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UNIVERSITY OF ASIA PACIFIC

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- 1. Internal Displacement in a Changing Climate: Legal and Policy Response of Bangladesh in the Context of International Norms** 01 - 14
Harisur Rohoman & Mahtabul Islam Mehedi
- 2. The Concept of Sustainable Development and its Relation with Environmental Protection and Economic Growth** 15- 35
Shahreen Shaily
- 3. Administrative Discretion and Procedural Rigor: A Critical Look at Bangladesh & Others v. Golam Mustafa** 36 -39
Rafia Tabassum

Internal Displacement in a Changing Climate: Legal and Policy Response of Bangladesh in the Context of International Norms

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**Mahtabul Islam Mehedi

Abstract

Climate change is adversely affecting Bangladesh, making it one of the most climate-vulnerable countries in the world with a growing number of Climate-induced displaced persons (IDPs). In Bangladesh, almost all IDPs are climate-induced migrants and by 2050 over 19.9 Million Bangladeshi might be internally displaced. This paper's primary aim is to critically analyze the current legal and policy framework of Bangladesh and compare it with the international Standards to identify protection gaps and provide recommendations for aligning with the international standards. This paper employs doctrinal methodology, comparing national and international frameworks concerning IDPs through content analysis methods and different theories utilizing secondary data based on qualitative research. This paper has significance in improving Bangladeshi legal mechanisms concerning IDPs and making necessary adjustments compared to the international framework which shall contribute to comprehensive adoption of climate-induced internal displacement.

Keywords: *Climate Change, IDPs, Protection and Legal Framework.*

Introduction

Among the multiple impacts of climate change, displacement creates a broad range of challenges, particularly in developing nations such as Bangladesh.¹ Climate-induced displacement means an individual or group of people leave their home or habitual residence temporarily or permanently within the state or cross international borders due to climate change.² The current legal framework and state practice distinguishes between those who cross international border lines as refugees and those displaced within their own country as IDPs.³ In Bangladesh, Internally Displaced Persons (IDPs) due to climate change are increasing at an alarming rate. In Dhaka city, almost 10 Million IDPs take shelter and around 2000 people seek shelter daily.⁴ It is the core obligation of the states to provide safeguards to IDPs,⁵ thus, Bangladesh is obliged to protect its IDPs. The UN Guiding Principle on IDPs is the primary framework to protect IDPs, though it is a soft law but it has instructive value in the case of analyzing the responsibility of the states to protect IDPs.⁶ Consequently, states have obligations to protect IDPs under other international legal instruments and customary international law.⁷ Bangladesh is a signatory party of the major climate change related international legal instruments such as UNFCCC, Kyoto Protocol and Paris agreement, and Bangladesh upheld several laws and policies following the obligations of these instruments.⁸ Moreover, it is always challenging for a developing country like Bangladesh to align and implement international standards as there are political challenges.⁹ The human rights of

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¹ Md. Abdul Awal Khan, 'Impact of climate change on human rights of the displaced people: Bangladesh perspective' (Ph.D. thesis, Western Sydney University 2015).

² M. Traore Chazalnoël and D. Ionesco, 'Defining Climate Migrants – Beyond Semantics' (IOM weblog, 6 June 2016) <<https://weblog.iom.int/defining-climate-migrants-beyond-semantics>> accessed 11 October, 2024

³ A. Williams, 'Turning the Tide: Recognizing Climate Change Refugees in International Law' (2008) 30 Law & Policy 4, 502

⁴ ByYazhou, 'Climate Migration Pushes Bangladesh's Megacity to the Brink (Bloomberg)' (*Mayors Migration Council*, 28 June 2022) <<https://mayorsmigrationcouncil.org/news/mepus806zp498tkoam3ihf6bulejy/>> accessed 11 October 2024

⁵ Menaka Lecamwasam, 'The Internally Displaced in South Asia: Lessons from Kampala' (2014) 15 Asia-Pac J on Hum Rts & L 147

⁶ P.L. Schmidt, 'The Process and Prospects for the U.N. Guiding Principles on Internal Displacement to Become Customary International Law: A Preliminary Assessment' (2004) 35 Geo J Int'l L 483.

⁷ Menaka Lecamwasam, 'The Internally Displaced in South Asia: Lessons from Kampala' (2014) 15 Asia-Pac J on Hum Rts & L 147

⁸ Md. Abdul Awal Khan, 'Establishing a Human Rights-Based Approach to Climate Change-Induced Internal Displacement in the Regime of Bangladesh: Challenges and Way Forward' in Stellina Jolly, Nafees Ahmad and Matthew Scott (eds) *Human Mobility in Asia and the Pacific: Interdisciplinary Rights-Based Approaches* (Springer, 2024)

⁹ UNHCR, 'Human Rights in Bangladesh: A Midterm Assessment of Implementation During the UPR 3rd Cycle' (2020) A/HRC/WG.6/30/BGD/1.

internally displaced persons remain unprotected as their legal status is not clearly indicated in the policy framework of Bangladesh.¹⁰ This paper aims to critically analyze Bangladesh's policy responses to climate-induced displacement and assess the nation's strategy regarding IDPs due to climate-related incidents to align it with international standards and frameworks to find shortfalls and possibilities for enhancement.

This paper employs a doctrinal research methodology, focusing on qualitative analysis utilizing primary sources like domestic legislations, policies, and international legal frameworks and also explores together with secondary literature to evaluate the alignment of Bangladesh's policies with international norms for the protection of climate-displaced populations. This paper is significant in addressing a pressing need for sustainable and rights-based policy adjustments for climate-induced displacement. The paper will contribute to revealing deficiencies in Bangladesh's policy framework to enhance strategies for managing internal displacement in a manner that aligns with international norms, potentially serving as a model for other nations confronting identical climate concerns.

Climate Disaster and Displacement in Bangladesh

Geographical position of Bangladesh makes it extremely susceptible to climate-induced disasters,¹¹ monsoon-related water flow patterns, the population's lack of technological and financial resilience, and insufficient policy execution to address these concerns,¹² and making it one of the nation's most expendable on disasters worldwide.¹³ As a result, the country experiences a variety of extreme weather events virtually annually, such as rivers, erosion of the coastline, hailstorms, cyclones, hurricanes, salinity, and floods.¹⁴

Bangladesh is positioned seventh globally among the countries most vulnerable to a climate disaster.¹⁵ There are some most vulnerable fields in Bangladesh, coastal region is one of

¹⁰ Md. Abdul Awal Khan, 'Impact of climate change on human rights of the displaced people: Bangladesh perspective' (Ph.D. thesis, Western Sydney University 2015).

¹¹ German Watch, 'Global Climate Risk Index' (*German Watch*, 25 January 2021) <https://germanwatch.org/sites/default/files/Global%20Climate%20Risk%20Index%202021_1.pdf> accessed 11 October 2024.

¹² Saleemul Huq and Golam Rabbani, 'Climate Change and Bangladesh: Policy and Institutional Development to reduce Vulnerability' (2011) 13 *Journal Of Bangladesh Studies*, 1

¹³ German Watch, 'Global Climate Risk Index' (*German Watch*, 25 January 2021) <https://germanwatch.org/sites/default/files/Global%20Climate%20Risk%20Index%202021_1.pdf> accessed 11 October 2024.

¹⁴ Mohammad Chhiddikur Rahman et al. 'Climate change and risk scenario in Bangladesh, 7 *Asia-Pacific Journal of Regional Science* 2, 381

¹⁵ The Climate Reality Project, 'How the climate crisis is impacting Bangladesh' (*The Climate RealityProject*, December 9, 2021) <<https://www.climateRealityProject.org/blog/how-climate-crisis-impacting-bangladesh>> accessed 12 Oct 2024

reasons for mainland regions' displacement.²⁴ In 2010, the number of IDPs was 675,113 and cross border displacement number was 218,656 just for tidal fool in coastal regions and 375,793 people were displaced internally, additionally, 125,264 people were displaced across the border for river erosion in mainland regions.²⁵ People were displaced from their local area to other areas within Bangladesh, notably to Dhaka.²⁶ Around 7.1 million Bangladeshis have been displaced in 2022 as an effect of climate change.²⁷

By 2050, it is predicted that climate change may result in displacement between 25 million and 1 billion, with an estimated 200-250 million people affected.²⁸ One in 45 individuals globally may be impacted by this, either temporarily or permanently, both within and across national borders.²⁹ However current displacement shows that internal displacement is larger in number than external.³⁰

International legal safeguards for Internally Displaced Persons

International agreements relating to development, disasters, and climate change have failed to address consistently and existing climate change treaties have also failed to formally acknowledge the displacement due to climate change, despite that their effects are widely acknowledged.³¹ Though there is no prompt recognition of climate-induced displaced people, some international documents address their rights indirectly.

The "Guiding Principles on Internal Displacement" is the first international instrument, which recognises the rights of IDPs and specifies the responsibilities of the state and provides guidance for other stakeholders such as international organizations and NGOs, where 30 principles stating the access of IDPs all over the world also recognize their rights and

²⁴ Ibid

²⁵ Ibid

²⁶ Ibid

²⁷ Researching Internal Displacement, 'Climate Induced Displacement in Bangladesh through the Lens of 'Loss and Damage' (*Researching Internal Displacement*, 2 May 2023) <https://researchinginternaldisplacement.org/short_pieces/climate-induced-displacement-in-bangladesh-through-the-lens-of-loss-and-damage/> Accessed 11 Oct 2024

²⁸ Mostafa Mahmud Naser, 'Protecting Climate Change Induced Displacement In Bangladesh: Legal And Policy Responses' (Ph.D. thesis, Macquarie University, 2012)

²⁹ Ibid

³⁰ Md. Abdul Awal Khan, 'Impact of climate change on human rights of the displaced people: Bangladesh perspective' (Ph.D. thesis, Western Sydney University 2015).

