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CLIMATE CHANGE ADAPTATION AND TECHNOLOGY TRANSFER: TIGHTENING THE KNOT BY HUMAN RIGHTS

Introduction

The indiscriminate use of natural resources has wreaked havoc on the human environment. Global warming has been exacerbated by human activities as a result of technology advancements. The gradual rise in temperature has not only put people's lives in jeopardy, but it has also raised questions about the role of technologies in bringing about progress. Scientists and inventors have been challenged by the climate change to embrace eco-friendly technology.

Realizing the inevitable impact of climate change, governments all over the world, particularly in developed countries, have begun to invest in climate-friendly technologies. Eco-friendly technology is protected by a number of intellectual property laws. As a result, the developed economy has retained the exclusive use of technology, leaving three-quarters of mankind to cope with the issues of climate change on their own.

Nature knows no bounds, thus attempts to reduce detrimental effects should never be entrusted to the wealthy and resourceful. The duty to use environment friendly technologies should be made non-negotiable and made available to everyone. However, the strict intellectual property protection framework makes it difficult for developing countries to import and use green technology for development purposes.

Countries are negligent about the exploitation of resources in the pursuit of greater growth, which has resulted in irreversible environmental degradation. Climate change is an instance of such a negative influence. Climate change is posing a severe threat to mankind.

What is Climate Change?

Climate change is the change in the earth's climate, whether global or regional. It illustrates how the atmosphere has changed over time spans varying from decades to millions of years. The word "climate change" has no universally agreed-upon definition. Many people have defined climate change in several ways.

Some interpret it as a result of natural processes of Earth, while others define it as a result of human activity. Striking a compromise between these two opposing viewpoints climatic change may be defined as "a change that is attributable directly or indirectly to human activity that modifies the atmospheric composition which is in addition to natural weather patterns observed over similar time intervals".

Floods and cyclones have been seen as a consequence of uncontrolled greenhouse gas emissions caused by human activity. Harvest, land, and infrastructure have all been destroyed, and public health and well-being have suffered greatly as a result.

Climate Change and Human Rights

It was stated in *Climate Change and Human Rights: A Rough Guide published in 2008 by the International Council on Human Rights*, that "Climate change has already been jeopardizing the realization of a wide range of internationally protected human rights, including the right to health and even life; the right to food, water, shelter, and property; the right to livelihood and culture; the right to migration and resettlement; and the right to personal security in the event of conflict".

Human rights are enjoyed by human being for the fact of 'being'. They are inseparable, inviolable and universal in nature. They are weapon in the hand of weaker to correct the distorting effects of power. Human rights aim fundamentally to counteract power imbalance. In this perspective, the linkage between climate change and human rights can be developed.

The impact of climate change has adverse impact on various rights guaranteed by the Constitution. Human rights are primarily intended to address social inequalities. The relationship between climate change and human rights can be examined in this light. Climate change has a negative influence on a number of constitutionally protected rights.

Every person has the right to life under Article 21 of the Constitution. Various judicial interpretations have given the cherished provision a very broad meaning and substance. The

Supreme Court has explained that the fundamental rights not only prohibit the state from interfering with enjoyment of these rights, but also compels the state to make each individual's "life" worthwhile and meaningful. The safeguarding of 'life' is fundamental because if one's life is lost, the status quo ante cannot be reinstated because man's ability for resurrection is finite. The ever-increasing concern over global warming poses a credible danger to the enjoyment of one's "right to life."

Access to energy is a prerequisite for exercising one's 'right to life.' Energy is required to meet fundamental human requirements as well as to attain societal welfare and socioeconomic goals. On the one hand, access to energy is crucial for the exercise of various fundamental rights; on the other hand, the resources needed to generate power are not sustainable. It poses a challenging issue for the state to devise a policy that will allow the rights to be realized while fulfilling the promise of sustainable energy. The commitment to ensure energy access must be viewed in the context of climate change mitigation and adaptation concerns.

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) acknowledges that "everyone has the right to enjoy the highest attainable standard of physical and mental health". A number of articles in the Convention on the Rights of the Child mention the right to health.

According to Article 24 of the CRC, States Parties shall ensure that every child has access to the "highest attainable standard of health." It emphasizes every child's right of access to amenities for the treatment of illness and health rehabilitation. Similar rules can be found in Article 12 of the Convention on the Elimination of Discrimination against Women. The Convention on the Elimination of Discrimination against Women (CEDAW) states in Article 12 that

- (1) *'States parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.'*
- (2) *Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation*

Climate Change and Technology Transfer: Tightening the Knot with Human Rights

Technology transfer can be seen as a viable solution to the world's concerns posed by climate change. The desire to live a better and more meaningful life should not be contingent on developing or least developed countries acquiring cleaner technology. They pledge to take all necessary steps to ensure that their citizens have a meaningful existence.

Economic growth is regarded as an important step toward a better standard of living, but environmental protection takes a backseat. Technology transfer mechanisms can efficiently address environmental deterioration caused by unplanned development programmes. Technology transfer should be considered not only from an economic standpoint, but also as a possible tool for realizing human rights.

Technology transfer is the process of transferring a technology, knowledge, know-how, or facilities developed by one individual, company, or organisations to another person, company, or organisations. Technology transfer has been defined by the Intergovernmental Panel on Climate Change (IPCC) as "a broad set of processes encompassing the flows of know-how, experience, and equipment for mitigating and adapting to climate change among various stakeholders such as governments, private sector entities, financial institutions, non-governmental organisations (NGOs), and research and education institutions."

