IN DEFENSE OF ENVIRONMENTAL ORDER: THE SECURITY OF SURVIVAL

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Introduction
The concept and manifestation of security is dynamic, and so is the "security of security". The test of efficiency of security is largely functional and more of an "end-oriented" status capable of producing specific results. Therefore, "anticipatory security" without the functional test is perhaps more hypothetical, if not mythological, than real. Overassessment of security capability may become severe insecurity for a nation frustrating the underlying purpose of security.

Security in the abstract may be mischievous or at least grossly misleading. Before strategizing "security" it is important to identify actual and potential "insecurities". The tasks of identification, diagnosis and quantification of "insecurity" is, perhaps, more cumbersome than the formulation of traditional security strategy. And the approach of such a strategy to redress insecurity can be preventive, reformative, deterrent or curative depending upon the nature, scope and gravity of a particular insecurity.

With security, goes hand in hand, other concepts and purposes or objectives. For example, the primary purpose of the UN is to maintain international "peace" and "security". To generalize security, however militarily it may be sensed, has a social purpose without which security is "sedentary sectionality". Hence security must address and redress "insecurity" whether individual or collective including state as a corporate sovereign entity.

Broadly speaking, the purpose of security is to protect interests, or vital interests including values and the durability of the security of interest is the maintenance of a
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stable and sustainable order within which the objectives are regulated and systematized. This may be opined as the socio-legal framework of security. An examination of the dynamics of security from the traditional to the recent understandings would make the objective shifts evident. The human rights dimension of security influenced national and international security perspectives for decades. More recently, security concepts have encompassed the domain of environment. This trend is in response to the actual security of the survival of mankind on the planet Earth.

Like million other species, Homo Sapiens is governed by the same laws of nature that regulate the growth and development of all of them. It is a complex web of ecological interdependence, and the unprecedented stress of human demands and activities have begun to tax the environmental resources available and the sustaining capacity of global environmental systems. The changing relationship between human beings and the sustaining capabilities of the global ecosystem is rapidly becoming a significant source of human sufferings and insecurity of survival. Therefore, security perception is shifting away from weaponry and military conflict to these new sources of conflict and misery found in the growth of human numbers and impact within the limited capabilities of the global and national environment.

Environmental security is more than the traditional concept of security of protecting vital interests, it is a question of the security for survival. As the World Commission on Environment and Development (WCED) rightly pointed out that the traditional notion of security must be expanded to include national, regional and global environmental stress as "there is no military solutions to environmental insecurity". Moreover, "external aggression may be relatively simple compared with stopping the deterioration of life-support systems". The possible outcome of inaction would be growing disorder, insurrection, tension and hostilities within the nation or with other nations.

With the above perceptions in mind, this essay attempts to explain in brief the legal province of security of the environmental order with special reference to Bangladesh. It is not being said that environmental security and order are
primarily or even solely a matter of law. But it is necessary to study the legal dimension and to consider the important role which law plays in securing and maintaining environmental order on national, regional and global levels\textsuperscript{10}.

**Major Environmental Insecurities**

There are at least three master variables that are capable of profiling the environmental order. These are population, resources and technology - in the generic sense of their aggregate representation as well as in the specific sense of their distinctive manifestations. As the incompatibilities between and amongst the variables widen, the external environment becomes salient in the national policy and strategy adaptations\textsuperscript{11}. The two major factors behind incompatibilities are needs (in its everchanging and unsatisfiable characters) and greeds. Associated with these is the logical consequence of natural disasters, often aggravated by anthropogenic factors.

Environmental insecurity has two dimensions in spatial and causal senses, i.e., national and transnational. The major national, regional and global insecurities are quite well known by now\textsuperscript{12}.

Major environmental insecurities for a nation are those factors that threatens or have serious impacts on life, property or resources within a nation and on its territorial integrity. This is a focus from an impact point of view, and to orient an environmental security order capable of dealing with the insecurities, the causes of such circumstances need to be defined. These causes, spatially, are national or extraterritorial or both. Geopolitical and economic asymmetry often plays an influential role in this sphere.

