



Journal of Policy and Planning (JPP)

ISSN: 3066-4543 (ONLINE)

VOLUME 2 ISSUE 1 (2025)



PUBLISHED BY
E-PALLI PUBLISHERS, DELAWARE, USA

The Role of Evidence-Based Legislation in Enhancing Policy Effectiveness in Bangladesh

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Article Information

Received: May 15, 2025

Accepted: June 10, 2025

Published: September 01, 2025

Keywords

Evidence-Based Policy, Legal Frameworks in Bangladesh, Legislative Development, Pre-Legislative Consultation, Sustainable Development Goals (SDGs)

ABSTRACT

Bangladesh has been independent for 52 years. During this time, we have walked a long road of socio-economic and cultural development. Especially education, women empowerment, sanitation, vaccination, and other development areas have reached the Millennium Development Goal (MDG). Now, different ministries are going to implement the Sustainable Development Goals (SDGs) by 2030. To achieve the goals properly within the framework of the guiding star - "The Constitution", visionary series of policies like Bangladesh Delta Plan 2100: Bangladesh in the 21st Century, 8th Five Year Plan (July 2020-June 2025) and Bangladesh Perspective Plan 2021-2041 has been adopted during this period. Policy development areas in different sectors are mature as legislation to make legal frameworks of rights and duties. On the other hand, we have many strategic issues for diplomacy with international organizations and foreign countries. Bangladesh is going to graduate from LDC to a developing country in 2026. Therefore, it is important to understand the right pictorial view with foresight in the context of SDGs, climate change issues, graduation from LDC to a Developing country and the challenges of the fourth industrial revolution. Research-based policies are introduced in some specific areas like environment management, fiscal policy, women empowerment, public health, etc. According to Goal 16 of the Sustainable Development Goal (SDG), peace, justice and strong institution need non-discriminatory laws and policies. This will promote equity and inclusion. Evidence for legislation is important for an identified consolidated issue. To frame and develop the draft of a legislation needs implementing mechanisms with established authority. This legislation creates rights to enjoy, duties to perform, protection from violation, administrative implementation, and judicial authorship for ensuring justice. A piece of legislation determines the rights and duties from different perspectives with multiple dimensions. The government needs to understand those perspectives and dimensions with deep research studies and observations. Monitoring of trending crimes is another important area to understand the necessity of the legislative instrument. Penal provisions with the measurement of crime and punishment, fines, and reformatory activities are important to understand from the evidence of the issues for legislation. For these reasons, data collection and preservation, stakeholder consultations, result-based programmes, and sectors to use evidence are the basis to support the legislation becomes strong. This policy study initiates the scope to use evidence for developing the draft of the legislation in Bangladesh by using qualitative methods. This study emphasizes drafting legal instruments from the perspectives of core problems and situations with future opportunities. Constrainers for implementation and shape of boundaries for penal provisions with the measurement of crime will be able to determine by pre-legislative consultation and data collection with analysis of best practices in the context of our country.

INTRODUCTION

Law making process is a multi-steps matter. In Bangladesh, it starts from the administrative ministry or authority. They

develop the idea or necessity to adopt a law. Law creates rights, protection and duties of the people on the arising issues and matters. To understand the identified issues

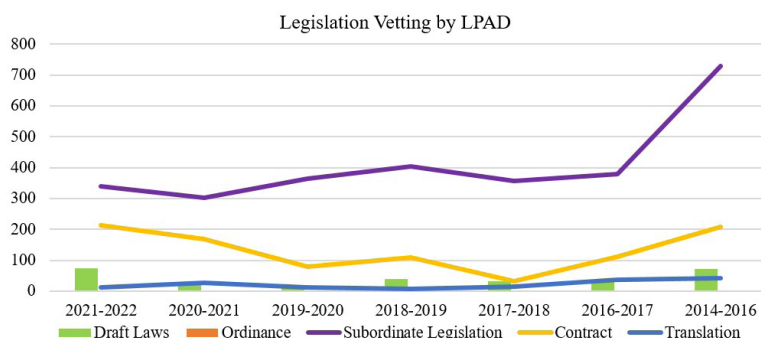


Figure 1: Vetting of Legislation by LPAD in Bangladesh (from 2014-2022) (Legislative and Parliamentary Affairs Division, 2023)

