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**Green Rights: Exploring the Intersection of Human Rights and  
Environmental Law of Bangladesh**

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## Consent Form

The dissertation titled “**Green Rights: Exploring the Intersection of Human Rights and Environmental Law of Bangladesh**” prepared by Noor E Alam Zico, ID 2017-2-66 043 submitted to Ms. Shamshad Bashir, Lecturer, Department of Law, for the fulfillment of the requirements of Course 406 (Supervised Dissertation) for LL.B. (Hons.) degree offered by the Department of Law, East West University is approved for submission.

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## **DECLARATION**

I certify that I am the single author of the thesis and that it has never before been submitted, in whole or in part, with another application for a degree. I certify that the thesis I submitted for the undergraduate program at East West University under the designation Law-406 (Supervised Dissertation) was written entirely by me, was the sole product of my labor, and was not submitted for consideration for any other degree or professional certification. Any materials or data that assisted in conducting this research are specifically cited and acknowledged.

Noor E Alam Zico

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## **List of Abbreviations**

AD - Appellate Division

ASK - Ain o Salish Kendra

BELA - Bangladesh Environmental Lawyers Association

BLAST - Bangladesh Legal Aid and Services Trust

BNWLA - Bangladesh National Woman Lawyers Association

CBD - The Convention on Biological Diversity

CESCR - International Covenant on Economic, Social, and Cultural Rights

CRC - Convention on the Rights of the Child

CSOs - Civil Society Organizations

DOE - Department of Environment

HCD - High Court Division

ICCPR - International Covenant on Civil and Political Rights

ICESCR - International Covenant on Economic, Social, and Cultural Rights

IPCC - Intergovernmental Panel on Climate Change

MoEFCC - Minister of Environment Forest and Climate Change

NEMAP - National Environment Management Action Plan

NHRA - National Human Rights Commission

NGO - Non-Governmental Organization

PIL - Public Interest Litigation

UDHR - Universal Declaration of Human Rights

UN - United Nations

UNCED - United Nations Conference on Environment and Development

UNESCO - United Nations Educational, Scientific and Cultural Organization

UNFCCC - United Nations Framework Convention on Climate Change

UNHRC - The United Nations Human Rights Council

## **Abstract**

The international community now places a high priority on the subject of climate change and its effects on human rights. The consequences of climate change, such as flooding, sea level rise, and extreme weather events, have a significant influence on Bangladesh. These effects have important ramifications for the country's ability to uphold human rights. With an emphasis on the idea of "Green Rights," this thesis investigates how human rights and environmental law connect in Bangladesh. Also, discuss the international law's involvement in resolving this matter as well. Also discuss the involvement of domestic law of Bangladesh. This thesis contends that recognizing Green Rights is essential for addressing Bangladesh's climate change challenges and safeguarding human rights in the country. The historical and legal framework of human rights and environmental law in Bangladesh, as well as the difficulties that have developed in combining these two areas of law, will be examined in this thesis. The idea of Green Rights is also explored, based on international human rights instruments. The thesis also looks at Green Right's possible effects on legal systems and the formulation of public policy in the context of Bangladesh. Overall, this thesis makes the case that acknowledging the Green Right is critical to resolving Bangladesh's problems with the environment and human rights.

### **Keywords:**

Green Rights, Environment, Environmental Law, International Law, Bangladesh, Conservation, Public Policy, Human Rights.



# Chapter 1

## Introduction

### 1.1 Introduction

Nowadays we can see how human rights are continuously affected by environmental degradation. So, this intersection of human rights and environmental law has become a very important topic for research. Geographically Bangladesh stands in a vulnerable situation and is badly affected by environmental degradation and climate change. Besides this country is one of the world's most densely populated countries. As a result, many problems are faced by this country mostly poor and especially vulnerable people. So, when salinity increase in the soils and drinking water under the soils, and frequent floods and storms hit the country, the whole country suffers but especially the vulnerable groups.

To handle the environmental problems in our country Bangladesh enacted several Acts. Some of the significant and important legal frameworks are The Environmental Convention Act of 1995, the National Environmental Policy of 1992, and the Bangladesh Environmental Convention Regulation of 1997. The main ternate of this Act and policy are of course to protect the environment but besides promote sustainable development and also respect the rights of general people who have been suffering from environmental damage. The provision of those Acts and policies takes steps to strengthen sustainable developments and protect the environment through pollution control and enforcement action against any environmental hamper. But implementation of an Act is always an issue in our country, for example, The Environmental Convention Act of 1995. This Act's powerful provision cannot apply for various reasons. Some of the reason is a lack of awareness among the general people and not a proper enforcement plan of action.

On the contrary, there are concerns about how well the law can address the negative human rights impacts of the environment, particularly towards vulnerable and marginalized people. To address these concerns, this dissertation examines how environmental law and human rights intersect in Bangladesh, with a focus on the Environmental Convention Act 1995 and other legislation. In addition, the work will consider the difficulties and opportunities to address the human rights impacts of environmental degradation in Bangladesh. This work seeks to contribute to the ongoing debates on the role of environmental law in promoting human rights and

sustainable development in Bangladesh and beyond by assessing the implementation of the law and recommending topics for further research and policy development.

## 1.2 Literature Review

Various works have been written on environmental justice and conservation in Bangladesh, but some noteworthy ones are highlighted here. Abdullah Al Faruque's book, "**Environmental Justice in Bangladesh: From Grassroots to Government**",<sup>1</sup> provides a comprehensive overview of the country's environmental problems and offers practical solutions for achieving environmental justice through grassroots and governmental initiatives. Meanwhile, Md. Firoz Khan and Mohammad Shamsudduha's article, "**Probable Impacts of Climate Change on Public Health in Bangladesh**",<sup>2</sup> explores the potential health consequences of climate change on issues such as lung diseases, hunger, and water-borne illnesses.

Polycarp Moturi Ondieki's article, "**The Interaction Between Human Rights Law and International Environmental Law**",<sup>3</sup> examines the need for a more holistic approach to environmental protection that considers the inalienable rights of both nature and human societies. Similarly, Alexandra Clements's paper, "**A Review of Environmental Policy and Law in Bangladesh**",<sup>4</sup> evaluates the effectiveness of environmental policies and laws in Bangladesh and suggests ways to improve enforcement and compliance through increased institutional capability and public participation.

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<sup>1</sup> Abdullah Al Faruque, "Environmental Justice in Bangladesh: From Grassroots to Government" (Abingdon: Routledge, 2020), 25.

<sup>2</sup> Md. Firoz Khan and Mohammad Shamsudduha, "Probable Impacts of Climate Change on Public Health in Bangladesh," Journal of Environmental and Public Health 2019. <[https://www.researchgate.net/publication/223945495\\_Impacts\\_of\\_climate\\_change\\_and\\_sea-level\\_rise\\_on\\_cyclonic\\_storm\\_surge\\_floods\\_in\\_Bangladesh](https://www.researchgate.net/publication/223945495_Impacts_of_climate_change_and_sea-level_rise_on_cyclonic_storm_surge_floods_in_Bangladesh) >

<sup>3</sup> Polycarp Moturi Ondieki, "The Intersection Between Human Rights Law and International Environmental Law; An Analysis of Contemporary Developments Relating to The Growing International Recognition of Rights of Nature," Journal of Law, Environment and Development Journal 15, no. 2 (2019): 1-28

<sup>4</sup> Alexandra Clemett, "A Review of Environmental Policy and Legislation in Bangladesh," Environmental Policy and Law 45, no. 5 (2015): 186-195. < <https://www.semanticscholar.org/paper/A-review-of-environmental-policy-and-legislation-in-Clemett/5cb606d4d93cae569932d4e529555a09224e4b11> >

Lastly, Atwar Rahman and Mohammad Mahdy Hassan's article, "**Conservation of Environment and Its Law Framework in Bangladesh: A Human Rights Based Approach**",<sup>5</sup> assesses the legal framework for environmental conservation in Bangladesh from a human rights perspective. The authors point out implementation and enforcement shortcomings and suggest a human rights-based strategy for tackling environmental issues through improved governance accountability and openness. Overall, these works provide valuable insights into the environmental challenges faced by Bangladesh and offer potential solutions for achieving environmental justice and conservation.

