EMERGING TRENDS FOR JUSTICE IN GLOBALIZED WORLD

- *by SAKET ANAND, LL.M*

ABSTRACT: *After the early 1980s, globalization, as well as domestically political, constitutional and legal matters that control economic and development politics, has profoundly changed ties between nation countries. As part of this worldwide trend, emerging countries have moved from statistics to socio-economic liberalization in accordance with the larger globalization of the globalized trade. In pressing movements towards economic reform, liberalization and privatization, and in directly sponsoring of development programmers, int'l institutions and organizations, like the World Bank and the International Monetary Fund (IMF) played a key role.*

These changes have also contributed to reshaping and influencing law and law practice, constitutional and policy standards, and constitutional judgement on these matters. Mechanisms for the delivery of justice have been impacted by global globalization. It focuses on and disseminates the legal evolution and discussions that are taking place around the globe. In several places worldwide, globalization has altered the way this legislation has taken shape. In one state, the provisions of the laws adopted affect those enacted in another country. It is simply because globalization links the economy of countries that otherwise have no physical or territorial links. This is a quick explanation of how globalization, whether in India or around the world, has affected the justice or judicial system or legislation.

INTRODUCTION

Increased engagement and participation by nations and better access to home economies led to globalization in world commerce, either technologically or politically or economically. In the recent decade, legal services have been a little revolution that has the highest legal implications for business law. Before the 1990s there were almost inconspicuous activities in the fields of project funding, intellectual property protection, and protection of the environment, competition law, corporate taxes, infrastructure contracts, corporate responsibility and investment law. There was also relatively few law firms equipped to manage such job. Through the rise of social media and Internet, the automation of legal procedures, data protection advances and new technological instruments globalization, though this is not new but in the field of legal services, is gaining speed. It is evident that in the legal service industry the requirement for professional assistance has been enormous.

Mr. Friedman remarked that, "*Three gigantic accelerations we're in the middle*". Changes in markets, the Earth's environment and technology are powerfully changing social and financial life and premiering *'faster learning and wiser governance'* worldwide, he added. "*The technology is now advancing at a rate at which the typical person cannot match*," continued Friedman, highlighting one of the central themes of his speech.

Current globalization takes in various aspects, in which legal and judicial globalization. There are numerous 'things' in legal globalization. This means that the metropolitan profession of law is modernized and creates a competitive advantage for legal assistance on the international marketplaces. The new legislative reform agenda that shape the trajectory of economic globalization's three 'Ds' also covers legal globalization; de-nationalization, decommissioning and privatization. The focus on alternative dispute resolution remains in the

creation of new prudential regulations, procedures and cultures; simplification of investment and trade legislation and the trend towards quicker *'flexible labour markets*' growth. Law reform, in particular the efficiency of justice administration, is becoming a tool of the new economic strategy more clearly. A strange phenomenon known as "*far globalization*" has brought about major change in legislation, such as the law on job guarantees, the stronger execution of child labour, the scheme on consumer rights protection and the right to information. The new globalizing middle class of India needs the healing hands of global legal framework to promote and serve as the aiding system/mechanism.

CHAPTER 1

THE JURISPRUDENTIAL APPROACH TOWARDS THE TREND OF GLOBALIZATION

Globalization transforms economic and social connections in basic terms, but their influence still has to be completely understood through case law and policy theory.

At the time of Aristotle, the preconditions for justice have only been fulfilled in a political or political context. The world has changed significantly since then, and globalisation is the word that best understands the core of the shift. Every aspect of globalisation – interconnectedness, [1] economic deregulation, [2]

[1] This transnationalization is also reflected in the increasing number of cross-border networks formed by non- State actors such as corporations, civic associations, scientific bodies, and individuals. See generally Jessica T. Mathews, Power Shift, FOREIGN AFF., Jan.–Feb. 1997, at 50, 50–51 (1997).

[2] There is broad consensus that economic de-regulation is one of the principal engines of globalization, though commentators differ widely in their evaluation of the consequences of this fact. The resulting increase in the number of transactions involving goods, services, labor, and capital crossing national boundaries promotes a degree of economic interconnectedness resembling, at least to some commentators, a single market spanning the globe. See, e.g., PETER DICKEN, GLOBAL SHIFT: TRANSFORMING THE WORLD ECONOMY (3d ed. 1998) (documenting the shift to a global pattern of production).

internationalisation [3] and homogeneity [4] – only helps to comprehend how globalisation changes social interactions. Nevertheless, it is the nature of globalisation, the space constriction that underpins both global social and perhaps global justice transformational impacts of globalisation. This reduction increases social ties, irrespective of physical borders, [5] and transcends the country itself. We are linked through globalisation to a level we have never seen in history of mankind, regardless of time and location.

