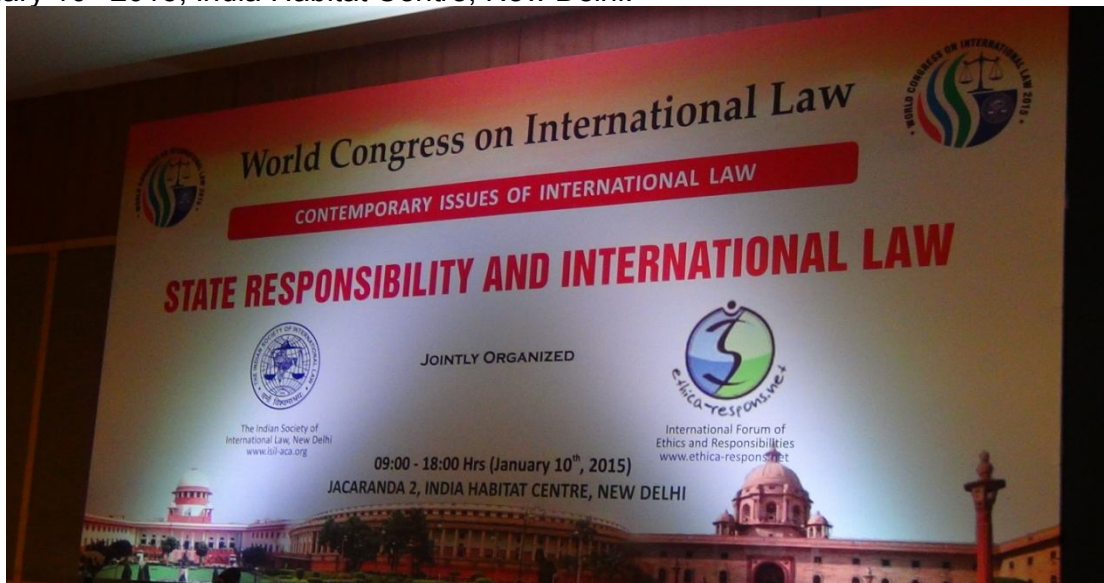


Report

State Responsibility and International Conference Law

Organized by the
**International Forum for Ethics & Responsibilities, Eco Foundation for Sustainable
Alternatives (EFSA) India, Rights & Responsibilities Collective, South Asia
& Indian Society of International Law (ISIL), New Delhi**
during the
World Congress on International Law
9-11 January 2015, New Delhi

The International Conference on State Responsibility and International Law was organized as a parallel event during the World Congress on International Law in New Delhi. The Conference was organized in collaboration with the Indian Society of International Law on January 10th 2015, India Habitat Centre, New Delhi.



The objectives of the conference were:

- To deliberate on international laws based on Principle of Responsibility and ethics that ensure rights, justice and dignity for vulnerable groups
- To explore in depth international laws based on Responsibility to ensure sustainable food security
- To explore the possibility of evolving and international network of legal experts/ jurists/ social scientists/ social movements for the promotion of Responsibility for well being of all.
- To evolve consensus on legally binding international reference text on Responsibility
- To initiate necessary arguments to formulate collective message to the COP21 negotiators, urging them to make dramatic progress on internationalization of law with a special focus on responsibility in order to take effective binding measures to curb climate change.

Inaugural:

The session was started with the introduction to the conference by Dr. Neetu Sharma who after discussing the background and the objectives of the Conference invited Dr E M Sudarsana Natchiappan, President of Indian Society of International Law (ISIL) to deliver the welcome speech.

Dr.E M Sudarsana Natchiappan, President of Indian Society of International Law (ISIL), Member of Parliament, Rajyasabha



Dr. Natchiappan congratulated the International Forum for Ethics and Responsibilities and the Rights and Responsibility Collective for taking up the issue in an environment where everyone talks about rights only. He said that acting responsibly is a human and it's applicable to not only personal and professional lives but also at the level of nation state and international level.

