



# SOUTH ASIA JUDICIAL CONFERENCE ON ENVIRONMENT AND CLIMATE CHANGE

## 25-26 November 2016 • Dhaka, Bangladesh



Organized by:  
**Supreme Court of Bangladesh**  
and  
**Asian Development Bank (ADB)**

**MESSAGE**


It gives me immense pleasure to know that the Supreme Court of Bangladesh in collaboration with Asian Development Bank (ADB) is organizing the 'South Asia Judicial Conference on Environment and Climate Change' in Dhaka.

The phenomena of Climate Change and environmental degradation are regarded as the grave concern for the entire mankind. Climate Change is a perilous threat not only for the South Asia but it also for the whole universe. Research reveals that the rise of average global temperature would be between 1.8° C to 4° C by the year 2100 due to climate change. It is apprehended that future tropical cyclones will become stronger, with faster wind speeds increasing the amount of damage they cause. Floods will become more common due to changing rainfall patterns and glacier melt in the summer. Sea-level rise could inundate large areas of low lying countries; and the changing climate may indirectly cause misery by increasing the incidence of disease and conflict. Furthermore biological diversity, the source of enormous environmental, economic, and cultural value will be threatened by climate change. Its negative impact will be hampered the lives and livelihood, agriculture productivity and food production, water and forest and ecological balance of environment. Therefore, the issue of climate change appears that as a matter of great concern which should be addressed with utmost importance by putting combined efforts.



The Bangladesh judiciary is highly sensitized to the importance and necessity of conservation of environment and accordingly playing an important and pro-active role in combating activities detrimental to ecological balance and conservation of environment. The exclusive Environmental Courts and the utilization of constitutional remedy through the initiation of Public Interest Environmental Litigation in the apex court are playing very important role in protecting environment of the country. Apart from the same, South Asian Judiciary is also playing vital role in protecting and preserving environment. So, they deserve high appreciation. I also thank ADB for its support and share for the process of protecting the environment.

I welcome the esteemed participants of conference and wish them a very pleasant stay in Dhaka. I wish the 'South Asia Judicial Conference on Environment and Climate Change' in Dhaka a grand success.

Khoda Hafez, May Bangladesh Live Forever.



Md. Abdul Hamid

**MESSAGE**

In Bangladesh, climate change is no longer a distant threat – we are already feeling and experiencing its impact across the country. Since 1980, over 200 natural disasters have hit the country resulting in the death of almost 200,000 people and economic damages of approximately USD 17 billion. It represents an urgent and potentially irreversible threat to human societies and the planet and thus requires to be urgently addressed by all.

Climate change is one of the greatest threats to human rights of our generation, posing a serious risk to the fundamental rights to life, health, food and an adequate standard of living of individuals and communities across the world.

Extreme climate events bear upon human rights directly, such as when flooding or ocean surges lead to injury or loss of life, loss of land, or damage to homes and property. On the other hand mitigation and adaptation activities by the government, corporate or individual actors can ameliorate such loss and suffering. It has long been recognized that a clean, healthy and functional environment is integral to the enjoyment of human rights, such as the rights to life, health, food and an adequate standard of living. Anthropogenic climate change is the largest most pervasive threat to the natural environment and human societies the world has ever experienced.

I strongly believe that States are duty-bound to cooperate with other states in protecting and promoting human rights. This means that the threat to the human rights of climate vulnerable States' inhabitants (such as those in low-lying island nations) is a collective responsibility. States should take a human rights-based approach to addressing climate change in their implementation of the Paris Agreement at the international and domestic levels. Under the Paris Agreement, States are obligated to address global climate change for the benefit of present and future generations of humankind. The South Asian courts can ensure remedies and will now increasingly be approached to enforce political accountability and ensure climate justice.


Climate change will affect different regions and persons in different ways, and States will need to react appropriately to protect the rights of men, women, and children to ensure that everyone is still afforded their basic human rights. Until 1994, Bangladesh had no reported PIL decided by the Supreme Court. Dr. Mohiuddin Farooque v. Bangladesh & Others (FAP-20) was the first case of this nature in this country. A comprehensive approach to environmental protection was achieved through judicial activism by the Supreme Court of Bangladesh in the landmark judgment in the FAP-20 case in which the relationship between the right to a decent environment and locus standi was decided upon clearly.

This activism in Bangladesh often develops "policy evolution fora" for a particular national issue and influences executive governance through judicial intervention in sectors highlighted by groups of public interest litigants. Judicial activism contributes to proper implementation of environmental laws and allows the vast majority of the backward sections of citizens to access the justice system. As a result of progressive interpretation by the judiciary of constitutional and legal provisions, the 'right to environment' has resultantly received express legal recognition.

Moreover, these judicial interventions guide the development of appropriate national legal and policy frameworks to deal with the challenges associated with climate change.

In conclusion, in implementing the Paris Agreement, Climate Justice will increasingly play a central role to ensure that the process of addressing climate change is successful, effective and equitable.

I wish complete success for the "South Asia Judicial Conference on Environment and Climate Change".



(Justice Surendra Kumar Sinha)  
Chief Justice of Bangladesh

The Supreme Court of Bangladesh, along with the Asian Judges Network on Environment (AJNE) and the Asian Development Bank (ADB) is co-hosting the "South Asia Judicial Conference on Environment and Climate Change" in Dhaka on 25 and 26, November 2016. The AJNE was established through annual Regional Roundtables and was formally launched in December, 2013 with a view to developing capacity of judicial officers through generating and sharing information, knowledge and experience. The ADB has been supporting this initiative for addressing environmental damage and to promote environmental justice through effective judicial interventions in Asia region. This Conference is the fifth one in a series of judicial conferences held previously in Pakistan, Bhutan, Sri Lanka and Nepal since 2012, which will bring together Judicial Officers, Environmental Lawyers, Experts on Environment and Climate Change and relevant Government Officials from South Asian and other countries to discuss common issues, share best practices on adjudication, development of case laws, and other issues related to environmental governance.

Increased population and development processes are causing harm to environment and ecology and affecting lives and livelihoods of millions of people in all over the world. The nature of the causes and consequences of environmental pollutions have changed over time and recently climate change has become a big challenge for human civilization due to increased temperature at the atmosphere. Climate change and its adverse impacts and vulnerabilities are now a reality due to inadequate mitigation and adaptation efforts to address climate change. Vulnerability as the consequence of climate change will be most severe for the developing world, in other words, those areas which are both least responsible for climate change and least able to deal with its effects. Thus, the most vulnerable are the people living in least developed countries (LDCs), Small Island Developing States (SIDSs), and African countries. Although past and current global emissions of greenhouse gases (GHGs) originated in developed countries, LDCs like Bangladesh face the vulnerabilities of climate change disproportionately. As such, the very nature of climate change exacerbates the inequities associated with proportional contribution to the causes, and suffering from the consequences.

The adverse impacts of climate change, including increased frequency and intensity of disasters and slow-onset processes like sea-level rise and saline water intrusion, have continued to devastate the lives and livelihoods of millions of people and inflict huge economic and non-economic losses, particularly in developing countries like Bangladesh. In response to growing concerns about climate change, the global community adopted the UN Framework Convention on Climate Change (UNFCCC) in 1992. The Kyoto Protocol (KP) was adopted five years later in 1997 at the third Conference of the Parties (COP 3), with legal commitments for mitigation and an agreement for a five-year commitment period from 2008 to 2012 to meet the mitigation commitments. Negotiations for a second commitment period of the KP ended in 2012 with an agreement for an eight-year commitment period which is rife with political and legal challenges. Moreover, the Paris Agreement on Climate Change was adopted in 2015 and entered into force on 4 November, 2016, with an ambitious collective goal to limit temperature increase well below 2 degrees with efforts to limit warming to 1.5 degrees. However, the success of effective implementing of the Paris Agreement depends on the national legislative approaches taking into account the nature of substantive commitments made by Parties of the Paris Agreement.

However, in the absence of the appropriate policy response to climate change, advocacy groups, communities and individuals are coming up before the judiciary to seek compensation for loss and damage resulting from climate change, and for judicial direction to compel those entities responsible to act in response to climate change through the required mitigation and adaptation measures. Decisions also have begun to emerge through different judicial forums as a means of compelling decision-makers to address the issues for future action and to make those responsible liable for the harm caused to the climatic system. It's worth mentioning that, recently, the Hague District Court rendered a historic precedent setting judgment, that ruling marks the first Climate Change lawsuit in which a domestic court found that its national government had a duty of care owed to citizens requiring the State to reduce carbon emissions. Moreover, the Lahore Green Bench has found that the Pakistan Government had a constitutional duty to protect citizens from climate impacts and ordered the Government to take concrete measures to do so. This was also the first Climate Change ruling based on the constitutional right to life. It was also the first to order the Government to implement a Climate Adaptation Plan and establish a Judicial Commission to supervise and report back to the Court on the implementation process.

So, the Judiciary can play an important role in shaping the potential global and national legal and policy regime to deal climate change and environment pollutions. At the same time Judiciary can compel the respective relevant actors to act in accordance with the obligations under international treaties and domestic legislations and make liable to compensate to the victims of climate impacts and environmental pollutions. This Conference would be useful for the Judges, lawyers, advocacy groups and experts to identify the potential ways to act to address loss of life, property, traditional livelihoods, values, culture, heritage and territory and damages including ecology, biology, biodiversity and so on resulting from environmental pollutions and climate change impacts.





**MESSAGE**



I am happy to learn that Bangladesh Supreme Court and Asian Development Bank (ADB) are jointly organizing the 'South Asia Judicial Conference on Environment and Climate Change' on 25-26 November 2016 in Dhaka. Bangladesh is one of the first countries that signed and ratified the Paris Agreement. Bangladesh is also the first country in the world to set up 'Climate Change Trust Fund' of US\$ 400 million from its own resources. Our Government has also achieved success in disaster management despite our coastal areas being highly vulnerable to climate related calamities. We have also put emphasis on measures like early warning system, cyclone shelters and river weeds cultivation to reduce loss of lives and properties in Bangladesh. A legislative framework will be required to achieve the goals of Paris Agreement and SDGs. I hope that the conference will examine the role of law in creating the necessary legal framework to support the implementation of Paris Agreement and SDGs, and flow of public and private sector climate finance for the LDCs.

I wish the 'South Asia Judicial Conference on Environment and Climate Change 2016' a grand success.

Joi Bangla, Joi Bangabandhu  
May Bangladesh Live Forever



Sheikh Hasina

**MESSAGE**

I am happy to learn that "South Asia Judicial Conference on Environment and Climate Change" will be held on 25-26 under the leadership of Bangladesh Supreme Court collaboration with Asian Development Bank (ADB).

Climate change-related loss and damage has been given formal recognition in the Paris Agreement, although the details of the mechanism to prevent and mitigate loss and damage referred to in Article 8 of the agreement have yet to be determined.

The Disaster Management Act of Bangladesh, adopted in 2012, marks an important shift in recognizing climate induced loss and damage as within the ambit of the definition of disaster.

Bangladesh prepared a National Adaptation Plan of Action (NAPA) in 2005 to address the adverse impacts of climate stimuli including climate variability and extreme events and to promote sustainable development. The NAPA process has been advanced through the adoption of the Bangladesh Climate Change Strategy and Action Plan (BCCSAP) of 2008 (reviewed in 2009).

The Government adopted legislation called the Climate Change Trust Fund Act in 2010 with a view to establish the Bangladesh Climate Change Trust Fund (BCCTF) to fund activities to address the adverse impacts of climate change.

Climate change and Disaster Reduction Risk (DRR) have also been highlighted in the seventh Five Year Plan (FYP) and the Outline Perspective Plan-Vision 2021 of the Government which were prepared by the General Economics Division of the Planning Commission. Both the 7th FYP and the Vision 2021 highlighted the need for capacity building on both DRR and climate change adaptation (CCA).


In 1992 the National Environmental Policy was drawn up with the aim of providing protection and sustainable management of the environment. The Government of Bangladesh has also adopted a number of supplementary policies where environment and development issues have been addressed. Important policy documents in this respect are the National Environment Policy (1992), Forest Policy (1994), the New Agriculture Extension Policy (1995), The Energy Policy (1995), the Fisheries Policy (1998), the Water Policy (1998), National Fish Policy (1998), National Water Supply and Drainage Policy (1998), National Agriculture Policy (1999), Industrial Policy (1999), National Drinking Water Policy (1999), National Naval Policies (2000), National Land Use Policy (2001), Renewable Energy Policy (2008), National Water Management Plan, Coastal Zone Policy.

Besides these sectoral policies, the National Conservation Strategy (NCS) and especially the National Environment Management Action Plan, 1995 (NEMAP), (1995-2005) have been formulated to provide action plans to respond to environmental issues and promote sustainable development. However, the Water Policy, the Fisheries Policy and Agriculture Policy have cross-sectoral approach and tried to address environmental issues.

National Biosafety framework is a step forward to ensure our national commitments towards the international environmental agreement like the Cartagena Protocol on Biosafety (CPB) to the Convention on Biological Diversity. Bangladesh ratified the CPB on 5 February 2004, which came into force in 5 May 2004. Being a party to the CPB, it is an obligation for each party to develop the National Biosafety Framework (NBF).

Bangladesh signed and ratified the Paris agreement on Climate Change which entered into force on 4 November, 2016. We have to implement its provisions, in a manner that respects climate justice. Participants explore the most important priorities for international legal research and collaboration, and how existing international law institutions, courts and tribunals can best support the Paris Agreement.

I wish a grand success to "South Asia Judicial Conference on Environment and Climate Change".



Abdullah Al Islam Jakob