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Understanding the Role of Legislations in Combating Air Pollution in Bangladesh with Special Reference to Dhaka City: A Critical Study

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Abstract: Air pollution in Dhaka City is a major problem, and it's caused by sources including Brick kilns, vehicles, buses, and trucks. The primary aim of this study is to examine the regulations in Bangladesh that address air pollution. Using primary and secondary resources, this study analyses the current situation of pollution levels in many parts of Dhaka City, including Mirpur, Mohammadpur, Dhanmondi, Jatrabari, Uttara, etc. As a result, all pollutants are significantly over the air quality requirements in Bangladesh. However, dangerous levels of particulate matter (PM10 and PM2.5) are present, much above the criteria set by Bangladesh and the guidelines given by the World Health Organization. As a result, the role of Particulate Matter in causing diseases including cancer, heart disease, and other forms of sickness is playing an increasingly larger role in modern society. These abstract highlights the national and international legal strategies for reducing air pollution. Finally, it focuses on the landmark cases of Dr. Mohiuddin Farooque v. Bangladesh (1997) and BELA v. Ministry of Environment, Forest, and Climate Change case, ordering the Ministry to find out the challenges in law enforcement.

Keywords: *Air pollution, climate change, Department of Environment, Dr. Mohiuddin Farooque v. Bangladesh, BELA v. Ministry of Environment*

Introduction: Air pollution in the capital city of Bangladesh, Dhaka, has reached alarming levels both inside and outside homes in recent decades, making this city as one of the most polluted cities globally. Dhaka was once famous for its culture and liveliness but these days is notorious for traffic jams as the population surges, industrial pollution and rapid unplanned urbanization that has put the environment and public health at risk. Bangladesh is one of the three most polluted countries around the world and Dhaka is always listed as one of the worst cities around the world, according to the World Air Quality Index [1]. It has an unhealthy air quality because of the rapid industrialization, increasing number of vehicles, and construction activities in progress; particulate matter ($PM_{2.5}$ and PM_{10}) concentrations are much greater than the national and WHO guidelines [2].

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Environmental degradation can be attributed to development policies in Bangladesh that have prioritized economic growth over protection of the environment. Emissions of fossil fuels, energy consumption and car dependence rose in line with the economy's shift from an agrarian to urban-industrial base. About one-third of Dhaka's air pollution is also contributed by brickyards, and the concentration of fine particulate matter (PM 2.5) is further augmented by road dust and diesel vehicles [3].

Bangladesh has passed laws, including the Environmental Conservation Act 1995 and the Brick Manufacturing and Brick Kilns Establishment (Control) Act of 2013, but the effectiveness of these is hampered by lack of awareness among people, bureaucratic hurdles in fulfillment along with weak implementation. Although the UNFCCC, Paris Agreement and Montreal Protocol agreements have reinforced the Bangladeshi commitment towards sustainable air management implementation has remained incompatible and ineffective [4].

The burden of environmental laws has not prevented the decline of Dhaka's air quality. Thousands of premature deaths per year can be attributed to pollution-related respiratory and cardiovascular diseases in Bangladesh (WHO, 2008) [5]. Mismatch between the legislative intent and its implementation reflects poor institutional mechanisms and confined inter-ministerial coordination, particularly between the Department of Environment (DoE) and the Ministry of Environment, Forest and Climate Change (MoEFCC) [6]. Although the article further reinforces that all orders of the courts must be obeyed through an injunctive command, such as the "Writs against persons in general and authority", the orders do not always make national headlines as well [5].
The research intends to be the first complete critical review of the efficacy of regulatory frameworks established by Bangladesh in regulating pollution, namely air quality, in Dhaka. The objectives are to examine domestic legal frameworks, including the Constitution, statutes, and pertinent regulations or cases like Article 18A; to investigate cases related to international environmental agreements—specifically the UNFCCC and Paris Agreement—concerning their contributions to and effects on national air quality governance and enforcement challenges; and to propose necessary reforms for sustainable urban air quality management [9].
This includes the Road Transport Act 2018, Brick Kiln Control Act 2013, Environment Conservation Act 1995, and Environmental Pollution Control Ordinance 1977, which are among several superfluous pieces of legislation that form the legal framework of Bangladesh [10]. All of these enable the government to regulate emissions, issue permits, and monitor activities; nevertheless, their lack of integration and collaboration significantly diminishes their overall effectiveness [11]. Article 18A of the Constitution broadly stipulates the necessity of environmental protection; nevertheless, the absence of an Air Pollution Control Act results in a lack of clarity in its application. Although courts can broaden the scope of environmental rights, they cannot replace robust institutional mechanisms; to ensure accountability, a singular legislative framework must establish definitive authority and consequences [12].
This paper is novel in nature, presenting original insights into the topic. It combines legal analysis with policy practice to provide new information and propose a strong environmental governance framework by identifying gaps of legislation. The aim of the study is to critically examine the role of legislation in combating air pollution in Bangladesh, with special reference to Dhaka city. It intends to evaluate the effectiveness, limitations and implementations of existing legal frameworks in addressing the wronging environmental and public health challenges caused by air pollution.

