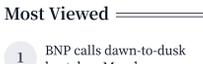


LAW & OUR RIGHTS

Mohammad Rubaiyat Rahman
Tue May 23, 2017 12:00 AM
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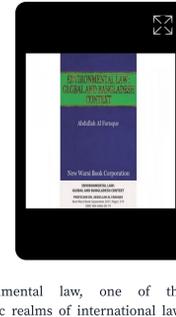


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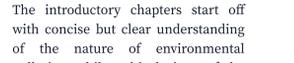
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Book Review

Understanding Environmental Law



Environmental law, one of the dynamic realms of international law, is deemed as the most fascinating area of research and analysis for academicians and international law researchers. Since 1970s, this branch of international law has been expanding to protect environment. However, to delve into the realm of environmental law, it is requisite to grapple the national and international dimensions of this complex but dynamic subject. Only upon fulfilling this, the legal regime of environment can be used as tool to check the threat of environmental menace. In this respect, Professor Dr. Abdullah Al Faruque in 'Environmental Law: Global and Bangladesh Context' contributes something of a novelty in legal scholarship. The book introduces readers a whiff of fresh analysis to brewing debates, developments and controversies concerning environmental law, both from Bangladesh and international law perspectives. The book is structured into 30 chapters and all these chapters are bucketed under the headings of five specific parts in a way that the readers get enabled to comprehend how international environmental law is evolving in comparison with how the laws of Bangladesh interacts with the international regime.

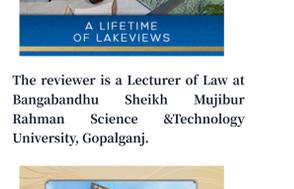


First part (chapters 1 to 4) sets the tone with a comprehensive introduction stating historical evolution, sources, and principles of environmental law. The introductory chapters start off with concise but clear understanding of the nature of environmental pollution; philosophical views of the environmental protection; understanding of 'common concerns of humankind' concept and overview of environmental justice. While the first part of the book is descriptive in nature, the preceding four parts of the book are embellished with author's insights and analysis. Second part (chapters 5 to 11) examines issues such as conservation of biodiversity, climate change, marine pollution, hazardous waste management and protection of ozone layer. Third part of the book (chapters 12 to 15) finely curves out some contemporary issues relating to protection of environment such as linkages of environment with human rights, trade and nuclear energy and corporate environmental accountability. Throughout the fourth part (chapters 16 to 20) various compliance mechanisms of environmental law at international and national level are brought under perusal. Part five (chapters 21 to 30) concentrates on legal and institutional framework on protection of environment in Bangladesh.

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The book concludes with bibliography with a list of environment related treaties ratified by Bangladesh. It is pertinent to mention here that the book lacks a comprehensive index section. This deficit of index section creates bulwark for researchers to find a topic. A comprehensive index section would undoubtedly gilt-edge the book as treasure trove on issues of environmental law. However, this critical remark should not cloud the fact that the book commands and demands reverence.

The book is well researched and eloquently written by a distinguished international law professor of Bangladesh. Furthermore, the book's greatest strength lies in the amount of detail it provides in a systematic and concise manner. To the students of law and international relations, the book paves stepping stones for in-depth analysis of international environmental law.



The reviewer is a Lecturer of Law at Bangabandhu Sheikh Mujibur Rahman Science & Technology University, Gopalganj.



Climate Justice

Climate Refugees and Human Rights

Environmental or climate refugees mean people forced to flee their homes and communities due to long-term or sudden environmental calamities, such as drought, erosion, desertification, sea level rise, etc. As per the prediction of Institution for Economics and Peace, climate change and natural disasters are likely to displace 1.2 billion people globally by 2050. This is where comes in question the fate of climate refugees or asylees and the human rights obligations of the States with regard to them.

The principle of non-refoulement denotes that the asylum State should return no refugee or asylum-seeker to a State where they would face torture, cruel, inhumane, or degrading treatment or punishment, and other irreparable harm. This principle is enshrined clearly under Article 33 of the Refugee Convention 1951. However, this principle is not applicable to environmental and climate refugees as Article 1(A)(2) of the Convention does not incorporate persons who had to flee their habitats due to environmental hazards.

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Since there is no explicit protection for environmental refugees rendered by the Refugee Convention, for instance, other documents and case developments can be an aid. For another, the Organisation of African Unity (OAU) has included climate migrants within the ambit of their Convention. In terms of landmark cases, Ioane Teitiota v New Zealand (2020) comes out on top.