The major transnational environmental insecurities can be spatially divided, from the cause and effect perspectives, as regional and global. Regional insecurity from the environmental perspectives is distinct from the traditional politico-economic regionalism\textsuperscript{13}. Transnational environmental insecurities are those which may be or are capable of disrupting national, regional or global environmental orders. This is the sphere that can be legally better defined as causing impacts to areas beyond the limits of national jurisdictions. Therefore, the scope of such insecurities relate
to life and resources falling within the territory of other states or to areas such as high seas, polar regions and outer space. The causes of transnational environmental risks can be national, regional or global.

The national and transnational environmental orders are interrelated and interlinked. In fact, the physical unity of environment creates a kind of legal unity that requires local action to establish a sustainable global environmental regime. As UNEP phrased, “think globally, act locally”. The act includes local legal activities for introducing regulatory order for maintaining environmental security.

**Internality of Environmental Order and Security**

For Bangladesh, the major threat to the environmental order has been caused by the disparity between human and land resources. As a densely populated country with a meagre base of natural resources, the environmental and hence the socio-political orders are bound to make life increasingly vulnerable in Bangladesh. The population growth coupled with inequitable allocation and inefficient management of national environmental resources are the factors making life more insecured than external aggression.

Besides population pressure in such a small piece of territory resource status and management have severely perilled the environmental order. The primary reason behind such ominous state of affair is the historical legacy, legal and institutional, that virtually remained unchanged for the people of Bangladesh even after double independence and triple victory!

The basic laws of the country were introduced during the colonial rule designed to extract maximum economic returns from resources. Therefore, these laws were more “use oriented” than “resource oriented”. The rulers settled the resources to various intermediate extractors in ways that could ensure maximum revenue. Therefore, huge environmental resource bases, such as land, water bodies including fisheries, forests etc., were permanently settled with the Zamindars. These families not only controlled the resources, but also dominated political transforma-tions, and therefore, the legal order even today remain agrarian.

Through the introduction of East-Bengal State Acquisi-
tion and Tenancy Act, 1950, the Zamindary system was abolished and the major resource bases, with the exception of land that could be privately owned, were acquired by the state as "public properties" for "public purposes". However, the institutions entrusted with the management of these resources started to look upon resources devoid of people.

As a result, the old agrarian system continues in the management of public resources with "feudal institutionalism" where control over resources ascertains the limits of power and various economic benefits 16. The implications of "public interests" are largely misconstrued for partisan benefits and ordinary people treats public resources as "no man's properties". These deep rooted approach and practice have led to over use, misuse, misappropriation of public resources causing serious environmental threats and have pushed social, political and legal orders of the country into jeopardy.

Although there are more than one hundred substantive and procedural laws prevailing in Bangladesh which are primarily sectorally enacted, they remain mostly unenforced or unenforceable for inherent legal and institutional shortcomings 17.

In private and public sector uses of resources whether agricultural, industrial or otherwise, the unbridled freedom in the absence of statutory use and quality control, have significantly decayed the environmental standard in Bangladesh. The unsustainable use and practice has been further prompted by tenure complexities in the legal system.

Another factor which have contributed to the environmental degradation is the events of political transformation. This has happened before and after 1947 partition and in the aftermath of State Acquisition which determined legal status of resources. During and immediately after 1971 liberation war especially forest resources have been seriously damaged by various activities with the collapse of the legal-political order.

Every government has its own political elites and activists. Since the leasing out or settlement of public resources are done by the government, resources are often being transferred in a partisan spirit. In these situations the
psychology of transferees is precarious as he is uncertain about the possibility of holding the resources for a long time. As a result, sustainability is outraged by short term optimization of return thereby damaging the potential of the resources.

The institutional failure in sustainably managing public resources can be largely attributed to policy making and implementation drawbacks. Resource tenure, record of rights and the management practices are anomalous and subject to opportunities for malpractice.

There is no human settlement policy. The pressure of human activities is now manifest in regional loss of life associated with greater numbers of natural disasters. The burgeoning population is pressing into marginal living areas, thus creating situations in which some “unnatural” disasters can be triggered. Poverty stricken people move into lowlying coastal areas and river deltas where hurricanes, typhoons, storm surges and floods routinely take thousands of lives and cause billions of dollars worth of property damage.

Extraterritoriality of Internal Environmental Order and Security

Internal environmental order can affect the environment beyond its territory or be affected by extraterritorial factors causing grave environmental insecurity. This aspect of environmental order can be explained from international law perspectives in two different categories:

a. Internal Activities having Extraterritorial Environmental Consequences

A state has the sovereign right to use its resources or carry on activities within its territory the way it thinks appropriate. However, over the years the development of state practice and conventional principles have limited this right if the exercise of it causes interventions in the enjoyment of similar rights by others, or threatens territorial integrity. The sovereign duty not to cause damage now extends to environment, whether it is of another country, or of areas beyond national jurisdictions.

