

Environmental Compliance Procedures in Development Projects of Local Government in Bangladesh: Major Weaknesses and Implications

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Abstract

Environmental compliance in the development projects is regarded as very significant for ensuring sustainable development of a country. In Bangladesh, different environmental Acts and Ordinances have empowered local government bodies to take care of environmental issues in their development activities/projects. At the time of planning and implementation of these development activities/projects, these bodies have to identify and determine the impacts of such activities/projects on environment and natural resources, and take necessary steps to avoid or reduce the adverse environmental impacts of these activities/projects. Otherwise, due to poor planning and implementation of development activities/projects without adequate assessment of potential impacts, physical and biotic environment is significantly changed and many environmental problems take place. This article is an attempt to explore different guidelines and procedures in accordance with environmental rules and regulations to consider environmental issues in preparing development projects by local government bodies of Bangladesh. It also identified the problems or weaknesses that resist the free process of environmental compliances in development process and suggests some recommendations

Introduction

Development is a continuous process. Its impact on environment is ever increasing due to interference in the environmental settings. This interference is taken place in the developing countries because of unplanned development activities. Local government bodies in Bangladesh have been vested with planning and implementation of a wide range of development projects like construction of roads, bridges, culverts, housing, potable water supply and irrigation, flood control, recreation centre and markets, etc. with a view to improving the socio-economic condition at rural and urban level of the country.

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Environmental compliance in case of such development projects is very much essential to reduce the anticipated environmental degradation in the near future. Environmental regulations present a set of environmental protection parameters to analyze the adverse environmental consequences of the projects and adopt appropriate measures to eliminate, reduce to acceptable levels or offset such adverse consequences through proper planning and implementation of the project.

This study is basically based on the review of literatures collected from secondary sources i.e. published books, research works, recognized journals, electronic journals, newspapers, published and unpublished dissertations, and Websites.

Local Government Categories and Hierarchies in Bangladesh

The rural/regional local government in Bangladesh consists of three tiers:

1. Union *Parishads* (4501);
2. *Thana/Upazila Parishads* (460);
3. *Zila* (District) *Parishads* (64).

Urban areas have a separate set of local governments. The Bangladesh Census Commission recognized 522 urban areas in 1991 (with a population of about 5000 or more) but only about 308 of the larger urban areas among these have urban local governments. The nine largest cities have a City Corporation status, while the rest are known as *Pourashavas* or Municipalities, which again are classified according to financial strength.²

Table 1: Hierarchy of Urban Local Governments in Bangladesh

City Corporation	Dhaka, Chittagong, Khulna Rajshahi, Barishal, Sylhet, Rangpur, Narayanganj and Comilla.
<i>Pourashavas</i> (Municipalities)	308
Category	Annual income level
Class I <i>Pourashavas</i>	6 million +
Class II <i>Pourashavas</i>	2.5 million
Class III <i>Pourashavas</i>	Less than 2.5 million

Source:

<http://www.unescap.org/huset/lgstudy/country/bangladesh/bangladesh.html> and various newspapers.

² Pranab Kumar Panday and Ishtiaq Jamil, Policy Making in Urban Bangladesh: Whose Domination?, available at <http://publicadministrationbd.blogspot.com/2011/03/local-government-in-bangladesh-note-5.html>.

In addition, there are also some urban centers that are under Military Cantonment Boards. The City Corporation and *Pourashavas* (Municipalities) are true urban local governments. The large number of small urban centers is administered under the Union *Parishad* system (rural local government). Some urban centers have a fairly large population, but have not yet been declared a municipality, and, therefore, also remain under Union *Parishad* management³. The existing structure of the urban-local government bodies in Bangladesh can be shown by the following diagram:

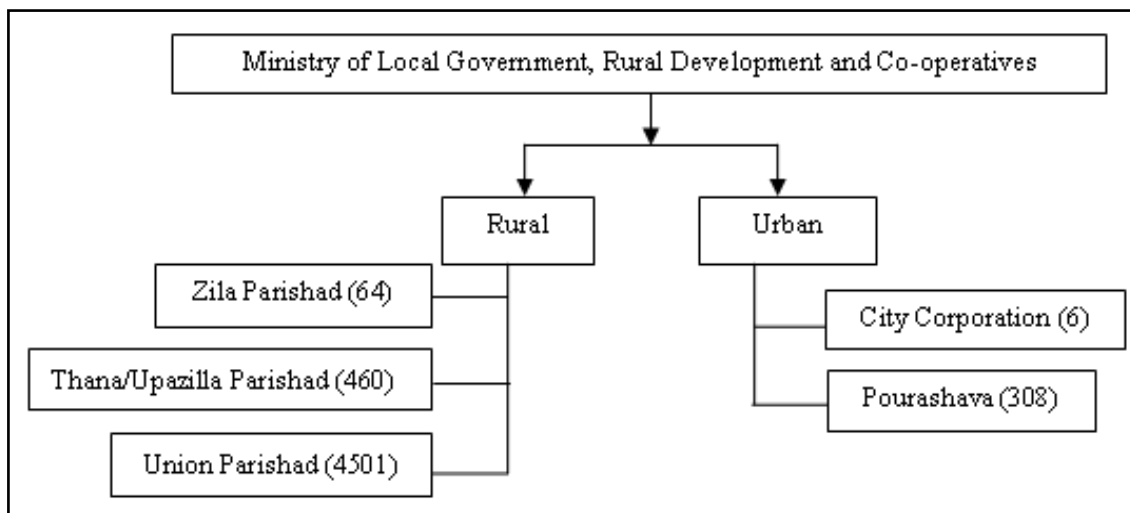


Figure 1: Existing Structure of Local Government in Bangladesh

Source: Pranab Kumar Panday, *Local Government in Bangladesh*, *South Asian Journal*, Available at [http://www.google.com/#hl=en&output=search&client=psyab&q=Local + government + in + Bangladesh + by + pra nab + kumar + pan](http://www.google.com/#hl=en&output=search&client=psyab&q=Local+government+in+Bangladesh+by+pranab+kumar+pan).

