



DISSERTATION

ON

**Tossing Waste and Littering Public Places of Bangladesh:
A Violation of the Constitution and A Breach of Public Duty**

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The dissertation titled **“Tossing Waste and Littering Public Places of Bangladesh: A Violation of the Constitution and A Breach of Public Duty,”** prepared by Mehsam Labib, ID: 2018-1-66-025, submitted to Dr. Md. Mehedi Hasan (Chairperson & Assistant Professor, Department of Law) for the fulfillment of the requirements of Course 406 (Supervised Dissertation) for the LL.B. (Hons.) degree offered by the Department of Law, East West University, is approved for submission.

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Declaration

I, Mehsam Labib, hereby declare that this dissertation, entitled **“Tossing Waste and Littering Public Places of Bangladesh: A Violation of the Constitution and a Breach of Public Duty,”** is an original piece of work composed entirely and solely by me under the supervision of Dr. Md. Mehedi Hasan (Chairperson & Assistant Professor, Department of Law), for submission to the Department of Law, East West University for completion of the degree of Bachelor of Laws, and that it has not been submitted, in whole or in part, in any previous application for any degree anywhere. Except where stated otherwise by reference or acknowledgment, the study presented is entirely my own.

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ABSTRACT

Good health is a blessing from the Almighty, but to stay healthy, we need a clean, pollution-free environment. It is a constitutional obligation, social and moral responsibility of the citizens to maintain discipline, execute public responsibilities, and safeguard public property, but our people have failed to do so. The level of environmental pollution in our country is easily understandable since Bangladesh is number one on the list of the most polluted countries in the world and Dhaka on the list of the most polluted cities. The citizens are the first to be blamed for these environmental contaminations as they throw wastes anywhere, and secondly, the concerned authorities, for not punishing such litterers. Our people are already deeply infected with the terrible habit of throwing waste everywhere, and the next generation is heading the same way, significantly destroying the environment. **Our country was lacking precise and effective legislation to sanction litterers who throw waste in public places. The Bangladesh Environment Conservation Act (BECA) 1995 and the Local Government (City Corporation) Act 2009 both contain single provision each prohibiting people from littering, but last year, the government, by enacting the Solid Waste Management Rules 2021 under the BECA 1995, made both individual and industries liable for littering which contains a lot of littering aspects clearly.** People are ignorant and disrespectful towards the laws because there is no rule of law in our country. Laws are nothing without implementation, and that is what we need to be focused on. The main goal of this study is to determine the efficacy of existing legal frameworks of our country regarding littering public places by throwing waste and to find possible solutions to stop individuals from doing so by strict implementations of rule of law.

Key words: Laws, Rule of Law, People, Country, Absence, Habit, Environment, Pollution, Tossing, Waste, Litter, Public Place.

List of Abbreviations

BECA	Bangladesh Environment Conservation Act
CWO	Corrective Work Order
DoE	Department of Environment
DOHS	Defense Officer Housing Scheme
FASTIX	Fast Degradable Intelligent Plastics
HCD	High Court Division
IEL	International Environmental Law
MDGs	Millennium Development Goals
MoEFCC	Ministry of Environment, Forest and Climate Change
SDGs	Sustainable Development Goals
SW	Solid Waste
SWM	Solid Waste Management
SWMR	Solid Waste Management Rules
WHO	World Health Organization
WMS	Waste Management System

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Tossing Waste and Littering Public Places of Bangladesh: A Violation of the Constitution and A Breach of Public Duty

1. Introduction

1.1 Research Background

Bangladesh, just like the rest of the globe, has seen a dramatic increase in the number of environmental risks. Environmental pollution poses an immense threat to humans, plants, and all kinds of life. Humans generate a significant amount of garbage by utilizing a wide range of things in their daily lives, including food, paper, plastic, textiles, tobacco products, and many others. Since we never use or consume the entirety of a product, there are always some that are left over—usually the packaging and wrappers—that is useless or worthless to us and is classified as waste. The Bangladesh Environment Conservation Act 1995 (BECA) describes "waste" as any watery, gaseous, solid, or radioactive material that, when released, discarded, or stacked up, causes changes that are likely to affect the environment.¹ Producing waste in daily life is fairly common and normal, and there is nothing to be concerned about if it can be properly discarded and recycled through an effective waste management system (WMS). The main issue, however, is that people in Bangladesh have a proclivity of tossing waste, purposefully dumping waste from automobiles, throwing waste items or wrappers by the highway, and simply throwing away leftover waste of any product in public places without a second thought of polluting the environment.² Our people also have this disgusting habit of urinating, defecating, and spitting in public places without any kind of shame, fear, or respect for their own country. These things also litter the environment and can be well described as waste as defined under the BECA. Despite the fact that people in many nations share the same harmful habit of throwing waste, it has become a part of our country's everyday scenario for all generations, regardless of age. If everyone continues to dump waste openly in public places, it will be impossible for any authority responsible to handle the littering concerns for keeping our lovely nation clean. Bangladesh now

¹ Bangladesh Environment Conservation Act 1995, s 2(1)

² 'Causes, Problems and Possible Solutions To Stop Littering' (*Conserve Energy Future- Be Green, Stay Green*) <<https://www.conserve-energy-future.com/causes-problems-solutions-littering.php>.> accessed 12 November 2022

has certain laws that clarify that if an industry or a person drops, throws, or dumps litter and leaves it in a public place; it will constitute a social crime. Hence, this issue can be solved by proper legislation and the implementation of the rule of law. However, although we have laws addressing the littering issues by both industries and people, still nobody is abiding by them as nobody is getting punished effectively and immediately, which indicates a failure in implementing the laws and a lack of rule of law. All highly developed and litter-free countries have strict waste management legislation with huge penalties, and they are effectively implementing the laws. Even though polythene bags were outlawed in our nation a long time ago³, industries are still continuously producing them and people are using them as well as dumping them improperly on a daily basis. Cigarette smoking in public places and on public transportation is also forbidden by our statutory laws⁴, but nobody bothers since they are not getting punished. Therefore, no matter what the state does to keep itself litter-free, whether it creates a cutting-edge WMS or new laws with sanctions, the littering issue will never be solved unless litterers are held accountable every time they break the law, and for that, a strong system of rule of law is a dire need.