The Stockholm Declaration of 1972 clearly asserted:

States have, in accordance with the Charter of the United Nations
and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility that activities within their jurisdiction or control do not cause damage to the environment of other states or of areas beyond the limits of national jurisdiction.

The principle is based on the maxim *sic utere tuo ut alienum non laedus* (meaning "use your own property in such a way that others are not injured") which is a well established norm in national and international legal orders. There have been many international law cases where this principle has been upheld.

Internal activities having extraterritorial environmental problems can be classified in three ways:

1. activities physically damaging other state through the mediation of shared resources;
2. activities affecting shared resources; and
3. national environmental regulatory activities affecting global wealth production and distribution.

Responsibilities and the need for action concerning environmental protection do not end at national frontiers. Such an obligation *erga omnes* is also manifested in the UN Law of the Sea Convention, 1982. State responsibility to refrain from causing harm to others interests is further extended to safeguard the areas commonly used by the international community. For example, the 1972 Convention on the Dumping of Waste at Sea recognized that states have the responsibility to ensure that activities within their "jurisdiction and control" do not cause damage to the environment of states or areas beyond national jurisdictions.

The above principles are of universal character. Whether Bangladesh is a party to these conventions or not, the principles have acquired the status of rules of customary international law and are binding.

Sometimes, for assessing liability, a distinction is drawn between lawful activities and other activities (may not be unlawful). A lawful activity is one which does not cause any damage to others in international responsibility sense. However, there are activities which are not unlawful but may have a causal link to environmental damages. The UN International Law Commission is drafting an international convention on these issues calling it "International Liability
for Injurious Consequences Arising out of Acts not prohibited by International Law" 27. Article 4 provides:

"The State of origin shall have the obligations imposed on it by the present articles provided that it knew or had the means of knowing that the activity in question was carried on within its territory or in areas within its control and that it created an appreciable risk of causing Trans-boundary injury".

The details of liability of the Convention have not yet been agreeable. Under customary international law the responsibility is attributed to the authority, in such cases, exercising sovereign power over the area of origin 28.

If there is a danger that has occurred in the territory which is capable of affecting others environment or have transboundary environmental consequences, the State of origin has the duty to inform the States likely to be affected. 29 However, it is yet uncertain whether deforestation is an activity for which a state involved would be liable to pay compensation to those who might suffer adverse consequences in its chain reaction 30.

There are many conventions and declarations for protecting the resources beyond the limits of national jurisdiction from activities either within these areas or within national jurisdiction. Examples are, the 1967 Treaty on Principles Governing the Activities of States in the Exploitation and Use of Outer Space Including the Moon and other Celestial Bodies, 1972 Convention on Dumping of Wastes at Sea, 1972 Convention on the Liability of Operators of Nuclear Ships, UN General Assembly Resolution on Common Heritage of Mankind, 1985 Vienna Convention on Ozone Layer, etc.

There are environmental or natural resources which are precious heritage of mankind, and any damage to such resources would tantamount to a loss to mankind. For example the global concern is often reflected in the destruction of the Amazon forest, or the Aaral Sea in the USSR. The 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage is aimed at preserving these sites. In Bangladesh, the Sundarbans being the longest chain of natural mangrove in the world is a heritage that need to be preserved as national and international responsibilities. There are examples of legal
instruments that recognized special national and international treatment to such resources. The 1950 Treaty between Canada and the USA relating to the uses of the waters of the Niagara River is a classic example that ensures a minimum of flow in the river to keep the Niagara Falls unaffected.

However, for ascertaining international liability, it is important to establish the causal link between the act and the consequences. Moreover, the harms have to be "significant" or "appreciable" as tolerance of insignificant harm is perhaps a rule of "good neighbourliness".

b. Transfrontier Factors Having Internal Environmental Impacts

There are transfrontier factors, natural, anthropogenic or both, that may create severe environmental consequences in a State. Usually, the best conductors of effects, beneficial or harmful, are air and water which are natural resources. Since these natural resources follow their own natural courses defying man-made political frontiers, States have to be quite mindful with the nature and effect of their activities. It has become a commonplace that scientific and technological advances have multiplied the circumstances in which activities entail the possibility or even the certainty of transboundary harm. There is no simple formula to reconcile one state’s right of freedom of action with another state’s right to freedom from adverse transboundary effects.

