

Protection, Conservation And Restoration Of Buriganga River: An Analysis Of Law Policy And Judgments

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Abstract

River is an important component of environment which provides fresh water, allows a boundless significance for suitable environment in this earth. This article emphasizes historical back ground and current situation of Buriganga River and its related matters and a number of international principles regarding environment issues have been discussed various perspectives. The pollution of Buriganga River is being done through discharging of different types of wastes such as industrial wastes, household wastes, chemical fertilizers, and landfill leakages.

Numerous legal instruments are available in our country to protect the environment, but these instruments are not enough for preserving environment particularly Buriganga water pollution. Various activities such as task force, BIWTA activities, DOE activities, BWDB works have been taken about Buriganga River to conserve Buriganga River for saving the Dhaka city. Some judgements were given water pollution of Buriganga River. Number of recommendations is given in the final part of this manuscript. The scenario of Buriganga River can be improved through the proper implementation of laws, policy judgments and government activities.

Keywords: Buriganga River, Protection, River Bank, Dhaka City, Environment, International Law, Pollution, Bangladesh, Effluents Treatment Plants, Biologically Death, Judgement, Activities.

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I. Introduction

Bangladesh is a riverine country in the world. 1400 to 1500 rivers were located in Bangladesh in the century of 11th but the number of rivers was decreased around 7 to 8 hundred because of different kinds of natural anthropogenic factors during the East Pakistan establishment. In this time, the dozens of rivers are drying up day by day. The rivers route was huge numbers of kilometers in the time of independence of Bangladesh but at present the roads of river has been reduced in comparison since independence regarding communication based.¹ Rivers are very crucial sources for drinking and fresh water in our standard life. Without water, we cannot think our regular life because the fresh and clean water are most important element to survive human life. People also depend on the river for well surviving of life still it is under threatened. That is why, all people must take initiative to recover freshwater ensuring biodiversity.² Drinking polluted water spreads waterborne diseases among the people. Water related diseases are raised by viruses, bacteria and protozoa. Others water diseases expended from toxins which is produced by harmful algae and cyanobacteria. Large number of disease come from the manufacture and industrial factories, agriculture and farming activities and human activities and so on.³ River pollution is defined by the intrusion of pollutants things namely garbage, toxic, waste, pesticides and others hazardous residues. The pollutions are from two sources that are point and non-point sources thought the terrestrial and drift into the river system where these things can alter and degrade river water and bed sediment properties including physicochemical characteristics, biological, chemical and even flora and fauna inhabiting river ecosystems are adversely affected by this situation.⁴ There are number of

¹ Matin. M. A (2017. 02. 27) *Unabated atrocity on environment* <https://www.thedailystar.net/environment-and-climate-action/unabated-atrocity-environment-1367095>

² World wide fund for nature (n.d) We all need water to survive <https://www.wwf.org.uk/updates/why-are-rivers-so-important-and-how-can-we-protect-them>

³ 15 dangerous diseases caused by drinking polluted water (n.d) song phung environment everyday necessity. <https://filter.vn/technical-blog/15-dangerous-diseases-caused-by-drinking-polluted-water/>

⁴ Saad.A.M, Asari.A.F.A.H, Affand. S, Zid.A, (2022). RIVER POLLUTION: A MINI REVIEW OF CAUSES AND EFFECTS. *JOURNAL OF TOURISM, HOSPITALITY AND ENVIRONMENT MANAGEMENT*. 7(29) p. 140

laws and policies and judicial decisions that are available regarding environment in Bangladesh. Still, the environment problem is increasing day by day.

In addition, over the last few decades, the international community makes a significant number of principles of international environmental law and policy which are reflected in various international legal and non-legal binding instruments addressing major environment issues.⁵ The Principles of international environmental law provide the ideas of the international community regarding environment issues.⁶

These principles are considered as common character of international law about environment and they are potentially applicable on the all members of the international community across the globe which protect all aspects of the environment.⁷ These generally accepted principles have played an important role in the development regulatory regimes. Indeed, there is discerning trend both at the national and international level to adopt and recognize legal principle especially to meet the normative needs of environmental regulatory system. Although these principles have rooted various sources of national and international law, it is difficult to define parameters or precise legal status of these emerging principles, due to lack of effective judicial authority or conflicting interpretation under state practice. Since Bangladesh is a state party of international law for that reason Bangladesh made many laws and policy for addressing the environmental law. Two decades, the river pollution has been increased tremendously in Bangladesh. Two decades some people in Dhaka city earned for his living by fishing from Buriganga. Widespread dumping from industrial and human waste, the river Buriganga is now as a dead river. There is no fish or aquatic life in this river during the dry season. Buriganga river is called biologically dead river⁸

That's why it is necessary to revisit on laws, policy and judicial decisions over Buriganga River. In respect of Buriganga River there have several laws, policy and judgments but lacking of implementation of laws, policy and judgments. Buriganga River is bio-logically dead river. what extent are the laws, policy, and judgments addressing the issue of protection, Conservation, And restoration of Buriganga River.

Brief History of BIWTA

BIWTA is the legal possessor and guardian of the Buriganga River and its river bank. The responsibility of the BIWTA is to set up authority for development, maintenance and control of inland water transport, inland navigable waterways. East Pakistan Government on 31st October 1958 promulgated an ordinance known as the East Pakistan Inland Water Transport Authority Ordinance 1958.⁹ The EPIWTA converted to BIWTA.¹⁰ After converting the BIWTA, the advisory committee has been formed in respect of Inland water transport in Bangladesh. As per Section 15 of East Pakistan Inland Water Transport Authority Ordinance 1958 and amendment Ordinance No. LV of 1977, the Authority performs statutory functions namely development, maintenance and regulatory nature. Bangladesh has about 24,000 km. rivers streams and canals that together cover about 7% of the country's surface.¹¹ Major part of the country is linked by a complex waterway which help to reach extensively in the monsoon period. Within 24000 km area of inland waterway, we cannot use more than 5000 inland waters in monsoon period.