Environmental Compliance Framework of Development Projects

GoB has enacted a number of laws in different periods for ensuring environmental good governance in the country. There are around 200 different Acts and Ordinances in Bangladesh for regulating environment. Among them, a good number of laws specifically prescribed different guidelines to integrate environmental protection parameters in development projects planned and implemented by local government in Bangladesh.

³ Pranab Kumar Panday, *Local Government in Bangladesh*, *South Asian Journal*, available at <http://www.google.com/#hl=en&output=search&client=psyab&q=Local+government+in+Bangladesh+by+pranab+kumar+pan>.

Legal Framework

The Protection and Conservation of Fish Act, 1950 prohibit the destruction of or any attempt to destroy fishes by poisoning of water or the depletion of fisheries by pollution, by trade effluent or otherwise. Building Construction Act, 1952 provides for enforcement and penalties, preparation of rules, if not covered by the approved master plan, and the designation of authorized officers. The Bangladesh Forest Act, 1972 prohibited any damage by negligence for damaging or cutting down any tree and timber. This Act should require from all development projects and all agencies to have mandatory plantation. Bangladesh Wildlife Preservation Act, 1973 provides that no person damage or destroy any vegetation in any wildlife sanctuary; cause any fire in a wildlife shelter; pollute water flowing in or through a wildlife sanctuary. The Protection and Conservation of Fish Rules, 1985 prohibits construction of bunds, weirs, dams and embankments or any other structures, whether temporary or permanent, in, on, across over the rivers, canals, khals or beels for any purpose other than irrigation, flood control or drainage. Environment Conservation Act (ECA), 1995 stipulates that “no industrial unit or project shall be established or undertaken without obtaining environmental clearance from the Director General, Department of Environment, in the manner prescribed by the rules”. ECA is supported by Environmental Conservation Rules (ECR), 1997 which has prescribed certain rules that any project/development intervention is to obtain environmental clearance including the Initial Environmental Examination (IEE). The IEE will contain the scope of work of proposed Environmental Impact Assessment (EIA) of the project. Conservation and Protection of Wetland, Natural Water Channel, Khal, Beel, Retention of Pond, Playground and Open Space Act, 2000 controls land filling, intends to protect natural environment, to preserve and maintain water reservoirs, pond, open space and play grounds.

Policy Framework

Environmental Policy, 1992 prescribes to integrate environment into all plans and research works related to housing and urbanization, to control all housing and urbanization activities which may have negative impact on local and overall environment, to emphasis on the

role of wetland in beautification of the city, to undertake EIA before preparing all proposed national and regional plans and projects related to housing and urbanization. The National Housing Policy, 1993 has set out a strategy that gives emphasis on private sector provision or housing with government acting as an enabler. This is strengthened with strategies for increasing access to land and housing finance, and cost recovery from public infrastructure investment. National Conservation Strategy (NCS) specified some strategies for sustainable development viz, planning functions of urban authorities with EIA capability should be in streamlined. Any urban land development plan should also incorporate transportation planning systems. Physical expansion of cities should only be carried out based on sound planning. There should be provision for adequate urban open space and recreation areas. National Environment Management Action Plan (NEMAP), 1995 suggested actions related to strengthening of local government institutional capacity for integrated planning, creating better housing facilities for the urban poor, middle class and working women, enacting appropriate legislation for land use, building standards, zoning and town planning. The National Energy Policy, 1996 highlights the important of protecting the environment by requiring the EIA for any new energy development project, introduction of economically viable and environment friendly technology and putting a ban on the use of fuel wood for brick burning.

Environmental Compliance Procedures in Development Project

Environmental compliance in the development processes is a core issue to ensure sustainable development. Any Governmental body, whether it is national or local level, must ensure environmental issues in case of implementation of development activities that affect physical environment. Different environmental rules and regulations provide different procedures to consider environmental issues in the development activities of the country. These rules and regulations emphasize mainly on the obligation of environmental clearance from the government and undertaking Environmental Impact Assessment (EIA)⁴

⁴ EIA is a process used to predict the environmental consequences of a proposed development project. It not only examines how the project might affect the environment, but also goes on to consider what measures might be introduced to

depending on categories of the proposed projects. According to Environment Conservation Act (ECA), 1995, “No industry shall be established and no project shall be undertaken anywhere without obtaining environmental clearance from the Director General (DG) of Department of Environment (DoE), in the manner prescribed by the rules.”⁵ The rules of preparing EIA for the proposed development projects in Bangladesh have been stipulated by Environmental Conservation Rules, 1997. The legal procedures of environmental clearance and EIA have been described in below.

Procedure of Environmental Clearance

Environmental Conservation Rules, 1997 provides a framework for environmental evaluation of proposed development project in all sectors and prescribes procedures for obtaining environmental clearance certificate. According to the procedures, the developer should initially obtain a location clearance certificate from the DoE and then conduct an environmental study of the development project. The Rules have classified the projects into four categories on the basis of their site condition and environmental impacts. These are as, (a) Green, (b) Orange A, (c) Orange B and (d) Red.⁶ Different procedures are mentioned for environmental clearance certificate of each category of project. According to the rules, environmental clearance certificate is issued to all existing and proposed industrial units and projects, under Green category without undergoing EIA. For the category of Orange A and B and Red projects, it requires location clearance certificate, EIA and the satisfactory submission of the required documents.