He wished that the discussions of the day will lead to certain insights that will not only bring the issue to the forefront but will also guide the future work in this direction to further the cause. Dr Natchiappan also welcomed the distinguished dignitaries and thanked them for being part of the discussions.

Core Principles of Responsibility

Speaker: Mr. Pierre Calame President, The Charles Leopold Mayer Foundation for Human Progress (FPH) Paris



Mr. Pierre Calame talked about six key issues or aspects in detail. He expressed his concern over the tendency of dilution of the international legal instruments. He emphasises that we need four major components to build global governance: Global regulation has to be conceived as a response to the need to manage a common good, a sense of belonging to

one community that means a feeling of global village, Sharing common values, which is integral part of the feeling of belonging to the same community, and last but not the least conciliating unity and diversity.

Until now the only common value agreed upon by the international community is human rights. But it was adopted by what was then the “international community” just after World War II, at the moment when Western countries would dominate the international scene.



The ‘human rights’ as a value systems does not deal with the relationships between humanity and the biosphere, and more broadly do not properly addresses the issue of global interdependencies. However, we are now in a multipolar world, where Western traditional countries cannot pretend to decide alone what is universal and what is not. Reason why we would need this truly inter-faith and intercultural dialogue to discover which these universal values could be, including the possibility that it was impossible to agree on none of them. But the experience proved successful. What were the characteristics of such universal values to be truly universal; they should be met in different cultural traditions,

- it should help address issues of our global interdependencies, among societies as well as between humanity and the planet,
- it had to be a counterpart to human freedom and orient individual choices,
- it had to fit with what is generally called the new anthropocenic era, an era when the impact of human activities on biosphere had become so great as to be integral part of biosphere regulations, as it is illustrated with climate change, transformations of the atmosphere, loss of biodiversity, acidification of oceans, and the like,
- it has to go hand in hand with human rights.

Mr Calame stressed that there was one unique value compatible with these five criteria and it is responsibility. He spoke in detail about the eight principles of the Universal Declaration of Human Responsibilities. He said that a critique often heard about responsibility is that it is such a general principle that everybody can pretend being responsible and many governments call after responsible citizenships without being themselves responsible towards their citizens. He noted that over the years, the Alliance for responsible and sustainable societies (ARSS), through many inter-cultural and inter-professional dialogs has been eager to make responsibility principle very substantial, in declining it into eight more detailed sub principles.

The exercise of one's responsibilities is the expression of one's freedom and dignity as a citizen of the world community. This first principle associates clearly the scope of the responsibilities and the belonging to a world community. By stating the link of responsibility on one hand, freedom and dignity on the other hand, the responsibility principle is clearly distinct from the concept of duties. For example, many constitutions in the South Asia region refer to duties of citizens. But, in a way, having to fulfill duties is much more in tune with an authoritarian regime, where citizens are subjects to the state, than of a democracy where citizens are invited to exercise his or her responsibility as part of freedom and dignity.

Individual human beings and everyone together have a shared responsibility to others, to close as distant communities, and to the planet, proportionately to their assets, power and knowledge. For many defendants of the human rights, rights are on the side of the poor, responsibilities on the side of the mighty and the rich. But it is not the point of view of the vulnerable groups themselves who claim their own responsibilities, in particular towards their own local community, as they are the very expression of their dignity and citizenship. This is why it is so important to constantly recall that for each person and each institution responsibilities and rights are complementary, are the two faces of the same coin. But of course the more power, the more knowledge, the more potential impact on local and distant communities, and the greater responsibilities. The insistence on the responsibilities to distant communities recalls us that at an era of globalisation, it is the nature of the impact, which determines the scope of responsibilities.

Responsibility involves taking into account the immediate or differed effects of all acts, preventing or offsetting their damage, whether or not they were perpetrated voluntarily and whether or not they affect subjects of law. It applies to all fields of human activity and all scales of time and space.