Such reduction facilitates more than just the exchange of information among national businesses, networks and: it affects the way space enters social connections with resultant modifications at all levels of human experience. Globalization, in particular, is increasing our global consciousness. Geographical limitations on social and cultural structures are diminishing, and individuals are becoming more and more conscious of them. We know more about what occurs outside our borders, we move beyond our borders with greater ease, we do more than we are conscious of these effects and we have new, deeper opportunities to engage in economic activity beyond our borders. In fact, borders become more opaque, we know more about what occurs outside of our borders.

[3] Internationalization describes the shift in power from States to international systems and institutions. See Franz Nuscheler, Global Governance, Development, and Peace, in GLOBAL TRENDS AND GLOBAL GOVERNANCE 156, 157

[4] Globalization is often characterized as homogenization, the unification or harmonization of cultural forms. See Jan Aart Scholte, What is 'Global' about Globalization?, in THE GLOBAL TRANSFORMATIONS READER: AN INTRODUC- TION TO THE GLOBALIZATION DEBATE 84, 84.

[5] The paradigmatic definition of globalization, drawn from political geography and sociology, asserts that among all the many definitions of globalization there is one common element: a fundamental change in the spatial dimensions of human interaction. DAVID HARVEY, THE CONDI- TION OF POSTMODERNITY: AN ENQUIRY INTO THE ORIGINS OF CULTURAL CHANGE (1990).

Equity as a legal term implies, as ***Walzer*** says, that the "*substantial life of a society is living in a way that is loyal to its members' common understanding*."[6] In other terms, the common knowledge of social values is needed for justice. Such shared knowledge only exists in political groups and the nation-state[7] is the main example. Justice simply makes sense inside countries, and justice is needed, indeed, achievable only in the countries.

In David Miller's words:

> *"Although in the contemporary world there are clearly forms of interaction and cooperation occurring at the global level the international economy provides the most obvious examples, but there are also many forms of political cooperation, ranging from defence treaties through to environmental protection agreements these are not sufficient to constitute a global community. They do not by themselves create either a shared sense of identity or a common ethos. And above all there is no common institutional structure that would justify us in describing unequal outcomes as forms of unequal treatment."*[8]

This idea of justice therefore presents a special obstacle to the feasibility of global justice; notably, global justice needs a type of global connection — Nagel calls it sovereignty; some call it a society or a community that we simply have not and maybe cannot, engage with globally. However, it is exactly where it is necessary to consider globalization.

[6] MICHAEL WALZER SPHERES OF JUSTICE: A DEFENSE OF PLURALISM AND EQUALITY, at p 313.
[7] DAVID MILLER, ON NATIONALITY 68-73.
[8] David Miller, Justice and Global Inequality, in INEQUALITY, GLOBALIZATION, AND WORLD POLITICS 190.

CHAPTER 2

INTERNATIONAL CIRCUMSTANCES OF JUSTICE AND ROLE OF GLOBALIZATION

John Rawls and his works are a good starting point for contemplating the theory of justice for the 21st century as the most important justice theorist of this 20th century. In A Theory of Justice, Rawls picks and views the Nation-State as a closed loop apart from other individual nations and selects a certain degree of social connections.[9] It is in this collection of social connections that justice is needed and possible. In his study of what he terms "*the conditions of justice*,"[10] Rawls explores this phenomenon. Factors of justice are the situations in which our position enables and requires collaboration. Justice is important where they get, and they lead to this kind of collaboration, and Justice does not.

Judicial situations can be categorized into two groups:

Category I:

Three objective factors form part of the first bracket: modest resource scarcity; shared geographical area; and the ability for mutual support or damage. In other words, whatever we individually want to do is not enough to go about; all of us will be in the same location seeking for these resources and we may work together to achieve all of our own objectives.