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properly it is important to make deep study. Stakeholder consultation, Data collection and research analysis for scientific, economic and social issues to identify the priorities are the methods for developing the drafts of the law. In our country, stakeholder consultations is the main process for development of the draft of a law. Pre-stakeholder consultation is the most important part for the development of an idea of a law. Strong evidence and continuous research are not introduced to develop an idea for law making in Bangladesh, which could make an innovative approach to the people. Here is the scenario for legislation vetting by LPAD, Ministry of Law, Justice and Parliamentary Affairs from 2014-2022.

Identification of the Problem

Unfortunately, when it comes to make legislation in Bangladesh, strong evidence is not used properly to support that legislation to be made. The relevant problems are not being identified properly. Therefore, the procedures for implementation of that law become complex and lengthy and access to justice is denied.

In this policy paper, unless there is anything repugnant in the subject or context.

Legislation

Legislation means the acts passed by the National Parliament and any legal instruments according to the article 152 of the Constitution of the People's Republic of Bangladesh;

Evidence

Evidence means stakeholder consultations, judicial observations, data, impact assessment, best practices or any concrete research to use as evidence for the purpose of the legislation;

Evidence-Based

Evidence-based means a program or practice Identified in a legislation which would be effective, empirical, evaluated by rigorous studies with measurable outcomes; (Justice, 2019)

Evidence-Based Legislation

Evidence-based legislation means the legislation adopted by the National Parliament and authorities based on proper research with the use of the definition of "Evidence based" and impact assessment to understand the best utility of the legal instrument.

Goals and Objective of the Policy Paper

The objectives of this policy paper is to identify evidence-based legislation drafting in Bangladesh in possible specific sectors (like public health, education, private and family law, financial sectors, trade and industrial sectors) or any other relevant areas-

1. The rationale to identify the standards of evidence;
2. Develop the scope to use of evidence for drafting legislation in specific issues in Bangladesh.

Contribution of SDG'S

Besides this, Goal 1, Goal 5, Goal 8, Goal 10 Goal 11 are associated with the policy paper.

Table 1: Targets of Sustainable Development Goals

16	Peace, Justice and strong Institutions-promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels
16.b	Promote and enforce non-discriminatory laws and policies for sustainable development

MATERIALS AND METHODS

For the analysis of the policy questions, qualitative method are used. Besides, seven people responded for KII, who are expert and influential in their areas. With the review of existing policies, legal instruments and programs related to legislation making process, annual reports of LPAD and case studies have examined. The qualitative data were collected through key informant interviews (KII) with specific questions and literature reviews. Those data are used to identify policy options, analyze them using PESTEL and MCA and recommend the best option. A budget and action plan, including monitoring and evaluation plan has developed to implement the chosen policy. Based on the problem tree and stakeholders mapping analysis, literature review, and collected data, the author did a thorough analysis for better understanding of the causes and impacts of evidence-based legislation making in Bangladesh. The report identifies three options simultaneously to identify the standards of evidence in probable areas for strong legislation, gaps of pre-legislative consultation for useful evidence collection, and research cell for evidence gathering with the collaboration of researchers. The main three reasons are-

Option 1: Identifying the standards of evidence for possible areas of legislation,

Option 2: Gap analysis for stakeholder engagements, and

Option 3: Establishment of research cell and collaboration with researchers.

In the light of MCA analysis and PESTEL analysis, it is found that all the options are vital for introducing evidence-based legislation in Bangladesh. Respondents for KII suggest that proper evidence is the strong backbone for the skeleton of the legislation. The preferred policy will have the following key effects: identify proper dimensions of rights, duties and crimes, weakness of the implementation, hindrance in the judicial trial, interceptions for getting services, and scope of corruption. The use of proper evidence to make legislation better and strong is the change-making program for different countries. In USA, legislating evidence-based policy issues became a legal instrument. Evidence-Based Legislative drafting in Bangladesh can make the development process balanced and proportionate. Thus, justice and rule of law will establish.

Limitations of the Study

Within the limitation of time, it was not possible to reach all the experts for legislation making process. Proper data and empirical studies in the context of Bangladesh are not rich for consideration.

Context Analysis

Overview of the Legislative Drafting Procedure in Bangladesh

The legislation process in Bangladesh has some specific steps to maintain. Here is the law-making process in Bangladesh at a glance:

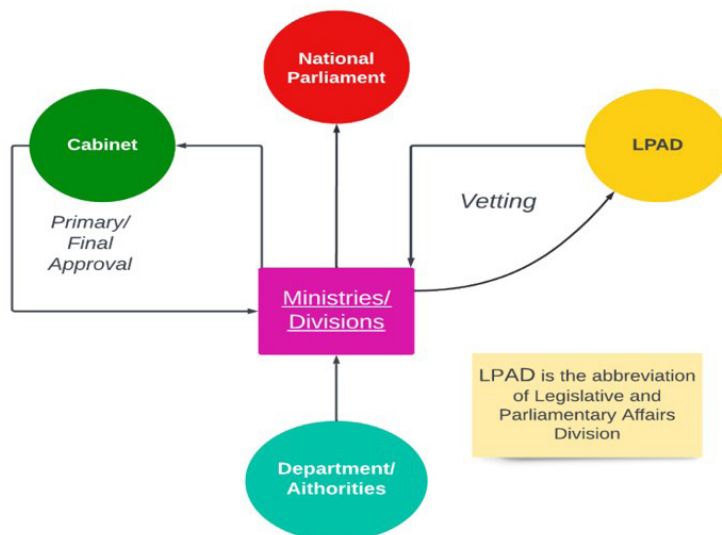


Figure 2: Law making process in Bangladesh

Available Policy Instrument for Regulatory Framework for Legislation Making in Bangladesh

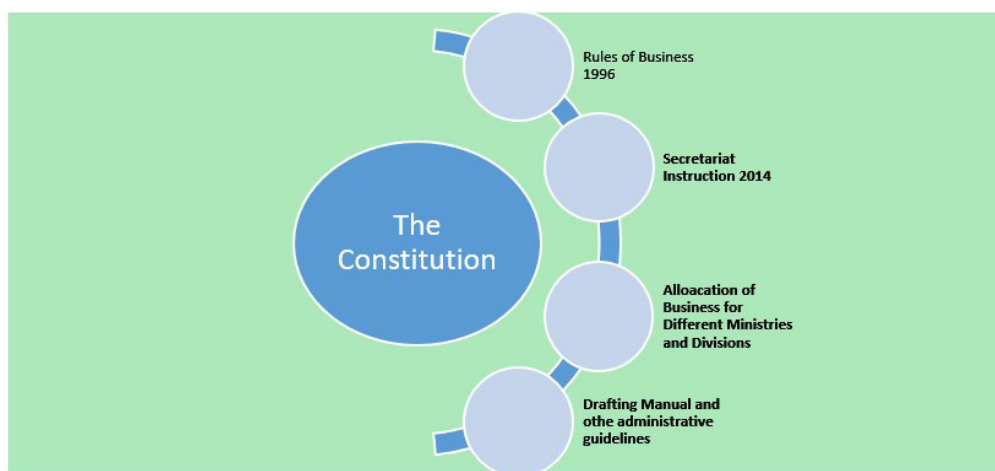


Figure 3: Regulatory frameworks for Law making Process

LITERATURE REVIEW

Stakeholder consultation and expert opinions with best practices are used for the primary evidence for the conceptualization of the law. Standard and scientific use of evidence in selective possible sectors for drafting legislation will enhance better impact. It is not easy to use research and evidence, especially scientific research in law-making process. However, it could add an important value to implement the law in effective ways. (Crowley, 2021). It has significant value to use evidence to prepare the legal instrument to make it more reasonable and sustainable. (Rachlinski, 2011). Sometimes existing legislations do not serve properly to implement in a best way. Absence