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<sup>5</sup> Atwar Rahman and Mohammad Mahdy Hassan, 'Conservation of Environment and its Legal Framework in Bangladesh: A Human Rights Based Approach' (2015) 3(1) Journal of Environmental Protection and Human Health. <[https://www.academia.edu/4196921/CONSERVATION\\_OF\\_ENVIRONMENT\\_AND\\_ITS\\_LEGAL\\_FRAMWORK\\_IN\\_BANGLADESH\\_A\\_HUMAN\\_RIGHTS\\_BASED\\_APPROACH](https://www.academia.edu/4196921/CONSERVATION_OF_ENVIRONMENT_AND_ITS_LEGAL_FRAMWORK_IN_BANGLADESH_A_HUMAN_RIGHTS_BASED_APPROACH)>

### 1.3 Background Information on the Topic

When human rights and environmental security has become more widely recognized from that time the idea of the Green Right has started to develop. In the 20th century, some countries started to realize the importance of sustainable development and the right to a healthy environment and from then the theory of Green Rights get more support.<sup>6</sup> In 1992 right to a healthy environment was acknowledged as a basic human right by United Nations Conference on Environment and Development (UNCED) through the Rio Declaration<sup>7</sup>. In the early twenty-first century, the issue of climate change become more recognized<sup>8</sup> so the idea of green rights got more popular. Given the consequences of climate change, such as rising sea levels, extreme weather events, and biodiversity loss, a legal framework that recognizes the human rights element of environmental damage is essential. The developing country also started to be interested in the idea of green rights in recent times. Many disasters such as droughts, floods, and cyclones are faced by the countries, and in the end, the result is harming the environment and loss of many lives. Bangladesh understands the need for green rights and is badly affected by climate change. So, Bangladesh made some laws to save the environment and those laws recognize the interconnectedness of human rights and environmental safety. The country effecting badly by climate change and in the future will get more affected because of its lowland and massive population. Many natural disasters have struck the country, wreaking havoc on both the environment and people's lives.

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<sup>6</sup> United Nations Environment Programme, 'About UNEP' (UN Environment Programme, 1972) < <https://www.unep.org/about-un-environment> > accessed 26 March 2023.

<sup>7</sup> Rio Declaration on Environment and Development, United Nations Conference on Environment and Development, Rio de Janeiro, Brazil, 1992, UN Doc A/CONF.151/26/Rev.1, principle 1.

<sup>8</sup> James Hansen, Makiko Sato and others, 'Global warming in the twenty-first century: An alternative scenario' August 15, 2000, < <https://doi.org/10.1073/pnas.170278997> > accessed 26 March 2023

## 1.4 Research Question

1. What is the legal framework of Bangladesh concerning the protection of environmental rights?
2. How do international human rights laws apply to environmental protection in Bangladesh?
3. What are the challenges faced by Bangladesh in implementing environmental laws and policies?
4. How do environmental degradation and climate change impact human rights in Bangladesh?
5. What measures can be taken to enhance public awareness and participation in protecting green rights in Bangladesh?

### **1.5 Significance of the Research, Major Obstacles**

The importance of the study on Bangladesh's "Green Rights," or the intersection of human rights and environmental legislation, lies in its ability to provide light on the difficulties the nation has in battling environmental degradation and defending the rights of its people. The primary goals of the study are to examine the theoretical discussions and legal contexts around the idea of "green rights" and to evaluate how well current laws and policies guarantee these rights. Yet, the lack of political will and implementation skills on the part of the government is one of the key obstacles to advancing green rights in Bangladesh. Human and environmental rights are frequently violated as a result, especially by underprivileged communities. The study has the potential to add to the current world on the nexus of human rights and environmental law by identifying these barriers and making suggestions for enhancing the legal framework, as well as building a more just and sustainable society for all.

### **1.6 Research Methodology**

This study on the intersection of human rights and environmental law in Bangladesh, with a focus on "Green Rights," employs a mixed-methods research design. The study begins with a comprehensive review of relevant literature on human rights, environmental law, and the nexus of these two fields, including academic papers, legal documents, and reports from various national and international organizations. The majority of the material used as a main data source comes from laws, international rules, scholarly papers, and policies. Secondary sources are used in the study's analysis. Newspaper articles, TV newscasts, YouTube videos, and other subject-related resources have all received secondary data. The research findings will be addressed in light of ongoing theoretical and legal discussions on the subject of the overlap between human rights and environmental law, and suggestions for improving Bangladesh's legal system governing green rights will be given. We will also note the study's shortcomings, such as uncertainties in the data-gathering procedure.

## **1.7 Conclusion**

The idea of Green Rights has grown in popularity as the relationship between human rights and environmental safety becomes clearer. Bangladesh is one of the developing countries where the importance of Green Rights has been recognized because of its large population and sensitivity to the effects of climate change. This research attempts to look at Bangladesh's legal system and analyze how effective it is at doing for protecting environmental safety and human rights. A mixed-methods research approach is used in the study, which also includes a thorough analysis of the legal and scholarly literature as well as reports from national and international organizations. The thesis will point out what is the barred to the advancement of green rights in Bangladesh, which results in abuses of human and environmental rights.



## Chapter 2

### Human Rights and Environmental Law

#### 2.1 Introduction

Human rights law and environmental law are closely related to each other which we already know. For the sake of human rights and human civilization, we must save the environment. Everyone has the right to hold human rights such as the right to life, liberty, and personal safety. A large part of Environmental law covers environmental damage due to human activities and the action against those activities. The aim of environmental law is how to preserve a natural and safe environment for future generations. This chapter will discuss the evolution of human rights and environmental law in Bangladesh and we will try to see all the types of arguments surrounding human rights and environmental law and how much these two areas have changed over time. Also discuss the concept of Green Right which tries to protect the environment and human rights through law.

#### 2.2 Conceptual Framework of human rights and environmental law in Bangladesh

The conceptual framework of human rights such as developed through research, analysis, and critical thinking, and environmental law is a complex and evolving area of law that seeks to address the critical interrelation of human rights and environmental protection. This framework tries to understand or prove that a beautiful and healthy environment is needed to fully enjoy human rights. Without protection of the environment, a person cannot fully enjoy human rights.

One of the core principles of the conceptual framework of human rights and environmental law is the recognition of the essential dignity of all individuals.<sup>9</sup> This principle is protected in international human rights law, which recognizes that all individuals are entitled to equal rights and protections, regardless of race, gender, religion, or any other characteristic.<sup>10</sup> Similarly,

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<sup>9</sup> United Nations General Assembly, Universal Declaration of Human Rights (1948) 217 A (III).

<sup>10</sup> United Nations General Assembly, International Covenant on Civil and Political Rights (16 December 1966, into force 23 March 1976) United Nations, Treaty Series, vol 999, p 171.

environmental law recognizes that the natural world has inherent value<sup>11</sup> and that all individuals have a responsibility to protect and preserve it for future generations.