Brief history of Buriganga River

The river of Buriganga is a tide influenced river from west to south Dhaka city. The water flow day by day changed and finally lost it connection with the prime channel of Ganges and the name of the river has been changed as Buriganga. The Mughal would be surprised to see water level during the high and low tides.¹² The river was also the city's main source of drinking water. Today, the Buriganga River is afflicted by the serious problem of pollution. ¹³ In the 20th century, polyethylene and others hazards made pollution in the Buriganga

⁵Siddiqui. L.A (1998)*The legal Status of the Emerging Principles of International Environment Law*. (5th ed) .Ardsley NY. p. 43.

⁶ Halverson. A.M. (1999). *Equality : Differential treatment for Developing Countries* (4th ed), Westview Press. P.17

⁷Sands.P.(1999) *Principle of International Environment Law : Framework , Standards and implementations*. (3rd ed) Manchester University press. P183

⁸ *Once the Lifeline of Dhaka, 'Old Ganges' Is Now a Dead River* (n.d). VOA. <https://www.voanews.com/a/once-the-lifeline-of-dhaka-old-ganges-is-now-a-dead-river-/7058314.html>

⁹ Bangladesh Inland Water and Transport Authority.Preamble (1958)

¹⁰Water Transport (n.d) https://en.banglapedia.org/index.php/Water_Transport

¹¹Banladesh Inland Water and Transport Authority,15 (1958)

¹² Buriganga River (n.d) https://en.banglapedia.org/index.php/Buriganga_River

River. the flow of Padma was known in Bangladesh as main course of Ganges between 1600 to 2000 AD. The exact water course of Buriganga defined was tough because of various channel, but perhaps “it flowed past Rampur Boalia, through Chalan Beel, the Dhaleshwari and Buriganga rivers, past Dhaka into the Meghna estuary”. The Century of 18th the lower course of river flowed dramatically move to south. Middle of 19th century, the key volume of the channel flowed by this southern channel, that is called Kirtinasa. Gradually the Padma came in to current situation.¹⁴

Recent situation of the Buriganga River

To explain the present condition of the Buriganga River, the average depth of the Buriganga River is around 7.6 m and maximum depth 18. Almost 250 tanneries are situated in the river bank of Buriganga and most of them industries have no any effluent treatment plant for these industries. That is why, Buriganga River has to receive around 22,000 m³ of liquid. Other industries namely fertilizer industries, dyeing industries, aluminum, iron and steel works plastic pharmaceuticals, battery manufacturing, washing, hardware and cold storage units discharge around 3,500 m³ of liquid wastes every day into the Buriganga River. people regularly migrate into the Dhaka city and most of them settle along with Buriganga River. This encroachment of illegal settlements results in a loss of river channel and a narrower river channel makes the existing problems.¹⁵

Addition to this, 16-kilometer length of the Buriganga River has been reduced because of villages and encroachment of the real estate developments and other anthropogenic activities. Now 25 kilometer long of Buriganga River but it was actually 41-kilometer length.¹⁶ More than 1092 boundary pillars have been built for demarcating the river area. 718 pillars are broken and more than 114 pillars has been lost. by the compare of the satellite images between 1990 and 2020, around 38 percent illegal settlements in the river bank were increased. The area is occupied by residential and commercial buildings from 176.46 square kilometers in 1990 to 201.67 square kilometers in 2020.¹⁷

Actually, Buriganga River is biologically dead. There is no natural component in the Buriganga which consider Buriganga as alive river. As the Buriganga is considered as dead river, it will be difficult to stay in Dhaka city day by day such as health risk is increasing for the city dweller. For this pollution, bio diversity is destroyed. Navigation is being also obstacle.

Historical development of International Environmental Law

The United Nations was established after World War II in an attempt to maintain international peace and security and to achieve cooperation among nations on economic, social, and humanitarian problems. The League of Nations, an organization which was formed in 1919 after the World War I. the League of Nation was established under the Treaty of Versailles that was promoting international cooperation and achieving peace and security," the League of Nations has been ceased after it failed to prevent global war.¹⁸ On 13 December 1967, a proposal was presented in the United Nations General Assembly to organize a conference to focus on the extremely complex problem about the human environment issues. The Swedish delegate Sverker Åström and Borje Billner who took the initiative to convene the first United Nations Conference on the Human Environment (UNCHE) in its capital city of Stockholm in 1972.¹⁹

The United Nations Conference on Environment and Development (UNCED) called in Rio de Janeiro in June 1992 to promote economic development, reduce poverty, and preserve and protect the earth's ecological systems. The Earth Summit created a new organization for sustainable development namely United Nations

¹³ Kibria. M.G, Kadir.M.N, Alam.S (2015) Buriganga River Pollution: Its Causes and Impacts. International Conference on Recent Innovation in Civil Engineering for Sustainable Development. Dhaka. Bangladesh. [file:///C:/Users/Admin/Downloads/EE-052%20\(1\).pdf](file:///C:/Users/Admin/Downloads/EE-052%20(1).pdf)