³¹ Emily Wilkinson, Amy Kirbyshire, Leigh Mayhew, Pandora Batra and Andrea Milan, 'Climate-induced migration and displacement: closing the policy gap' (*International Organization for Migration* October 2016) <<https://environmentalmigration.iom.int/sites/g/files/tmzbd11411/files/documents/2023-11/10996.pdf>> accessed 13 Oct 2024

guarantee their protection.³² These consist of the right to life,³³ liberty, and personal safety,³⁴ the right to a satisfactory quality of life, the right to movement, and the access to education.³⁵ It also considers the protection against displacement,³⁶ and protection during displacement.³⁷

In 2008, the United Nations Framework Convention on Climate Change (UNFCCC) assembly documents were for the first time formally recognised climate-induced migration and displacement.³⁸ Though the UNFCCC mainly emphasized on climate change prevention and adaptation, it indirectly promotes the protection of IDPs by emphasizing the significance of safeguarding vulnerable populations like women and children in climate-related policies and actions.³⁹ The Kyoto Protocol operationalizes the UNFCCC and obligates the state party to reduce emissions, fund adaptation initiatives, strengthen vulnerable regions with financial, technological, and green infrastructure support,⁴⁰ which implicitly reduces climate-induced displacement though it does not address IDPs due to climate change.

The Paris Agreement⁴¹ mandates that displacement linked to climate change be treated under the terms for loss and damage.⁴² Though it does not particularly provide a legal framework for IDPs, it also underlines the need for international cooperation in controlling climate migration, particularly using the development of national adoption policies.⁴³ In the framework of climate-induced displacement, it also promotes participatory methods in decision-making, therefore supporting the welfare and protection of IDPs.

³² UN Commission on Human Rights, 'Guiding Principles on Internal Displacement' (11 February 1998) UN Doc E/CN.4/1998/53/Add.2.

³³ UN Guiding Principles on Internal Displacement, Principle 10

³⁴ UN Guiding Principles on Internal Displacement, Principles 8,11

³⁵ UNHCR, Handbook on Procedures And Criteria For Determining Refugee Status and Guidelines on International Protection - UNHCR <<https://www.unhcr.org/sites/default/files/legacy-pdf/5ddfc47.pdf>> accessed 14 oct 2024

³⁶ UN Guiding Principles on Internal Displacement, Principle 5 to 9

³⁷ UN Guiding Principles On Internal Displacement, Principle 10 to 23

³⁸ Ibid

³⁹ United Nations Climate Change 'What is the United Nations Framework Convention on Climate Change?' (UNFCCC) <<https://unfccc.int/process-and-meetings/what-is-the-united-nations-framework-convention-on-climate-change>> accessed 13 Oct 2024

⁴⁰ United Nations Climate Change, 'What is the Kyoto Protocol?' (UNFCCC) <https://unfccc.int/kyoto_protocol#:~:text=In%20short%2C%20the%20Kyoto%20Protocol,accordance%20with%20agreed%20individual%20targets> accessed 13 Oct 2024

⁴¹ United Nations Framework Convention on Climate Change (UNFCCC), adopted 29 May 1992, entered into force 21 March 1994, 1771 UNTS 107, preamble para 3

⁴² Paris Agreement (2015), art. 8.

⁴³ Paris Agreement (2015), art.7.

As there is no specific protection framework for climate-displaced people, the United Nations High Commissioner for Refugees (UNHCR) plays a key role in how existing laws can be applied and improved to meet their protection needs.⁴⁴ The UNHCR is concerned for advocating, coordinating, and leading efforts to help IDPs. It also conducts operations for protection, camp management, and shelter for IDPs. Since 1971, the UNHCR has been involved in helping IDPs, and the UN General Assembly acknowledges its work as an essential part of its wider purpose, supporting that of other agencies.⁴⁵

The International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees the right to adequate standard of living which includes the right to food, clothing, and housing,⁴⁶ along with rights to health and education,⁴⁷ all of which are crucial for the well-being of IDPs, especially for the vulnerable, like women and children. While the International Covenant on Civil and Political Rights (ICCPR) does not address the rights of IDPs, it guarantees the right to non-discrimination,⁴⁸ which defends IDPs rights.

Domestic Legislation & Policies of Bangladesh

The state bears the responsibility to protect the fundamental human rights, therefore the legal framework and policies of the country should be consistent with human rights obligations.⁴⁹ The constitution of Bangladesh did not directly address the IDPs, however, the 15th amendment of the constitution included a new provision on protection and development of the environment as Fundamental Principles of State Policy.⁵⁰ As Bangladesh is the party of

⁴⁴Refugee Rights, 'Legal Action Agenda for Climate Displacement: United States, Latin America & the Caribbean' (*Refugee Rights*) <<https://refugeerights.org/wp-content/uploads/2024/03/Climate-Legal-Action-Agenda-English.pdf>> accessed 13 October 2024.

⁴⁵ UNHCR, 'UNHCR's Mandate for Refugees, Stateless Persons and its role in IDPs solution' (*Emergency Handbook*)

<<https://emergency.unhcr.org/protection/legal-framework/unhcr%E2%80%99s-mandate-refugees-and-stateless-persons-and-its-role-idp-situations#:~:text=Bound%20by%20legal%20instruments%20and,another%20UN%20entity%20or%20actor>> accessed 13 October 2024.

⁴⁶ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art 11

⁴⁷ Ibid, art 12 and 13

⁴⁸ Ibid, art 3

⁴⁹ Sompong Sucharitkul, 'State Responsibility and International Liability under International Law' (1996) 18 Loyola of Los Angeles Int'l. & Comp. L.J. 821

⁵⁰ *The Constitution of the People's Republic of Bangladesh*, Art, 18A states that 'The State shall endeavour to protect and improve the environment and to preserve and safeguard the natural resources, bio-diversity, wetlands, forests and wildlife for the present and future citizens.'

ICCPR,⁵¹ ICESCR,⁵² and has ratified the Kyoto Protocol,⁵³ and UNFCCC,⁵⁴ therefore, Bangladesh must align its legal framework and policies following these international instruments. Under the obligations of these instruments, Bangladesh has developed its legal framework and policies as follows:

i) The Disaster Management Act, 2012 (DMA)

The DMA is a significant legal development in domestic legislation in Bangladesh. This Act was enacted to reduce, conducting post-disaster recovery and rehabilitation programs and coordinating the activities of the government and NGOs, etc.⁵⁵ Adopting DMA, the definition of climate-induced vulnerabilities has been expanded.⁵⁶ The Disaster Management Council and Disaster Management Directorate have been formed under this Act.⁵⁷ Moreover, the DMA identified the disaster-induced displacement and the responsibility of the National Disaster Response Coordination Group has been mentioned including providing resources, shelter and services.⁵⁸

ii) Climate Change Trust Fund Act, 2012

The Climate Change Trust Fund Act, 2012 was enacted to address the adverse effects of climate change.⁵⁹ Trust fund is designated for addressing and dealing with climate change risks,⁶⁰ and various projects are mentioned in this Act,⁶¹ but nothing is directly mentioned about the protection of IDPs. This Trust has expanded millions of dollars in several hundred

⁵¹ UN Treaty Collection, 'International Covenant on Civil and Political Rights' (UNTC, 6 September 2000) <https://treaties.un.org/PAGES/ViewDetails.aspx?chapter=4&clang=en&mtdsg_no=IV-4&src=TREATY> accessed 20 October 2024

⁵² UN Treaty Collection, 'International Covenant on Economic, Social and Cultural Rights' (UNTC, 5 October, 1998) <https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-3&chapter=4> accessed 20 October 2024

⁵³ UN Treaty Collection, 'Kyoto Protocol to the United Nations Framework Convention on Climate Change' (UNTC, 22 October, 2001) <https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=xxvii-7-a&chapter=27&clang=en> accessed 20 October 2024

⁵⁴ United Nations Climate Change, 'Parties to the United Nations Framework Convention on Climate Change' (UNFCCC, 22 October, 2001) <<https://unfccc.int/process/parties-non-party-stakeholders/parties-convention-and-observer-states>> accessed 20 October 2024

⁵⁵ The Disaster Management Act, 2012, Act no 34 of 2012, *Preamble*.

