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ENVIRONMENTAL LAW AND POLICY IN ANCIENT BENGAL: AN OVERVIEW

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Abstract: This article examines whether environmental law and policy existed in ancient Bengal or not. The historical background to environmental protection in Bengal would indicate that forests & wildlife were considered as vital ingredients of the global system. Here, the entire scheme of environmental preservation was essential duty-based. In this sense, the ancient sub-continent society accepted the protection of the environment as its duty to do so. It is described how environment protection has been an important aspect of Hindu way of life. It is also described that under the Mauriyan, Gupta, Pala, Sena regime and Ashoka's rule, forest conservation and wildlife protection received the utmost attention.

Introduction

In the second half of the twentieth century it was widely recognized that the planet faces a diverse and growing range of environmental challenges which can only be addressed through international cooperation.¹ Acid rain, ozone depletion, climate change, loss of biodiversity, toxic and hazardous wastes, pollution of rivers and depletion of fresh water resources are some of the issues which international law is being called upon to address.² International environmental law evolved late eighteenth and nineteenth centuries through the conservation of wildlife (fisheries, birds and seals) and, to a limited extent, the protection of rivers and seas.³ Before the nineteenth century there was no environmental law in the world.⁴ But to protect flora and fauna many bilateral treaty signed among many countries. Examples bilateral fisheries conventions between France and Britain in 11 November 1867 were adopted in the mid-nineteenth century to halt over-exploitation.⁵ The first whaling convention was adopted in 1931.⁶ This paper attempted made to analyze environmental law in ancient and medieval period of Bangladesh in the context of the world. It has also justified whether the environmental law and custom was in existence or not in ancient Bengal.

The Territory of Bangladesh

Up to 1947 Bangladesh means historical Bengal and since then it means former East Bengal and East Pakistan. It is from the date of the declaration of independence that Bangladesh means the territory and people of the present People's Republic of Bangladesh.⁷ A region whose core was formed by the physical area called the Bengal delta, the largest of its kind in the world. The Bengal delta proper, a region bounded by the Bhagirathi River in the west and the Padma in the east, is a part of a much bigger region known as the Bengal Basin, the other components of which are the North Bengal Basin and the Sylhet Basin. The huge region is unique, not only in size and complexity, but particularly in the development of thousands of rivers and canals which have largely determined the evolution and nature of the region's system of transportation. The Basin is so flat and low that it hardly rises anywhere to more than 20 feet (six meters) above the sea level.⁸ '...the Geography of Bengal',⁹ as given in the A'in-i-Akbari,¹⁰ substantially agrees with that of pre-portion Bengal. The mountain ranges of the Himalayas run along the northern side of Bengal. Its south is washed by the Bay of Bengal. The Sundarban, a vast tract of dense forests, the home of the Royal Bengal tigers and other wild animals, sheets up the province from that side and also causes much rainfall, which contributes to its productivity. The Garo, Khasia, Jaintia, Tippera and Chittagong hills bound it east. On its western border, there are the swift-flowing Ganges, the Mahananda and their tributaries as well as the hills of Rajmahal, the high table-lands and jungles of Jharkhand, Birbhum, the Santhal Parganas, Singbhum, Manbhum and Mayurbhung.¹¹

Bangladesh is defined as the territory comprising ancient Eastern India¹², *Suba Bangla*, *Shahi Bangalah*, *Mughul Suba Bangla*, Bengal Presidency, Bengal Province, East Bengal, East Pakistan, and the independent Bangladesh, in historical succession. The geographical boundary of Bengal has changed from time to time due to changes in the political situation of the Sub-continent.¹³ The making of Suba Bangla, as an administrative unit under the Mughal imperial system, began with Akber's partial conquest of Bengal and achieved its maturity at the close of the eighteenth century. During the time there were remarkable changes both in the political geography of the suba as well as in its internal administration and relationship with the center.¹⁴ Abul Fazal gives the extent of the Suba as follows:

"Its length from Chittagong to Garhi is four hundred kos. Its breadth of the northern range of mountains to the southern frontier of the Sarkar of Mandaran., is two hundred kos."¹⁵