¹⁴ National Tourism Organization (n.d) Buriganga River <https://beautifulbangladesh.gov.bd/loc/dhaka/53>

¹⁵ Reza. A, Yousuf T .B,(2016) Impacts of Waste Dumping on Water Quality in the Buriganga River, Bangladesh and Possible Mitigation Measures. *Journal of the Environment*. 11(1).p 35-36
file:///C:/Users/Admin/Downloads/2016_ImpactsofwastedumpingonsurfacewaterqualityintheBurigangaRiverBangladeshandpossiblemitigationmeasures.pdf

¹⁶ Rafi I.k (2025) UNENDURABLE WATER POLLUTION BY WASTE DUMPING IN BURIGANGA RIVER AND THREAT TO PUBLIC HEALTH: A MINI REVIEW. *International Journal of Biological Innovations*. 7(2): p.144

¹⁷ *A shrinking Buriganga is nature's wake-up call to us*. (2024, March 07).

<https://www.thedailystar.net/opinion/editorial/news/shrinking-buriganga-natures-wake-call-us-3561021>

¹⁸United Nations Charter 1945. (n.d) <https://www.archives.gov/milestone-documents/united-nations-charter>.

¹⁹ Grieger. A (n.d) *Only One Earth: Stockholm and the Beginning of Modern Environmental Diplomacy*. Environment & society portal. <https://www.environmentandsociety.org/arcadia/only-one-earth-stockholm-and-beginning-modern-environmental-diplomacy>

Commission on Sustainable Development which made two new environmental treaties such as the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity and the adoption of the Rio Declaration on Environment and Development.²⁰

Various principle addressing to protect the river

Principle of sustainable development

The term sustainable development is a highly controversial concept that came after the publication of Brundtland committee report in 1987.²¹ It is the symbol of development and environment protection. Sustainable development means to meet the present situation without harming the future generation. Its reflected-on principle 1, 3 and 4 of the Rio declaration adopted in 1992.²² Bangladesh followed this principle into different laws but its reflection is disappointed and not adequate to protect, conserve and restore the environment specially Buriganga River.

Principle of Harm prevention

This principle represents a general rule of international law that all states are required to take adequate steps to control, prevent, reduce and regulate sources of serious global environment pollution in their territory or subject to their jurisdiction.²³ Under the customary international law, this principle of harm prevention is also applied as a basic for reparation after the harm or damages has occurred. This principle also inserted on different laws but its implementation is very poor. In Bangladesh this principle is being violated every day. Like Buriganga River is being polluted in every second and the authority is failing to implement this principle.

precautionary principle

It generally denotes that when the environment is under the serious threat or irreversible damage, the concern authority will take step to address the problem. Lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation. This principle finds its roots in the more traditional environment whaling convention namely the 1972 world heritage convention.²⁴ The London convention and Principle 15 of the Rio declaration 1992 was included this principle.²⁵ This principle has not been seen in any laws in Bangladesh. If this principle is followed in respect of Buriganga River, this river would not be biologically dead in present time.

polluters –pay principle

This principle stated that the person who makes pollution is responsible for that pollution and its consequential costs as well. This principle also laid down but it has been not adequate and reflected tremendously regarding Buriganga River.²⁶

Principle of Environment Impact assessment (EIA)

Modern environment policies and statutes, Environment Impact assessment laws are crystallized to take preventive approach for environment protection. The concept took a place at international level though the adoption of the Rio declaration on environment and development.²⁷ This principle also laid down in the laws of Bangladesh but the assessment power vested to the government nominated person. That is why, it does not play role effectively to protect, to conserve and to restore the Buriganga River.

The principle of common but differentiated responsibility

This principle deals that all state takes common responsibility to address the global environmental issues but those countries responsibility is not equal. It talks about developed countries take more responsibility

²⁰ UN Conference on Environment and Development – UNCED (n.d) Earth Negotiations Bulletin.

<https://enb.iisd.org/negotiations/un-conference-environment-and-development-unced>

²¹ Brundtland G. H (1987) Report of world commission, *on environment and development*, Our common future.

Brundtland. https://www.krynica-zdroj.pl/files/files/File/Srodowisko/Brundtland_Report_Extracts.pdf

²² The Rio declaration on Environment And Development. principle 1 (1992)

²³ Ahmed. I (2018) *Bangladesh Environmental law Bangladesh and International Context with case laws, case studies , and commentaries* (Third edition, April 2018)

²⁴ UNESCO (1972, November 16) Convention Concerning the Protection of the World Cultural and Natural Heritage. World Heritage convention. <https://whc.unesco.org/en/conventiontext/>

²⁵ The Rio declaration on Environment And Development. principle 15 (1992)

²⁶ Hossain M.I (2010) *International Environment law Bangladesh Perspective*(6th ed) Ain prokashon.

²⁷ The Rio declaration on Environment And Development. Principle 16 (1992).

for their historical contribution environmental degradation and economic and technical capacity for taking action. On the other hand, developing country remains different capabilities and responsibility based on economic and technical condition. This principle was accepted in Rio declaration 1992.²⁸

Principle of Intergenerational equity

The principle of intergeneration equity postulates that the members of the present generation keep the earth for future generations and they have a duty to utilize and conserve natural resources in such a manner that the rights of future generations are not compromised.²⁹ The principle of inter generation equity requires that each generation has to pass the planet no making worse condition so that upcoming generation has not face problem. Present generation has to ensure equitable access to its resources and benefits Each generation. This can be considered as intergeneration planetary rights and obligations.³⁰ This principle is not found into any laws of Bangladesh if this principle followed then the pollution of river or environment will be little.