of strong mechanism will make many interfaces to get the service. Finally, it frustrates the rights of the people and the motive of the law. It will create more options for corruption and injustice.

Use of Evidence

Legislators need strong evidence and data for making their decision effective for a better result with the usage of public funds. (Initiative, Legislating evidence-based policymaking: A look at state laws that support data-driven decision-making, 2015). Weight of crime and justification of penal provisions are contentious and complex to draft. Not all areas of development could

use evidence for legislation making. Only selected areas are potential to collect available evidence and have best options to use. It can introduce a new arena to develop qualities of the legal instruments (Seidman, 2009).

Researcher-Policy Maker's Innings to Play a Vital Role

Researchers in different sectors could be the game changer of public policy. They can relate their research with decision-making authorities (Dunn, 2022). Research could help to identify the priority areas for policy and legislations. It could gather ideas for the effects and impacts of social, economic, cultural issues on that legislative policy area.

Observations From the Judiciary

Highest courts also set some precedents. It provides judgment and rulings to administrative authorities to adopt law and legal instruments. Lower judiciary and law enforcing agencies also have observations. These could create an institutional value as evidence to consider.

Limitations and Problems for Using Evidence

Introducing evidence-based legislation making is not easy. Proper evidence like data for problem analysis, research report for policy options, opportunities with best practices, report for effectiveness, Cost-Benefit Analysis are not preserved like evidence with the proposal of draft law. Opinion from mass people through the website of ministry on proposed draft are not collected and do not attach in files as evidence for recommendations.

It needs high research support, Regulatory Impact Assessment (RIA), funding with adequate data-driven promising practice or evidence of effectiveness. (van Gestel, 2016).

Evidence Collection Scenario

(I) In a recent case study, LPAD has done a research study with the law faculties of four universities to identify any discriminatory provisions of existing 1286 act of Bangladesh (Legislative and Parliamentary Affairs Division, 2023). This study helped to understand the provisions of laws in the context of discrimination according to the target 16.b of SDG.

(II) Government can take stakeholder input in-

- Early stage;
- Late consultation; or
- Review on implementation.

Stakeholder Consultation is vital for the pre-legislative stage for the drafting of a law (Jain, 2020). Stakeholder engagement could gather ideas on identified issues, which create a dignified trust on Government (Legislative Department, Ministry of Law and Justice, Government of India, 2023). Columbia, Iceland and Slovak Republic assess and consult the comment, suggestions for improvement and areas of concern even it is rejected. (Regulatory, 2021).

Another case study about Trade Organization Act, 2022, a participant from CCCI expressed experience in KII that stakeholder consultations completed within short sessions and by a presentation of the proposed draft of law. These types of workshops are too short to understand the whole scenarios. Most of the time ministry did not able to provide the draft copy before the workshop. Within this limited time, not all stakeholders were able to express their opinion. For that reason, Authority did not understand the gaps for the requirements to proper implementation of the law.

