

SONAI

Examining the Rights of a River and the Status over
Non-Compliances, Departures, and Violations



by National River Alliance and Blue Planet Initiative



Published date:

January 31, 2023

Published by;

National River Alliance and
Blue Planet Initiative (BPI)

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Global Green Grant Fund
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Acknowledgements

We would like to acknowledge and give our warmest thanks to Dr. Mujibur Rahman Hawlader, former Chairman of National River Conservation Commission for his kind assistance. His guidance and advice carried us through all the stages of the completion of this study. Thanks to Ms. Sharmeen Murshed, Convener, National River Alliance for continuous support and encouragement. We also want to extend our gratitude to Mr. Md. Mojibor Rahman, District Commissioner of Sylhet for his cordial support during the survey. It is worthwhile to express gratitude to the local community members who have immensely helped us throughout the survey, contributing significantly to its success. Their engagement and encouragement were essential to accomplish the study.

Disclaimer

The assessment and review are based on both primary and secondary data collected by spot visits and inspections and through in-depth local surveys at the Sonai riverbank. Findings also derived from open discussion with the local people, community leaders, river activists and participants, environmentalists, occupational groups, civil society representatives, seminar resource and research personnel, and personalities. In Addition to that, the National River Conservation Commission (NRCC) Reports/Annual Reports 2018 and 2019, news, online media reports, pertinent acts, legal jurisdictions, rules, regulations, circulars, all the specific constitutional provisions and related clauses, and the historic judgments/verdicts/directives of the Hon'ble High Court and the Appellate Division of the Supreme Court, have been analysed critically and pragmatically.

It is to be noted that the project team worked independently with appropriate and necessary guidance and advice from the legal experts, management professionals, as well as concerned individuals of the relevant sectors.

Acronyms and Abbreviations

BADC	Bangladesh Agricultural Development Corporation
BAPA	Bangladesh Poribesh Andolon
BELA	Bangladesh Environmental Lawyers Association
BIWTA	Bangladesh Inland Water Transport Authority
BPI	Blue Planet Initiative
BWDB	Bangladesh Water Development Board
BWA	Bangladesh Water Act 2013
DC	Deputy Commissioner
DoE	Department of Environment
GGF	Global Greengrants Fund
GIS	Geographic Information System
LGED	Local Government Engineering Department
NGO	Non-Government Organization
NRCC	National River Conservation Commission
NOC	No Objection Certificate
RS	Revisional Settlement of 1962
SATA 1950	Statistics and Data 1950
SPARSO	Bangladesh Space Research and Remote Sensing Organization
UNO	Upazila Nirbahi Officer/Head of Sub-district Administration

Executive Summary

Following the international declaration, the Bangladesh Appellate Division of the Supreme Court upheld the 2019 decision of the High Court (in Writ Petition N° 13989) that declared that the Turag River and all other rivers in the country are “living entities” with rights as “legal persons.” In a landmark directive from the Bangladesh High Court, the National River Conservation Commission (NRCC) is declared “in loco parentis” for the rivers of Bangladesh, to protect and conserve them, and prevent pollution and encroachment. Based on such advancements, the Blue Planet Initiative (BPI) has commissioned this study to evaluate the rights of the transboundary Sonai River in Habiganj district. The ultimate objective was to map the river and determine the violations of rights of this transboundary river due to ongoing maltreatment and degradation.

In order to accomplish the set objective of this project, the BPI project team has conducted primary and secondary data collection. The primary data collection was conducted through courtyard meetings with the community living at the bank of Sonai. Also, field observations, interviews with the local influential people, meeting with journalists, discussion with occupational groups were conducted. To validate the collected data, the team held a seminars with relevant representatives at the district level in Habiganj, divisional level in Sylhet and national level in Dhaka.

According to the findings, it has been observed that the rights of Sonai river have been violated in all the legal, environmental and right to living personhood aspects. The construction of a multi-storied building named Saiham Future Complex has led to a significant encroachment, causing the river to change its course into a 'U' shape. Also, there are other parties that have occupied the river banks. Five major mills and industries are continuously

discharging their effluents into the river resulting in the water colour becoming black and unusable for any purpose. Waste dumping is another reason that impacts quality of water and impede the aquatic ecosystem of the river. The household's sanitation discharge also has impacts to the river water. The river, originally 28 km long and 250 m wide, has now become a narrow canal due to the aforementioned violations.

Illegal encroachments have been legitimised by the construction of the walkway by government agencies on the left bank of the river. This squarely violates the rights of the river. According to the NRCC, the authority has to recover the encroached riverbank first following RS documents and thereafter, they will construct the walkway on the recovered points. The BWDB through their river excavation and soil deposition provides another opportunity for encroachments along the banks. The deposited soil has separated the connection between the river and the canals. They are planning to install a sluice gate on the juncture between river and canal. Due to the bureaucratic and administrative processes, the soil dumped on the banks are not taken away. The BWDB has not obtain NOC from the NRCC to start excavation work. They are continuing the dredging following their common guideline.

The river is slowly morphing to a mere land leaving no footprint to waterways with a narrow canal on one hand and the poor marginalized fishing community is suffering on the other hand. The quantity of fish has drastically reduced and cultivation costs increased due to growing costs for irrigation. Identifying river areas using a geo-survey on RS records at the land office authority will help recover river areas. A joint effort by the NRCC in association with national, regional and local administration of land, water, environment and other relevant agencies is need to recover and conserve the Sonai river.

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1. Introduction

There is a growing international movement to permanently protect rivers, freshwater ecosystems for all who depend on them. The Universal Declaration of the Rights of the Rivers provides a framework for countries to use in their cases on the rights of rivers. In the first half of 2017, four rivers have been granted legal personhood status around the world, that is, they have been granted the same legal rights as a juristic person. Following the same process, the Appellate Division of the Supreme Court of Bangladesh upheld the 2019 decision of the High Court (in Writ Petition N° 13989) which declared that the Turag River and all other rivers in the country are “living entities” with rights as “legal persons.”

In a landmark directive from the Bangladesh High Court, the National River Conservation Commission (NRCC) was declared “in loco parentis” for the rivers of Bangladesh, to protect and conserve them, and prevent pollution and encroachment. The Commission will serve as a guardian for the rivers, to ensure their rights and the riparian ecosystems are protected. Further, under the Bangladesh decision, the rights of the rivers may be enforced against both private and public (government) entities. Based on such advancement, Blue Planet Initiative (BPI) had commissioned a study to identify the violations of the rights of Kohelia river at the coastal basin in Cox’s Bazar district. A fact-finding mission visited the river area to map out the violations. The Kohelia report showed evidence of serious destruction to the health of the river. BPI decided to extend the efforts to the Meghna basin to conduct a similar study on the transboundary river Sonai in Habiganj district. The ultimate objective was to map the river and determine which rights of the river have been violated by ongoing maltreatment and degradation.

¹https://drive.google.com/file/d/1ZSWZDg4JGhDUNfuhnvw_VUw4ihRrQP1k/view?usp=sharing

2. Background

The transboundary river Sonai originates from Tripura India and flows through Madhabpur Upazila in Habiganj. On December 22, 2021, there was a news in the Daily Star as “Sonai River: a victim of greed”². On December 23, 2021, the Daily Star again reported as Sonai: a river in distress³. On October 4, 2021, Prothom Alo also reported about Sonai River. On June 14, 2019, Waterkeepers Bangladesh has reported about Sonai River⁴. The Dhaka Tribune reported on March 04, 2014, as BAPA censures Sonai River Grabbers⁵. On October 01, 2011, the Songbad newspaper wrote as Saiham Future Complex is being constructed by filling Sonai River. On the same day, Samakal newspaper wrote as in Habigonj, Saiham Future Complex is being constructed by filling the Sonai River. Moreover, Somoy TV has reported about the encroachments and pollution of Sonai River⁶. Due to illegal encroachment and excessive dumping of waste into the river, it has almost turned into a canal. It is now acting as a narrow canal and carrying hazardous pollutants to the haor area. But the river was once a wider river that supported travel and trade between various upazillas. 20 years ago the river was 250 meters wide and that has turned half now. The depth of this river is now 5 meters and that is also declining. It was not excavated for a single time in the past but from December 2021 the dredging started by Bangladesh Water Development Board (BWDB). Moreover, an influential group has continued the sand mining due to which the riverbanks are eroded, and the bottom of the river is filling up day by day and also changing the course of the river.

