Overview of the Bangladesh Environment Conservation Act 1995

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Abstract: Historically, Bangladesh is one of the environmentally natural resource rich countries in the world. From her independence in 1971, Bangladesh inherited most of the British laws as enforcement in the country. In that time, the Government passed ‘the Environment Pollution Control Ordinance, 1977. Later on, this law was repealed by the Bangladesh Environment Conservation Act 1995 due to its inadequacy but it covers most of the sectoral laws in the country in line with the Environment Policy, 1992; Environment Action Plan, 1992 Rio declaration 1992, the Stockholm Conference 1972; the UNFCCC 1992, Kyoto Protocol 1987, Johannesburg Conference 2002 etc. But the conservation Act 1995 doesn’t work properly due to the non-coordination, shortage of expertise, lack of commitments, corruption etc., in this regard. These problems should be solved by enacting co-coordinating Act and developing other mechanism as suggested in the study. The study examines the different provisions of the Bangladesh Environment Conservation Act 1995 based on the primary and secondary sources.

Key words: Bangladesh Environment Conservation Act.

INTRODUCTION

Environment is a global issue at present. Environmental hazards are increasing gradually day by day in different ways and in various forms. The world community is very much concerned with it. The world leaders as well as different organizations are trying to cope with the environmental problems and crisis such as water pollution, air pollution, soil pollution, deforestation, bio-diversity degradation, climate changes, ozone layer depletion etc. Most of the States of the world are very much anxious about the short-term and long-term environmental impacts. The world slogans ‘save the earth’; ‘save the environment’ have become popular and important to all. The State party and other bodies have been enacting laws and formulating policies for the conservation of the environment to meet up the present situations and also to develop these sectors and to conserve the species which are important to the environment. The Government of Bangladesh has recently enacted some environment laws and formulated policies to meet the needs of the country and has ratified a good number of international treaties, conventions etc., for conserving the environment. The United Nations Conference in Stockholm on the human environment in 1972 is a landmark for the protection and conservation of the deteriorating environment at the international arena. The conference emphasized on human capabilities to transform his surroundings must be wisely used. The developed countries of the world shall need to check the increasing rate of population and subsequently the world communities have introduced the Rio-de-Genera, Brazil, 1992 and Kyoto Protocol, Japan, 1997 etc., for mitigating the pollution and conserving the environment. Bangladesh has ratified most of the treaties. Besides, most of the countries of the world have passed environmental laws and policies to protect the environment at its own initiatives. Bangladesh is a developing country that has been suffering from severe environmental impacts and pollution such as air pollution, water pollution, sound pollution, chemical pollution, soil pollution, deforestation, bio-diversity depletion and so on. There are several laws and policies introduced in different times to protect and conserve the environment and mitigating measures are there to minimize the environmental pollution and its impacts. Several laws were existence regarding environment prior to the independence of Bangladesh. Of them one Act had been enacted between, 1757 and 1857, around 57 Acts had been enacted between 1857 and 1947, 40 Acts had been enacted between 1947 and 1971 and 89 Acts had been enacted between 1971 and 2002 for the protection of different sectoral environments prevailing in Bangladesh from the British colonial era. Bangladesh has recently enacted very important laws such as the Bangladesh Environment Conservation Act, 1995, the Environment Conservation Rules, 1997, the Environment Court Act, 2000. Moreover, the important environmental policy and Action plan were formulated in 1992 for the conservation and development of the environment in Bangladesh. Besides, Bangladesh has already ratified, signed and accessed about 44 international Conventions, Treaties, Protocols (known as ICTP) to protect the environment in Bangladesh.

The proposed research will deal with the fisheries and agriculture environment, both of then play a significant role in the economy of Bangladesh. But it is a matter of great regret that, these two areas are full of hazardous situations and environmental pollutants, which affect the environment seriously, and they are creating
problems like ecological imbalances, bio-diversity depletion, extinction of fish and fish species etc., of the environment. These problems are increasing day by day. If this kind of situation continues, the country will face numerous problems in near future and the sustainable development and friendly environmental situation shall never be possible and it will be at stake in near future. In this regard, it is mentionable that the ex-president of Tanzania and the chairman of the South Commission, Julius Naerer said that if we really want to achieve development and if we want to establish development permanently, the ecological factors shall be brought into consideration. The government has enacted different environmental laws and formulated environmental policies in order to achieve sustainable development and environment in the country. These are needed to consolidate and synthesize legal problems and issues. In this regard, the international environmental law are discussed which will be a separate legal entity. The Government may take care enough of fisheries and agriculture in order to achieve a sustainable development and environment in the world.

**Literature Review:**

This study focuses on the different environmental enactments in the major legal systems in the world in order to review the present state of the environmental legislations around the world. Some relevant literatures are discussed here as follows:

The idea of environmental regulations and its protection relating to the environmental challenges were identified in 1960s but in 1970s, the acute problems and it measures of the environmental problems were taking place.

**The influence of Industrial Revolution:**

It is also said that the history of environmental laws and policies depends on the industrial revolution. Some countries where industrial revolution and development had taken place in the eighteen-century, introduced some measures to protect the environmental pollution and degradation.

It is a fact that during this time, the transformation from rural to urban has been made. The Industrial Revolution, which took place from the 18th to 19th centuries, was a period during which predominantly agrarian, rural societies in Europe and America became industrial and urban. Prior to the Industrial Revolution, which began in Britain in the late 1700s, manufacturing was often done in people’s homes, using hand tools or basic machines. Industrialization marked a shift to powered, special-purpose machinery, factories and mass production. The iron and textile industries, along with the development of the steam engine, played central roles in the Industrial Revolution, which also saw improved systems of transportation, communication and banking. While industrialization brought about an increased volume and variety of manufactured goods and an improved standard of living for some, it also resulted in often grim employment and living conditions for the poor and working classes.

Before the advent of the Industrial Revolution, most people resided in small, rural communities where their daily existences revolved around farming.

Life for the average person was difficult, as incomes were meagre, and malnourishment and disease were common. People produced the bulk of their own food, clothing, furniture and tools. Most manufacturing was done in homes or small, rural shops, using hand tools or simple machines.

The Industrial Revolution of the late 18th and early 19th centuries was revolutionary because it changed -- revolutionized -- the productive capacity of England, Europe and United States. But the revolution was something more than just new machines, smoke-belching factories, increased productivity and an increased standard of living. It was a revolution which transformed English, European, and American society down to its very roots. Like the Reformation or the French Revolution, no one was left unaffected. Everyone was touched in one way or another -- peasant and noble, parent and child, artisan and captain of industry. The Industrial Revolution serves as a key to the origins of modern Western society.

According to Harold Perkin has observed

“The Industrial Revolution was no mere sequence of changes in industrial techniques and production, but a social revolution with social causes as well as profound social effects” *[The Origins of Modern English Society, 1780-1880 (1969)].*

In order to face the effects of the industrial revolution including the environment and its resources, the concerned countries such as USA, UK, and so on initiated to pass some laws in this regard.

It is also noted that the Indian Sub-continent countries also passed some law to protect their environment and environmental justice including natural resources.

**Environmental law** is originated in Britain through the Landmark Public Health Act, 1875 and then it is developed gradually.