Category II:

The second catory is personal and covers two circumstances: persons are mutually disinterested. We're typically not altruistic, in other words, we want to do what we want and to obtain what we want. We are attracted to work together as the reasonable method to achieve our own aims, because of these five

[9] Rawls is often cited as the leading contemporary theorist against the possibility of global justice. However, it is critical to note that in his principal work, A Theory of Justice, JOHN RAWLS, A THEORY OF JUSTICE (1979).

[10] JOHN RAWLS, A THEORY OF JUSTICE (1979) at 126 -130.

situations. In essence, this society is defined by Rawls as a cooperative endeavor. As a result of the conditions of justice, we are driven by a diversity of ways of working together to improve our mutual well-being. Nevertheless, we need standards that govern the distribution of the fruits of this undertaking and these are the principles of fairness, among the several potential social structures.

Society predates justice in this sense. We require cooperation as a reaction to judicial conditions, which leads to the formation and consideration of a number of social arrangements. The 'primary virtue' of such social structures, as Rawls famously says. "*Justice*." Avoiding the fact that justice is concerned, there is nothing for justice to accomplish without collaboration and the creation of social mechanisms for the sharing of rewards of cooperation. Applying this to the issue of global justice and worldwide social relations, one finds that globalizing brings together the same circumstances of justice at a global level that Rawls outlined at the domestic level, particularly through its distinctive trans nationalization and interdependence.

The numerous dimensions of globalization combined drive us towards increasing meta-state collaboration. With regard to the circumstances of justice in Rawls, the reasonable human reaction under these conditions is for the benefit of each other to engage into social cooperative systems. Through this partnership, we build 'company,' in particular the 'basic structure,' that is, the institutions that we utilize for resources and opportunities that directly influence our lives.

CHAPTER 3

RAWLS AND GLOBAL JUSTICE AS FAIRNESS

Globalization involving the global economy and the establishment of global regulations enable us to move beyond the limited justice of Rawls to a more specific definition of global justice as fairness in domestic society. In a nutshell, global economic interconnectedness prevents any domestic society from fully fulfilling and preserving the conditions for equitable allocation of social goods for its inhabitants. Rather, justice as fairness should be built into interconnected communities and assessed as broadly applicable to global social justice concerns. The fact that foreign societies have an economic interdependence is a fundamental aspect in demonstrating the feasibility of any contractual case for international distribution responsibilities.

According to Rawls, a fundamental driving force behind the demand for justice is the necessity for certain mechanisms to assign the benefits of social cooperation. Therefore, one may argue in that the social predicate exists for the implementation of justice whenever social collaboration generated certain wealth or benefit that otherwise would not exist. In his highlights on political philosophy and international law, as Charles Beitz puts it:

> *"The requirements of justice apply to institutions and practices (whether or not they are genuinely cooperative) in which social activity produces relative or absolute benefits or burdens that would not exist if the social activity did not take place."*

Trade and international economic relations satisfy this condition because they lead to increases in individual and national wealth through the operation of comparative advantage and principles of efficiency in general. As the scope and institutional capacity of the international trading regulatory system grew with the establishment of the WTO, the benefits of such social cooperation and the institutional capacity for assignment of decision making and implementation of

consequential standards are increased. It may be said that in the present global system at least international commercial relations fulfil the minimal requirements of the legal claims. The production of advantages from social collaboration might in that sense is considered to entail international economic relations and international economic law. The necessity to assign these advantages poses the same kind of problems in domestic society when such benefits are granted. Therefore, the same underlying predicate is present in both, even though for some reasons a legitimate divergence exists between domestic and foreign society, in relation to the applicability of the theory for justice.

CHAPTER 4

RETHINKING BOUNDARIES AND THE ROLE OF THE STATE

Developments in globalization under discussion here challenge and change conventional political and legal ideas, in particular, the function of States and the nature of borders, which have heretofore regulated social connections at international level. Historically, the main position on the State's role as a sovereign player in international affairs has been its unitary interest. From the post-war fight for human rights, through rising globalization, social processes and regulation are taking place across Trans boundary networks. The dynamics of this concept of a State as a global player, to the State as an agent in the sense of one that acts for another in a growing multi-polar and interconnected world were challenged and transformed. This "other" includes the variety of persons, organizations and national communities represented by States at the international level. The ramifications of these developments are commonly known throughout internal and international policy and social interactions. The concept of the "national" and the "international" or "globe" is undergoing a change because of globalization, since now even "national" institutions can be more precisely understood as horizontally integrated components of a transnational system than as vertically responsible components of a traditional "State".[11] Globalization stresses the arbitrariousness and the arbitrariness of many contemporary territorial allocation principles like citizenship, since it allows us to understand the distress of others, forcing us to ask whether a world that globalizes is really appropriate in the traditional way to allocate rights, opportunities and resources.[12]