Technology can be transferred from one country to another, from one industry to another, or from a research lab to an existing or new enterprise. It can be aided by monetary or some other kind of aid and support from the government or other organisations at the national, regional, local, or institutional levels. Technology transfer has three major dimensions: economic development, social welfare, and environmental sustainability.

In an ideal scenario, technical cooperation would benefit all three aspects. Technology transfer and dissemination are critical for developing domestic technical capabilities, and governments' role in supporting this process, as well as developing on it to improve and strengthen national innovations systems (NIS), is critical. Technology can be transferred or acquired in a variety of ways, including through the sale or transfer of IP rights, MOUs, License contracts, know-how contracts, joint ventures, turnkey projects, FDIs, or research collaborations.

The global political reaction to climate change began in 1992 with the approval of the United Nations Framework Convention on Climate Change (UNFCCC) at the Rio Earth Summit. This convention built a system for action aimed at stabilizing greenhouse gas (GHG) emissions in

the atmosphere in order to avoid "dangerous anthropogenic interference with the climate system." The United Nations Framework Convention on Climate Change (UNFCCC) has 195 states as members. In the process of climate mitigation and adaptation, technology facilitation mechanisms can be perceived to play a pivotal role.

There are presently significant disparities in access to technology and finance among countries. In the majority of cases, developing countries have yet to obtain the necessary technologies and help for growth and ease. Access to current infrastructure and technological advancements is widely regarded as a requirement for developing countries to reduce emissions. To facilitate successful technology transfer, there must be effective routes.

Article 4.5 of the United Nations Framework Convention on Climate Change lays the foundation for transferring sustainable energy technologies in the light of International climate cooperation, particularly from developed to developing nations. The Kyoto Protocol, signed in 1997, put the burden of decreasing carbon emissions on the industrialized and developing countries that were responsible for the first rise in carbon concentrations. The UNFCCC and the KP have acted as key accelerators for motivating and financing low-carbon technology transfer and investment in poor nations.

Article 8.2 of TRIPS is significant in the context of technology transfer since it recognizes the need to restrict the use of methods that impede international technology transfer while also stating that the measures must be consistent with TRIPS rules. The introduction of low-carbon, energy-efficient green technologies is fraught with difficulties. Access to existing technology and technological advancements is widely regarded as a requirement for developing countries to reduce emissions.

Low-income populations face a substantial disease burden and are hampered by the lack of consistent access to clean energy and the services it delivers. Efficient technology collaboration is a gateway to low-carbon, energy-efficient technologies that are viable. The main challenge here is that low-carbon sustainable technology must be accepted by both developed and developing countries, which means developing countries must avoid past unsustainable habits and being tied into older, less sustainable technologies.

The hurdles to technology transfer have been studied and understood by researchers. Developing countries' ability to innovate is hampered by these constraints, which also prohibit them from acquiring access to such technologies. The recipient country's ability to import innovations can be costly. As a result, a lack of investment as a result of bad finance processes

may have an impact on the transfer. Frequently, a shortage of funds prevents technology beneficiaries from obtaining funding for their investment. Political impediments can also stymie the transfer process. Low-carbon technologies will be hampered by policy decisions and regulations in the absence of robust environmental legislation.

Aside from the pressing need for low-carbon technologies to be transferred and disseminated to all nations, there is an ongoing debate between proponents of intellectual property rights who emphasize the importance of IPRs in encouraging green technology innovation on the one hand, and those who see intellectual property as a financial barrier to developing countries gaining access to low-carbon technologies on the other.

Under the TRIPS Agreement, developing and developed nations have the right to issue compulsory licenses for patents that are found to be indispensable for the country in specific conditions. If compulsory licensing for green technologies is allowed, nations that aren't totally capable of producing them will profit. Specifically, knowledge transfer via compulsory licensing will hasten global green technology development by allowing enterprises in underdeveloped countries to begin inventing and upgrading on existing patents without having to wait for patent rights to expire.

Article 31 of the TRIPS Agreement gives governments certain leeway in issuing compulsory permits in specific instances if certain requirements are met. Governments may resist putting a compulsory license on green technologies due to a lack of national capacity or a concern of constraint and barriers to foreign direct investment.

The argument is based on IP rights violations and product cost difficulties for multinational corporations. The importance of technology transfer in addressing climate change is undeniable. Human rights narratives can, perhaps, provide more legitimacy for building a solid case for technology transfer from richer nations to poorer nations. It will generate a new impetus for going beyond market-based criteria to examine concerns.

Conclusion

The enjoyment of human rights is being put under immense strain with the earth's climate changes. All viable solutions to the climate change challenge must be assessed from the standpoint of human rights. Technology is one such solution. Human rights may be a powerful tool for targeting and prioritizing climate change action areas. They offer a method based on a widely acknowledged criterion that would justify the priority of the most vulnerable group, for

whom the right is most important. The availability of resources should not be used as an excuse to deny or negotiate the enjoyment of a right's qualitative character.

Due to its multifaceted nature and the lack of ideological consensus on policy execution, climate change as a present global catastrophe poses unprecedented challenges. The intricacy of the issues faced by climate change has cast doubt on the notion that a nation state can deal with the disaster on its own. Therefore, dealing with climate change calls for greater international cooperation and responses from states collectively.