The Upazila town is the first encroachment of Sonai river. The Saiham Group has built a multi-storied building for 'Saiham Future Park' on the bank of Sonai

²<https://www.thedailystar.net/news/bangladesh/news/94m-displaced-seven-years-3242861>

³<https://www.thedailystar.net/views/editorial/news/sonai-river-distress-2923496>

⁴<https://waterkeepersbangladesh.org/press-conference-on-recent-eviction-drives-of-the-government-current-status-of-adi-buriganga-and-sonai-rivers/>

⁵<https://www.dhakatribune.com/science-technology-environment/environment/56456/bapa-censures-sonai-river-grabbers>

⁶<https://www.youtube.com/watch?v=hHonIFiUKAs>

river,". The building has resulted in the narrowing down of the river as it makes a "U" shape thus changing the direction of its flow. Almost (80%) of the factories discharge their effluents and dump toxic waste into the river. This heavy pollution leads to the river turning black and giving off a bad odour. Thus, the fish population is heavily impacted. The factories on the banks continue to pollute the air which cause respiratory illness to the local inhabitants at the area. When Bangladesh Poribesh Andolon (BAPA) repeatedly protested against installing the structures of Saiham Future Park, the river commission, after several visits, instructed the district administration to evict it. But the eviction order wasn't followed though. River pollution has not stopped even after repeated protests and public opinion. There was a public hearing by Lawyer of Bangladesh Environmental Lawyers Association (BELA) Sylhet³ against the pollution and encroachment of Sonai river but the action against encroachers was not fruitful.

Since 2011, BAPA has been acting as local environmental force to protest the land encroachment and unplanned construction along the Sonai river. The NRCC has made two field visits to investigate the encroachment aspects of Sonai river. Having so many protests organized locally and nationally, the situation of Sonai river has not improved. Considering the overall fact, BPI has commissioned this study to map out the violations of rights of the Sonai river. This report has detailed the findings of that study.

3. Sonai River

Name of River: Sonai River

Type: Transboundary River originates from the Tripura, India and a stream in Bangladesh, running water to the Haor basin at the downstream.

Address: Upazila: Madhabpur, District: Habiganj, Division: Sylhet, Country: Bangladesh.

Geographic Information: It enters into Bangladesh near Dharmanagar of Tripura. A total of around 50 km, Sonai River is 28 Km long in Bangladesh.



Figure – 1: View of Sonai river

4. Methodology of the Study

The study has been conducted based on the primary (from river bank community people) and secondary data as collected during the period of the study. The project team has independently conducted the study by visiting the various river sites at multiple times. The team consulted with the river bank community, interviewed the local influential people and environmental activists.

4.1. Primary Data Collection

The primary data has been collected with an exclusive attention to encroachment, pollution, sand mining and other degradation aspects of the Sonai River. The project team travelled upstream and downstream to conduct consultations with the affected river bank communities at various points in degraded river areas. The tools and discussion points are presented below.

4.1.1. Courtyard Meetings

A total number of ten courtyard meetings have been conducted at both bank of the Sonai river and consulted to map the river along with the degradation

points. The courtyard meetings held at different locations including Madhabpur Bazar, Montola Temunia, Gobindapur Montola, Chowmuhoni Bazar, Mahabbatpur, Kalikrishana Nagar, Shatborgo, Aewolia Nagar, Horinkhola, and Tulshipur. In the meetings, the issues and impacts of encroachments, pollution, and other degradation were discussed and documented. About 20-25 river bank community people participated in each of the meetings where both men (70%) and women (30%) attended. Among the courtyard meetings, eight meetings held as mixed groups with men and women. Two courtyard meetings held only with the women to document their views separately. In the discussion, the public perception of the harmful causes was documented. Also, their suggestions on a way forward for river conservation were documented.

4.1.2. Interviews with the Local Influential People

The project team has conducted interviews with the local influential people to map out the history, 20 years ago and the current scenario of the Sonai river. A total of nine influential people (7 men and 2 women) have been interviewed. All are aged between 35 -50 years. The interviews brought up the underlying causes of degradation of the Sonai river and the ways to prevent the harmful interventions that are causing the violation of the rights of the river.

4.1.3. Field Observations

In the field observations, the spot investigations and data collection of the physical condition of Sonai river has been conducted. The data collection was conducted by visual observation and consultation with the community people.

The triangulation of community and influential people provided information has been conducted and the visual observation assisted the project team to finalize received information on degradation aspects of Sonai river

4.1.4. Meeting with the Journalists

The project team conducted meetings with the journalists at two press-clubs. The key objective of these meetings were to document the historical information about the Sonai river and impacts on it. The elderly journalists have shared information about the transformation of the Sonai river width to a narrow canal due to encroachments and pollution as well as waste dumping into the river.

4.1.5. Discussion with the Occupational Groups

The discussions with river resource users particularly with the fishers and farmers were conducted. Two separate meetings were conducted between 100 fishers and 73 farmers. In these meetings the participants shared information about the degradation of the Sonai river and its impact on their lives and livelihoods.

4.1.6. Dialogue with the Citizens

Two dialogues have been held with the citizens at Madhabpur Upazila and at Habiganj Sadar Upazila. In every dialogue, the participants shared information about degradation of the river due to the landgrabbers and untreated effluent discharge from the factories on Sonai river. Due to such activities the width and depth of the river is less than half of what they were 20 years ago.

4.1.7. Open Discussion and Conference

Total three conferences were held at the district level in Habiganj, divisional

level in Sylhet and National level in Dhaka. At these conferences, there were local people, river conservation/river waterkeepers, environmentalists, representatives of civil society, Deputy Commissioner, Sylhet, water development board, NGO activists and the former Chairman of NRCC. In the conference, the consultant has presented the collected data about Sonai river and validate the same. Also, the opinion of the participants to recover the rights of Sonai river have been documented to derive a way forward.

4.1.8. Secondary Data Collection

The study team has studied various published documents like reports and articles from legal documents and reports to the High Court and Appellate Division's judgments and verdicts and specific directives. The rights of the rivers in general and that of Sonai, in particular has been reviewed from the enacted laws, rules, regulations, guidelines, circulars and the advice and suggestions, as well as the nature and gravity of violations and the escalations and departures from the policy-strategy and government. NRCC's guidelines and instructions have been exclusively analysed and identification of the commission of violations and offensive actions and lack of prosecution and application of laws for ensuring the rights of the river. The legislative, judicial, and administrative frameworks contradicting the current practices were utilized to provide data and analyse the situation at the Sonai River. The investigation report of NRCC on Sonai River has been reviewed.

4.2. Data Analysis

The data analysis conducted based on qualitative process referencing the legislative aspects of different degradation issues of the Sonai river.

The triangulation of information as collected from various sources and respondents have been conducted to reach out the consensus about the

findings. Moreover, the findings of field observations have been consulted for the study. In addition to the secondary data resembles the findings of this study.

5. Violation of the Rights of Sonai River

Through this study we have captured the various violations of the rights of the Sonai River. A detailed area-wise capturing of violations is presented below.