Stakeholder Identification (Stakeholder Mapping)

Table 2: Identification of Stakeholders

Categories of Stakeholder	
1. Approval	The Cabinet
2. Supporter	LPAD
3. Collaboration	All Ministries and Divisions
4. Constrainer	Bureaucratic lengthy process, opportunist stakeholders research manipulators, corrupted authorities and companies
5. Opponent	Beneficiary associations, researchers with certain interests
6. Beneficiaries	Implementing Authorities, Judiciary, Academicians and People

PESTEL Analysis

Table 3: PESTEL Analysis

PESTEL analysis of Evidence-based legislation in Bangladesh	
Political	Develop well organized evidence for selected ministries for best implementation and evaluation
Economic	Reduction of lengthy procedures of administrative actions and services, judicial trial
Social	Trust and feeling Ownership on legislation by stakeholders and people, Proper punishment to reduce crime
Technological	Opinion and evaluation by online and other technologies will reduce time, cost and constraints
Environmental	Standard of evidence will help to reduce environmental pollution and better understanding for carbon cost
Legal	Judicial activities and administrative actions will acquire best achievements

Stakeholder Influence- Interest Analysis

Table 4: Influence-Interest Analysis

Influence	Low	High
	High Influence Low Interest (HL)	High Influence High Interest (HH)
	Ministry of Planning	LPAD
	Ministry of Finance	The Cabinet
	Donor Agencies	Ministry of Public Administration
	Media	The National Parliament
	Civil Society	Beneficial business people
	UN and other international organizations	
	Low influence Low Interest (LL)	Low Influence High Interest (LH)
	Non-Related sectors	Different Ministries
	Ministries not working with that matter	The Judiciary
	NGOs'	Law enforcing Agencies
	Academic Institutions	NGOs' and local community groups
		Research Institutes
	Low	High
	Interest	

Problem Analysis

Based Legislation in Bangladesh

Problem Tree Analysis on Absence of Evidence-

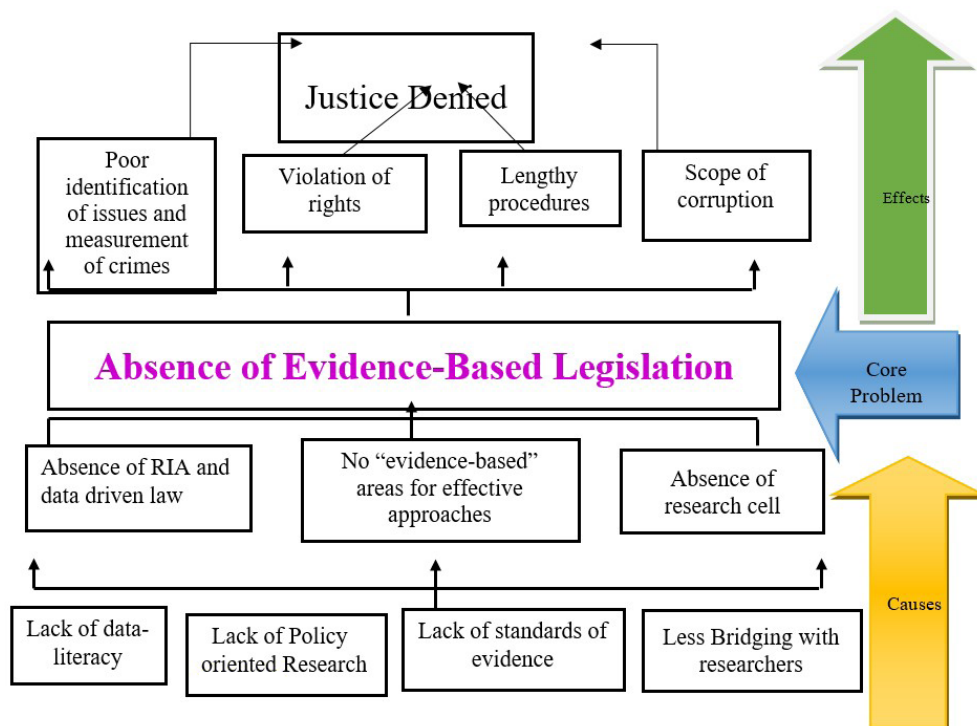


Figure 4: Causes and effects identification

Policy Options and Strategic Analysis

Possible Policy Options

According to the problem tree analysis, there are three prospective possible options, which could introduce and develop the practice of the usage of evidence for legislation making. These are-

- Identifying the Standards of evidence for possible

areas of legislation

- Gap analysis for stakeholder engagements
- Establishment of research cell and collaboration with researchers.

