APPLICATION AND REFORM NEEDS OF THE ENVIRONMENTAL LAWS IN BANGLADESH

Syeda Rizwana Hasan*

1. Development of Environmental Law at the Global Level

The Agenda 21 of United Nations Convention of on Environment and Development (UNCED) in its Chapter 8, 38 and 39 emphasized on the need to develop capacity in the legal and institutional areas for sustainable development in developing countries. Chapter 8.13 of the Agenda noted that laws and regulations suited to country-specific conditions are among the most important instruments for transforming environment and development into action. Legal enactment on environment became necessary due to increased incidents of environmental degradation, unsustainable exploitation of natural resources, activities of regional and international organizations (multilateral financial agencies and bilateral donor organization.)

The global trend of environmental law making suggests three eras of legal development with clear characteristics. The laws adopted in the post Stockholm Era were 'use-oriented'. These were natural resource laws dealing with management of land, forests, water, minerals, wildlife, fisheries and so on and had incidental environmental significance. The primary concerns of these laws were allocation and exploitation of the natural resources rather than sustainable use and management.

In the second phase, 'resource oriented', 'anti-pollution' laws were being adopted that basically aimed at long-term management and sustainable use of natural resources.

In the third phase, the laws were more 'system oriented' that aimed at integrated planning and management of the environment on the basis of all embracing ecological policies and environmental management programs.

At the Global level, various international conventions, treaties, protocols also contributed significantly in fostering the development of environmental law making.

2. Evolution of Environmental Laws at the National Level

Following the global trend, various nations of the world moved in updating their environmental legal regime either through adoption of new

* Syeda Rizwana Hasan, Executive Director, Bangladesh Environmental Lawyers' Association (BELA).

laws or amending the existing ones. The development of the environmental legal regime at the national level shows the following trends:

a. Crystallization of Environmental Issues in Constitution

As many as 106 countries of the world have incorporated environment related provisions in their Constitution. While some of the state constitutions have mentioned environment in the preamble, others have opted to mention environment either as right or duty or as a matter of public interest.

b. Evolution of Right to Environment in Cases

In some region/countries, development of environmental laws has been greatly affected by case laws. For example, in India and Bangladesh the rights to life of the Constitutions have been interpreted by the judiciary as including right to sound environment. *[M C Mehta vs. Union of India (AIR 1987 SC 985); AIR 1992 Kant 57].*

c. Incorporating Environment in Policy Documents

In most cases, the policy regime has been more prompt in incorporation of environmental thoughts than the legal arena. Most of the policy documents in Bangladesh being more recent documents have incorporated many progressive notions and values including environment whereas no single law still gives unconditional right to a clean environment.

d. More Comprehensive Coverage of Environmental Issues

Legal development on environment has not remained limited to pollution or conservation goals only. Rather the broader dimensions of environmental issues have been recognized and various methods have been suggested to ensure achievement of legal commitment and monitoring. Laws of many countries have required and laid down procedure for dispute settlement, environmental impact assessment (EIA), environmental quality standard, education and information.

e. Use of Economic Instruments

For balancing the conflicting demands of economic development and environment, new principles have emerged in the economic sector to operate the notions of tax incentives, user pays, environment funds and so on.

f. Provision for Public Participation and Review

As with democracy, in environmental governance also participation of all stakeholders concerned is essential. In a good number of countries,

environmental decision making process has been regulated in a manner to ensure participation of those likely to be affected by the decision.

g. Recognition of International Norms

In some cases countries have shown respect to international environmental laws and to ensure that there global commitment is not frustrated and have adopted domestic laws that promote such commitments.

Changes in legal regime, though an important step forward, cannot itself ensure compliance. Hence, the need for effective coordination of environment management, establishment of institutions to administer the laws and mechanism for facilitating compliance has been equally emphasized in countries that have gone for more responsive environmental legal regime.