5.1. Encroachment

The increased encroachment of the Sonai River has been observed in the last two decades. We studied, one particular encroachment, Saiham Future Complex, being built on the river at Madhabpur Upazila in Habiganj District. The process to build the complex started from 2003 on paper. Different recon surveys shows us, that a signboard was put in the middle of the river in 2011 and the river was continuously filled to develop the complex which is stopping the flow of the river despite several governments and civil society protests. According to the investigation report of NRCC, it has been noted that the Saiham Future Complex has been constructed in private land not of the Sonai River land. But according to land documents and various newspapers have reported that the construction has been conducted on Sonai River which is intensive violation of waterbody conservation law of 2000. Moreover, due to lack of awareness and wrong decisions, if the encroachment and pollution continued at Sonai River, the downstream community will face scarcity of water.

Due to the continuous filling, the river is being drastically eroded and incidentally, 7 km² of villages have been disappeared. Also, there is sand mining, waste dumping and encroachments on Sonai river.

This is a direct violation of the Natural Wetland Conservation Act 2000 and National Water Act 2013. Due to the construction of Saiham Future Complex, the river has changed its course and taken an “U” turn and other parts of river almost died with the massive siltation.

There are other small encroachments constructed by the mills and factories. The 28 Km long and 250-metre width river is now becoming a narrow drain due to encroachment and dumping of trash by the community people .⁵



In order to protest the construction of Saiham Future Complex, on June 11, 2011 there was a protest organized by BAPA and the local community people who formed a Human chain (figure-3)⁶ . On January 07, 2015 (figure-4) the Chairman of NRCC along with senior officials of various departments related to the river, visited Sonai river bank to stop the construction of Saiham Future Comple but that didn't bring any positive result. NRCC is the supreme

⁵<https://www.thedailystar.net/opinion/editorial/news/telegu-people-need-levelling-3247396>

⁶ হকিগঞ্জ নদী ভরাটের প্রতিবাদে বাপার মানববন্ধন(prothomalo.com)

authority to take control over any rivers of the country to ensure the rights of river. For any violation of rights, NRCC has to take action against the causes and the person who violate the rights of river.

Again, on September 13, 2018, Chairman NRRC along with the Zila (District) and Upazila (Sub-district) Administrations visited the spot of encroachments to stop the construction but that didn't work either.



Figure – 3: Human Chain (June 11, 2011).



Figure – 4: NRCC visit (January 07, 2015).

By looking at the relevant documents, it appears that since 2003, an initiative has been taken to construct a multi-storied building named "Saiham Future Complex" by occupying the Sonai River, but in 2011, a pictorial news about this was published in Daily Prothom Alo newspaper, and the civil society immediately protested. Bangladesh Inland Navigation Authority conducts a departmental investigation; but the construction of the building continued unabated. In addition to continuing protests from civil society, the issue was heated in the 2015 meeting of the National Rivers Task Force. The task force suspended the work and formed an investigation committee headed by the Chairman of the NRCC, including civil society representatives. The members of the committee visited the site and while staying at the location, they agreed that the "Saiham Future Complex" was being built in the place of the river by obstructing the flow of the river, but without mentioning it in the report. Rather the report said that the building was being built on a privately owned land, and that was the way the construction of the building was facilitated. Despite disagreements and protests from civil society representative, based on the report, the Task Force lifted the ban and construction resumed after nearly 2 years of shutdown. On 10th October 2015 Daily Prothom Alo published an editorial titled "What did the River Conservation Commission do" in this regard.

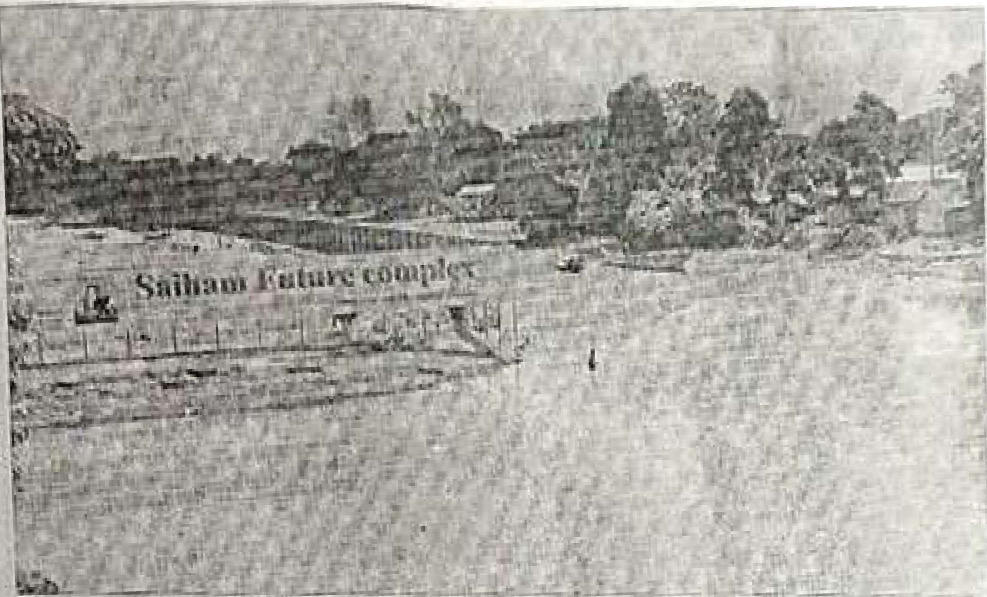
After the next Chairman of the NRCC took over the charge, the Commission during its inspection of the Sonai River found the illegal river encroachment and construction of the "Saiham Future Complex". NRCC sent written letters to the concerned authorities for its eviction. But this letter of NRCC remained ineffective. Also, the construction of "Saiham Future Complex" continues and autorickshaw stand was built in front. Some parts of Satbarga village of Sarail upazila have already eroded and the river took a "U" shape. Construction of a walkway bypassing all the encroachments of the Sonai River along with some other encroachments adjacent to Madhavpur Bazar was underway. Also, there were other pollutions to the Sonai River including industrial pollution.

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বিশ্বাল বাংলা

প্রথম আলো

মঙ্গলবার, ৪ অক্টোবর ২০১১



নদীর পাড়ে পাড়ে উঠছে সাইহাম ফিউচার কমপ্লেক্স। © সত্যম জগল

সোনাই নদীদখল করে ৪০০ কোটি টাকার সাইহাম ফিউচার কমপ্লেক্স!

হবিগঞ্জ প্রতিবেদিত।

হবিগঞ্জের সোনাই নদীর পাড়ে জিন এডার ডায়াল দখল করে ৪০০ কোটি টাকা ব্যয়ে সাইহাম ফিউচার কমপ্লেক্স নির্মাণ করতে শিল্পায়িত সাইহাম গ্রুপ।

এ দখলের কারণে নদীর প্রকার ও গতি কমে গেছে বলে অভিযোগ এসেছে এলাকাবাসী ও পরিবেশবাদীদের। তবে সাইহাম গ্রুপের দাবি, এটা গ্রামের পারিবারিক এবং ১০০ বছর আগের স্থান।

এ দখলের প্রতিবাদে পরিবেশবাদীরা গরু প্রকার বাংলাদেশ পরিবেশ আন্দোলন এবং হবিগঞ্জ ছেলা-খালা ডাকা-সিলেট মহাসড়কে মাঠবন্দর বাজারে এক মানববন্ধন করে। এ দখল সত্যি পরিবেশ আন্দোলনের নেতারা বলেন, একটি নদী গ্রাস করে কোনো ফিউচার কমপ্লেক্স নির্মাণ হতে পারে না। যারা এ নদী দখল করে বাঁধনা করতে চান, তাদের এ দখল ছাড়তে হবে, নইলে তারা বৃহত্তর আন্দোলনের স্বাক্ষর করেন।