⁵⁶ Abdullah Al Faruque, *Environmental Law: Global and Bangladesh Context*, (1st edn, New Warshi Book Corporation, 2017) 280, *see also*: The Disaster Management Act, *section 2(11)*

⁵⁷ The Disaster Management Act, *section 4 & 7*

⁵⁸ *Ibid*, *section 16*

⁵⁹ The Climate Change Trust Act, 2012, *preamble*

⁶⁰ *Ibid*, *section 6*

⁶¹ *Ibid*, *section 7*

projects by different ministers of the Government of Bangladesh (GoB) and different NGOs. However, Transparency International Bangladesh (TIB) raises concerns about the misallocations of trust funds.⁶²

iii) National Strategy on Internal Displacement Management, 2021 (NSIDM)

The National Strategy on Internal Displacement Management, 2021 (NSIDM) is the key policy to address IDP matters, and it is adopted to develop policies and action plans to minimize IDPs, ensure resettlement and integrate IDPs into the Development Program.⁶³ Moreover, NSIDM set guiding principles that emphasized the responsibility of the state such as preventing displacement, protecting the people during displacements and providing durable solutions.⁶⁴ Furthermore, NSDIM also focused on the Institutional arrangement and monitoring and evaluation.⁶⁵ To implement the NSIDM, the National Action Plan (NAP) (2022-2042) also has been adopted.⁶⁶ NAP emphasized the NSIDM's three guiding principles, such as

- a) In the 'preventing displacement' phase the National Action Plan emphasized the protective strategies to address the root cause of displacement and mitigate the risk. It includes understanding risk, climate and disaster risk governance, disaster risk reduction (DRR), climate change adoption (CCA) and creation of employment.⁶⁷
- b) The key priority of National Action in the 'protection during the displacement' stage, is to strengthen humanitarian and disaster relief activities. Most significantly, in this phase, the National Action Plan also focused on safeguarding the fundamental human rights of the displaced individuals.⁶⁸
- c) The objective of the 'durable solution' phase is to resettle displaced persons and uphold fundamental rights; the strategic response involves three key steps such as

⁶² Saleemul Huq 'Climate Finance in Bangladesh' *The Daily Star* (Dhaka, 16 April 2016)

⁶³ Ministry of Disaster Management and Relief, Government of the People's Republic of Bangladesh, National Strategy on Internal Displacement Management (2021), P 29

⁶⁴ Ibid, P 10

⁶⁵ Ibid, P 40

⁶⁶ Ministry of Disaster Management and Relief, Government of the People's Republic of Bangladesh, National Adaptation Plan of Bangladesh (2022)

⁶⁷ Ministry of Disaster Management and Relief, Government of the People's Republic of Bangladesh, *NSIDM*, P 13

⁶⁸ Ministry of Disaster Management and Relief, Government of the People's Republic of Bangladesh, National Adaptation Plan (NAP), (2022- 2022)

return to their original area, integration in local communities if return is not possible and relocation and planned rehabilitation if return and integration is not possible.⁶⁹

iv) Bangladesh Climate Change Strategy and Action Plan (BCCSAP), 2009

Bangladesh Climate Change Strategy and Action Plan (BCCSAP) is one of the main policies to address climate change challenges. BCCSAP's primary objective is to enhance the ability of Bangladesh to respond to the adverse impact of climate change.⁷⁰ The BCCSAP is structured in six pillars, including food security, social protection and health, disaster management, infrastructure, research and knowledge management, mitigation and low carbon development, Capacity building and institutional development.⁷¹ Moreover, under this structure, 44 programs are listed in BCCSAP. Still, there is a gap in national and sectoral policies, plans and practices due to the implementation process and coordination gap despite the several programs and projects listed in BCCSAP.⁷² Among the six pillars, food security, social protection and health receive the lowest priority.⁷³

V) National Adaptation Plan (NAP), 2023-2050

The National Adaptation Plan (NAP) serves as a significant policy to respond to climate change challenges and to fulfil the obligations of the state to comply with international standards. It is centered on eight specific areas and designed to accomplish six targeted goals, including protection from adverse effects of climate change, climate-resilient agriculture, building climate-smart cities, ingratiation adaptation into planning, and promoting capacity-building and adoption.⁷⁴

Incongruities between Domestic and International Legal Framework

⁶⁹ Ministry of Disaster Management and Relief, Government of the People's Republic of Bangladesh, *NSIDM*, P 29

⁷⁰ Ministry of Disaster Management and Relief, Government of the People's Republic of Bangladesh, Bangladesh Climate Change Strategy and Action Plan (BCCSAP), 2009

⁷¹ Ibid

⁷² Shakila Yasmin, 'Implementation of Bangladesh Climate Change Strategy and Action Plan (BCCSAP, 2009): Gaps between Policy and Practices' (2018) 3

European Journal of Social Sciences Studies 4, 25.

⁷³ Md.Abdul Awal Khan, 'Establishing a Human Rights-Based Approach to Climate Change-Induced Internal Displacement in the Regime of Bangladesh: Challenges and Way Forward' in Stellina Jolly, Nafees Ahmad and Matthew Scott (eds) *Human Mobility in Asia and the Pacific: Interdisciplinary Rights-Based Approaches* (Springer, 2024)

⁷⁴ Ministry of Disaster Management and Relief, Government of the People's Republic of Bangladesh, National Adaptation Plan (NAP) (2023– 2050), 2023.

However, there are many international legal frameworks on IDPs that are not comprehensive; the UN Guiding Principles on Internal Displacement provide comprehensive guidance through removing those gaps. Although Bangladesh has adopted several policies on climate-induced displacements, such as BCCSAP, NAP, SOD, NPDM, etc., that did not address IDPs exhaustively, NSDIM delivers prospective development directions and an effective framework for addressing internal displacement. Although Bangladesh has made considerable progress, the implementation mechanism is still lacking. The following analysis will address the alignment of Bangladeshi legal and policy framework with international standards.

a. Recognition of IDPs

The UN Guiding Principles guide all kinds of IDPs; it defines IDPs as groups of persons or individuals who have been forced to flee from their habitual residence due to conflict, human rights violation and disaster but without crossing international border lines.⁷⁵ It further identifies the rights and protection of IDPs and assistance during displacements, resettlement and reintegration phases.⁷⁶ On the other hand, the NSDIM focused only on climate-induced displacement IDPs.⁷⁷ The NSDIM is defined IDPs as, a group of people, entire communities or any person who has been forced or required to relocate from their habitual residence either temporarily or permanently within Bangladesh as a result of sudden climate events.⁷⁸ Both UN Guiding Principles and NSDIM recognize IDPs with comprehensive protection mechanisms. However, NSDIM particularly focuses on climate-induced IDPs.

b. Human Rights

The Guiding Principles on Internal Displacement underscore the equal rights of IDPs to access the same freedoms as other citizens without discrimination, especially to vulnerable groups, including women, children, and disabled persons.⁷⁹ They ensure the right to an adequate standard of living, which includes access to food, water, healthcare, and shelter.⁸⁰ Additionally, they uphold the right to legal recognition,⁸¹ thereby ensuring the protection of

⁷⁵ UN Guiding Principles, Principle 1

⁷⁶ UN Guiding Principles, Principle 2

⁷⁷ Ministry of Disaster Management and Relief, Government of the People's Republic of Bangladesh, *National Strategy on Internal Displacement Management* (2023) P 5.

⁷⁸ Ministry of Disaster Management and Relief, Government of the People's Republic of Bangladesh, *NSDIM*, P 7

⁷⁹ UN Guiding Principles on Internal Displacement, Principle 4

⁸⁰ *Ibid*, Principle 19

⁸¹ *Ibid*, Principle 20

their identity and property.⁸² It also guaranteed their right to education, freedom of movement, and participation in public life,⁸³ with particular focus on safeguarding children's education during periods of displacement.⁸⁴

Complying with the guidelines NSIDM reflects these rights through established national policy. This ensures the safety and security of IDPs, provides adequate temporary shelter, and facilitates access to essential services such as food, water, and healthcare.⁸⁵ The policy also ensures access to education for displaced children and offers vocational training to improve employment prospects for IDPs.⁸⁶ Both frameworks emphasize the protection of human rights, with NSIDM providing practical, sector-specific solutions for the internally displaced population in Bangladesh.

c. Institutional Mechanism

UN guiding principles emphasized that primary responsibilities lay on the state to develop a legal framework and international mechanism for managing IDPs and preventing displacement, particularly protecting their human rights and ensuring the basic necessities.⁸⁷

Following the UN Guiding principle, NSIDM proposed the National Task Force on Displacement and Technical Advisory Committee and other institutional arrangements including coordination with the concerned Ministries.⁸⁸ However, these bodies do not have operational mechanisms, which could lead to a lack of accountability and create obstacles to achieving the goal set by NSIDM.

Efficient communication and cooperation among government entities, civil society organizations, and affected communities are essential for resolving climate-induced displacement.⁸⁹ Though NSIDM strategizes communications and cooperation, a systematic multi-stakeholder strategy, including international organizations, local government, and NGOs, should be developed to improve planning and response frameworks for climate-induced displacement.⁹⁰

⁸² Ibid, Principle 21

⁸³ Ibid, Principle 22

⁸⁴ Ibid, Principle 23

⁸⁵ Ministry of Disaster Management and Relief, Government of the People's Republic of Bangladesh, *NSIDM*, P 26-27

⁸⁶ Ibid

⁸⁷ UN Guiding Principles on Internal Displacement, Principle 3

⁸⁸ Ministry of Disaster Management and Relief, Government of the People's Republic of Bangladesh, *NSIDM*, P 38-39

⁸⁹ Ibid

⁹⁰ Mostafa Mahmud Naser 'Climate Change and Migration: Law and Policy Perspectives in Bangladesh'(2015) 2 Asian Journal of Law and Society 1, 35

All stakeholders are not involved in the monitoring and evaluation procedure, which creates significant challenges to ensure transparency and accountability. Moreover, there is no elaborate instruction regarding how coordination will be achieved and what the procedures are, and lack of coordination amongst the stakeholders creates significant obstacles, especially across sectors like employment, housing and land.