Materials & Methodology: Dhaka City is used as a case study to look at Bangladesh's legal means to deal with air pollution using a qualitative doctrinal legal method in this paper. Article 18A of the constitution, laws like the Environment Conservation Act 1995, the Brick Kiln Control Act 2013, and the Road Transport Act 2018,

and court cases like Dr. Mohiuddin Farooque v. Bangladesh (1997) and BELA v. Ministry of Environment, Forest, and Climate Change are all considered as primary sources. These cases show how the judiciary's job is to protect people's constitutional right to a healthy environment and also make sure that pollution laws are followed. International agreements like the Paris Agreement and Montreal Protocol are considered as comparison benchmarks, whereas secondary sources, including academic publications, policy analyses, and environmental statistics, are considered for contextual information. Data were also collected via literature and database research and legal interpretation, with Dhaka's air quality problem contextualizing the evaluation of statutory and judicial efficacy. The scope is confined to air quality regulation in Dhaka and excludes wider environmental issues or fresh empirical research. This methodology is justified as doctrinal analysis elucidates the law, highlights enforcement deficiencies, and facilitates well-grounded recommendations for enhancing environmental governance in Dhaka, Bangladesh.

Data Collection and Analysis: This was a qualitative study with doctrinal and content analysis. Data of different city areas like Mirpur, Mohammadpur, Dhanmondi Jatrabari and Uttara were collected based on secondary sources only (government report/ newspapers/ environmental research papers) gathered from published reports/newspapers, and none of the case studies are done in field. Legal analysis and comparative study were used to analyze primary legal data of national laws, court decisions, domestic jurisprudence and international treaties such as the Environment Conservation Act (1995) Brick Kiln Control Act (2013), the UNFCCC, the Paris Agreement and others. Inductive thematic analysis guided this research for investigating the loopholes in laws and effectiveness of air pollution governance with extracted information. Because the article is looking into how legal documents have contributed to mitigating air pollution in Bangladesh, especially Dhaka City, It has not followed a field survey for the collection of data but legal and documentary sources.

Air Quality in Dhaka: Localized Insights

Mirpur: The air quality of Mirpur, a densely populated region of Dhaka, has considerably worsened due to severe traffic congestion and unpaved, poorly maintained roadways. The continuous vehicular movement on these roads exposes the environment to particulate matter (PM10 and PM2.5), resulting in heightened air pollution [13].

Mohammadpur: Mohammadpur is concerned about air pollution, which is produced by a number of issues, including the growth of brick kilns and ongoing heavy development. Brick kilns release high quantity of fine particulate matter (PM2.5), and the levels found were 138% higher than those proposed by the World Health Organisation. Additionally, building sites lack efficient dust suppression methods, which increases the amount of dust particles in the air [14].

Dhanmondi: The AQI level in Dhanmondi, a residential and commercial district, is disrupted by building activities and vehicle pollution. A large number of public buses that operate on the streets contribute to pollution by producing black smoke. Furthermore, building sites in the area usually utilize open space for material storage, which violates air pollution control regulations and increases dust pollution [15].

Jatrabari: The air quality at Jatrabari, a Dhaka industrial centre, is still bad due to pollutants from companies and high vehicle traffic. Both the dense cloud of industrial pollutants and the dust from the regular trundling of vehicles contribute to the concentration of particulate matter [16].

Uttara: Uttara, a quickly expanding region, is struggling with air pollution brought on by a large volume of building and vehicular emissions, as well as the fast loss of its rural natural conditions. The concentration of dust from construction sites rises as the metropolitan area grows, and the number of cars increases the emissions of harmful compounds [17].

National Legal Framework related to Air Pollution in Dhaka City:

Under the Constitution of The People's Republic of Bangladesh: Article 18A of the Constitution ensures that for the benefit of current and future residents, the state should work to improve the environment and uphold and protect environmental assets, ecosystems, wetlands, forests, and species. In considering Dhaka city, Improvement of the Environment means the improvement of Air quality. The people of Dhaka city are mostly suffering from different kinds of diseases for this air pollution. So, this is the constitutional right of the people to have a less polluted city [18].