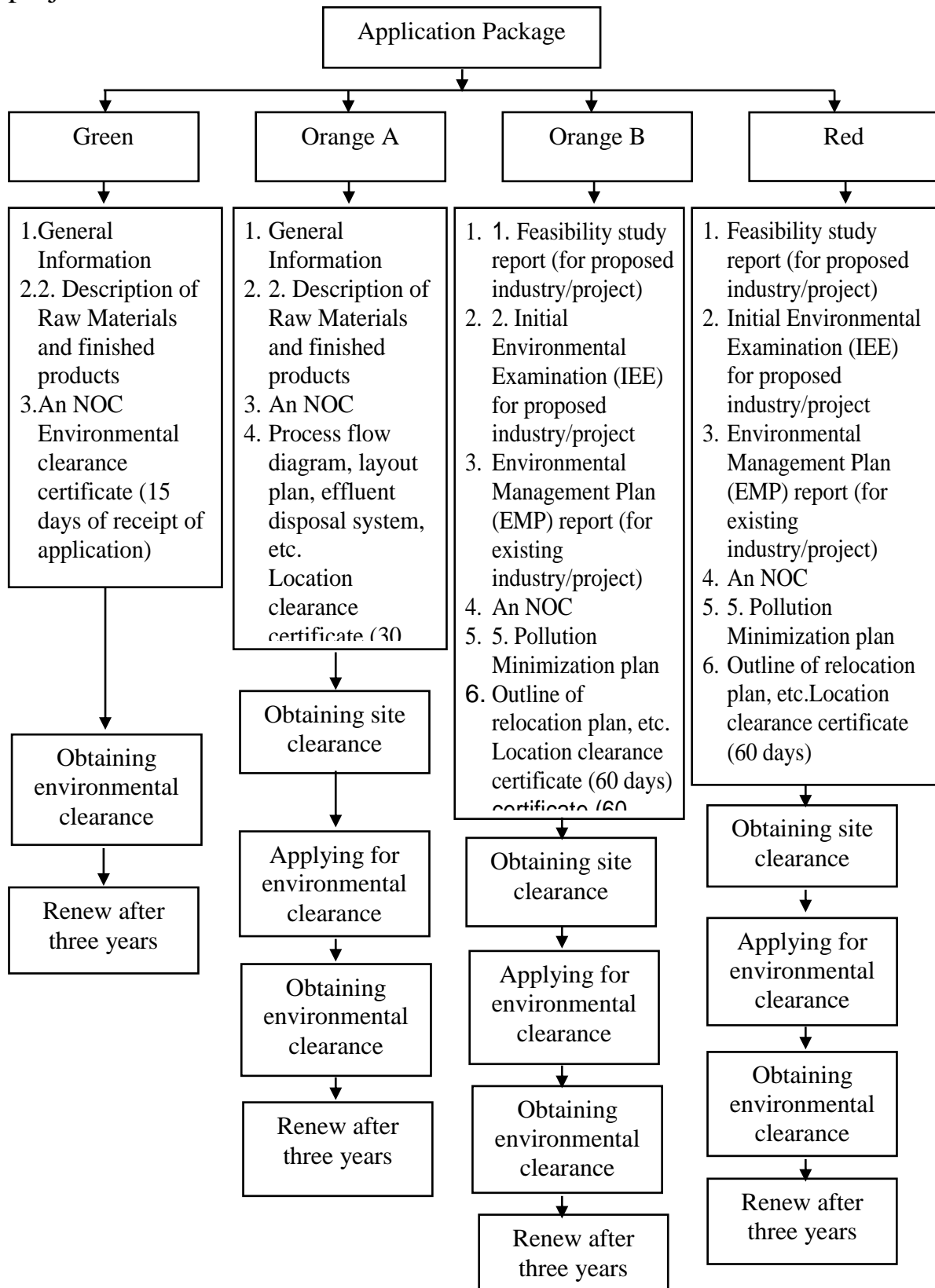
For getting environmental clearance certificate, the project proponent should apply to the concerned Divisional Officer of the Department through prescribed format (Form 3, mentioned in Rule 7). They should be accompanied with the documents as specified in Figure 2.

mitigate the damaging environmental effects of the project and finally tries to inform the decision-makers on the options for avoiding or reducing the adverse impacts and to analyze the trade-offs involved in choosing between alternative actions.

⁵ *The Bangladesh Environmental Conservation Act, 1995, Article-12.*

⁶ *The Bangladesh Environment Conservation Rules, 1997, Rule-7.*

Figure 2: Procedure of environmental clearance for development projects



Source: S. Mumtaz, "Environmental Impact Assessment in Bangladesh", *Environmental Impact Assessment Review*, vol.22 (2002), p. 166-169.

Environmental Impact Assessment (EIA) Procedure

Environmental Impact Assessment (EIA) is a project planning tool used for environmental protection and to achieve sustainable development.⁷ It is a prediction or forecasting of the future state of the environment as a consequence of the development activity. EIA attempts to:

- describe the existing environmental conditions;
- identify various activities to be undertaken for a particular project;
- predict the consequences with and without the project on environment;
- define options, cost, procedures of damages;
- propose most cost effective mitigating measures for unavoidable impacts;
- identify residuals;
- propose alternative course of action; and
- identify resources needed.

