

Radisson Hotel, Dhaka

November 25th, 2016

*Justice Surendra Kumar Sinha
Chief Justice of Bangladesh.*

***“South Asia Judicial Conference
on
Environment and Climate Change”***

His Excellency Mr. Md. Abdul Hamid, Hon’ble President of the People’s Republic of Bangladesh;

Esteemed Chief Justices of Afghanistan, Bhutan, Myanmar, Nepal, Sri Lanka and United Kingdom;

Hon’ble Minister for Law, Justice and Parliamentary Affairs, Mr. Anisul Huq, M.P

Hon’ble Minister for Environment and Forest, Mr. Anwar Hossain Manju, M.P

Beloved Justices;

Ms. Deborah Stokes, Vice-President for Administration and Corporate Management, ADB;

Dr. Saleemul Huq, Senior Fellow, International Institute for Environment and Development;

Distinguished Guests, Judges Delegates and Participants from home and abroad;

Representatives of the Print and Electronic Media;

Ladies and Gentlemen.

Namasker/Very Good Morning.

Before embarking on my discussion, I express my subterranean gratitude to Hon’ble President of the People’s Republic of Bangladesh for his gracious presence. Undoubtedly, his kind presence has added special dimension and glorified the inaugural session of the seminar. My beloved Chief Justices, delegates and other Justices of different South Asian

Countries have come to Dhaka after incurring their valuable time and energy. I express my profound gratitude to them for their kind participation to make the seminar an echoing success. I hope they will have a pleasant stay in Bangladesh.

2. The presence of the Hon'ble Ministers shows the firm commitment of the government to protect, preserve and all out supports for the cause of environment. They deserve high appreciation. Continuous and ardent support of Asian Development Bank is also laudable. My colleague Justices, officials of ADB and Supreme Court also deserve appreciation for their relentless efforts to make the seminar happen. Special thanks to key note speakers for preparing thought provoking articles relating to latest status of environment and climate change. Thanks to the representative of the print and electronic medias and all stakeholders for their continuous support and encouragement.

3. The Environment is viewed as a resource base for the survival of the present and future generations. Environmental protection is an increasingly pressing issue all over the world. Ozone depletion, green house effect, global climate changes or global warming, etc, are the main issues concerning the environment. In recent years, many countries and various organizations have paid more attention to environmental protection. It is unrealistic to expect individual nations to make independently, the sacrifices necessary to prevent environment changes. None can deny that International leadership and worldwide cooperation are essential if we expect to protect the world for the future generations.

4. Human rights abuses are worsened by environmental degradation for several reasons:

- a) the exhaustion of natural resources leads to unemployment and emigration to cities;
- b) this degradation poses new problems such as environmental refugees. They suffer from significant economic, socio-cultural and political consequences;
- c) environmental degradation worsens existing problems suffered by developing and developed countries. Air pollution, for example, accounts for about 3 million of

deaths annually and 90% of these are from the developing and least developed countries.

- d) environmental conditions contribute to a large extent, to the spread of infectious disease. About 60% out of 5000 million people who live in the least developed and developing countries lack basic health care services and almost or third of these people have no access to safe water supply.

5. Global climate change will affect people and the environment in many ways. Some of these impacts, like stronger hurricanes and severe heat waves, could be life threatening. Others, like spreading weeds, will be less serious. And some effects, like longer growing seasons for crops, might even be good! However, as the Earth keeps getting warmer, the negative affects are expected to outweigh the positive ones. The more we learn about how climate change will affect people and the environment, the more we can see why people need to take action to reduce the greenhouse gas emissions that are causing climate change. We can also take steps to prepare for the changes we know are coming.

6. Since the Stockholm conference in 1972, international environmental law has developed to such extent that even the domestic environments of states has been internationalized. In the light of the breadth of international law and the manner in which it intrudes into every aspect of environmental protection in an international sense and notwithstanding the concept of state sovereignty, it is argued that it is unnecessary to have a separate human right to a decent environment.

7. Environmental law has in many parts of the globe, suffered from the problem of standing. Due to this barrier, it is often difficult for individuals or groups to challenge infringements of environmental law, treaties or directives, as the case may be.

8. The Supreme Court of Bangladesh is playing very proactive role on the degradation of environment to make it friendly for the people. It has been playing very impressive role for

its judicial activism either by *suo motu* or on the basis of PIL and progressive interpretation of some constitutional and other legal provisions. The judiciary applied international recognised environmental concepts in its different landmark judgments regarding environment and climate change issues. It has expanded the locus standi so that social action litigation may be filed easily to protect environment and climate change.