Policy Options Analysis

Table 5: Policy options Analysis

Sl. No.	Policy Options	Justification
Policy Option 1	Identifying the standards of evidence for possible areas of legislation	- Standards will make the evidence strong, useful and sustainable - Evidence helps to draft proper penal provisions for punishment in identified issues - Useful evidence will make the legal instrument strong - Easy for implementation and cost-beneficiary - Evaluate a standard example to practice - Reduce intersections for services and Judicial trial - Identifying the short and long term effects of the law - Identifying the dimensions of discriminations, duties and violation of rights - Justice prevailed
Policy Option 2	Gap analysis for stakeholder engagements	- Identifying the right stakeholders - Trying to reach every individual sector of stakeholders - Easy access to the ideas of Draft Law to understand - More aware Authorities to get more data and ideas
Policy Option 3	Establishment of research cell and collaboration with researchers	- Establishing a research cell to work for evidence-based practice - Qualified researchers need to work for policymakers - Budget allocation, human resource and workforce establishment - Monitoring the result for programme

Policy Options with their Corresponding Impacts

Table 6: Policy options and their corresponding impacts

Policy Options	Impacts				
	Administrative	Political	Economical	Social	Technological
Identifying the Standards of evidence for possible areas of legislation	Better legislation Legislative leadership Research & Training Capacity development & Human resource Strong legal background and Rule of law	Strong sense of ethics, rights and duties Conscious stakeholders Effective programme for better outcome	Cost benefit Increasing time value Allocation from national Budget Low expenditure	Justice prevailed Speedy Trial Identifying the hidden causes of crime and injustice	Data-driven law drafting Introducing multidimensional characters like statistics, data, etc. Software development Introducing Artificial intelligence Technological improvement for effective outcome
Gap analysis for stakeholder engagements	Traveling to meet the stakeholders Time allocation for executives and experts	Strong commitment to rule of law	Budget allocation for management of stakeholders	Awareness building for rights, duties and responsible thoughts	Requiring Technical support and staff IT accessories for stakeholder participation
Establishment of research cell and collaboration with researchers	Institutional arrangements Human resource maintenance Training and capacity development	Strong ethics against manipulation	GoB fund for research cell establishment	Increasing the number of responsible researchers with government experts Policy oriented Research	Analyzing all the opinions from websites and other media Data and evidence collection Institutional memory development

Risk Analysis

Identification of risks with policy options and levels--

Table 7: Risk factors and level

Policy Options	Risk Factors	Risk level
Option 1 Identifying the Standards of evidence for possible areas of legislation	Data literacy	High

	Absence of standards and programme for evidence and practice	High
Option 2	Reach to every sector of stakeholders	High
Gap analysis for stakeholder engagements	Conflict of interest	Medium
Option 3	Institutional arrangements	High
Establishment of research cell and collaboration with researchers	Budget	Low

PESTEL Analysis

Table 8: PESTEL Analysis

Option	Political	Economical	Social	Technological	Environmental	Legal	Net Point	Rank
Option 1	Identifying the standards of evidence for possible areas of legislation							
	---	+++	+++	+++	++	++++	12	1 ST
Option 2	Gap analysis for stakeholder engagements							
	--	--	+++	+++	+++	+	6	3 RD
Option 3	Establishment of research cell and collaboration with researchers							
	++	---	+	++	++	+++	7	2 ND

Multi-Criteria Analysis (MCA)