The problem of air pollution was recognized in the 1979 convention on Long Range Transboundary Air Pollution. It defines air pollution as:
the introduction by men, directly or indirectly, of substances or energy into the air resulting in deleterious effects of such a nature as to endanger human health, farm living resources and ecosystems and material property and impair or interfere with amenities and other legitimate uses of the environment (Article 1).

The convention does not tackle the issue of liability for pollution across state borders. Instead, the parties, "shall, by means of exchanges of information, consultation, research and monitoring, develop without undue delay policies and strategies" to combat air pollution (Article 2).

An example of air pollution of an international character
is the “acid rain” that falls in Norway causing fish to die and forests to suffer. It is believed to come from sulphur fumes emitted by industries in the UK and Germany carried across the North Sea by wind. Could Norway have a legal remedy for such consequences? Conventional development indicate affirmative answers.

In the case of radio-active fallout from nuclear weapon testing similar threats occur to the internal environment of other countries. In 1972 and 1973 when France conducted tests in her South Pacific islands protests by several states which received radio-active fallout led to the Nuclear Tests cases\(^2\). These cases were brought to the International Court of Justice by Australia and New Zealand against France. The cases were taken off the Court’s list without a decision being on the merits when France unilaterally announced that it would not conduct further tests after 1973. The applicants had asked the court for a declaration that the carrying out of further nuclear tests was not consistent with international law.

The conventional regime established by International Atomic Energy Agency in the aftermath of Chernobyl nuclear disaster puts more emphasis on state responsibility to inform others and to seek international mitigative measures than compensation for transfrontier injuries. The Basel Conventions of 1989 have restricted the movement of toxic wastes.

There are many conventions that uphold the principle that while managing natural resources and other environmental elements located within a State, it has the duty not to cause substantial damage to the environment of other States or to areas beyond\(^3\).

In the events of environmental insecurities arising out of activities in shared natural resources (SNR) the legal perspective is more active and imperative than other fields\(^4\). Here SNR are those resources that are physically shared by more than one State and the resource is quantitively and qualitively definable. The best examples of SNR are shared water resources, mineral resources or marine resources etc.

For environmental security of Bangladesh, at least two areas of SNR have substantial importance.
1. Shared water resources: With its catastrophic experiences of extremes of water, Bangladesh needs to deal with the issue with utmost importance and priority. However, the task of instituting a safe regulatory regime in the management of the huge water resources are not simple since the larger portions of the basins of Ganges, Brahmaputra and Jamuna lie beyond its territorial limits. As the lowest riparian of these watercourses with the natural outlet through it to the sea, Bangladesh is faced with an enormous challenge to bring about the hydrological and political solutions to the problem.

The rules of international law on shared water resources are being progressively developed by various world bodies. However, there are certain rules of customary international law that govern the regime of shared water resources among the sharing states. The primary rules require an active kind of cooperation between the concerned States as a positive duty as the sovereignty over the running water within one's territory is qualified and the interests are reciprocal. This doctrine is edified on the "no harm rule" and "equitable apportionment" formula.

The whole issue is overwhelmingly related to the survival and territorial integrity of Bangladesh.

2. Marine Resources: By enacting the Territorial Waters and Maritime Zones Act, 1974, Bangladesh has proclaimed a 12 miles Territorial waters and 200 miles Exclusive Economic Zone measured from a baseline based on 10 fathom line or 18 meter isobath in accordance with its proclamation of 1974.

The extent of the continental shelf is yet numerically uncalculated. The area so claimed is perhaps bigger than the size of land territory of Bangladesh. The existence and potential of huge living and non living resources in the area is a factor that would improve the social and environmental conditions in Bangladesh. Moreover, the protection of the marine environment of the area is crucial to the coastal ecosystem and to the areas beyond the limits of national maritime zones.