3. Environmental Laws in Bangladesh

It was thought once that the existing laws of Bangladesh are too inadequate to be worked with environment. But when the work on environment was started, existing laws were found to be operative. The reason may be that the same law can be interpreted in different ways in different perspectives. A writ petition was filed by BELA (Bangladesh Environmental Lawyers Association) relating to "*Locus Standi*" of Article 102 of the Constitution of Bangladesh and because of the progressive interpretation given by the Supreme Court of Bangladesh the concept of Public Interest Litigation (PIL) is judicially recognized in our country. Although Article 102 has been in our Constitution since 1972, this provision was not interpreted in such a progressive way before.

There would be lacuna in the interpretation of law if we remain unenlightened about the standpoint of environmental movement in Bangladesh. Environment came out to be an important topic here after the devastating flood of 1987 and 1988. In order to control the flood situation the Government of Bangladesh undertook a Flood Control Project with the aid of donor agencies. In fact the environmental movement in Bangladesh started centering that development project. Some NGOs, which were working on environment separately, found that there would be irreparable loss to the environment if the above project namely Flood Action Plan was allowed to continue. Those NGOs assembled to establish a platform by the name "Life Minded Environmental Activist Forum". Environmental movement commenced privately from that forum. On the other hand in the Governmental level the Ministry of Environment and

Forest was formed and incidentally both Governmental and Non-Governmental initiative began together.

Environmental movement of Bangladesh is greatly influenced by the global movement, which achieved its momentum through Stockholm Declaration in 1972 and Rio Declaration in 1992. Agenda 21, which was adopted at United Nations Convention on Environment and Development (UNCED), stated that a supportive environmental legal regime is cardinal to sustain the environmental movement. Such legal regime will provide clear principle on environmental management, will suggest clear institutional guidelines and will support clean monitoring mechanism. In Bangladesh significant progress has been made in respect of legal and institutional mechanism but we have not yet ensured monitoring and complying mechanism which means that we are yet to achieve enforcement mechanism.

Development and sources of Environmental Law

Bangladesh inherited a legal system introduced in the 19th and 20th Centuries by the British. The basic structure of the system is built upon common law principles that promoted a feudal ownership concept and allocation with absolute rent fixing and receiving authority. Even huge resource-bases like forestry or fisheries were settled under the Permanent Settlement Regulations, 1793 and possessed by the feudal lords (*Zaminders*). The tenurial strategy was to expedite optimum economic return from resources. Hence, almost every resource was liable to be placed under private ownership on fixed rent payable on a pre fixed day of the year.

After the adoption of the State Acquisition and Tenancy Act, 1950 in the then East Pakistan, the feudal system was abolished and the estates were acquired by the State. The holders of various titles to resources became tenants of the State. The rent-receiving interests vested in the State. However, the concept of different titles especially of 'ownership' remained almost unfettered and the management system continued to expose 'use-oriented' approach to harness optimal economic benefit. Public agencies became feudal over the management of public resources devoid of public.

The resources that are not privately owned are known as *Khas meaning* vested in the Government and are managed by various Government agencies, e.g., the reserved and protected forests are controlled by the Department of Forests. Nevertheless, major *khas* properties and resources are left with the Revenue Department, i.e. jurisdictional by the District

Administration. The colonial law and institutions yet form the central component in the management of environmental resources.

The Constitution of Bangladesh enshrines the right to life and personal liberty as a fundamental right. In a case decided by the Supreme Court, it has been held that the concept of 'right to life' does include a right to a decent, healthy and dignified environment.

An investigation into the statutory laws prevailing in Bangladesh would reveal that there are about 180 laws, which deal with or have relevance to environment. This identification does not suggest that in Bangladesh there is a long tradition of environmental legislations, because the objectives that inspired the adoption of these laws were not necessarily 'resource-oriented' or 'environment-oriented'. Nevertheless, with the emergence of recent environmental concern, the conceptual and functional interpretation of the provisions of these laws can provide readily available statutory system and sanction to promote an equitable environmental order.

