

# Legal and Policy Regulations for Environmental Protection in Bangladesh: A Comparison with EU Countries

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**Abstract:** The multinational enterprises (MNEs) sometimes practice irresponsible behaviour in the hope of maximising their capital investment to gain more profit. Even though host countries have specific environmental laws or policies but due to desire to attract more FDI and pressure from the MNEs, some states lower their environmental standards or refrain from enforcing them. In Bangladesh, laws and policies exist to protect the environment but their standard is not high like many developed countries and significantly lacks any provision to sustainable development. This paper addresses one main question: to what extent the existing laws and policies of Bangladesh are compatible in order to protect environment from degradation? In this study, environmental laws of Bangladesh have been compared with few EU countries. Findings of this study show that existing environmental laws and policies of Bangladesh lacks international standard and require amendments. In this relation, recommendations have been provided for consideration by the government.

**Keywords:** Environmental protection, foreign direct investment, Bangladesh, degradation, multinational enterprises.

## I. Introduction

Since 1990, many multinational enterprises (MNEs) are operating in Bangladesh and their investment are mainly in the energy, infrastructure, marine, minerals resources. The MNEs are mainly responsible for river pollution, land-based pollution, deforestation and so on. As a result Bangladesh has become as one of the top-most dangerous countries in the world in terms of environmental pollution (Margot, 2019). Since independence in 1971, in order to protect the environment Bangladesh has adopted various laws and policies, such as the National Environmental Policy 1992 (NEP 1992), the Environmental Conservation Act 1995 (ECA 1995), and the Environmental Conservation Rule 1997 (ECR 1997). The government has also adopted an institutional implementation and enforcement

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mechanisms, under the Department of Environment (DoE). The primary functions of the DoE are to adopt or introduce policy guidelines, as well as enforce the existing laws and rules to protect the environment. Even though FDI is subject to these laws but they do not contain any specific provision regarding FDI-related environmental issues. Moreover, the DoE do not have any particular consignment to regulate the FDI projects in order to protect the environment (Ministry of Environment, Forest and Climate Change, 2019). This study will explore to what extent the existing laws and policies of Bangladesh are compatible in order to protect environment from degradation?

## **II. The MNEs and Impacts of FDI on the Environment**

Globally, the MNEs hold around 90 per cent of all product patents and technology; as well as control the resource development industries, such as petroleum, mining, agro and so on. Most of the time, the MNEs invest in the environmentally sensitive sectors due to their financial and production capabilities; thus their impact on the environment is extensive (Gleckman, 1995). The followings are the recent activities of the MNEs, which are damaging the environment in the host states:

- (a) they are accountable for more than half of the greenhouse gas emissions with the utmost impact on global warming;
- (b) largely control the production and use of ozone-destroying CFC and related compounds;
- (c) manufacture most of the world chlorine, the basis for some of the most toxic chemicals including PCBs, DDT and dioxins;
- (d) are the main transmitters of environmentally unsound production systems, hazardous materials and products to the third world countries;
- (e) in agriculture, MNEs control 80 per cent of land worldwide, which is cultivated for export crops; and 20 firms account for 90 per cent of pesticide sales. (Third World Network, 1992)

There are so many incidents, where the activities of MNEs did not comply with the environmental standards in host countries; as a result, caused huge environmental damages. For examples, the accidents at Seveso, Italy; Bhopal, India; and Basel in Switzerland (Nanda & Bailey, 1989). In Bangladesh also, many of the investments of the MNEs poses threat to the environment and causes pollution, for examples, ‘Magur Churra’ and ‘Tengratilla’ blowout incident in recent years (Nasreen *et al.*, 2006). The US company Unocal and the Canadian company Niko were responsible for both explosions respectively. On 14 June 1997, the ‘Magur Churra’ blow-out

took place and wreaked mayhem on the environment, infrastructure, equipment and the locality; causing damage to the amount of BDT 4.5 billion. The two explosions of the ‘Tengratilla’ gas field on 7 January 2005 and 24 June 2005 in Bangladesh led to millions of cubic feet of burning gas, causing damage to soil and the ecology (Nasreen *et al.*, 2006). A cluster of the forest-dwelling ‘Khasia’ natives sustained irreversible damage; and sufferings from expulsion, financial, communal, social and physical strain. Furthermore, the radio-active materials had a huge impact on a hefty number of individuals and also on other species.