[11] Saskia Sassen, The State and Economic Globalization: Any Implications for International Law?, 1 CHI. J. INT'L L.109, 110 (2000) (". . . the [transnational] system also lies, to a far higher degree than is usually recognized, inside particular components of national states.").
[12] Thomas W. Pogge, An Egalitarian Law of Peoples, 23 PHIL. & PUB. AFF. 195 (1993).

The global community needs a fresh vision of the role the State plays as a guarantee of the last resort, not holding a monopoly on the provision of essential public goods. It is becoming more usual for the State to coexist alongside a range of cross-border networks.

CHAPTER 5

GLOBALIZATION ACCORDING TO FRIEDMAN

Friedman's First Globalization Book, Lexus and the Olive Tree, was the new paradigm for understanding the post-Cold War period of globalization. Friedman noted that the Cold War provided the foundation for comprehending and influencing the world following World War II. Friedman's writings suggest that globalization, as politically as technologically, should be the framework for understanding the post-Cold War era. The first book of Friedman highlighted the increasingly strong importance of the person in technology development.[13]

he book's title "Lexus" refers to the automobile and was a metaphor for the fact that technical advancements have been quickly spreading and many more people are now competing across the world to possess the Lexus and produce its equal. The "olive tree" in the book illustrates the fact that people are also "going worldwide," since it roots individuals and locates them in the world and gives them a feeling of domain, self-confidence and belonging. It is also a physical geography. However, the olive tree may also be a cause of strife, as people and organizations struggle for certain olive trees. Friedman also listed a number of variables that he thought would assist decide which firms and nations in the new field of globalization would be the winners and losers.

The world is flat is Friedman's second book on globalization. Friedman noted in the opening chapter, titled "Where I slept," that while terrorism expanded and the globe reached phase 3.0, it was not only little but very small. That is what Friedman meant when he called flat people all over the world now are able to horizontally engage with one other and communicate with each other in ways

[13] THE LEXUS AND THE OLIVE TREE, According to this book, the globalization system is built around three overlapping balances: between national states, between nation states and global markets, and between individuals and nation states.

that were not possible only a few years ago. Friedman listed 10 causes that helped to "flatten" the planet. Although many of those flatteners had been there over years, Friedman maintained that these flattening forces at the beginning of the twentieth century had gained more potency as a consequence of many convergences. The first convergence to which he alluded was that the 10 flatteners had developed a new worldwide web-enabled platform for collaborative purposes. Friedman dubbed "horizontalization" the second convergence and said that the ten flatteners "came to terms with the convergence of a set of variables and competencies that would make the most of the flat world," including a more horizontal chain that permitted the production of more value. The third convergence he mentioned is the scale of inventions that the worldwide community is now providing. He claimed that the most essential forces that shape global economy and politics are new participants, new fields and the habits of horizontal collaboration. Friedman concluded that globalization 3.0 is a new, flattering world, and that society would find itself in the face of fundamental changes, with the globe moving from a largely vertical control structure for value creation to a horizontal connect-and-collaboration value generation model.

CHAPTER 6

THE UNFLATNESS OF INDIA'S LEGAL SYSTEM

Friedman's awe of India makes perfect sense in view of what the country's 60 years of freedom have achieved. However, there are issues even in the most prosperous democratic nations. India has additional problems as well as challenges of poverty, underdevelopment, analphabetism and population increase. Corruption and politics, police brutality, officials' failure to perform and ineptitude, and insufficient infrastructure are all only a hint of problems that plague the Indian State. The incompetence of the legal system of the country is as grave an issue, if not more so. Indian courts are believed to be the busiest in the world. There are over 20,000 cases pending in the Indian Supreme Court alone. There are over three million cases ongoing in the high courts. And in lesser courts, 24 million of which are criminal cases, nationally, are still waiting. In connection with this final issue, the Law Commission of the government itself revealed in 2004 that 70% of people who have been imprisoned languish as "under trial," who still face prosecution. In fact, the reasons and effects of legal delays on Indian society have been analyzed.[14]