1.2 Research Hypothesis

It is hypothesized that appropriate legislation and awareness are insufficient for stopping people from littering public places by throwing waste. So, proper implementation of the rule of law and serious penalties can make people bound to dispose of their waste correctly, resulting in a large reduction in environmental pollution.

1.3 Literature Review

Many recent and previous studies have mainly focused on the issues relating to the WMS of Bangladesh and environmental pollution by industrial hazardous waste, but very few researchers have put little to almost no emphasis on public littering issues and have not taken them into consideration. In “Legal Framework Dealing with Waste Management in Bangladesh: An

³ Bangladesh Environment Conservation Act 1995, s 6A

⁴ Smoking and Tobacco Products Usage (Control) Act of 2013, s 4(1)

Analysis and Evaluation,” published in the Southeast University Journal of Arts and Social Sciences in 2020, Mohammad Jahid Mustofa talked about all the existing laws and regulations of Bangladesh regarding environmental pollution and WMS.⁵ The Constitution of the People’s Republic of Bangladesh has put a duty on the government and its citizens to protect the environment, and thus laws like the Bangladesh Environment Conservation Act 1995 and the Solid Waste Management Rules 2021 have been enacted, where again the major focus has been put on industrial pollution. Hence, the author is strongly motivated to focus on tossing waste and littering of public places of Bangladesh by the people living within the state. Despite being a major cause of environmental pollution, nobody has elaborately focused on this particular matter. The author has tried to eliminate that gap.

1.4 Research Question

1. How far do the present legislations of Bangladesh cover all aspects of littering public places with proper sanctions?
2. Is a lack of rule of law the primary reason for Bangladeshi residents’ tossing waste in public places?

1.5 Justification of Research Questions:

Throwing waste in public places is common in our country, and unfortunately, it is done regularly by individuals from all socioeconomic backgrounds despite having laws in existence. People in general, as well as trash collectors, discard garbage in public locations irresponsibly, with authorities rarely taking action. The author, with the research questions, has attempted to find out the root causes of why people of our nation are contaminating their surroundings recklessly: is it a result of a lack of awareness, of not having proper legislations, or of ineffective law enforcement? In our nation, there are shops everywhere where people buy products and then toss the waste from those products in the streets or anywhere without any hesitation. People

⁵ Mohammad Jahid Mustofa, ‘Legal Framework Dealing with Waste Management in Bangladesh: An Analysis and Evaluation’ (2020) Southeast University Journal of Arts and Social Sciences, Vol. 3, Issue 1, 71 <<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=>> accessed 02 January 2023

often discard waste in public places despite having dustbins. Our people have developed a terribly hard habit of throwing waste anywhere that has now become permanent in their daily lives. It is high time to find out the root cause of people's littering habits and prevent them with the proper implementation of laws.

1.6 Research Aims and Objectives

Bangladesh is among the world's top most polluted countries⁶, and Dhaka recently topped the list of the world's most polluted cities⁷. Environmental pollution is destroying the planet. The citizens have to take cleanliness as a serious concern and try to make our country litter-free, but as our country's citizens have a horrible habit of littering public places by throwing waste at all times, we, as a nation, are failing to save our country from environmental pollution. Throwing waste is a hazardous behavior that has a wide range of negative consequences for the environment, yet why people throw waste anywhere and mostly in public places are the main concerns of the author. So the main object of this research paper is to find out the reason behind people's reckless habit of littering public places, and the aim is to find an effective solution to prohibit it once and for all through awareness, legislation, and rule of law.

1.7 Research Scope and Extent

Environmental pollution is a global and vast issue to talk about. The author of this paper has concentrated only on the Bangladeshi people's terrible habit of tossing waste and littering public places on a daily basis, the consequences of such acts, and the core reasons behind such conducts. So, the author has attempted to analyze the existing laws, rules, regulations, policies, planning, and facilities Bangladesh possesses for changing, controlling, and prohibiting such reckless and ignorant conduct of the residents of this country; the loopholes in the laws, and the

⁶ Star Digital Report, '2021 World Air Quality Report: Bangladesh Remains Most Polluted; Dhaka Remains 2nd Worst Capital' *The Daily Star*(Dhaka, 22 March 2022) <<https://www.thedailystar.net/environment/pollution/air-pollution/news/2021-world-air-quality-report-bangladesh-most-polluted-2987961>> accessed 12 November 2022

⁷ UNB, 'Dhaka Again Ranks World's Most Polluted City' *The Daily Star*(Dhaka, 05 March 2022) <<https://www.thedailystar.net/environment/pollution/air-pollution/news/dhaka-again-ranks-worlds-most-polluted-city-2976026>> accessed 12 November 2022

reasons behind the failure to enact and implement proper laws, with a few possible recommendations.