From the above, it can be concluded that even though MNEs contributes to the development of various sectors in Bangladesh or other host countries, but it is evident that they have less accountability to protect the environment (Anderson, 2001). It’s mainly because they are hungry for more profits; as a result opted for process or activities, which do not conform with the environmental law, or not consistent with best environmental practice. Sometimes, they bring with them polluting and hazardous things into the host state to avoid strict regulation in their home states. For example, after the UK based Thor Chemical Company came under criticism from the UK Health and Safety Executive for exposing workers to mercury; it exported its processes and machinery to South Africa to carry on the same hazardous production while avoiding UK regulation (*Sithole & Others v. Thor Chem. Holdings Ltd.*, 1999). Moreover, due to *lax* environmental regulation in Bangladesh, they are more likely to avoid their corporate responsibility to protect the environment (Ives, 1985).

### **III. Regulating MNEs and Environmental Protection in Bangladesh**

In Bangladesh, there is a dearth of any legal document, which covers environmental protection issue in relation to FDI. For instance, the Foreign Private Investment (Promotion and Protection) Act 1980 (FPIA 1980) do not have any provision to create any accountability for foreign investors or MNEs to protect the environment from their industrial activities. This law was adopted only to provide various incentives and protections to FDI, thus do not contain any duties and responsibilities for investors to comply with. Till to this date, this law has not been amended to include important issues, such as environment, human rights and so on. Some may argue that the existing national environmental laws and regulations automatically cover environmental issues in Bangladesh; so there is no need to include it into the FPIA 1980 (Hossain *et al.*, 2021).

However, chapter 14 of the National Industrial Policy 2016 (NIP 2016), entitled ‘Environment Friendly Industrial Management’ has separate provisions regarding protecting environment, which is applicable to both local and foreign investors (NIP, 2016). It states as follows:

- (a) The impact of industrial establishment on the environment will be considered while supplying the land and water for it. Apart from this, awareness will be amongst the people regarding pollution of air, land and water due to industrial smoke and garbage;
- (b) The industries will be encouraged to establish ETP, CETP in order to control environmental pollution. In this regard, the government will ensure the applicability of the ECA 1995, Bangladesh Water Law 2013 and other related laws;
- (c) while dealing with the negative impact of the climate change, in order to control green-house gas, the government will provide necessary assistance to the industries under Clean Development Mechanism (CDM);
- (d) businesses, NGOs and other social organisations will be encouraged to participate actively for managing industrial rubbish and environmental protection;
- (e) The investors will be encouraged to follow 3 R (Reduce, Reuse & Recycle) Strategy during industrial establishment and management.

As mentioned earlier, the NIP 2016 has divided all industries broadly into (a) thrust sectors, and (b) regulated sectors. There are lesser regulations in place for investments in thrust sectors; however, in case of regulated sectors, investments are registered strictly under the Bangladesh Investment Development Authority (BIDA) or Bangladesh Export Processing Zones Authority (BEPZA) (NIP, 2016). Moreover, the Bangladesh Export Processing Zones Authority Act 1980 (BEPZA 1980) lacks any provisions regarding sustainable development and environmental protection. The above-mentioned policies seem satisfactory and realistic due to the focus on the environmental factors; however, these are just mere policies and not yet enacted as a binding legal regulation for foreign investors. In addition, the industries are divided based on the economic viewpoint and labour-intensiveness. The government offers various incentives mainly in the thrust sectors due to their greater contribution in national revenue. However, thrust sector industries such as - garments and leather have negative impact on the environment. Furthermore, the environmental regulation at an entry stage is concerned about the potentially dangerous sectors, not

in general. The fact is due to the economic benefit; environmental regulation is a lesser concern in thrust sectors (Bhattacharjee *et al.*, 2019).

