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Human Rights-based Approach to Climate Change Law and Policy

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Abstract

Climate change is causing severe ecological change to our natural environment. While governments at a national and global level have given undertakings to address climate change, in most cases the measures adopted are inadequate or not implemented meaningfully. Climate change litigation is an invaluable strategy when governments have failed to uphold its repeated promises to prevent interference with the climate system. In the absence of political will to structure effective policy regimes and laws, the judiciary has played an active role in being the guardians of climate and holding governments accountable for escalating global temperatures. The human rights-based approach to climate change law and policy has contributed greatly to strengthening climate change claims in the global north as well as the global south. There is growing universal acceptance on the relationship between human rights obligations and climate change impacts as espoused in Human Rights Council resolutions 29/15 and 26/27. Through an analysis of climate change litigation from around the world, this presentation will seek to highlight the need to ground governments obligations to mitigate climate change through a rights-based approach. Climate equity requires that global efforts to mitigate and adapt to climate change prioritize the needs of countries, groups and individuals who are most vulnerable to its impacts. Climate change has disproportionate impacts on women, persons with disabilities, migrants, refugees, low-income communities and other vulnerable groups. With the recognition of far-reaching human rights violations that occur as a result of climate change, governments are compelled to introduce strong climate change laws and policies through a rights-based approach. Judicial exposure to climate-related cases through a human rights-based approach would bring about a positive precedence in ensuring that those who are least likely to contribute to climate change are not the ones who are most affected by its impacts.

Keywords: climate change litigation, human rights, rights-based approach, role of the judiciary

Professional Biography

Anushka Gunawardena is an Attorney-at- Law from Sri Lanka. She obtained her LL.B. from the Faculty of Law, University of Colombo while obtaining her Master of Laws specializing in International Human Rights from the Washington College of Law, American University.

She holds the position of Head of Legal at Environmental Foundation Limited (EFL), which is the oldest Environmental law pubic interest litigation firm in Sri Lanka. Anushka has diverse experience in environmental law and human rights advocacy and litigation. Prior to joining EFL, she worked in several national and international organizations as the Human Rights Commission of Sri Lanka and Human Rights Watch in Washington DC.



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Any Comments: