

## ENVIRONMENTAL RIGHTS

# Climate change as a human rights concern

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Climate change is no longer solely an environmental issue; it has become a critical human rights challenge, especially for the most vulnerable communities. Its impacts—rising temperatures, sea-level rise, and extreme weather events threaten fundamental rights such as the rights to life, health, food, water, housing, and a dignified standard of living, as recognised in various international human rights instruments.

The international climate change regime has acknowledged this reality. The UN Human Rights Council (HRC), through Resolution 26/27 on Human Rights and Climate Change, recognised that climate change creates serious challenges to the enjoyment of human rights, including the right to life. The 2007 Male Declaration, the first intergovernmental declaration endorsed by small island developing states, marked a landmark moment in recognising climate change as an immediate threat to fundamental human rights. Similarly, the Preamble to the Paris Agreement 2015 urges nations to respect, promote and consider their respective obligations on human rights and gender equality when taking action to address climate change.

Guaranteeing climate-related human rights requires a two-fold approach: substantively



Netherlands (2019), a Dutch court ruled that the government had a legal duty to reduce greenhouse gas emissions.

The recent advisory opinion of the ICJ in July 2025 reaffirmed that states have a responsibility under international law to protect the climate from human-induced emissions for the benefit of present and future generations. If they cause significant harm, they bear responsibility towards affected States, especially vulnerable small islands, and impacted people. However, it is important to note that climate experts and environmental activists believe this will not bring much meaningful change or benefit for a small country like Bangladesh.

Thus, despite some positive efforts, many climate policies fall short in addressing human rights and social justice concerns, including loss of livelihoods, displacement, and limited access to resources and information for climate-vulnerable communities. Notably, climate displaced individuals are still not recognised as 'climate refugees' under the 1951 Refugee Convention. Moreover, there is no unified global environmental court to ensure consistent enforcement of environmental rights or address climate-induced human rights violations. Even domestically, in Bangladesh, although the Environment Court Act 2010 allows claims for compensation for environmental pollution under the Bangladesh Environment Conservation Act 1995, this is only possible through written reports by inspectors, which limits direct access to justice

for affected individuals.

Furthermore, climate change creates not only an immediate human rights crisis but also poses a major challenge to intergenerational justice. Thus, the rights of future generations must be considered as well. Traditional human rights laws focus on individuals, while climate law often emphasises community protection and long-term ecological sustainability. To ensure collective and generational justice, judicial activism, particularly through legal mechanisms such as Public Interest Litigation (PIL), has played an important role in shaping environmental rights in Bangladesh. Notably, in the landmark case of Dr. Mohiuddin Farooque v Bangladesh (1997), popularly known as the FAP-20 Case, the Appellate Division of the Supreme Court held that the right to life includes the protection and preservation of the environment and ecological balance.

Climate change cannot be addressed in isolation from human dignity, rights, and equality. Ensuring the right to participation, non-discrimination, and access to information is also essential for establishing effective, community-driven climate mechanisms. Additionally, Alternative Dispute Resolution (ADR) mechanisms may serve as effective tools in this context. Overall, effective climate governance must ensure that mitigation and adaptation strategies do not harm the very communities they are intended to protect, especially marginalised and vulnerable groups.

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realising the rights and procedurally ensuring access to remedies. Alongside other rights (e.g., the rights to life, health, and housing), substantive realisation involves either 'greening' existing rights by integrating environmental dimensions into them, or establishing a new, specific environmental right. Although both approaches remain anthropocentric, they also contribute to environmental protection. On the procedural side, affected individuals and communities must have the right to access legal remedies when their rights are violated due to environmental harm.

States, as duty bearers, have obligations under international human rights law to respect, protect, and fulfil human rights. Previously, the case law from the European Court of Human Rights (ECtHR) also reinforced this obligation and set an important precedent for climate-related human rights protections. In López Ostra v Spain and Fadeyeva v Russia, the Court held governments accountable for failing to prevent harmful pollution by private industries. Perhaps most notably, in the Urgenda Foundation v The State of The

## LAW MEMORIAL

## Remembering Obaidul Huq Chowdhury

### Founder editor of Dhaka Law Reports and pioneer of legal journalism

MD. KHURSHID ALAM KHAN

Thirty-eight years ago, on the 7th day of August, the founder editor of Dhaka Law Reports (DLR) Obaidul Huq Chowdhury, left this mortal world for his eternal abode. Today, we remember him with a deep sense of reverence. He founded the DLR to project the views of the then Dhaka High Court on legal jurisprudence.

The late Mr Chowdhury breathed his last at 8 pm (GMT) on 6 August 1987 in London. The DLR was virtually orphaned by his sad demise. He was a torchbearer of legal learning and also the father of legal journalism in this country. A gentle legal colossus as he was, he kept the flame of legal learning and research burning for nearly four decades. Indeed, it has been enormously difficult to fill the vacuum he left behind.

Late Mr Chowdhury was born in a noble Muslim family of the then Noakhali (at present Feni) in 1903. He began his career as an Advocate of the Calcutta



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High Court in 1935. After the partition of India and Pakistan in 1947, he came over to Dhaka and joined the University of Dhaka as a lecturer at the Department of Law. While practising law at the Dhaka High Court, he felt the necessity

and ideas against executive excesses towards curbing the independence of the judiciary. He has had to his credit copious editorial comments exposing such unfortunate excesses that resulted after the Fourth Amendment of the Constitution that introduced one-party rule. To the question of decentralisation, the octogenarian editor showed great anxiety, and he consistently termed the whole scheme to be ill-advised.

He played his role as the editor of the prime law journal as guardian and guide. The journal section of this publication is filled with articles and comments on

various legal matters. How much society has benefited from such writings calls for different inquiry, but he never fell behind in playing his part, going at times to the extent of waging war against undesirable laws.

This, he used to do in no half-hearted manner. His efforts were well-thought, consistent, and prudent. Illustrative in this context is his stance on the amendment brought through section 339C of the Code of Criminal Procedure 1898. He published a series of writings on the matter, arguing at one point that it made no sense for the accused to be released after a prolonged trial, only for it to be later claimed that the release order did not amount to an acquittal. He noted that the courts of law have to deal with human affairs, and it is not possible to anticipate how much time the disposal of a case might take as there are various factors involved potentially making any such prediction unreliable.

The editorial notes that he wrote tirelessly bear testimony to his outstanding legal research and vast erudition. The various commentaries across different branches of law manifest his great learning and scholarship in the domain of law.

Mr Chowdhury is no more with us. In remembering him on this solemn occasion, we believe the DLR will continue its journey to fight against the dark corners of our legal sphere, following the path he has shown to us. May his living example inspire us to emulation. We pray for his eternal peace.

*The writer is Senior Advocate, Supreme Court of Bangladesh, and Editor of Dhaka Law Reports (DLR).*

## LAW LETTER

## Gendered effects of environmental crises

Unfortunately, the gendered effects of climate disasters are ignored by national policies in Bangladesh. This happens although women are more likely to be victims of trafficking, violence, and displacement. According to the UN Women Rapid Gender Analysis following Cyclone Amphan, Gender Based Violence (GBV) increased by 65% in the affected areas after Cyclone Amphan. Another report by Action Aid in 2007 found that 71% of respondents said they experienced more abuse during natural disasters such as flood. Women are disproportionately endangered and silenced by overcrowded, hazardous shelters and poor menstrual hygiene.

Climate change intensifies gender-based human rights violations in Bangladesh's coastal districts. Cyclones, floods, and storm surges threaten women's rights to life, liberty, and security, while displacement increases their exposure to violence and insecurity. The right to an adequate standard of living is compromised by the loss of homes and livelihoods. Reproductive health dwindles due to saline water exposure and poor sanitation impedes menstrual hygiene. Climate impacts also lead to an increased school dropouts, threatening the right to education, while insecure housing and public spaces endanger privacy and social security. Moreover, economic desperation increases child marriage, breaching the right to free consent. Thus, an array of constitutional as well as fundamental human rights get violated.

**Disaster-prone areas must have access to gender-responsive healthcare, including trained professionals, reproductive and mental health assistance, and menstrual hygiene. Additionally, laws should ensure that women with disabilities, widows, and single mothers are prioritised when it comes to disaster assistance and social safety nets.**

Bangladesh lacks specific protections for women and girls, despite the obvious connections between GBV and climate disasters. Although it recognises the concerns of women and children, the 2009 Climate Change Strategy does not include sufficient gender-responsive strategies. Again, although the 2010 Climate Change Trust Act allocates funds for adaptation of the affected communities and mitigation of harm, it has not adopted a gendered lens as such.

I argue that there is an urgent need for a legal framework that is gender responsive. To acknowledge GBV as a recurring concern in climate crises, current disaster management laws and climate policies need to be modified. In addition to guaranteeing victim support services and expedited prosecutions, legislation should especially focus on all kinds of abuse, harassment, trafficking, and forced marriage in displacement contexts. To strengthen legal protection and responsibility, important laws such as the Nari O Shishu Nirjatan Daman Ain 2000 and the Domestic Violence (Prevention and Protection) Act 2010 should be amended to incorporate climate-induced displacement as an aggravating element.

National legislation must guarantee state accountability for protecting women in climate-vulnerable areas to fulfill our international commitments. Disaster-prone areas must have access to gender-responsive healthcare, including trained professionals, reproductive and mental health assistance, and menstrual hygiene. Additionally, laws should ensure that women with disabilities, widows, and single mothers are prioritised when it comes to disaster assistance and social safety nets. Lastly, it is necessary to enforce gender-sensitive infrastructure, such as safe water access, women-only cyclone shelters, and legislative protections for girls' education in times of crisis. Climate change will continue to exacerbate gender inequality drastically in Bangladesh unless laws are changed.

*Era Sharmila Khan  
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