Environmental Impact Assessment (EIA) process of the development project in Bangladesh consists of six steps. These are as:

Project Screening based on Schedule 1 of ECR

Initial screening of the project is the first and simplest tier of project evaluation to decide as to whether or not to conduct an EIA. EIA process is not necessary for every kind of development project. Before conducting a full-scale EIA, a screening technique is applied to determine whether an EIA is required. Initial screening procedure divides projects into three categories:

A Category: projects do not clearly require an EIA;

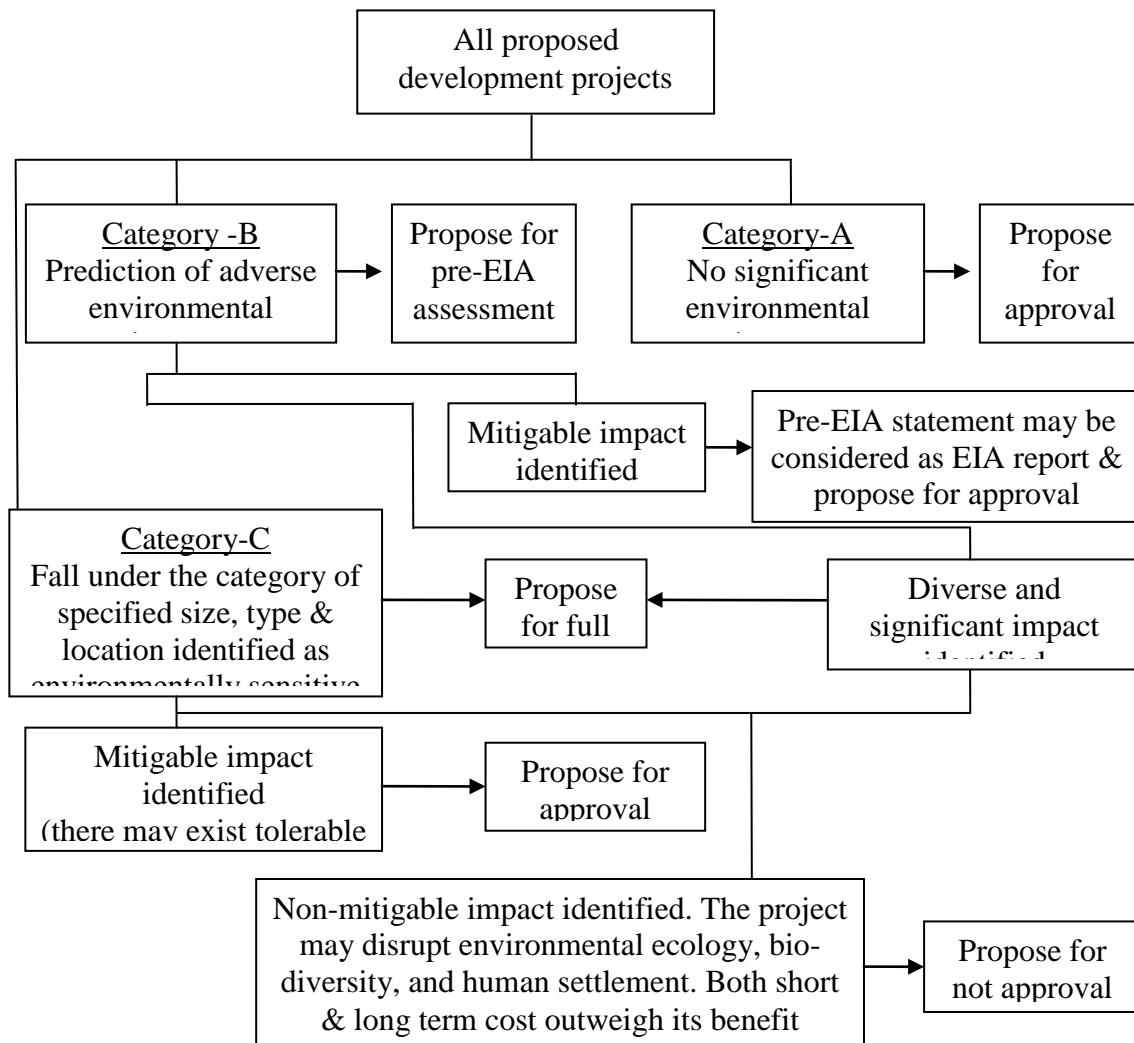
B Category: the requirement of an EIA is not clear and therefore further analysis or screening is necessary; and

C Category: projects clearly requiring an EIA.⁸

⁷ R.B. Khadka and U.S. Shrestha, "Process and Procedures of Environmental Impact Assessment Application in Some Countries of South Asia: A Review Study," *Journal of Environmental Science and Technology*, vol. 4(3), (2011), p. 215.

⁸ M. Khurshed Alam, "Procedures of Environmental Impact Assessment: Bangladesh Perspective," *Development Review, Dhaka*, vol. 9, (January – June, 1996), pp. 44-48.

Figure 3: Integration of EIA into the Project Approval Procedure



Source: M. Khurshed Alam, *op. cit.* p. 47.

The above flow chart (Figure 3), at a glance, may give us an overview on how we can integrate EIA into the project approval procedure.

Preparation of Initial Environmental Examination/Evaluation

Scoping is the second stage in EIA process. But in Bangladesh, Initial Environmental Evaluation (IEE) replaces scoping and becomes the prime document for environmental clearance for Orange and Red categories of projects. After screening, the developer is required to prepare an IEE based on pre-feasibility level of information and defines the basic principles and objectives of the project. This document identifies the proposed location of the project and the potential environmental and social impacts⁹.

⁹ R.B. Khadka and U.S. Shrestha, *op. cit.* p. 219.