In addition, Section 13 of the Bangladesh Private Export Processing Zones Authority Act 1996 (BPEPZA 1996) states responsibilities of the sponsor companies but in case of failure to perform any responsibility, there is no provision about liability in the Act. Therefore, question remains to be answered: what if due to negligence of the sponsor company, an accident occurs or natural resources are destroyed? (Islam, 2015). The Act also does not have any provision regarding entry requirements of the sponsor companies at pre-entry stage of FDI. Moreover, under section 28 of the Bangladesh Economic Zones Act 2010 (BEZA 2010), the Bangladesh Economic Zones Authority (BEZA) has the power to suspend or cancel the permit of the Export Processing Zone developer in certain cases. This section lacks any notice period as well as specific procedures that should be followed by the authority. Section 33 of the Act states that foreign investors are required to comply with all the existing laws on environment and environmental protection (Hossain *et al.*, 2021).

Furthermore, like many developed and developing countries, there is no specific waste management law in Bangladesh; and the 3R Strategy is not pursued comprehensively in the existing environmental legal framework established by the ECA 1995 and the ECR 1997. Section 12 of the ECA 1995 simply requires investors to submit an ‘Environmental Impact Assessment Report’, in order to obtain an environmental clearance certificate from the Department of Environment (Ryder, 2018). The introduction of an environmental requirement as an entry condition is a growing concern in recent years, due to the degradation of environment by the MNEs in Bangladesh (Alam & Xiangmin, 2018). Article 14.2 states that the government shall ensure the enforcement of the ECA 1995 and related laws to protect the environment; but the implementations of these regulations are very weak due to poor law and order conditions (Faruque, 2019).

Even though the ECR 1997 requires establishing an ETP to obtain an ‘Environmental Clearance Certificate (ECC)’ but this obligation lacks clarity on its legal status; because it has no provision directing the establishment of ETP. The ECR 1997 also not sufficient and incoherent to deal with waste management properly (Hasan *et al.*, 2019). In addition, it fails to mention clearly that if the required ETP is not established, then the ECC will be withdrawn or cancelled

(Abdin, 2015). So, it is important for the government to adopt a separate law for waste management regulation and enforcement.

Bangladesh has the highest number of green garment factories in the world. Overall, the total number of LEED-certified garment factories in Bangladesh is 90, including 24 platinum rated buildings. More than 250 garment factories also applied for the LEED certification from the USGBC. The move towards green buildings helped in recovering Bangladesh's image after the Rana Plaza building collapse in April 2013, which killed 1,134 and injured more than 2,000. Not only branding, green technology also helps to cut down on energy usage by 40 percent and water consumption by more than 30 percent. Among many benefits, green buildings mean less carbon emission. As a result, our environment is saved (Mirdha, 2019). In this regard, the government should take the initiative to adopt specific policies, if necessary to include into the FDI Act; and also ensure that all government agencies are cooperative towards building more green factories in Bangladesh (Hossain *et al.*, 2020).

#### **IV. Laws and Policies of Different Jurisdictions in Relation to Environmental Protection**

In recent years, statutory standards are developing in most developing states due to the international web of environmental regulation in the developed states. In doing so, an importance is being placed not only on pre-entry environmental requisites, but also in the regulatory framework for post-entry operations. In many states, the environmental issue became a special policy agenda in the FDI legislations. For instance, the following EU host countries have adopted strict environment protection laws in order to protect environment from degradation or damages by foreign investors:

##### ***(a) United Kingdom (UK)***

Due to Brexit, UK is no longer within the European Union but as the matter is still going on, UK is considered here. A significant proportion of environmental legislation in England and Wales originates from EU law, which is directly applicable or implemented through national legislation (Coxall & Hardacre, 2019). The principal environmental regimes are: Environmental Permitting Regime (EPR), combining the pollution prevention and control (PPC) regime and waste management licensing and industrial emissions; Water; Waste (in relation to aspects not dealt with under EPR); Contaminated land; Conservation of nature, wildlife and habitats; Environmental impact assessments (EIAs). The Environment Agency (EA) (in Wales, Natural Resources Wales (NRW)) is the main body responsible for

issuing permits and enforcement, although in some cases the local authority (LA) carries out these functions. Environmental liability can arise under: Criminal law; Civil law; Public or administrative law; Company law.