9. In compliance with a directive given by the Supreme Court, Government enacted the National River Saving Commission Act, 2013 for establishing a Commission for saving the dying rivers of the country. It also directed the owner of a ship breaking industry to make afforestation on the coastal land where he set up industry afresh; to realize the costs of demolition and the costs of afforestation from him and the other persons who were connected with the ship breaking business in the disputed lands through the process of law and directed the government not to lease out the notified area of the reserve forest to any person or company or organization for any purpose. Accordingly, all unauthorized constructions, including some constructions made for the purpose of installation of ship breaking equipment in the coastal land, were removed and recovered possession of all Coastal Forest Lands and also planted trees on a portion thereof. As per the direction of the Supreme Court, Ministry of Environment has framed Rules titled 'Dangerous and Hazardous Wastage and Ship Breaking Wreck Management Rules, 2011' and the 'Ship Breaking and Recycling Rules, 2011'. Consequently the deforestation has been stopped and afforestation is going on in full swing and no more casualties at ship breaking yards will be without remedy and the workers are performing their duties in a safe condition.

10. The Supreme Court issued some directives upon the different departments of government with regard to Ship Breaking yards operating without prior clearance certificates. The Court inter alia directed the Ministry of Environment and the Department of Environment to take immediate steps to ensure closure of all ship breaking yards which are operating without necessary Environmental Clearance as required by law and also

directed the Ministry of Environment to frame Rules and Regulations for the proper handling and management of hazardous materials and wastes, keeping in view the Environment Conservation Act, 1995.

11. The main cause for environment degradation is lack of effective enforcement of various laws relating to human rights, preservation and protection of forest, protection of rivers, canals, water reservoirs, haors (swamp) etc. The Supreme Court on another occasion issued some ground breaking order to the concerned authority for removing all structures /encroachments within the original areas of rivers- the Buriganga, Turag, Sitalakhya, etc.

12. Metro Makers and Developers Limited (MMDL), a private company undertook a development project and started earth-filling in the project area which was earmarked as Sub- Flood Flow Zone (FFZ) by RAJUK. It was challenged by Bangladesh Environmental Lawyers' Association (BELA). The Court in that case clearly held that the right to life as guaranteed by the Constitution includes the rights to protection and improvement of the environment and ecology and, therefore, the said project of Metro Makers and Developers Limited was declared unlawful. The court further directed the Metro Makers to restore the wet-lands of that area to its original state.

13. The Bangladesh Garment Manufacturers & Exporters Association (BGMEA) Bhaban, as the city dwellers know it well, was built by filling up a portion of a once major lake of Dhaka. That reduced its water-holding capacity, hampering its water flow. In the mid-80s, Hatirjheel and Begunbari canals, which ran from the backside of the present Sonargaon Hotel to Gulshan, was thought to be designated as a flood-flow zone in the Dhaka Metropolitan Development Plan for development of a large planned water body with facilities of water sports, boating and promenade on its sides. The Supreme Court *suo motu* issued rule. Upon hearing directed to dismantle or demolish the BGMEA Bhaban within 90 days from the date of receipt of the judgment only for protecting environment and ecological balance.

14. Hazaribagh is home to between 90 and 95 percent of all tanneries in Bangladesh and, as a result, holds an important place in Bangladesh's increasingly lucrative leather industry. Considering the devastating effects of tanneries on environment the apex court of the country issued direction to shift those tanneries within the time fixed by the court. As the tanneries were not shifted within the stipulated time the court directed to 154 tannery owners at Hazaribagh Dhaka to pay the government Tk 10,000 par day as fine.

15. I am tempted to inform you that in the recent past the Supreme Court on many occasions has given directives and guidelines to the government to demarcate the rivers as per their original borderline and to restore free flow of water restraining the illegal attempts of their encroachments and to save them from drying. Many Housing companies and land developers found engaged in changing the nature of lands and rivers by filling the wet-lands have already been stopped because of the proactive role of the judiciary in Bangladesh. I think, even after all those endeavours we have a long way to go. We must be persistent in our efforts to build public awareness and to legislate suitable laws to cope with the needs of the changing society, otherwise it would be difficult for us to protect the bountiful treasures of nature and ensure environmental security without which the lives of our future generations will be at stake. Those who are driven by greed and profiteering must be made to realize that the judiciary cares more for their offspring and the future generations of this country.

16. It is necessary to emphasize that problem of environmental degradation can be tackled only by concerted efforts by every person, organization and institution and by stringent enforcement of the laws. We have to educate, spread awareness, involve and motivate every person in the country to conserve the local flora and fauna, soil and water resources and all other gifts of God which are national properties.

Thank you all for a patient hearing.