Issuance of Site Clearance Certificate

On the basis of IEE report, the Department of Environment (DoE) issues a site clearance. IEE is also required to find that a full EIA is required. At this stage, preliminary cost estimates and alternative locations for the project are also determined.¹⁰ The DoE will review IEE report and determine whether or not a full EIA is necessary. Generally, EIA is required prior to issuance of approval to start construction. The decision regarding the need for an EIA is issued as a part of the site clearance.¹¹ A full EIA is generally required for the projects falling in Red category,

Preparation of the Terms of Reference

The TOR briefly describes the proposed project, identify the issues and potential impacts of the project and provide the details of basis for further study. After the site clearance is issued, the developer starts preparing a Terms of Reference (TOR) for carrying out a complete EIA study. The developer should consult with the relevant Departments and Ministries prior to submitting the TOR for review and approval. This will facilitate preparation of an acceptable TOR¹².

Submission of Draft EIA Report

Within the time frame outlined in TOR, the developer will conduct the study to develop a draft EIA report. In the process, the developer consults with the relevant Departments, such as, the Departments of Agriculture, Fisheries and Forests, etc. The draft EIA Report includes baseline physical, biological and social conditions at the project site and identification of the potential impacts on the physical, biological and social situation of the proposed project sites. The draft report should also contain proposed remedies as mitigation measures including resettlement and rehabilitation plans. The draft EIA report is submitted to DoE for reviewing comments. Based on review and comments, the draft report is revised and submitted it in final form for approval and issuance of authorization for the construction of the development project¹³.

Submission of the Final EIA Report with Management and Monitoring Plan

The developer is notified of the approval of the final EIA report and may begin construction of the proposed project. The environmental clearance certificate for the project is not issued until the project construction is over and becomes ready for operation. Prior to issuing the environmental clearance certificate, DoE will conduct an inspection

¹⁰ *Environmental Conservation Rules*, 1997.

¹¹ S. Mumtaz, "Environmental Impact Assessment in Bangladesh: A critical review", *Environmental Impact Assessment Review*, vol.22 (2002), pp. 166-169.

¹² R.B. Khadka and U.S. Shrestha, *op. cit.* p. 219.

¹³ *Ibid.*

of the project and will determine if the conditions of the site clearance and commitments made in EIA are implemented properly.

A relatively detailed description of mechanisms for compliance monitoring for site clearance and environmental clearance is provided by the ECR. In accordance with the Rules, citizens and governmental officials may lodge petitions against any development. The petition will be reviewed by an appellate body which will impose fine, penalty. At the extreme condition, it may also give the order for closing of the development projects. The environmental clearance is issued for a three year period for development project; the Government maintains a constant vigilance over the operation of the development¹⁴.

Any provision for consultation with the project-affected people or other stakeholders is not provided in the ECR. The only requirement of consultation is with DoE and other departments during the preparation of IEE and draft EIA report. However, an extensive consultation with the project affected people and stakeholders are conducted as per requirement of the donors and lenders, if the project requires financial assistance from foreign donors or lenders.

The DoE is responsible for monitoring of the project after it becomes operational, and may examine environmental conditions and the effectiveness of mitigation measures. As appropriate, the Department retains the authority to assure compliance with the agreed mitigation plan and maintaining the environmental quality standards¹⁵.

Environmental Compliances in Project Preparation and Approval

According to the Government procedure, Planning Commission invites project proposals from different Ministries or agencies as per national priorities reflected in the Five Year Plan objectives. In fact, project executing agencies select suitable project through conducting preliminary feasibility studies and thus prepare project profiles with a prescribed format named as, Development Project Proforma/Proposal (DPP)¹⁶. The DPP guidelines (Section 23 of DPP) contains the provision of a brief description of the effect/impact of the project and specific mitigation measures of adverse impact thereof if any on environment like land, water, air, bio-diversity etc.¹⁷ Every executive agency of the project has the responsibility to identify the potential environmental impacts of the project and to suggest specific mitigation measures in the DPP following the legal procedure of environmental assessment of the project.

¹⁴ R.B. Khadka and U.S. Shrestha, *op. cit.* p. 220.

