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Environmental Democracy in Non-European Contexts: Assessing Its Necessity and Feasibility in Bangladesh for Achieving Environmental Sustainability

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Abstract

The primary goal of this paper is to demonstrate the positive correlation of Environmental Democracy (ED) and Environmental Sustainability (ES), and the necessity of ED in the Bangladesh legal framework for tackling environmental degradation. This article examines the legal framework of Bangladesh (a non-European/South Asian developing country) as a case study to explore the grounds and scope of operationalizing ED in the legal practice of developing countries outside Europe. This qualitative research comparatively studied the correlation between the compliance ratio of ED and the Environmental Sustainability Indicators (Environmental Performance Index and SDG Index), reflecting ES among the developed and developing countries from the European region. To test the feasibility of ED integration in Bangladesh, the legal system of Bangladesh has been thoroughly aligned with the three pillars of ED and critically appraised under the same pillars to highlight its limitations as a developing country. The research finds that despite the limitations, the country can integrate ED in its legal system to achieve better environmental sustainability through the recommended steps, such as signing the Aarhus Convention, following the Bali and Aarhus Implementation Guidelines, along with the exemplary performance of leading ED-compliant European states in the sustainability index.

Keywords: *Environmental Democracy, The Rio Declaration, The Aarhus Convention, The Aarhus Implementation Guideline, The Bali Guidelines, Environmental Sustainability, Bangladesh*

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1. INTRODUCTION

Bangladesh is a victim of great environmental degradation. Deforestation, carbon emissions, and habitat destruction are examples of environmental degradation that significantly and negatively affect the environmental sustainability of a nation (Zhang et al., 2023). Bangladesh's ecology is currently facing significant stress due to environmental degradation, primarily caused by destructive anthropogenic decisions and measures (Hasnat et al., 2018). According to a study from 1983 to 2009, Bangladesh's rising temperature is causing a significant increase in mortality rates, with over 3800 deaths during an 8-day heat wave in 2008 (N. Alam et al., 2012). Bangladesh, once rich in biodiversity, had 5700 angiosperm species and 1500 fauna species until 2001, but recent declines have reduced their population by about half (N. Alam et al., 2012). Over the past 20 years, about 50% of Bangladesh's forests have been destroyed due to deforestation, primarily for industrial purposes in Dhaka, Mymensingh, and Rajshahi, and shifting cultivation in the Chittagong Hill Tracts (Hasnat et al., 2018). Furthermore, Bangladesh's most vulnerable poor citizens are disproportionately harmed by the country's concerning pollution levels and environmental health hazards. Reports of Bangladesh Country Environmental Analysis (CEA) found that over 272,000 premature deaths and 5.2 billion days of disease are caused each year by air pollution, contaminated water, inadequate sanitation and hygiene, and lead exposure (A. L. G. Lima et al., 2024).

Environmental degradation is the core reason for reducing the environmental sustainability (ES) of a nation (Qi et al., 2020), and Bangladesh is no exception to that. With a distinctive degradation between the scores of the SDG Index of 2024¹ and 2025² Bangladesh is failing in its commitment to ensure ES. The country also received a "red" rating for 10 of the 17 SDGs, meaning that severe degradation of the environment has been steadily lowering the quality of life by impacting freshwater, marine, and terrestrial ecosystems, as well as the services that humans depend on (Ferreira Fernandes et al., 2024). The Intergovernmental Panel on Climate Change (IPCC) in 2022 claimed in its report that environmental degradation significantly impacts global development pathways and restricts sustainable development options and opportunities (Semenov, 2024).

To combat environmental degradation and achieve environmental sustainability, the promotion of good governance, the rule of law, fundamental freedom, and ensuring access to justice is a critical step (Haque & Hossain, 2024; Ladan, 2018). Although Bangladesh has a comprehensive system of environmental governance that includes several laws, rules, and regulations, the degree of environmental degradation in this nation is rising daily (S. Bin Alam & Sarwar, 2022). Absence of Environmental Democracy (ED) in the environmental governance of Bangladesh is one of the core reasons why it fails to achieve environmental sustainability and faces environmental degradation instead. The philosophy of ED believes that the state should be completely open and accountable for the policy choices it makes that affect its citizens and the environment and should also provide local communities the chance to decide how to use their resources (Borges, 2021).

However, the persistent failure to disclose information regarding the initiation of environmentally sensitive projects to potentially affected communities (K. K. Islam et al., 2013), the adoption of critical environmental decisions without securing meaningful public participation, and the imposition of restrictive legal provisions that limit the initiation of environmental proceedings solely to designated government officials (Hasan, 2021) collectively demonstrate that Bangladesh's legal framework is devoid of the foundational principles of Environmental Democracy (ED). Sovereignty and exclusive control over natural resources without accountability allow governments to benefit from corruption and exploitation of natural resources for personal interest, leading environmentally degrading actions to take precedence over environmental sustainability (Conca, 2000).

¹ Score: 64.35/100, Rank: 107/166 SDG Index 2024

² Score: 63.88/100, Rank: 114/167 SDG Index 2025

Therefore, this paper hypothesizes that ED is a viable framework for achieving environmental sustainability, and the integration of ED in the environmental governance of Bangladesh will mitigate the ongoing environmental degradation.

At first, this paper has conducted a literature review to showcase that democracy and environmental sustainability are correlated variables, and ED is legally adaptable. In Section 3, this paper demonstrated how theoretically ED ensures environmental sustainability. Our hypothesis is justified through a collective comparison drawn from the 5 Top ED-performing Member states and 5 under-performing Member states, with their major laws embedding the values of ED and their performance score of ES in Section 5. To justify the integration in Bangladesh, a pillar-based sectoral provisions and policy framework is also attested in section 6 of this paper, where the laws have been aligned that have the nearest connection to the 3 pillars of ED, to show that Bangladesh is compatible legally to promote the ED. Urgent legal strategies for incorporating ED in the Bangladesh legal framework are suggested in section 7, and the concluding remarks are provided in section 8.

2. LITERATURE REVIEW

2.1. Correlation of Democratic Rights and Environmental Sustainability

The existing empirical scholarship consistently demonstrates a positive relationship between democratic governance and environmental sustainability. (Winslow, 2005) offered empirical proof that there is a connection between democracy and urban air pollution, one component of environmental quality. Based on the data, there appears to be a strong and substantial negative linear association between the concentration of these pollutants and the degree of democracy: the more democratic the country, the lower the level of ambient pollution. In contrast, it can be said that the less democratic the country is, the higher the level of ambient pollution. Reinforcing this line of inquiry, (Carayannis et al., 2021) extend the analysis to a broader set of 156 countries and focus specifically on the relationship between political freedom and environmental sustainability (ES). Since a nation's environmental performance is positively correlated with its amount of political freedom, this result shows the connection between democracy and the environment. Concluding remarks of these empirical studies suggest that a democratic framework and freedom play a crucial role in promoting environmental sustainability. Nevertheless, these empirical studies do not address the underlying reasons why developing countries such as Bangladesh continue to fall short of achieving environmental sustainability, despite possessing constitutional frameworks that identify them as democratic states. This will be addressed in the theoretical framework of our research.