সংস্কৃতিক সেরা সনু, হবিগঞ্জের মাঠবন্দর বাজারে উপর দিয়ে সোনাই নদী প্রবাহিত হয়েছে। এ নদীর তীর দিয়ে রয়েছে ডাকা-সিলেট মহাসড়ক, বাজারের গিঁথুরা এ নদীর উভয়তীরে। মাঠবন্দর দখল হলে তিঁথুরা নদীর সঙ্গে যোগাবে এ নদী।

হবিগঞ্জের মাঠবন্দর বাজারে সোনাই নদীর দুই পাশে নির্মাণ হয়ে দখলপ্রক্রিয়া চলে আসছে। এলাকাবাসী জানান, মার্চ ২০১১ সালের পুরো নদীতে গ্রাস করে আসছে। বিগত কয়েক ঠাই এলাকার ভাঙা-পাড়া ও শিল্পায়িত পার্শ্বের সাইহাম গ্রুপ ফিউচার উন্নয়ন একটি সালসুত্রে সাইহাম ফিউচার কমপ্লেক্স নির্মাণ-প্রক্রিয়া শুরু করার বিষয়টি দখলের পাড়ে আসে। সর্বমুঠে প্রায় পাঁচ-তিন একর জায়গায় নিয়ে এ ফিউচার পাড়ের নির্মাণ-প্রক্রিয়া চলছে। বিশ্বাস মিস্তার এর নির্মাণপ্রক্রিয়ায়। মাঠবন্দর বাজারের পার্শ্ববর্তী স্থানে দখল বলে, 'যে জায়গায় সাইহাম ফিউচার কমপ্লেক্স হচ্ছে, আমরা জানি, তা নদীর সীমার ভেতরের জায়গা'।

বাংলাদেশ পরিবেশ আন্দোলনের কেন্দ্রীয় মুদ্র

পত্রিকা শ্রীফ জমিল বলেন, একটি নদীর জলময় প্রকৃতিক প্রকার কেউ এক করে দিতে পারে না। দখলের শুধু সাইহাম পরিবারই নয়, হাটটি ও সংশ্লিষ্ট অঞ্চল, সবাইকে জড়িয়ে দিতে চাওয়া উচিত বলে।

এ বিষয়ে-সাংবাদিক ফিউচার কমপ্লেক্স ও সাইহাম গ্রুপ আছে ইন্ডাস্ট্রিয়ার শ্রীফ জমিল বলেন, সাইহাম গ্রুপের দখল, ১০ জায়গা জায়গা দখল না। তা গ্রামের পার্শ্ববর্তীভাবে পাড়ার এবং ১০০ বছরের পুরোনো। আমরা প্রকৃত জায়গায় ছেঁড়া প্রশাসন, উপজেলা প্রশাসন ও পুলিশ প্রশাসনের প্রতিনিধি উপস্থিত থেকে ছবি তুলে করে আমাদের জায়গা বুঝিয়ে দিয়ে গেছেন। তিনি আরও বলেন, আমরাও চাই, নদী দখলমুক্ত হোক। তবে একটি উচ্চ আমাদের হেরে তুলার জন্য আমাদের দখলবাজ সাইহাম।

হবিগঞ্জ শান্তি উন্নয়ন বোর্ডের (সিউইসি) নির্বাহী প্রকৌশলী আবদুল হেকিম বলেন, এ বিষয়ে তারা কোনো অভিযোগ পাননি। তবে পাড়ের ঘটনাস্থল তদন্ত করে দেখতে হবে তিনি জানান।

পৃষ্ঠা: ৪

Figure – 5: Media news about the encroachment by the Saiham Future Complex on 04/10/2011.

জাতীয় নদী রক্ষা কমিশন
বি এস সি টাওয়ার
২-৩ রাজউক এডিনিউ
মতিঝিল, ঢাকা-১০০০।

নং-১৮.২০.০০০০.০১৮.৯৯.০০১.১৪-৩৭৪

তারিখঃ ২৮-১২-২০১৪ খ্রিঃ


বিষয়ঃ সোনাই নদীর উপর/নদীর তীরে সায়হাম ফিউচার কমপ্লেক্স কর্তৃক স্থাপনা নির্মাণ বিষয়ে সরেজমিন পরিদর্শন প্রসঙ্গে।

উপর্যুক্ত বিষয়ের প্রেক্ষিতে জানানো যাচ্ছে যে, জাতীয় টারফোর্স কমিটির ২৫তম ও ২৭তম সভার সিদ্ধান্তের আলোকে সোনাই নদীর উপর/নদীর তীরে সায়হাম ফিউচার কমপ্লেক্স কর্তৃক স্থাপনা নির্মাণের বিষয়ে আপত্তি/অভিযোগ উত্থাপিত হয়েছে। টারফোর্স এর ২৫ তম সভার সিদ্ধান্ত সিন্ধান্ত পূর্বীত হয়েছে।

" হবিগঞ্জ জেলার মাধবপুরস্থ সোনাই নদীর পাড়ে সায়হাম ফিউচার কমপ্লেক্স এর নির্মাণ কাজ স্থগিত করা হয়েছে। নদীর বক্ষ হতে স্থাপনা অপসারণ সংশ্লিষ্ট যততলো আইন রয়েছে তা উল্লেখ করে আইন মন্ত্রণালয়ের মতামতের জন্য প্রেরণ করতে হবে। আইন মন্ত্রণালয় করণী বিষয়ে আইনগত কার্যক্রম গ্রহণের জন্য পরামর্শ দিবে"।

০২। ভারতীয় টারফোর্স এর ২৭ তম সভার ৫নং সিদ্ধান্ত অনুযায়ী সায়হাম ফিউচার কমপ্লেক্স সোনাই নদীর উপর/নদীর তীরে স্থাপনা নির্মাণের বিষয়ে সরেজমিনে পরিদর্শন করে প্রতিবেদন দেয়ার জন্য চেয়ারম্যান, জাতীয় নদী রক্ষা কমিশনকে আহ্বায়ক করে ০৭ (সাত) সদস্যের একটি কমিটি গঠন করা হয়। উক্ত কমিটি আগামী ০৭/০১/২০১৫ ইং তারিখে সরেজমিনে সোনাই নদীর আশেপাশে স্থানটি পরিদর্শন করবে।

০৩। বর্ণিত অবস্থায়, টারফোর্স সভার সিদ্ধান্ত বাস্তবায়নার্থে গঠিত কমিটির সদস্যদের হবিগঞ্জ জেলার মাধবপুরস্থ সায়হাম ফিউচার কমপ্লেক্স কর্তৃক সোনাই নদীর তীরস্থানে স্থাপনা নির্মাণ বিষয়ে সরেজমিনে পরিদর্শনের জন্য আপনার মন্ত্রণালয়/বিভাগ/সংস্থার মনোনীত কর্মকর্তাকে হবিগঞ্জ জেলা সরকারের নিমিত্ত অনুমতি প্রদানের জন্য অনুরোধ করা হলো।


(মোহাম্মদ মুস্তাফিজুর রহমান)
উপ-পরিচালক (কর্মসূচী)
জাতীয় নদী রক্ষা কমিশন
মোবাইলঃ ০১৭১৫৭২৮৯২৯।