1.8 Research Methodology

This study is conducted using both primary and secondary sources. A qualitative research approach was used to collect data. Primary sources include Acts, Case laws, Government Rules and Policies, City-corporation Rules and Policies, etc. Secondary sources include various online research papers, reports, journals, articles, official statistics, relevant books, daily newspapers, reliable websites, etc. A comparative analysis of the WMS of different countries like Singapore, Japan, Germany, etc. is also carried out to understand the gap in laws owing to which our country's people litter public places recklessly, causing environmental damages.

1.9 Research Limitations

The primary drawback of this study is that all the information and data have been gathered via books, online, print media, and personal experiences. There are several study publications and journal articles on WMS, but relatively few resources on littering public places through the tossing of waste by citizens of our country. As a result, a quantitative research would have been more productive and helpful in understanding people's littering behaviors and the causes behind them; however, due to time constraints and personal issues, the author has only used qualitative research methodologies.

1.10 Conclusion

Our state may easily build an effective WMS and a set of regulations and rules to make it effective, which we already have, but if the citizens continuously throw waste recklessly by disrespecting the law, eradicating littering problems will become impossible. Though we have numerous challenges in our WMS, such as a lack of infrastructure, insufficient garbage trucks, a

poorly trained labor force, and outdated technology but the biggest drawback of our WMS is people's persistent waste-throwing habits. Waste management will become easier if every person in our wonderful nation becomes conscious and discards their daily waste in the correct manner with their own responsibility and teaches the next generation the same. From the state's position, we only need appropriate facilities, more effective WMS, and appropriate sanctions for punishing the litterers with immediate and grave effect.

2. International Waste Management Regulations and Approach of Foreign Countries

2.1 Introduction

International conventions and treaties on the environment are tools for promoting cooperation and the development of International Environmental Law (IEL) and actions.⁸ It also helps different countries form collaborations to achieve a similar goal more effectively with each other's help. IEL has successfully addressed many serious environmental issues and solved them. Many harmful chemicals are now controlled, the ozone layer is recovering, and populations of important wildlife species, including whales and sea turtles, are increasing because of international environmental agreements.⁹ IEL is also working towards achieving sustainable development that will permit people to enjoy a high standard of living without jeopardizing their quality of life.¹⁰ As a result, international environmental regulations are crucial for addressing specific environmental risks and incorporating long-term solutions.¹¹

2.2 Sustainable Development Goals (SDGs)

Humans are exploring space and planning to colonize Mars, but on our planet, we have a plethora of problems such as poverty, starvation, illiteracy, environment pollution, climate change, inequality, injustice, and many others, that are rapidly and dangerously rising. The Sustainable Development Goals (SDGs) provide a roadmap for addressing these issues step by step and guiding nations in making their people's lives more efficient.¹²

Goal 06 (Clean Water and Sanitation): Target 6.3 aims to improve global water quality by decreasing pollution, eliminating dumping, avoiding the discharge of dangerous chemicals and other pollutants, halving the share of untreated wastewater, and significantly boosting recycling

⁸ David Hunter, 'International Environment Law' (American Bar Association, 05 January 2021) <https://www.americanbar.org/groups/public_education/publications/insights-on-law> accessed 14 December 2022

⁹ Ibid

¹⁰ Ibid

¹¹ Ibid

¹² "Sustainable Development Goals| Department of Economic and Social Affairs" (United Nations) <<https://sdgs.un.org/goals/goal13>> accessed 14 December 2022

and safe reuse.¹³ Furthermore, Target 6.6 is concerned with the preservation and restoration of water-related ecosystems such as mountains, forests, rivers, reservoirs, and lakes.¹⁴ We cannot achieve the SDGs targets of reducing pollution while also protecting our waterways¹⁵ as long our people throw waste materials into every waterway we have.¹⁶ The government has set laws and regulations to prevent industries and individuals from polluting waterways under the BECA of 1995¹⁷ and the Solid Waste Management Rules (SWMR) of 2021¹⁸, but only enacting legislation is not an ample solution of the problem. To fulfill the targets of the SDGs, the laws need proper implementation, which our government has failed to do.

Goal 11 (Sustainable Cities & Communities): We are currently breathing the most polluted air in the world.¹⁹ Target 11.6 focuses on lowering cities' negative per capita impact on the environment, with a specific emphasis on air quality and municipal and other waste management.²⁰ We are far behind in meeting this SDG objective since population density in large cities like Dhaka is extremely high and rising on a daily basis.

Goal 13 (Climate Change): Target 13.2 addresses incorporating climate change measures into national policies, plans, and planning.²¹ Tossing waste does play a dangerous role in climate change for which it needs to be banned.

Goal 14 (Life below Water): Target 14.1 aimed to prevent and considerably reduce all types of marine pollution caused by land-based activities by 2025²² and such activities clearly include littering by tossing waste. Bangladesh being a riverine country has numerous wetlands within the state that are being polluted by its own people in the course of their everyday transportation and

¹³ “Goal 06 | Department of Economic and Social Affairs” (United Nations) <<https://sdgs.un.org/goals/goal13>> accessed 14 December 2022

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Arif Ishtiaq Rahul, 'River Pollution in Bangladesh', (*Little Citizens For Climate*, 7 August 2019) <<https://www.littlecitizensforclimate.org/en/river-pollution-in-bangladesh/>> accessed 17 December 2022

¹⁷ Bangladesh Environment Conservation Act 1995, s 7(1)

¹⁸ Solid Waste Management Rules 2021, s 7(5)

¹⁹ See Note-07

²⁰ “Goal 11 | Department of Economic and Social Affairs” (United Nations) <<https://sdgs.un.org/goals/goal13>> accessed 17 December 2022

²¹ “Goal 13 | Department of Economic and Social Affairs” (United Nations) <<https://sdgs.un.org/goals/goal13>> accessed 17 December 2022

²² “Goal 14 | Department of Economic and Social Affairs” (United Nations) <<https://sdgs.un.org/goals/goal13>> accessed 17 December 2022

businesses through the waterways. A large amount of the garbage deposited on land eventually ends up in the rivers and the ocean due to rain, flood, and sewage.²³ The biggest causes of pollution, although, are industries, shipbreaking yards, sewage, tourists, and transboundary depositions, the waterbodies are being largely polluted by people's reckless activities and insensible behavior.²⁴ Waste is carried to the Bay of Bengal by the Ganges, Padma, Jamuna, Brahmaputra, and Meghna rivers, which need to be prohibited to prevent the pollution of the ocean.