The statutory laws and by-laws are the primary sources of environmental legislations. The environmental legislations are sector-wise compartmentalized, especially, the substantive and administrative rules. In general, the environmental legislations can be categorized to cover sectors and issues like forestry, fisheries, wild life and domestic animals, food stuff and human health, marine and inland water, local administration and town planning, cultural heritage, environmental quality and pollution control, chemical use, land management, mineral resources, production and employment management, agriculture, irrigation and water resources, personnel and administration and so on. These sector-wise divided laws render scope for inconsistency and conflict of interests between agencies in the management of resources or aspects leaving the efforts to conserve environment uncoordinated.

The procedural rules for the courts to administer these laws would be derived mostly from the same general codes, e.g. the Civil Procedure Code, 1908, the Criminal Procedure Code, 1898, the Evidence Act, 1872 etc.

The principles of liability in tort, e.g., liability for causing damage, nuisance etc., are common law principles of tort and would be well accepted by the Courts, if actions are brought. However, due to delay in the judicial procedure, lack of awareness about such provisions, exorbitant court fee, complicated procedure and recording evidence, technical approach of the bench and the bar, absence of legal aid/support there is paucity of legal action in tort.

Another major source of rules of conduct that has significant relevance to environment is customs or traditional perceptions and practices. In fact, utilization of resources are primarily regulated by these norms and in certain cases, even titles and tenures are based on cultural values. Examples of such parallel system can be found in matters of forestry where tribal or non-tribal people living in adjacent to Government forests claim certain rights based on customs and prescriptions. Moreover, a traditional adjudication system exists in Bangladesh known as *Salish* through which a large number of local disputes are settled.

There are case laws that operate as mandatory precedents in some sectors, e.g., much of the law on fisheries have been developed by case laws. Although laws of the present era are aimed at achieving sustainable development, our institutional arrangement, attitude towards managing resources are still of colonial type. We are endeavouring to bring about changes in this area through legal and judicial activism. Global change in environmental law is influenced by international conventions, treaties and protocols. Theses international forums and instruments have also played a great influence on the development of national environmental law. We can notice a general trend of change in national environmental law in different countries. Changes are taking place in the first stage in the constitution. Our neighbouring countries, India, Nepal and Sri Lanka have changed their constitutions by incorporating environmental provisions either by making the protection and conservation of environment a civil duty or a right. Around one hundred and six countries have incorporated specific environmental provisions in their constitutions. Environmental provision has not yet been incorporated in the constitution of Bangladesh. Even in the countries in which there are no specific provisions in the constitution relating to environment, environment has got recognition as a constitutional right through legal and judicial activism. Bangladesh is the best example of this practice. Although environment has got specific recognition in the constitution of India, prior to that it was recognized through case laws. 'Right to life' which has been guaranteed in the constitution does not have true meaning unless right to environment is ensured. 'Right to life' has different dimensions or aspects. It has quantitative aspect and qualitative aspect. Qualitative aspect of 'right to life' is frustrated unless the way in which we live is not taken into consideration. High Court Division of the Supreme Court observed that 'right to life' in our constitution includes right to sound environment. One of the important achievements of the development of environmental law at national level is that environment has become an important factor in any

policy document. Bangladesh has adopted National Environment Policy in 1992. In almost all the recent policies adopted by the Government namely, land policy, fishery policy, environment has got a distinct place. One of the important developments is the provision of Environmental Clearance Certificate (ECC). Environmental Conservation Act, 1995 and Environmental Conservation Rules, 1997 have made provision for ECC. Industrial establishments have been categorised into three groups according to the nature of the risk involved to the environment. ECC has to be obtained from the Department of Environment before establishing any industry. Industries which fall under "red" category has to submit the report of Environmental Impact Assessment (EIA) which lays down specifically and in details the nature of the risk involved to the environment and measures taken to mitigate that risk. In some countries there is provision for public hearing which means that before establishing any industry people of that locality will be asked whether they have any objection to the erection of the industry and what are the harms, which they think, will occur to the environment. Unfortunately this provision of public hearing has not yet been made in our country.