2.2. Legal Implementation of Environmental Democracy

An Anthropocene-insensitive legal approach to environmental protection often fails due to weak accountability and inadequate compliance mechanisms, a problem evident within Bangladesh's environmental framework, which continues to hinder progress toward environmental sustainability (Lie & Alam, 2025). ED embodied in the Aarhus Convention offers a corrective by strengthening transparency, public engagement, and institutional accountability. The Aarhus Convention advances public procedural rights that enhance education, access to information, and public scrutiny of decision-makers across governmental, judicial, and private sectors (Falletti, 2014). Scholars such as (Nwapi, 2008) further contend that the Convention represents a novel rights-based environmental regime that links environmental protection to government accountability and integrates human rights principles, particularly openness and public participation, into its compliance architecture.

Unlike issue-specific environmental treaties, the Aarhus Convention employs a rights-based approach (RBA), placing human rights norms at the centre of environmental governance (Filmer-Wilson, 2005).

It is the first international instrument to directly tie procedural guarantees (access to information, participation, and justice) with the right to live in a healthy environment (Zaharchenko & Goldenman, 2004). As (Wates, 2005) notes, the RBA does not introduce new rights but establishes a minimum universal standard, making it particularly useful in addressing environmental harms. Its emphasis on procedural rights also signals a commitment to intergenerational environmental protection (Falletti, 2014). (Etemire, 2016) argues that implementing ED through the Aarhus Implementation Guideline and the Bali Guidelines strengthens democratic environmental norms and helps transform principle-based commitments, such as Rio Principle 10, into binding legal standards. Several scholars identify the Aarhus Convention as a leading Multilateral Environmental Agreement (MEA) that operationalizes ED by integrating a robust compliance mechanism (Nwapi, 2008). However, these qualitative studies fail to address whether the implementation of the Aarhus Convention can realistically yield pragmatic change, particularly within the context of developing countries. This query will be addressed in Sections 5 and 6 of this paper.

3. THEORETICAL FRAMEWORK

‘Environmental Degradation’ and ‘democratic practices’ are counterparts in terms of sustainability. While environmental degradation is considered a major factor in reducing a state’s sustainability (Ferreira Fernandes et al., 2024), democratic practices accelerate the achievement of sustainability (Pickering et al., 2020). From the literature review, the correlation between democracy and Environmental Sustainability was found. Nevertheless, why ‘democratic’ nations like Bangladesh continue to experience environmental degradation was never addressed in the earlier studies. In this part, we will discuss why ED is a more effective approach than the traditional concept of ‘democracy’ for achieving Environmental Sustainability (ES).

Environmental Sustainability (ES) establishes a limit that allows us to meet our present demands without sacrificing the environment or the ecosystem’s quality in any manner, ensuring that it can continue to support future generations as well (Kaswan et al., 2019). In contrast to Ecological Sustainability, which promotes the preservation of the biosphere as a healthy world for life, ES advocates for the continuation of an environment that is livable by people (Woods, 2010).

Regarding democracy, it is only beneficial to sustainability if it produces environmentally beneficial results, which stereotypical democratic processes in a free society cannot ensure, as some groups of people and political individuals may decide to embrace unsustainable activities if given the option. Therefore, if democracy is better able to provide social justice, which ecologists may value for both instrumental and non-instrumental reasons, or if it is better able to enable a peaceful transition to an economy in line with ecological economics principles, it may be promoted as a path to environmental sustainability (Woods, 2010). The concept of stereotypical democracy we found in countries like Bangladesh can be termed a ‘liberal democracy’ (LD). Liberal democratic practices in environmental matters are often criticized by green theorists on two major grounds.

First, liberal democratic nations have mostly transformed into ‘administrative states’ (Dryzek, 1992). It is believed that the administrative state is a sign of globalization, which forces governments to act as enablers of capitalist business (Brown, 2003). Thus, preserving a competitive edge in the global economy is the major goal of government policy. It is argued that under such conditions, corporate interests invariably take precedence over environmental ones (Conca, 2000).

Second, the prevailing ‘interest group liberalism’ in liberal democracies undermines the standard of political equality (Anderson & Leal, 2001). Under the discipline of political science, the term ‘interest group liberalism’ refers to a mechanism where interest groups (e.g., business and institutional associations, professional organizations, and unions) are extremely influential and dominate over public policy, ignoring the participation of common people (Lowi, 1984). Although all individuals have the

same right to vote, they do not have equal ability to influence the media and the political agenda in a political culture where interest group liberalism is dominant (Woods, 2010). Poorer citizens or future human generations that are completely unrepresented in the political process are more disadvantaged groups in this situation. Politicians who rely on the donations of the private sector to finance their campaigns marginalize the interests of these groups (Baber & Bartlett, 2005).

Since 1972, Bangladesh has exercised LD over environmental matters, which has failed to achieve ES rather resulting in environmental degradation as evident from several empirical studies (M. Islam et al., 2023). These are the reasons why the utilization of LD embedded in Article 11 of the Constitution of the People's Republic of Bangladesh is not a recommended approach for environmental decision-making in Bangladesh. Instead of LD, green theorists support “deliberate democracy” DD in environmental decision-making as it provides a forum typically lacking in liberal democracies for launching and participating in public discourse on values, particularly ES as a common good (Woods, 2010).

Advocates of DD view it as a tool for overcoming some of the challenges of encouraging people to have fewer wants while upholding their freedom to make their own decisions about what they need (Hayward, 1998). DD, as pointed out by (Cohen, 2007), connecting to Habermas’s public communicative theory (Habermas, 1970), is a unique type of democracy that links genuine rationality as an integral part of the collective decision-making process, regardless of the extent of fairness and participation.

DD inspires and promotes the voice of inclination and rationale that are concentrated on the public good. Because both parties must reciprocally provide reasons and address objections, choices held only for self-interest are therefore difficult to retain (Smith, 2003). Another advantage of public deliberation as a political paradigm is that it provides an opportunity to implement “reflexiveness”, which is a key component of ES (Woods, 2010). DD advances environmental sustainability by shifting political decision-making away from the mere aggregation of self-interested preferences and toward processes of mutual understanding and the transformation of perspectives through reasoned, inclusive dialogue. In order to achieve environmental sustainability, DD is intended to educate through discourse and change political opinion. It cultivates a culture of environmental responsibility and strengthens citizenship. This instructive feature strengthens ideas of environmental consciousness by motivating participants to take an “other regarding” stance (Cohen, 2007), which ultimately ensures ES (Woods, 2010).

Environmental Democracy (ED) originated from the synthesis of ‘environmentalism’ and ‘democracy theory’ and is conceptualized as a progressive democratic model based upon both participatory and deliberative action for environmental concerns. ED professes the rising recognition that effective environmental governance involves more than just the activities and decisions of the executive body (Bandi, 2014). It is a school of democratic political thought that emphasizes the requirement of distinctive public involvement rights and strategies to achieve environmental preservation and sustainable development (Barritt, 2020). ED emphasizes improving participatory and deliberative governance and incorporating environmental principles into present democratic and capitalist institutions (Pickering et al., 2020). The theoretical foundation of ED is a tripartite framework that operationalizes the normative goal of democratic environmental governance: *access to information, participation in environmental decision-making, and access to justice* (Fischer, 2018). This concept posits that open, accountable institutions that acknowledge individuals and local communities as co-authors of choices impacting natural systems and resource usage, rather than only state power, are the source of legitimacy for environmental policy.