Such responsibility is imprescriptible from the moment damage is irreversible. Contrary to crimes, there is no strict limit of years after which responsibility could not be invoked. This is of course the case for what is usually called the "ecological debt", that is the impact on the industrialised societies on biosphere, mainly the Western societies, since the beginning of the Industrial Revolution. But actually it would be unfair to consider that it is only since industrialisation that societies have negatively or positively impacted the biosphere. Deforestation, loss of fertility of soils, desertification or loss of biodiversity have been a reality in many societies and even the cause of their ultimate ruin. But this subprinciple calls for the greatest attention paid to actions which might well provoke irreversible effects. It is actually the case for climate. The precautionary principle, which now tends to be part of the common law, calls for attention about innovations, in particular technical ones, which possible effects have not been yet clearly evaluated. This principle is quite close to the responsibility principle: just as for putting one's life in danger, which appreciates a risk and not the link of causality between an act and its lethal consequences, responsibility and precautionary principle addresses risk. But the same has to be said about inertia: nonacting, for example once again for protecting the climate, is as detrimental as poorly evaluated innovations.

The responsibility of institutions, public and private ones alike, whatever their governing rules, do not exonerate the responsibility of their leaders and vice versa. As we have

seen, the present civil and penal laws target either individuals or institutions but hardly both of them. If we go back to the financial crisis, we can see that this distinction between the institutions and the individuals is ineffective. Moral hazard, that is impunity of irresponsible behaviours, concerns all together the financial institutions, in their very logics, the executive bodies of the institution as well as some professionals such as the traders. There is a recent very interesting precedent, the case of BNP Paribas, the largest French bank. It has been sentenced an USD 8.9 billion fine for violation of the American embargos against Sudan, Cuba and Iran. It's a very interesting precedent: the actions considered for the sentence did not take place on the American territory and was not from an American company. It is therefore a case of truly extraterritorial application of the American law. And the risk for BNP Paribas, if it would not pay the fine, was to be forbidden to make business on the American market. But the other interesting aspect of the judgment had been that the court required that the executive officers who had not complied with the American laws be removed from the bank. The application of this fifth subprinciple of responsibility would have a considerable impact. Once again if we go back to the climate, the inability of some governments to take measures in order to curb greenhouse gases emissions involve all together the responsibility of the state and the personal responsibility of the Heads of State.

The possession or enjoyment of a natural resource induces responsibility to manage it to the best of the common good. We can see the major difference with the present laws. According to international rules, the states have full sovereignty on the use of their own natural resources and can be only sued if this use has a negative direct impact on a neighbour state. The responsibility principle is here the expression of the notion of stewardship of the planet. It is close to the well-known expression: "We borrow the planet from the future generations". This is also what is sometimes called "functional ownership". The biosphere in general as well as specific natural resources must be considered as part of a global common good and the owners of them as custodians for the sake of the whole humanity. It is a breakthrough compared to the traditional conception of sovereignty which applies to natural resources uses and abuses attached to the owner of a good or property.

The exercise of power, whatever the rules for which it is required, is legitimate only if it accounts for its acts to those over whom it is exercised and if it comes with rules of responsibility that measure up to the power of influence being exercised. In democracies, legitimacy and legality are often confused. It is very often talked about "legitimate exercise of power" as soon as the devolution of power has been conform to laws and constitutions. But it is not the real meaning of legitimacy. Legitimacy of power has to do with the general feeling that this power has been used in conformity with the common good. Even in authoritarian regimes such as the Chinese former imperial regime, the emperor would lose his legitimacy, justifying popular uprisings, if he had not been able to prevent his people from starvation. And in our present days power is only legitimate when it has been used in the best way possible at the service of the common good, including for governments, which have been freely elected.

After discussing the principles, Mr. Calame, emphasized the need for the constitutionalisation of responsibility to ensure that it is not only taken seriously but also has legally binding effect on the various stakeholders.