Legal framework for Protection of Buriganga River

Protection and Improvement of environment and bio diversity

Article 18A of Bangladesh constitution talks about the protection and improvement of environment and biodiversity. The state should endeavor to protect and improve the environment and try to preserve and safeguards the natural resources, biodiversity, wetlands, forests and wild life for the present and future citizens.³¹

Article 8(2) of the constitution of Bangladesh said that anything is included in the part two of Bangladesh constitution shall not be enforceable by judiciary.³² That is why, article 18A is not enforceable by the judiciary if anyone violates it. It's another hindrance to protect, to conserve and to restore of Buriganga River.

Bangladesh Environment Conservation Act 1995

Bangladesh Environment Conservation Act 1995 section 5 narrate if the government is satisfied, the eco-system of an area is in a critical situation or threatened due to environment depredation. The government may declare the area as an ecologically critical area that is why, government shall take immediate step to stop and attempt to overcome such critical situation.³³

And sub section (3) said that the government shall take plan for the mentioned area when the area is declared as an ecologically critical area.³⁴ Buriganga was declared ecologically critical area on 01-09-2009. But the government did not take appropriate step for protecting Buriganga River spontaneously.

Under section 4 of this Act stated that power is imposed only upon the director general in such manner as if the power did not give to any institution rather its imposed to a man.³⁵ Which is against the rule of law.

Section 3 of this Act mentioned that government shall make a respected department known as department of environment which is operated by the direction of director general. And the director general is appointed by the government and his responsibility is determined by the government.³⁶ That is totally arbitrary. Supreme power hand of the government. If the government wish, they can appoint or remove any person in the department any time. If the department of environment's situation like that how the object of this Act will be fulfilled.³⁷

Under the section 14 of this act deal power and procedure of the environment court in the section stated that if the procedures are not mention differently in this act, all of the proceeding follow the criminal code of procedure regarding criminal matter even sometimes session judges handle the criminal offence relating to environmental matter and for dealing civil matter, code of civil procedure has to follow for ensuring environmental civil justice. For ensuring speedy trial, this act mentions specific timeline for completing trail.

²⁸The Rio declaration on Environment And Development principle 7 (1992).

²⁹The Rio declaration on Environment And Development principle 3 (1992).

³⁰Edith Brown Weiss, *in fairness to future generations ; international law common patrimony and inter generation equity* (3rd ed) Transnational Publishers, Inc. p 23

³¹Constitution of the people's republic of Bangladesh, Art 18A (1972)

³²Constitution of the people's republic of Bangladesh Art 8 (2).(1972)

³³Bangladesh environment conservation, section 5 (1995)

³⁴Bangladesh environment conservation, section 5(3) (1995)

³⁵Bangladesh environment conservation, section 4 (1995)

³⁶Bangladesh environment conservation, section 3 (1995)

³⁷Ahmed.I (2018) *Bangladesh Environmental law Bangladesh and International Context with case laws, case studies , and commentaries* (3rd ed). Sufi Publications

Jurisdiction of the environment court is not clear

Section 7(2) of The Environment Court Act, 2010 said that Environment court shall take cognizance, hold trial proceedings and dispose all of environmental issues. The court give verdict for compensation if any one violates this law.³⁸ Environment court entertains offences related matter and demand compensation under environmental law. According to section 2(c) of this Act, environmental law includes the Bangladesh environment Conservation Act, 1995 and such other laws may be specified by the government in official Gazette. But government did not make any gazette notification incorporating any other Act. The section 19(2) of The Brick Manufacturing and Brick kilns Establishment (Control) Act, 2013 said that only Environment Court or Special Magistrate court shall take cognizance any offence punishable under this Act. Environment court jurisdiction is very limited. This court do not try offences relating to forest-forest resources, wild life-biodiversity, fisheries, water resource and other natural resources.³⁹

Under the Bangladesh Environment Conservation Act 1995, the government shall create a department known as DoE. Actually, environmental courts totally depend upon the DoE where DoE is questionable how the environmental justice will ensure. Where the Act aim to establish one or more environmental courts in 64 districts in Bangladesh but in reality, DoE has office in 21 districts with only one inspector in each office. so, it is practically not very easy to establish environmental court without office and man power of DoE. For that above reasons the environment court Act 2010 will not be perfect for protection of this river.

The National River commission Act 2013

This Act has been made for preventing illegal grabbing of river, water and environment pollution, river pollution created by industries illegal construction of structures.⁴⁰ But at a time if we see section 12 of this Act it is said about functions of commission. Where the commission only can recommend the proper authority in regard to freeing river from illegal encroachment and prevention of re-encroachment, eviction of illegal structures in the river and river bank, freeing river water from pollution, excavation of extinct and dying rivers, rivers development issues, ensure ecological balance and sustainable management rivers, take long time and short time plan to protect river etc. In Bangladesh there have lots of environmental activist and institution they can also recommend the government. So, the commission has no power to take effective steps towards the pollution or encroachment of rivers. So, where the commission has just power to recommend then how it is possible to preserve, to conserve and to restore this river by this commission.⁴¹

Bangladesh Water Act 2013

Under section 4 of this Act, administrative authority makes council to fulfilling the object of this act the name of the council is National water Resources Council and this council can take crucial decision on the water related matters

Under section 5 of this Act, the council is a highest decision-making body and the council performs the law object and functions. The council make policies, give direction for integrated development and ensure proper use of, proper distribution of, proper protection of, proper conservation of water resources. The council also give instruction to making National WATER Resources Plan and allows National WATER Resources Plan and ensure the implementation thereof. Council can perform any other function specified by the Council.

Under section 3 of this Act said that for the performing the purpose of this law, the Government may create body by the notification in the official gazette that is known Bangladesh Inland Water Transport Authority. Under section 15 of this act stated that Authority may perform following each and all functions such as completing the river conservation works, announcement the navigational and meteorological information, going on pilotage and hydrographic survey services,

drawing up programmers for efficient maintenance of existing navigable waterways, and for resuscitation of dead or dying rivers, channels, or canals, develop, maintain and operate inland river ports, landing ghats and terminal facilities in such ports or ghats carry out removal of wrecks and obstructions in inland navigable waterways, prepare plans for carrying out any of the abovementioned functions and any other function or functions which the Government may, from time to time, prescribe.

Government policies and action for Buriganga River Numerous task forces regarding river protection

³⁸ The Environment Court Act section 7(2) (2010).

³⁹Sajal, I. A. (2015) Environmental courts of Bangladesh: an appraisal' *Bangladesh law digest*

⁴⁰ National River protection Commission Act. Preamble (2013).

⁴¹National River protection Commission Act, section 12 (2013).

Government formed a task force taking 12 members re-strategizing the mobilizing and economy resources to ensure then equitable and sustainable development.⁴² This task force which is run by the former director general of Bangladesh institute of Development studies report is submitted to government. Report said that the Buriganga River is about to brink of extinction. Government should take emergency action to protect the river and Dhaka city

The task force says the government must send a decisive message affirming its commitment to the critical undertaking of saving Dhaka and the Buriganga. Another suggestion is given by the report that is urgent legislation must be enacted to facilitate within short time so that unimpeded action can take for this project. Project leadership is given to the dedicated minister and ministry can take support strong technical and legal team, if necessary. As river granted the right to life under the law. The immediate response would be fully warranted.⁴³

The government take immediate action to free the Buriganga from the pollution during this winter. all of the necessary support is given by the ministry of shipping like manpower, equipment to clean the river. because the shipping ministry believes people of the country dependent on rivers direct and indirectly, but it is disappointing that rivers are being grabbed in the name of development. Government must free river from encroachment and pollution to save the environment.⁴⁴

Activities of BIWTA related to Buriganga River

The Bangladesh Inland Water Transport Authority (BIWTA) has claimed around 4.5 acres government property has been grabbed allegedly by Dhaka 7 parliament members name Haji Mohammad Salim. In the eviction drives over the last two days, BIWTA's team demolished 320 illegal installations on the banks of the River Buriganga, in the capital, to recover the land from land grabbers.

The Bangladesh Inland Water Transport Authority (BIWTA) has claimed around 4.5 acres government property has been grabbed allegedly by Dhaka 7 parliament members name Haji Mohammad Salim. The eviction has been going on for two days and the team of BIWTA demolished around 320 illegal installations of the Buriganga River bank and team helped to recover land from land grabbers in addition, BIWTA also freed road stretching which was between Babubazar and Soarighat Chan Sardar Cold storage area to ensure easier movement of public transportation.⁴⁵

BIWTA builds some pillars besides the Buriganga River in Basila without recovering the about 13 acres river land and 8 acres of foreshore which had been grabbed by the respected lawmaker in his constituency.⁴⁶BIWTA destroyed some structure which is built illegally in the Buriganga River bank.⁴⁷ The authority of BIWTA took tougher actions to clean the illegal structures on the dying Buriganga River that crosses capital Dhaka.⁴⁸ BIWTA works some important issues such as protection of the river banks and removal of garbage.

Initiatives for Removal of garbage from Buriganga, Shitalakkhya & Turag

The chief engineer of Water Development Board said that the water flow will increase unceasingly within three years. The news came with the launching Buriganga River Restoration project with TK945 crores by which around 62 kilometres New Dhaleshwari, Pungli, Bangshi and Turag rivers in the upstream will be dredged for restoring the ceaseless flow with the Jamuna River.⁴⁹

⁴² Revitalise Buriganga River, task force report suggests (2025, January 31) *The Business Standard*.

<https://www.tbsnews.net/bangladesh/revitalise-buriganga-river-task-force-report-suggests-1057131>

⁴³ Ahmad.R, (2025, February 3) Let the river flow. *Dhaka Tribune*.

<https://www.dhakatribune.com/bangladesh/bangladesh-environment/372590/let-the-river-flow>

⁴⁴ Govt to start operation soon to free Buriganga from pollution (2024, December 10) *BBS News*.

<https://www.bssnews.net/news/229857>

⁴⁵ BIWTA recovers 4.5 acres of Buriganga land from MP Haji Salim's possession(2020, November 23) *The Business Standard*<https://www.tbsnews.net/bangladesh/biwt-a-frees-its-land-mp-haji-salim-s-possession-drives-underway-161794>

⁴⁶ BIWTA pillars to 'legitimise' grabbed land on Buriganga (2021, June 14) *The daily Star*.

