat CC in a number of ways. For example, inclusion of HR provisions in state constitution in-relation to environment is because of complex mutual relationship between HR and Environment. Similarly, as discussed in this chapter, PP in environmental decision making plays an important role as its key evidence that explains to what extent individuals are concerned to protect environment. It's important to have separate courts to address environmental issues because with relationship of HR and Environment to combat CC, HR tribunals faced difficulties in solving environment litigation problems. Furthermore, HR tribunals and courts don't know as to how to adjudicate environmental claims.

On the other hand, it's important to follow "adaptive management techniques to monitor, review and modify projects, plans and activities"⁵² in-relation to HR and Environment to combat CC. This means that all states should cooperate to share Climate Mitigation techniques with other states irrespective of IP protection, states should jointly cooperate to combat pollution activities, states should practice effective regulation technique etc. on the other hand, it's important to recognize right to healthy/good environment as an independent right as separate environmental jurisprudence, environmental courts and tribunals, cooperation of all states to adjudicate environmental claims can be easily achieved. at the end, I would like to argue that there is no need for separate/new HR for Environment. It's just that we need to make and enact some changes to cope up with the present conditions to protect the relationship between HR and Environment to combat CC.

⁵¹See Bridget Lewis, 'Environmental Human Rights and Climate Change; Current Status and Future Prospects'; Springer; 2018; Page 65. <<https://link-springer-com.libproxy.ncl.ac.uk/content/pdf/10.1007%2F978-981-13-1960-0.pdf>> accessed on June 9, 2020

⁵²See Jan McDonald and Megan C Styles, 'Legal Strategies for Adaptive Management under Climate Change'; Journal of Environmental Law; Volume 26, issue 1, 2014; Page 25.

Conclusion

We learn in this chapter that PP can play an important role to combat CC and also help us to understand to what extent people are concerned for right to good/healthy environment. furthermore, we learn that states should practice regulatory techniques such as CC Litigation and reduce burden in HR courts and tribunals. Moreover, we learn why is it important to recognize Right to Healthy Environment as independent right and argued the fact at the end that there is no need for separate independent new HR for environment. It's just we need to amend some techniques and procedures to tackle the problem of CC and reduce infringement of HR.

Chapter-5**Conclusion and Suggestion**

The complex relationship between Human Rights (HR) and Environment to combat Climate Change (CC) is an essential relationship to protect the Right to Healthy Environment. In my dissertation I have discussed HR and CC in terms of International Law. Furthermore, I have discussed each chapter with reference to two jurisdictions i.e. India and United Kingdom.

In Chapter-1, I have discussed HR dimensions in-relation to CC as the complex relationship has offered remedies to combat CC. I have discussed the relationship in terms of Right to Life, Right to Adequate Standard of Living, Right to Water, Right to Health. Furthermore, the inclusion of HR to Healthy Environment provisions in their respective State Constitution explains why sustainable environment is important to protect the rights of the people. It's these political developments, i.e. the consent of states to protect environment to protect the rights of people. Moreover, with these political developments because of state consent, it lays the duties that states as to how much they are responsible enough to protect the Sustainable Environment for people.

In Chapter-2 I have discussed the relevance of HR to a Good/Healthy Environment under International Law. I have discussed with reference to International Instruments, PP, CC Litigation, Sustainable Development and development of good environment under International law.

In Chapter-3, I discussed the challenges confronted to Right to Good Environment under International Law. In Chapter-3 I have answered the question "To what extent states face challenges under International Law in the implementation of HR in-relation to environment to combat CC?". Before I go further, I have answered question with special reference to India and UK. I have answered the question Globalization and Development where I discuss as to how globalization important for economic development compromises with the environment that impacts rights of the people. Then, I discuss duties of state to protect the environment. The three key duties I discuss are Duty to Respect, Duty to Protect and Duty to Fulfil. States have duty towards the protection of environment, duty towards future generation, encourage Public Participation (PP), practice Precautionary Principle followed by encouraging sustainable development. I have further discussed the criticisms and failure of sustainable development.

I discuss the Litigation burden on HR Courts. The overlapping between HR and Environment to combat CC has actually offered many solutions. But of course, yes it has actually added loopholes to the system as it has imposed burden on the HR courts and tribunals. Here I had argued that by recognition of Right to Healthy/Good Environment under International Law. Thus, there is need to have separate CC Litigation courts as this will reduce burden upon HR courts and tribunals and will further lead to develop environmental jurisprudence as it can act as a precedent for future cases.

At last, I had discussed, IPR in-relation to Environment what are challenges confronted because of IPR to combat CC. In this, I have basically discussed that to a considerable extent the regime of IPR has been benefitting developed countries than developing countries. I have explained this with an example, clean energy technology. Many developing and least-developed countries face the problem of clean energy because of IPR regime. Though UNFCCC requires state parties to put efforts to combat CC.

In Chapter-4, I have discussed “Future Directions for HR to Healthy Environment under International law”. In this chapter I have answered the question “What steps do states under International Environmental Law need to undertake in overlapping between HR and Environment to combat CC to overcome the challenges?” I have discussed encouragement of PP that can actually help to protect environment and combat CC as awareness among people can actually protect environment from damaging. I have further discussed Regulation under Environmental Law to combat CC. Under Regulation what all steps states should take to protect environment or save environment from degradation. Then I come to Litigation, i.e. need to have separate Climate Change Litigation (CCL) as this will help to build environment jurisprudence as there should be no imposition of burden upon HR courts and tribunals. At last, I mention that there is need to recognize Right to Healthy/Good Environment under International Law. I have supported this recognition because this will help to build separate environment jurisprudence and as HR are recognized rights i.e. states are parties to it and recognition of environmental rights will speed up the need to understand the importance of environment.

Recommendations

I would like to argue that there is need to recognize the Right to Healthy Environment as independent right as this will help to exclusively to step up as an independent right. The

recognition should be such i.e. as Globalization and Development are important for economic development for a state but should be such the environmental needs are not compromised. It's important to encourage PP as this will bring people together to achieve environmental right i.e. the right for the people. I further argue that there is need to have separate CCL mechanisms though overlapping between HR and Environment to combat CC has offered solutions but we need separate environmental jurisprudence as the court decisions will be referred as precedents for future cases. At last, as I have discussed two jurisdictions India and UK, both countries have worked towards protection of environment, though UK is far much better. But of course, with Recognition of Right to Healthy/Good will pave way for uniform approach towards environment protection as issues will be dealt timely without infringing rights of people and combating CC.

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