There appears to be at least three major issues influencing the sustainable management of the maritime area from
environmental security perspectives:

**a. Delimitation Issues**: The Bay of Bengal is bordered by three coastal states, namely, Bangladesh, India and Myanmar (Burma). Maritime boundaries claimed by both India and Myanmar in the Bay coincide and overlap with the marine boundary of Bangladesh. As a result, Bangladesh would appear to become a “Zone-locked” country and its maritime area would shrink considerably. This in turn would reduce the resource availability, and would severely jeopardize the maintenance of the marine environment of the Bangladesh part that would occur from surrounding maritime areas of neighbouring countries. Situations of violation of territorial integrity through resource exploitation and naval activities of foreign ships have arisen more than once in the area. Unresolved delimitation issue make the exercise of legislative and enforcement jurisdiction in the area quite complicated.

**b. Protection and Surveillance Issues**: Bangladesh lacks appropriate regulatory framework and logistic supports to protect and surveil the area. There had been instances of marine pollution by foreign ships which could not be arrested and prosecuted for legal and institutional shortcoming.

Foreign ships violating the sovereign laws enforceable in the maritime area can not be effectively stopped, arrested or prevented due to the inadequacy of enforcement logistics available to Bangladesh. The site still remains as a mistery where the toxic cargo carrier “Felicity” dumped its cargo! The Marine Fisheries Ordinance, 1983 remains partly unenforced.

**c. Exploration and Exploitation Issues**: The primary reasons affecting our exploration and exploitation capabilities are:

1) unresolved delimitation issues;
2) lack of technology;
3) absence of appropriate institutional and regulatory developments; and
4) problems associated with public and private initiatives.

As a result, depletion or in certain cases, extinction of resources due to lack of sound technology, appropriate logistics, surveillance and enforcement measures, unsustai­nable exploitation of resources would destroy the bounty
Environmental Dimension of Military Activities

Principles of International Law:

In a war it is arguable whether there is victory - one is perhaps greater loser than the other. The technological advance of military hardware and activities have never been uncontrolled. The law of war codified in the early part of this century put restraints on military activities both in war and peace time, especially on civilian targets or on genocide.

The use of toxic and lethal weapons capable of injuring human health and environment are prohibited. For example, Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare, 1925 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, 1972 Convention for Universal Elimination of Chemical and Biological Weapons, 1989, etc.

The 1963 Nuclear Test Ban Treaty prohibits the testing of nuclear weapons, inter alia, in the atmosphere and the highseas. The 1971 Treaty on Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Sea Bed prohibits emplacement and installation of such weapons on the sea bed beyond 12 miles from the shore. The Convention on the Prohibition of Military or Any other Hostile Use of Environmental Modification Techniques, 1976, contains rules to prohibit such activities which “could have effects extremely harmful to human welfare”. The Convention recognized that the use of environmental modification techniques for peaceful purposes could be beneficial, but it explicitly prohibited military or any other hostile use of such techniques, in order to eliminate the dangers to mankind from such use. Thus, Article 1 enumerates the pledge “not to engage” in those hostile activity having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other state. Article 4 requires States to enact adequate legislative measures to prohibit and prevent any activity in violation of the convention anywhere under its jurisdiction and control.
The Gulf War of 1990-91 highlighted at least two problems:

a) the destruction of the environment by modern warfare, and

b) the inadequacy of current laws and rules of war to deal with it.

In its Resolution No. 687 (1991) the Security Council of the UN reaffirmed that Iraq is liable under international law for any direct loss, damage, including, environmental damage and the depletion of natural resources. The indiscriminate bombing of cities and towns, the oil spill into the sea and the deliberate arson to oil pumps were a gross violation of the rules of war and environment. The obligation incumbent upon States to refrain from damaging the environment of other States is grounded in international judicial decisions, state practice recognized as rules of customary international law.

International Humanitarian Law

The International Humanitarian laws and the rules of the Red Cross provide protection to civilians, wounded or prisoners of war during belligerency. The Protocol Additional to the Geneva Convention (1949), Relating to the Protection of Victims of International Armed Conflict elaborates rules to protect the environment.

Article 35(3) prohibits the employment of "methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment". Article 53 prohibits all hostility directed against any target which constitute the cultural or spiritual heritage of the people. Attacks against the natural environment by way of reprisals are prohibited. Article 56 forbids direct or indirect attack on "works or installations containing dangerous forces, namely dams, dykes and nuclear electrical generating stations.

