

Regulating Air Quality: Assessing National Air Quality Legislation

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<https://www.unep.org/resources/report/first-global-assessment-air-pollution-legislation>



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Scope of study

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Global assessment: aims and scope

- Background: air pollution as one of leading avoidable causes of death and disease globally, many countries are failing to attain 2005 WHO air quality guideline values (and now 2021 AQGs)
- Study examines how air quality standards are embedded (or not) in **domestic legal regimes** globally, across 195 countries plus EU
- Clear focus on **law and legislative structures**, and how these make air quality standards binding within states
- Focus on **ambient air quality standards (AAQS)**, with some inquiry on indoor air quality standards
- Not covered: AAQS in policy or guidelines only, air pollution controls on individual installations (vehicle, industry etc)

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A model of air quality governance

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Figure 1: Air quality governance system founded in air quality standards legislation



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Key findings – part 1

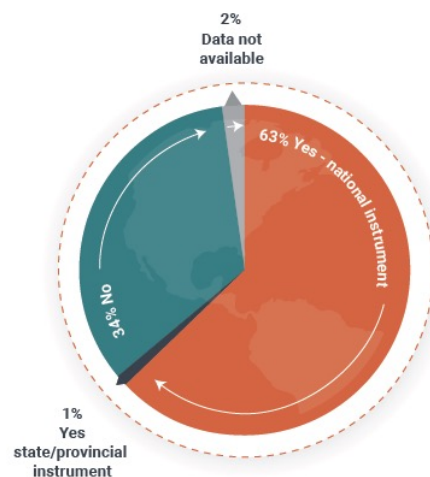
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The global picture

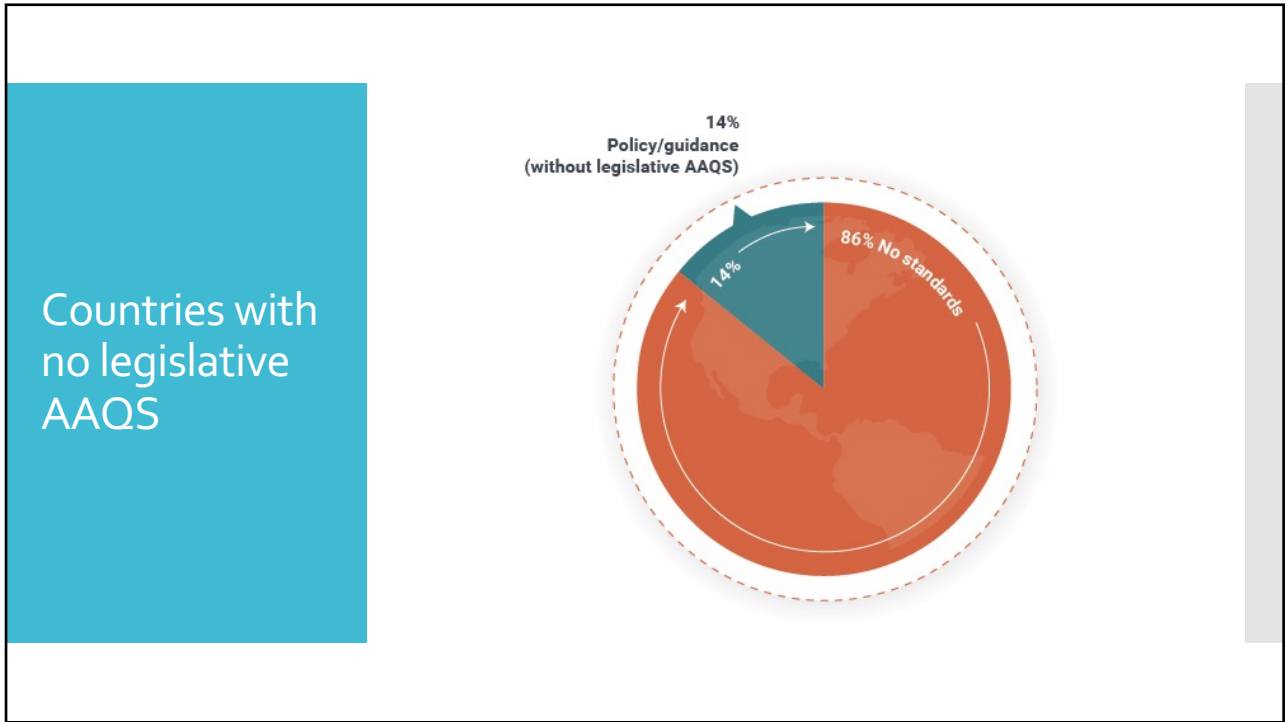
- **Heterogeneous approach** to embedding air quality standards in law and governance globally
 - Reflecting specific air quality challenges and diverse legal cultures
 - Risk of masking weak ambition and legalizing unclean air
- Air quality law looks different in **different systems of government**
 - Trend of multilevel government structures within states
 - Formalised multilevel systems facilitate enforcement of air quality standards
- **Technocratic nature** of much air quality governance, with public health objectives of legal regimes not always clear
- Many countries in process of **developing or reviewing** air quality law
- Major challenges to develop governance regimes for **indoor air quality** and **transboundary air pollution**