<https://www.thedailystar.net/city/news/biwt-a-pillars-legitimise-grabbed-land-buriganga-2110561>

⁴⁷ BIWTA dismantles illegal structures on Buriganga banks (2019, January 29) *Daily Sun*. <https://www.daily-sun.com/printversion/details/367559>

⁴⁸ Hasan.R (2019, 5 March) BIWTA goes tough with land grabbers, 88 establishments bulldozed. *Daily Sun*.
<https://www.daily-sun.com/post/375703>

⁴⁹ Khan. M.A (2010, November 20) Dhaka rivers to get lifeline. *The Daily Star*
<https://www.thedailystar.net/news-detail-162852>

Furthermore, government also took ambitious project for revitalizing these five rivers flow which is located in the Dhaka city. Under this project, more than forty sub- projects formed which expenditure was around \$20 billion.⁵⁰ Buriganga and other four rivers continually receipt approximately 60000 cubic metres waste regular that discharge from the nine major industry area such as Tongi, Hazaribagh, Tejgon, Tarabo, Narayanganj, Savar, Gazipur, Dhaka Export Processing Zone and Ghorashal. Only 20% industry 20% industries have effluent treatment plants (ETPs) and many of them are very poor quality. Every year around \$150 to \$ 170 is being loosed considering the health, environment, and economic cost because of untreated industrial waste water. more than TK1000 crore was spent to locate the tanneries from Hazaribagh to Savar in 2017. Last two decades, in the five more project, government spent approximately TK 3000 crores. But 29 KM Buriganga still flows with less oxygen that is needed for fish to breathe.⁵¹ Dhak has been affected by Buriganga pollution regularly. And also, others river Turag, Balu, Shitalakshya and Dhaleshwari pollution impact in Dhaka city same way.⁵²

Parliamentary standing committee on shipping ministry recommended the ministry for removing garbage from the Buriganga and the Karnaphuli rivers that help to increase navigability and improving water quality. chairman Rafiqul Islam strongly recommended for immediate removal of the tonnes of polythene, plastic products, rags and other non-perishable garbage dumped into the rivers.⁵³

Department of Environment (DoE)

The first environmental activities in Bangladesh were taken after the Stockholm Conference on Human Environment in 1972.⁵⁴ As a follow up action to the Conference, the government of Bangladesh enacted law regarding water such as the Water Pollution Control Ordinance in 1973. The Government of Bangladesh under the support of the Department of Public Health Engineering organized a project primarily aimed at water pollution control. DOE's mission is to help secure a clean and healthy environment for the benefit of present and future generations through fair and consistent application of environmental rules and regulations. rules and regulations have to be reflected by guiding, training, and promoting awareness of environmental issues. Regarding River Buriganga, DoE's responsibility is to maintain the water quality and ensure navigate properly.⁵⁵

Establishment of BWDB

Bangladesh Water Development Board (BWDB) constituted originally in 1959 as a component of the East Pakistan Water and Power Development Authority.⁵⁶ BWDB is the leading organization for water resources management and development which mainly deals with flood control and drainage, irrigation, river bank and town protection, flood forecasting and warning services, hydro-meteorological data management, land reclamation and protection against tidal surge.⁵⁷

Functions of BWDB

Bangladesh Water Development Board (BWDB) a government agency which is responsible for administering the flow of both surface water including rivers and water-ways and ground water. There is a long history behind the establishment of this organization. Following the recurrent flooding occurred in three consecutive years from 1954 to 1956, food production reduced remarkably and the country was about to face a severe catastrophe. A huge amount of food was imported to cope up with the situation⁵⁸

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⁵¹ Saif.S, (2023, August 21) Can Dhaka (rivers) be saved, still?. *The Business Standard*.

<https://www.tbsnews.net/bangladesh/environment/can-dhaka-rivers-be-saved-still-686338>

⁵² Saha. P.S (2021, June 6) Dhaka four rivers: No effective measures to stop pollution. *Prothom Alo*

<https://en.prothomalo.com/environment/dhaka-four-rivers-no-effective-measures-to-stop-pollution>

⁵³ JS body for removal of garbage from Buriganga, Karnaphuli (2021, 15 January) *Newage*.

<https://www.newagebd.net/print/article/127235>

⁵⁴ Department of environment (2025, August 13) *District Environment Office*. Bangladesh National Portal.

https://doe.barisal.gov.bd/en/site/top_banner/Banner-1

⁵⁵ The Environment Court Act, section 4 (2010)

⁵⁶ Paani Bhaban (n.d). tritechbd. <https://www.tritechbd.com/portfolio/aci/>

⁵⁷ Bangladesh Water Development Board, preamble (1972)

⁵⁸ National Encyclopedia of Bangladesh (n.d) Bangladesh Water Development Board. Retrieved (2025, October 2)

[https://en.banglapedia.org/index.php/Bangladesh_Water_Development_Board#:~:text=Bangladesh%20Water%20Development%20Board%20\(BWDB,cope%20up%20with%20the%20situation.](https://en.banglapedia.org/index.php/Bangladesh_Water_Development_Board#:~:text=Bangladesh%20Water%20Development%20Board%20(BWDB,cope%20up%20with%20the%20situation.)

Declaring Buriganga as Ecologically Critical Area

Due to irresponsible and unplanned activities by the inhabitants and authority, the ecosystem of four rivers surrounding Dhaka has become critical and there is a strong possibility that this will further deteriorate. 'Environment Conservation Act 1995' and 'Environment Conservation Rule, 1997' and following the rules of Supreme Court (Writ Petition no 3503/2009) Department of Environment has declared the River Buriganga, Turag, Balu and Shitalakkha and both their foreshores as Ecologically Critical Area in September, 2009.⁵⁹ It is clear that the rule is not been applied to its full strength. Application of law and monitoring or supervision of elements that are responsible for polluting the river is not a routine work rather done in an impulsive manner which does not get the desired result.

Relocation of Tannery from Hazaribagh.