d. Durable Solutions

UN Guiding Principles suggest to the concerned authorities to ensure that IDPs can return to their home voluntarily and safely with dignity as well as resettlement and reintegration.⁹¹ It further suggests ensuring equality regarding public participation and assisting to recover their property and land.⁹² The NSIDIM aligns with the IASC Framework on Durable Solutions for IDPs,⁹³ which sets guidance and criteria regarding durable solutions. Following the guidance of the IASC Framework, the NSIDM emphasized three types of durable solutions, including voluntary return, local reintegration and planned relocation.⁹⁴ Moreover, NSIDM underscores voluntary and well-informed consent of IDP regarding any durable solutions.⁹⁵

⁹¹ UN Guiding Principles on Internal Displacement, Principle 28

⁹² Ministry of Disaster Management and Relief, Government of the People's Republic of Bangladesh, *NSIDM*, P 29

⁹³ Ministry of Disaster Management and Relief, Government of the People's Republic of Bangladesh, *NSIDM*, P 24

⁹⁴ Ministry of Disaster Management and Relief, Government of the People's Republic of Bangladesh, *NSIDM*, P 29

⁹⁵ *Ibid*

Conclusion:

Resulting from the adverse impact of climate change, the number of IDPs is increasing at an alarming rate and their normal life is disrupted by changing their place of normal residence. Moreover, their human rights, including housing, employment, education, and health, are at risk. Being a party to several international treaties, Bangladesh has obligations to adapt its domestic legal and policy frameworks following these agreements. Moreover, IDPs are recognized in a few policies. However, they require recognition in specific legal statutes, such as DMA. Furthermore, the law and policies, i.e. DMA and NSIDM, have laid the groundwork but remain challenges to implement. These laws and policies focused on disaster management, relief distribution and rehabilitation programmes; however, they often failed to comply with treaty obligations and vulnerabilities of IDPs. Moreover, implementation of legal & policies is quite difficult in Bangladesh due to lack of funds, lack of evaluation and monitoring mechanisms and coordination with stakeholders. To ensure the efficacy of resettlement initiatives, the government must implement climate displacement policies with absolute transparency and accountability. Independent monitoring organizations should be established to supervise the distribution of funding and the execution of relocation initiatives, thereby reducing corruption in the process.

The Concept of Sustainable Development and its Relation with Environmental Protection and Economic Growth

* Shahreen Shaily

Abstract

Sustainable development is the notable topic in recent years. In modern era, environment, economy and social improvement are important elements and they are considered as the pillars of sustainable development. Sustainable development advocates for balancing among these elements. Sustainable development works to improve economic and social progress along with not to degrade the environment. Economic prosperity and environmental protection can be achieved by applying the concept of sustainable development. Nevertheless, many people define sustainable development, environment protection and economic growth in many ways. It becomes necessary to have knowledge about sustainable development, its meaning, objectives, processes and outcomes linked to its three pillars. It is also essential to know the principles of environment and economic growth, the relationship of those with sustainable development. This paper focuses on sustainable development, its principles, pillars and goals. This paper also emphasize the essentials of environmental protection, the importance of economic growth, the relationship between economic and environment with sustainable development and international framework regarding these fields. This paper also focuses the challenges in applying sustainable development. This paper draws upon primary sources such as laws, treaties, conventions, judicial decisions as well as secondary sources such as text books, journals, articles, internet sources etc. The implementation of sustainable development in both developing and developed countries is not easy. The object of this paper is to describe the importance of sustainable development, challenges in its implementation on developing countries and developed countries, and provide recommendation for those countries. It also provides recommendation for Bangladesh.

Keywords: *Sustainable development; environmental protection; economic growth; social well-being*

Introduction

Economic growth helps a country to enhance the living condition of people, progress in social life. It also helps a country to make a position in the world. But economic development has inverse proportional relation with environment. When a country tries to improve economic condition, it effects environment. Because development projects of a country may result rising temperature, rapid urbanization, cutting down the trees, climate change etc. But, sustainable development is a method that supports economic development and social well-being while ensuring environment protection. The Brundt-land Commission defined the concept of sustainable development in 1987, stating that sustainable development fulfills the demands of present and upcoming generation without ignoring the upcoming generation's needs¹ Sustainable development promotes economic development while considering the environment at a same time. Environment needs to be protected for future generations. If present generation, by their developing project, hampers the environment than the future generations will suffer most. It is the time; present generation needs to think about future generation so that they can enjoy the environment like present generation or in better way in future. From time to time, that idea has been introduced in national and international legislations. In 2015, all member states of United Nations, endorsed the 2030 Agenda, which includes 17 goals related to sustainable development.² Sustainable development has also introduced in Rio Declaration, 1992. Bangladesh, as a developing country, also introduces the concept of sustainable development. Article 18A, of the Constitution of Bangladesh³, mandates the state to protect, preserve and enhance the environment including the natural resources, biodiversity, wetlands, forests and wildlife, for the benefit of present and future citizens. Though the idea of sustainable development is widely acknowledged, there are many issues in implementing sustainable development, especially for developing country like Bangladesh. Sustainable development is a concept that supports both environmental protection and economic development for ensuring the demands of the present and future generations. But there is a challenge in implementing that concept in both developing and

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¹ Michelle E. Jarvie, 'Brundtland Report' (*Britannica*) <[Brundtland Report | Sustainable Development & Global Environmental Issues | Britannica](#)> accessed 5 January 2024

² 'The 17 Goals' (*United Nation Development Porgramme*) <<https://sdgs.un.org/goals>> accessed 10 January 2024

³ Article 18A, The Constitution of the People's Republic of Bangladesh

developed countries. This paper aims to explore the challenges of implementation faced by developing countries and developed countries and to give suggestion for developing and developed countries. It also provides the suggestion for Bangladesh.

Sustainable Development, its Principles, Pillars, Goals

Sustainable development does not have a conclusive definition that has been widely accepted. The UN in 1983 established a commission named Brundtland Commission who introduced the sustainable development in 1987.⁴ That concept also introduced in the Rio Declaration, 1992 and Agenda 21. The Brundtland Commission, in its report titled 'Our Common Future'⁵ defined sustainable development as process of development which aim to fulfill the demands of present and upcoming generation without limiting the ability of upcoming generation's needs. In the Rio Declaration, 1992 further elaborates that, the right to development must be entertained with consideration the developmental and environmental needs of the present and future generation.⁶

The above definition contains some principles and these are, Principle of intergenerational equity (need to preserve environmental resources for upcoming generations), Principle of sustainable management (use the environmental resources in efficient, careful, logical, reasonable way), Principle of equitable use (resources used by one state must be aligned with the needs of another state), Principle of integration (Environmental factors need to be incorporated with economic and other development plans, and development needs must be kept in mind when implementing environmental goals)⁷.

Sustainability fundamentally involves achieving equilibrium among three dimensions: the economy, the environment, and society.⁸ This means that in order to attain sustainability, economic growth, environmental protection and social well-being are required to be present. Hence for sustainable development of states these pillars need to be balanced. Sustainable

⁴ Deeksha Dixit, 'Brundtland Commission: History, Significance, Report, and Sustainable Development' (*Physics Wallah*, 19 November 2024) < <https://www.pw.live/exams/upsc/brundtland-commission/>> accessed 10 October 2024

⁵ U.N. World Commission on Environment and Development, *Our Common Future: Report of the World Commission on Environment and Development* (U.N. Doc. A/42/427, 1987)

⁶ Principle 3, Rio Declaration, 1992

⁷ 'Environmental law principles sustainable development' (*Development Asia*)

< <https://events.development.asia/system/files/materials/2016/12/201612-environmental-law-principles-sustainable-development.pdf>> accessed 11 October 2024

⁸ Stephanie Safdie, 'What are the Three Pillars of Sustainable Development?' (*greenly Institute*, Jul 3, 2024) < <https://greenly.earth/en-us/blog/company-guide/3-pillars-of-sustainable-development>> accessed 12 October 2024

development may collapse if policies are only based on one or two pillars. For example, if the policies only give priority to the economic and social prosperity without considering the environment than there has possibility of increasing carbon di-oxide, green house emission, rising temperature etc. On the other hand, if the policies only consider environment, it may hamper social and economic development and may cause poverty, reducing the living standards etc. So, by balancing three pillars, sustainable development is introduced which not only ensure the need of present but also meet the need to the future generations.

Politicians around the world have been working to create economic liberalization, environmental preservation, and social liberalization. Leaders of 189 nations, met at the United Nations headquarters in New York in September 2000 to sign the Millennium Declaration,⁹ and they adopted eight development goals. These goals aimed to reduce poverty, child mortality, and gender equality by 2015. But these goals were limited and not fully successful to achieve its aim. Later, global leaders agreed to advance those goals and finish the tasks that, they did not succeed through the MDGs. Thus, they introduced a new worldwide program with 17 Sustainable Development targets and 169 other targets by considering the three interconnected and harmonious components of sustainable development: environmental, social, and economic.¹⁰

Different Principles of Environmental Protection

Human welfare is influenced by the environment, just as economic progress affects how well people live their lives. An essential component of human life is the environment. Environment is the fundamental part of the sustainable development and cannot be kept separated from it.¹¹ There are some principles which help to protect the environment. They are: Inter-Generational and Intra-Generational Equity, Cooperation, and Common but

9 'From MDGs to SDGs' (*Sustainable Development Goal Fund*) < <https://www.sdgfund.org/mdgs-sdgs>> accessed 12 October 2024

10 'Transforming Our World: the 2030 Agenda for Sustainable Development' UNGA Res. 70/1 (25 September 2015) A/RES/70/1 <https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf> accessed 12 October 2024

¹¹ Principle 4, Rio Declaration, 1992

Differentiated Responsibilities, Precaution, Polluter Pays Principle, Prevention, Transparency, Public Participation and Access to Information and Remedies.¹²

Inter-Generational and Intra-Generational Equity

Intra-generational equity ensures fairness and justice among the communities of present generation.¹³ Inter-generational equity reflects the rights and duties of current and upcoming generation towards the use of environment.¹⁴ Intra-generational equity ensures equal distribution according to fair justice among the states and inter-generational equity ensures the right of the future to use natural resources. That principle inspires to protect the environment for the present generation to use the resources in equal manner and to save the resources for the future generations.