4. Specific Laws on Environment

A. The Environment Conservation Act, 1995

The first legal enactment on environment was the Environment Pollution Control Ordinance, 1977. Subsequently the management focus was shifted from 'pollution control' to the broader need of 'conservation' with the enactment of the 'Environment Conservation Act, 1995'. This new enactment repealed the earlier law of 1977 and entrusted the Department of Environment (DoE) with the responsibility of implementing the legal commitments while the Ministry of Environment and Forest (MoEF) as created in 1989 is responsible for overall management of the country's environment and ecology. Both the agencies perform their obligation taking legal authority from the Act of 1995 and the subsequent rules of 1997 made thereunder.

The Act of 1995 has defined "environment" as including water, air, land and physical properties and the inter relationship which exists among and between them and human beings, other living beings, plants and micro organism. [Section 2 (d) of the Environment Conservation Act, 1995].

> For the purposes of the Act, "environment conservation" means the quantitative and qualitative improvement of different components of environment and prevention of degradation of their standard [Section 2(f) of the Environment Conservation Act, 1995].

In addition to the provisions of the Act that gives general powers to the Director General of the DoE for implementation of the Act and regulates other administrative issues, the law has four provisions relevant for management of resources and remedies. As such section 5 of the Act empowers of the Government to declare ecologically critical areas if it is satisfied that due to degradation of environment the eco-system of the area has reached or is threatened to reach a critical state. The Government shall also specify which of the operations or processes shall be carried out or shall not be initiated in the ecologically critical area.

Section 12 of the Act seeks to regulate industrial operation in the country. As per the said section no industrial unit or project shall be established or adopted without obtaining environmental clearance from the DG in the manner prescribed by the rules.

As per section 7 of the 1995 Act, if any person causes harm to the environment or adversely affects any individual or group, s/he may be directed by the DG to compensate for the damage and also to take corrective measures. Although punishment has been prescribed for violation of the directions as may be given under section 7, the Act or the subsequent rule of 1997 is yet to detail out the procedure in which to calculate 'environmental damage' for the purpose of paying compensation, an issue that challenges the implementation of this particular provision itself.

If any person is affected or is likely to be affected from the pollution or degradation of environment, s/he may apply to the DG in the manner prescribed by the rules, for remedying the damage or apprehended damage. The DG may, once he receives such application, adopt any measures including public hearing for settling an application.

The Act has given the government power to frame rules and such rules shall provide for environmental quality standards, EIA procedure, form for applying to the DG for relief and so on. Subsequently, the MoEF in August 1997 published a set of rules called the Environmental Conservation Rules, 1997 that has for the first time in the country, introduced standards for various components of the environment.

The Act has been amended thrice since adoption. The amendments have made it mandatory for public agencies to render services/assistance as may be needed by the DG in performance of his duties under the Act [Section 4A of the Environment Conservation Act, 1995]. The amendments have also prescribed different set of punishment for offence under the Act [Section 15]. In case there is violation of a direction of the

DG that results in damage for any individual or group, the DG may file compensation case on behalf of the affected [Section 15A].

The Act bars filing of cases against the DG and the officials of DoE for anything done in good faith [Section 18]. Also no court shall, without a written report from the DG or authorized official, accept any application for trying any offence under the Act. However, if it is established that the DG was approached but failed to take action within 60 days from the receipt of the application, the court may accept the application only after hearing the DG or his authorized officer [Section 17].

Given the Act as it stands now, the following concerns can be raised about its effectiveness:

(a) Does the Act recognize safe and healthy environment as a right?

(b) Is there any enforceable remedy to private individuals or groups in the Act?

(c) Is the procedure for action against the violators effective and prompt?

(d) Will the DoE have enough authority and not teethless as has been the case so far?

(e) What impact will the Act have on its efficacy if adequate by-laws are not framed duly which happened in many cases (procedure as to how to conduct EIA)?

(f) Is the Act more pollution oriented than sustainable development and resource management?

(g) Will the people have adequate and effective recourse and access to the Act and DoE to find remedies?

(h) Is the Act conflicting with the other laws?

(i) Will the Act create any controversy over any existing remedies available, or would it hamper the progression of judicial approach to "standing" in matters of public interest?

(j) Has the Act indicated the process or contribution to be made to international conventions?