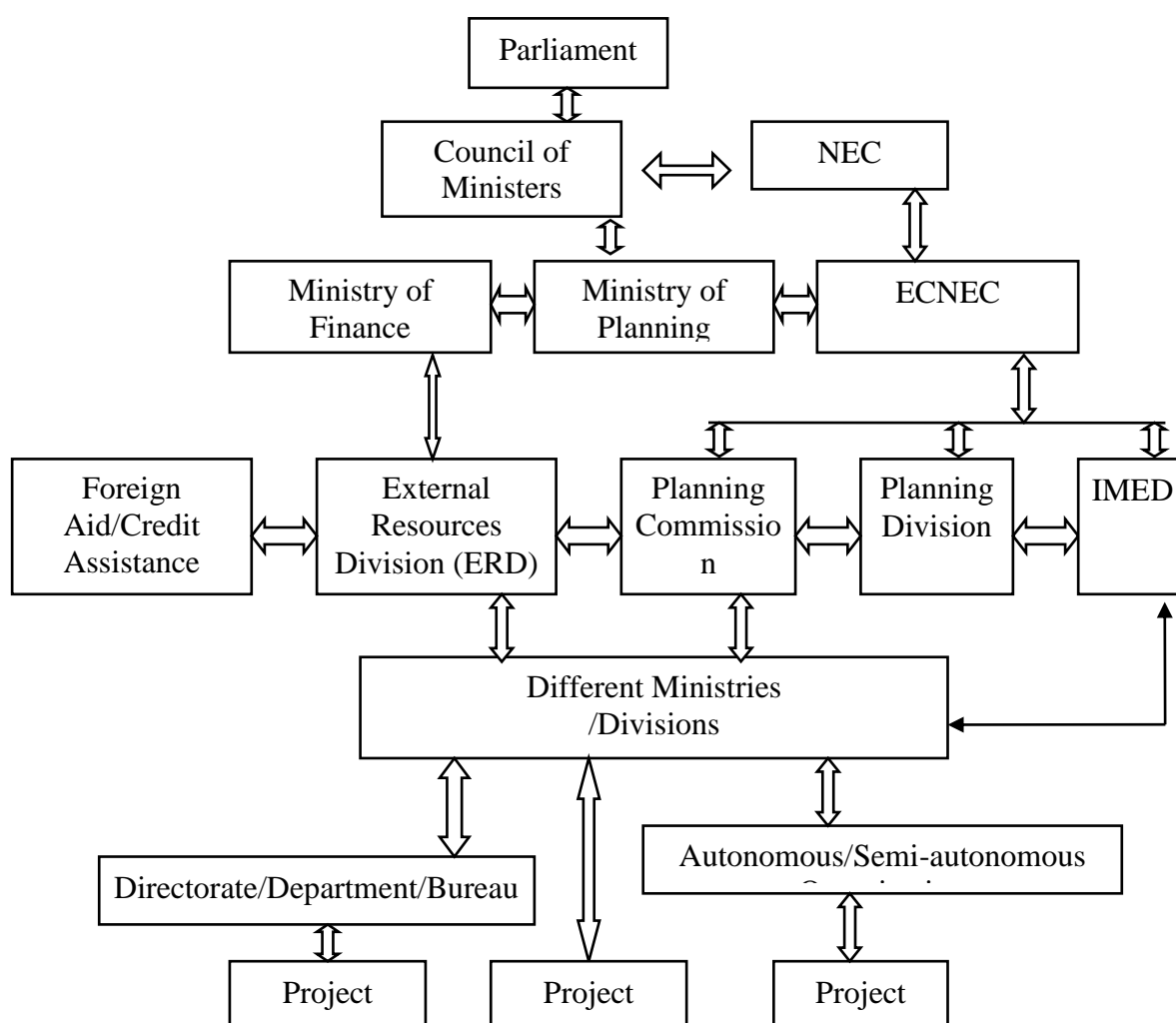
¹⁵ *Ibid.*

¹⁶ DPP means the proposal of the project to be undertaken, which mainly includes the location of the project and objectives, components and estimated cost summary, justification of the project, source of finance and benefits of the project. The DPP of the project is prepared by executive agency of the project.

¹⁷ GoB Circular, *Preparation, Processing and Approval Procedures of Development Projects*, (Dhaka: Planning Division, Ministry of Planning, 2008), p. 25.

Preparation, processing and approval procedures of development projects may vary due to difference in the investment size, sources of fund and nature of projects. Moreover, separate project proforma is used for different types of project and is processed and approved by the different committees and councils. But on principle, all development projects under different ministries are initially examined by the Planning Cell of the respective Ministry in the context of sectoral targets, allocations, priority and viability before forwarding to the appropriate authority for further processing¹⁸. However, the institutions that involved in planning and implementation of development projects and their linkage has been shown through the following diagram (Figure 4):

Figure 4: Institutional Set-up for Planning and Implementation of Development Projects



Source: S.J. Anwar Zahid, *Rural Development Planning and Project Management in Bangladesh* (Comilla: Bangladesh Academy for Rural Development, 2005), p. 67.

¹⁸ S.J. Anwar Zahid, *Rural Development Planning and Project Management in Bangladesh* (Comilla: Bangladesh Academy for Rural Development, 2005), p. 68

Inadequacy of Environmental Compliance Procedures in Bangladesh

Environmental compliance of a country reflects the political, cultural and socio-economic conditions. The framework or components of environmental compliance varies from one country to another. Like many other developing countries, environmental compliance or EIA in Bangladesh is imported from developed countries. In collaboration with the donor agencies, it was introduced carefully in the context of Bangladesh keeping in mind the socio-cultural and economic aspects of the country.¹⁹ Despite that the current environmental compliance process suffers from a number of legislative and institutional constraints or weaknesses that need to be addressed for more effective environmental compliance procedures.

Legislative Weaknesses

- a. In Bangladesh, four public sectors, i.e. industrial sector, water sector, communication sector, and LGED sector have EIA guidelines, but for the review of EISs or for community involvement in the process of EIA, there are no technical guidelines.
- b. If the DOE rejects an EIS after the review, the proponents are entitled to appeal to the Appeal Committee against the DOE's decision. This provision may be a barrier to the effective implementation of appeal procedures.
- c. According to Schedule 7 of the ECR 1997, the DOE will issue a site clearance certificate for the project proponent before the approval of EIS and the issuance of ECC. This site clearance allows the proponents to start development works such as land development at the project site and to build infrastructure. This is the great loopholes in the existing EIA rules in Bangladesh.²⁰
- d. There is no legal requirement for public participation in the preparation or review of EIA report or during the implementation of mitigation measures. Inviting public comment depends on the will of the entrepreneur. e) The ECA 1995 does not specify whether EIA is required for expansion of new and ongoing project. In the absence

¹⁹ Salim Momtaz and S M Zobaidul Kabir, *Evaluating Environmental and Social Impact Assessment in Developing Countries*, p. 20 available at http://www.google.com.bd/?gws_rd=cr&ei=kXxrVKSSIcGWuAT7_w4KwBw#q=evaluating+environmental+and+social+impact+assessment, accessed on 10 May 2011.

²⁰ Salim Momtaz and S M Zobaidul Kabir, *op. cit.* p. 23.

of this provision, the proponent may attempt to avoid undertaking EIA study for the additional impacts.