In this case, Ioane Teitiota and his family left their habitat of Kiribati for New Zealand, where they applied for refuge on the grounds of climate change. At first, the Immigration and Protection Tribunal in New Zealand rejected Teitiota's asylum claim as a climate change refugee and declared that they did not face an absolute risk of being persecuted if returned to Kiribati. Moreover, the High Court, Court of Appeal, and Supreme Court of New Zealand also denied the application of leave to appeal. Consequently, they were deported back to Kiribati.

Later, Teitiota took the case to the Human Rights Commission (HRC), alleging that New Zealand had violated his right to life under Article 6 of the International Covenant on Civil and Political Rights by forcibly returning him to Kiribati. Ultimately, the HRC found that Teitiota's deportation was not unlawful because he did not face immediate danger to his life in Kiribati. However, the HRC also enunciated that if climate change represents a serious, and immediate threat to life, it has to be duly considered in deciding on refugees/asylees.

The HRC jurisprudence discussed above is particularly significant for Bangladesh, as it is one of the most vulnerable countries affected by climate change. A World Bank report on climate migration found that 4.1 million Bangladeshis were displaced in 2019 due to climate disasters and forecasts that 13.3 million could be displaced by 2050. Relevant to mention, in 2020 in France, a Bangladeshi migrant was recognised as the country's first climate refugee on grounds of his respiratory disease. The appeals court in Bordeaux found that the air pollution in Bangladesh will only exacerbate his condition.

There is no doubt that climate refugees are facing unimaginable sufferings because of rapid climate change. It is also now well-established that developed countries are the biggest contributors to climate change. Therefore, it is high time that climate refugees were incorporated within the refugee protection framework so that the rights of these people could be safeguarded more effectively.

The writer is student of law, University of Dhaka



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Md. Nafis Anowar Santo
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Technology and Human Rights

Human Rights in the Age of Artificial Intelligence

Despite its overwhelming presence across many aspects of our lives, there is no widely accepted definition of Artificial Intelligence (AI). Essentially, AI functions with the help of various computer learning programmes and associated processes dedicated to improving the ability of machines to function. In fact, the fundamental purpose of AI is to assist humans in doing works that require intelligence.

At present, AI is causing and contributing to significant breaches of privacy and data protection, since collation of personal information at a massive scale is increasing the potential of exploitation. Indeed, AI may facilitate the harvesting of personal data without adequate or informed consent. For instance, between 2013 and 2018, Cambridge Analytica collated personal data of up to 87 million Facebook users without their knowledge or consent for use in political advertising.

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Consequently, there is now a growing tension between privacy's requirement to restrict flow of personal data on the one hand and economic and commercial arguments supporting the free flow of such data on the other. Hence, a balance needs to be struck between the right to privacy and the economic interest driven by or arising out of the use of AI.

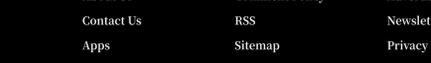
AI may also adversely impact fairness and due process in decision-making. In making decisions, AI may segregate or segment people by reference to a wide range of factors and without considering whether such segregation or segmentation is appropriate in the particular case even if they are completely unrelated to the decision in question. AI developers need to ensure that automated decision-making matches its human equivalent by developing the capacity to consider factors relevant to the individual's circumstances. Legal and technical communities should work together to find adequate ways of reducing possibilities of discrimination through algorithmic systems.

The use of AI for content curation and moderation on social media may affect the rights to freedom of expression and access to information. The use of facial recognition technology risks a serious impact on an array of civil rights. In the field of weapons for military use, AI risks undermining the right to life and the right to the integrity of the person if not closely circumscribed.

Human rights are inherent in all human beings, regardless of their race, sex, nationality, or any other status. The development of human rights law and evolution of its jurisprudence take time; technology, however, has taken a brisk pace. As such, human rights framework at times appears quite inadequate as a scheme for the ethical management of AI. Nonetheless, the existing human rights schema can form the basis for delimiting the appropriate scope of AI activities.

Human rights law requires governments and companies to provide a suitable right to remedy in case they breach their obligations and responsibilities. At all stages of design and deployment of AI, it must be clear as to who bears responsibility for its operation. Companies developing these technologies must proactively engage with academics, civil society actors, and representatives of community organisations. To fulfill their responsibility to respect human rights, they must implement a rigorous human rights due diligence framework governing the use of AI.

The writer is student of law, University of Dhaka



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