By comparing the theories of ED and DD, our research finds that the concept of ED incorporated in Principle 10 of the Rio Declaration, the Aarhus Convention, shares the same philosophy with DD. The idea of ED is based on the principle that people should gather to discuss environmental concerns they confront and then decide on policies that would impact their lives based on their mutual respect and

equal standing. Similarly, DD necessitates reciprocal communication that includes assessing and considering interests, values, and preferences in relation to issues of shared concern (Bächtiger et al., 2018). By comparing the theories of DD and ED, we discovered that both ideas include the need for deliberation to occur in environments of reciprocity, equal respect, equal acknowledgment, and power for communicative influence to be effective. Because ED is the exact embodiment of deliberate democracy in environmental affairs, the outcome of our parallel thus supports the idea that ED guarantees ES, just as deliberate democracy ensures ES.

4. JUDICIAL ENFORCEABILITY OF ENVIRONMENTAL DEMOCRACY IN THE REGIONAL COURTS

In several cases, the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR) have extensively promoted the three pillars of the ED by condemning denial of access to information, people's participation in government policies and behaviours, along with the denial of the right to access judicial remedies in cases of environmental degradation.

Pillar 1: Access to Information as a Public Right

The CJEU on *Saint-Gobain Glass Deutschland v European Commission*³ scrutinized the doctrine of ED by confirming the superiority of public access to environmental information over public or private commercial interest. The court noted that in the absence of a legitimate exemption, European nations are legally required to publish environmental information to the general public under the Aarhus Convention. The court also provided a doctrinal corroboration on the term “environmental information”, which encompasses information on carbon emissions and performance metrics of private enterprises whose operation has an environmental impact. Similar observations were also made by the CJEU in *European Commission v Stichting Greenpeace Nederland and Pesticide Action Network Europe (PAN Europe)*⁴.

The (ECtHR) also made it clear in *Tătar v Romania*⁵ that nations have both a proactive and a positive duty to guarantee public access to detailed information about environmental dangers and ruled that governments have an obligation to proactively educate people and communities about environmental risks that might endanger their health and welfare. The failure to disseminate information regarding the environmental risks was held to be a breach of duty by the State. ECtHR found that by withholding environmental information, the Romanian government denied its residents the ability to protect themselves (denial of the right to life mentioned in Article 2 of the ECHR) and participate in environmental decision-making.

Pillar-2: Ensuring Public Participation in the Environmental Decision-Making Process

In the *ClientEarth v European Commission*⁶ case, the non-governmental organization ClientEarth challenged the European Commission's decision not to register a European Citizens Initiative (ECI) that called for a ban on glyphosate, an herbicide that has been linked to environmental and health concerns. In this case, CJEU transformed participatory engagement from a political discretion into a legally recognized entitlement by acknowledging the ECI as a tool that operationalizes the “right to participation” within the EU governance. CJEU’s ruling against the Commission for refusal to register

³ Saint-Gobain Glass Deutschland vs. European Commission [2017] ECLI:EU:C: 2017:540

⁴ European Commission vs. Stichting Greenpeace Nederland and Pesticide Action Network Europe (PAN Europe) [2016] ECLI:EU:C: 2016:889

⁵ Tătar vs. Romania App. No. 67021/01 (ECtHR, 27th January 2009)

⁶ ClientEarth vs. European Commission [2018] ECLI:EU:C: 2018:660

the ECI established a scope of legitimate expectation that EU institutions must act in a way that promotes public involvement, where procedural obstacles cannot impede participatory rights. By condemning the Commission for failing to offer sufficient justifications and depending on contested scientific data, the CJEU emphasized the necessity of transparent, rational, and scientifically accurate decisions for ensuring meaningful public participation (Peeters, 2020).

ECtHR broadened this scope in the *Grimkovskaya v. Ukraine*⁷ case, recognizing that impacted parties must be given a genuine and effective chance to participate in environmental decision-making processes that influence their living conditions, health, and well-being. The court found that the authorities failed to obtain the procedural protections mandated by the Aarhus Convention, namely the requirement to include the public in decisions with significant environmental implications, by refusing the victim access to an impartial venue capable of examining such decisions. The court clarified that the lack of accessible processes compromises environmental governance's accountability and openness and ordered authorities to guarantee that concerned individuals truly participate in the environmental decision-making process. ECtHR reasoning in this case is the manifestation of Article 6 of the Aarhus Convention, which obliges states to make sure that the public is informed at an early stage of environmental decision-making, given acceptable timescales, enough information, and opportunities to contest decisions before appropriate organizations.

Pillar- 3: Access to Justice without any Prerequisite

By eliminating a procedural barrier to contesting the government's environmental decision, a 2021 case⁸ expanded the application of the third pillar of the ED, challenged an authoritative ruling in the Netherlands that permitted the establishment and management of a sizable pig farm. Some locals contested the permission, claiming that the project presented health and environmental hazards, such as *nitrogen pollution and odour emissions*. However, according to the domestic law, a person may only file such a challenge if they had previously taken part in the permission procedure's public consultation phase. The residents' challenge was deemed inadmissible since they had not participated in that earlier round. In order to determine whether withholding judicial review on the grounds of non-participation was consistent with EU law and the Aarhus Convention, the national court submitted the case to the CJEU. In this case, CJEU clarifies the distinction between access to participation in the decision-making process and access to justice. CJEU confirmed that access to participation is not to be made a prerequisite for challenging any environmental decision made by an authority if it falls within Article 9 (3) of the Aarhus Convention. The CJEU ruled that judicial review of environmental judgments cannot be rendered impossible or unduly burdensome by national procedural regulations. The right to an effective remedy would be compromised if access to the court were contingent on past involvement.

5. A COMPARATIVE STUDY OF EUROPEAN COUNTRIES (DEVELOPED V DEVELOPING) ACHIEVING ES THROUGH ED

The *Aarhus Convention* is now a binding instrument upon the member states to reflect their commitment to a participatory approach to governance of environmental decisions for achieving the ES. The convention is open for all UN Member states, leading to the number of state parties reaching 47, including participation from countries across Central Asia and Africa (*UNECE Aarhus Convention NIRS 18 11 2025 | Aarhus Clearinghouse, n.d.*). A comparative general legal analysis of European member states of the Aarhus Convention is listed below in **Table 1**, with 5 developed states (that have successfully

⁷ Grimkovskaya vs. Ukraine App. 38182/03 (ECtHR, 21st July 2011)

⁸ Stichting Varkens in Nood and others vs. College van burgemeester en wethouders van de gemeente Echt-Susteren [2021] ECLI:EU:C: 2021:7

complied with the three ED pillars in the domestic legal framework) and 5 developing states struggling to achieve ED through legal integration, as evidenced by the UNECE Aarhus Compliance Committee. **Table 1** also showcases the ES through the Environmental Performance Index (EPI) ([World Population Review, 2025](#)) score and SDG Score ([Sustainable Development Report 2025, n.d.](#)) to explain the correlation between the integration of ED in the legislative framework and higher performance indicators in ES under the 2025 UNECE SDG Reports.