Another important principle is people's right to access information about the government's activities<sup>12</sup> and participation in decision-making. According to this principle, the ordinary people and all of their community shall be involved in the decision-making and keep the effective power in the decision making which affects their lives and the environment.<sup>13</sup> This includes access to information about environmental risks and impacts, as well as the opportunity to participate in decision-making processes that affect their health and well-being. The conceptual framework of human rights and environmental law emphasizes the significance of accountability and effective remedies in addition to participation and access to information. To hold governments and other actors accountable for environmental harm and to seek restitution for any violations of their human rights, people and communities must have access to efficient channels.

A big obstacle or challenge of the conceptual framework of human rights and environmental law is to protect the balance of interest. For example, economic development and industrialization may be necessary to improve living standards and promote economic growth, but these activities can also have negative environmental impacts and may breach the human rights of individuals and communities. Similarly, efforts to protect the environment may sometimes conflict with other human rights, such as the right to work or the right to property.<sup>14</sup>

Legal frameworks at both international and national levels have been developed recently to address the important linkages between the environment and human rights. The Paris Climate Change Agreement of 2015, for example, calls for greater collaboration between human rights advocates and environmentalists while recognizing the importance of human rights within the context of climate change. The United Nations Human Rights Council (UNHRS) has also adopted several resolutions and issued reports that underscore the interdependence of environmental protection and human rights.

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<sup>11</sup> United Nations General Assembly, Resolution Permanent Sovereignty over Natural Resources, 1803 (XVII) of 14 December 1962, Permanent Sovereignty over Natural Resources.

<sup>12</sup> The Right To Information Act, 2009

<sup>13</sup> UNEP, Bali Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (United Nations Environment Programme 2010)

<sup>14</sup> Constitution of the People's Republic of Bangladesh. art 15 and 42

## 2.3 The Evolution of human rights and environmental law in Bangladesh

In recent times both in human rights and environmental law Bangladesh brings significant changes. In the history of Bangladesh, various types of human rights have been violated at different times. It is observed in politics as well as in governing common people. But nowadays, due to the movement and awareness of civil society, there is a huge change in Human Rights. But still, there are problems like deforestation, pollution, and climate change affecting Bangladesh which is suffering this country.

The Constitution of Bangladesh protects the fundamental rights of her citizen including the right to life, liberty, and freedom of speech. However, no organizations or legal structures were created before 1990 to protect human rights.<sup>15</sup> One such organization that is essential to advancing and safeguarding human rights in Bangladesh is the National Human Rights Commission, formed in 2009.<sup>16</sup>

The major priority in Bangladesh is environmental development due to vulnerabilities to natural catastrophes and climate change. The Environment Conservation Act was passed by Bangladesh in 1995 to control environmental pollution and safeguard natural resources. Also, the nation has put measures in place to support green energy and lower carbon emissions.<sup>17</sup> Moreover, Bangladesh actively participated in the Paris Agreement and other international climate change agreements.

After all this activity there are many works to do to secure both the environment and human rights. Progress is still hampered by issues like political disbalance, crime, and poverty. Nonetheless, Bangladesh can keep pushing forward its human rights and environmental legislation and build a more equitable and sustainable future with continuous work by civil society organizations, governmental bodies, and foreign partners.

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<sup>15</sup> Redwanur M Rahman, 'Human rights, health and the state in Bangladesh'(2006) 11 LIM221 < <https://bmcinthealthhumrights.biomedcentral.com/articles/10.1186/1472-698X-6-4> > accessed 12 April 2023

<sup>16</sup> ibid

<sup>17</sup> Shamsuddin Illius, 'Bangladesh pledges to reduce 22% carbon emission by 2030' The Business Standard (Dhaka 09 November, 2021) < <https://www.tbsnews.net/bangladesh/environment/climate-change/bangladesh-pledges-reduce-22-carbon-emission-2030-327415> > accessed 12 April 2023

## **2.4 Theoretical Debates on the Intersection of Human right and environmental law**

The intersection of human rights and environmental law is a topic of ongoing theoretical debate in both international and Bangladeshi contexts. This debate centers on the extent to which environmental degradation can be viewed as a human rights issue and the degree to which human rights law can be used to address environmental concerns.

### **Theoretical Debates in the International Context**

If we look at the International Context with Theoretical Debate, we can first see that the United Nations (UN) has played a very advanced role. The General Assembly on the Human Environment of the United Nations in 1972 come to an agreement called Stockholm Declaration. Human Rights and Environment are highlighted in this agreement and said that they deepened on each other. Also, the 1992 Rio Declaration on Environment and Development which was adopted at the United Nations Conference on Environment and Development (UNCED) also known as the Earth Summit highlighted the importance of promoting sustainable development while protecting human rights. The Rio Declaration Principle 1 said that "Human beings are at the center of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature." Principle 3 recognizes the right to development as a human right, and Principle 10 recognizes the importance of public participation in environmental decision-making. In 2012, the United Nations Human Rights Council (UNHRC) adopted a resolution recognizing the right to a healthy environment as a basic human right.<sup>18</sup> It provides a legal basis for addressing environmental issues as human rights issues. Human Rights will Provide a framework that helps to highlight Environmental Issues and by providing a legal basis, it will help deal with the problems of the environment in countries where the environmental law is not applied properly this legal framework can push those countries to run their environmental law properly. Critics of the integration of human rights and environmental law argue that it can lead to a dilution of human rights protections, as environmental concerns may be prioritized over other human rights. They also argue that it can lead to a politicization of environmental issues, as environmental regulations may be used as a tool for politics.

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<sup>18</sup>UNGA Res 48/13 (8 October 2021) UN Doc A/HRC/RES/48/13

## **Theoretical Debates in the Bangladeshi Context**

Bangladesh tries to control pollution and safeguard its natural resources, so the country made a law in 1995 called Environmental Conservation Act. But the problem with this country is they make many laws but none of them are properly applied or enforced. For example, Bangladesh made a law a few years ago about smoking in public places. But we never see the applicability of this law. Also, the Environmental Conservation Act 1995 is not properly applied and environmental degradation and human rights abuses are happening constantly and it remains a problem of the country. In 2016 the Supreme Court recognized the right to a healthy environment as a fundamental right under the constitution of Bangladesh through a writ petition and order the closure of industries that violate environmental regulations. Some people argue that recognizing the right to a healthy environment as a human right can provide a legal basis for addressing environmental issues. But some people try to say that it is a very complicated process to balance both environmental protection with economic growth. Especially in developing countries. Bangladesh is one of them and this environmental regulation is very costly. As a result, there is a possibility of increasing the price of various products exported abroad. They also argue that there is a risk that environmental regulations may be used as a tool for political or economic gain.

## **2.5 The Concept of Green Rights**

The concept of Green Rights was first observed prominently around 1970. Because due to the deterioration of the environment, people's normal life starts to be disrupted and people's health starts to deteriorate. With this concept of Green Rights, it is tried to understand that these environmental problems are not only technical or scientific. Rather, they are fundamentally political and social issues and these issues need legal solutions. Otherwise, people's normal life will be disrupted. Which we can already see.

Green Rights, try to portray how a major portion of people suffering and face problems for a specific group of people or developed countries, and how much damage the present and future people may or will face. If recognition is given to Green Rights, then the government and corporations of different countries can be made liable and at the same time, different affected communities can be empowered to participate in decision-making processes related to environmental issues.

It is possible to build a sustainable society through these Green Rights by promoting the use of renewable energy, reducing waste, and protecting biodiversity. Overall, it is a holistic approach to sustainable development and economic progress.