অনুলিপিঃ

- ১। সচিব, জমি মন্ত্রণালয়, বাংলাদেশ সচিবালয়, ঢাকা
(জনাব মোঃ রফিকুল আলম, যুগ্ম-সচিবকে মনোনয়ন দেয়ার জন্য অনুরোধ করা হলো)।
- ২। সচিব, পরিবেশ ও বন মন্ত্রণালয়, বাংলাদেশ সচিবালয়, ঢাকা
(জনাব মোঃ আফজাল হোসেন, যুগ্ম-সচিবকে মনোনয়ন দেয়ার জন্য অনুরোধ করা হলো)।
- ৩। সচিব, আইন, বিচার ও সংসদ বিষয়ক মন্ত্রণালয়, বাংলাদেশ সচিবালয়, ঢাকা
(জনাব এ কে এম সলিম উল্লাহ, সিনিয়র-সচিবকে মনোনয়ন দেয়ার জন্য অনুরোধ করা হলো)।
- ৪। সচিব, নৌ-পরিবহন মন্ত্রণালয়, বাংলাদেশ সচিবালয়, ঢাকা
(জনাব নূর-উর রহমান, যুগ্ম-সচিবকে মনোনয়ন দেয়ার জন্য অনুরোধ করা হলো)।
- ৫। চেয়ারম্যান, বিআইডব্লিউটিএ, ১৪১-১৪৩, মতিঝিল, ঢাকা
(জনাব মোঃ সায়েকুল ইসলাম, উপ-পরিচালক, নৌগণ-কে মনোনয়ন দেয়ার জন্য অনুরোধ করা হলো)।
- ৬। মহাপরিচালক, বাংলাদেশ পানি উন্নয়ন বোর্ড, মতিঝিল, ঢাকা
(জনাব মোঃ মকিবুর রহমান, তত্ত্বাবধায়ক প্রকৌশলী-কে মনোনয়ন দেয়ার জন্য অনুরোধ করা হলো)।
- ৭। প্রধান প্রকৌশলী, সড়ক ও জনপথ অধিদপ্তর, তেজগাঁও, ঢাকা
(জনাব মোঃ জাহাঙ্গীর আলম, নির্বাহী প্রকৌশলী-কে মনোনয়ন দেয়ার জন্য অনুরোধ করা হলো)।
- ৮। মাধ্যম সম্পাদক, বাংলাদেশ পরিবেশ আন্দোলন (বাপা), ৯/১২ ব্লক ডি, মালমাটিয়া, ঢাকা।
(আপনার সংস্থার একজন প্রতিনিধিকে মনোনয়ন দেওয়ার জন্য অনুরোধ করা হলো)
- ৯। চেয়ারম্যান, পরিবেশ বাঁচাও আন্দোলন (পবা), ৫৮/১ কলাবাগান, ১ম লেইন, ঢাকা।
(আপনার সংস্থার একজন প্রতিনিধিকে মনোনয়ন দেওয়ার জন্য অনুরোধ করা হলো)
- ১০। অফিস কপি।

E:\River\Sonal Nadi\Protibedon.d\DCX

Figure – 6: Letter by Deputy Director, Program, NRCC for investigation of encroachment of Sonai River area on 28/12/2014.

In June 2020, the government has constructed the walkway on the left bank of the river following the encroached landmarks which has given the legitimate rights to the encroachers. Ideally, the government should have conducted a survey, based on the RS records and recover the land of Sonai river areas and then construct the walkway on the actual bank of the river (Figure-8 & 9). It's a violation of the rights of Sonai river.



Figure – 7: Walkway at the left bank of Sonai river.



Figure – 8 : Construction of walkway at the left bank of Sonai river after the encroached structures.



Figure-9: Low height Bridge.



Figure – 10: Waste dumping and polluted water at Sonai River.



Figure-11: Due to industrial pollution water color became black.

5.2. Unplanned Construction

A narrow bridge with low height is one of the key interventions that impacted the natural flow of Sonai river. This bridge has reduced the width of the river due to the low height and the navigation under it has impacted during monsoon season (Figure-10).

5.3. Pollution: Deterioration of Water Quality

There are five major mills and factories located on both sides of Sonai river. All the mills and factories are discharging their effluents into the river (figure-12). Moreover, huge quantities of household waste is dumped every day at different points of the Sonai river by the local community people (figure-11). The household's solid waste discharge is also dumped into the river by installation of a sanitary outlet pipe. All these toxins flow downstream and impact the Haor basin at the downstream by this river⁷.

This dumping of industrial effluents and other domestic waste has impacted the water quality of the river severely. The water quality is not up to the minimum standard needed for domestic use and fish disappeared from the heavily polluted areas of the river. The poor water quality became so poisonous that local community people can't use the river water for their domestic purposes and they can't bath in the river like they did earlier (figure-12).

5.4. Sand Mining and Excavation

It has been observed that some influential people are extracting sand from the river bed regularly. This kind of unchecked sand mining enhances the river bank erosion, destruction of cropland and settlements of poor river

⁷<https://www.thedailystar.net/opinion/editorial/news/telegu-people-need-levelling-3247396>

bank community people⁸ . From December 2021, the Bangladesh Water Development Board (BWDB)⁹ has started the recovery of Sonai river through dredging operations. A total of 28 Km of river is under dredging, out of which 20 Km of excavation is completed and rest of the 8 Km is under progress. Due to monsoon rainfall, the dredging activities is under delay. The recovery initiative of BWDB process has negatively impacted the Sonai river basin. The dredged soil is dumped in the foreshore and riverbank. This impacts the connectivity of the river and other waterbodies/beels through canals. Fish migratory routes have been blocked (Figure-13) and fish breeding as well as feeding, have been hampered the production of fishes in the river.

In a discussion with the Executive Engineer of BWDB, Habiganj district has informed us of the auction of the excavated soil but due to rainfall, the excavation activity has been hampered. They have shared the data detailing the volume of excavated soils to the Deputy Commissioner (DC) and Upazila Nirbahi Officer (UNO) for auction to sale the soils but till now there is no progress of removing the excavated soils and sands.



Figure-13: Due to BWDB Excavated soil the connection between river and canal has been blocked.

⁸ <https://dailyasianage.com/news/279063/we-must-save-our-rivers-at-any-cost>

⁹ Mr. Shameem Mahmud, Executive Engineer, BWDB, Habiganj.

5.5. Loss of Biodiversity

The biodiversity of Sonai river has been heavily impacted. Firstly, encroachment on the river area reduced the aquatic habitat of the aquatic organisms. Secondly, the dumping of waste and industrial effluents has toxic activity and deteriorated the water quality and thus impact the breeding and overwintering ground of various beneficial organisms¹⁰. During the field data collection, the fishers complained that more than 20 species of fishes and other aquatic vegetation has disappeared from the Sonai river.

5.6. Impact on Agriculture

Major losses are observed in the agricultural sector. Due to polluted water, the farmers can't use the water from the river to irrigate their crops¹¹. Also, during monsoon the lowline areas of the river bank gets inundated by the polluted water which may reduce the productivity of the agricultural land. Therefore, the use of the river water for agricultural purposes is now adjourned due the poor water quality and scarcity. Nowadays, the farmers are using pumps for irrigating ground water and the cost of irrigation is increasing day by day which at the end increases the production cost of their crops. Also, due to massive extraction of ground water, the water level is going down which in the long-run will be another disaster for the local farmers and the riverbank community.

5.7. Impact on Domestic use of Water

The water quality of Sonai river has deteriorated to such an extent that it causes skin diseases to the community if they batch with the river water. The community are unable to use the river water for their domestic purposes like

¹⁰https://newsarchive.app/a/daily_star/2021/11/22/Sonai-river-A-victim-of-greed

¹¹<https://www.jajjainbd.com/wholecountry/217383>

washing of utensils, cooking and washing clothes etc. This makes them dependent on tube well water and there is scarcity of water everywhere. Similar to the pressure on ground water due to agriculture, there are similar pressures caused due to excessive use of domestic water.

5.8. Impact on Livestock Resources

As we see the poor water quality for domestic purposes, similarly, they are unable to use the water for their livestock animals. Due to scarcity of fresh water the cultivation of paddy is reduced and thus decreased the production of straw causes the scarcity of fodder for their cattle.