Table 1: List of country-wise laws under the 3 pillars of ED, Performance Comparison using EPI Score against Sustainability using SDG Score, and ED compliance using UNECE National Reporting

Country Group	Country	Access to Information (laws)	Public Participation (laws)	Access to Justice (laws)	Compliance Assessment (UNECE)	Indexes (EPI and SDG Scores)	Analysis of the UNECE Aarhus Compliance Committee Findings
Developed States in the European region with a high compliance ratio	Sweden	1. Freedom of the Press Act (1949, amended); Ch. 2 – guarantees the right to official documents, 2. Environmental Code (1998)	Environmental Code (1998, Chapter 6, sections 3–8) mandatory EIA consultations	Environmental Code (1998, Ch. 16, section 13) – legal standing for NGOs before the judiciary	UNECE NIR 2025 – Sweden	EPI 24 - 70.3 SDG Report 25 Score: 85.74/100 Rank: 2/167	Strong transparency culture: ED compliance correlates with top EPI scores and sustainable outcomes
	Denmark	Access to Public Administration Documents Act (1985, section 4) – right to request info	Environmental Assessment Act (2017, section 33) – public hearings in EIAs	Administration of Justice Act (1916, section 63) – judicial review of administrative decisions	UNECE NIR 2025 – Denmark	EPI 24 - 67.7 SDG Report 25 Score: 85.26/100 Rank: 3/167	Proactive disclosure; sustainability reinforced by strong civic trust
	Finland	Act on Openness of Government Activities (1999, sections 1–3) – broad FOI rights	Environmental Protection Act (2014, sections 44–46) – public consultation in permitting environmental permission on projects with potential harm	Administrative Judicial Procedure Act (1996, section 6) – right to appeal environmental decisions	UNECE NIR 2025 – Finland	EPI 24 - 73.8 SDG Report 25 Score: 87.02/100 Rank: 1/167	Effective enforcement; ED compliance supports biodiversity protection and climate resilience
	Norway	Freedom of Information Act (2006, section 3) – right to access documents	Planning and Building Act (2008, sections 5–1) – public participation in urban planning	Dispute Act (2005, sections 1–3) – access to courts	UNECE NIR 2025 – Norway	EPI 24 - 69.9 SDG Report 25 Score: 82.72/100 Rank: 7/167	High compliance; ED strengthens sustainable fisheries and climate policies
	Iceland	Information Act No. 140/2012, Art. 5 – access to public records	EIA Act (2000, Art. 8) – public consultation	Administrative Procedure Act (1993, Art. 20) – right to appeal	UNECE NIR 2025 – Iceland	EPI 24 - 64.3 SDG Report 25 Score: 80.79/100 Rank: 15/167	Exemplary compliance; ED supports sustainable energy (geothermal, hydro)

Developing States in the European Region with a low compliance ratio	Albania	Law No. 119/2014, Art. 4–5 – right to request information	Law No. 146/2014, Art. 15–18 – mandatory public consultation	Law on Environmental Protection (2002, Art. 7) – judicial remedies	UNECE Compliance Committee – Albania	EPI 24 - 52.2 SDG Report 25 Score: 75.16/100 Rank: 45/167	Weak enforcement undermines sustainability; ED gaps hinder effective pollution control and forest protection
	Bosnia & Herzegovina	FOI Act (2000, Art. 4) – access to documents	Law on Environmental Protection (2002, Art. 68) – public hearings	Law on Administrative Disputes (2005, Art. 9) – right to challenge decisions	UNECE Compliance Committee – Bosnia	EPI 24 - 46.0 SDG Report 25 Score: 73.75/100 Rank: 57/167	Fragmentation reduces sustainability outcomes; ED gaps limit climate adaptation and biodiversity protection
	Moldova	Law No. 982-XIV (2000, Art. 5) – access to information	EIA Law (1996, Art. 12) – public participation	Code of Administrative Procedure (2015, Art. 22) – right to appeal	Does not submit a national report	EPI 24 - 46.1 SDG Report 25 Score: 78.77/100 Rank: 30/167	Legal framework aligned, but weak institutions; ED compliance needed to improve sustainable agriculture and water management
	Serbia	Law on Free Access to Information (2004, Art. 5) – FOI rights	EIA Law (2004, Art. 20) – public consultation	Law on Administrative Disputes (2009, Art. 11) – NGO standing limited	UNECE Compliance Committee – Serbia	EPI 24 - 49.8 SDG Report 25 Score: 78.16/100 Rank: 33/167	Political interference weakens enforceability, ED gaps slow renewable energy, and pollution control
	Ukraine	Law on Access to Public Information (2011, Art. 6) – disclosure rights	EIA Law (2017, Art. 7); SEA Law (2018, Art. 12) – public participation	Code of Administrative Proceedings (2005, Art. 2) – access to courts	UNECE Compliance Committee – Ukraine	EPI 24 - 54.6 SDG Report 25 Score: 75.74/100 Rank: 42/167	Rich laws with disrupted enforcement, ED compliance is crucial for post-war sustainability recovery

Table 1 vividly demonstrates that developed European countries scored higher in both EPI and SDG indexing due to a high compliance ratio of ED. In contrast, developing European countries scored lower in both EPI and SDG indexing due to a low compliance ratio of ED, as evidenced by the UNECE Aarhus Compliance Committee.

6. FEASIBILITY AND LIMITATIONS OF INTEGRATING ED IN THE BANGLADESH LEGAL FRAMEWORK

The Earth Summit during 1992-1996 brought two different yet complementary eco-centric outcomes, e.g., firstly, the *Rio Declaration* and secondly, the *Rio Conventions*. While Rio Declaration is a soft law instrument to guide the states to take measures for sustainable development, the Rio Conventions, composed of United Nations Convention on Biological Diversity (UNCBD), United Nations Convention to Combat Desertification (UNCCD) and United Nations Framework Convention on Climate Change (UNFCCC), imposes a binding responsibility upon the member states *inter alia* to enact laws aligning the objectives of the conventions. Being a soft law instrument, *Principle 10* of the Rio Declaration still plays a crucial role in advancing ED, as it provides the *substantive normative force* to the creation of domestic laws and policies that support citizen participation, access to information, and justice in environmental matters (Barritt, 2020). The *Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters* in short *Aarhus Convention* came into force by the United Nations Economic Commission for Europe (UNECE) and later in 2001 two separate implementation guides were prepared to act accordingly namely the I) the *Aarhus Implementation Guide* (1st and 2nd Edition Prepared by the Aarhus Convention Secretariat) and II) *Guidelines for the Development of National Legislation on Information, Public Participation and Access to Justice in Environmental Matters* (the Bali Guidelines).

Bangladesh, being an active party to the Rio Conventions, has successfully incorporated the commitments of sustainability in its legislative frameworks by creating sectoral laws as part of the obligation to protect and develop the biodiversity, conserve the environment, and combat the desertification process. Bangladesh not only introduced the Environment Conservation Act, 1995, but also enacted the Bio-Diversity Act, 2017, which was initiated under Article 18A of the Constitution. As the country moves for an eco-friendly legal framework it also have incorporated several other domestic legislations under the UNFCC and UNCCD such as the Protected Area Management Rules 2017, Social Forestry Rules, 2004 and policies & action plans such as the National Forest Policy 1994, (Draft) National Forest Policy, 2016, National Action Plan, National Biodiversity Strategies and Action Plan (NBSAP) 2016-2024 etc.