Some Environmental Laws in British since 1855 as follows:

- 1855 The Fatal Accidents Act (Act No. XIII of 1855)
- 1860 The Penal Code (Act No. 1 of 1860)
The people of this subcontinent had a fascination and respect for the nature over the centuries. The evidences are available in Emperor Ashoka’s edicts (272 to 232 BC) where protection of wildlife and prohibition of forest burning were clearly spelt out.

The environmental legislation in the Indian subcontinent was inherited from the British ruler and has developed gradually after the independent from the British in 1947.

It is observed from the medieval statutes on small-scale pollution and the development of private law principles to deal with threats to communal assets such as water and water resources were developed.

Indeed, until recently, some would have thought that these laws as part of something called ‘environmental law’, since their main focus was on the protection of private and common property.

Then the British parliament passed another two landmark Acts such as
- The Alkali Act, 1863 to control atmospheric emissions primarily from the Caustic Soda industry
- The river Pollution Prevention Act, 1876

Britain also had some of the earliest voluntary bodies concerned with environmental protection. Besides, some other environmental legislation were also enacted during the British Period

### Environmental Law in New Zealand:

Environmental Law is still a new and ongoing development project in New Zealand and so far the development of Environmental starts in the eighties.

The basis of Environmental Law is the Environmental Act 1986.

This Environment Act 1986 establishes

- The Ministry for the Environment and
- The Office of the Parliamentary Commissioner for the Environment. The Commissioner is an officer of Parliament appointed for a five-year term to provide an independent check on the system of environmental management and the performance of public authorities on environmental matters.

There are some other developments on the environmental laws in New Zealand as follows:

- Resource Management Act 1991
- Hazardous Substances and New Organisms Act 1996
- Ozone Layer Protection Act 1996
- Climate Change Response Act 2002 etc.

### Administrative Reforms on the Environmental Development:

Some administrative reforms have been made in this regard as follows:

- Ministry for the Environment (1986)
- Parliamentary Commissioner for the Environment (Environmental “Ombudsman”) (1986)
- Department of Conservation (1987)
- Local Government Reforms (1988-91) etc.

### The International Environmental Law in New Zealand:

In New Zealand, they have already approved the different international Environmental laws as follows:

- The 1992 United Nations Conference on Environment and Development (UNCED, or the “Earth Summit”) which was held in Rio de Janeiro, Brazil.
- The Earth Summit produced five key documents on sustainable development issues.): two “hard law” –  
- The Convention on Biological Diversity, and the Framework Convention on Climate Change which New Zealand has signed and ratified (see below); and three “soft law” –
The Rio Declaration, Agenda 21, and the Forest Principles which were adopted by consensus at Rio etc.

Co-ordinating the Departments:
There are some co-ordinating departments dealing with the Environmental development as follows:
- Department of Conservation
- Ministry of Agriculture and Forestry
- Ministry of Economic Development
- Ministry of Foreign Affairs and Trade
- Ministry of Transport
- Ministry of Fisheries
- Ministry of Science and Innovation
- Energy Efficiency and Conservation Authority
- Environmental Protection Authority etc.

Some other relevant International Environmental Law:
- The Framework Convention on Climate Change, 1992 (FCCC) – ratified on 8 September 1993
- The Convention on Biological Diversity, 1992 (CBD) – ratified on 16 September 1993
- The Montreal Protocol on Substances that Deplete the Ozone Layer, 1989 – ratified on 21 July 1988
- The Stockholm Convention on Persistent Organic Pollutants (POPs) 2001 - ratified on 24 September 2004

The Environment Court in New Zealand:
The Environment Court, formerly called the Planning Tribunal, was constituted under the Resource Management Amendment Act 1996.

The Court is usually comprised of one Environment Judge and two Environment Commissioners.
It may however be comprised of one Judge and one Commissioner. Or in major cases, one Judge and three Commissioners.

Environmental Court is Less Formal
The Court is not bound by the strict rules of evidence and its proceedings are often less formal than the general courts. Most of the Court's work involves public interest questions.

USA Context:
Environmental Laws may be identified back 300 years to the early laws of nuisance in England. Nuisance describes an activity or condition that is harmful or annoying to others (e.g., indecent conduct, a rubbish heap or a smoking chimney). Unreasonably interfered either with the rights of other private landowners (i.e., private nuisance) or with the rights of the general public (i.e., public nuisance). It was considered quasi-criminal.

The River and Harbors Act 1889:
In the late 1800s, the U.S. Congress enacted the River and Harbors Act that was aimed at preventing the pollution of waterways, a necessary first step to protecting natural resources and environmental protection.
The environmental movement in the United States, however, did not truly begin in earnest until the early 1970s.

Some other important relevant Environmental Legislations in USA:
Significant impacts have been made by the following Acts in USA in protecting the environment:
- National Environmental Policy Act 1969
- The Endangered Species Act 1973
- The Water and Air Pollution 1972
- The Clean Water Act 1987
- The Safe Drinking Water Act, 1996
- The Clean Air Act, 1990
Lastly, the Formation of the EPA1970 etc.

The Creation of the EPA:
The EPA was established on December 2, 1970 due to the following grounds:
- To ensure environmental protection for a cleaner, healthier environment for the American people
- To implement and enforcing the variety of federal research
- To monitor, standard-setting that may develop the environment
- To enforce the activities that is related to the development of the environment
- To faceguard the environment preventing its abuse

Apart from these laws, there were some rules and regulations protecting the environment just before the creation of the EPA and all that.

Environmental Laws in Canada:
Environmental law is a relatively new field of law comprising laws designed to protect the natural environment.

Constitutional Jurisdiction:
In Canada the power to pass laws relating to the environment is divided between federal and provincial governments. The Constitution gives the federal government power to pass laws relating to fisheries, shipping, interprovincial trade and commerce, and criminal law. The federal residuary power to pass general legislation for the "Peace, Order, and Good Government of Canada” also justifies environmental legislation.

Federal legislation enacted under these powers includes the Canadian Environmental Protection Act, the Canadian Environmental Assessment Act, the Pest Control Products Act, the Canada Shipping Act, the Arctic Waters Pollution Prevention Act, the Fisheries Act and the Transportation of Dangerous Goods Act.

Provincial powers cover all matters of a local nature and property and civil rights within the province. The provinces also have primary jurisdiction over agriculture, forestry, mining and hydroelectric development. These powers give the provinces ample authority to pass most kinds of environmental laws.

The Common Law:
Historically, the law left private individuals to solve what are now considered pollution problems by negotiation or, if that failed, by suing one another in the COMMON LAW courts. Judges developed 2 key principles for dealing with these problems. The first TORT of significance to environmental law is the nuisance action, which dates back to the early common law, long before Confederation. Any landowner has the right to sue another who injures him or her by creating a "nuisance," defined as a use of land that causes physical injury to neighbouring land or substantially and unreasonably interferes with the use and enjoyment of neighbouring lands.

Department of the Environment:
The Department was first established by the Department of the Environment Act in 1971.

Today, Environment Canada administers nearly two dozen acts either in whole or in part. It also assists with the administration of many others.