There is also a gloomy, fatalist attitude towards the courts among many Indians. It is true that court orders are typically considered genuine, and that both the elite and the mass population respect and admire the supreme Court and the state high courts in particular. But throughout the period it takes for a decision to be given there remains profound dissatisfaction, not to mention the concern of whether the ruling is carried out.[15] Friedman's attention to the difficulties which the

[14] LAW COMM'N OF INDIA, 189TH REPORT ON REVISION OF COURT FEES STRUCTURE 34 (2004), available at http://lawcommissionofindia.nic.in/reports.htm (follow hyperlink to 189th report); Bibek Debroy, Losing a World Record FAR E. ECON. REv., Feb. 14, 2002, at 23; Judge Me Not, supra note 114, at 32 (noting that, as of 2006, the undertrial population was 180,000).

[15] MARC GALANTER, COMPETING EQUALITIES: LAW AND THE BACKWARD CLASSES IN INDIA 482-83 (1984).

Indian courts are afflicted with in detail would be unjust. The interest international investors have in India may easily slow down through a delayed, moving judicial system.

CHAPTER 7

GLOBALIZATION AND THE TERRAIN OF FUNDAMENTAL RIGHTS IN INDIA

In the 1990s and early 2000s, the Supreme Court of India's approach to interpreting basic rights and applying rights-based scrutiny altered substantially as the India economy underwent enormous transformations. The Court has redefined and ruled out the scope and meaning of core fundamental rights set out in Article 14 (equality before legislation), Article 19 (speech, assembly and other freedoms) and Article 21 (life and freedom) of the Indian Constitution in cases involving significant rights-based challenges of economic liberalization, privatization and development policies after 1991. In the post-emergency age, the Court has substantially extended the scope of such rights into a new arsenal of right-based inspection frameworks and a new public interest dispute process to address human rights and governance failings. However, as seen in this Part, during the 1990s, the Court has reinterpreted and arguably reduced the extent of such rights and has changed the nature of the globalization policies on rights-based examination.

In the early 1990s P.V. Narasimha Rao's Congress administration adopted the New Economic Policy, whereby the government started a new liberalizations policy. [16] The implementation of deregulation measures, relaxation of government licensing schemes and a transition to privatization of state-owned companies. [17] In a series of decisions concerning questions related to the privatization of the telecom sector, the privatization and disinvestment of the industrial and mining industries and other matters, the Supreme Court gave more

[16] SURESH TENDULKAR & T.A. BHAVANI, UNDERSTANDING REFORMS: POST-1991 INDIA 1–5 (2007).

[17] David B. H. Denoon, Cycles in Indian Economic Liberalization, 1966–1996, 31 COMP. POL. 43, 52–55 (1988).

clarity after the adoption of the New Economic Policy when it articulated the scope of judicial review in Articles 14 and 21.

In most cases, the Court affirmed and supported the economic liberalizations initiatives of the Government. In a succession of rulings involving public liberalizations, privatization and development policy problems, the Indian Supreme Court has successfully redefined the breadth and scope of basic rights during the 1990s and far into the 21st century. This article discusses three key elements of the Court's decision-making and role in calibrating this new "infrastructure for globalization rights" and the associated methods of monitoring globalization policy.

First, on the basis of judicial own idea of the Court's rightful function and their own understanding of the norms and values to be promoted when dealing with globalization. First, the court has redefined and carefully circumscribed its own roll in globalization policies. In adopting these particular ideas of the function of the Court, the normative framework and the rhetoric on globalization, including standards of transparency, competitiveness, regulatory autonomy and high growth models of development, have successfully redefined.

Secondly, the Court's new framework for globalization rights effectively led to the development of new asymmetrical land of rights, with privileges of particular interests and parties concerned (including private companies') (labor, farmers, villagers). The Court therefore limited the scope of fundamental rights to limit their promises to workers, farmers and others who have violated or dwindled their rights through the policies of globalization, while at the same time enhancing the rights of certain entities, including private companies, which challenge unfair privatization and disinvestment policies. This wider tendency includes weakening recognition of workers' rights to challenge policies on privatization and disinvestment, and of farmers' and villages' rights to challenge big development projects.