- e. Conducting both IEE and EIA could cause delay in project implementation as well as an increase in the cost of the EIA study. If a detailed EIA is required for a project, it is better to conduct it earlier rather than undertaking both IEE and EIA. Moreover, an IEE is of no use in the decision-making process where an EIA is needed.²¹
- f. The scoping of the EIA is done on the basis of the findings of the IEE. In the absence of primary scoping guidelines, it is unlikely that an effective EIA study will be conducted. Review of the EIA is done by the DOE officials. With no public involvement and an independent review body, ensuring the quality of the EIA document seems to be difficult.²²
- g. Like many of the Asian countries, in Bangladesh, environmental consideration is simply done as a political decision without considering the technical and infrastructural aspects required to carry out environmental assessment smoothly and without the involvement of any public awareness or participation even without clear perceptions of environmental assessment by governmental agencies.²³
- h. In Bangladesh, the general perception is that EIAs are conducted only because they are required by the government legislation and donor agencies, not to ensure sustainability of projects or to develop better management plans.²⁴
- i. Bangladesh is one of the countries in the world identified as corrupted, which undermines economic growth.²⁵ Corruption is pervasive everywhere. This corruption also plays negative role in the efficient implementation of any sustainability efforts like EIA in the development projects.

²¹ Rafik ahmed and nick harvey, p. 74

²² Ibid

²³ Habib M. Alshuwaikhat, Strategic Environmental Assessment can help solve environmental impact assessment failures in developing countries, Environmental Impact Assessment Review 2005, vol. 25, p.311.

²⁴ Momtaz S, Environmental Impact Assessment in Bangladesh: a critical review, Environmental Impact Assessment Review 2002;22(2): 163-179.

²⁵ Transparency International, "Corruption will rampant in 70 countries", Corruption Perception Index 2005 (Press release), Berlin: Transparency International.

- j. Public sector investment plays a significant role in Bangladesh's socio-economic development. But the planning process of the public sector investment lacks systematic appraisal procedure. The use of cost-benefit analysis is mostly done on an ad hoc basis.²⁶
- k. There is no specific guideline for conducting and reviewing the environmental assessment of non industrial project, for which currently, environmental assessment done by the project sponsor are sent to the DOE for environmental clearance by the sectoral line agencies of the govt. In fact the DOE is still following an adhoc based procedure for giving environmental clearance of non industrial project.²⁷

Institutional Weaknesses

- a DOE does not have any budget allocation for activities such as environmental awareness programs, research, and regular monitoring and auditing. For these activities, DOE has to depend on donor funds that are often conditional and uncertain. For this reason, continuous enforcement and improvement of EIA becomes difficult.
- b. The DOE is assigned with lots of environmental activities according to ECA 1995. But it lacks of sufficient manpower to discharge its responsibilities effectively. Since the establishment of DOE in 1993, the volume of its work has been increased but manpower has increased. Presently, the DOE consists of 244 staff positions of which 101 are managerial or technical. This strength of manpower is lower than that in South-East Asian countries like Thailand or Vietnam and South Asian countries like Nepal, Sri Lanka, or Pakistan²⁸.
- c. The dominant functions of EIA Unit of DOE are to review and approval of EIA, and to issue the ECC. But the EIA unit is highly understaffed. There are only five staff positions in the EIA unit of which 2 first-class officers, 1 second-class officer, and 2 third-class officers.²⁹
- d. The actual time taken for processing and issuance of Site Clearance and ECC and EIA is always more than the time specified by the

²⁶ Khorshed Alam, "Procedures of Environmental Impact Assessment: Bangladesh Perspective," *Development Review, Dhaka*, vol. 9, (January–June, 1996), pp. 44-48.

²⁷ Aminuzzamn, op. cit. p.11

²⁸ World Bank, 2007, quoted in Salim Momtaz and S M Zobaidul Kabir, op. cit. p. 25

²⁹ Salim Momtaz and S M Zobaidul Kabir, op. cit. p. 21

ECR 1997. Because of limited number of staff, it is difficult for the DOE to comply with the section 7 of ECR according to which ECC will be issued within 30 days.

- e. Only a limited number of staff within the DOE is assigned to oversee and monitor the implementation of EIA at post-EIA stage. Because of such shortage of manpower, DOE becomes unable in maximum cases to monitor properly. In such cases, responsibility for monitoring is left to the proponents without DOE supervision, creating risks that the mitigation measures are not carried out properly and adequately.
- f. Due to lack of well positioned field resources, the DOE is unable to consistently respond to complaints to a large extent. Besides, DOE does not have its offices at the District and Upazilla levels. As a result, DOE offices at the divisional level have large volume of tasks because of its large jurisdiction. The absence of field level offices significantly limits local awareness about environmental issues and participation of local key actors.³⁰
- g. In addition to the lack of adequate staff, DOE also lacks of staff with expert knowledge on EIA. This shortage of expert staff largely affects the quality control of EIA process including the review of the quality of EIA, the design of mitigation measures, and the quality of the monitoring data.
- h. No permanent leadership has developed in the DOE. The DG as the head of the DOE is appointed from outside (particularly from BCS Administration Cadre) on deputation usually for 3 years. This frequent changes in the top officials influences in planning and implementation of EIA policies properly and adequately.