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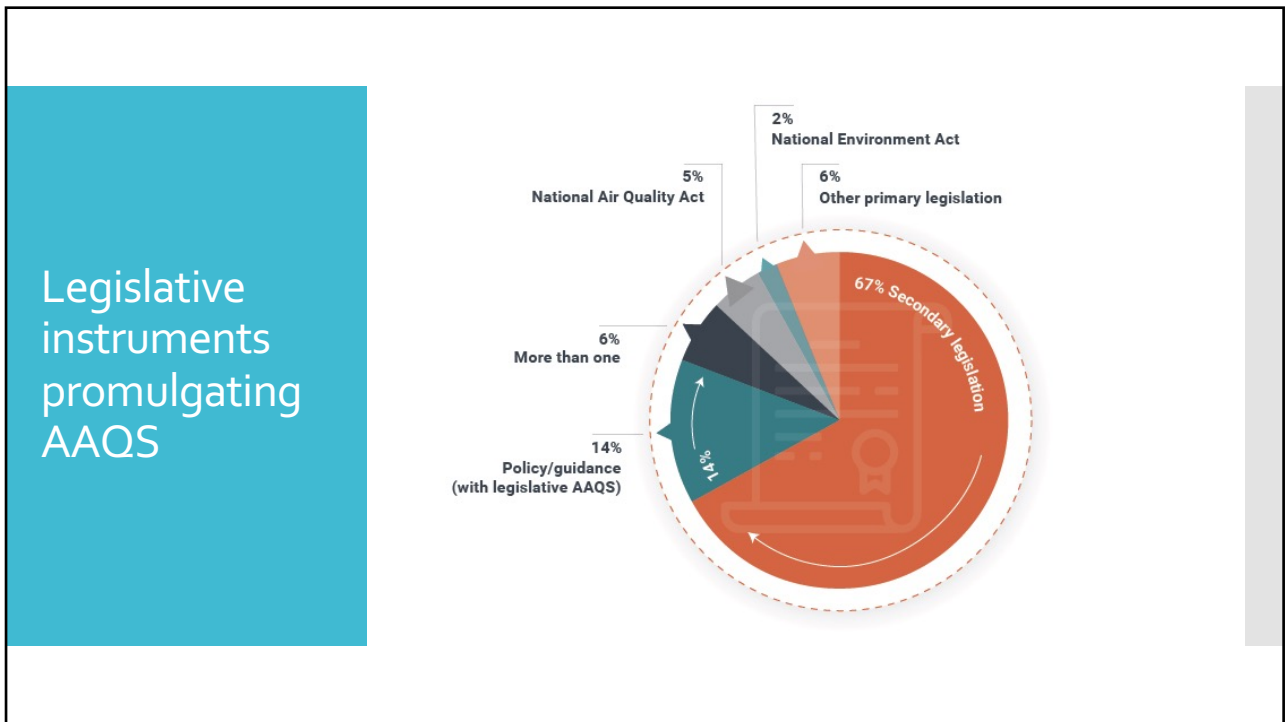
AAQS in national legislative instruments