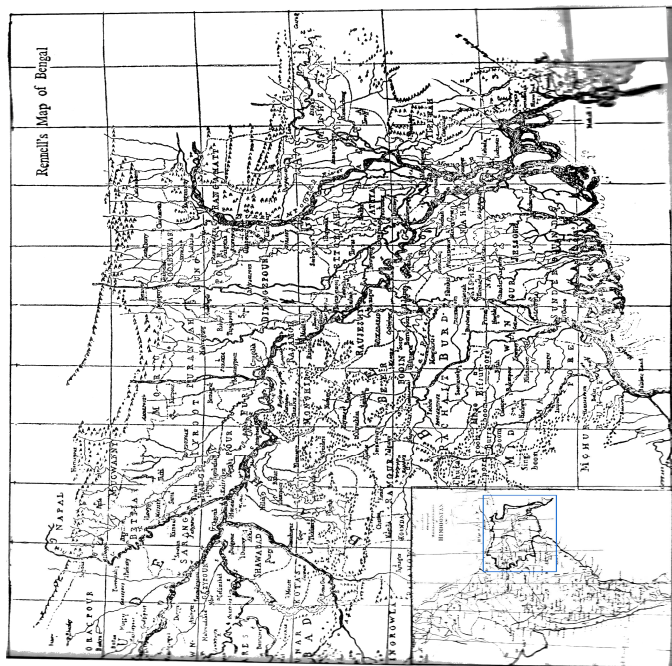
The boundary of the Suba Bangla came to be fixed as follows: mountains in the north, Hazo of Assam in the north-east, Tippera in the east, the sea in the south, Arakan in the South-east, Orissa in the south-west, and Bihar in the west. Geographically, the Mughal Suba Bangla differed a little from the

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British province of Bengal. During the battle of Palashi (1757 A.D.), Bengal, Bihar and Orissa were under the same authority. In the British provincial structure, north-eastern portion including Sylhet went to Assam; Bhagalpur and portions of Purnia to Bihar.¹⁶

Map: Rennel's Map of Bengal is illustrated

Map- 1



Source: Sirajul Islam (ed.), *History of Bangladesh 1704-1971*, Vol-1, Dhaka: Asiatic Society of Bangladesh, Second edition, 1997, p-731.

It is difficult to explore the environmental policy in the sub-continent past to the British invention of this area. Such exploration has to be done largely from ancient India theology, Writings of foreign tourists as Hiuen Tsang visited India during 629-645 A.D., writings on ancient Bengal and Indian History and writings of the colonial administrators. These writings provide an insight into the policy perspectives on resource conservation in Bengal and India. The environmental law and policy in the pre-independence era of Bangladesh can be studied under four sub-heads:

Environment Consideration of Religion of Ancient Bengal

In ancient Bengal, the part of eastern India¹⁷ protecting and cleaning up of the environment was the essence of Vedic culture. The environmental conservation formed an ardent article of faith, reflected in the daily lives of the people and also enshrined in myth folklore, art, culture and religion. In the Hindu theology forest, trees and wildlife protection held a place of special respect. The theology prescribed for temple forests¹⁸ and trees were worshipped as a ritual.¹⁹ The Vedas, Upanishads, Puranas and other scriptures of Hindu religion give a detailed description of trees, plants and wildlife and their importance to be a community. The *Rigveda* highlights the potentialities of nature in controlling the climate, increasing fertility and improvement of human life emphasizing for intimate kinship with nature. *Atharva Veda* considers trees abode of various Gods and Goddesses. *Yajurveda* emphasizes that relationship with nature and animals should not be that of domination and subjugation, but of mutual respect and kindness.²⁰

Similarly in *Narsimha Puran* trees have been personified as God (Brahma) Himself.²¹ It is said in *Skandpuran* that Peepal is supreme to all other trees as Lord Vishnu is to all other Gods.²² *Varahpuran* advocates regular plantation as a means to achieve heaven.²³ In *Matsyapuram* plantation of a tree has been equated with progeny of ten sons.²⁴ *Mahabhasya* says by giving water to a mango tree our ancestors are pleased.²⁵ While *Vishnudharmasutra* says that if you plant a tree it will be your son in the next generation.²⁶ The plantation of tree was treated in Hindu culture not only as a sacred ceremony or a religious activity but regular protection and patronage was also prescribed. Cutting green trees were prohibited and punishment was prescribed for such acts. For example, in *Skandpuran*, a long list of trees in given the cutting of which is prohibited. Further, in *Yagyavalkya Smriti*, cutting trees and forests was a punishable offense and a penalty of twenty to eighty pana (old coin) was prescribed.²⁷ Even in *Ramayana* and *Mahabharata* wherein we find the reference of beautiful forests of *Dhandakaranya*, *Nandavana* and *Khandavana*, destruction of forests was considered to be a great sin.