B. The Environment Court Act, 2000

The Act of 1995 remained largely unimplemented mainly due to ambiguity with regard to its administration. To make the law judicially functional, the Parliament in its 17th Session has approved the Environment Court Bill, 2000 on 10 April 2000.

Stated below is a brief note on the main features of the Act:

Establishment of the Court [section 4 of the Environment Court Act, 2000]:

According to the Act the government shall establish one or more environmental courts in each division.

Appointment of the Court:

The Government shall, in consultation with the Supreme Court, appoint a judge to the Environment Court. The judge of the Environment Court shall be a joint district judge.

Power and Jurisdiction of Environment Court [section 5(1) of the Environment Court Act, 2000]:

All offences under the Environment Conservation Act, 1995 and other environmental laws as may be specified by the government in official notification shall be tried by these courts.

Filing of Suit:

No cases shall be entertained by the Court without a written report from the Inspector of the

DoE [section 5(3) of the Environment Court Act, 2000]:

However, if the court is satisfied that the DoE has failed to take action within 60 days from the receipt of a complaint, the court may, after hearing the DoE, allow filing of an application.

Compensation [section 9 of the Environment Court Act, 2000]:

The Environment Courts may, in appropriate cases, direct that the fine imposed be treated as compensation for those affected by the offence and such fine or compensation shall be recoverable from the person so punished.

Environment Court At A Glance

In pursuance of the Environment Court Act, 2000, vide a gazette notification dated 6 March, 2002, two special courts with Joint District Judges were set up in Dhaka and Chittagong division (one in each division) to deal with environmental offences only. The Act of 2000 also empowered magistrates of the first class or Metropolitan Magistrates to deal with environmental offences punishable with less than 2 years imprisonment or taka 10, 000 as fine or both.

The following table gives a list of cases filed in the Environment Court of Dhaka till July 2003.

Functioning of the Dhaka Environment Court at a Glance

Sl. No.	No. of Case	Parties	Present Status	Case Facts
1.	Environment Case No. 1 of 2003	Al-Haj Md. Hossain Khan, Plaintiff/ Complainant vs. Abdul Matin Biswas and others, Defendants/Accused	Proceedings have been stayed by the High Court Division in Writ Petition No. 4078 of 2003	Petitioner filed the case under Section 5 (1) of the Environment Court Act, 2000 seeking relief against noise pollution created by stone crushing operation of the defendants at a place adjacent to the premises of the plaintiff in Savar. The petitioner as proforma-defendant has sued the Director General of Department of Environment. The Petitioner sought direction for payment of compensation worth taka 5 lakh by the defendants.
2.	Environment Case No. 2 of 2003	State vs. Ali Hossain and others, Accused	Under trial	Relief has been sought under sections 4 (3) (*regulating industrial operation, closing down industry*) & 12 (*requirement of environmental clearance*) of the Bangladesh Environment Conservation Act (BECA), 1995,
3.	Environment Case No. 3 of 2003	Ashraf Chowdhury, Complainant vs. M. A. Zaher and others, Accused	Under trial	Petition filed under section 4 (3) of the BECA. The owner of Dip Textile Mills operating at Dhamrai has been accused of creating harm to ecosystem through noise and water pollution. Direction has been sought for payment of compensation worth taka 9, 46, 0000 taka by the defendants and also fine.
4.	Environment Case No. 4 of 2003	State vs. Serajul Islam, Accused		

5.	Environment Case No. 05 of 2003	State vs. Abdus Samad Azad and others, Accused		
6.	Environment Case No. 6 of 2003	Kazi Md. Solaiman, Complainant vs. New Loknath Dyeing and others, Accused	Pending for cognizance hearing	The complainant alleged pollution of water and creation of noise hazard by the accused. Since the Department of Environment did not give report under 5 (3) of the Environment Court Act, 2000 authorizing filing of the case, the same remains pending for cognizance hearing under the said section.
7.	Environment Case No. 7 of 2003			
8.	Environment Case No. 8 of 2003	State vs. Serajul Islam		
9.	Environment Case No. 9 of 2003	Kazi Md. Solaiman, Complainant vs. Bright Textile and others, Accused	Pending for cognizance hearing	The complainant filed the case against water, air pollution and resultant health hazard created by the mill of the accused operating in Narayangonj. In addition to the Environment Conservation Act, 1995 the complainant has relied on the Penal Code and has sought for punishment against the accused.
10.	Environment Case No. 10 of 2003	Kazi Md. Solaiman, Complainant vs. Abonti Color (Pvt.) Ltd. and others, Accused	Pending for cognizance hearing	The case has been filed against 7 dyeing factories operating in Narayangonj for creating water logging and air and water pollution.

