

# Tackling Air Pollution through Legislation

## THE ROLE OF LITIGATION IN ACHIEVING CLEANER AIR

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# Global Assessment of Air Pollution Legislation

Figure 1. Air quality governance system founded in legislation. Source: UNEP 2021a, 13





## As outlined in the GAAPL, a robust system of air quality governance to deliver public health outcomes is one which:

1. requires governments to develop and regularly review applicable air quality standards in light of public health objectives;
2. determines institutional responsibility for those standards;
3. monitors compliance with air quality standards in a manner that is consistent, scientifically robust and broadly representative of population exposure;
4. defines consequences for failure to meet air quality standards;
5. supports the implementation of air quality standards with appropriate and coordinated air quality plans, regulatory measures and administrative capacity; and
6. is transparent and participatory.



# Has litigation assisted in better air quality?

India – *M.C. Mehta v Union of India* 1986 Taj Mahal Case

China - Air pollution prosecutions – *All China Environment Federation v Dezhou Jinghua* 2015 (air pollution public interest case - \$3million fine)

UNEP (2019) A Review of 20 years' air pollution control in Beijing  
Compared with 20 years earlier (1997-2017)

- GDP – increased 1078%
- Population – increased 74%
- Vehicles – increased 335%
  
- On-ground observation data shows that the annual average concentrations of SO<sub>2</sub>, NO<sub>2</sub> and PM<sub>10</sub> decreased by 93.3%, 37.8% and 55.3%, respectively.

## The Beijing Response

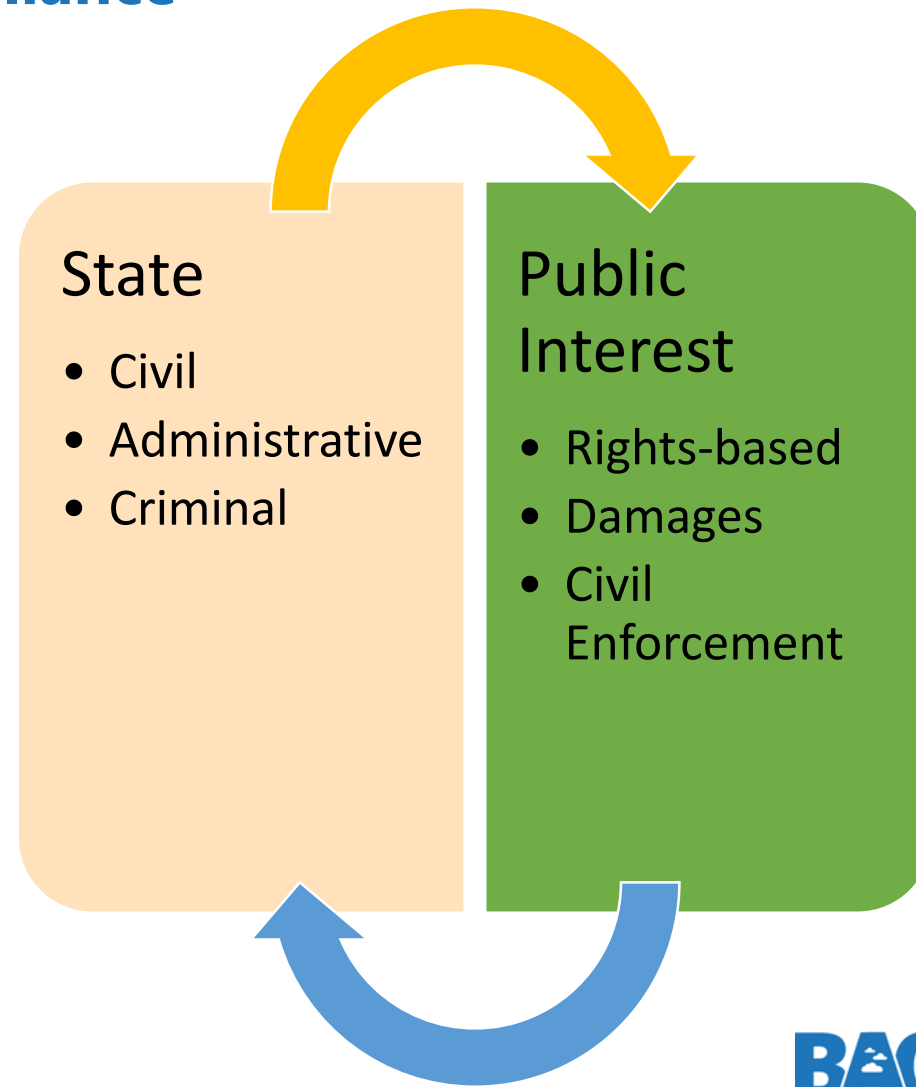
The 2019 review of the Beijing Experience by the UNEP and the Beijing Municipal Government highlights that the air quality management system was characterised by:

- Complete legislation and enforcement mechanism;
- Systematic planning;
- Powerful local standards;
- Strong monitoring capacity;
- High public environmental awareness (UNEP 2019, p.7)

## The Beijing Response - Key Features

- A long-term planning commitment to improve air quality;
- Strong legislation on Air Quality (2000 and 2015);
- EIA requirements to be met for any new industries;
- Air emissions discharge permits and higher fees for emissions;
- Installation of 1000 air monitoring stations for PM2.5 across Beijing;
- Real-time and public access to air monitoring data;
- Significant financial incentives to reduce emissions;
- Halting of new-build coal-fired power plants;
- Conversion of existing coal power plants to coal-gasification;
- Clear Action Plan for public warnings of extreme air pollution events;
- Closure of air polluting facilities during extreme air pollution events;
- Prosecutions and financial penalties for breaching air quality standards.

# Enforcement and Compliance



## Conclusions

- The state must enforce air pollution permits and limits
- The private sector must be prosecuted for breaches and for damages and injunctions to prevent air pollution
- Civil society can take action (see India, Thailand and Indonesia) to enforce constitutional rights to a clean, healthy, safe and sustainable environment both against governments for failing to act and companies for violation of relevant laws, permits, approvals and failure to take action to prevent pollution.
- Good legislation and regulations must be enforced to make the polluters pay, in accordance with national and international obligations.



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