Hindu society, in the Vedic era, was conscious of adverse pollution effects of indiscriminate destruction of plants and forests. For example, in *the Charak Samhita* destruction of vegetation was treated to be the cause of ruin of a state.²⁸ In *Devi Karacham* of *Durga Saptasi* it has been clearly said that so long as the earth has mountains, forests, trees, plants, etc. human race will continue to survive. In *Srimadbhagavatam*, it has been appropriately said that a man who with exclusive devotion offers respect to sky, water, earth heavenly bodies, living beings, trees, rivers and seas and all created beings and considers them as a part of the body of the Lord attains the state of supreme peace and God's grace.²⁹

Under the Hindu culture, moral injunctions acted as guidelines towards environmental preservation and conservation. Such injunctions were propounded and propagated, in addition to the scriptures, by the seers as well. *Manu*, for instance, warned the people not to take rotten food which may cause diseases. To maintain the quality of water and to avoid the water pollution, he advised not to contaminate water by urine, stool or coughing, impious objects, blood and poison. *Tattariya Aranyak*, advocated environmental ethics and advised not to cause pollution of waters by urinating and defecating, spitting in the water or taking bath with clothes on. *Yagyavalkya Smriti* and *Charak Samhita* give many instructions for the use of water for maintaining its purity. Kautilya in his *Arthashastra* highlights the importance of forestation for the progress of a nation. In its second canto it is said:

On non-agricultural land of about 4 crosh size, a forest should be caused by a single door trees of fruits, beautiful groves and attractive flowers should be planted. Trees should not be any cactus type trees. A small pond should also be there. Deer and other such animals should be familiar to people. Nails and teeth of hunting animals, should have been extracted. Elephants male, female, children should be there.³⁰

In addition to forests and other components of nature under the Hindus theology, animals stood to human beings in a relationship of mutual respect and kindness. As given in *Yajurveda*, they have been worshiped by Hindus.³¹ There are various stories regarding the peaceful co-existence of beasts and other animals in rishis Ashramas. *Bridha Smriti* advises every Hindu to respect Vedas, deities and cows.³² Ancient Hindu scriptures strictly prohibited the killings of birds and animals. In *Yajurveda* it is said no person should kill animals, but being helpful to all and by serving them, should obtain happiness. In *Yagyavalka Smriti* it is said, "The wicked person who kills animals which are protected has to live in Ghor Narak (hell-fire) for the days equal to the number of hair on the body of that animal. In *Vishnu Samhita*, it is told that "he who for his own pleasure, kills harmless beasts, should be regarded as dead in life; such a man shall know no happiness, here or hereafter. He who desists from inflicting pain on any animal either of death or confinement is really the well wisher of all the creatures; such a man enjoys extreme felicity. Similarly, in *Skandhapuran* it is said:

How wonderful it is that a person who cuts trees, kills animals and create bloodshed, aspires for Svarga only offering oblations in the fire. The same, almost is said in Narsimhapuran: 'O wicked man if you roasted a bird, then you bathing in sacred rivers, pilgrimage, worship and Yajanas are useless.'³³

Thus, as is obvious from the teachings of the Hindu scriptures, we see that environmental protection has been an important aspect of Hindu way of life.

Environmental Consideration in the Pala, Sena Dynasty

Palas³⁴, Chandras³⁵, Devas and Comboge dynasty of ancient Bengal were Buddhism and Senas³⁶ and Varmans³⁷ religious was Brahmanas.³⁸ The Devas were Buddhists and under their patronage the Mainamati area rose into prominence as an important Buddhist cultural center. Four generations of rulers ruled Sumatata and they were contemporaries of the early Pala kings.³⁹ The Sena rulers were Hindus and their rule is considered to be a period of revival of Hinduism in Bengal.⁴⁰ On the viewpoint of religious all were preserved environment. It was religious faith and customs. Likewise, all major religions have references to the environment and its intricate link to God.⁴¹ Gautama Buddha, Mahavira, and Prophet Mohammad (Pubh), had all echoed the same thought of love and harmony between man and environment.