N.B.: Cases no. 4, 5, 7, 8 of 2003 have been transferred to the Court of Special Magistrate due to want of jurisdiction.

Debate over rationale for such a court system can well start with both the advantages and disadvantages of such courts. Prior to the establishment of such a court, no survey was undertaken to ensure the sustainability of such a new judicial institution. The above table clearly shows paucity of cases and to deal with that the Act was amended to allow the judges of the Environment Court to also deal with other cases.

Revolutionary and over-optimistic as viewed by many, this Act is yet to have a clear mandate. The confusion over the mandate of the court has been created by Section 2 (b) of the Act that defines "Environmental Law" to include the Environment Conservation Act, 1995 (Act I of 1995) and such other laws as may subsequently be specified by the government.

At the very outlook, the Court seems to have proposed to deal with matters that would be forwarded by the Department of Environment. Thus in Section 5 (3) it has been stated that only persons authorised by the DG, DoE can inquire into matters for the purpose of trial by the Environment Court. For individuals to prefer a suit before such Court would require a written report from the persons so authorised by the DG. Speedy trial, being the main objective behind the proposed establishment of the Court, may suffer a setback with such requirement.

It is important for an institution to sustain the spirit for its establishment. The village court system could never become a popular judicial system in our country and all efforts taken in different regime to popularize the same went aborted. The environment court system would need to support wide activism to gain credibility for its agenda. The victims of environmental degradation in most cases being deprived and poor, the expenditure and delay as associated with court cases need to be addressed to ensure more environmental legal activism.

5. Administration of Environmental Justice: Where do we stand?

From the discussion above, it can be drawn that the major actors, methods and forum relevant to administration of environmental justice in the country include the followings:

Public hearing:

Polluters Pay:

Enforcement and Compliance:

Environment Courts:

Constitutional remedy: The High Court Division of the Supreme Court of Bangladesh is at present dealing with more than 40 public interest litigation (PIL) on environment. The petitions that seek judicial redress in a large

number of issues mostly rely on the constitutional provision of right of life (Article 31 and 32), the writ jurisdiction of the courts (Articles 44 and 102) and of course the statutory obligations of the public agencies.

In a good number of public interest environmental cases around the globe, the following principles/practices have emerged most of which still lack legal/judicial recognition in Bangladesh.

a. Polluters Pay

b. Precautionary Principle (AIR 1995 SCC 647)

c. Sustainable Development

d. Absolute Liability

e. Locus Standi

f. Epistolary Jurisdiction (AIR 1983 Vol. 2 SC 149)

g. Cost

h. Onus of Proof (AIR 1997 SC 734)

i. Fashioning New Strategies (pauper suits (AIR 1996 SC 1446), expert committee (to study problem and suggest solution- AIR 1992 SC 514), monitoring committee (to oversee afforestation programs etc. AIR 1987 SC 374/ oversee regulatory agencies), suggesting authority (AIR 1997 2 SCC 87), environmental courts (one professional Judge and two experts drawn from the Ecological Science Research Group/ AIR 1987 SC 982), environment court (to deal with all matters civil and criminal relating to environment to be manned by legally trained persons or judicial officers/ AIR 1996 SC 1446), green bench (Calcutta, Madhya Pradesh).