Cooperation, and Common but Differentiated Responsibilities

Rio Declaration obliges the states co-operation in a form of global partnership to strengthen, conserve and restore the Earth's ecosystems. States share common but in different ways responsibility for the distinct roles they play in escalating environmental degradation. The developed countries necessary to recognize the role which they have to play in the promotion of sustainable development due to the impacts on the world environment, and also introduce the method of technology and financial capabilities available to them.¹⁵ The concept recognizes that although all states have a common responsibility to work together for the benefit of all peoples, states differ in their capacity and accountability. Due to the fact developed countries formulated more resources and prior discharges it is conventional for them to be required to pay precisely, whereas, developing countries would require help and less severe obligations.

Polluter Pays Principle

¹² 'UNEP Training Manual on International Environmental Law' (*UN Environment Programme*, 9 February 2006)

<<https://www.unep.org/resources/report/unep-training-manual-international-environmental-law>> accessed 12 October 2024

¹³ 'intra-generational equity' (*IPBES Secretariat*)

<<https://www.ipbes.net/glossary-tag/intra-generational-equity#:~:text=Asia%2DPacific%20assessment-.Intra%2Dgenerational%20equity%20relates%20to%20notions%20of%20fairness%20and%20justice,the%20use%20of%20the%20environment.>> accessed 12 October 2024

¹⁴ Ibid

¹⁵ Principle 7, Rio Declaration, 1992

Polluter pays principle mention in Rio Declaration. The state, that pollutes the environment, must be held liable for its pollution and should pay the cost by taking into account of public interest and international trade and investments.¹⁶ Polluters are held liable for their activities and are encouraged to prevent environmental degradation by putting this principle into practice. The principle's application states that polluters are liable to bear expenditures for the activities which result the pollution.¹⁷ The nation will incur costs that are commensurate with its pollution levels. No nation will assume accountability for the pollution of another.

Precaution

When there is possibility of any potential harm, but the approach to restrain that harm has not been identified, doing anything rather than remaining silent is known as precaution. Rio Declaration supports the precautionary principle. For the protection of environment, the state shall need to apply that principle according to its capacity where there is no scientific approach of any serious or irreversible damage.¹⁸ When there is no scientific technique available, the precautionary principle, an approach to risk management, is used in emergency situations to save the environment.¹⁹ Doing something to protect the environment is better than doing nothing and that is supported by the precautionary principle.

Prevention

In all ways, prevention is better than cure. Prior to implementing environmental protection measures against pollution, it is essential to ensure that pollution does not occur due to any activity. Experience and scientific expertise indicate that, for both ecological and financial reasons, preventing environmental harm ought to be the "Golden Rule" for the environment.²⁰ It applies before any environmental damage took place. Many countries introduce this

¹⁶ Principle 16, Rio Declaration, 1992

¹⁷ European Union's special report 12/2021' 'The Polluter Pays Principle: Inconsistent application across EU environmental policies and actions' (*European Courts of Auditors*) <https://www.eca.europa.eu/lists/ecadocuments/sr21_12/sr_polluter_pays_principle_en.pdf> accessed 13 October 2024

¹⁸ Principle 15, Rio Declaration, 1992

¹⁹ Prमित Bhattacharya 'Analysis Of The Precautionary Principle' (*iPleaders Blog*) <<https://blog.ipleaders.in/analysis-precautionary-principle-environmental-law-instrument/>> accessed 12 October 2024

²⁰ 'UNEP Training Manual on International Environmental Law' (*UN Environment Programme*, 9 February 2006) <<https://www.unep.org/resources/report/unep-training-manual-international-environmental-law>> accessed 13 October 2024

principle in their framework. Principles of preventive and precaution are intimately associated and to understand in better way an example has been mention here. The idea that chlorofluorocarbons might destroy the ozone layer was widely held (without proof) throughout the world in the 1970s.²¹ The precautionary principle refers to safeguarding the environment before scientific proof that chlorofluorocarbons are destroying the ozone layer. However, by the late 1980s, research had shown that exposure to UV radiation brought on by the stratosphere's ozone layer being destroyed increased the risk of skin cancer and cataracts in both people and animals.²² Here scientific evidence proved the danger, prohibit using chlorofluorocarbons and thus way introducing the prevention principle.

Transparency, Public Participation and Access to Information and Remedies

Rio Declaration mentions that the most effective method to address environmental challenges is to involve all interested citizens at the appropriate level.²³ Persons at the state level must have proper access to environmental data held by state authorities, including details about dangerous substances and engagements occurring in their local communities, as well as an opportunity to take part in policy-making procedures.²⁴ To advance and advocate public knowledge and engagement states must make information easy and accessible.²⁵ There must be efficient access to legal and administrative processes, as well as redress and remedies.²⁶ Transparency prescribes that the governments and organizations participate in discussion honestly and freely about all the information and people are able to witness the decision making process and their justifications. Public participation means participation right in the process of decision making. Access to information also ensures the right to know any information and the laws, regulations and principles etc. from the public authorities. Justice or reparation is ensured for everyone who believes their rights have been violated by having access to remedies.

²¹ 'Principles of EU Environmental Law' (*era-commu.eu*)
<https://www.era-commu.eu/Introduction_EU_Environmental_Law/EN/module_2/module_2_9.html#:~:text=The%20prevention%20principle%20aims%20to,environmental%20damage%20before%20it%20happens> accessed 13 October 2024

²² 'Principles of EU Environmental Law' (*era-commu.eu*) <https://www.era-commu.eu/Introduction_EU_Environmental_Law/EN/module_2/module_2_9.html#:~:text=The%20prevention%20principle%20aims%20to,environmental%20damage%20before%20it%20happens> accessed 13 October 2024

²³ Principle 10, Rio Declaration,1992

²⁴ Ibid

²⁵ ibid

²⁶ Ibid

Economic Development and its significance

Economic development is a much discussed topic but there is no recognized definition of economic development. Firstly, the study of economic development has become an interdisciplinary area of scientific study with an emphasis on the political, legal, social, cultural, managerial, economics.²⁷ Economic development is the process through which low-income countries rise to high-income status, enhance the general public's health, well-being, and academic standing, and encourage innovation and technological advancements that give rise to new business ventures and employment opportunities.²⁸ The expansion of human capital and education, countries GDP (Gross Domestic Product), assistance for start-ups and the industrial sector, infrastructural improvements, technological advancement and innovation, global integration and commerce, and other factors can all lead to economic development.²⁹

The economic status is improved by investing in human capital through better education and vocational training. Due to its large educational investments, South Korea observed rapid economic expansion and the production of a highly skilled labor force. Dr. SooBong Uh, of the Korea University of Technology and Education, supports to use money in learning rather than keep it on the bank.³⁰

Economic growth depends on country's GDP (Gross Domestic Product). When GDP increases, a country's economic condition is considered developed. A growth in the total economic output of a country is reflected in an increasing GDP. GDP increases when there is

²⁷ Eli Levine, Michele Tantardini, 'Defining and Measuring Economic Development: A Literature Review and Outlook' 9(3) JPNA

²⁸ 'What is economic development? Definition and examples' (*Market Business News*) <[What is economic development? Definition and examples - Market Business News](#)> accessed 13 October 2024

²⁹ 'Pathways to Economic Growth: Top 7 Strategies for a Flourishing Society' (*London Premier Centre, 02 February 2024*) <[³⁰ 'South Korean Education Reforms' \(*Asia Society*\) <\[22\]\(https://asiasociety.org/global-cities-education-network/south-korean-education-reforms#:~:text=The%20Korean%20government%20spends%203.4,rankings%20of%20entering%20teacher%20salaries.> accessed 14 October 2024</p></div><div data-bbox=\)](https://www.lpcentre.com/articles/pathways-to-economic-growth-top-strategies-for-a-flourishing-society#:~:text=Investing%20in%20education%20and%20human,ability%20to%20finance%20sustainable%20projects.> accessed 14 October 2024</p></div><div data-bbox=)

more money in domestic sectors, which implies that legal entities can boost their profits and, as a result, raise wages or even employ more staff.³¹

The law of demand and supply integrates two essential principles of economics that explain the effects of price fluctuations on a resource, commodity, or product.³² When supply exceeds demand, the surplus product can be exported to foreign markets, leading to economic growth.

Infrastructural improvements are one of the elements for economic development. Infrastructure improvement indicates the improvement of country's basic structure like improve the transportations, power, energy management, communication, networking systems, transactions etc. Enhanced transportation systems diminish costs and time associated with transit, facilitating the movement of goods and services both domestically and globally. Improving communication both domestically and globally promotes the growth of trade and business. Gigantic Physical Infrastructure Development supports China's running high economic growth and improved manufacturing competitiveness.³³

Economic development has the significance in various area like removing poverty, increase the living standards, ensure regional development, make effective participation on competitive world, political stability etc.