Recommendations

Bangladesh is prominent for its heightened vulnerability to environmental change. In these circumstances, EIA can play a major role as a sustainable approach to development. The ECA 1995 and ECR 1997 have made a considerable progress in the field of environment providing the provision of EIA in the development activities. But there are some problems in the present EIA procedures and its implementation. So it needs more specific guidelines, independent review, greater community participation, regional or strategic impact assessment. In below, some suggestions have been recommended to improve the situation:

³⁰ Ibid

Legislative Recommendations

- a. To make the EIA system effective, sectoral and technical guidelines are essential for the project proponents and EIA consultants. NGOs should have their own EIA guidelines to implement small-scale and large-scale projects for rural and urban development.
- b. With the changing condition of environment, economy and technology, the environmental standards have to be revised. Otherwise, development projects, population pressure, rapid urbanization, industrialization will result excessive environmental degradation.
- c. The provision of settling the issue outside the court (Section 17(2) of ECA 1995) is a source of corruption and makes the administrative process lengthy. So the court has to be empowered to take cognizance of an offences or receive any suit for compensation without any written report from the DOE. Project affected parties should have the right to go to court directly. As a result the polluters would be punished without delay.
- d. The DOE can reject an EIS after review and the proponent can appeal against the DOE's decision. Such right of the proponent should be annulled for an effective EIS of the project.
- e. There is no provision for an independent Appeal Committee in our country. Since there is no independent review committee to review the EIA reports, review is done by the DOE's officials. So for ensuring quality of the EIA, it is needed to create a truly independent review body.
- f. Expanded projects may have adverse environmental consequences. But the ECA does not contain any specific provision whether EIA is required or not for the expanded projects. So, specific provision of undertaking EIA for such projects should be included in the legal framework to address additional environmental consequences.
- g. Although the proponents may follow donors' guidelines like ADB, WB for conducting EIA, these guidelines contain generic issues and may not always be appropriate locally. So for better reflection of local conditions, including the laws, institutions, standards and procedures, it would better to produce local EIA guidelines. Such guidelines may have a useful effect in promoting information flow, awareness and interdepartmental cooperation.³¹

³¹ Ibid

- h. In our country, major development programs are implemented by a number of local and international agencies. But it is still in the process of improving its project level EIA practice and learning from its past errors. Emphasis should be given on conducting EIA at the policy development level. So there is an urgent need for introducing SEA which would provide the decision makers more time to consider environmental impacts at an early stage.
- i. Conducting IEE is of no use in the project which requires detailed EIA. Rather, it will be costly and will delay project implementation.
- j. Proper enforcement of the EIA legislation should be ensured which depends mainly on the strong commitment of both politicians and bureaucrats. Effective steps must be taken to remove pervasive corruption in this regard. EIA should be conducted only to ensure sustainability of the project, not to make happy the donor agencies and government.
- k. Environmental consequences of the development projects should be described and enumerated in monetary values, not in physical terms. As a result, it would be easier to assign an appropriate weight to the environmental impacts in the decision-making process.
- l. The EIA legislations should provide necessary provisions for consultation with the project affected people or other stakeholders. The ECR 1997 contains only provision of consultation not with project affected people but with the DOE and other departments during the preparation of IEE and draft EIA report. However, if the project requires financial assistance from foreign donors or lenders, an extensive consultation of project affected people and stakeholders are conducted as per the requirement of donors and lenders.³²

Institutional Recommendations

- a. Clear guidelines are needed regarding the procedures and steps of EIA legislation. The responsible agency should have a legal authority to require an EIA for any project; even if it is not included in the specific project list of the rules. The MOEF/DOE should have a legal mandate to advise all government agencies for environmental matters.³³

³² R B Khadka and U S Shrestha, p. 219.

³³ Rafique Ahmed and Nick Harvey, op. cit. p. 74.

- b. Priority should be given on the capacity building at various levels both within and outside the government. DOE should be adequately equipped with both human and physical resources.
- c. The enforcement mechanism of the DOE should be strengthened. Officers from the Bangladesh Civil Service (Administration cadre) with appropriate jurisdiction can be seconded to the DOE so that they can ensure enforcement of law by conducting a 'Summary Trial' or 'Mobile Court'.
- d. Because of lack of sufficient budget, DOE cannot play active role for the enforcement and improvement of EIA. So DOE should have adequate budget allocation for EIA related activities like awareness raising programs, research, regular monitoring and auditing programs.
- e. In relation to the volume of work and responsibility, the DOE is under-staffed. The ECA 1995 has given plenty of environmental activities to the DOE. So to discharge such activities properly, the manpower and structure of the DOE should be strengthened.
- f. DOE offices should be expanded at the field level i.e. at the District and Upazilla level. This will help consistently respond to complaints and will lessen high volume of works of the Divisional offices. It will also make the environmental awareness programs more successful and community involvement in the environmental decision making will be intensified.
- g. Because of frequent changes in the top officials, like DG of DOE, proper planning and implementation of EIA policies is not possible. So, permanent leadership should be developed in the DOE.
- h. Good quality of EIA requires expert staff. So, expert staff should be appointed to review the quality of EIA, the design of mitigation measures and the quality of monitoring data. Besides, all line agencies of the government should have environmental guidelines including EIA matters, particularly for their planning units. In the planning unit of these agencies, there should be at least one officer with adequate knowledge on EIA.
- i. The MOEF/DOE should establish formal linkages with universities, research organizations, and NGOs within the country to share expertise. Expert from the universities, research organizations, and NGOs could be formally included in the review committee of the DOE.

- j. EIA matter should be on the regular agenda of the meeting of the National Environmental Committee headed by the Prime Minister, and the MOEF should play an active role in arranging this meeting in a regular manner.

Conclusion

Environmental regulations indicate that development projects of local government bodies have to be planned and implemented identifying the potential impacts on environment and natural resources. They have to avoid or take appropriate steps to mitigate or minimize the adverse impacts on environment. Several research reports reveal that our present environmental condition is not improving, rather it is deteriorating day by day despite there are sufficient number environmental laws in Bangladesh. Under this situation, it is perceived that there are some loopholes of environmental governance. One of these loopholes is that in our country, local government bodies do not adequately assess the adverse environmental impacts of development projects at the time of planning and implementation of the projects. Thus, these bodies have been disobeying environmental rules and regulations in this respect. In this way, the process of environmental governance is being hampered considerably and many environmental problems and resource degradation are taking place at rural and urban area. So, for the well being of the people, every local government body should ensure environmental consideration in their development activities/projects.