The sanction for breach of most environmental laws (that is, the unauthorised or harmful deposit of waste, illegal discharges to air, land and water) is prosecution of an individual or company by the relevant regulator in the criminal courts. The maximum penalties are unlimited fine and/or five years' imprisonment. Company directors and officers can be prosecuted if the criminal offence was committed with their consent or connivance, or was attributable to their neglect. In *R v Thames Water Utilities Ltd.*, the Court of Appeal suggested that fines in the millions of pounds would be appropriate for serious environmental offences stating that fines must be high enough to send a strong message to company directors and shareholders about their environmental obligations. The court made a direct comparison with fines applied to financial services market regulation breaches finding that, where harm has been caused by deliberate action or inaction, fines equal to a substantial percentage (up to 100%) of the company's pre-tax net profit for the relevant year could be imposed, even if this results in fines in excess of GBP100 million.

Private persons can bring civil law claims for harm caused by environmental matters, usually under the common law of nuisance or negligence. Claims are usually for damages, but the courts can also grant an injunction. Regulators can serve enforcement notices on operators requiring them to rectify breaches of environmental law. Failure to comply with enforcement notices can constitute a criminal offence. In some cases, regulators can shut down an operator's activities until the breach has been rectified. Third parties, including non-governmental organisations (NGOs), can challenge the validity of a public authority's decision through judicial review and have an express right to request that regulators take action if either: environmental damage is occurring; or there is an imminent threat of environmental damage. The Companies Act 2006 also imposes a duty on directors to promote the company's success for the benefit of its members as a whole, taking into account the effect of the company's operations on the community and the environment. If a director breaches this duty, shareholders may be able to bring a derivative action on behalf of the company against the director, even if he has not benefitted from the breach. The Environment Agency (EA) (as the principal regulator) takes its enforcement powers very seriously. The Regulatory Enforcement and Sanctions Act 2008 provides for a number of forms of civil sanction to be used by certain regulators, instead of immediate reliance on criminal prosecution.

### ***(b)Germany***

Environmental issues are predominantly regulated through national legislation. Domestic legislation is increasingly influenced by international law, particularly EU law. The main sources of environmental law are: the Federal Government and the Federal States' Constitutions; the Federal Government and the Federal States' Acts of Parliament; Executive ordinances based on parliamentary laws and enacted by agencies of the federal government and the federal states (Agencies); Technical directives enacted by Agencies following certain public procedures; Administrative regulations enacted by supervisory agencies and binding lower levels; Bye-laws and statutes enacted by public law bodies (Fuder *et al.*, 2019). The principal regimes in environmental law (as complemented by federal and state legislation) are: Emission Control Act; Waste control, disposal and management under the Closed Cycle Management Act; Water Resources Act; Soil Protection Act; Hazardous substances control under the Chemical Act; Radiation protection and nuclear energy under the Atomic Act; Genetic engineering under the Genetic Engineering Act; Nature and landscape conservation under the Nature Protection and Landscape Conservation Act; the Environmental Impact Assessment Act.

A number of states sanction administrative offences through fines, which can be substantial. Fines can be imposed on individuals and, by contrast to criminal environmental law, they can also be imposed on associations and on other legal entities. Environmental private law regulates the claims of private third parties against a party causing damage to the environment by operating certain installations. Criminal environmental law is not common, even though it is considered as appropriate to compel environmentally responsible conduct. Criminal penalties generally involve imprisonment or a fine, but they can only be imposed on individuals. Imprisonment can be imposed for up to ten years. There is no principal environmental regulator. State authorities (usually district or county authorities), guided by their respective State Environmental Ministry, carry out day-to-day operational activities. Their competence is usually defined geographically and the first step towards identifying the relevant authority is generally to contact the local municipality. Environmental law is generally strictly enforced. This often includes closing down the offending operations and imposing fines. The strict enforcement culture complements strict permitting regimes, which often exceed the basic requirements of EU directives. There is generally an integrated permitting regime for industrial facilities, through an emission control permit. This permit has a "concentrative effect", that is, it includes most of the permitting elements necessary to conduct and operate an industrial facility (for example, building permits, nature