I Panel Discussion: Law and Responsibility: Gaps between provisions and enforcement



The panel discussion was chaired by Dr. P. S. Rao, Special Advisor, Attorney General Office, State of Qatar & Former Judge Ad-hoc, ICJ, The Hague. & co chaired by Dr. Luther Rangreji, South Asia University, Delhi

Responsibility and Constitutional and Legal Frameworks

Speaker: Prof. Dr. C. Raj Kumar, Vice Chancellor O.P. Jindal Global Law University, Sonipet, India



Prof Dr. C. Raj Kumar while referring to the discussion initiated very good start by President, ISIL of the discussions, expressed the need to look at the concept of responsibility within both constitutional and legal frameworks. He also said that this concept has many connotations, and has been used interchangeably with accountability, duties and obligations. The counter jurisdiction of responsibility is the human rights jurisprudence that has significantly shaped our understanding of what constitute responsibility. Prof. Raj Kumar discussed the responsibility in the framework of Gandhian thought that all right come from the duties.

He emphasized that the concept and framework of responsibility needs to be delved and understood more and the role of law and available legal instruments should also be clarified. Sovereignty in fact is state's responsibility and the idea of absolute sovereign state is no longer feasible in the current scenario. In a globalized world with the WTO in place the supranational system becomes redundant, the way terrorism is to be dealt with and many other issue are in a way call for responsible behavior on the part of the national state. Prof. Raj Kumar also sought to give attention to the inextricable relationship between constitutionality, responsibility and enlightened citizenship. He gave the example of right to information that in a way is an expression of state's responsibility.

Children Justice under the International Law: Legal and Ethical Responsibilities of Bangladesh

Speaker: Prof. Nahid Ferdousi, Associate Professor of Law Humanities and Languages, Bangladesh Open University



Dr. Nahid Ferdousi talked about the status of juvenile justice in Bangladesh lack of adherence by the national government with the international norms and standards. She said that throughout the past half-century, States and international organizations have continued to expand the codification of international human rights law in protecting the rights of the

children. The Convention on the Rights of the Child (CRC) 1989 and other international instruments provides comprehensive set of legal framework to protect the rights of children within the justice delivery mechanism. As a State party of the CRC in 1990, Bangladesh is under a legal obligation to follow and maintain international principles to promote the child rights based justice system.

Since independence of Bangladesh in 1971, the Children Act 1974 and the Children Rules 1976 were considered as the basic law for children justice which written before many international instruments on children's rights came into existence, did not align with the international mandate set by those instruments. There were no legal and moral procedures concerning the treatment of children participating in justice processes have not been adapted to their particular rights and needs. Although morals and laws have the same goals but lack of professional ethics of concerned authorities, the children did not get improved social services from the judges, prosecutors and investigators.

After 24 years of ratification of the CRC, the government has been enacted the new Children Act in 2013 on the basis of the CRC and adopted the provisions for child-friendly justice and different kinds of professional responsibilities in a number of settings, such as, child help desks in the police station, separate children's court and child development centres, national child welfare board and probation officers. In practice, lack of new Children Rules or guidelines and lack of coordination among concerned ministries; these mandates are not implemented yet. Committed personnel with requisite skills, knowledge and ethical approach are one of the major challenges in treatment of child offender.

For implementation of these provisions need enormous financial and logistic supports from the government. This is high time to create an effective children justice system for the 21st century in Bangladesh by realization of the international instruments along with ethical responsibilities of the dealing authority where children can enjoy their basic human rights.

Responsibility and Food Security: A case of sustainable food security

Speaker: Dr. Neetu Sharma, NLSIU Bangalore and Member Forum for Ethics & Responsibilities



Dr. Neetu Sharma spoke about the food security that is integral part of the economic, social and cultural right and obligations at various levels, of multinationals, Responsible behaviour and the need to act responsibly do not require any more evidence building. Societies, systems and organisations where people have acted responsibly have been successful and efficient. Human factor especially the ability to act positively, constructively and responsibly have also been a critical component of making the regulatory framework effective.

International law instruments pertaining to food security require the states to Respect, Protect and Fulfill or provide for food security as in the case of other economic social and cultural rights. Extra territorial obligations of state and non state actors that came into being relatively very recently (Maastricht Principles) add a nuanced understanding to this responsibility.

