

Opening Speech by **Mr. Justice Md. Abdul Wahhab Miah**, the Honourable Judge of the Supreme Court of Bangladesh, Appellate Division and Chairman, Preparatory Committee for the Conference, at the Inaugural Session of the **South Asian Judicial Conference on Environment and Climate Change** on 25-26 November, 2016 at the Radisson Blu Dhaka Water Garden.

His Excellency **Mr. Md. Abdul Hamid**, Honourable President of the People's Republic of Bangladesh, **Mr. Justice Surendra Kumar Sinha**, Honourable Chief Justice of Bangladesh, **Mr. Anisul Huq MP**, Honourable Minister, Ministry of Law, Justice & Parliamentary Affairs, **Mr. Abdullah Al Islam Jacob MP**, Honourable Deputy Minister, Ministry of Environment and Forest, **Mr. Christopher Stephens**, General Counsel, Asian Development Bank, Honourable Chief Justices, Justices and Judges of different Countries including Bangladesh, learned Attorney General for Bangladesh, representatives of the Asian Development Bank and different NGOs, Members of Media, distinguished guests, Ladies and Gentlemen.

Assala-mu-Alaikum and very good morning.

It is indeed a matter of pride for me to be part of this judicial conference on environment and climate change, jointly organized by the Supreme Court of Bangladesh and Asian Development Bank, as the Chairman of its Preparatory Committee. Starting from the First South Asia Judicial Round Table on Environmental Justice in Bhurban, Pakistan, this is the 5th time that the legal and environmental fraternity of South Asia and beyond are sitting together here at Dhaka for augmentation of the cause of preventing and controlling the dangerous impacts of climate change.

Ladies and Gentlemen,

When we are gathering here today, the scientists have already declared that earth's average surface temperature-rises are likely to surpass the safe threshold of

2° Celsius above the pre-industrial average temperature resulting in melting of ice glaciers on the earth causing rise of sea level to a dangerous extent. According to them, a one meter rise in the sea-level could inundate 17% of Bangladesh land area as well as obliterate the large parts of coastal cities like Lagos, Cape Town and small islands like Maldives. A recent NASA study has even found that Global Warming is shifting the way the Earth wobbles on its polar axis because of huge melting of ice sheets, especially in Greenland, which is changing the distribution of weight on the earth and as such is causing both the North Pole and the Wobble to change course. This rising up of sea level has some other collateral impacts like shortage of food production, water crisis and migration of people from one place to another. The threat of Climate change is more particular when it comes to Bangladesh where 70% of the population live in areas at risk of floods and 26% at risk of cyclones. It has been predicted in another research that sea level in Bangladesh will rise about 40 cm (15 inches) by 2080 resulting in inundation of several parts of the country. In fact, Bangladesh has been described by the Asian Development Bank as the world's most vulnerable country to climate change related risk factors. People of Bangladesh having repeatedly become victims of climate change through floods, cyclones, droughts etc, the Government and the Judiciary of Bangladesh cannot afford to sit idle. Against this back-drop, the Supreme Court of Bangladesh has extended its hand to organize this conference in association with the Asian Development Bank.

Ladies and Gentlemen,

The region in South Asia has already emerged as the economically fastest growing region in the world. The competition between countries of this region for development is apparent. While the development is good for the people of a particular country, it sometimes has negative impacts on environment. Therefore, the issue of **Sustainable Development** comes to the fore, which means that, such development shall meet the needs of the present generation without compromising the ability of the future generations to meet their own needs. Thus, whenever that