6. Legal Rights of Sonai River

The Appellate Division¹² of the Supreme Court of Bangladesh upheld the 2019 decision of the High Court (in Writ Petition N° 13989) which declared that the Turag River and all other rivers in the country are “living entities” with rights as “legal persons”. Using this judgement, we have a list of violations of the rights of the Sonai river. The specific violation areas are presented below.

6.1. Free flow of river - Drainage of river water in the natural course of the basin

Sonai river like the other rivers of the country has got the legal right of having legal entity and of the Living Personhood. The major encroacher stopping the flow is the Saiham Group who have constructed the multi-storied Future Complex that has changed the natural course of the river. Moreover, the excavated soil of BWDB dredging has blocked the flow of water from the river to the canal and vice versa.

¹²<https://mari-margil.medium.com/bangladesh-supreme-court-upholds-rights-of-rivers-ed78568d8aa>

The BWDB has deposited excavated soil on both the banks of the river resulting in the loss of connectivity of the flow of water between the river, the canals and beels. Thus, the river basin has lost its connectivity with other associated waterbodies.

6.2. Preserve the river's own landforms and characteristics - do not interfere

The sand mining by the local influential people and dumping of waste by the industries, local bazars, and households changes the landforms of Sonai river. However, the BWDB has continued dredging of the whole river with the aim of recovery of the river. But instead, this dredging has destroyed the natural landforms and habitat of fishes and other aquatic organisms. The Sonai river has got the rights and status of remaining undisturbed by any adverse impacts of development works. Sonai's foreshore, bank or any portion of the discharge channel should not be disturbed by any sort of actions, but unfortunately, and physically these type of violations with adverse impacts have happened for the Sonai river.

6.3. Maintaining drainage capacity of rivers to maintain flow, water supply, and sedimentation processes so that rivers retain their seasonal characteristics and cope with climate change conditions

The water flow of Sonai river has been severely impacted due to encroachment on the both sides of the river and even changed the usual water course of the river. Due to sand mining the sedimentation process has been impacted along with water flow. "Finally, the river has been transformed into a narrow canal, reducing its width from 250 meters to nearly half, while the water depth remains at five meters. The perennial Sonai river became a seasonal river and lost its original characteristics due to constant violation of its rights. Thus, the

river lost its capacity to cope with the additional challenge of climatic conditions.

6.4. The right to maintain and conserve the river in its normal course, river system

Sonai river has lost its natural flows due to encroachment and unplanned construction of Saiham Future Complex and Walkway on the banks. The course of the river has been changed due to such encroachment of Saiham Future Complex and the river takes “U” turn. There were lots of protest takes place by the BAPA, NRCC and local community people but finally no result of such initiatives. Sonai river’s natural water discharge system and the navigability facilities have been strangled by the authority of Saiham Future Complex and other mill factory owners which is a clear violation of the Criminal Procedure Code 1898, section 133. No actions have been proceeded with under section 135 or 137A by the Police Department or the District Magistrate. Moreover, this kind of unplanned act of occupation and the change of the river banks, foreshores and the transportation system and cordoning the river and its water discharge with the mentioned facilities of the public property have been damaged permanently in spite of several submission from the NGOs & Civil Society Organizations for the restoration of the living and entity of the Sonai river.

6.5. Conservation of river as living asset and public property without any illegal encroachment and illegal obstruction

The illegal encroachment by the influential people and construction of multistory buildings like as Saiham Future Complex has violated the rights of Sonai river as living asset. The public property rights of local people and the damage to the environment and the agricultural and fisheries production

system have been destroyed mercilessly and knowingly by the act of such indiscriminate development schemes occupying the river banks and beds illegally and inhumanly. Fishermen, farmers, and their families have been living alongside the rivers and depending on the water for their livelihoods are now in severe sufferings and searching of alternative livelihoods. These illegal and unplanned acts amount to criminal offenses punishable under sections 133, 135 & 137(A) of the CrPC 1898 and under the Water Act 2013 sections 17-21 and 0 to 3. Natural Canals and beels linked with the Sonai river system also have been severely and adversely impacted and been disconnected. The local people are suffering very acutely due to polluted water quality, they are not able to use the water for crop production, livestock rearing and even for households' domestic use and consumptions.

6.6. Rivers are public property and non-transferable as Official Record of Rights (R&R)

The Sonai river has been allowed by the government authority and BWDB has continued excavation by the aim of recovery of the river. But they have been deposited the excavated soils at both the bank of river. Due to such deposition of soils, the associated canals and beels have lost its connectivity. In order to reduce such barriers, the BWDB is in a plan to install sluice gates at the connections of canals and rivers which will hamper usual water flows and also violation of rights of non-transferable public property. SATA 1950, Section 86(3) and (4), has been violated due to a grave neglect of the river's rights' protection, as well as the violation of public rights defined by the act as criminal offenses and punishable acts. Ironically, the concerned legal authorities have been proven to be inactive, and the gross damage to the river and public property has already occurred. The High Court and the Supreme Court's verdict have also been superseded in direct violation and the act of knowing in action.

Sonai river can enjoy such rights as mentioned and defined by the acts and interpret by the Hon'ble Supreme Court; the govt. concerned authorities must act accordingly; ironically for the Sonai river, these laws have been flouted indiscriminately on such flimsy grounds for no noble cause at all. The requests from the environmentalists and the civil society organizations, and some river activists have not been taken into account at all.

6.7. River Pollution – Not interfering with river environment and surroundings by littering, plastic, river filling and not hindering the growth of biodiversity

As noted above, the Sonai river is a dumping station of industrial effluents and toxic waste, household waste and sanitation waste. The river bank has been filled at the early stage with the dumping of waste. Moreover, the sand deposition and construction are narrowing the river bed and thus the river became a narrow canal from a perennial 250 meters wide river. Due to eminent deposition of waste and pollution, the habitat of fishes and other aquatic organisms have been destroyed and growth of biodiversity hampered. Local fishers said twenty species of fishes locally extinct from the rivers and there is no fishes in the river now. Its environment, ecology and the biodiversity have been adversely affected which might further the deterioration with gradual multifaceted implications causing the early death of Sonai river and surrounding canal and beels: the water system incurring a heavy toll on the entire environment and river as well as aquatic ecosystem.

6.8. Right to have its banks, foreshores, port lands, and floodplains unoccupied or dispossessed by humans under the legal coverage of the State Acquisition and Tenancy Act, section 86 & 87 and The Easement Act 1882, The Alluvial Lands Act 1920 the Water Act 2013,

The Ports Act 1908 and The Government and Local Authority Lands and Buildings (Recovery of Possession) Ordinance, 1970

The rights of Sonai river have been violated into many folds. At first the private encroachers like Saiham Future Complex, the local bazar committee and other mill and factory owners have encroached both bank of the river. Moreover, the government authority has constructed the walkway at the bank of river without recovery of the encroached river areas. Ideally, the authority has to recover the Sonai river following the RS record and then they can construct the walkway along the river side but without doing such recovery, they have constructed following the present land mark of encroachers and given legitimate rights to the illegal encroachments.

6.9. Not to carry out illegal development projects and environmentally unacceptable activities in the river

Recently, the government has constructed the walkway beside the river following the encroached landmarks which has given the legitimate rights to the encroachers. Ideally, the government should have to conduct the survey and based on the RS record and recover the river areas and then construct the walkway at the actual bank of river. Moreover, the excavation works of BWDB and their soil deposition at the bank of river lost the connectivity to the associated canals and beels have damaged the usual nature aquatic ecosystem.

7. Analysis of Violations of Legal Frameworks and Rights of River

7.1. Court Verdict: Killing the Sonai River

The rights of the rivers of Bangladesh have been upheld by the Supreme Court of Bangladesh. Each river now has the right to life. The core outcome of the verdict is the following directives for addressing river pollution and illegal riverbank encroachment.