## **2.6 Conclusion**

The problem that has arisen at present is a threat not only to Bangladesh but to the whole world and as it takes shape day by day, it is seen together with Human Rights. Because calculation by scientists has been heard for a long time that several countries will sink under water due to the increase in temperature, among which Bangladesh is one. The conceptual framework is very necessary to understand the relationship between Human Rights and Environment. If we look at the evolution of Human Rights in Bangladesh, we can understand that there is no alternative to legal and institutional frameworks to protect human rights, and looking at the theoretical debates, it can be understood that working together in these two fields is quite a challenge. At the same time, Green Rights seeks scope to uphold human rights.

# Chapter 3

## Environmental Issues in Bangladesh

### 3.1 Introduction

Bangladesh is a very densely populated country and the country lacks both natural resources and land. Various types of environmental changes affect our natural resources and also people. Nowadays this country has become a developing country. Industrialization and urbanization have increased tremendously. As a result, water and air pollution has increased and deforestation is increasing due to the scarcity of land. Also, various problems such as loss of livelihood, displacement due to river erosion, and health hazards increased.

We will discuss in this chapter various environmental problems and challenges and their impact on human life. Along with that, we will do case studies, through which environmental issues and human rights violations will be highlighted. We will try to see how much government and civil society are concerned about it and how much they are working.

### 3.2 Overview of environmental challenges in Bangladesh

The biggest obstacle in front of Bangladesh now is climate change impact. Due to the increased temperature, the sea water level is increasing because of the melting of the ice,<sup>19</sup> as a result, people who live in the coastal areas of Bangladesh will be the most distressed. In the future, all their houses will sink under the sea. If the height of the seawater increases, the biggest problem will be the drinking water. Because of this, the seawater will mix with the fresh water under the ground.<sup>20</sup> Due to this climate change, storms, floods, and droughts are officially occurring every year. As a result, food shortage is also occurring. At the same time, commodity prices are also

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<sup>19</sup> World Bank, Bangladesh: Climate Change & Environment (World Bank, 2020), <<https://www.worldbank.org/en/country/bangladesh/brief/bangladesh-climate-change-environment>> (accessed April 12, 2023).

<sup>20</sup> UNDP, Climate Change and Environmental Degradation in Bangladesh (UNDP, 2019), <[https://www.bd.undp.org/content/bangladesh/en/home/library/environment\\_energy/Climate-Change-and-Environmental-Degradation-in-Bangladesh.html](https://www.bd.undp.org/content/bangladesh/en/home/library/environment_energy/Climate-Change-and-Environmental-Degradation-in-Bangladesh.html)> (accessed April 12, 2023).

increasing. The people of the river break area are leaving their houses and living like refugees elsewhere.

Air and water are being polluted very badly, a real example of which is a Swiss company IQAir recently published a list on their website, where Bangladesh ranks fourth in air pollution and just looking at the water in the Buriganga gives us an idea of how dire water pollution can be. Various fossil fuels are used in our power generation, as well as in industries. Due to these common people suffer from various types of respiratory diseases. Industrial effluents, domestic sewage, and solid waste are dumped directly in these rivers without any process.

### **3.3 Impacts of environmental degradation on human rights**

Environmental degradation has become a global problem. These are for various human activities, such as pollution, deforestation, and climate change. For these works, there are problems with various natural elements, such as water and air pollution, damage to ecosystems, and loss of biodiversity. Because of these, almost all types of human rights are damaged. However, it is worth noting that the right to life, the right to health, the right to food, and water rights.

Everyone has the right to life, liberty, and personal security, according to the Universal Declaration of Human Rights (UDHR). According to the International Covenant on Civil and Political Rights (ICCPR), "Every human being has the inherent right to life." Each state has agreed to honor, defend, uphold, and fulfill the right to life. This implies that States should at the very least take adequate precautions against foreseen and avoidable loss of life. The Intergovernmental Panel on Climate Change (IPCC) states that temperatures between 1°C and 2°C over pre-industrial levels pose a "moderate to high risk" of future severe weather occurrences and the ensuing threat to human life.<sup>21</sup> This concern is confirmed by a recent World Bank report that notes that "further health impacts of climate change could include injuries and deaths due to

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<sup>21</sup> Intergovernmental Panel on Climate Change, Fifth Assessment Report: Climate Change 2014 Synthesis Report Summary for Policymakers (Bonn: United Nations Framework Convention on Climate Change), p. 19 (hereinafter IPCC, AR 5).



extreme weather events".<sup>22</sup> Different types of pollution led to an increase in the incidence of diseases such as cancer, respiratory illnesses, and water-borne diseases. Thousands of people die every year in Bangladesh due to this pollution. A vulnerable population such as children and elderly people is one of them.

The Universal Declaration of Human Rights and Article 12 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) both express the human right to health, which states that everyone has the right "to the enjoyment of the highest attainable standard of physical and mental health." The Human Rights Council has expressly acknowledged the negative effects of environmental deterioration on the right to health on several occasions. Most recently, in its resolution 29/15, which calls for a panel discussion and in-depth research on the connection between climate change and the enjoyment of the right to health, the Council made this recognition. Environmental deterioration, per World Bank, reports, will have "health impacts are likely to increase and be exacerbated by high rates of malnutrition",<sup>23</sup> including potential rises in vector-borne diseases and "heat-amplified levels of smog could exacerbate respiratory disorders".<sup>24</sup> The IPCC stated in its most recent report that, compared to a baseline without climate change, "climate change is expected to lead to increases in ill-health in many regions and especially in developing countries with low income."<sup>25</sup> So the health of the people of Bangladesh is also at risk due to all these pollutions.

In both the ICESCR and the UDHR, the right to food is recognized. The ICESCR's Article 11 affirms the "fundamental right of everyone to be free from hunger" and calls on States to "ensure an equitable distribution of the world's food supplies in relation to need" through both bilateral and multilateral action. The human right to food must be respected, protected, promoted, and fulfilled by States just like all other human rights. Additionally, States have pledged to deploy the greatest number of resources available for the gradual implementation of the right to food and all other rights outlined in the ICESCR.

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<sup>22</sup> World Bank, *Turn Down the Heat: Climate Extremes, Regional Impacts, and the Case for Resilience* (World Bank, 2012).

<sup>23</sup> *ibid*

<sup>24</sup> *ibid*

<sup>25</sup> Intergovernmental Panel on Climate Change, *Fifth Assessment Report: Climate Change 2014 Synthesis Report Summary for Policymakers* (Bonn: United Nations Framework Convention on Climate Change), p. 19 (hereinafter IPCC, AR 5).

Ecosystems and biodiversity are being affected due to environmental pollution. As a result, a food crisis will be seen in Bangladesh very soon. Food insecurity has arisen due to droughts, floods, droughts, heavy rains, lack of rains, and unusual changes in seasons. The loss of Biodiversity, and its impact is directly affecting the Sundarbans. As a result, all the people who make a living on the resources of the Sundarbans will be in uncertainty.