Responsibility of private actors/multinational not only means that they should not engage in any action that threatens food security, but must not subscribe to any practice and align with other companies that engage in such activities. Fair practices in farming, agriculture and economy etc. are some of the areas on which corporates need to take strong positions in order to ensure food security. ETOs play an important role in ensuring transnational and cohesive food security that is based on the synergies pertaining to incomes, environment and production. Responsibility of civil society also pertains to identifying, promoting and ensuring such synergies. Responsibility of socio professional groups such as nutritionists, medical professionals as well as policy makers also require them to ensure that the solutions being proposed and implemented also take into account sustainability, cultural diversity and contextual variations into account.

Responsibility of communities – in a country like India provision distribution and supply of food is also mired with the inequities and discrimination at various levels from society to community and families. It is responsibility of the community and society to respond when glaring disparities pertaining to food, nutrition, health, or even access to resources, surface based on the caste, descent and other such identities. It is also the responsibility of the families to respond and challenge gender based discrimination within families, especially considering the least preference being given to girls and women in the families when it comes to provision or distribution of food. Responsibilities of institutions- An example that very beautifully established the need for responsibility: when people were dying of hunger and some public spirited individuals filed went to the Supreme Court in India – PUCL vs. Union of India case that in fact shaped the jurisprudence on right to food in India. Responsibility framework is and needs to be positioned as complementary to the rights approach, rather than an aspect that could inconsistent to rights. In fact responsibilities make rights much more enjoyable, and is also a preventive approach for violations that might occur.

Chair: Dr. P.S. Rao, Special Advisor, Attorney General Office, State of Qatar & Former Judge Ad-hoc, ICJ, The Hague



Dr. P.S. Rao discussed the draft articles that law commission has developed in 2002 on state responsibility and international law. He said that *the* entire state responsibility topic is the very underpinning of the enforcement of international law at domestic/national level.

There is a culture of compliance from citizens but not by the nation state. There is need to counter such attitude too.

Co Chair: Prof. Dr. Luther Rangreji, South Asian University, Delhi



Prof. Dr. Luther Rangreji also agreed with Prof Rao and expressed the need to explore the issue of responsibility from the point of view of international law and its efficacy needs to be further explored in the context of the current challenges. Referring to the Gandhian philosophy, religion and the Directive Principles of state policy, Prof. Rangreji called for a converged understanding on the same that could lead to greater cohesion and improved ability of the approach to make enabling environment for protection of rights and promotion of wellbeing.

Open Discussion:

Open discussion was chaired by Prof. Dr. John Clammer, United Nations University, Tokyo, Japan



Key Discussant: *Prof. YSR Murthy, Registrar, O.P. Jindal Global University, Sonipat, India*



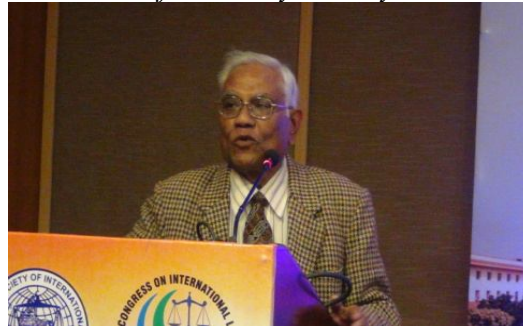
Prof. YSR Murthy spoke about the international law and the challenges in implementing it and how responsibility approach can not only help in implementing international but also compliment the rights based approach. While taking the example of health Prof Murthy gave the example of steep increase in various forms of mental illnesses. He expressed his concern over the fact that severely mentally ill people are often admitted in hospitals and left there. A large number of mentally ill people are languishing in half way home. The role of family and community as well as the state in this situation is indisputable. Right to highest attainable physical and mental health is not only recognized by the international law but is also included in various national legal framework and policies. A similar challenge is that of the reintegration of prisoners in the society that demands constructive role to be played by the families and community. He pointed towards the gradual erosion of the role of the state and increasing role of TNCs and other non state actors.