Goal 15 (Life on Land): Target 15.1 focuses on the protection, restoration, and sustainable use of land and inland waterways in compliance with international agreement.²⁵ Although the target was supposed to be met within 2020²⁶, we are still far from meeting it in 2023.

2.3 Ramsar Convention

The Ramsar Convention, drafted and signed in Ramsar, Iran, in 1971, is the sole worldwide convention safeguarding wetlands.²⁷ Bangladesh is one of the Ramsar Convention's 170 signatory countries.²⁸ The contracting parties undertake to add at least one wetland on its sovereign land to the List of Wetlands of International Importance following specific criteria.²⁹ Bangladesh officially contains two Ramsar sites: the Sundarbans, the world's biggest mangrove forest, and Tanguar Haor, as well as the proposed Hakaluki Haor.³⁰ The Ramsar Convention requires Bangladesh to conserve these wetlands. However, illicit fishing, hunting, deforestation, and tossing waste and littering by locals, hunters, smugglers, tourists, oarsmen, and fishermen

²³ Wasim bin Habib, 'Cheaper polythene bags spell disaster for the environment' *The Daily Star* (Dhaka, 15 June 2022) <<https://www.thedailystar.net/views/opinion/news/cheaper-polythene-bags>> accessed 19 December 2022

²⁴ Jatish Chandra Biswas, Md Mozammel Haque, Md Maniruzzaman, Naveen Kalra, 'Coastal and Marine Pollution in Bangladesh: pathways, Hotpots and Adaption Strategies' (*European Journal of Environment & earth Sciences*, 10 July 2021) <<https://doi.org/10.24018/ejgeo.2021.2.4.133>> accessed 19 December 2022

²⁵ "Goal 15 | Department of Economic and Social Affairs" (United Nations) <<https://sdgs.un.org/goals/goal13>> accessed 19 December 2022

²⁶ Ibid

²⁷ Convention on Wetlands of International Importance especially as Waterfowl Habitat (The Ramsar Convention) (adopted 02 February 1971 in Ramsar, Iran; entered into force 13 July 1994 in Paris) UNESCO

²⁸ Ibid

²⁹ Ibid

³⁰ Ibid

are ruining these places. Therefore, to fulfill the purpose of the Convention, the government has to take proper steps to protect these wetlands.

2.4 Steps Taken by Foreign Countries

To invent and implement an effective solution for waste management in a state can be very expensive and time-consuming, but there is an easy way to solve it. Bangladesh can incorporate the ideas of developed countries in our WMS with necessary modifications to fit our society. Different countries have different approaches to stopping their citizens from littering in public.

2.4.1 Singapore

Any person who drops, scatters, spills, or throws any dust, ash, paper, box, refuse, barrel, or any other article or thing in any public place, except in a dustbin or other receptacle provided by the government³¹, as well as throwing waste from vehicles in a public place³², can be arrested without a warrant by any police officer or authorized officer.³³ Such an offender will face a fine not exceeding \$50,000 (51,98,190 in taka) or imprisonment for a time not exceeding 12 months, or both, and, in the case of a second or further conviction, the fine will be doubled with mandatory one month of imprisonment not exceeding 12 months.³⁴ Singapore also has a Corrective Work Order (CWO) provision, under which a person, above the age of 16 who is convicted of public littering, must clean any place without any payment determined by the court for no more than 12 hours.³⁵

2.4.2 Canada

'The Plastic Bank,' a Canadian social organization, is trying to reduce poverty while also reducing plastic from ocean.³⁶ It exchanges waste plastic products for money, consumable items,

³¹ Environmental Public Health Act 1987, s 17 (1) (a, b)

³² Environmental Public Health Act 1987, s 20 (1) (a)

³³ Environmental Public Health Act 1987, s 21 (1)

³⁴ Environmental Public Health Act 1987, s 21 (1) (a)

³⁵ Environmental Public Health Act 1987, s 21A

³⁶ David Katz, 'Plastic Bank: launching Social Plastic® revolution' (*Open Edition Journal*, 1st March 2019)<<http://journals.openedition.org/factsreports/5478>> accessed 21 December 2022

or digital currency tokens, making plastic waste too precious to throw away.³⁷ Littering legislation in Canada is highly stringent due to the "Polluter Pays" principle.³⁸ For instance, in Ontario, an individual who litters will be fined for at least \$5,000³⁹ (5,19,819 in taka), and anyone who breaches the environment legislation can be arrested without a warrant.⁴⁰

2.4.3 Germany

Waste management is simplified when different types of waste are classified and dumped separately. Germany is about to become the world champion in the separation of waste.⁴¹ As of 2020, approximately 40 countries around the globe have introduced a plastic bottle deposit system. Germany has been using this system successfully since 2003 to help cut down on plastic waste and increase recycling rates.⁴²

2.5 Conclusion

Bangladesh has ratified multiple international environmental conservation treaties and has undertaken numerous policies and enacted laws to achieve the goals of such treaties. However, international treaties do not simply oblige a country to create laws and regulations without putting them into action. To achieve sustainable development, conserve and maintain biodiversity and ecosystems, the state and relevant authorities must ensure the rule of law at the grassroots level. As the people are the main villains behind destroying our ecosystem, litter offenders have to be punished, and the punishment should be harsh enough to set an example for the others.