The Committee on Economic, Social, and Cultural Rights General Comment No. 15, which states that "the human right to water entitles everyone to sufficient, safe, acceptable, physically accessible, and affordable water for personal and domestic uses," articulates this right even though it is not expressly acknowledged in the ICESCR.<sup>26</sup> The General Assembly declared in resolution 64/292 that "the right to safe and clean drinking water and sanitation is a fundamental human right necessary for the full enjoyment of life and all human rights".<sup>27</sup>

### **3.4 Case Studies on environmental issues and human rights violations in Bangladesh**

If we do a case study on several areas of Bangladesh, we will get some idea about the environmental issue and human rights violations and we will be able to understand the contribution of our own and developed countries to environmental pollution and human rights violations. These issues often lead to human rights violations, particularly for marginalized communities that are disproportionately affected by environmental degradation. In recent years, there have been several high-profile incidents of environmental disasters and human rights violations in Bangladesh,

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<sup>26</sup> United Nations Committee on Economic, Social and Cultural Rights, General Comment No. 15 (New York: United Nations, 2002), Art. 2. < <https://www.refworld.org/docid/4538838d11.html> > (accessed April 14, 2023)

<sup>27</sup> United Nations General Assembly, 'The human right to water and sanitation (Resolution 64/292, 28 July 2010) para 1. < <https://digitallibrary.un.org/record/687002?ln=en> > (accessed April 15, 2023)

## **The Impacts of the Garment Industry on the Environment and Human Rights in Bangladesh.**

80% of Bangladesh's exports come from garments.<sup>28</sup> Laborers can be made to work for little money. For which thousands of garments have been developed. These garments have a huge contribution to water pollution. Chemicals are needed for their textile production, with which dyeing and finishing are done.<sup>29</sup> These chemicals contain lead, chromium, and cadmium.<sup>30</sup> When these chemicals are discharged into nearby rivers, they harm the environment and human health. Because of that people suffer from respiratory diseases, skin disorders, cancer, gastrointestinal disorders, and skin diseases.

### **The Sundarbans Oil Spill**

In 2014, a furnace oil tanker of 350,000 liters sank in the Sundarbans River and caused extensive damage to the environment of the Sundarbans.<sup>31</sup> Where all rare animals like flora, fauna, Bengal tiger, estuarine crocodile, Irrawaddy dolphin live.<sup>32</sup> Due to this furnace oil, various plants have been deprived of their ability to absorb nutrients. Many fishing communities are living around this forest that earn their living by catching fish from the river channels of this forest. One thing is clearly understood from here, how effortless and irresponsible the government of Bangladesh is about environmental protection. After this incident, international organizations heavily criticized the Bangladesh government in various ways. Bangladesh's government needs to improve its safety measures. Because of the Rampal Power station, the shipping traffic in the Sundarbans area was increased.<sup>33</sup> UNESCO has called on the Bangladesh government to stop the

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<sup>28</sup> Nazila Fathi, "Safety First: Bangladesh Garment Industry Rebounds" International Finance Corporation World Bank Group  
<[https://www.ifc.org/wps/wcm/connect/news\\_ext\\_content/ifc\\_external\\_corporate\\_site/news+and+events/news/insights/bangladesh-garment-industry#:~:text=In%20the%20last%20seven%20years,of%20Bangladesh's%20total%20export%20earnings.>](https://www.ifc.org/wps/wcm/connect/news_ext_content/ifc_external_corporate_site/news+and+events/news/insights/bangladesh-garment-industry#:~:text=In%20the%20last%20seven%20years,of%20Bangladesh's%20total%20export%20earnings.>)  
(accessed April 16, 2023)

<sup>29</sup>Maiko Sakamoto, Tofayel Ahmed and others "Water Pollution and the Textile Industry in Bangladesh: Flawed Corporate Practices or Restrictive Opportunities?" < [https://mdpi-res.com/d\\_attachment/sustainability/sustainability-11-01951/article\\_deploy/sustainability-11-01951.pdf?version=1554194849](https://mdpi-res.com/d_attachment/sustainability/sustainability-11-01951/article_deploy/sustainability-11-01951.pdf?version=1554194849) > (accessed April 16, 2023)

<sup>30</sup> ibid

<sup>31</sup> Abu Siddique, "The Sundarbans in big trouble" Dhaka Tribune (Dhaka, December 9th, 2014)  
< <https://archive.dhakatribune.com/uncategorized/2014/12/09/the-sundarbans-in-big-trouble> > (accessed April 16, 2023)

<sup>32</sup> ibid

<sup>33</sup> Abdullah Harun Chowdhury, "Environmental impact of the coal-based power plant of Rampal on the Sundarbans (world largest mangrove forest) and surrounding areas" MedCrave (2017)

operation of this huge coal power plant near the Sundarbans but the Bangladesh government did not listen to them.<sup>34</sup>

### **The Phulbari Coal Mine**

There is a very rich ecosystem in that part of Dinajpur, including forests, rivers, and wetlands. Due to this mine, there is deforestation, water, pollution, and air pollution among the environmental impacts of coal dust in that area.<sup>35</sup> Bangladesh has many laws to protect the environment and wildlife. But there is no enforcement of these laws. On the contrary, there is nothing left but to be disappointed by the various activities and steps of the government.

Areas around this mine like Dinajpur, Rajshahi, and Rangpur divisions. Where thousands of indigenous and marginalized people live. Due to this mine, their home and land will be displaced.<sup>36</sup> The normal life of their people will be disrupted. Which conflicts with the right to life in the Constitution.

So, these case studies are just some examples that show how responsible we are for our environmental disaster.

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<<https://medcraveonline.com/MOJES/environmental-impact-of-coal-based-power-plant-of-rampal-on-the-sundarbans-world-largest-mangrove-forest-and-surrounding-areas.html>> (accessed April 17, 2023)

<sup>34</sup> Prothom Alo English, Iftekhar Mahmud “Unesco calls for shelving Rampal project” 24 Sep 2016,

< <https://en.prothomalo.com/environment/Unesco-calls-for-shelving-Rampal-project> > (accessed April 17, 2023)

<sup>35</sup> Cultural Survival, “The Phulbari Coal Project: A Threat To People, Land, And Human Rights In Bangladesh”.

<sup>36</sup> Phulbari Coal Project (Asia Energy), Global Energy Monitor Wiki

<[https://www.gem.wiki/Phulbari\\_Coal\\_Project\\_\(Asia\\_Energy\)](https://www.gem.wiki/Phulbari_Coal_Project_(Asia_Energy))> (accessed April 17, 2023)

### **3.5 The Role of the Government and civil society in addressing environmental challenges**

The government and civil society must come together to deal with the environmental crisis that Bangladesh is going through and the human rights violation it is causing. Because in a rapidly growing economy and significant country, the government cannot solve this problem by working alone.

Bangladesh's government has adopted various policies, laws, and regulations to stop environmental degradation. For example, the National Environmental Policy was formed in 1992 to protect the environment and promote the sustainable development of this country. Development planning will try to do it in such a way that the environment is not damaged. Some other laws and policies are the Environmental Convention Act, of 1995, the Bangladesh Environmental Convention Rule, of 1997, and the Environmental Impact Assessment (EIA) Notification of 1997. Some of the institutions have been created by the government and have been given the responsibility of environmental management. One of these environmental management institutions is the Department of Environment (DOE). Whose job is to enforce environmental laws and regulations in Bangladesh. They have the power to industrial activity permits and monitor complaints with environmental standards. Also, the work of The Minister of Environment Forest and Climate Change (MoEFCC) is to formulate and implement policies related to environmental protection and climate change.

But despite all these efforts, the government's efforts fade away because of weak institutional capacity, inadequate funding, and political interference. For this reason, civil society should come forward. Civil Society Organizations (CSOs) are organizations that work on environmental protection including climate change, biodiversity, conservation, and sustainable development. They conduct various programs to create awareness and advocate for the public. So that the government can be held accountable due to its wrong decisions. They provide technical support to those affected by environmental degradation. Another example of the important role that civil society is playing is Bangladesh, Environmental Lawyer Association (BELA). BELA is a non-governmental organization that provides legal assistance to those affected by environmental degradation.

### **3.6 Conclusion**

Bangladesh is suffering from various environmental problems. People are suffering from these problems. From the case studies, we understand that the government should take measures against all these irregularities on an urgent basis. At the same time, civil society has the responsibility to work in the interest of the country with the government and promote sustainable development and mitigate the worst effect of environmental degradation and promote public awareness. At the same time, it is not enough to just make laws. It needs proper and fair implementation. The government should be more focused on this.