The relationship between Environment and Economy with Sustainable Development

Environment and economics are closely connected with one another. A nation's natural resources determine how its economy will develop. A country's economic strategy determines how favorable its environment will be. By the rapid economic growth, short-term developing project effects negatively on environment. For example, a nation can absorb two tons of carbon dioxide, but if more than that amount is released due to economic development projects, it can harm the environment and may cause many natural calamities like droughts,

³¹ Thomas W. 'What is economic growth and how can it improve living standards?'(My tutor) <<https://www.mytutor.co.uk/answers/6338/GCSE/Economics/What-is-economic-growth-and-how-can-it-improve-living-standards/>> accessed 13 October 2024

³² Jason Fernando, 'Law of Supply and Demand in Economics: How It Works' (*Investopedia*, June 27, 2024) <<https://www.investopedia.com/terms/l/law-of-supply-demand.asp#:~:text=The%20law%20of%20supply%20and%20demand%20combines%20two%20fundamental%20economic,grows%20as%20the%20price%20drops.>> Accessed on 14 October 2024

³³ Sahoo,Pravakar Dash, Ranjan Kumar Natural, Geethanjali 'Infrastructure development and economic growth in China' (2010), IDE-JETRO

floods, storms etc. Relying solely on natural resources for economic growth can lead to resource depletion and poor management, putting both the current and future generations at risk. Rapid economic development may increase the pollution and urbanization which also effect the environment. China by economic development reduce the poverty but also the reason of the air pollution. Yale University and other organizations jointly produced ‘the Global Environmental Performance Index (EPI) Report (2020),’ which states that China's EPI score fell from 60.74 in 2018 to 37.3 in 2020, placing it 120th out of 180 participating nations and regions.³⁴ While encouraging economic growth, effective environmental rules and regulations can help reduce adverse environmental effects. Degradation of the environment may be improved by implementing practical actions including reducing greenhouse gas emissions, controlling carbon dioxide emissions, and promoting environmentally friendly innovation. To improve the EU's taxation, energy, transportation, and climate policies in 2023, the EU approved a series of Commission recommendations to cut net greenhouse gas emissions by at least 55% by 2030.³⁵ Economic development that disregards the environment can have negative effects on current and future generations; conversely, if plans are not implemented for economic development, a country may become impoverished and regressive. So, economic prosperity and environmental protection together need to be ensured by sustainable development. Sustainable development helps to balance the relationship between economic development and environment protection.

Sustainable development in Rio Declaration and transforming our world: The 2030 Agenda for Sustainable Development

Sustainable development has been introduced in many international framework and Rio declaration is one of them. The Rio Declaration on Environment and Development gives 27 principles concerning sustainable development. This declaration was agreed in June 1992 at Rio de Janeiro.³⁶

³⁴ Yongze Yu, KE Li, Shenglan Duan, Chenchen Song, ‘Economic growth and environmental pollution in China: New evidence from government work reports’ (2023) 124 EE

³⁵ ‘2030 climate targets’ (*European Union*) <[accessed 14 October 2024](https://climate.ec.europa.eu/eu-action/climate-strategies-targets/2030-climate-targets_en#:~:text=In%202023%2C%20the%20EU%20adopted,climate%2Dneutral%20continent%20by%202050.></p></div><div data-bbox=)

³⁶ UNGA ‘REPORT OF THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT’ (A/CONF.151/26 VOL. I)

Humans are the main focus of sustainable development and balance with nature, they have the right to a healthy and wealthy life.³⁷ Every state, according to the United Nations and international norms, has the right to enjoy the natural resources within its territories as per their own rules and policies. No State shall harm the environment of another State outside its territory.³⁸ Sustainable development refers to the utilization of environmental resources in achieving economic growth of a country for satisfying the requirements of both the current and upcoming generation. This notion is recognized in principle 3 of Rio Declaration. Principle 4 of the declaration ensures that, environment is the integral part of the sustainable development and it can't be ignored whatever the matter is. Developing countries especially environmentally vulnerable countries will get priority in case of environment degradation. International initiatives related to development and the environment should take into account on the basis of every state's interests and requirements.³⁹ Principle 7 introduced global partnership of sustainable development. Besides, it also introduced the principle of common but differentiated responsibilities. Principle 8 mentioned about the reduction and elimination unsustainable patterns of manufacture and consumption. Principle 10 introduced the principle of public participation and access to the information. Some principles of Rio declaration indicate states responsibility to promote the sustainable development. States, before enacting any legislation, need to consider the environment aspects.⁴⁰ States also responsible to inform other states of any natural disasters.⁴¹ The involvement of women⁴² and indigenous people⁴³ in sustainable development is also emphasized in this declaration. This declaration mention environmental preservation, development, and peace are interdependent⁴⁴ and any environmental conflict between the states shall be settled in peaceful means according to UN charter.⁴⁵

Also, United Nation member states also introduce 'transforming our world: The 2030 Agenda for Sustainable Development'. While it is easy to enjoy separately economic growth, protect the environment, and improve the social well-being, the greatest test to leaders is how to balance the three elements for sustainability. They operated on the sustainability from certain

<https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf> accessed on 30 October 2024

³⁷ Principle 1, Rio Declaration, 1992

³⁸ Ibid, Principle 2

³⁹ Principle 6, Rio Declaration, 1992

⁴⁰ Ibid, Principle 11

⁴¹ Ibid, Principle 18

⁴² Ibid, Principle 20

⁴³ Ibid, Principle 22

⁴⁴ Ibid, Principle 25

⁴⁵ Principle 26, Rio Declaration, 1992

period of times. On the 25, Sep. 2015, they agreed on a document with highlights 17 goals and 169 targets related with sustainability. The name of the document is ‘Changing the World: The 2030 Agenda for Sustainable Development’ which was adopted by the ‘UN General Assembly’ on September 25, 2015. This landmark document outlines the 17 Sustainable Development Goals, intending to inspire international efforts to exterminate poverty, promote peace, protect the earth, and uphold the rights, dignity of all people.⁴⁶ 17 sustainable goals are⁴⁷-

1. Eradicate poverty at dimensions
2. Eradicate starvation, attain food security and reduce the prevalence of malnutrition, strengthen capacities to support agriculture, especially for small scale food producers
3. Work for proper health of the people and contribute to ameliorate the living standard of the people at all stage of their lives
4. Include and provide equitable quality Education for all and promote Sustainable Education for everyone as a continuation throughout each person’s life
5. End all forms of discrimination against all females
6. Sustainably manage water and sanitation, for all
7. Provide everyone with accessible, dependable and sustainable energy
8. Develop and implement policies for solid, resilient, prosperous and work for all economic development
9. Implement sustainable industrialization, improve infrastructure and innovation as well as sustainably develop industries that will make a positive impact on the universal community
10. Expanded inequalities within and among states
11. Turn cities and human habitants into secure, robust, and sustainable cities
12. Consume and produce efficiently
13. Address and respond to climate change and its effects as soon as possible
14. Oceans and marine resources are important objectives for a sustainable development of the planet and are subject to protection.
15. Conserve and restore terrestrial ecosystems for sustainable use, ensure management of share forests, support the counteraction of desertification, support prevention of land deterioration and overall reduction of the biological diversity loss.

⁴⁶ United Nation General Assembly Resolution A/RES/70/1 ‘Transforming our world: the 2030 Agenda for Sustainable Development’ (25 September 2015)

⁴⁷ Ibid

16. Support the tranquil and inclusive communities for sustainable development, assure equal inclusion in justice, and develop effective and inclusive bodies at regional and international level

17. Enhance the rate of implementation and reactivation of the Global Sustainable Development Partnership

SDGs are 17 global goals designed to address different world challenges and to provide people with better, safe, and sustainable life. These goals assist the people to fully develop, safeguard the earth and enhance stability through the partnership of the world.

Case Studies

Economic growth is necessary for the development of a country and also for the standard quality of living of the peoples. At the same time a healthy environment is also necessary for human living. There should always be a balance between these two and such balance is recognized by the concept of sustainable development. Such development aims to create a balance between economic growth of a country and environmental protection so that people can live a standard quality of life. Many national and international judicial decisions also recognize the concept of sustainable development.

Dr. Mohiuddin Farooque v. Bangladesh & others (1994)

In the case of Dr. Mohiuddin Farooque v. Bangladesh & others (1994), which is also known as Industrial Pollution case, Bangladesh Environmental Lawyers Association (BELA) filed a writ petition seeking relief against pollution of air, water, soil and environment caused by 903 industries including the tanneries of Hazaribagh.⁴⁸ The court issued direction on the Director General, Directorate of Environment, to ensure that industries and factories which are classified as 'Red' adopts necessary measures for control of pollution within a period of one year from the date of receipt of the judgment and other industries and factories which are classified as 'Orange Ka' and 'Orange Kha' also adopts such measures within a period of two years.⁴⁹ The court also directs the Secretary, Minister of Industries, to ensure that new industries and factories adopt necessary measures for control of environment pollution before its operation.⁵⁰

⁴⁸ Dr. Mohiuddin Farooque v. Bangladesh & others, WP 891 of 1994

⁴⁹ Dr. Mohiuddin Farooque v. Bangladesh & others, WP 891 of 1994

⁵⁰ Ibid

This judgment of the court reflects the courts recognition to balance the economic growth and environmental protection at the same time.