³⁷ Ibid

³⁸ Canadian Environmental Protection Act 1999, preamble

³⁹ Jeremy, 'What's the Difference Between Littering and Illegal Dumping?', (*JUNKiT*, 18 May, 2015) <<https://junkit.ca/blog/whats-the-difference-between-littering-and-illegal-dumping>> accessed 21 December 2022

⁴⁰ Ibid

⁴¹ 'Waste Separation and Recycling in Germany' (Handbook Germany, 30 November 2022) <<https://handbookgermany.de/en/waste-separation?gclid=CjwKCAiAzKqdBh>> accessed 21 December 2022

⁴² Niall McCarthy, 'Which Countries Have Bottle Deposit System?', (*Statista*, 22 September 2022) <<https://www.statista.com/chart/22963/global-status-of-plastic-bottle-recycling-systems/>> accessed 21 December 2022

3. Tossing Waste: Concerned Laws, Policies and Responsible Authorities of Bangladesh

3.1 Primary Laws

3.1.1 The Constitution of the People's Republic of Bangladesh 1972

The Constitution of any country is more akin to a sacred code for that country and its citizens. It outlines the rights of its citizens that institutions, procedures, and laws must not violate and which the government must work to uphold.⁴³ The Constitution of Bangladesh has placed a strong emphasis on the preservation and protection of the environment, natural resources, wildlife, and biodiversity to maintain ecological balance, promote improvements in public health, and ensure the implementation of the rule of law-

Article 18A: This article got introduced into our Constitution by section 12 of the Fifteenth Amendment Act 2011⁴⁴ whereby the state authority has been instructed to take appropriate measures to maintain and develop the environment, along with preserving and securing natural resources, biodiversity, waterways, forestry, and wild life for current and future residents.⁴⁵

Thus it is understandable that it is one of the primary responsibilities of the government to build an effective WMS, hire skilled and experienced workers to collect and dispose of garbage, and place dustbins every 250 meters in every street and in front of all public establishments, and should take all required actions alongside encouraging the introduction and implementation of strict provisions of sanctions in order to fulfill the constitutional obligations.

Article 21: As stated earlier, the Constitution imposes duties not only on the state but also on its citizens, alongside ensuring rights for both parties. Our Constitution has clearly bound our citizens under obligations to abide by this Constitution and work for the long-term betterment of the country and its people through this article.⁴⁶

⁴³ Nora Hedling, 'Constitution Brief- The Fundamentals of a Constitution' [2017] IIIDEA<<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd>> accessed 02 December 2022

⁴⁴ The Constitution of Bangladesh (Fifteenth Amendment) Act 2011, s 12

⁴⁵ The Constitution of the People's Republic of Bangladesh 1972, a 18(A)

⁴⁶ The Constitution of the People's Republic of Bangladesh 1972, a 21

These Articles fall within the second part of the Constitution, which contains the fundamental state principles⁴⁷, so these provisions are massively significance because now they are part of the basic structures of the Constitution, contain rule of law and guidance for governance for the government and also for its citizens, and, while are unenforceable, are non-amendable due to the provisions of Article 7B.⁴⁸

Article 32: The constitution guarantees everyone the right to life and personal liberty.⁴⁹ The right to life encompasses many aspects, including the right to protection of health and normal longevity; the right to protect and improve the environment.⁵⁰

This constitutional declaration is not just words. As incorporated in Article 32, the word "life" includes everything necessary to make it worthwhile and meaningful. We cannot live in a polluted environment or walk down a street filled with thrown waste. It is a violation of one's fundamental right.⁵¹ The Honorable High Court Division (HCD) declared that articles 31 and 32 of our Constitution cover the protection and conservation of biodiversity, an ecological harmony free of contamination of air, water, and sanitation, without which life is difficult to live.⁵² Any act or omission contradictory to this shall constitute a breach of the right to life.⁵³ Hence, under the constitution, the government is expected to take all necessary actions to guarantee that our environment is clean and litter-free. Life is the most valuable thing, and nothing is more essential than the safety of life. Therefore, a pollution-free environment should be our primary focus to ensure the right to life.⁵⁴

So, it is our constitutional, social, and moral duty to dispose of waste in an appropriate manner rather than tossing it in a public place. However, being responsible alone will not solve the littering problem; we must also teach others, and if someone tosses waste in a public area, it is our responsibility to notify the appropriate authorities for additional strong action.

⁴⁷ The Constitution of the People's Republic of Bangladesh 1972, Part II

⁴⁸ The Constitution of the People's Republic of Bangladesh 1972, a 7B

⁴⁹ The Constitution of the People's Republic of Bangladesh 1972, a 32

⁵⁰ *Mohiuddin Farooque Vs. Bangladesh and others*, 48 DLR (1996) 438

⁵¹ *Ain O Salish Kendra vs Bangladesh (BLD) (1999)* 488

⁵² Ibid

⁵³ Ibid

⁵⁴ Mahmudul Islam, *Constitutional Law of Bangladesh* (3rdedn, Mullick Brothers | 2019) 256

3.1.2 The Penal Code 1860

Nuisance is a very vague concept and can be defined variously. And hence, for common people, it would be very difficult to understand what exactly might cause or result in a nuisance. Under the Code, a public nuisance results from an illegal act or omission on the part of any person in general that unavoidably causes common harm, obstructions, obstacles, risks, annoyance, or injury to the public, residents of a public property, or holders of a public right.⁵⁵ Littering and throwing waste in public places like roads, parks, and waterways can be related to the aforementioned crime because when these places are filled with tossed waste, individuals, who have the right to utilize them and move freely around wherever they please, find it difficult to do so. In fact, as people breathe in and out, the pollution caused by the thrown-away waste might harm their overall health.