## Chapter 4

### Legal Framework for Green Rights in Bangladesh

#### 4.1 Introduction

Environmental protection was viewed by developing nations as a luxury that only rich nations could afford. Their top priorities were reducing poverty, meeting necessities, and raising the level of living. On their agenda, environmental preservation was at the very bottom. Still Bangladesh as a developing country tries to enact many laws and policies to prevent environmental degradation.

#### 4.2 Overview of the legal framework for environmental protection in Bangladesh

The People's Republic of Bangladesh, like all other civilized nations, has enacted a variety of environmental instruments for the preservation and conservation of the environment as part of its environmental commitments. Environmental laws have been in place in the nation since the 19th century, yet they are still not implemented to a significant degree or were only dimly understood by the populace and the accountable governmental bodies. So far BELA identified around 200 statutes excluding rules and bylaws.<sup>37</sup> Despite the existence of all these laws and a large number of government organizations, the country did not receive the benefits that the laws were intended to provide. Many of the available rules and methods, however, are still underutilized, underused, and scarcely explained.

Bangladesh's government actively contributed to the evolution of environmental protection following the Stockholm mandate. As a consequence, the Environmental Pollution Control Board was founded and the first Environmental Pollution Control Ordinance was published in 1977. Later, the "Department of Environment" took over as this board's successor.

To handle concerns relating to the environment, the Ministry of Environment & Forest was founded in 1989. The government a national conservation plan was developed, the 1992 national

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<sup>37</sup> BELA and Ford Foundation, Environmental Regulatory Regime in Bangladesh (1st ed, BELA and Ford Foundation 2004).

environment policy was established, and the 1995 Bangladesh Environment Conservation Act was passed to update the previous legislation. The Department of Environment underwent restructuring as well.

The Ministry of Environment has also completed the National Environment Management Action Plan (NEMAP), with assistance from various NGOs and other groups<sup>38</sup>. To complement the Act, The Bangladesh Environment Conservation Rules 1997 were also approved. The Conservation Act and Rules were updated in 2000 and 2002 to incorporate significant clauses and reflect the evolving situation. A different piece of legislation called the Environment Court Act was also passed in 2000 to establish environmental tribunals in six different regions of the nation. Other laws include the Environmental Pollution Control Ordinance of 1977, the Territorial Water and Maritime Zones Act of 1905, the Agricultural Pesticides Ordinance of 1971, the Mines Act of 1924, the Paurashava Ordinance of 1977, the Brick Burning Act of 1989, the Pure Food Ordinance of 1959, the Marine Fisheries Ordinance, the Forest Act, and others.

As a result, it is clear that there are many laws and rules in place, but they are frequently exploited and misused to serve a variety of goals. The numerous regulatory system elements are blatantly inconsistent with one another. Specifically, community values, institutional norms, conventional systems, and policy and law.

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<sup>38</sup> The National Environment Management Action Plan (NEMAP) 1995, page 36



### 4.3 Constitutional Provisions and international obligations related to Green Rights

The environment is not specifically protected under Bangladesh's Constitution. The right to a safe and healthy environment is not specifically included in either the basic rights or state policy. Every citizen is entitled to protection under Article 31 against "activity damaging to the life, liberty, body, reputation, or property unless such action is performed in compliance with the law". It further said that Bangladeshis have an unalienable right to be treated fairly and in compliance with the law. If these rights are violated, compensation is required. No one should be deprived of personal liberty granted in conformity with the law, according to Article 32. Together, these two articles include the preservation of the right to life. Next, consider if the "right" to life covers the "right to a healthy environment" and the "right to an environment that can support the growth of meaningful "existence of life." The Appellate and High Court Division used a comprehensive strategy in two well-known cases. Articles 31 and 32 of Constitution of Bangladesh safeguard the right to life as a basic right, according to the Appellate Division's explanation in the case of **Dr. Mohiuddin Farooque v. Bangladesh**.<sup>39</sup> Its scope includes environmental conservation and preservation, ecological harmony free from air and water pollution, and sanitation, without which life can barely be enjoyed. The aforementioned "protection of the right to life" will be violated by any action or inaction that runs against it. In the case of **Dr. Mohiuddin Farooque v. Bangladesh and others**,<sup>40</sup> the High Court Division ruled that the right to life includes the right to clean air and water as well as a circumstance beyond that of an animal in which one can reasonably expect to live a long time.<sup>41</sup> It is important to note that both cases included litigation in the public interest. So, it would seem that the right to a healthy environment has now been elevated to a basic right, according to case law. However, it had been difficult to equalize environmental rights with basic rights since our judicial system lacked the means to uphold these rights. The Supreme Court of Bangladesh did not rule on a recorded environmental matter until 1994. BELA brought the first such lawsuit in January 1994. After that, several PILs were filed for the preservation of pollution, public health, and other issues, but none of them have been resolved. The issue of "locus standi" didn't come up in any of the cases.

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<sup>39</sup> Dr. Mohiuddin Farooque v. Bangladesh (1996) Civil Appeal No. 24 (1995) 17 BLD (AD) 1997

<sup>40</sup> *ibid*

<sup>41</sup> Habib E, 'Public Interest Environmental Litigation: A Tool to Ensure Compliance and Enforcement' (presented at the Fifth International Conference Environmental Compliance and Enforcement.

**Dr. Mohiuddin Farooque vs. Bangladesh** case, in which the legitimacy of an experimental structural project of the enormous Flood Action Plan (FAP) was contested, is where the subject of whether the right to a healthy environment is a basic right first surfaced. The petition was first denied by the High Court Division (HCD) because the petitioner, who was a representative of BELA, lacked "standing." The court authorized the petitioner to decide the locus standi in PIL after the petitioner choose to appeal to the Appellate Division (AD). Finally, in July, the appellate division resolved the issue of locus standi, ruling that any member of the public who suffers a common wrong, common injury, or common violation of the fundamental rights of several undetermined individuals, or any citizen or an indigenous association exposing such cases, has locus standi.

Before and after then, BELA, ASK, BLAST, BNWLA, Bangladesh Mohila Ainjibi Samiti, Bangladesh Mohila Porishod, and many other publicly supported individuals filed a PIL with the HCD to have the complaints of the underprivileged parts of the population addressed. Some of the Public Interest Environmental Litigation was settled by the HCD in 1997 after the locus standi was liberalized in 1996.

The right to a healthy environment has gained legal recognition as a basic right through the decisions of this PIL, and Bangladesh may now, like many other developing nations, enforce this right through PILs and other regulatory frameworks.

As mentioned above, there is no right to the environment under the Constitution of Bangladesh. However, due to the prolonged movement of civil society and environmentalists, provision on conservation and development of the environment has been inserted in part of the fundamental principle of state policy of the Constitution of Bangladesh through the 15th amendment. This is a welcome development. But this provision imposes an obligation on the State to protect and develop the environment and to ensure the conservation and security of natural resources, biodiversity, wetlands, and wild lives.<sup>42</sup> Thus, it does not establish an individual's right to a safe environment; rather, it is declared as one of the guiding principles of state policies that can be used to interpret the Constitution and other laws of Bangladesh, be used in the creation of laws, and serve as the foundation for the work of the State.<sup>43</sup> The state, its agencies, individuals, and

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<sup>42</sup>“The Constitution of the People’s Republic of Bangladesh”. art. 18A

<sup>43</sup> *ibid*, art. 8(2)

legal entities can all be held accountable for this fundamental obligation to safeguard the environment. The potential to add the right to the environment as a basic right, which has already been established via judicial interpretation, was lost by the government of Bangladesh.