sustainable development spirit is found to be absent in the governmental development activities, the judiciary of this region has an important role to play. Recent trend of judiciaries of this region suggests that they are no more willing to sit idle whenever they are confronted with a situation where spirit of **Sustainable Development** is compromised for the sake of immediate benefit of the people. In this regard, the judicial activism by the higher courts in this region to protect environment, as ventilated in **M.C. Mehta Case** and **A.P. Pollution Control Board Case** by the Indian Supreme Court, in **Shehla Zia Case** by the Pakistan Supreme Court and in **Dr. Mohiuddin Farooque Case** by the Bangladesh Supreme Court, may be referred to. Overall, however, the concept **Sustainable Development** has as its essential component: the precautionary principle which declares that states must anticipate, prevent and attack the cause of environmental degradation. The other essential component of this concept focuses on the notion of a trust or fiduciary relationship forged by each generation with posterity. These concepts came to be elaborated notably by Bangladesh Supreme Court in **Metro Makers & Developers Ltd. vs. BELA, 65 DLR (AD)-181**. Furthermore, a constitutional recognition of such fiduciary relationship with future generations is evident in Article 18A of the Constitution of the People's Republic of Bangladesh which states that the State shall endeavor 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**. However, the issue of enforcement of environmental laws and decisions of the Court is still a big gray area in this region which needs to be addressed by our Judiciaries and the governments as because a green judiciary can develop only with the development of a green government.

Distinguished Guests,

The international community started its endeavors long ago for preventing dangerous human interference with climate system through the **United Nations Frame Work Convention on Climate Change (UNFCCC)**, which was adopted

at the Rio-Summit in 1992 and came into force in 1994. Since then, the global community proceeded step by step through various protocols and agreements as adopted in different conferences such as **Kyoto Protocol in 1997**, **Bali Road Map in 2007**, **the Cancun Agreements in 2010**, **Durban Road Map in 2011**, **Doha Climate Gateway in 2012**, **WARSAW Conference in 2013**, **Lima Climate Change Conference in 2014** and, finally, the **Paris Conference and Paris Agreement in 2015** followed by recently held **Marrakech Conference** in Morocco. Amongst all the protocols and agreements on climate change, the **Paris Agreement**, which came into force on the 4th November of this year, is regarded as the highest achievement so far, as the parties to the Convention have agreed to take effective measures for keeping the rise of the average world temperature below 2° Celsius above the pre-industrial level with an ambitious target of putting it down to 1.5° Celsius in this century. Estimates already show that even with the full implementation of all the submitted Nationally Determined Contributions, the world will witness no less than a 3° Celsius rise of temperature above the pre-industrial level. Therefore, meeting the target of keeping the temperature below 2° Celsius above the pre-industrial level will be challenging one and to reach the target of 1.5° Celsius will be almost impossible unless the international community, particularly, the rich countries like USA and European Union, do not come forward quickly with their promised contributions. Effective peer-pressure on the developed countries to keep them sticking to their promises is the only option left to the international community given that the recent US Presidential election has raised renewed anxiety as regards implementation of the Paris Agreement.

Honourable Guests,

Keeping aside those anxieties, the judiciaries, along with their governmental parties to the UNFCCC, have already started taking local and international initiatives for protection of the Earth from the climate change impacts for the sake

of the survival of the humanity. While recently concluded Marrakech Conference, which was regarded as the “Loss and Damage Conference”, has emphasized obligations for the developed countries and China, which is now the highest carbon emitter in the world, least developed countries and vulnerable country to climate change like Bangladesh need to take full advantage of such development to generate funds for building up climate change adaptation and resilience among the people, given that the Prime Minister of Bangladesh informed the COP 22 Conference at Marrakech that Bangladesh is the first country to set up a “Climate Change Trust Fund” of USD 400 million from its own resources. Keeping these in mind, the Judiciaries in South Asian countries should also play a very effective role through its judicial process so that the vulnerable people of this region get the highest benefit of such international developments as well as generate its own capabilities to combat climate change impacts in this region.

I hope, this august gathering will definitely find out ways so that Judiciary of this region can play a leading role in pursuing a sustainable development trajectory in deciding cases that have environmental consequences.

Finally, I thank you all on behalf of other members of the Preparatory Committee—**Mr. Justice Syed Muhammad Dastagir Hussain, Mr. Justice A.F.M. Abdur Rahman, Mr. Justice Syed Refaat Ahmed, Mr. Justice Sheikh Hassan Arif** and the Administrative Team of the Supreme Court of Bangladesh for coming here.

Ladies and Gentlemen,

Please enjoy our hospitality.

We have tried our level best, in our preparation, to make it a memorable unique conference. However, the final judgment is yours.

Thank you all.

Assala-mu-Alaikum.