The Environment Pollution Control Ordinance 1977: The Environmental Pollution Control Ordinance, 1977 expanded the definition of "pollution" to include "air, water, or soil" and applied pollution control, prevention, and abatement to Bangladesh's entire environment. The Ordinance updated the Environmental Pollution Control Board to include air and soil pollution, and the Board might also create specialist committees to observe the air quality-related matters [19].

National Environmental Policy 1992: The environmental policy aims to design this policy for sustainable development that typically addresses topics like waste management, ecosystem management, biodiversity protection, the preservation of natural resources, wildlife protection, and the protection of threatened species etc, [20]. Like all other developing and industrialized nations, it mainly emphasizes on the growth of environmental protection as required by the Stockholm mandate.

Environmental Conservation Act 1995: In this Act, while giving the definition of pollution, the firstly included air pollution. In section 11 and 20 of this Act, the power is given to the authority to collect and examine air quality in any places across Bangladesh and the government has the power to examine the standard of air pollution [21].

Brick Manufacturing and Brick Kilns Establishment (Control) Act 2013: The act regulates the production of bricks and the construction of brick kilns in an effort to preserve and improve the local ecosystem [22]. Too far, the government has not set any criteria or quality requirements for coal. As a result, brick kilns around the country have begun using firewood instead of coal, which is a prohibited fossil fuel. Every year, 2 million tons of firewood are burned in brick kilns, which adds to pollution, the loss of biodiversity, and the destruction of forests [23].

Burning of Bricks (Control) Act 1989: For reducing air pollution, this Act says in section 5 that no one is allowed to burn bricks without a license issued under this Act [24]. To get a license, an application should be submitted to Upazila Parishad chariman of the district but due to the political and local influence illegal brick burning and law violation [25].

Smoking and Tobacco Products Usage (Control) Act, 2005: Another disregarded element that pollutes the environment is smoke from tobacco burning [26]. This Act is extensive and addresses a number of topics, including smoke-free regulations, tobacco advertising, promotion, and sponsorship, as well as the packaging and labeling of tobacco items for recreational use to reduce air pollution. The WHO Framework Convention on Tobacco Control was ratified by Bangladesh after the 2005 Act was passed, and as long as there were no sections that were in conflict, it was added to existing laws rather than being a departure from them [27].

Road Transport Act 2018: This Act mainly focuses on the restriction of vehicles used illegally and fitness-free vehicles and punishment. The act says-In section 46, it says if a motor vehicle emits or emits any other type of emission or emissions exceeding the prescribed level of the government, the driver or the owner or the management company of the said motor vehicle shall not be able to drive it. This Act gives lots of importance to reducing air pollution by imposing punishment for using fitness vehicles [28].

International Legal Framework related to Air Pollution:

(a) The government's apparent inability to reduce air pollution may be prosecuted by using Bangladesh's international commitments as a state party to environmental organizations, such as the UNFCCC, Paris Agreement, Montreal Protocol, and Male Declaration.
(b) Bangladesh is required by Article 4 of the United Nations Framework Convention on Climate Change (UNFCCC), which needs both developed and developing nations to "take measurable, reportable and verifiable" actions to limit emissions of greenhouse gases and to commit to both mitigation and adaptation initiatives that directly affect air quality management measures in urban areas like Dhaka [29].
(c) Bangladesh must also operationalize its Nationally Determined Contributions (NDCs) in accordance with the Paris Agreement, tackling pollution and reducing emission reduction objectives while emphasizing community resilience development. This legally enforceable pledge aligns with the framework of holding parties responsible for revising their climate objectives and their aspirations [30].
(d) The Montreal Protocol, which is primarily concerned with the elimination of ozone-depleting substances, has indirect effects on air quality. This is due to the fact that it affects certain pollutants, including chlorofluorocarbons (CFCs), which are involved in both ozone depletion and pollution. Bangladesh addresses emissions that will indirectly result in an improvement in air quality by adhering to this agreement [31].

The annual average concentrations of PM2.5 $\leq$ 5 μg/m³ and PM10 $\leq$15 μg/m³ have been proposed by the World Health Organization (WHO, 2021). However, Bangladesh consistently measures levels that are considerably higher, with Dhaka measuring 60–80 μg/m³ for PM2.5. In spite of policies, Bangladesh is confronted with air pollution as a result of accelerated urbanization, vehicular emissions, unauthorized brick kilns, and construction dust, all of which are exacerbated by a heavy dependence on fossil fuels. Inadequate institutional capacity and inadequate enforcement of standards Economic dependence and a low level of technological adoption are significant obstacles in filthy industries [32].