These measures are a testament to the goodwill of the legislative body in attaining the ES. Yet the country has not shown its intention or interest in signing the *Aarhus Convention*, which is mandatory for implementing *Principle 10* of the Rio Declaration. The existing laws, following the other international standards under the Rio Conventions, show that the country has the flexibility to incorporate democratic practices, and that it can feasibly introduce the ED into its legal system by sectoral integration in each compatible law shown in the following table. The compatibility is drawn in line with the analysis of **Table 1**, covering the scope of legislative, policy level, and strategic actions integration of ED practices, with their alignment to the 3 pillars. **Table 2** showcases the major laws and strategies with a feasible scope of integrating the 3 pillars of ED, showing the alignment with the values of the Aarhus Convention. After **Table 2**, a cumulative analysis is also provided to show the limitations of Bangladesh's environmental legal framework in promoting the ED practices.

Table 2: List of laws, policies, rules, strategies, and projects active in the field of environmental protection against each pillar of ED, showing the scope of possible legislative integration. (Source: Department of Environment, Government of the People's Republic of Bangladesh)

Pillar	Laws	Policies and guidelines	Strategies and action plans	Projects (practice and ED linkage)
Pillar 1: Access to information	<ol style="list-style-type: none"> 1. Constitution (Art. 39, 18A): Freedom of expression; state duty to protect the environment. 2. Right to Information Act, 2009 (Ss. 4-9): Citizens' right to request information; disclosure duties. 3. BECA, 1995 (S. 12): Environmental clearance information and conditions. 4. ECR, 2023 (rules on clearance disclosure): Publishing procedures and categories. 5. Bangladesh Water Act, 2013 (S. 6): Water data disclosure. 6. Air Pollution Control Rules, 2022 (AQ monitoring disclosure): Public access to ambient air data and live air quality index data circulation 	<ol style="list-style-type: none"> 1. National Environment Policy, 2021 (transparency clauses): Open information for environmental governance. 2. Biosafety Guidelines, 2008 (public disclosure of GMO risk): Risk communication requirements for export and import of GMOs. 3. National Disaster Management Policy, 2015 (risk info disclosure): Community access to hazard and disaster risk information. 	<ol style="list-style-type: none"> 1. National Conservation Strategy (2016-2031): Open conservation data and reporting. 2. Bangladesh Delta Plan 2100 (open data mandate): Integrated water/climate data portals. 	<ol style="list-style-type: none"> 1. CASE: Public AQI dissemination and emissions info. 2. BEST (2023-2028): Open sustainability indicators dashboards.
Pillar 2: Public participation in decision-making	<ol style="list-style-type: none"> 1. ECR, 2023 (EIA/EC procedures): Public notice and comment in clearance processes. 2. Social Forestry Rules, 2004 (R. 12): Community participation in forestry schemes. 3. Protected Area Management Rules, 2017 (stakeholder consultation): Co-management by local participation. 4. Wildlife Act, 2012 (public involvement in PA decisions): Consultation mechanisms. 5. Ecologically Critical Area Management Rules, 2016 (local participation): Community roles in ECA governance. 6. Climate Change Trust Act, 2010 (S. 7): Stakeholder consultation in project selection. 7. Disaster Management Act, 2012 (community participation): Local involvement in plans. 	<ol style="list-style-type: none"> 1. National Environment Policy (2018 revision, stakeholder engagement): Participation in planning and permitting. 2. ERA Guidelines for GM plants (public consultation): Notice and comment in biosafety risk assessment. 3. Biosafety Guidelines, 2008 (Section on public engagement): Involvement in GMO oversight. 	<ol style="list-style-type: none"> 1. Wildlife Conservation Master Plan (2015-2035): Participatory conservation planning and community roles. 2. BCCSAP, 2009 (Pillar on participatory adaptation): Inclusion of local stakeholders in climate actions. 	<ol style="list-style-type: none"> 1. EbA (Barind/Haor, 2019-2025): Community-led adaptation interventions. 2. Marine litter/plastics (2022-2025): Multi-stakeholder participation in plastics governance. 3. BCRL: Participatory livelihoods and local planning.
Pillar 3: Access to justice	<ol style="list-style-type: none"> 1. Environment Court Act, 2010 (Ss. 5-7): Specialized courts, standing, remedies. 2. BECA, 1995 (enforcement and penalties): Basis for legal actions on violations. 3. Bangladesh Water Act, 2013 (S. 22): Remedies against unlawful water use. 4. Forest Act, 1927 (offence and penalty sections): Judicial recourse for forest crimes. 5. Wildlife Act, 2012 (penalty and prosecution sections): Access to criminal and administrative justice. 	<ol style="list-style-type: none"> 1. National Environmental Management Plan, 1995 (enforcement chapter): Administrative remedies and compliance tools. 	<ol style="list-style-type: none"> 1. Delta Plan 2100 (compliance mechanisms): Legal enforcement pathways in water/climate governance. 	<ol style="list-style-type: none"> 1. CASE (enforcement components): Legal obligation to follow up on air pollution infractions. 2. Rio project (capacity for legal frameworks): Institutional support for environmental rule of law. 3. BEST: Strengthening oversight and grievance mechanisms.

6.1. Limitations of Integrating Pillar 1- Access to Information

6.1.1. Discretionary Power of The Authorities in Delivering Information Causing Denial of Right to Access to Information

Article 4(5) of the Aarhus Convention requires authorities to promptly reply to the request for environmental information, whereas in Bangladesh, the right to access to information is not free of charge (such charges are also not decided through public participation). Under section 9 (6) of the Right to Information Act, 2009 (RTI) concerned officer may charge the applicant for the delivery of information, and such a charge must be paid within 5 working days. Additionally, under section 9 (5) of the RTI, the applicant is instructed to realize that the request for information has been automatically rejected after the officer-in-charge failed to disseminate the requested information within the designated time lapse. In that provision, the RTI does not require the officer-in-charge to provide any explanation for such failure; rather, it is a silent rejection automated from the concerned office. This silent automated rejection provision in the law allows the officials to neglect their accountability to provide access to information to the public. Thus, the law itself has provided a narrow route for the public to exercise their right to access to information. Apart from this provision, another major concern is that the major environmental laws such as the Bangladesh Environment Conservation Act 1995 (BECA), Forest Act 1927 (FA), Bio-diversity Act 2017 (BDA) and the Rules under these laws i.e., Environment Conservation Rules 2023 (ECR), Social Forestry Rules 2004 (SFR) and Bangladesh Bio-safety Rules 2012 (BBSR), does not provide any definition of environmental information, neither they have any regulatory mechanism for bodies responsible to disseminate the environmental information.

6.1.2. Absence of Regular Eco-Labeling and Eco-Auditing Schemes

Under Article 5 (6) of the Aarhus Convention, industries whose activities have a significant impact on the environment must inform the public regularly of the environmental impact of their activities and products, through voluntary eco-labelling or eco-auditing schemes or any other means. Bangladesh has provisions for disseminating information about environmental impact only in the case of the pre-establishment phase of red category⁹ industries (such as petroleum refinery, textile mills, plastic manufacturing mills), under Rule 16 of ECR 2023. During the renewals of the Environment Clearance Certificate (ECC), there is no provision to conduct the Environment Impact Assessment (EIA) or eco-auditing under Rules 21 and 22 of the ECR, 2023. Regarding the regularity of publishing the environmental impact, the Rule does not provide any obligation to the industries to conduct and publicize the EIA regularly; moreover, the EIA reports are only submitted to the DoE, which are not publicly accessible, nor are there any provisions to publicize them, causing a narrow practice of information dissemination. Thus, it is evident that in the absence of direct regulation on publicizing information about the EIA by the industries regularly, Bangladesh allows a very limited scope of access to environmental information.