Environment Canada uses regulations to place strict controls on areas governed by these acts. It also enters into voluntary and regulated agreements with individuals or multiple parties in Canada and elsewhere to define mutual commitments, roles and responsibilities and actions on specific environmental issues.

The Australian Environmental Law:
The Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) is the Australian Government’s central and key piece of environmental legislation which commenced 16 July 2000. It was established in order provide a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places. The EPBC Act enables the Australian Government to join with the states and territories in providing a truly national scheme of environment and heritage protection and biodiversity conservation.

The Land and Environment Court Act 1979:
It was established in 1979 as a specialised Land and Environment Court.

Objectives:
- To administer environmental law
The court was placed at the top of the judicial hierarchy of trial courts, as a superior court of record, which is equivalent in status to the Supreme Court and subject only to the Court of Appeal.

It deals with disputes, and the enforcement of the laws, that relate to the development and management of land, the natural and built environment and natural resources.

**Relevant Legislations upon which the Court works:**

The court gets its powers and its responsibilities from a number of Acts, including:

- Environment, Resources & Development Court Act 1993
- Development Act 1993
- Environment Protection Act 1993
- Natural Resources Management Act 2004
- Heritage Places Act 1993
- South Eastern Water Conservation and Drainage Act 1992
- Ground Water (Qualco-Sunlands) Control Act 2000
- Irrigation Act 2009
- Native Title (South Australian) Act 1994
- Land Acquisition (Native Title) Act 1994
- Marine Parks Act 2007 etc.

**Malaysian Context:**

Environmental issues have received much attention over the past three decades in Malaysia. Right now, Malaysia has been facing numerous environmental problems such as air, water, noise, agriculture pollution etc. Environmental problem is not a problem for Malaysia but also a problem for the global community. In order to address these challenges, some initiatives have been made.

Some International initiatives such as:

- Stockholm Conference 1972
- Rio Summit 1992
- Johannesburg Declaration 2002 etc.

In Line with such progress, *Malaysia has also increased* her efforts to help maintain the pure/pristine nature it has been bestowed with. Legislative means is one of the methods undertaken to support such efforts. *The Environmental Quality Act 1974 (Act 127) is said to be a comprehensive statute in itself*; there are other legislations that also provide for the environment, whether explicitly or implicitly. It is generally held that the laws pertaining to the environment in Malaysia began with the Water Act 1920.

Nevertheless, laws that have its effect on the environment can be traced back to several earlier laws in the form of ordinances, during the days of the Straits Settlements. At the same time another law which affords protection to elephants, seladang and rhinoceros was enacted in the state of Pahang.

- The Federal Constitution itself divides natural resources into three categories, i.e. those under the Federal List, State List and Concurrent List.

There were also laws that dealt directly with the well-being of fauna (animals of a particular region). For example, the Straits Settlement Ordinance 1894 was drafted to protect a few species of wild birds.

**Sources of the Environmental Laws in Malaysia:**

There are several sources of Malaysian Environmental Law such as:

- Statues are the primary source
- Subsidiary legislations, particularly those made under Environmental Quality Act 1974
- Environmental guidelines provided by the Department of Environment
- Constitution etc.

**Some International Environmental Laws:**

The government of Malaya has approved some international environmental law in this regard as follows:


Discussion And Results:
In order to understand this topic, we need to analyze some important relevant aspects as discussed below:

The Bangladesh Environment Conservation Act, 1995:
This Act was passed in 1995 for the conservation, improvement of environmental standard and control through mitigation of the pollution in the environment in Bangladesh. Later on, this Act has been amended for several times. This Act is closely related to the Department of Environment, pollution, environment, environment pollutant, occupant, environment conservation, ecosystems, hazardous material, and wastage and the Director General. Before enactment of this Act, there was an Ordinance named “the Environment Pollution Control Ordinance, 1977 but it did not take all aspects of environment into account. The penal aspects were not strong enough. As a result, it became necessary to amend the Ordinance of 1977 and adopt a new one in accordance with the demands of the time. The earlier law, namely, “the Water Pollution Control Ordinance, 1970 was repealed by this Ordinance of 1977. So, we have got a new Environment Conservation Act, passed duly by the parliament in 1990. In order to take quick and necessary steps, natural resources and over-all environment have been brought under the broader purview of environment Conservation Act. The Act contains other important rules such as the rule of assessment of the environmental impact, issuance of necessary clearance certificates, provision of rigorous penalty for those violating the Act and the making the process of implementation easier in the application of the Act. The environmental law plays a crucial role in promoting environmental protection through the sustainable use of natural resources, prevention of pollution and integration of environment and development. It provides an important framework for regulating social behavior and transforming sustainable development policies into enforceable norms. The environmental law assists governments in adhering to international regimes and building national capabilities to address major global, regional and national environmental issues and problems in the context of sustainable development in Bangladesh. In this context, the existing environmental Act of 1995 is a landmark for achieving sustainable development and environment in Bangladesh.

Environment Conservation Act and Environment:
The definition of environment and its ingredients are inserted of this Act and has taken it as highly interdisciplinary of the Bangladesh Environment Conservation Act. Its components and its manner of pollution are also mentioned of this Act and it may also be told that it is a life supporting systems. It has made the realization of the environment and it is required for meeting up the environmental hazards. For the effective implementation and smooth functioning of the conservation Act of 1995, the Bangladesh Environment Conservation Rules is passed. This Act includes human, natural and biological environment, which is very rational and also scientific formulation for the conservation and development of the environment. Conservation as it has been defined in the Act of 1995 would require qualitative and quantitative improvement of different components of the environment and prevention of their degradation.

The Director General, Environment and Environment Conservation Act:
The Government has established a Department of Environment headed by Director General to deal with the environmental issues and its consequences in the implementation of the environmental Act in 1995 and its rules. The Director General along with the staffs has a significant role in the implementation of this Act. They are appointed for carrying out the following purposes.

Functions of the Director General:
• To take necessary action for the conservation, improvement, control and mitigation of environmental pollution
• To prevent of probable accidents which may cause environmental degradation and pollution, undertaking safety measures and determination of remedial measures for such accidents and issuance of directions relating thereto; (c) giving advice or, as the case may be, issuing directions to the concerned person regarding the environmentally sound use, storage, transportation, import and export of hazardous substance or its components
• To give necessary direction in writing to any person for performing duties under the Act
• To take preventive measures for the prevention of the possible accidents which might cause environmental degradation
• To advise or direct the concerned person regarding the environmental sound use, storage, transportation, import and export of hazardous material or its components
• To conduct research relating to environment, environment pollution, disseminating information etc
• To coordinate with the activities of any authority of agency having relevance with the objectives of this Act
• To keep potable water in standard quality and advice or direct all concerned to follow the potable water quality standards
• To comply with the directions compulsorily made by the Director General for the owner of the industry for regulating and maintaining sound environment
• To take urgent steps in case which the environmental pollution disrupts the public life
• To investigate the place, equipment, manufacture or other processes or ingredients or materials for ensuring improvement of environment, as well as control and mitigation of pollution. Necessary order of the appropriate authority or person for the prevention, control and mitigation of environmental pollution will also be investigated
• To give advice the Government for avoiding the activities that cause environmental pollution etc.
• To prohibit the driving of vehicles emitting smoke that is injurious to health and environment.