Coming back to the need and importance of lending the much needed enforceability to responsibility, he also remarked that just because something is not legally enforceable we cannot give it away – the incremental enforceability approach could help in making the breakthroughs in this direction. Prof Murthy also said that he sees great potential in the

evolution of the Universal Declaration of Human Responsibilities (UDHRes)– where in the details regarding responsibilities of the families, community, state and other actors can be enumerated. The tools to achieve the responsible behaviours such as, through education and even naming shaming should also be thought through.

He did mention that the responsibility to protect has been a very controversial aspect of the international legal framework, a code or guiding principles need to be put in place in order to ensure that such provisions are not misused. In addition to that a voluntary code of conduct may be a good starting point towards getting people drawn towards the direction of responsible behaviour.

Key Discussant: *Dr. S.C. Behar, Ex.Chief Secretary, Madhya Pradesh, India*



Dr. S.C. Behar expressed his concern that the world today is based on individualism which is the core pillar of western philosophy not the collectivism that is reflect in our culture. He said that individualism is against the collective community. It is also based on the materialism that is way away from of ethics. Humanism, responsibility and moral approach cannot stand with materialism.

If we really want responsibility based approach, we need to have an alternative vision. The fact is democracy or not, state does not represent people, state in fact divides them into those who use power and those who are marginalized. It is despite this fact that the state is a legitimate institution and hence there is conflict on who really represent the people. In this context there is a need to reconceptualise state as not only those who are elected, but everyone who is part of it are equally important.

Dr. Behar also remarked that the directive principle of state policy are very important instruments and need to be taken seriously. DPSP are very important – should not be gap between what is practiced and what is transpired.

Open Discussion:

Ms. Chandra Srinivasan: Referring to the presentation made by Prof Nahid, she said that child labour and child abuse victims should also be seen as children in need of care and protection, and regards the food security issue she mentioned that public distribution system has a very vast network in India but it also differs from one state to another. These differences must be taken into account while trying to ensure food security for all the groups.

Dr. Okwezuzu Gains E.Esq, a delegate from Nigeria said that the aspect of the narrow approach being adopted by the lawmakers should also be included within the gamut of

responsibility. He said that the lawmakers have the duty to make law but their 'responsibility' is to ensure that it is done in a manner that benefits all. He also said that the US practiced oligarchy and not democracy. Internal and external policies of US have not met the parameters of equity. It was also mentioned that although it should be state, but in fact it is rulers who govern, which is a very small fraction of the state.

Dr. Ananta Giri said that responsibility confronts challenges at various levels, constitutionally, operationally and given the changing world environment. The constitutional challenge is in terms of rethinking the whole orientation. He also suggested looking at vishwa dharma as the source of inspiration for such an exercise. He also said that the fundamental issue is that of the ethical and spiritual transformation of the state.

Prof. Dr. C. Raj Kumar also said that the observance of the international law remains largely dependent of the ability of states to act responsibly. While recognizing this, one should also explore the role of international courts –constitutional courts in Europe, Africa and Latin America are asked by civil society whether the states have really performed their responsibility. There is a need to build the strategy for change given the enormous gap between legal society and the reality.

Prof. Dr. John Clammer, United Nations University, Tokyo, Japan



Prof. Dr. John Clammer gave the concluding comments for this session. He said that the responsibility approach has come a long way and has been described and defined in various forms in various contexts. While it is very well entrenched in the cultures, there is need to ensure its constitutionalisation or ensure legal enforcement in the contemporary world. He expressed hope that the gathering present will collectively find a way to achieve this objective.