- The Appellate Division of the Supreme Court of Bangladesh upheld the 2019 decision of the High Court (in Writ Petition No 13989) which declared that all rivers in the country are with the right of “legal person”, “legal entity” and “living entity” however, the Sonai river’s legal and living entity due to massive pollution and encroachment has been violated.
- The Doctrine of Public Trust, which has been expounded, analyzed, and narrated in this case, is an integral part of the laws of our country which has been violated in the case of Sonai River by encroachments, pollution and waste dumping.
- Turag River is declared as a legal person/legal entity/living entity. All rivers flowing inside and through Bangladesh will also get the same status of legal persons or legal entities or living entities. Following the same the Sonai river received the status of a legal person and its legitimate rights have been violated.
- The NRCC is declared as the ‘Person in Loco Parentis’ of all rivers of Bangladesh including River Turag for protection, conservation, and development by saving them from pollution and encroachment. From now on, the NRCC is under obligation for the protection, conservation, development, and beautification of all rivers after saving them from pollution and encroachment as well as making them suitable for navigation with the cooperation and assistance of all river-related authorities, departments, and ministries. All river-related authorities, departments, and ministries would have to be under obligation to provide appropriate and sufficient cooperation and assistance to the NRCC. While, in the case of Sonai river, even with multiple investigations and visits of NRCC, they were unable to stop the encroachment by the Saiham Future Complex. The Precautionary Principle, as well as the Polluters’ Pay Principle, are declared as part of the laws of Bangladesh but the pollution of Sonai river continued unabated.

- All concerned authorities, including the Planning Commission, LGED, Water Development Board, BIWTA, and BADC will have to intimate the NRCC prior to sanctioning a new project concerning rivers, canals, and water bodies. In addition, they will have to obtain a No Objection Certificate (NOC) from the NRCC for such projects. Armed with this information, we reached out to the Executive Engineer of BWDB to check whether they have obtained the NOC from NRCC prior to start the excavation work or not. But they have not given any clear response.
- Considering the case of Saiham Future Complex, National River Conservation Commission Act 2013 needs to be amended to insert provisions of criminal offences for river encroachment and its pollution with stricter punishment and fines, and procedure of institution of the case, its investigation, and trial.
- The concerned authorities should determine the geographical location of Sonai river, it's canals, beels, and water bodies with the help of SPARSO, Satellite as well as RS and GIS technology for the purpose of making a digital database, and should also collect information of biodiversity and would prepare maps thereof of all Unions, Upazilas, and District, which would be displayed on billboards in open space for public, and the concerned Upazila and District administration should take appropriate initiative so that anyone could access those even at the union, municipality, upazila, and district levels.

7.2. Right To Flow in Water Act-2013: Rights of Water are being violated

Bangladesh Water Act 2013 (BWA) is a framework law to integrate and coordinate water resources management in the country. The Water Act will establish an integrated approach to the protection, improvement, and sustainable use of the country's rivers, lakes, estuaries, coastal waters, and

groundwater. Under this Act, all rights over water (e.g., surface water, groundwater, seawater, rainwater, and atmospheric water) are vested, on behalf of the people, upon the State. This provision fails to make the people the right holder in terms of water. Rather, the right to water remains dependent on the will of the State. It is noted that the Constitution of Bangladesh does not explicitly mention the right to water. However, the Apex court has included, through interpretation, the component of water within the extended definition of the right to life under Article 32 of the Constitution. The Court observed that Articles 31 & 32 of our constitution protect the right to life as a fundamental right. It encompasses within its ambit the protection and preservation of the environment, ecological balance free from pollution of air and water, sanitation without which life can hardly be enjoyed. The availability and accessibility of water along with freedom and entitlements are also guaranteed in international human rights instruments including International Covenant on Economic, Social, and Cultural Rights 1966. It is understood that in order to ensure better management of water resources, the State is considered better equipped than an individual. However, this perception is only applicable in the case of true welfare states. In countries like ours, if people are not being empowered with rights, there remains a possibility of discrimination leading to deprivation. Referring to the rights of water, the Sonai river's rights have been violated due to the encroachments and construction over it and dumping of waste and pollution due to industrial effluents.

7.3. Draft National River Conservation Commission Act 2020 is being violated

On 1st December 2020, a draft bill of the National River Conservation Commission (NRCC) act 2020 was published for public comment.

In comparison to the current (NRCC) act of 2013, this proposed law has made significant changes. It is noted that the new draft has been prepared following the directions of the landmark judgement that assigns rivers rights as legal entities. The current law contains 21 sections, the majority of which concern the establishment of the National River Conservation Commission. The draft law contains 108 sections in total and covers many aspects of river conservation. This draft law aims to strengthen the river governance system of the country, especially the NRCC and to safeguard water bodies against pollution and illegal encroachment. With growing concern about river pollution, numerous court rulings, and the destruction of natural water bodies, the bill can be considered necessary. It not only establishes the Commission but also establishes a separate "River Protection Court" and incorporates progressive principles such as the "Precautionary Principle" and "Polluter Pay Principle."

Sections 3 to 11 gives details of the river conservation commission's constitution. Section 3(3) mentions that the commission will be an independent, effective, neutral body performing functions with transparency. Further, there would be a selection committee headed by a Supreme Court Judge to select the Chairman and other members of the commission. The provision for such a committee is absent in the existing act of 2013. The members of the commission must have high expertise, and experience in the river, water, and environmental area. The commissions' function is mainly of "recommending nature" as mentioned in chapter III. Though there's a mandate that these recommendations sometimes are compulsory and without sufficient cause cannot be disregarded but still as a body of experts, this commission should be empowered with direct enforcement power. Especially, such empowerment is necessary considering the urgent nature of

environmental hazard redress. Therefore, instead of going for bureaucratic procedures, the commission itself may be empowered with direct enforcement.

Chapter IV confers "legal personality" on rivers. Additionally, the rivers have been placed under the doctrine of "public trust," and the commission has been designated as the "person in loco parentis" (Guardian). These are the draft's most salient features, which vividly reflect the Supreme Court's guidelines. All rivers in the country have been designated as public trust property pursuant to Section 16 and as living entities pursuant to Section 15. Section 24 establishes a more expansive definition of "public trust," which is commendable. These recognitions pave the way for rivers to be protected from pollution, encroachment, and other threats. Suing on behalf of the river and ensuring river governance flourishes as a result of these draft features. Chapter IV also includes some additional effective measures, such as mapping, as well as awareness sessions in educational institutions and on a local level.

Generally, we don't treat river killing in the same way as we do for murder. However, the Draft Act in the fifth chapter criminalizes encroachment, pollution, 'causing death to the river', destruction of the river, etc. Such criminalization is absent in the present act and will facilitate a great deal in the protection of the river. The schedule of penalties specifies the amount of the fine and the length of imprisonment required to be served for the majority of offenses. However, section 101's protection of the good faith clause may obstruct the commission or authorities from being held accountable or transparent.

According to section 65(b) the mentioned authorities like the commission,

district collector, and some others are empowered to prosecute in cases of river encroachment and pollution. There is no scope for the individuals to bring cases in that regard. When the authorities or commission are unwilling or found to be inactive to prosecute, only then individuals can file cases (Draft NRCC Act, section 80). It is noted that such imposition of the bar may restrict the accessibility of the environmental victims to the court. There should be scope for individuals to bring actions against encroachments and water pollution directly.

Chapter 12 requires the establishment of a river protection court to be presided over by a special Magistrate or a Metropolitan Magistrate. Simultaneously, chapter 12 and various other sections of the Act vested Mobile Courts with the authority to try offenses. It is noted that the Mobile Court proceeding is highly contentious due to its decidedly non-judicial nature. As such, entrusting Mobile Court is clearly not the best course of action to take.