6.2. Limitations of Integrating Pillar 2- Public Participation

6.2.1. Limited Scope of Monitoring the Public Participation in the Environmental Impact Assessment (EIA) Reporting

⁹ Rule 5 of the Environment Conservation Rules 2023 identifies Four categories of industries based on their level of pollution and environmental impacts. The four categories are – 1) Green, 2) Yellow, 3) Orange and 4) Red. Here Red category industries are regarded as the most polluting industries compared to the other three categories and is listed in Schedule 1 of the ECR 2023.

The BECA 1995 is the epitome of the legal protection of environmental resources, where most of its provisions revolve around only the duties and powers of authorities, with a limited to no scope of individual participation in the environmental decision-making. Articles 6 and 7 of the *Aarhus Convention* collectively state that parties must incorporate a mechanism into their laws for creating a scope of individual access and participation in the decision-making process. Under the CBD standards, Bangladesh mandated the EIA process in its licensing mechanism under Rule 7 of the ECR 2023, but the scope of public participation remains vaguely explained due to the non-identification of the terms ‘public’ and ‘locals’ in its reporting mechanism.

The Environment Conservation Rules 2010, which have integrated the rule of public participation in the pre-establishment phase of industries, were recently amended in 2023, highlighting the clear categorization between the different levels of industrial polluters. The earlier Rules of 2010 crossed the thin line between two major polluting industries, specifying them through the same colour ‘orange’ and creating confusion between the ‘Orange A’ and ‘Orange B’ categories. The present rule of the yellow and orange categories under Rule 16 of ECR requires different documents for licensing. Despite such a novel approach, Rule 16 fails to reflect the principle of public participation, as the public survey is a requirement only for the red category industries. Moreover, the ECR allows industries the option to conduct a public opinion survey and submit the results without justifying how the survey participants were selected. This lack of accountability creates an opportunity for the industries to completely deny the participation of the affected people, resulting in the negation of the right to participation in environmental decision-making.

6.2.2. Centralization of Power and Absence of Accountability of Officials Limiting the Public Participation in Environmental Decision Making

Section 4A of the BECA empowers the Director General of the Department of Environment (DoE) with the ultimate power to disconnect utility connections of an industry without any requirement to document the grounds for such orders. This unfettered power of an official without the provision of accountability serves the vision of corruption leading to undemocratic practices. Even the FA 1927 empowers the Government to appoint forest settlement officers for declaring any land as ‘reserved’ under section 4 of the FA, without any notion of engaging the public apart from serving a notice of ‘claims resolve’ after the publication of the declaration. The forest settlement officer under sections 7, 8, and 12-16A of FA is the only personnel to rule on claims and settle the disputes as he deems fit. Such enabling powers lead to pressure upon the locals to resolve claims, as they do not have the power to appeal their claims due to the absence of any appealing body. In section 18 of the FA, the Divisional Commissioner is only allowed to entertain an appeal if it is related to land-development tax, shutting the door for the public to resolve their other forest-related rights. This provision not only denies access to participants but also access to justice mentioned under Article 9 of the *Aarhus Convention*.

Furthermore, Section 6A of the BECA 1995 provides for prohibition and bans on the production and use of *polythene* products, especially polyethylene shopping bags, nationwide or in a specific area is another major breach of public participation, as the implication of the section largely impacts the public, while the public has no scope of participating in such a national-level decision. This section has been imposed on several occasions in Bangladesh with very little efficacy and ultimate failure ([Star Digital Report, 2024](#)). Thus, the sections requiring the ban on certain products without the participation or circulation of enough information about the order and the choices for the masses remain constrained for effective democratic practices as enshrined in Article 5 and 6 of the *Aarhus Convention*.

The power of declaring an area as ecologically critical is vested in the Director under section 7 of the BECA. Though on the look of the provision, it remains as a novel measure for the protection of the environment, it fails to incorporate the principles of ED. Declaring an area as critical and banning certain

activities under rule 18 of the Ecologically Critical Area Management Rules 2016 (ECAMR), causes restrictions on the entry and general usage of that area; thus, the locals surrounding that area must be well prepared and informed before such a crucial step of declaring and restricting the pathways through the zone, but the rule 18 of ECAMR 2016 fails to capture the local participation before such declaration. The restriction on the usage of waterbodies, extracting resources, and the use of pathways causes severe impacts on the livelihood of the locals ([Staff Correspondence, 2024](#)). There are several more concerning provisions in the BECA, such as sections 9, 10, 11, 12, and 15, which fail to protect the individual rights of the local population regarding participation in the decision-making or making an informed choice regarding the conservation and management of their local environments.

Section 28A of the FA 1927, as inserted by the Amendment Act of 2000, maintains the rights of the public and local population in managing the forest as a social entity of the locals. This provision is later comprehensively dealt with by the SFR 2004, as amended up to 2011. The SFR 2004, though it calls for public participation in the management of forests and of forest produce, the sole proprietary rights and the decision-making power have not been vested in the locals; rather, it remains solely with the government offices. Moreover, the ‘*locals*’ as defined and identified in rule 6 of the SFR 2004, are chosen members from the surrounding residential area of the forest, and such right to select the locals is not democratic rather a selective decision by the forest officials. This method of selective participation in the laws acts as a hindrance to the participatory activism by the locals.

The existing legal framework surrounding the governance of environmental management and decision-making in Bangladesh incorporates a compilation of around 200 laws, policies, and strategies. Among these collections, the special laws such as the Air Pollution Control Rules 2022, Water Act 2013, Wildlife (Protection and Conservation) Act 2017, Disaster Management Act 2012, Climate Change Trust Act 2010, Ecologically Critical Area Rules, 2016 etc. are some of the major frameworks that failed to incorporate the essence of public participation and provide easy access to the essential environmental information. These laws are promulgated with a view to being implemented only by the concerned officials, while the victims of environmental damage are, in all cases, individuals or the local residents of the region, having no say in the large-scale industrial establishments or changes in the land management of their surrounding areas.

6.2.3. Lack of Incorporation of Public Participation in Policies and Strategies

The policies and action plans adopted by the Ministry of Environment, Forest, and Climate Change have highlighted the intention of incorporating the provision of public participation, such as the NAPA 2023-2050, Delta Plan 2100, Bangladesh Climate Change Strategy and Action Plan (BCCSAP), 2009, and many others. All of these Action Plans and Strategies have enumerated the necessity of implementing the participation of the public in the decision-making process for environmental damage. Still, there has been no record of any incident where the public could raise their voices and take part in the decision-making process. Rather, many incidents are cited in the local newspapers where the government-led development projects were protested by the locals due to environmental concerns, such as the protest by the locals against the Rampal Power Plant in the Sundarbans ([Shihab, 2018](#)), the protest against the decision to cut down the ancient trees in the Dhaka City’s southern part ([Staff Correspondent, 2023](#)). These protesters were denied the right to participate in the decision-making process by the government. Shockingly, in the years 2023 to 2024, the government of Bangladesh alone cut down about 0.7 million trees in the name of development, despite all the concerns raised by people and the local environmental organizations ([Abbas, 2024](#)). These incidents show the massive failure of the environmental legal system of Bangladesh in achieving ES due to the absence of ED practice.