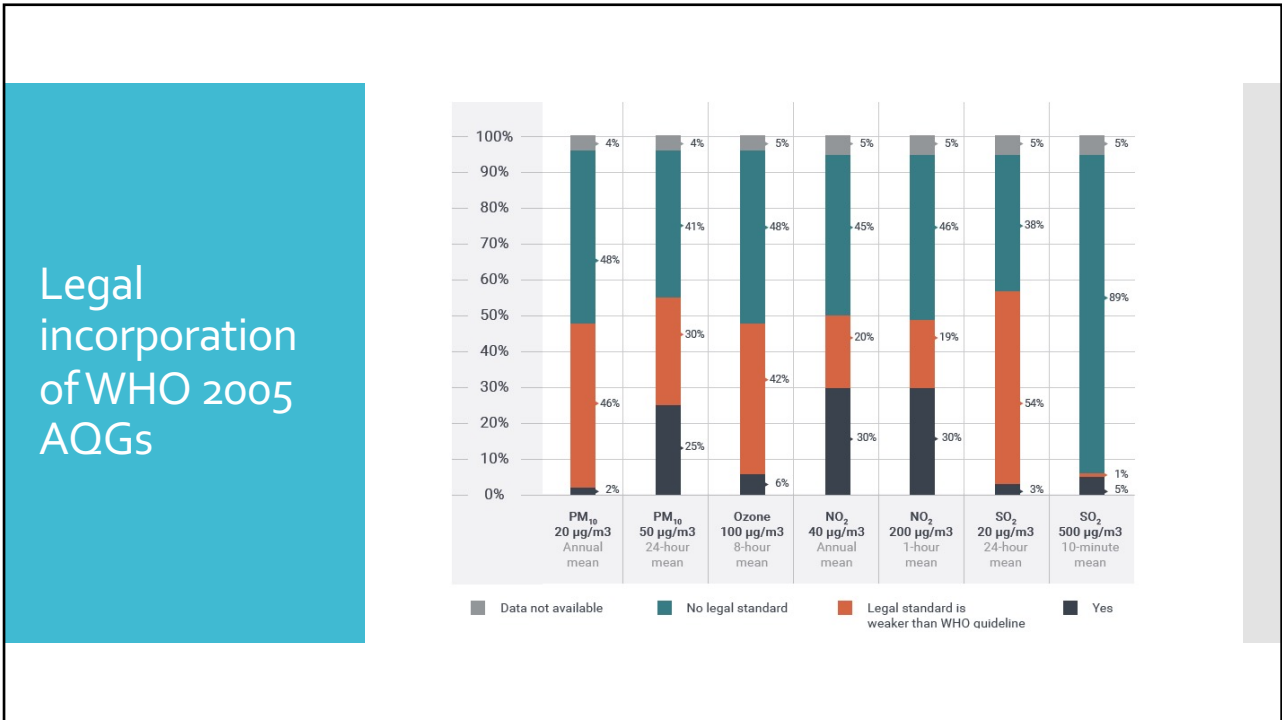
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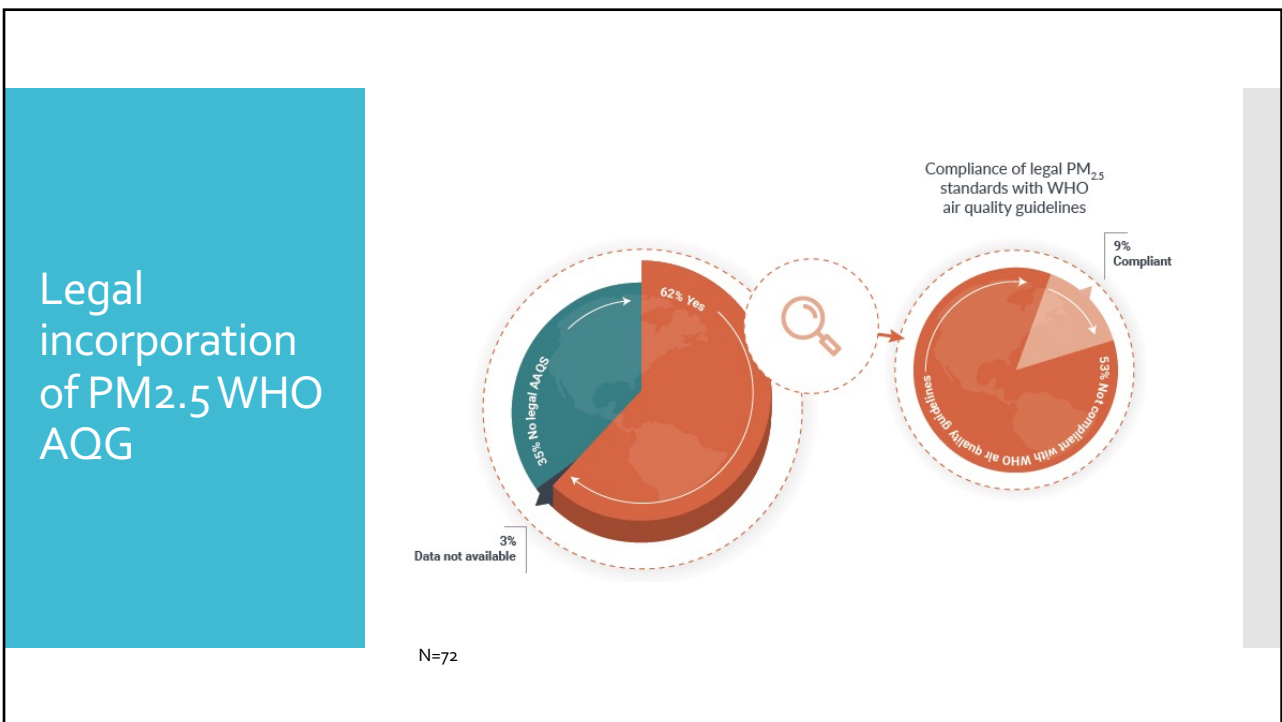
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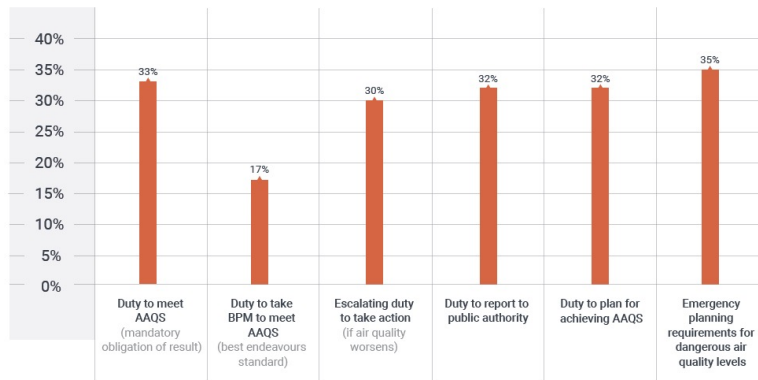