2.Panel Discussion: Law, Responsibility: Climate Justice, Business Accountability



The second panel discussion was chaired by Mr. Jairam Ramesh, Member of Parliament, Rajya Sabha, Chair of the Future Earth Science Committee and was moderated by Prof. Dr. Anil Thakur Delhi University

Law, Responsibility and Climate Change

Speaker: Dr. Betsan Martin, RESPONSE, International Forum for Ethics and Responsibilities, New Zealand



Dr. Betsan Martin referred to a recently organised International Symposium on Law, Responsibility and Governance brought considerations of Pacific traditions of law and knowledge to the table of deliberations about climate justice. Drawing on constitutional provisions and traditional knowledge, Public Trust law is an effective instrument for ecological and public good interests in water in Hawaii. The case for water as a public good holds the possibility the atmosphere as a public good. A question of Public Trusteeship of the atmosphere is a challenge worth considering. This poses prospect of a system of governance for climate responsibility which would transcend sovereign state interests.

Pacific law is constituted on the interdependence of humans and nature, and therefore offers a reference for jurisprudence and for economies for climate responsibility. Consideration of custom law of the Pacific region will be considered alongside Westminster law with a view to giving effect to law for responsibility.

With the severe impacts of climate in the Pacific an approach is to turn a position of vulnerability into a strategy of value. The resourcefulness of the region includes responsibility as constitutive of knowledge systems, law and economies. Responsibility could bring a unifying impetus to climate justice; possibilities and impossibilities will be explored. Dr Martin also proposed a declaration that could be endorsed by the group for submission during the Climate negotiations.

Business and Responsibility: Holding TNCs Accountable

Speaker: Dr. Dinesh Tripathi, Advocate, Supreme Court, Nepal



Dr. Dinesh Tripathi said that the globalization has contributed towards making TNCs as powerful as ever. He said globalization is like one way traffic and more than 60 economies are TNCs only! Unlike the states, however, they have the privilege to move across the globe. He said TNCs are causing irreparable damage to ecology, forest. There has to be a

truth commission for civil society where complaints can be filed against TNCs. We need to ensure that economy and development are sustainable. TNC wants to move weak governance areas. Many people are losing their livelihood owing to their operations. There is a need to have guidelines in place for TNCs and a mechanism for enforcement of the provisions.

Different innovative ways for enforcement and effective mechanisms should be identified, code of conduct should be put in place and we must also take advantage of litigation.

Climate Justice: International Negotiations

Speaker: Dr. Dhvani Mehta, senior Resident Fellow, Vidhi Centre for Legal Policy, Delhi



Dr. Dhvani Mehta discussed the efficacy and issues pertaining to climate change, international negotiations taking place regarding this and the relevant domestic legal framework. She said that domestic legislation on climate change that imposes clear obligations of the governments; however, there is a need to have comprehensive climate change legislation. There are provisions for positive as well as negative obligations and – states are supposed to take affirmative action too. She referred to the negotiations in Stockholm and Johannesburg, however the outcome of these have been soft obligations that lack enforceability. She also remarked about the forthcoming COP 21 and was of the view that it may not lead to any positive breakthroughs.

Open Discussion:

Key Discussant: Mr. Sowmya Dutta, Convener - Climate & Energy Group, Beyond Copenhagen Collective (BCPH), India



Mr. Soumya Dutta expressed his discontent over the way the international and domestic legal framework is being envisaged and how currently the existing provisions are being watered down. He said that the climate negotiations always have shadows of the World Bank. He also said that safeguard mechanisms should be given importance as well rather than leaving the entire implementation in terms of litigation. He emphasized the need to adopt the principle of common but differential responsibility as per resource and capacity (CBDR with RC). He pitched for International climate justice tribunal with effective mechanisms in place. He said the effects of climate change are not only anthropogenic and go beyond that. Citing the example of Bolivia where the rights of mother earth included in the constitution, he said that similar provisions are needed in other legal frameworks too. He opined that the global system has failed owing to the rudimentary ways in which the problem of climate change is being handled across the globe.

Prof. Dr.C. Rajkumar – The fact there is no real outcome of the heart of climate change debates requires us to look at the governance debate since we are talking about the responsibility. The need is to look at how to govern ourselves as a society.

Ms. Chandra Srinivasan said that the law is made and undermined by the people themselves; the exemptions from environmental scrutiny are examples of such an attitude. She also said that the current approach of punishment is not enough deterrence to the challenge that we are confronted with.