Some Reflections

Activities associated with environmental resources are capable of endangering national and international security. Conflict over natural resources may create serious political disorder. Examples are the social and political tensions in India about the Koel Karo hydroelectric project in tribal Bihar
where the Jarkhand groups threatened to start serious agitation as they would be displaced. Recently, the Cauvery water issue between Karnataka and Tamilnadu have ended up in bandh and civil unrest. The conflict in the Horn of Africa is largely connected with severe environmental degradation and non availability of resources in the area.

One of the major reasons behind the armed violence in the Chittagong Hill Tracts is the inundation of the portions of the traditional domain of the tribal people caused by Kaptai Hydro-electric dam. It may be mentioned at this point that appropriate measures should be applied to avoid any violence that may arise out of any environmental changes likely to be inflicted by the Flood Action Plan (World Bank).

The major irritants in the relationship between Bangladesh and India relate to physical resources, i.e., river, marine or land resources (South Talpatti or the Teen Bigha Corridor).

Conflicts over natural resources have threatened international peace and security at times. India and Pakistan was on the brink of a war when India unilaterally stopped the flow of Indus waters in late 1940s. The dispute over the Jordan River between Israel and the Arab co-riparians finally went to the Security Council as it was increasingly threatening peace and security of the region. The decade of bloody war between Iraq and Iran over the disputed Shatt-el-Arab watercourse is another classic example.

Control over environmental resources and uninterferred right of enjoyment of the same have important role in securing peace and territorial integrity.

Besides, any armed conflict over resources is certain to inflict severe environmental consequences. It reflects the dual sensivity of the relationship between environmental resources and territorial security where the environment is both "the cause and the effect" of security measures. The devastation capable of being caused through environmental changes or through the use of SR without committing armed aggression can be no less than the casualty inflicted by thousands of artillery shells and bombardments.

The emerging global trend to defend and improve the environmental order, however, is toward planetary security of life on Earth. The changes that especially occurred since 1972
Stockholm Conference are promising. Many principles and conventions have emerged as a result of the growing concern. It is hoped that the Brazil Conference of UNCED in 1992 will strengthen the regulatory regime of global environmental order.

To tackle the regional environmental issues a collective approach must be adopted to protect community rather than individual nation's interests. Here, region do not indicate the usual (or at times the unusual) political, economic or military regionalism. Regional environmental issues expose a different configuration of "region". To address these issues cooperation and concerted actions of the states of a particular environmental region is crucial and practical. This calls for a new "environmental regionalism" and hence progressive institutionalization of activities. For example, it would be more appropriate for Bangladesh to promote functional environmental security, with Myanmar, China, India, Nepal and Bhutan than the prevailing South Asian or South-east Asian regional framework. Such a regionalism would not be an isolation but collaborative to national and global efforts. It should not affect or undermine the steps that could be taken using existing regional institutions.

Bangladesh must gear up steps to resolve outstanding disputes of environmental importance with neighbouring countries. It must take active part in appropriate manner in the formulation of various multilateral conventions having special significance for the environment in Bangladesh. Otherwise it might be too late, once conventions are drafted, to protect vital environmental interests. For example, Bangladesh must study in depth the works of the UNILC on international watercourses and build up diplomatic efforts to ensure the incorporation of adequate provisions in the draft convention to have its interests recognized and protected as a lower riparian.

Apart from the efforts at international and regional levels, steps must be taken to protect environmental systems at national, community and house-hold levels. Such programmes to be initiated after identifying major environmental insecurities. Massive awareness and education programmes blended with traditional wisdom, backed by strict regulatory
framework and appropriate institutional setting should be introduced in Bangladesh. Coordination of public and private activities having environmental effects need to be institutionalized. Resource administration and management must be environmentally benign, and uphold intergenerational equity.

The history of "development" reveals that it was neither "participatory" nor beneficially befitting in the scale of equity\textsuperscript{44}. Perhaps nothing is more frustrating for development planners than for them to design what they deem to be the best programme only to find that such programme is rejected by intended beneficiaries\textsuperscript{45}. Therefore, peoples participation in planning, implementing and maintaining development projects should be ensured with mandatory environmental impact assessment. Public resources like fisheries, forests etc., must be managed and protected with peoples involvement on participatory arrangements. Public agencies, therefore, have to reorient their "policing" attitudes for cooperative management practice.