protection permits, occupational safety and health permits). The primary purpose of section 13 of the Emission Control Act is to co-ordinate and expedite the administrative permitting procedure. If an operator does not comply with the permitting regime, as a minimum, the relevant competent authorities can request immediate legal compliance, including immediate submission of a permit application. If this is not done, the authorities can order the immediate closure of the relevant facility. The competent environmental authorities can also impose administrative fines against individuals, associations, or other legal entities. In addition, the competent police authorities (*Staatsanwälte*) can prosecute individuals for any environmental criminal offence committed as a result of non-compliance.

### ***(c) France***

The main environmental law principles can be found in the 2004 Environmental Charter (which is part of the Constitution). The French environmental legal framework is substantially influenced by the law of the European Union (EU) as the legislation consists, to a certain extent, of transposed EU Directives and directly effective EU Regulations. The French Environmental Code contains most of the acts and decrees related to the environment, such as: rules concerning the preservation of natural resources; the monitoring of hazardous activities; environmental assessment and public information on projects. There are specific rules, which can be found in other codes, such as: the Mining Code, the Energy Code, the Public Health Code, laws and decrees not codified, particularly in the mining sector (for example, Decree 2006-648 on mining permits), also apply (Boivin and Anthony Emorine, 2019).

*Préfets* are the main authorities in charge of enforcing environmental law. The *préfet* grants permits to operate certain kinds of facilities, such as the “classified facilities for the protection of the environment” (*installations classées pour la protection de l’environnement*) (ICPE), which are likely to endanger public safety, public health and/or the environment. The *préfet* enforces the control of the exploitation of these facilities and manages their termination. In cases of non-compliance of an operator with environmental requirements, the *préfet* can impose administrative sanctions. Environmental requirements are enforced by the administration under the scrutiny of the administrative courts. In that respect, administrative courts have jurisdiction over state and local authorities’ decisions (for example, regarding operating permits and environmental penalties). Both criminal and civil courts enforce environmental law. The criminal courts have the power to try and prosecute environmental criminal offences, including the failure to comply with administrative prescriptions. The civil courts hear civil liability cases, which include not only liability for damages caused

to other persons (such as abnormal neighbourhood disturbances), but also liability for damages caused to the environment.

Two separate environmental permitting regimes co-exist: distinct permit regimes and an integrated permitting regime. The *préfet* decides to grant or deny the permit. The theoretical estimated time limit for the examination of an application to obtain an integrated permit is nine months. The *préfet* can inflict administrative sanctions, but only after issuing a formal notice to comply. If the operator's non-compliance continues, then the *préfet* can issue any of these sanctions: force the operator to deposit a sum equal to the works to be carried out; implement the required measures at the operator's expense; suspend the facility operation and take conservatory measures at the operator's expense; order the payment of a fine up to EUR15, 000 along with a daily penalty up to EUR1, 500. The public prosecutor can trigger criminal action. Criminal penalties can include up to five years' imprisonment and a EUR300, 000 fines.

(d) **Italy**

The principal statute is the Legislative Decree 152/2006 (Environmental Protection Code), which states the key, EU-derived principles governing environmental protection in Italy. The Environmental Protection Code sets out the main legislative framework applicable to: all matters concerning integrated pollution prevention and control (IPPC); Environmental impact assessment (EIA); Environmental strategic assessment (SEA); soil protection; water policy and management; waste and packaging management; contaminated land management; air quality and environmental damage. As well as the Environmental Protection Code, there are various specific laws and regulations relating to: specific pollutants or harmful emissions such as dangerous substances, light, noise and odour pollution; specific waste flows such as waste electrical and electronic equipment (WEEE), waste batteries and accumulators (WBA) or mineral oils; some installations, for example, landfills or installations recovering energy from waste; permitting regimes, such as the single environmental permit. Liability and damage compensation obligations are governed by the laws and regulations, the Civil Code and the Environmental Protection Code's provisions on environmental damage (Chilosi *et al.*, 2017).