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Legal obligations on the state



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Legal obligations on individuals

- **Antigua & Barbuda:** causation test effectively turns emission standards into AAQS
- **Fiji:** individual emitters of pollution may work together (self-regulate) to reduce emissions if these are jointly causing a breach of AAQS in a residential area, otherwise individual emissions reductions may be imposed
- **Kenya:** individual polluter is liable for doing anything that causes any exceedances of AAQS
- **Pakistan:** pollution charge is levied on a person who discharges, emits or allows the emission of any air pollutant at a concentration in excess of the National Environmental Quality Standards

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Enforcement of AAQS

- Enforcement measures for meeting AAQS are complex to design, reflecting the challenge of enforcing legal requirements that require policy coordination over a wide range of areas
- Multilevel government examples
 - **EU member states:** national courts, supported by European Commission infringement proceedings
 - **Australia:** failure to meet standards feeds into two yearly work plans undertaken collaboratively by federal and state governments
- Direct enforcement action
 - **France:** direct enforcement by courts against the state (*Les Amis de la Terre*, Conseil D'Etat, July 2020)
 - **China:** falsifying air quality monitoring data has become a crime as severe as creating air pollution
 - **Jamaica:** breach of licence conditions by individuals, where those conditions tied to achievement of AAQS

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Coordinating air quality policy and regulation

- Air quality governance is fundamentally a collective endeavour
- 3 ways in which laws supporting coordinating function of state in addressing air quality challenges
 1. Policy coordination is legally mandated
 2. Air quality planning is legally coordinated
 3. Decision-making for individual projects is legally linked to AAQS

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Indoor air quality standards