Third, in the area of privatization and development programmers, the Court radically reinterpreted its function as adjudicator and governing institution. This project claims that the fundamental change in the Court of Auditors' methodology and institutional function in globalization, provide a lens for wider developments in the role and jurisprudence of the Court during the 21st century. This project is based on the argument.

CHAPTER 8

GLOBALIZATION AND DEVELOPMENT POLICY: THE COURT'S ROLE IN RESHAPING RIGHTS, DEVELOPMENT STRUCTURES, AND NARRATIVES

In the early 1990s, as India turned towards economic liberalization, central and state governments boosted investments in large-scale development projects to expand energy resources and construct infrastructure of resources to sustain strong economic growth. Examples include the development and exploration of India's forests and underdeveloped mining and harvesting regions, especially those in the Narmada and Tehri dams. As noted above, the Court extended dramatically the scope of the rights and the permissible scope of court intervention in the public interest cases following the aftermath of the emergency, including bail out cases, jail violence and bonded cases involving State Governance failures, human rights violations and other forms of state and private illegalness.[18] The Court also recognized the rights to clean water and air, building on Article 21's right to life, and read alongside the guidelines establishing State environmental duties, established a comprehensive environmental case law and rules for widespread deterioration of the environment. The Court has tried to take on a number of environmental new environmental legislation, including water, air and natural resources in India, including rivers and forests, subject to the enforcement and non-compliance of public interest lawsuits.

A. Redefining Rights and the Scope of Judicial Review in Development

[18] SHYAM DIVAN AND ARMIN ROSENCRANZ, ENVIRONMENTAL LAW AND POLICY IN INDIA 41–42 (2001); SATHE

The national developments policies of India have provided a direct challenge to the Supreme Court's framework of basic rights and environment law in relation to Indian natural resources, forest development, and the fulfillment of tribal rights. As in the liberalizations context, for large-scale development projects the Court has drawn up a very deferential and limiting standard of assessment. In contrasted with the use of the Court of Rights in the examination of economic policy as its structural principles, the Court has applied development rights to lead the Court in its assessment of development policies and programmers as 'substantive normative principles.' In fact, these principles drive a very deferential review process that evaluates (and generally validates) projects in keeping with national development programming objectives. At the same time, by selecting privilege of some rights and interests, the Court has established a "asymmetrical field of rights" in the development field.

The Court's acceptance of an international notion of the right to development, which the Court has used so as to effectively subscribe for other individual rights, may be attributed to this asymmetric right terrains in development. Balakrishnan Rajagopal notes that the developed and developing nations have shaped their understanding about the right to development not as a just, negative right, but rather as part of broader economic development goals, as informed by the growing influence and expansion of Washington-based consensus-like neoliberalism.[19] This national-goal formulation of the right nonetheless eludes the genuine challenge over the significance of the right to growth in the discourse of international law.[20] In the 1968 Declaration of the UN on the Right to Development (Declaration), the right to developing is defined as "an inalienable human right by which each person and all people have the right to participate in,

[19] RAJAGOPAL, INTERNATIONAL LAW FROM BELOW, supra note 3, at 220–23 (citing G.A. Res. 41/128, Declaration on the Right to Development (Dec. 4, 1986)).

[20] Tomer Broude, Development Disputes in International Trade, in LAW AND DEVELOPMENT PERSPECTIVE ON INTERNATIONAL TRADE LAW, 32 (Yong-Shik Lee et al., eds., 2011) (discussing different conceptions of development in international law).

contribute to and enjoy economic, social, cultural and political development, with the full realisation of all human rights and basic freedoms.[21]

In contrast to its rulings on economic liberalisation and privatisation, primarily based on the concepts of rights, the Court's development decisions have been centred on the rights set forth in Article 21, the rights relating to ecological and sustainable development, and tribal rights. Similar to the setting of liberalisation and privatisation, the Court has adopted a basic asymmetrical view of rights between developments and the rights of developed farmers and communities.