Additionally, the Code also has provision for punishment against such persons who negligently cause the spread of infectious diseases dangerous to life through unlawful acts or omissions.⁵⁶ Nobody can even indulge in any such acts or omissions on his own property or in his place of business that might eventually cause obstruction or injury to any other person's right to a public place, a public way, or a line of navigation.⁵⁷

Any public water body (for instance, a pond, canal, lake, river, sea, fountain, spring, any common tank or reservoir, etc.) becomes polluted and unfit for its ordinary usage owing to its pollution as a result of tossing waste and littering. Use of such water can cause instant and long-term threats to public health and life, including the destruction of flora and fauna and the annihilation of ecological balance. The person who deliberately indulges in such an act of water contamination is guilty of a criminal offence punishable under the Code.⁵⁸

The Code also imposes penalties on individuals who intentionally endanger human life and health by harming the air quality in public areas, ways, residential neighborhoods, or any other surrounding places used for carrying out ordinary courses of life.⁵⁹ Littering in public places by tossing waste, be it solid, liquid, or gaseous; defecation and urination in open places; smoking

⁵⁵ The Penal Code 1860, s 268

⁵⁶ The Penal Code 1860, s 269

⁵⁷ The Penal Code 1860, s 283

⁵⁸ The Penal Code 1860, s 277

⁵⁹ The Penal Code 1860, s 278

and tossing cigarette butts, etc. causes air contamination as the biodegradable waste products spread a bad odor after rotting. Some waste products are poisonous right away, while others can become poisonous after rotting. Such poisonous substances need to be dealt with due diligence so as not to cause any harm to any living being or the environment. A negligent act in relation to such substances that endanger human life or the environment is punishable under the Code.⁶⁰

Although the Code does not specifically criminalize and penalize the act of littering and tossing waste in public places, by the way of rules of interpretation, offenders of littering could be penalized under Section 290 since it provides a penalty for offenses not otherwise described and defined in the Code as public nuisances but which constitute the offense of public nuisances.⁶¹

Since the provisions of the Code are not clear enough to bring littering and tossing wastes in public places under the definition of public nuisance and as require the help of the rules of interpretation for the correct implementation of the laws, so the general public might have to face ambiguity and difficulty, although various solid resources have clearly defined dumping and tossing waste in public places to fall within the vicinity of public nuisance and it has to be true for tossing wastes and littering of public places poses obstacles in other people's public rights to access and use such places or exercise their due rights.

3.1.3 The Code of Criminal Procedure 1898

The Code calls for the declaration of a conditional order on the part of a District or Executive Magistrate against such a person who, by any act or omission, causes any kind of illegal obstruction or nuisance to any kind of public place, including any roads, ways, or water bodies, for the removal of such obstructions within a specific period.⁶² As previously discussed in 3.1.2, since tossing waste and littering public places causes public nuisance by impeding the free and easy movement of people in public places, this provision, if properly implemented, can go a long way toward preventing the littering of public places.

⁶⁰ The Penal Code 1860, s 284

⁶¹ The Penal Code 1860, s 290

⁶² The Code of Criminal Procedure 1898, s 133

However, it could have expressly mentioned something about tossing waste in public places, as it is a very old and common problem. Also, this law is inapplicable to metropolitan areas of our state.⁶³ So, the most important and big cities and areas of the state where the problem of littering is very high cannot avail themselves of the provision.

3.1.4 The Consolidated Smoking and Tobacco Products Usage (Control) Act 2005

It is the main law responsible for controlling tobacco in Bangladesh. Smoking in public places and public vehicles is prohibited and punishable under its provision.⁶⁴ The Act also calls for designated or specific smoking spots to be fixed by the appointed authorities.⁶⁵ A street or a sidewalk is a public space since it is open to the public for common usage.⁶⁶ However, the law makes no mention of how tobacco waste should be disposed of and what the consequences of throwing cigarette butts in public places will be. And so, people throw smoky cigarette butts everywhere with no regard for polluting the environment and they cannot be stopped except for appropriate laws with proper provision of sanction alongside fine.

3.1.5 The Bangladesh Environment Conservation Act 1995

The government has the power to ban the production, supply, advertising, selling, offering for sale, distribution, commercial carriage, or commercial usage of any type of polythene grocery bag, or any other product made of polypropylene or polyethylene, or every other article that is a threat to the environment, with the advice of the Director General of the Department of Environment, except for some exceptional circumstances.⁶⁷ Accordingly, the Ministry of Environment, Forest and Climate Change (MoEFCC) has banned all kinds of polythene shopping bag.⁶⁸

⁶³ The Code of Criminal Procedure 1898, s 132A

⁶⁴ The Consolidated Smoking and Tobacco Products Usage (Control) Act 2005, s 4(1)

⁶⁵ The Consolidated Smoking and Tobacco Products Usage (Control) Act 2005, s 7(1)

⁶⁶ The Consolidated Smoking and Tobacco Products Usage (Control) Act 2005, s 2(f)