The Director General or any other person empowered by him can investigate to test and examine any equipment, industrial plant, record, register etc., at all reasonable times and place. If it is found any irregularities in the implementation of law, then it should be taken for necessary action against him under the provision of this Act. It has also indication of law that during the procedural matters like search it should be followed the Code of Criminal Procedure, 1898. It is also stated that there are some provisions relating to samples of air, water, soil or other material for analysis. It should be required to take environmental clearance for industrial unit or project. It is also mentioned that if any person aggrieved by any order of competent authority can file appeal to the appellate authority for compensation within fixed time. In this regard, any person failed to comply with the provisions of this Act, he shall be punished with imprisonment for a term not exceeding ten years or with fine not exceeding taka ten lakh or both. Besides, the above-mentioned procedures are also applicable to the companies at the same manner. The environmental Court shall not take any cognizance of any offence for or against any person without taking any certificate from the office of Director General. No Civil or Criminal litigation or other legal proceeding may be taken against the Government or any concerned Government officials if it is done on good faith.

The Environment Conservation Act and the Declaration of Ecological Critical Area:

Under section-5 of subsection 1 and 2 of the ‘Bangladesh Environment Conservation Act, states that if any area is threatened to reach an environmentally critical condition then the Government may declare it as ecological critical area through Gazette notification which has already been made clear under section-2 of the ‘Bangladesh Environment Conservation Rules, 1997. The Act of 1995 also empowered the government to declare an area to be an ‘ecologically critical area’ when its eco-system appears to be under serious threats of degradation or degraded. The Ministry of Environment and Forest has already declared seven areas as critical. These are the Sundarbans, Cox’s Bazar-Teknaf sea beach, St. Martin’s Island, Shonadia Island, Hakaluki Haor, Tanguar Haor, and Marzat oxbow Lake. In the ECA’s, a ban has been imposed on some activities that include felling or extracting trees; hunting and poaching of wild animals; catching or collection of snails, coral, turtles, and other creatures; any activities that may pollute soil, water, air and or create noise pollution; and any other activity that may be harmful for fish and aquatic life. There are eleven areas such as human settlement, ancient monument, archeological site, forest sanctuary, national park, game reserve, wildlife habitat, wetland, mangrove, forest area, bio-diversity declared as ecological critical area for the restoration of the environment and development of Bangladesh.

The Environment Conservation Act and the Environmental Clearance:

It is mentioned in the provision of this Act that no industrial unit or project shall be established or undertaken without obtaining environmental clearance certificate from the Director General in the manner prescribed by the Rules. It states that, industrial units and projects are divided into four categories such as a) Green, b) Orange, C) Orange B, and d) Red for the purpose of granting environmental clearance certificate depending upon environmental impact and locations. All existing industrial units and projects as well as industrial units and projects of green category shall be granted for environmental clearance. For proposed industries units and projects of Orange A, Orange B, and Red categories at first location and clearance and there after environmental clearance should be given. It is also provided that, upon application by an industrial unit of the project, if the Director General feels proper, he or she may grant environmental clearance to the same directly without first giving location clearance certificate. This would help the entrepreneurs and other relevant persons to find out necessary directives.
The Bangladesh Environment Conservation Act, 1995 and the Environment Pollutant:
Any person affected or is likely to be affected with pollution or degradation of environment, where the unrestraint of any environmental pollutant occurs in excess of the prescribed limit laid down by the Bangladesh Environment Conservation Rules, 1997 due to any accident or other unanticipated act or even the person will responsible and the person in charge of the place of incident will take measures to mitigate the environmental pollution. Under this section, the Director General may adopt remedial measures to control and mitigate the environmental pollution by giving public hearing.

The Bangladesh Environment Conservation Act, 1995 and the Ecosystem:
This Act has also given operational definitions of ecosystems. Previously, such definitions did not exist in the legal regime. This act has given the Director General of the department of environment all the authority needed to deal with matters connected with protection of the environment. If the Director General is convinced that any particular activities is causing damage to the ecosystems either directly or indirectly, he may order or direct the concerned person to take corrective measures for it.

The Bangladesh Environment Conservation Act, 1995 and the Driving vehicles:
The driving of vehicles emitting smoke that is injurious to health and environment is prohibited. If the Director General or any officer authorized by him is convinced that a vehicle is emitting smoke is harmful for health can stop the vehicle for examination.

The Bangladesh Environment Conservation (Amendment) Act, 2003 and Polythene Shopping Bag:
Widespread use of polythene shopping bags brought about massive socio-economic and environmental disaster. The government has banned the use of polythene and its marketing in Dhaka city since 1st January, 2002 to prevent such disaster. Later, since 1st March 2002, the ban has been extended throughout Bangladesh. In order to implement legally the declaration of ban on production, use and marketing of all kinds of polythene shopping bags, the Environmental Conservation Act (amendment), 2002 has been passed by amending and inserting section 6A of the Environmental Conservation Act, 1997. If any person violates this provision, cases or litigation will be filed against him/her under the Environment Court Act, 2000.

The Bangladesh Environment Conservation (Amendment) Act, 2003:
Under this amendment, it is stated that the Environment Court can dispose of environment-related cases as well as the general litigation and also can exercise the power and functions of the general civil courts in Bangladesh.

Punishment:
The provision for punishment makes the implementation of this Act rather difficult, as that requires exercise of magisterial power.

The Bangladesh Environment Conservation Rules, 1997:
For the implementation of the ‘Bangladesh Environment Conservation Act’ 1995, the Government has formulated the ‘Bangladesh Environment Conservation Rules, 1997’. The provisions of these Rules are elaborately formulated about the procedures for the implementation of the Bangladesh Environment Conservation Act, 1995.

Air Pollution (Control) Rules, 2004:
The main source of air pollution in Dhaka city is exhausted of poisonous vehicles. To contain and curb air pollution, the government has imposed ban on the import of the most air polluting vehicles, two-stoke three wheelers chassis and two-stroke three-wheelers vehicles. Besides, the Government has imposed ban on playing of two-stroke three-wheeler in Dhaka city from 1 January 2003. Restriction has been imposed on the plying of older buses and trucks in Dhaka city, that causes pollution. The Bangladesh Environment Conservation Rules 1997 has been revised making the use of Catalytic converter and Diesel particulate filter that are formally introduced in Dhaka city on 7 August 2002. At present, instead of two stroke three wheelers, four strokes CNG run auto-rickshaws are plying in Dhaka City. The Rules named ‘Air Pollution (Control) Rules, 2004’ have been attached with the ‘Bangladesh Environment Conservation Act, 1995. The various sources of sounds such as myecck, loud speaker, vehicle, horn of vehicles, mechanism of breaking brick and stone, generators etc., that extracts sound exceeds the limit of the friendly environment bring injurious to the physical and mental health for the people. To cope with the problems, the government has enacted the Air Pollution (Control) Rules, 2004 as a supplementary of the Bangladesh Environment Conservation Act, 2000. In this regard, the section-20 of the
Bangladesh Environment Conservation Act, 1995 has been inserted for the conservation and development of the environment and environmental resources in Bangladesh.