Bangladesh has been a party to various international environmental agreements in the past. And these agreements and treaties have highlighted the importance of natural rights or green rights and accordingly provided various types of legal frameworks. The United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement have mentioned taking action against climate change. The Convention on Biological Diversity (CBD) emphasizes the conservation of biodiversity and ecosystems for the benefit of humans.

#### **4.4 Analysis of the effectiveness of existing laws and policies in protecting Green Right**

Bangladesh has many good laws to protect the environment but their effectiveness is being questioned all the time. The main problems or obstacles in the implementation of the law are lack of enforcement, fragmentation of regulations, insufficient penalties, inadequate public participation, and weak institutional capacity

##### **The lack of enforcement:**

Bangladesh has always been weak in terms of law enforcement and for this, they have faced various criticisms. Because of this, they could never take proper action against the polluting industries. The government always focuses on economic development for political interests and forgets about environmental development. Currently, almost all parliamentarians are businessmen, so the government is influenced by powerful industrial lobbies. As a result, enforcement of environmental regulation becomes weaker.

The capacity of the regulatory institutions is very weak.<sup>44</sup> Their resources, technical expertise, and political power is all lacking in effectively enforcing environmental regulation.

Also, bureaucratic red-tapism and corruption are still there.<sup>45</sup> Bribery and political extortion are very common in all places of government office starting from the ministries. Due to this

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<sup>44</sup> Monzur Hossain, 'Green Finance in Bangladesh: Policies, Institutions, and Challenges' (ADBI Working Paper Series, No. 892, November 2018) Asian Development Bank Institute. < <https://www.adb.org/publications/green-finance-bangladesh-policies-institutions-challenges> > accessed April 18, 2023.

industrial lobbies get opportunity and the working method of the ministries is very slow and time-consuming. As a result, every work is delayed a lot.

The people of this country are not even aware of environmental rights and they have no opportunity to participate in the environmental decision-making process. As a result, there is no accountability for any work of the government.

### **The fragmentation of environmental regulations in Bangladesh:**

Environmental regulatory bodies in Bangladesh are under various ministries. It is difficult to coordinate all of them together. For this reason, the application of regulations is not done properly<sup>46</sup>. It has been seen that regulatory institutions have been formed under different ministries for different needs. Different ministries have different mandates and priorities. That is why there are many overlaps in their work. Due to this fragmentation, various confusions are created. Different regulatory institutions have different approaches to regulation. So, each institution works differently. This makes it difficult for various business organizations and common people to obey the rules and regulations of these institutions.

### **The issue of insufficient penalties:**

Penalties are often very low compared to the amount of damage caused for environmental pollution. This alone is reason enough for environmental degradation. One of the reasons for insufficient penalties is that the laws are very old. The amount of fine is very unusual in the current times.

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<sup>45</sup>Md Rezwanul Kabir, 'A Unique Study of Corruption in Bangladesh' (2021) Saudi Journal of Humanities and Social.Sciences<[https://www.researchgate.net/publication/350735034\\_A\\_Unique\\_Study\\_of\\_Corruption\\_in\\_Bangladesh](https://www.researchgate.net/publication/350735034_A_Unique_Study_of_Corruption_in_Bangladesh)> accessed April 19, 2023.

<sup>46</sup> Md. Mahmudul Hassan and Md. Saiful Islam, 'Institutional capacity building for environmental governance in Bangladesh: Lessons from the regulatory agencies (2020) 256 Journal of Environmental Management < <https://www.iucn.org/content/bangladesh-capacity-development-action-plan-sustainable-environmental-governance> > accessed April 19, 2023

### **The Institutional capacity:**

Those institutions that are responsible for implementing in enforcing environmental regulations in Bangladesh do not have the proper resource or capacity to run their responsibilities. They do not have proper financial, human, and technical resources, along with no research or environmental monitoring because of funding. They lack proper skilled manpower. Those who will do environmental monitoring assessment and enforcement.<sup>47</sup>

## **4.5 Environmental Justice**

### **Environmental Court:**

All environmental contamination lawsuits would be brought and resolved in these courts following the Environmental Conservation Act. Even if other laws contain provisions requiring action on environmental issues or designating certain courts for bringing lawsuits, any case involving an environmental issue may still be submitted to the Environmental Court.<sup>48</sup> Any legal action for the trial of, or compensation for, an environmental law violation or both must be brought immediately before the Environment Court. The Environment Court Act 2010 was recently passed 2010, and it calls for the establishment of an environmental court in each district administrative center.

### **Powers & Jurisdiction of Environmental Court:**

Both civil and criminal cases can be heard at the Environmental Court. The court acts as a civil court and adheres to the provisions of the Code of Civil Procedure from 1908 while trying and ruling on compensation cases. It has the authority to order anybody to take preventative and corrective action in response to an offense or incident that caused or would cause environmental harm. It may set a date for the order's execution and request a report from the Director General or

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<sup>47</sup> Mohammad Tarikul Islam, "Despite legislative and institutional arrangements, Bangladesh is struggling to improve environmental governance", LSE South Asia Centre. August 14th, 2018

<https://blogs.lse.ac.uk/southasia/2018/08/14/despite-legislative-and-institutional-arrangements-bangladesh-is-struggling-to-improve-environmental-governance/> > accessed April 18, 2023

<sup>48</sup> Jona Razzaque, Public Interest Environmental Litigation In India, Pakistan and Bangladesh (Kluwer Law International 2004)

any suitable authority on this inspection. Additionally, it has the authority to grant temporary injunctions and interim orders.

When filing a complaint regarding an offense, the court will be considered a criminal court, and the articles of the Code of Criminal Procedure 1898 must be observed during the offense's trial and disposition. It has broad authority to prosecute environmental crimes. Sec. 14(1) of the Environmental Court Act of 2010 states that the court has the authority to sentence violators to jail, a fine, or both. Under Section 14(1), the court may also make an order requiring the appropriate party to stop committing environmental injustices in exchange for compensation for environmental harm. The court has the authority to order anybody to perform or refrain from performing any unlawful conduct.

The Environment Court must adhere to certain procedures while hearing cases. It stipulates that the trial must be finished in 180 days. If a case is not resolved within this time frame, the Environment Court must notify the Environment Appellate Court within 15 days of the deadline's expiration and resolve the matter within the next 90 days. If the matter is still pending after this time, the attorney may apply to the Environment Appellate Court within 15 days asking for the case to be transferred to another Environment Court<sup>49</sup>. If the matter is subsequently moved to another court, that court has 90 days to reach a decision. The Environment Appellate Court will identify who is responsible and propose that the appropriate authorities file a lawsuit against them if the issue is not resolved within the allotted time frame. Following receipt of such a suggestion, the authority must report to the Environment Appellate Court in writing within 60 days.

The Environment Court Act of 2010 states once more that special magistrates may be appointed to try environmental offenses when the maximum penalty is five years in jail or a fine of 5 lac takas. According to Section 8(1) of the Environmental Court Act, 2010 disobeying a court order is a distinct offense punishable by up to five years in jail, a fine of 5 lac takas, or both. Within 180 days after receiving the complaint, the court must decide the matter.