Table 9: Multi-Criteria Analysis

Assessment Criteria	Points (-5 to +5)	Weight (0-1)	Impacts (points x weight)	Total Scores	Position
Option1	Identifying the Standard of evidence for possible areas of legislation				
Administrative	-2	0.1	-0.2	2.6	1 ST
Fiscal	-1	0.1	-0.1		
Economic	+3	0.3	0.9		
Social	+4	0.3	1.2		
Environment	+4	0.2	0.8		
Option 2	Gap analysis for stakeholder engagements				
Administrative	1	0.3	0.3	1.4	3 RD
Fiscal	-2	0.1	-0.2		
Economic	+1	0.2	0.2		
Social	+3	0.3	0.9		
Environment	+1	0.2	0.2		
Option 3	Establishment of research cell and collaboration with researchers				
Administrative	+1	1	1	1.8	2 ND
Fiscal	-1	0.3	-0.3		
Economic	2	0.2	0.4		
Social	+3	0.1	0.3		
Environment	+2	0.2	0.4		

Selecting Best Options

With my personal views and understanding, all the values are applied for best options-

Table 10: Ranking of the policy options

Options	PESTEL Analysis		MCA		Over all Rank
	Score	Rank	Score	Rank	
Identifying the Standard of evidence for possible areas of legislation	12	1 st	2.6	1 st	1 st
Gap analysis for stakeholder engagements	6	3 rd	1.4	3 rd	2 nd
Establishment of research cell and collaboration with researchers	7	2 nd	1.8	2 nd	3 rd

Preferred Policy Option

From Multi-Criteria Analysis (MCA) and PESTEL Analysis, the first option “Identifying the standards of evidence for possible areas of legislation” is the best policy option to consider for implementation.

Implementation

Implementation plan for the identification of standards of evidence with tentative times can produce best outcome with significant result by the monitoring of LPAD-

Table 11: Plans for Implementation

What	Who	When	How
(Actions)	(People Involved)	(Tentative Timeline)	(Resource Requirements)
Identifying the Standards of evidence	• Parliament • The Cabinet • LPAD • Ministries	1 year	• Stakeholder and expert opinion with strong standards and scientific evidence • Identification of Evidence with selected ministries • Institutional Arrangements • Budget • Software Development
Identifying possible areas for legislation	• Cabinet Division • LPAD	2 year	• Research • Training • Capacity strengthening Project
Experimental Application of evidence	• LPAD • Ministries	Based on needs	• Evidence usage • Monitoring & Evaluation • Reporting

Recommendation

1. Best practices in the perspective of our country, RIA and pre-legislative consultation in effective ways, research with data collection before proposal drafting, identifying the measurement of crimes and judicial recommendation will help to shape the standards of evidence settings.

2. Legislative leadership with the usage of artificial intelligence will help the development of evidence.

3. LPAD needs to conduct its own research to identify evidence-based programme, which are appropriate in the context of Bangladesh.

4. Evidence-based legislation needs to do Cost-Benefit Analysis of all the implementation areas, which might prove as effective.

5. Administrative authorities need to have strong monitoring and reporting process for the effective implementation of laws according to the analysis of the evidence for expected results. (Initiative, Legislating evidence-based policymaking: A look at state laws that support data-driven decision-making, 2015).

CONCLUSION

Successful use of evidence for drafting legislation in some sectors will be an option for the existing system and practice (Averchenkova, The impact of strategic climate legislation: evidence from expert interviews on the UK Climate Change Act, 2021). To make a change in existing practice is a visionary approach in leadership process. Public fund allocation is not easy for an idea, which does not, has a long trending success. For that reason, to access some goals in a short period, legislators and policy makers

try to adopt such legislation, which could support their election manifesto for holding popularity. Using evidence and data-driven law could make a significant improvement on behalf of the policymakers with bureaucracy. It will take gradual development with time for different sectors. Some chosen areas for using evidence could make best outcomes as trial. It will establish better precedence to practice and forecast for the upcoming challenges.

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