In the name of promoting a vision of national development, the Court has greatly prioritised the interests of the Government and the commercial sector and has significantly decreased the individual rights of farmers, villages and tribes. The Supreme Court of India has rendered legal the actions of the Governments of the Central and State in Narmada, Bachao Andolan v. Union of India (2000), both on environmental clearances and the mitigation and relocation of the displaced persons as a result of construction of the Sardar Sarovar Dam on the River Narmada.[22]

Although the Court initially remained in the project in previous judgments, the decision of the Court in 2000 was a significant constitutional and legal support for and validation of the project. In the Narmada complaint, the petitioners challenged the terms of the award given by the Decision of the Narmada Water Disputes Tribunal of 16 August 1978 on the height of the Dam, providing for "Dirigence concerning submergence, land acquisition and refurbishment of displaced persons" and "defined the significance of the land and the families of the displaced persons" and water distribution between the fo (Madhya Pradesh, Gujarat, Rajasthan, and Maharashtra). The Court commended the advantages

[21] Furthermore, Rajagopal argues that the Declaration "implies the full realization of the right of peoples to self-determination and 'their inalienable right to full sovereignty over all their natural wealth and resources.'" RAJAGOPAL, INTERNATIONAL LAW FROM BELOW, at 221.
[22] Narmada Bachao Andolan v. Union of India, (2000) 10 SCC 644, 675–86.

and benefits of the dam project in terms of energy production and the provision of water and national development in maintaining the project and offering further instructions for the mitigation and relocation of displaced persons by construction of the dam. The Court relied on the following main rationales in its decision. Firstly, after the government had cleared the project in 1987, the Court decided that the claims of the petitioners had not been allowed via laughter as they had failed to present the question much sooner.

The Court commended the benefits and virtues of a dam project with regard to electricity generation, water supplies and national development by upholding the project and offering further instructions for mitigation and relocation of people displaced by the building of the dam project. In its ruling, the Court relied on the major reasons below. Firstly, the Court found that the claims of the petitioners were prohibited by mouths because when the government cleared up the project in 1987 they neglected to file the complaint much earlier.

B. Contesting Development Rights and Narratives at the Frontier

The Court does not always speak with a united voice despite its strong support for developments in the Narmada and Tehri Dam cases. This is reflected in Samatha v. State of A.P's judgement of the Court (1997).[23] It decided that no land or mining rentals in tribal regions may be transferred to non-tribes in accordance with the Fifth Schedule of the Indian Constitution and the Andhra Pradesh Scheduled Areas and Land Transfer Act of 1959. The judgement of the Court was a triumph against tribal self-government as it found, in accordance with the Forest Conservation Act and the Law on the Environment, that only a "State Mineral Development Corporation or cooperative of tribal people may

[23] Samatha, v. State of Andhra Pradesh, (1997) 8 SCC 191

take on the mining activities."[24] The judgement of the Court was a strong winner in terms of tribal rights but also a remarkable one for its growth.

Strongly opposed to the debate on the right to development in the case of Jayal, the Samatha Court argued that it was also necessary to interpret the right to development, given the socialist character of India's Constitution. In view of the safeguards included in the Directive principles in Articles 38, 39 and 46 that influence the interpretation of Article 21, the Court ruled that development requires attention to promote and safeguard the social and economic rights of the poor, dalitans (or "scheduled castes") and tribes. In addition, the court held that the objective of the Fifth and Sixth Annexes of the Constitution was "not only to prevent the non-tribals from tribals or the alienation of non-tribal intersections from the acquisition, holding or disposal of land in Scheduled Areas, but also to ensure that the tribal remains in their possession. In other recent rulings, elements of the Court's pro-development narratives in Narmada and Tehri Dam case were questioned. The Court, for example, ruled that the establishing of the administration of Salwa Judum, an army that includes children soldiers recruited for combating Naxalite insurgents, violated Articles 14 and 21 of the Constitution, in Nandini Sundar v. the State of Chattisgarh (2011).[25] At its conclusion, the Court noted some of the negative effects of globalisation and development in India and stated that policies of globalisation led directly to an increase in violent agitation movements such as the Naxalite movement.

[24] Asha Krishnakumar, The 'Samata Judgment', FRONTLINE (Sept. 2004), http://www.frontline.in/static/html/fl2119/stories/20040924006001200.htm
[25] Nandini Sundar v. State of Chattisgarh, (2011) 7 SCC 547.