**Characteristics:**
- Under the provision of this Act, the Paurashava, City Corporation, Rajdhani Development Authority, Khulna Development Authority, Chittagong Development Authority and Rajshahi Development Authority shall identify the residential areas, commercial areas, industrial areas, miscellaneous areas or peaceful areas under own jurisdiction and also identify its hospital, educational institutions, adalat and can set up “Sign Board or appropriate Indicator” for the preservation of those areas.
- The Union Parishad shall set up Sign Board or Indicator in 100 (one hundred) metres square distance within the territory of its hospital, educational institutions.
- The Pneumatic horn of motor vehicles, machineries, engine, or any other pneumatic horns are prohibited.
- No horn, myeck, loudspeaker, or any other sound extensive apparatus shall not be used.
- If any person wishes to use loudspeaker in the open or partial games tournament or other places where marriage takes place that creates more sound then he has to take permission in accordance with the schedule-1.
- Loudspeaker or any other loudspeaker that creates word in any ceremony should not be given permission for using it more than five hours and that permitted time should be exceeded at 11 p.m.
- Loudspeaker can be used at picnic subject to the provisions of these Rules but no loud speaker can be used on the way for picnic.
- Loudspeaker can be used only for the place specified by the Deputy Commissioner. It can be used from 8 a.m. to 7 p.m. but if any restriction exists then it will be prevailed.
- The use of breaking the brick or the stones in the residential area is prohibited and the mixture machine including other polluter machines shall not be used until the7 a.m. to 7 p.m.
- The Electoral meeting, procession or other matters with a view to observance of the election of the Parliament or House of Nations, any local government election, or any other statutory body’s elections, after the declaration of the election schedule and before the election of the 48 hours, loudspeaker or any other apparatus which creates sound shall not be used.
- If any person wishes to use loudspeaker in the place of habitation, shops, industry, conference room, auditorium, cinema hall, theatre etc.; then he or she has to obtain consent from the owner of those properties and to ensure adequate protection and to take appropriate measure for it.
- If any person violates any provision of these rules with any apparatus, the Director General or the person empowered by him can give him directions orally or written and violating person is bound to obey him. If the person violates the provision, the Director General can forfeit those apparatus.
- The persons working in the polluter industry should be given much protection in any respect and the owner of the industry should take necessary steps for that person. The Director General will give directions in this line and the concerned person will obey him.
- If any person violates the provisions of section–5, 6, 7, 8, 9, 10 of this Rules, he will get imprisonment for five thousand taka or in addition, the person will get two months imprisonment or with both. On the other hand, if he or she violates under sections 12, 14, 16 of this Act, he or she will be fined for ten thousand taka or with six months imprisonment or with both.
- If any person violates any provision of these rules, the Director General or the person empowered by him can file case under the provisions of ‘the Bangladesh Environment Conservation Act, 1995 and ‘the Environment Court Act, 2000 or can take necessary action in this regard.

**Immunity:**

The following rules shall not applicable here:
- The loudspeaker or any other apparatus that creates sound during the prayer of different religious institutions.
- The using of loudspeaker of different religious ceremony for all community.
- The siren used for the iftar and the sehry during the Ramadan.
- The siren or the loudspeaker used during the period of natural calamities.
- The loudspeaker or any other apparatus used by the defense service.
- Ambulance for the hospital, the siren of the car used by the police or the fire brigade.
- Any urgent information, notice, loudspeaker used for publicity or any other apparatus that creates sound of the government or the statutory institutions.
- The loudspeaker, thopodhani or any other apparatus used for the ceremony of Independence Day, 21st day of February, National Day etc.
- The rail, the sky communicator, the sea communicator etc.
Rules. It is crying need at present to establish these courts. Under this Act, the Government has already set up cases are to be entertained for the quick disposal of the environmental offences by the courts named the Green traditional adalat systems prevailing in Bangladesh during the execution of the environmental laws and policies. In addition, the indisposal of cases is increasing day by day. That is why, the present situation of Bangladesh, the year, 2002 and 2003 respectively. This law and Rules are treated as a new accession and technical branch in national and international arena. In this regard, the Government has enacted the Environment Court Act, 2000 and this Act is amended for two times in the rank of First Class or the Metropolitan Magistrate may also be appointed for the Court of Environment later on it is amended by the (Amendment)-, 2002. The Joined District Judge and Special Magistrate not below environmental resources. The importance of this Court is discussed both national and international arena. In this regard, the Government has enacted the Environment Court Act, 2000 and this Act is amended for two times in the year, 2002 and 2003 respectively. This law and Rules are treated as a new accession and technical branch in the field of knowledge. The enacted environmental conservation Act and Rules are not suitable for the traditional adalat systems prevailing in Bangladesh during the execution of the environmental laws and policies. In addition, the indisposal of cases is increasing day by day. That is why, the present situation of Bangladesh, cases are to be entertained for the quick disposal of the environmental offences by the courts named the Green Courts or the Environmental Courts in the case of the violation of the environmental conservation Acts and Rules. It is crying need at present to establish these courts. Under this Act, the Government has already set up two Environmental Courts in two divisions such as Dhaka and Chittagong for the dispose of the offences relating to environmental pollution in Bangladesh. This Act is basically based on the Bangladesh Environment Conservation Act, 1995 and the Bangladesh Environment Conservation Rules, 1997 and the Code of Civil Criminal Procedure. The Environment Court shall dispose of the offences under committing the environmental laws for conserving and maintaining the natural environment in Bangladesh i.e. the functions of the environmental court Act is limited with the natural environment. It is not limited within the social environment. Although these two environments are closely connected. The environmental court is a mechanism to protect the natural environment so that the human being or any other being cannot affect the environment directly or indirectly. The objective of the environmental court Act is to execute the objectives of the Bangladesh Environmental Conservation Act, 1995 and its Rules, 1997.So; it is required to present the objectives of the environment Act, 1995. The objectives of this Act are the conservation of the environment, promotion of the environment and control through mitigation of the pollution of the environment in Bangladesh. This Court bears some characteristics, which is somewhat different from the General Courts of Bangladesh.

- The Judges of the Environment Court shall be in the rank of Sub-Judge or Assistant District Judge and later on it is amended by the (Amendment)-, 2002. The Joined District Judge and Special Magistrate not below in the rank of First Class or the Metropolitan Magistrate may also be appointed for the Court of Environment and the District and Sessions Judge may also be empowered for the disposal of the environmental cases in addition to his or her particular duties.
- The Environment Court shall sit at the Divisional Head Quarter but it is transferable to the district by the Order of the Government
- The Environment Court shall be treated as a Civil as well as Criminal Court
The Environmental Court shall enjoy both Criminal and Civil jurisdictions
The Environmental Court shall be guided by the Code of Civil and Criminal Procedure
The Public Prosecutor (P.P.) and the Assistant Public Prosecutor or Special Prosecutor or the Officers are empowered for carrying out the purposes of this law by the Director General on behalf of the Government and the complainant respectively
The hearing of the cases shall not be adjourned more than three times and the case shall be finalized within 180 days normally and if it fails to do the stipulated time, it may be increased subject to the provisions of this Act
Judgment in relation to penalty, compensation, Order, and procedure shall not be questioned to any authority but the appeal may be granted subject to restrictions to the Higher Court Division of Bangladesh
The Special Magistrates shall exercise their power on summary trial basis in addition to their respective duties
The Environment Court possess the power of investigation and inspection, converting fine to compensation, Cases pending for disposal, appeal etc.