Climate crisis is a trans-governmental problem, narrow approaches such as per capita consumption of resources are needed to be relooked into the wider global interest. *Mr. Pierre Calame* said that financial compensation will not work given the way international negotiations are going on now, it will not work. There has to be an external agent as well. If not one, then other will occupy the ecological space, we also need to talk about the production related emission. It was emphasized that international negotiations happen at the level of governments and not the people.

Climate Justice and International Law

Chair: Mr. Jairam Ramesh, Member of Parliament, Rajya Sabha, Chair of the Future Earth Science Committee



Mr. Jairam Ramesh spoke at length about the complexity of Climate negotiations in the international arena. Climate justice is not just complex but emotive issue, which needs to be seen along with the debates on development justice. It is a fact that when people became prosperous emissions increased exponentially. He said that we need development and technologies and also need to balance the same with the climate change. Within this we also need to ensure developmental justice that entails not depriving others of the benefits of the development.

At the same time he also said that how can we have social justice in India when the underline structures are so hierarchical. Debates should get enriched by different viewpoints, and not overpowered by some. He emphasized that in any of the debates so far 'justice' has never been used even as rhetoric. The challenge of climate negotiation is the fact that the negotiation should be politically acceptable, ecologically optimal and economically desirable

Important thing is to keep the debate going. The fact is that a country cannot assume international leadership by taking away all laws and offering exemption to a class. This is neither sustainable nor in national interest in a long way.

Way forward: *Chaired by Ms. Sudha S. director, Eco foundation for Sustainable Alternatives, India, International Forum for Ethics and Responsibilities and Dr. S.C. Behar, Ex. Chief Secretary, Madhya Pradesh*

The key question of today is although responsibility is important, what should be best ways and means to ensure that it operates and gets implemented. Related to this is the question of how to the responsibility? The concept, principles, and practice, related to responsibility need further exploration.

There is also a need for an alternative vision as against rights and responsibility provide for it. As long as we are materialistic we can't adhere to responsibility and development will not be sustainable. Putting the idealism into practice is the challenges that need to be met collectively. Concrete actions and way forward needs to be looked at in light of several other factors too such as responsibility is prevention of violations too. Discussion on the international legal text on responsibility is also an area that needs further discussions and deliberations.

We are facing is the lack of information is a major responsible factor such as food security act – there have been international obligations signed by our governments, unfortunately most of the people even the bureaucrats are not aware of. If we want to make the system accountable political will and making people aware are important. Sharing of information is very important to generate social concerns

Basic information on rights and responsibility collective was circulated to some people in the format of a request letter, sending the same to all the participants, ask them to be part of the R&R and then organize trainings will be a pragmatic step towards building this movement further. Documentation of all the activities will also motivate people. Climate change, children and women related issues can also be the starting point for such an endeavor. Trainings and sensitization at various levels would also be a possible area of intervention

It was also suggested to document good case practices with the context and threats inherent in the policy domain. It is important to identify key areas for research, advocacy, intervention, and we should also move towards formation of a network which could sustain itself in long run and also respond to immediate needs such as COP 21. Climate change, child rights and food security could be issues that can be focused on at least in the initial phase. Advocacy with the political class will also get strengthen through this network. It was also suggested that the network should move towards a South Asian identity.

One major task is to understand the reason that make people take responsibility, fixing responsibility and narrowing it down to individual – impacting others to change that way. This understanding is based on the psychology of change – responsibility comes when commitment is there. There is also a need to develop common ethical principles.

A suggestion came across regarding evolving a cultural, rather than a legal text of charter of responsibility. The discussion on Universal Declaration of Human Responsibilities led to a decision that the same will be circulated for comments and suggestions.

The consultation came to end by Ms. Sudha.S expressing heartfelt gratitude to the organizers; ISIL, all the eminent international and national speakers and delegates for having made the discussions meaningful and enriching with their enlightened knowledge and wisdom that have paid way to fresh thinking and initiatives in addressing emerging complex challenges in the world today.