CHAPTER 9

NEW TYPES OF CRIMINALITY IN GLOBALIZATION AND RELATED LEGAL ISSUES

German lawyer Savigny believes that the law is the spirit of the community, which implies that the law provisions have to address and answer the Community's requirements. Changing peoples' standards and cultures lead to changing demands and issues. The multinationals play a variety of roles in the creation of worldwide ethical business laws by pressurizing firms in order to promote changes in their legal systems and legislation. The nature of the crime itself was mirrored by the phenomena of globalization and the fact that it had an extra-grave influence on the sphere of organized crime. The division of labor and specialization of activities was "industrial." This composition has spread across the world as the global business is imitated by organized crime. Globalization has transformed not just the nature of crimes, but also the sorts and shapes of crimes, the nature of criminals, victims and places of business. In addition to that, the means of modern crimes have become more advanced in an age of globalization, and national law on such crimes is paralyzed. Findlay says that commercial globalization has created more and more new types of criminal opportunity.

The American legal professor Sutherland describes the new forms of crime as "crimes of powerful people," which he believes are perpetrated by respectable and influential people, like white-colored crimes. Demographic change, economic reform, globalizations and technological advancement create opportunities for new crimes. globalizations, however, has allowed criminals to benefit from transition and more open economies to create frontier firms and

quasi-legitime firms that facilitate smuggling, money laundering, financial fraud, intellectual property piracy.

CHAPTER 10

CRIMINAL JURISDICTION IN THE AGE OF GLOBALIZATION - A LEGAL ISSUE

Today, almost every system of criminal justice overlap, interact with and intermingle with other systems of criminal justice. In the absence of a sub-claims state's to municipal independence and from above international and worldwide criminal jurisdiction the conventional paradigm of a single national-state which holds exclusive ability to punish people inside its borders. No surprise, because criminal justice is still believed to be the sine qua non of state sovereignty, it has become an important battlefield between nation states and its sub-state and supra-government rivals. The internationalist and pluralist perspectives, which assert, in criminal justice may and should play a major role in the international and subnational organizations, are opposed to the sovereignty stance. Internationalists praise the importance of strong, supranational criminal justice institutions both those seeking to keep domestic justice systems consistent with human rights standards, such as regional human rights tribunals, and the ones directly prosecuting and adjudicating the most serious international criminal law violations, such as the ICC. There are universal standards for internationalists that need or at least propose international enforcement systems.

Pluralists stress that certain sub-national groups have extensive histories of self-governance and can more successfully define and enforce community norms than the state institutions in which they reside. For the foreseeable future, nation-states will continue to be the major criminal law agents, key legislatures, enforcers, and arbitrators. However, there is no end to sub-state and super-state issues and the facts of partially independent criminal justice regimes in the sub-state and supra-state sectors must be taken up by officials and legal comments. The ongoing struggles between sovereigns, internationalists and pluralists will never result in a definitive triumph over a particular concept of criminal law.

However, a Bounded Pluralism approach offers a path ahead that recognizes national values while making supra-national and sub-national jurisdictional claims possible.

CONCLUSION:

The ties between the State and the people of India have been substantially changed by globalizations policies. The Court has restricted and restricted the scope of basic rights and rights-based judicial review of globalizations policies in the post-1960 era, despite the establishment of a solid and expanding right infrastructure at the immediate post-emergency level. This study addressed the methodology of the Court of Justice reflecting a single adjudication paradigm in which high-run courts have an active role in creating the significance of law, regulatory structure and standards, and the legally-constitutional globalizations debate. Structural and normative difficulties in the case of human rights, social justice and environmental preservation in India are major changes in the jurisprudential approach and institutional function of the Court. Structurally, setting up asymmetric land for rights threatens to weaken the potential role of courts in the defense and protection of the rights of workers, villagers, urban and rural poor populations and tribal peoples most vulnerable to transforming economic changes and developing their own natural resources of India.

In fact, government and court governance mechanisms have generally ruled out ways of blocking and resisting major development initiatives for people who have been moved by globalizations. The Supreme Court's development jurisprudence limits the potential of establishing substantial countervailing rights that may be employed in opposition to State-led development policy and programmers by accepting the idea of the right to development based on national and central planning targets. Reframing rights narratives in globalizations cases

risks weakening its capacity as an opposite actor in opposing imperatives for state growth and hence the prospect of a more humane jurisprudence of the rights to globalizations.

If there is at least a modest emergence of the global community, then it has to be structured by a global public law. Today, international law and the legal theory face a transformational challenge, moving from public legislation in international relations to public law in a worldwide community of individuals.

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