**Power, Functions and Establishment of the Environment Court:**
The government has already set up two Environmental Courts\(^{35}\) in two divisions\(^{36}\) for carrying out the purposes of this Act.\(^{37}\) The Environment Courts dispose of the cases relating to environmental pollution\(^{38}\) and the offences related to the probable accident, transportation, manufacturing, and other relevant activities, which may cause environmental degradation\(^{39}\) in any respect and also to make damage to ecosystem, and ecological critical area etc., and these activities that create pollution and it will be liable for environmental degradation. The Environment Court shall be treated as a Criminal as well as a Civil Court on the basis of the nature of the cases.

**Jurisdiction of Environment Court:**
The jurisdiction\(^{40}\) of the Environment Court are divided into five classes such as
Firstly- the Environment Court shall dispose of the cases under environmental law for compensation or fine or with both and it shall be directly instituted under the Environmental Court in accordance with the provisions of this Act.
Secondly- the Environmental Court may impose penalty and pass decree of proper compensation in appropriate cases for crimes committed under environmental law.
Thirdly- the jurisdiction the Director General, Department of Environment and the Court of Environment in respect of the environmental cases are discussed. Any person authorized by the Director General may investigate any crime or related other matters. Under this Act, no Environmental Court may take cognizance of any such crime for trial without written report of such person. It is provided that if any Environment Court is satisfied that the prayer of the complainant made to the person authorized under the Act for accepting allegation of a crime under environmental law may be refused by the Court and there is reason for taking cognizance of such allegation for trial, the Court may directly take such cognizance on the application of the complainant without written report of the authorized person after giving him a reasonable opportunity of hearing.
Fourthly- the Environmental Court may take cognizance of crimes under environmental law on the basis of complaints and
Fifthly- the Environment Appeal Court may, when it thinks necessary, transfer a case from one Environment Court to another Environmental Court and on the application of a party to the case or on the information received from any other source may re-transfer a case.

**Procedure and Power of Investigation of the Director General:**
It is mentioned that the Director General or the person empowered by him can investigate the offences in accordance with the provisions of the Code of Criminal Procedure. It is also stated that the investigating officer shall enjoy the status of the officer in charge of a thana. The modes\(^{41}\) provided for the Code of Criminal Procedure are to be followed during the investigation of an offence for the execution of the environmental law

- When an officer in charge suspects the commission of a cognizable offence, he or she should send information to a Magistrate competent to take cognizance of the offence. H/she shall either himself proceed, or depute any subordinate police officers to the spot to take investigation to prevent the commission of offence, and also to make arrests, if necessary. Local investigation may be dispensed with when the offence suspected is not a serious one, or where the officer in charge deems no sufficient grounds for such local inspection or investigation. If it appears to the officer in charge of a police station that there is no sufficient ground for
entering on an investigation, he shall not investigate the case and in addition, the under given rules are to be made for the investigation

- To examine the registered of the environmental cases i.e. it will be registered that involves the environmental offences
  - A draft map shall be made at the place of occurrence
  - The investigation shall be continued without any hindrance until it is achieved
  - Every investigating officer shall maintain a diary of the investigation proceedings. The Court may use such diaries. The accused shall not have access to such diaries except under the provisions of section 145 or 161 of the Evidence Act, 1872.

**Procedure and Power of the Court of Environment:**

The Environment Court shall exercise and dispose of cases by adopting the same procedures as are followed by a Sessions Court in the disposal of a case as is provided in the Code of Criminal Procedure. On the other hand, the Environment Court may apply all the powers and procedures of a Civil Court in trying a suit relating to compensation. The Environment Court shall not adjourn the hearing of a case more than three times and the Court shall dispose of the case within one hundred and eighty days. It is provided that if the case is not disposed of within the scheduled time then the Court of Environment shall inform of the Court of Appeal with writing a statement about the cause of the incompletion of the case within fifteen days and the Court shall dispose the case within ninety days for the later one hundred and eighty days.\textsuperscript{42}

**Power of Inspection by the Environment Court:**

The Environment Court may inspect\textsuperscript{43} the cases relating to the property, the place of occurrence of a crime or other matters at any stage of a case. The Court shall serve due notice inserting the place and time of such inspection to the parties or the advocates acting on their behalf. After this inspection, the Court of Environment shall prepare a memorandum on the finding of such inspection either at the time of inspection or immediately and this memorandum shall be regarded as an evidence during the case and no party shall arise any question relating to such type of evidence.\textsuperscript{44}

**Procedure for Investigation of the Court of Environment:**

The Environment Court shall follow the following procedures\textsuperscript{45}

- Every information relating to the commission of a cognizable offence is to be followed. If it is given orally to an officer in charge of a police station, it shall be reduced to writing by him or under his direction, and be read over to the informant and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Government may prescribe in this behalf.

- The police officer shall record the commission of a non-cognizance offence from the informant and the informant shall be referred to a Magistrate for his remedy.

- A cognizable offence cannot be investigated by a police officer without the order of a Magistrate of the first class, or a Magistrate of the second class. A police officer making such investigation shall have all the powers of the officer in charge of the police station for the inquiry, except that he cannot arrest without warrant. Although a Magistrate has the power to direct the investigation of a cognizable offence, the officer in charge of a police station has the power to start an investigation of such offence, without the Magistrate’s order. The proceedings of an officer-in-charge shall not be called in question.

- It is provided that the procedure when an officer-in-charge suspects the commission of a cognizable offence then he/she sends information to a Magistrate competent to take cognizance of the offence. H/she shall neither himself proceed, nor depute any subordinate police officer to the spot, to investigate the commission of offence suspected is not a serious one or where the officer in charge has no sufficient grounds for such local inspection or investigation.

- It is prescribed the procedure for sending reports to the Magistrate may on receipt of such report, either himself proceed, or depute a subordinate Magistrate to the spot, to hold a preliminary inquiry. Under section 160 of the criminal procedure, a police officer is to dispose facts as witness. Such police officer or any other police officer empowered may orally examine any such witness. Such witness shall bound to answer all questions relating to the case, other than question the answer to which might expose him to any criminal charge, penalty or forfeiture. Such statement may be recorded in writing by the police officer investigating under section 162 of the criminal procedure. It is provided that the accused may refer to the statement made by a witness called as a prosecution witness, before the police and may direct copy thereof to be given to the accused. This provision does not affect the admissibility of statements under section 32(1) of the Evidence Act, 1872.
Procedure for Trial in the Criminal Cases:

The criminal cases are disposed of in accordance with the provisions of the Code of the Criminal Procedure. In response to the criminal cases, the Criminal Court of Environment shall follow the following sections of the Code of Criminal Procedure. Any Magistrate of the first class and of second class specially empowered in this behalf may take cognizance of any offence. When the Magistrates take cognizance of offences then he or she will consider the following particulars:

- Upon receiving a complaint of facts which constitute such offence
- Upon a report in writing of such facts made by any police officer
- Upon information received from any person other than a police officer, or upon his own knowledge or suspicion, that such offence has been committed
- The Magistrate shall examine the complaint with taking oath and takes down a brief deposition of the complainant
- The Magistrate shall take brief deposition produced witness by the plaintiff if necessary after oath and the Magistrate will take signature from the plaintiff and witness and he will put signature
- The Magistrate shall observe both the plaintiff’s complaint and witness comparatively and by criticizing the facts and circumstances of the cases, he will take it as cognizable dismissal
- The Magistrate before whom a complaint is made or to whom it has been transferred may dismiss the complaint, if after considering the statement or oath if any of the complainant and the result of the investigation or inquiry if any under section-202 of Cr.p.c. If it has no significant ground for proceeding in such cases he shall briefly record his reasons for so doing.
- Any Magistrate, on receipt of a complaint of an officer of which he is authorized to take cognizance, or which has been transferred to him under section 192 of the code of criminal procedure may if he thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained against and either injury into the case himself or if he is a Magistrate other than a Magistrate of the third class, direct an inquiry or investigation to be made by any Magistrate subordinate to him, or by a police officer, or by such other person as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint. It is provided that, save where the complaint has been made by a Court, no such direction shall be made unless the complainant has been examined on oath under the provisions of section 200 of the criminal procedure.
- If any inquiry or investigation under the section of 200 of Cr.p.c is made by a person not being a Magistrate or a police officer, such person shall exercise all the powers conferred by this Code on an officer in charge of a police station, except that he or she shall not have power to arrest without warrant.
- Any Magistrate inquiring into a case under the section of 200 of Cr.p.c may if he thinks fit take evidence of witness on oath.
- If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be one in which, according to the fourth column of the Second Schedule of the Cr.p.c, a summons should issue in the first instance, he shall issue summons for the attendance of the accused. If the case appears to be one in which, according to that column, a warrant should issue in the first instance, issue a warrant, or if he thinks fit, a summon for causing the accused to be brought or be appeared.
- If any Court has reason to believe whether after taking evidence or not that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant can not be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation. The proclamation shall be published as follows.
  - It shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides
  - It shall be affixed to some conspicuous place of the town or village in which such person ordinarily resides or to some conspicuous, place of such town or village
  - A copy there of shall be affixed to some conspicuous part of the Court house
  - A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirement of this section have been complied with, and that the proclamation was published on such day.

Appeal to the Court of Environment:

It has provisions for appeal to the Environment Appeal Court under certain restrictions. The appeal shall be guided by the Code of Civil and Criminal Procedure. No question shall be raised before any Court or any other authority as to the proceeding of Environment Court, its orders, judgments, decrees of compensation and
fine imposed upon in accordance with the provisions of this Act. Any party aggrieved by an order, decree of compensation or fine given by the Environment Court may within 30 days from such order, decree of compensation or fine, appeal to the Environment Appeal Court. No appeal from an interim order is allowed except an interim order for injunction, status quo, granting bail or refusing thereof, order relating to charge sheet and order taking cognizance of the crime.48

Procedure for Appeal to the Criminal Court:
The general criminal court is guided by the Code of Criminal Procedure for appeal and the Court of Environment is also guided by this code and for that reason, this Environment Court shall follow the following sections49 under the Code of Criminal Procedure:

- Any person whose applications under section 89 of the Cr.p.c for the delivery of property or the proceeds of the sale thereof has been rejected by any Court may appeal to the Court
- Any person who has been ordered under section 118 of that code to give security for keeping the peace or for good behavior may appeal against such Order
- Any person convicted on a trial held by any Magistrate of the second class or any person sentenced under section 349 by Magistrate of the second class, may appeal to the District Magistrate
- Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Magistrate of the first class, may appeal to the Court of Sessions
- An appeal may lie to the Court of Sessions Judge from the Court of District Judge
- Any person convicted on a trial held by a Session Judge, or an additional Sessions Judge, may appeal to the High Court
- Any person convicted on a trial held by a Magistrate may appeal to the High Court. If the Magistrate has sentenced him to imprisonment for or term exceeding six months or to fine exceeding two hundred rupees
- There shall be no appeal by a convicted person in cases in which a Court of Session passes a sentence of imprisonment not exceeding one month only, or of fine not exceeding fifty rupees only
- There shall be no appeal by a convicted person in any case tried summarily in which a Magistrate empowered to act under section 260 passes a sentence of time not exceeding two hundred rupees only
- An appeal may be brought against any sentence referred to in section 413 or section 414 but no sentence which would not otherwise be liable to appeal shall be appeal merely on the ground that the person convicted is ordered to fine security to keep the peace
- The Government or State may direct the public prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by a Court other than a High Court
- An appeal may lie on a matter of fact as well as a matter of law, in which case that appeal shall lie on a matter of law only
- Every appeal shall be made in the form of petition in writing presented by the appellants, and every such petition shall be accomplished by a copy of the judgment or order appealed against a copy of the heads of the charge recorded under section 367
- If the appellant in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court
- On receiving the petition and a copy under section 419 or section 420, the Appellate Court shall peruse the same, and, if it considers that there is no sufficient ground for interfering, it may dismiss the appeal
- If the Appellate Court dismisses the appeal summarily, it shall cause notice to be given to the appellant to such officer as the State may appoint in this behalf, of the time and place at which such appeal will be heard and shall on the application of such officer, furnish him with a copy of the grounds of appeal
- The Appellate Court shall then send for the record of the case, if such record is not already in Court. After persuasion such record, and hearing the appellant or his pleader, if he appears, and the public prosecutor and in case of an appeal under section 411A, sub-section (2) or section 417, the accused, if he appears, the Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal
- The rules contained in chapter XXIV of the Cr.p.c. as to the Judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment of any Appellate Court other than a High Court. It is provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered
Whenever a case is decided on appeal by the High Court under this chapter, it shall certify its judgment or order appealed against was recorded or passed. If the finding, sentence or order was recorded or passed by a Magistrate other than the District Magistrate, the certificate shall be sent through the District Magistrate.

Pending any appeal by a convicted person, the Appellate Court, may for reasons to be recorded by it in writing order that the execution of the sentence or order appealed against be suspended and, also if he is in confinement, that he be released on bail or on his own bond.

When an appeal is presented under section 411A, sub-section (2) or section 417 the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which his brought may commit him to prison pending the disposal of the appeal, or admit him to bail.

Appellate Court may take further evidence- In dealing with any appeal under this chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons, and may either take such evidence itself, or direct it to be taken by a Magistrate, when the Appellate Court is by a Court of Session or a Magistrate.

Whenever the judges composing the Court of Appeal are equally divided in opinion, the case, with their opinions thereon, shall be laid before and the judge of the same Court, and such judge, after such hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Judgment and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in section 417 and chapter 32 of the Cr.p.c.

Every appeal under section 411A, sub-section (2) or section 417 shall finally abate on the death of the accused, and every other appeal under this chapter shall finally abate on the death of the appellant.

Procedure for Trial in Sessions Court:

The procedure of trial in Session’s Court is stated in the 3rd chapter of sections 50 of Code of Criminal Procedure and the Sessions Court of Environment shall also follow the same kind which are discussed below:

Every suit of the Session’s Court shall be conducted by the public prosecutor on behalf of the Government.