The value of the *Ramacharitam*⁴² also lies in the detailed description of Varendra provided in the first 18 Verses of the third canto. The flora and fauna of Varendra, situated in between the Ganges (on the West) and the Karatoya (on the east), places and gardens, places of pilgrimage, cities (specially Ramavati) and institutions (specially Jagaddala Mahavihara) had been recorded.⁴³ During the 10th Century the Pala and Sena dynasty ruled the Sal Forest of the Madhupur Tract. The Madhupur area was ruled by Palaraj Bhagodatta and the Bhawal forest was under Shishupala. Later the area came under the rule of Ballal Sena.⁴⁴

The long list of state officials, found in the Pala copperplates, clearly indicate that the administration was taking care of every aspect of public life- from the ferry *ghats* to the river ways, land routes, trade and commerce, towns and ports, and law and order in the country. Even forest or market management was not left out.⁴⁵

The basis of their long rule was the efficient administrative system. The most glorious aspect of the Pala rule was their policy of public welfare. The Pala rulers were Buddhists, but majority of their subjects were Hindus, Jinas, demi-gods, Krsna legend etc.⁴⁶ Dharmapala (c 781- 821 AD) had adopted the policy of religious toleration as the state policy. This policy was followed by his successors.⁴⁷

This social peace over a long period of time must have contributed to developments in other fields. There are instances of welfare activities of the Pala rulers. Dharmapala is known to have excavated a few tanks by spending several thousands of *dramma* (silver coin). The Bodh-Gaya inscription of his (Dharmapala) 26th regal year records the consecration of a 'Caturmukha Mahadeva' and the excavation of a tank at the expense of 3000 *drammas* (silver coins) by one Kesava at the famous Buddhist site of Mahabodhi.⁴⁸ Mahipala-1 (c 995- 1043 AD) had occupied a place in the hearts of the people of Bengal by his welfare activities- digging tanks and

establishing towns, which bear his name.⁴⁹ Mahipala was better known for his peaceful pursuits. A number of towns and large tanks still bear his name. Mahipaladighi (tank) in Dinajpur and Mahipala's Sagardighi in Murshidabad all these still bear testimony to his deeds and the high esteem in which the people held him.⁵⁰ In ancient time, India, Burma and Ceylon were densely covered with jungles because these areas had been situated within monsoon-belts endowed with seasonal rains and damp heat. In the earlier geological periods Bengal, Assam and the eastern part of Bihar were all covered with dense forests.⁵¹

Conclusion

To sum up, ancient Bengal and India offer a philosophy of environmental management, principally enshrined in old injunctions as they were contained in many scriptures and *smritis*. The Hindu mythology, the Vedas, Puranas, Upanishads and other ancient scriptures of the Hindu religion have given a detailed description of trees, plants, wildlife and their importance to people. Yagyavalkya *Smriti* prohibited the cutting of trees by prescribing punishment for such acts. Kautilya's *Arthashastra*, written in the Mauryan period, realized the necessity of forest administration and Ashoka's 5th Pillar Edict expressed his view about the welfare of the creatures in the State. Kautilya classified the forests in four categories, viz. 1. Forest for Timber, 2. Reserve Forest, 3. Elephant Forest, 4. Forest for Hunting. The civilizations of Mohenjodaro and Harappa have further proved that the small population lived in consonance with the ecosystem and their needs maintained harmony with the environment. Thus, the Hindu society was conscious of the adverse environmental effects caused by deforestation and extinction of animal species. Abuse and exploitation of nature for immediate gains was considered unjust, irreligious against environmental ethics under the Hindu and Buddha culture. The environmental ethics of nature conservation were not only applicable to the common man, but the rulers and kings were also bound by them. Despite the injunctions in the scriptures and the preaching's of saints, resource conservation was not taken very seriously as the natural resources under a common belief were considered to be unlimited and too formidable to man and his tools to need any protection themselves. Under the Mauryan, Gupta, Pala, Sena regime and Ashoka's rule, forest conservation and wildlife protection received the utmost attention. The first efforts to codify the aspect of environmental protection came from Kautilya, Prime Minister of Chandragupta Maurya. As early as 300 BC, he realized the significance of the environment and formulated rules which mandated the rulers to protect forests and animals. Penalties were also prescribed. This is the first documented case of legislation on environmental protection anywhere in the world. Therefore, it's very clear that people of ancient

Bengal people were very conscious about the environment, they think it's part of religion to maintain the sanctity and purity of nature.