If a case is not resolved within this time frame, the Environment Court must notify the Environment Appellate Court within 15 days of the deadline's expiration and resolve the matter within the next 90 days. After this time, if the issue is still unresolved, the Director or attorney

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<sup>49</sup> Environmental Court Act of 2010, Section 14(1)

may apply to the Environment Appellate Court within 15 days asking for the case to be transferred to another Environment Court. If the matter is subsequently moved to another court, that court has 90 days to reach a decision<sup>50</sup>. The Environment Appellate Court will hear appeals from the Environment Courts thanks to provisions that have been enacted. The Environment Appellate Court will hear appeals from the Environment Courts. Any party who is dissatisfied with the Environment Court's decision on a judgment, compensation decree, acquittal, or cancellation of a lawsuit may appeal to the Environment Appellate Court.

### **Weakness of the Court:**

The Environment Court's judges lack any specialized education or expertise in environmental law or science. However, to determine the degree of contamination that might be considered a violation of environmental legislation, specialist knowledge is specifically needed.<sup>51</sup> The court lacks the authority to investigate an issue of environmental contamination on its own.<sup>52</sup> Most environmental cases in Bangladesh have been filed as PILs by NGOs. For instance, BELA has filed more than 40 cases involving environmental concerns.<sup>53</sup> However, NGOs cannot reach the environmental court, they do not recognize as parties in the suit. They cannot participate in the proceedings as other parties.<sup>54</sup> Given that many NGOs have extensive environmental knowledge, acknowledging their status in the environment court can significantly increase the efficacy of the court.

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<sup>50</sup> Ibid, Section 10(5)

<sup>51</sup> Faruque Abdullah Al, 'Functioning of Environment Court in Chittagong: A Critical Appraisal', presented at the Seminar on Protection on Environment held at National Press Club Dhaka (2007).

<<https://archive.thedailystar.net/2007/03/05/d703052504158.htm?fbclid=IwAR0i8uxwdElxm89OoheZqBVF-GyyXwig7WbsX7mO0ASmew4UZodc6bRx0qo>>

<sup>52</sup> Bangladesh Environmental Lawyers Association (BELA) vs. Government of Bangladesh and Others, Writ Petition No. 1567 of 1995, High Court Division of the Supreme Court of Bangladesh, 9 May 2001.

<<https://www.belabangla.org/achievements/>>

<sup>53</sup> ibid

<sup>54</sup> Bangladesh Environmental Lawyers Association, 'Assessment of the Public Interest Environmental Litigation (PIEL) System in Bangladesh' (BELA, 2017) <<https://belabangla.org/legal-cell/pil/>>

**4.6 Conclusion:** There are about 200 environmental laws in Bangladesh. But none of them have proper application. Besides, the constitution of Bangladesh does not specifically say anything about the safety of the environment. Even after so many constitutional amendments. But it has been established as a basic right by judicial interpretation of the constitution. Despite all this, environmental rights remain neglected due to a lack of proper enforcement. Also, the environmental court is not able to provide proper justice due to its various limitations.



# Chapter 5

## Conclusion and Recommendations

### 5.1 Introduction

Bangladesh's high population density makes vulnerable communities more susceptible to environmental degradation and climate change. Despite several Acts and policies that exist to protect the environment, implementation issues and concerns about their ability to address negative human rights impacts remain. Works by various authors offer solutions to achieve environmental justice and conservation in Bangladesh from a human rights perspective. Green Rights gained support since the UN recognized the human rights element of environmental damage in 1992, but climate change impacts continue to increase. There is no doubt in the situation of climate change, climate change has caused significant harm already. The only thing that is still unclear is how much more harm it will bring about human life. In these conditions, immediate preventative action is required. So far in this research paper we only find disappointment and apathy of the government as well as the people of the country. It is understood from the discussion that if the country's existence is in crisis due to environmental disasters, then only economic development and infrastructure will not be of any use to people.

### 5.2 Key Findings and Recommendations for Promoting Green Rights in Bangladesh

Several problems have been identified in this paper. From the individual level to the government level, even the law has some problems of its own. If this problem remains in the society, it will always act like a cancer. Its need to be identified and removed.

#### **Lack of public awareness:**

People are not at all aware of their rights. Common people have no idea how much environmental pollution is harming them. There is no public awareness of Environmental Development in our country. When an ordinary person cuts a tree or when a farmer gives

chemical pesticides on the cropland, he has no idea how much harm he did to the environment. We have to take public and private manners to create awareness among the common people. Environmental activists like health workers should be formed on TV, radio, and field levels. Those who go to the people will highlight the importance of the environment and the disaster caused by its destruction. Those who are students shall go to the field level and try to give people knowledge about the importance of the environment. Once awareness is created among people, pressure will create on the government automatically. This is how the government will work more consciously in the future.

### **Reluctance of the Government to implement the law:**

There is a lack of resources in our country. In this sector, there is no funding and at the same time there is a lack of skilled manpower. Various types of corruption result in natural resource exploitation. And environmental development is not among the top priority of the government because the government goes through various social, economic, and political challenges all the time.

Numerous options might assist overcome the issues of environmental legislation implementation in Bangladesh. One solution may be to increase financing and resources for environmental protection measures, which could assist strengthen environmental law enforcement. This might include investing in training programs to expand the number of trained environmental professionals in the country, as well as financing sustainable technology research and development.

Another option is to eliminate corruption, which has been highlighted as an important obstacle to environmental preservation in Bangladesh. This might include measures such as the greater implementation of anti-corruption legislation and more public scrutiny to promote openness and accountability in government and commercial operations connected to natural resource exploitation.

### **Update the legislation according to reality:**

Environmental-related laws are very backdated. For example, Section 17 of the Environmental Conservation Act 1995 provides for fines of up to 200,000 Bangladeshi taka and imprisonment

for up to 3 years for violations of environmental laws. Rule 10 of The Bangladesh Environmental Conservation Rule, 1997 said that if any person violates any provision of the Act or the Rules shall fine up to 50,000 takes for a first offense and up to 100,000 takas for subsequent offenses. As the laws are outdated, the amount of fines is very low. The fine should be done in such a way that the organization or company is closed or become bankrupt to pay the fine.

### **Proper implementation of existing law:**

The government does not face questions from the public about its activity related to environmental degradation. Because people do not have any idea how much negative impact it creates in their overall daily life. That is why the government is very reluctant to implement the law. So, in addition to making people aware of the environment, civil society needs to inform general people about access to information. A strong participation mechanism is strengthened by adequate information availability. Every person shall have proper access to information held by public authorities on the environment, including information on activities using hazardous chemicals in their areas and the chance to participate in decision-making. States must support and promote public engagement and awareness by making information publicly accessible. It is crucial to check if the state releases regular reports on the "state of the environment" and data on environmental indicators.

In practice, the general public is not given much of a chance to influence decisions. The ability to monitor governmental and private sector actions and to take a meaningful role in choices that directly impact their way of life is made possible by access to information. Participation and consultation of the public in making decisions shouldn't be an empty exercise. A competent implementation mechanism and comprehensively integrated environmental policy should be in place to ensure prompt and effective involvement in the decision-making process. In this way, the government can be brought in accountability. And the government will be more serious about the implementation of existing laws. Also, the government should bring experts from outside countries. There are such police to help people. Likewise, a separate force should be created to help the environment only.

### **5.3 Concluding Remarks**

Bangladesh is still a developing country. There is still a lot to complete in this country. Their people are deprived of their basic rights, whereas Green Right sounds like a lot of lamentation.

Because the simultaneous economic development and Environmental Rights hold are complex issues. Especially for the Developing Countries. But it should be understood that economic development and environmental right both uphold human rights. Rather Environmental Development is more sustainable for human rights.

One thing to keep in mind is what people want. If the people do not think about the future or future generations, then half of the country will go underwater after a while. Billions of people will lose their homes. Therefore, the people must first be aware of their rights so that the government becomes more stringent against Environmental Degradation.

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