Tannery industry is a red category industry which has the most adverse effect on environment and it is causing major pollution to River Buriganga. DoE is working with the Ministry of industry on relocating tannery industry to Gazipur. In Details Area Plan (DAP) there is also a proposal for relocation of this. But there is no comprehensive approach for relocation to this. Although first notice was given on 03.09.2009 to the industries for relocating the Tannery but still some tannery industry is located in Hazaribagh area.⁶⁰ Government should take step diffident kinds of steps for Rest of tannery industry relocation. Serving only notices may not bring any result in this case.

Judicial Decisions Relating to Buriganga River

Fact of this case: The case was filed for failing to perform statutory duties regarding environment issues on the respondents and respondents did delay and negligence to arrange for relocation of the tannery industries the Hazaribagh to designated area. For the highly pollution, city life would be endangered. That is why, inhabitant could not enjoy healthy life.

Observation of Judges: It was submitted that the operation of the tanneries in the residential areas of Hazaribagh without installing the E Effluent Treatment Plant (ETP) which dispose clean water. The concert authority does not follow the statutory duty which is given by legal provisions the Environment Conservation Act, 1995, Environment Conservation Rules 1997, Factories Act, 1996 and town improvement Act, 1953. It was also stated that the statutory duty of the respondents to protect environment resources to maintain and restore the same in a manner favorable to the objects of the law and policy. the respondents failed to follow rules and regulation which led to denial of the fundamental rights of the people guaranteed under 32 of the constitution of Bangladesh.

Judgement: The court issued a rule Nisi calling upon the respondents to show cause why they should not be directed to relocate, within a given time frame, the tannery units from the Hazaribagh area to a suitable location and ensure that adequate pollution fighting devices.⁶¹

Fact of the case: In 1994 the Secretary General of BELA, Dr. Mohiuddin Farooque filed a writ petition before the High Court Division under the constitution of Bangladesh article 102. In this petition, BELA claim more than hundreds of the industries around Bangladesh discharging highly intoxicate and entreat things particularly Hazaribagh tanneries which make pollution in the river and canal that creates pollution and public health hazards. In filing the case, BELA also intensively showed that although government enact enough legal instrument like Bangladesh Environment Conservation Act 1995 and later on Environment Conservation Rules 1997, the Department of environment (DoE) could not perform properly. The petitioner focused on mainly two things such as concern authority have to enlist red category and setup the pollution control devices like effluent treatment plants (ETPs).

Observations of Judges: As the environment degradation affect is not limited any respected area, it is correlated with whole community, that is why, the court recognized that the BELA is legitimate petitioner for filing Public Interest Litigation. The clean and healthy environment is necessary part for ensuring right to life which is under articles 31 & 32 of Bangladesh constitution. The respected court also criticized the negligence regarding administrative authority activates and said that the law and rules is nothing if they are not enforced. The authority does not work according to law they violate the both like constitutional rights and statutory duties under environmental Act and Rules. The judges also said that the focused on the industrial development does not means making problem in the public health and the environment.

Judgment: The court give the direction to the director General of the Department of Environment to establish the pollution control measures for reducing the red category industries within one year and respected ministries

⁵⁹The Bangladesh Environment Conservation Act, section 5 (1995)

⁶⁰BELA vs government of Bangladesh and others [2003] (Tannery case).

⁶¹ BELA vs government of Bangladesh and others. 55 DLR 69(AD) 2003

and DoE were ordered for submitting the compliance report to the court within the prescribed period. If the industrial authority fails to comply the direction the government authority has power to shut down industry and also disconnect their service such as gas, water, electricity.⁶²

Fact of case: ELA filed a writ petition against the illegal encroachment of Buriganga River which is identifying by the deputy commissioner of Dhaka in 1998. The petitioner requests to the court to direct the respondents to recover the government property evict illegal encroachers and protect the environment. The petitioner also raised failure of various state agencies to stop illegal encroachment on the Buriganga River, recover public land and protect environment.

Observation of the judges: The court mentioned that rivers are public property which protection responsibility is given to the government ensuring through constitution and statutory law. The respected authority namely ministries, inland water transport, water development board take step to prevent illegal encroachment, ensure free flow of river and prevent loss of public. Though encroachment was identified by deputy commissioner of Dhaka, no sufficient action was taken which clearly showed that executive agencies are fail to perform their responsible duty. The court also insisted that it is not enough to say we will look into it, agencies should take action plan with specific time limit and it has to be visible what agencies will do. Court also clear that a remedial order such as eviction of encroacher, restoring river boundaries, protecting environment and public property must be enforced not just aspiration. Court also takes contempt proceedings when authority fail to take action.

Judgement: The court issued rule nisi to the respondents including secretary of ministry of environment and DG of department of environment to explain why they do not perform their duties which remove encroachment, protection environment, restore the river. The court also said that the concern agencies have to make an action plan. the action plan had to show time limit and particular measures for evicting encroachers, recovering public property under the Buriganga River and protection the environment. And the action plan has to be submitted within two months. The Court called upon respondent(s) to show cause why they should not be punished for contempt of Court for ignoring the earlier orders.⁶³

Fact of the case: Human Rights and peace for Bangladesh (HRPB) is the petitioner and it is represented by its Secretary Adv Asaduzzaman Siddique. the petitioner filed the writ petition as a public interest Litigation. The writ petition is taking about pollution of water of the Buriganga River. in the petition, the petitioner claim that concern authority allowed industrial wastes, sewage, and other contaminants for dumping into the river without adequate treatment which make serious public health and environmental hazards. And the petitioner also said that sewerage and industrial garbage is discharging the Buriganga River without proper treatment that make a risk of the water disease.