Notes & References:

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- ² Philippe Sands, *Principles of international environmental law 1: Frameworks, Standards and Implementation*, Manchester, UK: Manchester University Press, 1995, p. 9.
- ³ Sands, *Ibid*, p. 26.
- ⁴ Public Health Act (1848) in England. It was first environmental law in the world.
- ⁵ Include a convention to protect oysters by prohibiting fishing outside certain dates and instruments to protect fisheries, usually in rivers or lakes or in or around territorial waters, from over exploitation. See Sands, *Supra* Note 2, p. 26.
- ⁶ Sands, *Ibid*, p. 27.
- ⁷ Sirajul Islam, ed., *History of Bangladesh (1704-1947)*, By quoted in Preface by Dr. A. R. Mallick, pp. viii.
- ⁸ See, Sunil Kumar Munsi, *Geography of Transportation in Eastern India Under the British Raj*, KP Bagchi, 1980, p. 7.
- ⁹ A. M. Chowdhury, "Geography of Ancient Bengal- An Approach to its Study," *Bangladesh Historical Studies*, II, 1977, p. 31-53, And A. M. Chowdhury, *Prachin Banglar Itihash O Sanagskriti (History and Culture of Ancient Bengal)*, Dhaka: Bornayan, March-2002, p. 11-50, Anisuzzaman ed., *Bangla Shahittar Itihash (History of Bengali Literature)*, 1st part, Bangla Academy, Dhaka, p. 19.
- ¹⁰ Ain-i-Akbari wrote by Abul Fazl (1551-1602), he was a principal secretary cum-minister to Akbar, the Mughal emperor. He was an accomplished man of learning and was the author of two celebrated works, 'Ain-i-Akbari and Akbar-nama,' the former being a description of Akbar's administrative system and later a chronicle of the events of his reign. More detail 'Encyclopedia of Muslim Biography', edited by Nagendra Kr. Singh, p.-216.
- ¹¹ Muhammad Abdur Rahim, *Social and Culture History of Bengal*, vol. 1, Pakistan Historical Society, 1963, pp. 7-8.
- ¹² Greek and Latin sources (3rd century BC- 1st century AD) refer to an eastern Indian nation/state called 'Gangaridac' (Greek)/ 'Gangaridai' (Latin) which was very strong militarily. Scholars have located 'Gangaridai' in parts of Southern and Southeastern Bengal, adjacent to the mouths of the Ganges (Bhagirathi and Padma) See details, A. M. Chowdhury, "Geography of Ancient Bengal- An Approach to its Study," *Bangladesh Historical Studies*, II, 1977, p. 31-55, And A. M. Chowdhury, *Prachin Banglar Itihash O Sanagskriti (History and Culture of Ancient Bengal)*, Dhaka: Bornayan, March-2002, p. 22-23.
- ¹³ Ashit Boran Paul & Dara Shamsuddin, "Geographical Provenance of the Find Places of the Inscriptions of Bengal", *Journal of the Asiatic Society of Bangladesh*, vol-46, no-1, (June-2001), p. 2.