6.3. Limitations of Integrating Pillar 2- Access to Justice: Denial of Individual Standing Before Courts

The Environmental Courts in Bangladesh, under the Environmental Court Act, 2010 (ECA), denies justice for individual victims of environmental harm. Section 6 of the Act provides that only the Director General of the DoE can file a case directly under this law, which indirectly limits the scope of pursuing an investigation or case by any individual under the Act. The provision of taking cognizance of a compensation claim under ECA 2010 is another limitation as the cognizance can only be taken upon the written report of the Inspector under Section 7 (4) of the Act stating that “*No Environment Court shall take cognizance of any claim for compensation under environmental law except on the written report of the Inspector*”. Sections 6 and 7 (4) of ECA 2010 directly contradict the requirements of Article 9 of the Aarhus Convention, which requires member states to guarantee that citizens have access to a review procedure before a court of law or another independent and impartial body established by law. Sections 6 and 7 (4) of ECA 2010 deny access to justice for the common people and allow administrative hurdles such as corrupted officials, undue monetary advantages, and delay in writing and submitting the report or filing a case at all.

Public Interest Litigation (PIL) under the auspices of Article 102 of the constitution is used in Bangladesh for seeking remedies for environmental harm, yet the mechanism is inherently faulty due to a broad interpretative establishment between the *locus standi* under Article 102 and the right to life under Article 32, as the right to a healthy environment is not one of the Fundamental Human rights.¹⁰ Due to such distant indirect connection, the civil society and citizens often fail to justify the link between right to a healthy environment (not recognized as a fundamental right under the Bangladesh Constitution) and the right to life as an actionable claim, leading to dismissals of complaints and blockade of judicial remedies. Moreover, according to the interpretation of Articles 44, 94, and 102 of the Constitution of Bangladesh, only the High Court Division (situated in the capital) has the jurisdiction to try original PIL litigation. Therefore, it is also an obstacle to access to justice as people from distant places feel discouraged from filing an environmental litigation case, and the High Court Division is also overburdened with 0.58 million pending cases as of 2024 ([The Financial Express, n.d.](#)).

6.4. Overall Observation

Deliberate democratic rights (right to access information, participation, and justice, or collectively known as ED) over environmental decision-making lead towards achieving es (Woods, 2010). In contrast, the absence of such rights leads to environmental degradation ([Winslow, 2005](#)). As our analysis showed that several environmental laws, policies, and strategies concerning environmental governance pose the absence of the right to access information, participation, and justice, we can now justify that the vacuum of ED in the environmental legal framework is one of the major causes of consistent environmental degradation while simultaneously obstructing the achievement of es in Bangladesh.

7. RECOMMENDED LEGAL STRATEGIES FOR INCORPORATING ED IN THE BANGLADESH LEGAL FRAMEWORK

As the analysis points to the indirect embodiment of ED in the major environmental legislations, policies, and strategies, there is no doubt that a comprehensive reformation in environmental governance is necessary. However, before conducting such a paradigm shift in the environmental legal structure, an action plan must be drawn that will make such a reformation project achievable. Our research finds that the following actions must be taken urgently, as these are fundamental in nature to incorporate ED in

¹⁰ Dr. Mohiuddin Farooque vs. Bangladesh and others (1997) 17 BLD (AD) 1

the legal system of Bangladesh. Moreover, the following strategies are not mere theories rather realistic, evident from use by different nations.

7.1. Incorporating the Aarhus Convention, the Aarhus Implementation Guide, and the Bali Guidelines in the Domestic Legislative Framework

In the previous discussion, we demonstrated how ED is integrated in the Aarhus Convention and the Bali Guidelines and what significance these legal instruments hold for achieving ES. Now it is crucial to discuss how exactly Bangladesh can incorporate these conventions and guidelines into its domestic legal framework. Becoming a signatory member of the Aarhus Convention will be a great opportunity for Bangladesh to promote ED in its environmental governance. Article 19, Para 3 of the Aarhus Convention states, '*Any other State, not referred to in paragraph 2 above, that is a Member of the United Nations may accede to the Convention upon approval by the Meeting of the Parties*', which opens the gate for Bangladesh to become a member state of this convention. To put Principle 10 of the Rio Declaration on Environment and Development into practice and pave the way for its universal application, the Aarhus Convention offers an efficient model for guaranteeing public input in the definition and implementation of green economy programs, in selecting the most suitable sustainability road maps, and in enhancing transparency and government accountability. The Aarhus Convention expanded EU requirements in several areas, including recognizing citizens and environmental NGOs rights to file lawsuits in courts of justice when their rights have been violated and by providing more expansive definitions of environmental information and public authority (Zaharchenko & Goldenman, 2004). In Eastern Europe, the Caucasus, and Central Asia, the Aarhus Convention had an uplifting impact on national laws, national customs, and national attitudes toward the progressive opening of exclusive and covert forms of government (Kravchenko, 2002). Therefore, it is highly recommended that Bangladesh become a signatory to the Aarhus Convention.

Even if Bangladesh does not sign the Aarhus Convention, it can follow the Aarhus Implementation Guide and the Bali Guidelines for creating environmental laws, policies, and strategies upholding ED which are meant to serve as a practical, easily navigable, and non-binding reference tool to help legislators, policymakers, and public authorities carry out the Aarhus Convention and put Principle 10's provisions into practice. Following the Aarhus Implementation Guide, Denmark developed the legal requirement of two self-assessment reports (one detailing the environmental state and its impacts, and the other detailing follow-up policy initiatives) submitted by the public authority on their projects to monitor the performance and identify areas for improvement in the future. These documents were made available not only to the government but also to the public in general, ensuring the right to information.¹¹ Moreover, by following this Guide, Poland has promulgated the *Polish Act on Access to the Information on the Environment, Public Participation and the Environmental Impact*, which requires the authority responsible for making the decision or adopting a strategic document in environmentally sensitive matters to I) inform the public about their decision through newspaper, TV or other media and II) inform those having a legal interest in the decision-making usually by registered letter so that they can get opportunity to raise opposition.¹² Similar types of initiatives can also be proven for Bangladesh to ensure effective deliberation on environmental issues.

On the other hand, the Bali Guidelines offer states, mostly developing nations, broad direction on how to encourage the successful execution of their pledges to Principle 10 of the 1992 Rio Declaration within the parameters of their laws and procedures (Etemire, 2016). In order to promote widespread access to information, public engagement, and access to justice in environmental concerns, the guidelines aim to help these nations close any gaps in their legal norms and laws as pertinent and

¹¹ The Aarhus Implementation Guide, p 112

¹² The Aarhus Implementation Guide, p 135

appropriate. The Bali Guidelines aforementioned potential has already been met with a good degree of acceptance in civil society circles (Bruch, 2002). This viewpoint is also supported by a large number of governments, particularly those under the UN Economic Commission for Latin America and the Caribbean, which is now developing a regional instrument based on the Bali Guidelines and other texts (Etemire, 2016). These instances support the rationale as to why Bangladesh must incorporate the Aarhus Convention, the Aarhus Implementation Guide, and the Bali Guidelines in its domestic legislative framework.