Observation of Judge: Court mentioned that the river has lost the character of the river because of highly pollution. The all of the concern authority such as ministries, municipal authorities, WASA, pollution control body know the river pollution problem but they have failed to take effective action regarding Buriganga River. the nature of pollution from the industrial waste, sewerage, Hazaribagh, tanneries, chemical waste is so high which affect the public health. Judges gave more important on the clean environment and safe water that is connected with right to life and other fundamental rights and the ecological harm in the environment that threatens large numbers of people. The court also ensured that decry about the pollution is not enough the concern authority must take steps such as sealing discharges, setting up committees, ensuring periodic oversight that is necessary.

Judgement: The court order the respondents number 5, 7, 9-13 to take effective measures to stop dumping waste into the river. and also give direction to the respondent no 3 and 13 to seal the sewerage lines and others industrial waste directly within six months. The respondent no 4 has to file an affidavit elaborating progress every 3 months and submit other report every 3 to 6 months depending on the order. The respondent no 14 is responsible for monthly awareness programmers Buriganga keeping free from pollution and others waste remove from Buriganga. In the judgement the court also give direction to the cabinet secretary for making committee with representation from relevant agencies namely BIWTA, BIWTC, WASA, Dhaka city corporation, Dhaka metropolitan police and academies such as civil, chemical, hydrological engineering to stop the pollution in the Buriganga River.⁶⁴

Analysis of Judicial Decisions

In the judgements, supreme court did not say anything in the matter of polluters paying principle that is most important direction to reduce the environment pollution. If this principle would be applied properly, polluter would be concerning monetary punishment. Respected judges never talked in the judgment about

⁶² Dr Mohiuddin Farooque, Secretary General of BELA vs Government of Bangladesh and others. 49 DLR 1 (AD) 1996

⁶³ BELA vs Government of Bangladesh and others. 50 DLR 84(HCD) 1999

⁶⁴ Human Rights and peace for Bangladesh vs Government of Bangladesh and others. 50 DLR 84 (HCD) 2010

precautionary punishment that polluter cannot get opportunity to make pollution. In the judgement, respected officer of the court did not declare Buriganga as legal entity. That is another barrier to protect the Buriganga River. The court division did not give any guideline to purify the polluted water. That court was able give direction on the matter of periodical report about situation of the river but its did not give any kind of direction. The court also slight regarding the restoration process of the Buriganga water that is very important to recover the life of dead Buriganga River. the judicial should more give more direction about the Buriganga River.

II. Conclusion

Major Findings

Water is very important elements of the environment. It's crucial needs of our daily life. without fresh water, we cannot alive very few munities. River is the good source of water. The impotency of river not only for the water but also it has value on economic, culture, and for recreation etc. But in Bangladesh most of the rivers are not using for polluted water. Buriganga river is the most polluted river in Bangladesh. In the history of the Buriganga River, it was very much clean and economic supported river when the first Dhaka was declared as capital but present condition is death river. Buriganga river is being polluted by many ways like Industrial wastes, tannery wastes, hospital and household, polythene, and encroachments. For that reason, dangerous disease, health risk of the people of city, economic loss, destroying bio diversity are occurring daily life. For addressing the pollution, the government enact many laws like Article 18A the constitution of people's republic of Bangladesh, Bangladesh Environment Conservation Act 1995, The Environment court Act 2010, The National River protection Act 2013, Bangladesh Water Act 2013. These laws address the protection of Buriganga River. Lacking of implementation of this laws Buriganga river's condition is worst. Now its biologically dead river. In addition to these laws, government took some initiative to restore, to protect, to conserve Buriganga River. many tasks force has been formulated later and some organizations have been formed such as BIWTA, BWBD, and so on by the government. In addition, there have judicial decision in respect of this river to relocate the tannery. To protect, to conserve and to restore of this river, all mechanism is existed but lack of implementation Buriganga River is now bio logically dead.

Suggestions

The supreme court of Bangladesh should declare the Buriganga River as a legal entity which is very important for protecting the Buriganga River from the unexpected pollution. In the Bangladesh, there is no any specific law in which polluter pay principle was incorporated. That is why, legislatures should make a law for the Buriganga River particularly including polluter pay principle. The government should make a dedicated ministry for protecting the river based on its important. Making a full-time committee for 24 hours in respect of Buriganga River and committee has power to fine instantly if anyone makes pollution. To protect the environment for future generation, article 18th a could be inserted as a fundamental RIGHTS so that any person can suit for the pollution of the river because it is connected with right to life. There have lots of scatter's laws to address the river pollution but these need to be codified laws only for the river. punishment like heavy fine, cancellation of the industries license and shut downing the industries, has been included for the industries that discharge waste into the river. Government should take effective step for shifting the tanneries and highly polluting industries permanently from the Hazaribagh as well as Buriganga River bank to areas where is designated industrial zones. Effluents Treatment Plants set up has to mandatory for the industry before establishing industry. Dhaka WASA mandatorily build up the modern sewage treatment plan so that waste is not dumping into the river. Government or concern authority should continue awareness programs to stop dumping the garbage into the river from the household, shops, hospital and remove the illegal structure from the river bank. government should establish a river police task force with actual power against the illegal encroachment. Government may include river related chapter at school, college, University for understanding the important of river for our meaningful life. Buriganga river is biologically death. That is why, government should introduce restorative justice system for this River.

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