The state is the main regulatory authority for environmental matters, but several provisions of the Environmental Protection Code allow individual regions to maintain or introduce more stringent protective measures. Environmental law requirements are enforced through criminal and/or administrative sanctions. Depending on the extent of their powers, the regulatory authorities can apply

criminal and administrative penalties (both monetary and non-monetary). Several new criminal offences were introduced into the Italian Criminal Code by Law 68/2015. To try to encourage polluters to take pre-emptive, corrective or remedial action, authorities can also require operators to comply with additional conditions and to pay a fine to extinguish some criminal offences. Legal entities can also be held liable for environmental criminal offences committed by individuals on their behalf.

As part of an ongoing process of administrative simplification, the various separate environmental permits have mostly been replaced by ‘all inclusive’ permits, which are the: Integrated Pollution Prevention and Control permit (*autorizzazione integrata ambientale*) (IPPC); and Environmental single permit (*autorizzazione unica ambientale*) (AUA). Legislative Decree 152/2006 (Environmental Protection Code) provides for both administrative and criminal sanctions for non-compliance. Operators who run an installation without a valid permit or who do not comply with the requirements imposed by the permit face criminal sanctions. Those who fail to comply with reporting requirements face administrative monetary penalties. If the operator does not comply with permit conditions or operates without being authorised, additional administrative non-monetary sanctions may be applied. Repeat violations of the same permit provision can result in the suspension of industrial activities. Where several violations causing environmental harm or risk have been committed, the authority will revoke the permit and shut down the installation.

#### ***(e) Netherlands***

The most important environmental regulations in Netherlands are the: General Environmental Law Act (*Wet algemene bepalingen omgevingsrecht*); Environmental Management Act (*Wet Milieubeheer*); Water Act (*Waterwet*); Nature Protection Act 1998 (*Natuurbeschermingswet 1998*); Flora and Fauna Act (*Flora- en faunawet*); Soil Protection Act (*Wet Bodembescherming*); Activities Decree (*Activiteitenbesluit Milieubeheer*). In Netherlands, the primary source of environmental law is the Dutch Environmental Management Act (EMA), where almost all-national legislation on the environment is incorporated into this drafted Act. This Act sets out an integrated approach to environmental management in the Netherlands and provides the legal framework by defining the roles of national, provincial or regional, and municipal government. The Act stipulates the tools to be used in environmental management including environmental plans; environmental quality criteria for emissions and discharges of harmful substances; and environmental impact assessment (Peelen and Vis, 2015).

Regulators are required to enforce environmental regulations, unless exceptional circumstances justify that environmental regulations are not enforced (for example, if there is a legitimate expectation that the violation can be legalised). Enforcement proceedings are usually commenced with a formal warning. Regulators can subsequently adopt different administrative enforcement measures, which include the: order to end the violation of environmental regulations, subject to remedial measures taken by the regulator to end the non-compliance (*bestuursdwang*); order to end the violation of environmental regulations, subject to a non-compliance penalty (*dwangsom*); revocation or amendment of a permit; decision to impose administrative fines (*bestuurlijke boete*). Additionally, the most serious violations of environmental regulations are also subject to criminal prosecution.

The permitting regime of the General Environmental Law Act integrates the approval process for special planning regulations, construction regulations and environmental regulations. Depending on the nature of the project, project developers must also apply for a number of other permits that are granted by other regulators. These may include, for example, permits based on the Water Act (*Waterwet*), the Nature Protection Act 1998 (*Natuurbeschermingswet 1998*) and the Excavation Act (*Ontgrondingenwet*).

Regulators can use general administrative enforcement mechanisms to ensure compliance with permit requirements. Serious violations of environmental regulations are also subject to punitive sanctions. The Economic Offences Act (*Wet Economische Delicten*) provides that it is a criminal offence to operate an installation without an environmental permit or in deviation of the permit requirements. The fines that can be imposed for these offences can in principle amount to up to EUR 81,000.00 per violation. Other offences concern, for example, the performance of construction works or the demolition of monumental buildings without a valid permit or in deviation of the permit requirements. The fines that can be imposed for these offences can in principle amount to up to EUR 20,250.00 per violation.