- ¹⁴ Abdul Karim, "Suba Bangla : Government and Politics", *History of Bangladesh 1704-1971*, ed., Sirajul Islam, vol-1, Dhaka: Asiatic Society of Bangladesh, 1997, p. 35
- ¹⁵ Quoted in *Ain-i-Akbari*, vol. II, trns. By H. S. Jarrett, corrected and further annotated by J. N. Sarkar, 3rd edition, 1978, p. 129-132.
- ¹⁶ Abdul Karim, Supra Note-15, p. 41-42.
- ¹⁷ Europeans gave the name Bengal to the eastern province of British India.
- ¹⁸ In Hindu theology there are seven types of temple forests. Shiva Panchayathana, Star forests, Nine planet forests, Zodiac forests, Vrata garden, Ashoka garden and Kadamba garden. For further details see, S. K. Sharma, "Temple Forestry", *The Tribune*, Saturday Plus, July 24, 1993 p. 1.
- ¹⁹ For the religious importance of trees under Hindu Culture, see, B.N. Tiwari, "Hindu Culture and Ecology in Gautam Sharma" ed., *Environment Man and Nature* (New Delhi: Reliance, 1989), p. 23-27.
- ²⁰ *Ibid*, p. 24.
- ²¹ *Ibid*, citing Narsimha Puran, 15: 7 at 24.
- ²² *Ibid*, citing Shakndpuran, chapter 189, verse 65 at 24.
- ²³ *Ibid*, citing Varahpurana chapter 172, verse 39 at 25.
- ²⁴ *Ibid*, citing Matsyapurana, 154/512 at 26.
- ²⁵ *Ibid*, citing Mahabhasya at 26.
- ²⁶ *Ibid*, citing Vishnudharmasutra, 19.4 at 26.
- ²⁷ *Ibid*, citing Yagyavalkya Smiriti V 227 at 26.
- ²⁸ *Ibid*, citing Charak Samhita, Vimansthan, Ch. 3, 3, verse 11 at 26-27.
- ²⁹ *Ibid*, citing Sri Madbhagavatam, verse 41-43 at 27.
- ³⁰ *Ibid*, citing Kautilya Arthashastra, Adhyaksha Prachar, Ch. 2 Para 20 at 31.
- ³¹ *Ibid*, at 27.
- ³² *Ibid*.
- ³³ *Ibid*, citing Narsimha Puran, Chapter XIII verse 44.
- ³⁴ The Pala Dynesty founded by Gopala in the middle of the 8th century AD, ruled Bengal for about four hundred years through many vicissitudes. During this long period of eighteen generations of kings ruled the dynasty. For further details see, Abdul Momin Chowdhury, *Dynastic History of Bengal*, Dhaka: Asiatic Society of Pakistan, 1968.
- ³⁵ The Chandras followed the Harikela rules and from the beginning of the 10th century AD five generations of Chandra rulers ruled for about 150 years (c 900-1050 AD). Details Banglapedia- National Encyclopedia of Bangladesh, (ed) Sirajul Islam, Asiatic Society of Bangladesh-2003.
- ³⁶ Sena Dynasty (c 1097-1223). The first three kings of the dynasty were important figures. The last two held on to power in a very limited area in southeastern Bengal. see, Abdul Momin Chowdhury, *Dynastic History of Bengal*, Dhaka: Asiatic Society of Pakistan, 1968.
- ³⁷ In the last quarter of the eleventh century AD the Varman Dynasty, taking advantage of the Kaivarta rebellion in the Pala empire, established their independent rule in southeastern Bengal. Five generations of the Varmans ruled

- for less than a century (c 1080-1150 AD) before they were toppled by the Senas. The Varmans were Hindus and their capital was also at Vikramapur. Details Banglapedia- National Encyclopedia of Bangladesh, (ed) Sirajul Islam, Asiatic Society of Bangladesh-2003.
- ³⁸ *Ibid*, p. 542-43.
- ³⁹ A. M. Chowdhury, Supra Note 60.
- ⁴⁰ *Ibid*.
- ⁴¹ P. B. Sahasranaman, Supra Note 59, p. 1.
- ⁴² The Ramacaritam, is a unique Sanskrit Kavya written by Sandhyakara Nandi and its importance lies in the fact that it throws light on the condition of Bengal in the period between the second half of the 11th and the first half of the 12th century AD. The *Ramacharitam* is the only Sanskrit text, composed in Bengal by a poet of VARENDRA (north Bengal), which had a contemporary historical event as its main theme. As such it is considered to be an authentic source for the history of the late Pala period. See, R C Majumdar et al (ed), *Ramacarita*, Rajshahi, 1939.
- ⁴³ *Ibid*.
- ⁴⁴ Shri Kedarnath Majumder, *The History of Mymensing* (in Bengali), 1904.
- ⁴⁵ Abdul Momin Chowdhury, *Banglapedia- National Encyclopedia of Bangladesh* (ed) Sirajul Islam, Dhaka: Asiatic Society of Bangladesh-2003, vol-7, p. 410-414.
- ⁴⁶ Shahanara Hussain, *Everyday Life in Pala Empire*, Dhaka: Asiatic Society of Pakistan, 1968, p. 70.
- ⁴⁷ Abdul Momin Chowdhury, *Dynastic History of Bengal*, Dhaka: Asiatic Society of Pakistan, 1967, p. 31-32.
- ⁴⁸ *Ibid*, p. 31-32.
- ⁴⁹ *Ibid*, at 87.
- ⁵⁰ *Ibid*, at-87.
- ⁵¹ Mohiuddin Farooque, Supra Note 52, p. 1-2.