6. Major Barriers in the Application of the Laws

Although many laws can be identified as valid law prevailing in Bangladesh, there are instances where laws are not or cannot be enforced. The reasons for non-enforcement are*, inter alia,*

(a) lack of knowledge about the law at the operational level;

(b) lack of awareness about environmental rights/duties;

(c) uncertainties or ambiguities in the provisions in expressing powers, functions, authorities and jurisdictions (both administrative and judicial);

(d) lack of by-laws;

(e) institutional weaknesses and the lack of policy orientation;

(f) conflicts with traditional rights and practices;

(g) uncertainties over the legal status of resources (the conflict between public and private tenure);

(h) problems with resource survey, settlement and record or rights;

(i) absence of firm and long-term policies in some sectors that are to be implemented by appropriate laws;

(j) lack of political commitment.

7. Recommendations:

1. Identification and examination of all laws, by-laws and case laws having bearing on the environment to remove ambiguities and lacuna in legal provisions.
2. Functional and operational overlapping or contradictions of law and institutions should be identified and examined from overall national environmental policy and strategy perspectives.
3. Necessary amendment and/or enactment of laws, both substantive and procedural, to be made in phases either on sector-wise or on environmental issue basis. Legal improvement and capability of institutions involved in various sectors to be strengthened with detailed rules, sanctions and accountability.
4. Bottom up investigation must be conducted to ascertain the success and failure of all existing and future legislations and to reflect customs and traditions as far as sustainable.
5. Resource tenure and allocation must be regulated by well-defined legal provisions and administrative experts should work together for dealing with such matters.
6. The mandate, that is, power and authority of MoEF and DoE must be prioritized and elaborated to monitor, execute environmental standards and ensure compliance.
7. Provisions should be there to make the MoEF and DoE accountable.
8. The principle of 'polluter pays' must be applied.
10. The principle of 'sustainable development' require legal recognition.
10. Environmental awareness must create sensibility and spontaneous changes in human behaviour, mass awareness and publicity of legal standards and requirements to be promoted.
11. Peoples' participation in environmental decision making and managing common or public properties must be ensured and protected by law.
12. Judicial activism needs to consider the global emerging principles while administering environmental justice.

8. Conclusion

Making new laws, having the old traditional institutions responsible for enforcement, would not bring in the desired change in the environmental order. The failure of the existing law is overwhelmingly attributable to the negligence of the implementing agencies. Strict accountability with compatible sanction need to be well-stipulated and practised together with massive awareness programme. Enforcement of environmental legislations and standards has to begin with public agencies and sectors that control the key resources of the environment. A definite role can be played by the legal mechanism as a tool for the protection of the environment and the enforcement of environmental rights and duties for common man.

Annex 1

List of Legislation

The Fatal Accidents Act, 1855.
The Penal Code, 1860.
The Canals Act, 1864.
The Cattle-Trespass Act, 1871.
The Irrigation Act, 1876.
The Vaccination Act, 1880.
The Obstructions in Fairways Act, 1881.
The Transfer of Property Act, 1882.
The Explosives Act, 1884.
The Ferries Act, 1885.
The Epidemic Diseases Act, 1897.
The Merchandise Marks Act, 1889.
The Private Fisheries Protection Act, 1889.
The Railways Act, 1890.
The Prisons Act, 1894.
The Lepers Act, 1898.
The Code of Criminal Procedure, 1898.
The Live-stock Importation Act, 1898.
The Glanders and Farcy Act, 1899.
The Public Parks Act, 1904.
The Smoke Nuisances Act, 1905.
The Ports Act, 1908.
The Explosives Substances Act, 1908.