Vellore Citizens Welfare Forum v. Union of India (1996)

The case of Vellore Citizens Welfare Forum v. Union of India (1996), is another example where the Supreme Court of India recognized the concept of sustainable development. In this case, the Supreme Court of India grants injunction to a leather factory because the factory was polluting environment.⁵¹ The court also stated that, it is correct that the industry contributes in foreign exchange and creates job opportunities but it doesn't have the right to pollute the environment and endanger public health.⁵²

Here it is seen that, the Supreme Court of India recognized the need to protect environment besides economic growth.

People United for Better Living in Calcutta vs. State Of West Bengal and Others (1993)

In the case of People United For Better Living In Calcutta vs. State Of West Bengal And Others (1993), the court held that, developing countries requires developments but such development must be done in considering environmental issues otherwise there would be development but no environment.⁵³ This judgement highlights the need to protect environment.

Gabcikovo – Nagymaros Project Case (1997)

In Gabcikovo – Nagymaros Project Case (1997), between Hungary and Slovakia, both the countries signed an agreement in 1977 to construct and operate Gabcikovo – Nagymaros barrage system along the Danube River which was a border between Hungary and Slovakia.⁵⁴ After signing the agreement, the political and environmental position of both the countries were rapidly changed and in the year of 1989, environmental scientists of both the countries expressed their fear regarding environmental issues, as a consequence of which Hungary stopped the work on the project.⁵⁵ Slovakia was kept working and also tried to negotiate with

⁵¹ Vellore Citizens Welfare Forum v. Union of India Vellore Citizens Welfare Forum v. Union of India, (1996) 5 SCC 647

⁵² Ibid

⁵³ People United For Better Living In ... vs State Of West Bengal And Others, (1993) AIR CAL 215

⁵⁴ Gabčíkovo-Nagymaros Project, Hungary v Slovakia [1997] ICJ Rep 3

⁵⁵ Ibid

Hungary to find a solution but fails to do so.⁵⁶ In 1992, Hungary terminated the treaty and Slovakia had completed the closure of the river.⁵⁷

The courts decide to restore the joint regime. The court further acknowledged the concept of sustainable development and recognized the need to balance economic growth and environment protection.⁵⁸

Significance of International Organization on Sustainable Development

As per the 'International Law Commission's rapporteur in 1956, Sir Gerald G. Fitzmaurice defined an international organization (IO) as the treaty-based association of states possessing a constitution and shared bodies, personhood distinct from their individual member states, and the capacity to participate in treaties.⁵⁹ IO plays an important role to maintain the sustainability and promote the cooperation among the economic, environment and social affairs. IO operates on a regional, national, and worldwide scale. It also looks at the national framework for sustainable development and determines whether any national projects are lacking in this area. IO investigates and studies any government program associated with the economy and environment in order to assist the government in striking a balance between them.

The United Nations' adoption of SDGs is a significant step in preserving world peace and prosperity for current and the upcoming generation. The World Bank supports the SDGs and offers financial and technical help to developing nations and others so they can implement sustainable development plans and programs. World Bank from time to time helps Bangladesh to remove poverty, improve the urban infrastructure and ensure the sustainable development. To assist Bangladesh in maintaining sustainable and climate-resilient growth, the Executive Directors of World Bank endorsed two projects totaling \$900 million to reform economic sector regulations and enhance urban structure and management.⁶⁰ 'The Organization for Economic Co-operation and Development' works in promoting social and

⁵⁶ Gabčíkovo-Nagymaros Project, Hungary v Slovakia [1997] ICJ Rep 3

⁵⁷ Ibid

⁵⁸ Ibid

⁵⁹ Robert Kolb, 'International Organizations or Institutions, History of' (*Oxford Public International Law*, 2011) <<https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e501#:~:text=1%20Sir%20Gerald%20G%20Fitzmaurice,and%20being%20a%20subject%20of>> accessed 8 December 2024

⁶⁰ 'Bangladesh Receives \$900 million World Bank Financing to Increase Economic and Urban Resilience for Sustainable Growth' (*World Bank*, 2024) <<https://www.worldbank.org/en/news/press-release/2024/06/21/bangladesh-receives-900-million-world-bank-financing-to-increase-economic-and-urban-resilience-for-sustainable-growth#:~:text=Share%20more,and%20prepare%20for%20LDC%20graduation.>> accessed on 8 December 2024

economic prosperity while taking sustainability into consideration.⁶¹ By supporting scientific research, overseeing field projects globally, and bringing together governments, non-governmental organizations (NGOs), the United Nations, international agreements, and corporations, the ‘International Union for Conservation of Nature’ assists the world in finding workable ways to the environmental and development issues with urgencies.⁶²

Additionally, there are numerous worldwide organizations engaged to environmental development, environmental preservation, economic development, social advancement, and financial assistance for developing nations. Along with international organization many national organization plays a vital role to maintain the sustainability.

Challenges in Implementing Sustainable Development and Recommendations

Sustainable development supports development project along with environment protection and it is recognized by many countries in their legislations. To ensure sustainability countries faces several challenges. Those challenges vary from country to country. The position of developed countries and developing countries are not the same.

Issues Arisen by the Developed Country

A developing country is one where quality of life is comparatively low and the economy not as advanced as in leading industrial nations which are called the developed or industrialized countries. A developing nation has numerous challenges, such as a lower GDP, a lower standard of life, a lack of industrialization, a higher rate of poverty, restricted access to healthcare and education, increasing urbanization, and so on. The developing country must pursue economic progress to improve the living standards of peoples, increase GDP, and end poverty entirely. A developing country, for rapid progress, adopts short-term economic plan without considering its effect to the environment. This may result in pollution, environmental deterioration, and overuse of natural resources. For instance, to reduce demand for food,

⁶¹ ‘The Organization for Economic Cooperation and Development (OECD)’ (*U.S Department of State*) <<https://www.state.gov/the-organization-for-economic-co-operation-and-development-oecd/>> accessed on 8 December 2024

⁶² ‘International Union for Conservation of Nature (IUCN)’ (*The World Economic Forum*) <<https://www.weforum.org/organizations/international-union-for-conservation-of-nature-iucn/>> accessed on 8 December 2024

developing countries must increase their food production. However, the land's capability is harmed by excessive food production.

For instance, 20 tons of rice could be produced on a certain plot of land. However, in order to reduce the demand for food, more fertilizer is applied that harms the land. And after few years this area can no longer be used for other types of farming.

Developing nations produce a wide range of industries quickly in order to export their goods and generate revenue to boost their economies. It is true that manufacturing has led to the creation of numerous job sectors and has also improves living standards of peoples. However, fast industrialization also affects environment. Fast industrialization is also responsible for rapid urbanization.

Again, transportation also significantly impacts the economy of a country. If transportation system of a country is in a good condition, then it will assist in transporting goods and manufactures from one place to another which helps in the economic growth of a country. But the fossil fuels emitted from the vehicles have huge contribution towards air pollution. 25% of emission of carbon di oxide comes from transportation system⁶³.

Sustainability supports long term development project. Developing countries need to improve their economic condition for removing the poverty, to improve the infrastructure etc. Developing countries, to improve their economic condition, may adopt short term developing project for urgent growth and result. That economic development project may, for some years, give improvement but it will have a negative impact on future generation.

Sustainable development supports long term development project because those type of project focuses on balancing economic growth, environmental protection and social well-being. But, long term development project needs more investment than short term development project. It is tough for developing countries to invest in long term development project. So, developing countries as per the SDG's goal- (Partnership) initiate long term development project.

Many countries, in their development projects, use non-renewable sources. Non-renewable sources such as coal, natural gas, petroleum, and nuclear fuel (uranium) are responsible for

⁶³ 'Causes and Effects of Climate Change', (*United Nations*)
<<https://www.un.org/en/climatechange/science/causes-effects-climate-change#:~:text=Deforestation%2C%20together%20with%20agriculture%20and,of%20global%20greenhouse%20gas%20emissions.&text=Most%20cars%2C%20trucks%2C%20ships%2C,%2C%20especially%20carbon%2Ddioxide%20emissions.>> accessed 11 December 2024

the emission of Carbon di oxide and greenhouse gases. Those gases are the reason for environment degradation. Sustainable development supports to use renewable energy. Renewable sources like solar, wind, hydro and geothermal produce little or sometime no greenhouse gases in contrast to the non-renewable sources. Most of the countries use the non-renewable sources because it gives expeditious energy and profit. Besides, it provides steady energy 24 hour. On the other hand, renewable sources like solar energy may not be used in rainy day. It discourages countries to use renewable sources. But, Non-renewable energy sources need hundreds of millions of years to regenerate naturally. If those resources are overused, they will eventually run out which may lead to an energy crisis. Because of that, future generation will suffer. Though non-renewable sources achieve populism but renewable sources are the future because of climate concerns and resource restrictions. So, a hybrid model of renewable and non-renewable sources may be used for a development projects which may help in achieving sustainable development.

Issues Arisen by the Developed Country

A developing country becomes a developed country by achieving its desired economic growth and per capita income. Developed countries are liable for the environment degradation because of their excess use of environmental sources, early industrialization and high consumption, deforestation etc.⁶⁴ Because of the ignorance of environment by developed country, present generation of developed country may not suffer but if effects the upcoming generation. Developed countries are also responsible to the developing countries. Developed country needs to take their responsibility for their activities and take necessary steps to improve the environment by adopting polluters pay principle. Developed countries need to contribute in research activities which help the environment. Developed countries also need to help the developing countries to boost their economic growth along with environmental protection.

Besides, consultation program between developing and developed country may be initiated. It may benefits developing country to accelerate their progress in achieving sustainable development.