Discussions of Case Studies:

Case Study 1: Air quality of Dhaka city is a significant concern in Bangladesh, and the precedent case Dr. Mohiuddin Farooque v. Bangladesh (1997) has made significant progress in environmental jurisprudence. Dr Farooque contested the government's failure to prevent the pervasive industrial pollution that caused air contamination through factories and transportation. The right to life, as outlined in Article 32 of the Constitution, is now also encompassed by the right to a pure and healthy environment, as emphasized by the Supreme Court's order [33].

Case Study 2: BELA has been crucial in bringing PILs dealing to the reasons of air pollution. The High Court issued a Rule Nisi in the BELA v. Ministry of Environment, Forest, and Climate Change case, ordering the Ministry to abide by a standing provision prohibiting the production of polythene/plastic bags by violators. This is a contributing factor to environmental degradation and has indirect effects on ambient air quality in situations where there is open burning. This is a great illustration of how courts may compel government officials to prioritize public health concerns [34].

Together these cases illustrate the role our judiciary in implementing environmental laws and forcing the government to take tangible steps to tackle air pollution.

Challenges in Enforcing Laws: The challenges in enforcing laws are presented in the below three sections:

(a) The Department of Environment (DoE) lacks a definite mission and sufficient resources to operate independently; hence, actions by the Environment Court must rely on documented reports. This dependence is impeding the administration of justice and eroding accountability [35].
(b) Another significant aspect is public awareness; citizens lack knowledge about these issues and do not possess the means to hold accountable those responsible for environmental contamination, sometimes remaining oblivious to infractions. Judicial activism, shown by Dr. Mohiuddin Farooque v. Bangladesh, which emphasized the right to a healthy and safe environment, is constrained by inadequate institutional procedures and little public engagement.
(c) Moreover, the political economy operates in a manner where economic interests supersede environmental concerns. Influence from political and industrial organizations may result in the selective enforcement of laws, as seen by instances when the implementation of prohibitions has provoked hostility against governmental agencies [36].

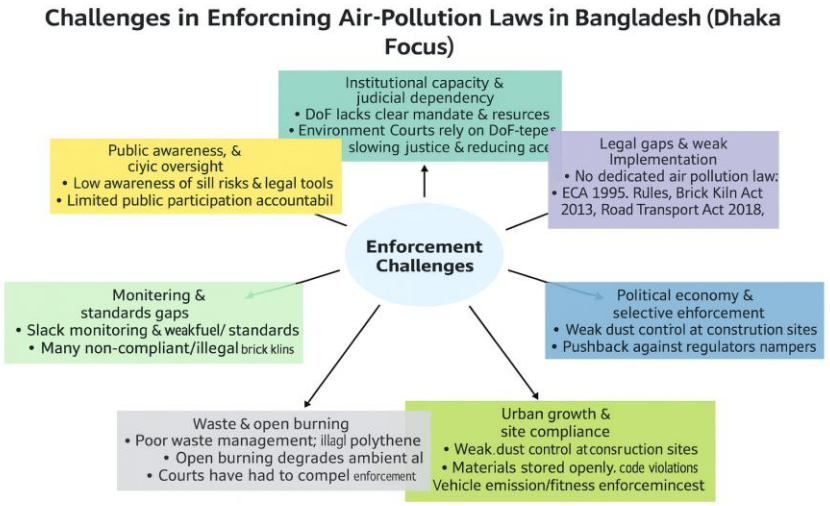

Fig.1. This figure shows the challenges in enforcing air-pollution laws in Bangladesh. (Self-generated)

The figure above illustrates six interconnected areas that impede the enforcement of air pollution laws in Dhaka, Bangladesh. These areas highlight judicial and institutional limitations, legislative gaps and issues within various environmental and administrative sectors. Additionally, they reflect political challenges related to selective enforcement, economic barriers, rapid urban growth, inadequate monitoring, ineffective law enforcement and low public awareness and involvement in initiatives such as seminars and programs. These factors indicate that the government's functioning and institutional framework hinder the implementation of long-term air quality control measures in Bangladesh, which are vital for promoting healthy living conditions.

Results & Discussion:

Inefficiency of law enforcement: Although several domestic and international environmental laws have been enacted and ratified by Bangladesh, none of them are strongly enforced here. Bangladesh is a signatory and member state to many international environmental conservation protocols and treaties, including the Montreal Protocol, Vienna Convention, the Kyoto Protocol, United Nations Framework Convention on Climate Change, and Male Declaration, but they have been poorly enforced, which doesn't properly address air pollution and leaves gaps.