Marine environment and environmental resources of Bangladesh deserve special attention. Sustainable management of the limited resources is crucial to avoid the obvious Malthusian effect that is being synergistically precipitated by population pressure and poverty. Allocation and tenure status of resources should be redefined to establish sustainability and equity, and appropriate management strategy should be developed and implemented urgently. The Pollution Control Ordinance of 1977 need substantive changes or perhaps replacement for dealing with emerging issues and the agencies involved in environmental management, both in public and private sectors, should be strengthened.

The geo-ecological condition of Bangladesh make environment an overwhelming concern for its political and physical survival. It is a matter of utmost security both from individual and collective points of view. Politicians may not be able to make this world a heaven but can certainly prevent it from becoming a hell\textsuperscript{16}. A national consensus is crucial to tackle the environmental threats that Bangladesh is subjected to, that mere rhetories as the vices of disorder are also deep rooted in the socio-political structure.

Finally, if everyone on Earth had a gun in hand, it would
have not been safer than empty hands. And for defending the environmental order, for guaranteeing the security of survival the battle is between and against one species - Man, the protagonist as well as the villain. Everyone has to be a soldier to defend the environmental order where there is no permanent enemy. And nations, in whatsoever forms they are defined, have to activate responsible behaviour at least for existence's sake, and secure appropriate security to make political borders meaningful to every citizen in every day's struggle against the odds of the security of survival.
Notes and References

1. This was perhaps the casualty of Iraq's "over-mathematical modelling" of security in the 1990-91 Gulf episode.

2. The concept and permissibility of "anticipatory" or "preemptory" security approach is still arguable under norms of international law and diplomacy. This is an approach used by, for example, the USA in her actions against Nicaragua, Libya and so on.

3. See Article 1 of the UN Charter.


12. For a brief discussion, see Kabir, *op.cit.*; Islam, *op.cit.*, WCED, *op.cit.*


14. This problem has been highlighted in all the primary documents and reports on Bangladesh environment. For example, the National Conservation Strategy, GOB/OICN, 1991; the-National Environment Plan (Draft), GOB/UNDP,1991; Bangladesh country Report to UNCED, Brazil, (1992). See also, Ainun Nishat, "Environmental Considerations for Sustainable Development in Bangladesh", paper presented at the national seminar on 17-19 September 1991, at BLISS.

15. This was done under the Permanent Settlement Act, 1793.


17. Mohiuddin Farooque, State of Environmental Laws in Perspective:
The Case of Bangladesh (draft), prepared under NEMAP, 1991, GOB/UNDP.


23. See for example, Wurttemberg and Prussia vs. Baden in Annual Digest of Public International Law Cases (1927-28) ; "Lake Lanoux Arbitration", 1957 in 24 International Law Report; "the Trail Smelter Case" in UNRIAA, vol. III; The "Gut Dam Arbitration" in International Legal Material, 1968. vol.8 etc.


26. See Articles 192, 193, 194, 207; see also the 1979 Convention on Long-Range Transboundary Air Pollution.


28. See the Corfu Channel case (UK vs. Albania), 1949; The Island of Palmas case (USA vs. The Netherlands), 1928.

29. See Mohiuddin Farooque, "Flood: Riparian Responsibility under International Law", The Bangladesh Observer, 28.11.88; Corful Channel Case, ibid.

30. Some experts gave the opinion about asking for compensation in the wake of 1988 flood in Bangladesh. There was no legal back up of such an opinion.

31. See Farooque, op. cit. note 22.


33. See the International Law Association Articles in Relationship Between Water, other Natural Resources and the Environment, 1980; Various European Convention on water quality control; The Final Act of the European conference on Charter for Nature, 1982;

34. See UN GA Res. 3129 on Natural Resources Shared by Two or More States, 1978; see Farooque, *op. cit.*, note 22 chapter 6 and 7.

35. For example, the UN International Law Commission, the Institute of International Law, International Law Association, Asian-African Legal Consultation Committee, International Association for Water, Law, FAO, etc.


40. Similar prohibition is also imposed in the draft convention on the law of international watercourses, by UNILC.

41. *The Statesman*, India, 14.12.91, India. See in the same issue, "Koel Karo Project Stalled due to Public Protest".


43. See the article which encouraged the World Bank to be involved in the Indus Water Dispute between Pakistan and India, E. Lillienthal, "Another Korea in the Making?", *Collier*, (American magazine), 14 August 1950.


45. Napoleon T. Vagera, "Expanding Populations and Shrinking