⁶⁴ Ayoub Abu Dayyeh, 'Environmental challenges in developed vs. developing countries' *THE JORDAN TIMES* (17 May2024) < <https://jordantimes.com/opinion/ayoub-abu-dayyeh/environmental-challenges-developed-vs-developing-countries>>

Recommendations for Bangladesh

Bangladesh is a developing country. It supports the idea of sustainable development and concerns about its environment. The legislature from time to time adopt many regulations regarding to the protection of environment like Bangladesh Environment Conservation Act, 1995, Environment Conservation Rules,1997, Environment Courts Act, 2010, Wildlife (Conservation and Security) Act, 2012, Bangladesh water Act, 2013, The Bangladesh Bio-Diversity Act, 2017 etc. From time to time, those laws and regulations have been amended. Though it introduces many laws and regulation, their application are inadequate. Proper implementation of these rules and regulations help the govt. to protect the environment. Legal framework and punishment for the violation to this effect also need to be implemented properly. Also, institution of a case relating to environmental degradation should be easier. Along with SDG's, Professor Muhammad Yunus, suggest 3 zero models. 3 zero means- zero poverty, zero unemployment and zero net carbon emissions.⁶⁵ Three zero model not only prioritized the economic and social welfare but also the environment. It reflects the objective of SDGs.

Bangladesh needs to focus on use of renewable sources because of the limitation of non-renewable sources. All non-renewable sources if used on the present generation than the future generation will suffer most. Bangladesh also needs to focus on unplanned rapid urbanization. Economic projects should be taken after considering its effect on environment. Sustainable agricultural methods need to be adopted.

To achieve sustainable development public awareness is also necessary. Government should initiate many plan and program to support the sustainable development. Government needs to analyze the concept of sustainable development before taking any development project. Development projects planning need to take after consultation with developed countries.

Along with this, necessary action needs to be taken to improve the environment. Tree plantation and forest conservation, recycling and proper waste management, eco-friendly transportation, community based environmental initiatives, sustainable urban planning etc. help to protect and improve the environment.

⁶⁵ 'Govt. to incorporate 'three zero' theory with SDG, *Prothom Alo* (24 Nov.2024) <[33](https://en.prothomalo.com/bangladesh/3ysch30e0g#:~:text=Professor%20Muhammad%20Yunus%20has%20made%20a%20compelling.environment%20in%20the%20present%20world%2C%20analysts%20said.>></p></div><div data-bbox=)

Environment is the gift from the Creator. Healthy environment helps to lead a happy and healthy life. Present generation need to use the environment properly so that the future generation may able to use the healthy environment. Economic development helps a country to achieve its desire goal. Those economic development project need to initiate after considering the environment. Sustainable development does not demotivate the economic growth but motivate the economic growth after considering the environment. If a development project considers the environmental aspects than environment protection can be ensured.

Government should also be active in making response to any situation which may create obstacle in achieving sustainable development by balancing environment protection and economic growth.

Conclusion

Environment and economics are the important elements for a country. Economic development is essential for global recognition and a healthy environment is also required for people to live well, thrive, and have good health. Economic development, environment quality and social progress are interconnected. To ensure those, sustainable development plays an important role. Sustainable development cannot be achieved without recognizing one component. The concept of sustainable development can be said as not to be limited in theory only. There also have some practical applications. The famous judicial decisions in many cases such as *Dr. Mohiuddin Farooque v. Bangladesh & others*, *Vellore Citizens Welfare Forum v. Union of India*, *People United For Better Living In Calcutta vs State Of West Bengal And Others* etc. are the examples in this regard. The courts recognized the need to protect the environment besides economic growth of a country. Country needs to introduce sustainable development in their framework and apply that concept in the development project.

Administrative Discretion and Procedural Rigor: A Critical Look at Bangladesh & Others v. Golam Mustafa

*Rafia Tabassum

1. Introduction

The legal issue in *Bangladesh & Others vs. Golam Mustafa*¹ focused on the relevant legal conundrums regarding government contracts and legitimate expectations under Article 102 of the Constitution of Bangladesh. The end-user issues were whether inter-ministerial correspondences or verbal assurances theoretically amount to a binding contract and if a writ petition could remedy such expectations. The Appellate Division of the Supreme Court thus overruled the Judgment of the High Court Division with the view that no enforceable contract existed and that a writ petition was not maintainable.

2. Facts of the Case

Hakkani Publishers, the respondent, claimed that some 2,317 sets of Dalilpatra (a 15-volume publication) work order were given by the Ministry of Information. Subsequently, it was found that no such formal work order was issued. The controversy got under way when the Ministry of Education thought of procuring the books without following the tender process, and inter-ministerial correspondences were made. The High Court Division ruled in favor of the respondent, directing the government to comply with the alleged work order. An appeal was lodged by the government, asserting that the correspondences did not create a binding contract and that the High Court did not have jurisdiction under Article 102 of the Constitution.

3. Issues

- Whether the inter-ministerial correspondence itself constitutes an agreement that is enforceable under contract law.
- Whether the program had the legitimate expectation for the government to purchase the books.

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¹ *Bangladesh v Golam Mustafa* (2024) 19 SCOB (AD) 155.

- Whether the writ application is maintainable under Article 102 of the Constitution.

4. Judgment

The Appellate Division reversed the High Court Division's judgment while declaring that:

- The verdict of the High Court Division, stating inter-ministerial correspondence does not constitute a legally binding contract.
- The legitimate expectations of the parties asked for clear and unequivocal commitments, which were not present in this case.
- The matters are privately commercial in nature and not of a public law character, and then Writ does not amount to anything.
- There had been no duly approved tendering process, the books' purchase will be illegal, and thus the respondent will not have a case.

5. Analysis and Critique

A. Contract Law and Government Procurement

A correct conclusion, as it should be, is that inter-ministerial correspondence cannot form a legally binding contract. A contract must have offer, acceptance, and consideration. None was present in this case. The very procurement processes would have meant a formal tender on the part of the government, which was clearly contravened in this case. Informal expectations held by Hakkani Publishers do not carry legal weight.

B. Legitimate Expectation

Legitimate expectation, as laid down in Council of Civil Service Union vs. Minister for the Civil Service² contemplates a clear promise or established practice. The other reason rightly emphasized by the Appellate Division is that a departmental note or informal communication does not amount to a legitimate expectation. In reasoning itself, it is congruent with international jurisprudence, so that mere aspirations cannot cloud formal legal procedures.

C. Writ Jurisdiction Article 102

This case reiterates that writ jurisdiction under Article 102 is meant only to enforce fundamental rights or statutory obligations, not private contractual disputes. This principle is echoed in the case, Shamsun Nahar and others-Vs- Md. Wahidur Rahman and others³ which reported that writ jurisdiction is not meant to resolve disputes concerning questions of fact.

² Council of Civil Service Unions v Minister for the Civil Service [1985] AC 374 (HL).

³ Shamsun Nahar v Md Wahidur Rahman (1999) 51 DLR (AD) 232.

Thus, an order of the High Court directing the government to procure books is an incidence of overreach by the High Court warranting intervention by the applicable Authority.

6. Comparative Perspective

Supreme Court of India in *State of Bihar vs. Jain Plastics and Chemicals Ltd.*⁴ stated that contractual disputes involving an entity of the government must be approached through civil courts, not writ petitions. Likewise, the case of *Greenpeace Ltd vs. Secretary of State for Trade and Industry*⁵ in the UK reiterated that a commitment that gives rise to a legitimate expectation has to be unequivocal. Such judgment in Bangladesh, therefore, reinforces the need of procedural compliance in government contracts.

7. Implications for future cases

- All governmental entities should be compelled to comply with the tender processes of procurement while never allowing for informal or inter-ministerial communication to give rise to legally binding contracts. Otherwise, unauthorized commitments and financial irregularities will occur.
- The present decision has made it clear that legitimate expectation requires a clear and binding commitment. For future claimants, assurance must come clearly from the competent authority rather than the internal departmental notes or unofficial promises.
- The decision reinforces that claims concerning contracts against the government shall be contended in civil courts or through an arbitration process and not through writ petitions as provided under Article 102, which is inclusive of cases for commercial disputes in the public sector sphere.
- Ministries and public officials must think about every aspect of communications and procurement decisions. Procedural effort and documents must be enhanced so not to create unnecessary expectations or challenges from the judiciary.
- This case is likely to be cited by future courts, in support of the rejection of writ petitions regarding procurement-related disputes, and thus ensure that the enforcement of any government contract will take place through appropriate legal channels.

⁴ *State of Bihar v Jain Plastics and Chemicals Ltd AIR 2002 SC 216.*

⁵ *R (Greenpeace Ltd) v Secretary of State for Trade and Industry [2007] EWHC 311.*

Conclusion

This case is considered to lay down an important precedent in the area of government contracting and limits of legitimate expectation. The ruling of the Appellate Division upholds procedural integrity, making informal assurances not a binding obligation. It further emphasizes that writ jurisdiction isn't a remedy for commercial disputes because of the need for judicial efficiency. The decision is a valuable input into administrative law, especially with regard to government contracts and judicial review in Bangladesh.

01. Internal Displacement in a Changing Climate: Legal and Policy Response of Bangladesh in the Context of International Norms

Harisur Rohoman and Mahtabul Islam Mehedi

02. The Concept of Sustainable Development and its Relation with Environmental Protection and Economic Growth

Shahreen Shaily

03. Administrative Discretion and Procedural Rigor: A Critical Look at Bangladesh & Others v. Golam Mustafa

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