7.2. Compulsory Participation in the National Reporting following the Best Practices of Leading Sustainable States

To track the advancements of the ED of a nation, an index can be an excellent choice. An index can assist in condensing crucial data that helps governments and civil society establish priorities and implement policies. *Environmental Democracy Index* (EDI), which assesses how well nations have implemented legally binding regulations that allow for the gathering and disclosure of environmental information, public involvement in a variety of environmental decisions, and independent, transparent, and reasonably priced channels for pursuing justice and contesting environmental decisions, was sought as an ideal, detail-oriented dataset published in 2015. Bangladesh shall take part in the online platform of the EDI run by the World Resources Institute (WRI) and The Access Initiative (TAI) (Worker & Silva, 2015). To allow governments, civil society, and other stakeholders to compare national laws to globally accepted voluntary recommendations, WRI created the EDI indicators based on the 2010 UNEP Bali recommendations framework. EDI comprises 75 legal indicators along with 24 supplemental indicators to examine whether environmental democracy is being implemented in the domestic legal system and practice. Laws, constitutions, regulations, and other legally binding, enforceable rules are evaluated at the national level by the EDI legal indicators. Using this platform, thus, Bangladesh must incorporate the EDI assessment requirement in the environmental legal framework so that it can assess its current status in terms of the internal recognition of environmental democracy.

Furthermore, following the practices of leading states such as Denmark, Sweden, Norway, Finland etc., as shown in Table 1, Bangladesh should assess its environmental performance and also collect data on possible developments of those states over the years using the UNECE National Reports to improve its EPI score (28.1/100)¹³ and SDG Score (**Score:** 63.88/100, **Rank:** 114/167), which currently falls far behind the standard level. The Environmental Performance Index (EPI) uses a Demographic, Legal, and Policy-level study against the Forestry and Resources Development, Public Health, and Welfare actions by the government to determine the proximity and alignment of countries to the common international environmental policy aims

7.3. Enabling Access to Justice in the Environmental Courts of Bangladesh

The United Nations Development Program (UNDP) defines ‘access to justice’ as the capacity of individuals to seek and secure a remedy following human rights norms through formal or informal institutions of justice (Guterman, 2022). The idea of access to justice is not limited to services like facilitating a person’s court access or providing legal counsel; rather, it involves making sure that the legal and judicial processes are fair and just. Regardless of their economic, social, political, migratory, racial, or ethnic background, as well as their gender identity, sexual orientation, or religious affiliation, those who have access to justice are guaranteed the opportunity to appear in court and demand that their

¹³ Environmental Performance Index (EPI) evaluates countries on 58 indicators, including climate change, air quality, biodiversity, and water management, to assess how effectively nations are pursuing international environmental policy goals.

rights be upheld (V. Lima & Gomez, 2021). This concept can only be applied by bringing radical changes in the *Environment Court Act, 2010* of Bangladesh. Article 9 of the Aarhus Convention requires member nations, through their legislative framework, must allow *any person* in the court of environmental law if they are damaged due to the decision of the administration, or their right to information on environmental matters was refused, or they were not given an opportunity in the decision-making process. The provisions of the *Environment Court Act, 2010*, limiting the power to file a case only to the Director General of DoE are contrary to the principle of access to justice. Any person who is a victim of environmental damage due to a decision of the administration or government shall have the right to file a case in the Environmental Court in Bangladesh. Here, the term ‘any person’ will include not only citizens of Bangladesh but also NGO’s that possess sufficient interest or a right capable of being impaired. In this regard Court of Justice of the European Union (CJEU) in *the Trianel case*¹⁴ stated that ‘*environmental protection organizations are entitled to have access to a review procedure before a court of law or another independent and impartial body established by law, to challenge the substantive or procedural legality of decisions, acts or omissions*’. Furthermore, the process fee (such as court fee, advocate's fee, witness transportation cost, expert's fee) for case filing must not be prohibitively expensive. This means enforcing national environmental laws must not be so expensive that it will demotivate civilians and NGOs from filing cases. Article 9 Paragraph 4 states, ‘*In the circumstances where a Party provides for such a review by a court of law, it shall ensure that such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law*’. In *Commission v. Ireland*¹⁵, the CJEU ruled that the Convention’s provision that the procedure “prohibitively expensive” could not be legitimately implemented if the court refuses to proceed with a case for the unsuccessful payment of the procedure’s costs.

The Environment Courts of Bangladesh remained a ‘*Pandora’s Box*’ as it can only be opened with the officials of the DoE and not by the common people. Another reason to call these courts Pandora’s Box is the dearth of specially trained judges on environmental issues. Most of the judges of Environmental Courts are appointed from the regular court with no specialized knowledge or competence on environmental problems. In most scenarios, judges of Bangladesh lack the expertise in the dynamics of access to justice in the courtroom (M. J. Islam et al., 2024). Thus, judicial training on access to justice can indirectly assist individuals in overcoming barriers to entering the legal system. In this regard, the European Commission launched the ‘*Cooperation with Judges Programme*’ in 2008 to train the judges of the member states on *inter alia* the application of access to justice in environmental issues. Additionally, at the domestic level, the Supreme Court of Kazakhstan released a handbook for judges on applying the third pillar of the Aarhus Convention in December 2008. Such initiatives develop the expertise of judges in understanding how a judge, using their discretion, can ensure access to justice for individuals. Bangladesh, by utilizing the Judicial Administration Training Institute (JATI)¹⁶, can also launch training programs, workshops, and seminars on access to justice issues for the judges of the environment court.

¹⁴ Case C-115/09, *Bund für Umwelt und Naturschutz Deutschland, Landesverband Nordrhein-Westfalen eV vs. Bezirksregierung Arnsberg* CJEU

¹⁵ Case C-427/07, *Commission vs. Ireland* CJEU

¹⁶ The Judicial Administration Training Institute (JATI) was established by the Judicial Administration Training Institute Act 1995, to provide training to the judges and judicial magistrates, government pleaders, public prosecutors, and the court support staff of Bangladesh. JATI's primary goal is to improve the justice delivery system by educating members of the subordinate judiciary and other justice sector stakeholders on legal and judicial knowledge, skills, and attitudes.

8. CONCLUSION

This paper demonstrated that on a theoretical and pragmatic level, Environmental Democracy (ED) creates a viable pathway to achieve Environmental Sustainability (ES). The comparative analysis of this research proves that European states that effectively incorporated ED through domestic implementation of the Aarhus Convention consistently performed well in global ES assessments, such as the EPI and SDG index. In contrast, European states that struggled to operate ED placed significantly lower EPI and SDG scores, reflecting a clear correlation between weak ED implementation and detrimental environmental consequences.

Findings of the research indicate that Bangladesh resembles the challenges faced by European states with weak ED integration. Despite having condensed environmental legislation, the absence of effective access to information, participation, and justice over environmental matters resulted in systematic failure to achieve ES in Bangladesh.

The feasibility and compatibility test between ED standards and Bangladesh's environmental legal system was conducted using a limited number of major environmental laws, policies, and strategies. Therefore, the findings of this research cannot be generalized. Despite this limitation, our research makes an important contribution by suggesting a paradigm shift in the environmental legal system of Bangladesh by utilizing the concept of ED for the first time.

Further research efforts may examine the utility of ED in combating climate change, sustainable forestry management, and marine environment protection. The challenges of incorporating ED in developing countries like Bangladesh can also be empirically explored, as the collective decision-making process is indeed complex.

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Declaration of Competing Interest

No conflicts of interest.

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