The Lunacy Act, 1912.
The Bengal Mining Settlements Act, 1912.
The White Phosphorus Matches Prohibition Act, 1913.
The Mussalman Wakf Validating Act, 1913.
The Destructive Insects and Pests Act, 1914.
The Medical Degrees Act, 1916.
The Juvenile Smoking Act, 1919.
The Poisons Act, 1919.
The Agricultural and Sanitary Improvement Act, 1920.
The Cruelty to Animals Act, 1920.
The Mines Act, 1923.
The Boilers Act, 1923.
The Workmen's Compensation Act, 1923.
The Highways Act, 1925.
The Vehicles Act, 1927.
The Forest Act, 1927.
The Child Marriage Restraint Act, 1929.
The Places of Public Amusement Act, 1933.
The Suppression of Immoral Traffic Act, 1933.
The Children (Pledging of Labour) Act, 1933.
The Petroleum Act, 1934.
The Dock Labourers Act, 1934.
The Development Act, 1935.
The Agricultural Produce (Grading and Marking) Act, 1937.
The Employers Liability Act, 1938.
The Bengal Dentists Act, 1939.
The Bengal Rural Poor and Unemployed Relief Act, 1939.
The Tanks Improvement Act, 1939.
The Drugs Act, 1940.
The Mines Maternity Benefit Act, 1941.
The Bengal Vagrancy Act, 1943.
The Public Health (Emergency Provisions) Ordinance, 1944.
The Bengal Diseases of Animals Act, 1944.
The Coal Mines Labour Welfare Fund Act, 1947.
The Non-agricultural Tenancy Act, 1949.
The State Acquisition and Tenancy Act, 1950.

The Acquisition of Waste Land Act, 1950.
The Imports and Exports Control Act, 1950.
The Maternity Benefit (Tea Estates) Act, 1950.
The Protection and Conservation of Fish Act, 1950.
The Undesirable Advertisement Control Act, 1952.
The Prohibition of Smoking in Show-Houses Act, 1952.
The Embankment and Drainage Act, 1952.
The Building Construction Act, 1952.
The Town Improvement Act, 1953.
The Public Safety Ordinance, 1953.
The Dangerous Cargoes Act, 1953.
The Essential Commodities Act, 1957.
The Animals Slaughter (Restriction) and Meat Control Act, 1957.
The Inland Water Transport Authority Ordinance, 1958.
The Displaced Persons (Compensation and Rehabilitation) Act, 1958.
The Displaced Persons (Land Settlement) Act, 1958.
The Cattle (Prevention of Trespass) Ordinance, 1959.
The Pure Food Ordinance, 1959.
The Government Fisheries (Protection) Ordinance, 1959.
The Culturable Waste Land (Utilization) Ordinance, 1959.
The Chittagong Development Authority Ordinance, 1959.
The Private Forests Ordinance, 1959.
The Forest Industries Development Corporation Ordinance, 1959.
The Eye Surgery (Restriction) Ordinance, 1960.
The Medical Qualifications (Information) Ordinance, 1960.
The Agricultural Development Corporation Ordinance, 1961.
The Khulna Development Authority Ordinance, 1961.
The Khulna Development Authority Ordinance, 1961.
The Society for the Prevention of Cruelty to Animals Ordinance, 1962.
The Prevention of Interference with Aids to Navigable Water Ways Ordinance, 1962.
The Allopathic System (Prevention of Misuse) Ordinance, 1962.
The Agricultural Pests Ordinance, 1962.
The Indecent Advertisement Prohibition Act, 1963.
The Agricultural Produce Markets Regulation Act, 1964.
The Shops and Establishment Act, 1965.

The Control of Employment Ordinance, 1965.
The Factories Act, 1965.
The Customs Act, 1969.
The Agricultural Pesticides Ordinance, 1971.
The Bangladesh College of Physicians and Surgeons Order, 1972.
The Bangladesh Malaria Eradication Board Order, 1972.
The Bangladesh Land Holding Limitation Order, 1972.
The Bangladesh Water and Power Development Boards Order, 1972.
The Bangladesh Shipping Corporation Order, 1972.
The Bangladesh Inland Water Transport Corporation Order, 1972.
The Removal of Wrecks and Obstructions in Inland Navigable Water-ways Rules, 1973.
The Bangladesh Fisheries Development Corporation Act, 1973.
The Bangladesh Wild Life (Preservation) Order, 1973.
The Essential Commodities (Storage, Keeping and Disposal) Order, 1973.
The Bangladesh Rice Research Institute Act, 1973.
The Jute Research Institute Act, 1974.
The Territorial Water and Maritime Zones Act, 1974.
The Bangladesh Petroleum Act, 1974.
The Children Act, 1974.
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