⁶⁷ The Environment Conservation Act 1995, s 6A

⁶⁸ Ibid

If any individual directly or indirectly causes harm to the ecosystem through any act or omission, the Director General can direct such person to pay compensation, or take corrective measures, or both, by holding the individual liable for environmental pollution⁶⁹, and can also file a criminal case for compensation⁷⁰, and to determine such compensation or corrective measures, he can also employ any specialist and other persons.⁷¹

3.2 Secondary Laws

3.2.1 Solid Waste Management Rules 2021 (SWMR)

SWMR does not only provide detailed provisions and guidelines for managing solid waste (SW) (primary collection, secondary transfer, transportation, storage, processing, segregation, treatment, recycle, recover, reuse, disposal, and reduction of waste production by reducing usage and banning production of harmful products)⁷² but it also talks about tossing and dumping SW by anyone in public places, parks, roads, stations, terminals, transports, drains, wetlands, etc.⁷³ along with sanctions⁷⁴. It is the only Rule that has exactly mentioned about tossing waste and littering public places, and has termed such acts to be offenses, and provided punishments as well.

Under this Rule, each and every individual of Bangladesh, every manufacturer, importer⁷⁵, founder or manager of every residential property or commercial institution, company, industry, factory, community center, hotel, restaurant, market, or shop⁷⁶ (even the temporary or roadside street shops, markets, and food places⁷⁷), educational institution, and hospital, every other

⁶⁹ The Environment Conservation Act 1995, s 7(1)

⁷⁰ The Environment Conservation Act 1995, s 7(2)

⁷¹ The Environment Conservation Act 1995, s 7(3)

⁷² Solid Waste Management Rules 2001

⁷³ Solid Waste Management Rules 2001, s 7(5,6)

⁷⁴ Solid Waste Management Rules 2001, s 15

⁷⁵ Solid Waste Management Rules 2001, s 9

⁷⁶ Solid Waste Management Rules 2001, s 8

⁷⁷ Solid Waste Management Rules 2001, s 10(8)

authority responsible including the local government- all have been made liable, answerable⁷⁸, and punishable⁷⁹ before the government for violation of any of its provisions.

However, as the name implies, SWMR only works for SW and solid waste management (SWM). So, when the disposal of liquid and gaseous waste, including spitting, coughing, urinating, and defecating in public places comes into question, this Rule cannot be applied.

Despite having express provisions, tossing waste and littering public places could not be prevented yet owing to lack of rule of law. For example, the SWMR has all the necessary provisions required for SWM yet waste collected from households and other places is being dumped openly in the most important roads and intersections of the most important cities in Bangladesh. Sadarghat is one of the most important and busiest spots of the capital, and at the very important intersection of Sadarghat, there is a waste dumping spot under the footbridge where waste are being dumped openly by the authorities of that area for many years now, and all the permanent residents, shopkeepers, passers-by, and other people who have jobs there or are tourists find it very difficult to carry on their jobs owing to the bad odor and disgusting visuals of the spot.⁸⁰ Additionally, as many people use Sadarghat to leave and enter the city, their mentality becomes greatly impacted by the cleanliness of the city, and as the saying goes, one might easily feel demotivated to follow rules when he sees that everybody else is anyway breaking the laws, and whereby the designated authorities are failing to comply with the existing rules and laws, there what can be expected out of general people?

Dhaka topped the chart of the most polluted cities in the world with the worst air quality on September 28, 2022.⁸¹ Once upon a time, Rajshahi used to be on the top of the list owing to various natural, geographic, and man-made reasons but it gained the world's attention by earning the top position in the list of the world's cleanest cities in the year 2016.⁸² It was really shocking,

⁷⁸ Solid Waste Management Rules 2001, s 4(f), 8, 9

⁷⁹ Solid Waste Management Rules 2001, s 15

⁸⁰ Joynal Abedin Shishir, 'Wastes dumped at Sadarghat crossing cause severe suffering' *Thee Business Standard* (Dhaka, 23 July 2022) <<https://www.tbsnews.net/bangladesh/wastes-dumped-sadarghat-crossing-cause-severe-suffering-463550>> accessed 02 January 2023

⁸¹ UNB, Dhaka, 'Dhaka World's Most Polluted City Again', *The Daily Star* (Dhaka, 28 September 2022) <<https://www.thedailystar.net/environment/pollution/air-pollution/news/dhaka-worlds-most-polluted-city-again-3129981>> accessed 02 January 2023

⁸² Staff Correspondent, 'Congratulations Rajshahi', *The Daily Prothom Alo* (Dhaka, 19 June 2016) <<https://en.prothomalo.com/opinion/Congratulations-Rajshahi>> accessed 02 January 2023

as accomplishing something like this is almost impossible. That year Rajshahi reduced its air pollution by 67%, and it became possible only owing to the sincere and hardest efforts on the part of the authorities and the people of Rajshahi.⁸³ So, it is very obvious to wonder here that both Dhaka and Rajshahi belong to the same country, yet there is so much difference between the two and why is that? Why is it so hard to maintain laws on the part of the authorities and the people of Dhaka city, in spite of being the capital of the country? The answer to this question might be the absence of the rule of law, lack of check and balance, lack of fear and willingness to abide by the laws, which is a matter of serious concern.

3.2.2 Air Pollution (Control) Rules 2022

Owing to tossed waste (solid, liquid, or gaseous) in public and open places, the environment becomes polluted, resulting in air pollution⁸⁴ and posing a great threat to public health as the odor from the degradable waste products spreads in the air, causing people to inhale and exhale the polluted air. As Dhaka is one of the most polluted cities, with a record of having the worst quality air, hence, the enactment and the implementation of this Rule seem very urgent. Despite being a recently enacted detailed provision of our government, it lacks the exact provisions regarding tossing waste and littering public places. It only has provisions regarding the correct procedures to be followed in the dumping of waste from households, or any institutions, such as hospitals, companies, factories, hotels, shops, and restaurants, or any drains or canals⁸⁵, along with sanctions⁸⁶ for the violation of those procedures.