According to the provision of produced of the accused, if the accused is produced before the Court the public prosecutor shall describe and want to proof the complaints against the accused on the very basis of evidences.

After considering fully of the cases along with the documents and the hearing of the accused, if the Court deems that it has no good ground to continue the case, the Court can discharge the accused and the Court will write down the cause of his discharge.

After hearing of the cases, if the Court deems that the accused has committed a crime, the Court shall institute a charge sheet. The Court shall hear the accused and the accused is to be given defence for justice.

If the accused confesses his confession, the Court shall impose penalty.

The accepting date of the evidences on behalf of the plaintiffs is given then the accused wants to prayer justice through the section of 265E.

After hearing of the plaintiff’s evidence, to take deposition of the accused and to take hearing of the plaintiff and accused, if the Court deems that the accused has committed crime’s which has no evidence then the Court will order acquittal of the accused.

If the order of the acquittal is not given, then the accused is told to take defenses in favour of the evidences, the Court shall take that witnesses.

The public prosecutor shall present his brief speeches after taking down the deposition of the witnesses in favour of the accused and the accused or his always will be entitled to answer that question.

After hearing the argument and point of law, the Court shall give his judgment.

If the accused do not confess the complains of the pre penalty then the Court shall take evidences and the Court shall write down that decision.

The Procedure and Powers of the Civil Court:

The Environmental Court can impose penalty as the court of civil under the provisions of this Act. The Court shall follow the Code of Civil Procedure for assessment of the damages and its compensation. The civil suits of the court of environment are based on the following fundamental principles that are discussed here briefly.

Recommendation And Conclusion:
From the above study and based on the teaching and research observations, some issues may be discussed as follows:

*The environmental laws of Bangladesh crystallize the need for establishment of environmental tribunals as the existing civil courts lack in environmental expertise and dispense delayed justice. An appeal from the environmental tribunals should lie to the Supreme Court to assist the environmental tribunals in the dispensation of environmental justice. In this regard, the Supreme Court will be the guardian of the Constitutional. In 1803 John Marshall, the chief justice of the United States, established the power of courts to oversee the constitutionality of actions by other branches of Government when he declared that it is “the duty of the judicial department to say what the law is.” Neither Bangladesh legislative measures nor judicial responses contain specific measures to deal with the problems prevailing in the country. The appropriate judicial response and enforcement measures should be highly needed at present. It has been observed that the Environment Court Act almost depends on the Bangladesh Environment Conservation Act in 1995 and the Environmental Conservation Rules in 1997. It also depends on the Code of Civil and Criminal Procedure for the execution of the environmental offences. Besides, it almost depends on the Director General Department of Environment. It has been stated that the laws relating to environment is at large up dated and suitable for the environment in Bangladesh and has given importance of the environment policy and action plan framed in 1992. The Environment Court is a new and remarkable dimension for the protection of the environment in Bangladesh. The Government specially the Ministry of Environment and Forest and the Department of Environment including Bangladesh Environment Management Program are the pioneers in this regard. The Court of Environment and the Environment Appeal Court are to be more dynamic by empowering and creating its new branches from Divisional to District level for considering the present needs and environment of the country. It has been observed that the Environment Court Act bears similarity with the Environment Policy in 1992 and the Environment Action Plan in 1992, because the policy directs the concerned authority to enact and amend laws for the present situation of the country. Presently, the Court of Environment has been extended to its power and functions by the amendment-2002 and of 2003, which have positive impacts on the environment and development and also on the judiciary of Bangladesh. It needs a comprehensive studies comparing with the relevant environmental legislations along with the judicial decisions around the world. It is also suggested that

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REFERENCES

2 Ibid. Section. Preamble.
3 Ibid. Section. 2 of (a to m) “Department” – means the Department 0f Environment established under the section 3 of this Act. "Pollution” - It means any contamination or alteration of the physical, chemical or biological properties of air, water, soil, including change of their temperature, taste, odour, density, or any other characteristic, or such discharge soil or any elements of the environment will be injurious, harmful or destructive to public health or to domestic, commercial, industrial, agricultural, recreational or other useful activity, as well as to air, water, soil, livestock, wild animal, bird, fish, plant or other forms of life. ‘Environment” –the inter relationship existing between physical properties of earth (water, air, soil) and living organisms (human beings, plants, micro-organisms) ”Environment Pollutant”- means any solid, liquid, and gaseous substance which causes harmful effect to the environment (heat, noise, radiation, smoke etc) “Environment conservation"-the improvement of qualitative and quantitative characteristics of different components of environment as well as the prevention of degradation of those. “Ecosystem”- the inter-dependent and balanced complex association of all components of environment, which can support and influence the conservation and growth of all living organisms. “Person”- any human being or beings also includes any company, association, or corporation, whether registered or not. “Use” – relating to any material, in manufacturing, processing, treatment, package, storage, transportation collection, destruction, destruction, conversion, offering for sale, transfer of the like of such material “Hazardous material”- the material, which due to possessing chemical or biochemical properties is such that its manufacture, storage, discharge or unregulated transportation can be harmful to environment. Waste”-any solid, liquid, gaseous and radioactive substance, the
discharge disposal and dumping of which may cause harmful change to the environment “Director General”- the highest position of the Department.


5 The Independence, Dated 24.03.2000. The writer is Minister for Law, Justice and parliamentary Affairs.

6 Ibid.

7 Ibid. Act.

8 Ibid. Section 2(b)


12 Ibid. Act.

13 Ibid. (ii).

14 Ibid. Sec.4.

15 Ibid. Sec.6.


17 Ibid. Sec.14.

18 Ibid. Sec.15-16.

19 Ibid. Sec.18.


22 Ibid.


25 Ibid. sec. 10.

26 The Air Pollution (Control) Rules, 2004 is translated from Bangla to English by researcher.


31 Ibid.

32 Ibid. sec. preamble.


34 Ibid. sec. (4 to 8).


37 Ibid., p. 01.

38 Section-2 (b) of the ‘Bangladesh Environment Conservation Act’1995- discusses pollution. It means any contamination or alteration of the physical, chemical or biological properties of air, water, soil, including change of their temperature, taste, odour, density, or any other characteristic, or such discharge soil or any elements of the environment will be injurious, harmful or destructive to public health or to domestic, commercial, industrial, agricultural, recreational or other useful activity, as well as to air, water, soil, livestock, wild animal, bird, fish, plant or other forms of life.

39 Ibid., Sec .4(a to h) and sec. (5 to12).

40 Ibid. Section. 5 (1 to 5).

41 Section.157, 172 of the Code of Criminal Procedure and PRB of (256,273,261).

42 Section- 8 (1 to 7) of the Environment Court Act, 2000.

43 Ibid. Section. 10(1-2).

44 Ibid.

45 Section.154, 155,157,158,163 of the Code of Criminal Procedure.

46 The Environment Court shall be treated as a Criminal Court of Environment during the disposes of the Criminal Cases.

47 Ibid. Section. 190, 202, 203, 204 and 87.

48 Ibid.

50 Ibid. Section (265A to 265L).