From the above discussions, it appears that the EU host countries have stronger environmental laws and regulations to protect the environment. Therefore, Bangladesh could follow these countries regulation in order to enhance the existing legal framework in relation to environment.

## **V. Findings**

The findings of this study reveal that there are many cases in recent years, where the MNEs are directly or indirectly responsible for damaging the environment in Bangladesh. For instances, ‘Magur Churra’ and ‘Tengratilla’ incidents, where the US company (Unocal) and the Canadian company (Niko) were responsible for both explosions respectively. In this regard, the findings also show that there is a dearth of any legal document, which covers environmental protection issue in relation to FDI. Moreover, the FPIA 1980 do not have any provision to create any accountability for foreign investors or MNEs to protect the environment from their industrial activities. Even though, chapter 14 of the NIP 2016 has separate provisions regarding protecting environment; but these are just mere policies and not yet enacted as a binding legal regulation for foreign investors.

Furthermore, the findings also indicate that there is no specific waste management law in Bangladesh; and the 3R Strategy is not pursued comprehensively in the existing environmental legal framework. Even though the ECR 1997 requires establishing an ETP to obtain an ‘Environmental Clearance Certificate (ECC)’ but it has no provision directing the establishment of ETP. The ECR, 1997 also not sufficient and incoherent to deal with waste management properly. In addition, it fails to mention clearly that if the required ETP is not established, then the ECC will be withdrawn or cancelled. The findings of this study further suggest that Bangladesh has the highest number of green garment factories in the world and total number is increasing. In this relation, there is no legal framework to encourage or facilitate to establish more green buildings; as well as to regulate them. There is also legal scarcity for governmental control throughout monitoring and inspection, as well as lack of responsibility amongst the government officers to protect the environment.

## **VI. Recommendations**

The FPIA 1980 should have provisions to create accountability for foreign investors to protect the environment from industrial degradation. Even though, chapter 14 of the NIP 2016 has separate provisions regarding protecting environment; but these policies should be enacted as a binding legal regulation for foreign investors. Moreover, the Environmental Conservation Act 1995 (ECA 1995) should be amended to include strict provisions so that any further incidents do not occur in future; even if it does, the government must be in a better position to recover compensation from the foreign investors.

Furthermore, the Environmental Conservation Rule 1997 (ECR 1997) should be amended to include provisions for waste management, 3R Strategy, establishment of ETP and penalty for compliance. In relation to green factory, the government should also adopt specific rules or policies to encourage and facilitate for the establishment of more green industries. This should not be limited only in the garment sector but must include other sectors. The government must ensure strict law enforcement mechanisms by establishing a separate monitoring body for strict observation and should continue regular inspection of the industries. There should be either an independent regulatory body to oversee the compliance, or each regulatory body should have its own manpower to oversee the compliance. Other than that the law is there but whether there is any compliance or not, it will remain on the goodwill and gesture of the company or industry or investors. There should be trained manpower and sufficient equipment's to protect environment from degradation. Also there should be a regular survey or data from the regulatory body to know the present situation of environmental degradation, compliance by the companies and so on.

## **VII. Conclusion**

The legal scarcity for governmental control throughout monitoring and inspection, along with responsibility for infringement creates a huge challenge for its successful functioning (Crescent, 2018). Therefore, the environmental issue needs to be inserted into the legal framework in order to make it more precise, conventional and more comprehensive for the foreign investors; because textual specificity is very important for any legal framework to ensure its due application and enforcement. Without strengthening the legal regime in the treatment of effluents and strict monitoring system, the environment cannot fully be protected for future generations (Alam & Xiangmin, 2018). In order to protect environment, a specific regulatory mechanism needs to be created through the introduction of relevant principles in FDI legislation, enactment of specific laws or through BITs or TIPs negotiations. Moreover, the existing regulatory system requires to be made stronger and effective with necessary procedural changes in implementation, enforcement, and compliance mechanisms. In absence of adequate and strong regulations and enforcement mechanisms, governments will not succeed to achieve the new sustainable development goals. In such a case, it is paramount to adopt a strong regulatory framework in order to reduce the harmful impacts of FDI in Bangladesh.

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