Modification of Government Policies: If the Department of Environment (DoE) gives serious penalties for air pollutants under the Environment Conservation Act (ECA) 1995, the Bangladesh Motor Vehicle Ordinance 1983, The Environment Pollution Control Ordinance 1977, The Environment Conservation Rules 1977, the Bangladesh Environment Court Act 2000, Brick Kiln Act 2013 and other Acts applicable here, then it's possible to reduce air pollution.

Lack of Public awareness and Concept: Almost every year Dhaka becomes first or second in terms of the most polluted cities around the world, but the people of Dhaka don't really know the health risks related to air pollution and legal mechanisms too. Due to the lack of public awareness air pollution is increasing day by day, and they are engaged in practices that make the air quality worse, such as using fitness-free vehicles.

Throwing wastes: Lack of knowledge of the people throwing different kinds of waste materials wherever they want, as they don't know about the side effects of these wastes and its impact on our health, they are burning different polythene and waste materials in different places which is causing air pollution.

Non-Monetization of the government: As Bangladesh has one of the most air- polluted city in the world, it shows the government should take care of it very carefully. Government should take necessary steps in reducing air pollution in accordance with WHO and International Law standards. It's not only about air pollution, but also, it's related to public health, which is a constitutional right of every person to live in a healthy and air pollution free environment. The government is not taking any proper steps to make people aware about reducing air pollution because of the absence of specific air pollution control regulatory bodies without proper guidance and enforcement power.

Recommendations: Based on a critical analysis of the role of legislation and judicial decisions in combating air pollution in Bangladesh, especially in Dhaka City, the following steps should be taken to reduce air pollution. These are as follows:

(a) Control of smoking substances and proper maintenance can reduce air pollution. As Dhaka is one of the most polluted cities in the world, the Government should take important and required steps to reduce air pollution and do whatever it needs to take air pollution under control. So, firstly, as there is no specific law relating to air pollution Government should make a separate law relating to air pollution which will also give the administration the ability to monetize properly.

(b) Government should arrange different seminars and workshops countrywide which will make people aware of air pollution. When people will know about the bad effects of air pollution and its effects on people's health, then they will definitely be aware before making air pollution. This will surely help Dhaka city to reduce its pollution.

(c) The Department of Environment is established to take care of the Environment of Bangladesh. If the officers of the department are given proper resources and training and specific objectives to look after the sources of air pollution and strictly monetize all things and if any illegal thing is found then they will be fined then it's possible to reduce air pollution all over the county, including Dhaka.

(d) Companies and industries have been categorized into four classifications for environmental clearance and they are Green, Amber-A, Amber-B, and Red. The government has excused materials and replacement parts used in renewable energy projects, including energy audits, from 5% VAT and a five-year taxation. If the government can ensure proper monetization, then reduction of air pollution is possible from mill industries.

(e) The world bank has set a target 'South Asia Clean Air 2030' and suggested to follow some specific objectives for South-Asian countries as 37 out of the 40 most polluted cities around the world are located in South East Asia, and It's even only just for Bangladesh. German International Corporation is

part of the Team in technology for energy efficiency that can contribute to clean air. So, as long as Bangladesh can keep hold on those targets which they have given themselves then air pollution is reducible and controllable nothing else.

Conclusions: Bangladesh, especially Dhaka, has a major air pollution problem, even though there are strict rules and regulations in force. The study showed that the Environment Conservation Act, 1995; the Brick Kiln Control Act, 2013; and the Road Transport Act 2018 are not being followed well or consistently to control emissions and protect public health. These regulations don't work because the agencies that enforce them don't function together, the institutions don't have enough money, and the public doesn't understand them. Also, the Department of Environment (DoE) and the Ministry of Environment, Forest, and Climate Change (MoEFCC) have overlapping responsibilities, which makes it hard to make Dhaka's air better. The citizen's right to a clean and healthy environment under Article 32 has been affirmed by the judicial interventions like Dr. Mohiuddin Farooque v. Bangladesh and BELA v. Ministry of Environment, Forest, and Climate Change. Judicial activism cannot supplant the steadiness of the executive branch. The Dhaka city's health and environment get worse since there isn't a clear Air Pollution Control Act and the law isn't enforced well enough. Bangladesh needs robust air quality laws and institutions, enforcement, public engagement and open government to deal with this serious problem. To make progress, agencies need to work together, keep raising awareness, and follow the guidelines instructed by WHO. Practically, we need more than strict law if we want to fight against air pollution in Dhaka. We need political will, institutional responsibility, and civic participation. Bangladesh needs to work together to make the air cleaner, protect public's health, and keep its promise to maintain the environment for future generations.

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