International environmental law principles such as the 'polluter pay principle' and the 'precautionary principle' have been incorporated into Section 96 of the draft law as the basis for determining and recovering compensation by the Commission, Mobile Court, or River Tribunals. According to Section 97, 75% of the collected fine should be put in government funds and 25% in the NRCC's accounts. The Commission, pursuant to Section 100, may designate rivers and other bodies of water as Ecologically Critical Areas (ECA) and issue required directives to relevant parties. According to this Draft NRCC Act 2020, the encroachers and polluters of Sonai river are already held punishable by the judgment of court

7.4. Bangladesh Constitution

Article 18(A) of the constitution clearly states that the state will endeavour to protect and conserve rivers, wetlands, and forests. Therefore, according to the constitution, we have to put endeavour to protect and conserve the Sonai river.

7.4.1. The Land Acquisition Act 1982: Illegal Land Acquisition

The Saiham Future Complex constructed the multi-storeyed building without any acquisition or purchase of river land and thus illegally occupied the land. Therefore, the Land Acquisition Act 1982 was not properly maintained and conducted the illegal land occupation and construction over the Sonai river bed.

8. Comparison of Violation of Rights of Kohelia and Sonai River

Rights of Rivers	Kohelia River	Sonai River
Free flow of the river - the river water drainage in the natural stream of the basin	For the construction of Matarbari Coal Project 7.5 Km	The two sides of the river have been excavated by BWDB and
	For the construction of Matarbari Coal Project 7.5 Km Road has been constructed over the Kohelia river	The two sides of the river have been excavated by BWDB and the water movement with the connected canal is adjourned
Keeping the river's own land and its features intact - do not interfere	Due to dumping of waste and deposition of sands and soil type of river has been changed	Due to dumping of waste and deposition of sands and soil type of river has been changed
Maintaining the power of the river water drainage so that the water flow, water supply, and the sedimentary process is correct so that the river can maintain its menstrual properties and cope with climate change situation	Disrupt the normal sedimentation process as a result of the construction of embankment	The river is no longer in a normal flow due to illegal occupation of the river and it has turned into a narrow canal

Rights of Rivers	Kohelia River	Sonai River
Maintain general mobility, rights of conservation and normal flows	Blocked the rivers flow and changed its directions	The river has lost its natural flows as a result of the construction of Saiham Future Complex
No illegal possession and illegal barriers and reserve the rivers as the property of the people without illegal barriers	Due to the coal fired power plant, the river has been illegally occupied by construction of road and embankment	Due to Saiham Future Complex and other illegal occupants the river lost its living entity
River is not worthy of the people's property and transfers as the government's rights of record (RR)	Matarbari has been handed over for the construction of the embankment due to the Matarbari coal fired plant	Water Development Board is planning to set up the sluice gate by closing the nearby canal and lifting the soil in the name of river excavation
River pollution - not to interfere with the river environment and environment by filling the waste, plastic, and not interrupting the growth of biodiversity	The river has been filled in for construction of an road and embankment. Pollution already takes place from Matarbari coal fired power plant affected the biodiversity	Due to the loss of habitat of fish and other aquatic organisms of different species, biodiversity has been decreasing
Not encroach the foreshore and riverbank areas	The river bank is occupied by Matarbari coal fired power plant	Saiham Future Complex and other occupants occupied the river are constructed illegal structures
Do not do any illegal development projects in the river and not engage in environmentally unacceptable activities	Due to Matarbari coal fired power plant, the balance of the river's pre -environment was destroyed and the local people were transferred	The construction of a walkway at the left bank of the river legalized the illegal occupants of the river

9. Recommendations

- Immediately communicate with BWDB and the district and sub district land administration along with land authority to demarcate the river land jurisdiction to delineate the river areas and install the pillar to conserve the actual area of Sonai River by demolishing the illegal structures including the Saiham Future Complex.
- NRCC to pressure the BWDB to take away their excavated soils otherwise the encroachers will purchase the soils and install their structure on the riverbank of the Sonai river land again.
- NRCC along with Department of Environment (DoE) forward legal notice to the mill industry owners to remove their effluents discharge pipe from the Sonai river to take away the pollution.
- Giving adequate independence and support to the NRCC required to play its supervisory and overseeing roles.
- Communicate with the Madhapur Municipality Mayor for enforcing the households and bazar committees to not to dump wastes to the Sonai river.

10. Way Forward

- All public and private schools, colleges, madrasas, technical institutions, and universities will conduct a one-hour-long awareness program in every class and department at every two months interval on the necessity, benefits, protection, pollution, and preservation of river, and every educational institution will arrange the regular visit of rivers flowing through their respective localities. Moreover, all educational institutions are directed to take measures to broadcast national-international documentaries on rivers, nature, and the environment, and the Ministry of Education is required to monitor whether all these educational institutions arrange such classes as per the direction of the Court. This was a high court verdict that went to appellate division of Supreme court in 2019. However, in 2020

Supreme court has uphold the verdict.

- All the small scale, medium, and large local and foreign industries are hereby directed to take measures for arranging an hour-long meeting relating to the Sonai river every two months with all their workers. The Ministry of Industries is required to monitor whether all the industries arrange such meetings as per the direction of the Court.
- The Union Chairmen, Upazila Chairmen, Municipality Mayors, and the Zila Parishad Chairmen are hereby ordered to arrange day-long rallies, art exhibitions, different competitions and discourses, and seminars relating to the river every three months.
- The Union Chairmen, Upazila Chairmen, Municipality Mayors, and the Deputy Commissioners are ordered to prepare a list of all river encroachers and polluters and to put them up on notice boards at their local offices and on billboards within six months with a view to informing the public about such river grabbers.
- As the environment, climate, water lands, sea, sea-beach, river, the foreshore of the river, canals, haor-baor, nala, jhil, jhiri, and all open water bodies, mountains, forests, wild animals, and the air is the Public Trust Property or Public Property, hence, Bangladesh Bank is directed to issue circular with necessary instructions to all the Scheduled Banks of Bangladesh declaring any institution, company, or person involved in encroachment of such lands or pollution thereof, ineligible for any loans therefrom. The Governor of Bangladesh Bank is also directed to submit an affidavit of compliance to this Court within six months as to the implementation of such directions.
- As the environment, climate, water lands, sea, sea-beach, river, the foreshore of the river, canal, beels, haor-baor, nala, jhil, jhiri, and all open water bodies, mountains, forests, wild animals, and the air is the Public

- Trust Property or Public Property, hence, the Election Commission is directed to disqualify all encroachers and polluters of such properties from contesting any type of elections of Union, Upazila, Municipality, Zila Parishad and National Parliament Election and to submit an affidavit to this Court within six months containing a list of those people.
- The Secretary of the Ministry of Education, is directed to include the subject of river conservation and pollution in the curriculum of schools, colleges, and universities for increasing awareness amongst the students.
- The Director-General, Bangladesh Television is directed to air hour-long national international documentaries on the river, nature, and the environment every Friday. Moreover, all private television channels are hereby ordered to broadcast similarly an hour-long documentary on rivers, nature, and the environment on any day of the week. This was a high court verdict that went to appellate division of Supreme court in 2019. However, in 2020 Supreme court has uphold the verdict.

11. Conclusion

The overview of Sonai River is very challenging and becoming new phenomenon as the BWDB has been dredging the river and depositing the dredged spoils at the bank of the river which raise a new shape of the river and may enhance opportunity for the encroachers to grab new river land at the riverbank. However, it is the right time to identify the river areas through geo-survey based on RS record with the land office authority and recover the river areas. Overall, there should be a joint effort needed to recover and conserve the Sonai River by NRCC in association with national, regional, and local administration of land, water, environment and other relevant agencies.

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