3.3 The Responsible Legal Authorities for Environment Protection & Implementation of Rule of Law

Under the Ministry of Environment, Forest and Climate Change (MoEFCC), the Department of Environment is working to protect the environment, and it has also set out the necessary set of

⁸³ Ibid

⁸⁴ Air Pollution (Control) Rules 2022, s 2(n)

⁸⁵ Air Pollution (Control) Rules 2022, s 12

⁸⁶ Air Pollution (Control) Rules 2022, s 17

rules and regulations and appointed the necessary authorities for accomplishing their mission and vision. Yet there are many reports, news, and statistics on how polluted Bangladesh is and how the country's people are destroying its ecological balance by tossing waste, urinating, defecating, spitting, and littering public places.

Starting from the higher authorities down to the lower authorities, there are specific authorities assigned for protecting the environment. For instance, in the case of local government, the city corporations also have specified duties mentioned in the Local Government Act of 2009. What the said Act has to say about the issue of this study is mentioned below-

The Local Government (City Corporation) Act 2009

1. Ensuring the city's health system⁸⁷,
2. Making and safeguarding roads and public transportation systems for the benefit of citizens and visitors⁸⁸,
3. Establishing dustbins in different places of city and ordering the people to use it⁸⁹,
4. Building the necessary amount of separate public toilets for men and women; maintaining those; and cleaning in appropriate manner⁹⁰.

Throwing or dumping waste in roads or any place that is not provided and recognized by the city corporation⁹¹; any act that can pollute the waterways and render them unusable⁹²; and dumping dead animal bodies⁹³ without prior permission of the city corporation will be considered punishable offenses⁹⁴, with the punishment being only monetary fine not exceeding 5000 taka, with an additional 500 taka added for repetition of the offence⁹⁵. One downfall is that no Court will consider the offence without a written complaint from the Corporation and the Chief

⁸⁷ Local Government (City Corporation) Act 2009, schedule 3 (1.1)

⁸⁸ Local Government (City Corporation) Act 2009, schedule 3 (18.1)

⁸⁹ Local Government (City Corporation) Act 2009, schedule 3 (1.6)

⁹⁰ Local Government (City Corporation) Act 2009, schedule 3 (1.8)

⁹¹ Local Government (City Corporation) Act 2009, schedule 5 (13)

⁹² Local Government (City Corporation) Act 2009, schedule 5 (15)

⁹³ Local Government (City Corporation) Act 2009, schedule 5 (25)

⁹⁴ Local Government (City Corporation) Act 2009, s 92

⁹⁵ Local Government (City Corporation) Act 2009, s 93

Executive Officer.⁹⁶ The Police will help the Mayor and Chief Executive Officer to implement the provisions of the Act.⁹⁷

Malik Samity

We have "Malik Samity" in every transportation section, residential area, market, store, bazar, and commercial platform who can play a significant part in WMS as a competent local authority. They uphold the norms and standards that govern how a certain organization operates. Bangladesh Dokan Malik Samity, for example, can develop regulations for how shop waste will be discarded and what the repercussions will be if a business owner does not follow the rules. If a market lacks a waste disposal facility, they can arrange for one or request one from the city corporation and the government. Similarly, Bangladesh Sarak Paribahan Malik Samity can make rules that no driver, helper, conductor, or supervisor shall throw waste from vehicle windows; prohibit smoking inside vehicles, and anybody who breaks the rules will be penalized and warned, and habitual offenders would be fined as the ultimate punishment.

3.4 Conclusion

The rule of law is critical for any country's proper implementation of any legislation because it creates a check and balance system that promotes accountability on the part of both the people and the state. And in Bangladesh, only proper legislation and the implementation of the rule of law can protect our environment from being polluted by our own people. For example, we were the first country to ban plastic back in 2002,⁹⁸ but even today nobody respects the law. It is important to understand and solve the root cause of such behavior. The use of plastic and waste is increasing rapidly, and the legal authorities are doing nothing to effectively stop it. If the legal authorities can strictly implement the laws, nobody will litter public places out of fear of punishment and fines. As an example, in the Baridhara Defense Officer Housing Scheme (DOHS) and the Cantonment area of Dhaka, nobody throws any waste in the streets or in any

⁹⁶ Local Government (City Corporation) Act 2009, s 94

⁹⁷ Local Government (City Corporation) Act 2009, s 95

⁹⁸ The Environment Conservation Act 1995, s 6A

public place because of the strong rule of law. These two areas are run by the Bangladesh Armed Forces, and they follow and implement the laws strongly. Even a defense officer cannot break the rules in those areas. Moreover, a normal citizen can visit these areas, and most interestingly, those people, who litter public places on a day-to-day basis, do not throw a single waste material in these areas because they know that they will be instantly punished for their crime. The same thing can be seen in our citizens who live in Japan or any other foreign countries having strong litter laws. The Japanese do not litter anywhere; rather, they nurture the most beautiful habit of cleanliness not only inside their country but wherever they go, even on vacation. So, when a Bangladeshi goes to Japan, they learn the proper way of dumping waste and abide by the law because if they do not, they know they will be heavily punished. It clarifies that, if there are proper laws and if they can be implemented properly, people will be bound to dump waste in proper ways.

4. Impact of Throwing Waste and Littering Public Places- A Breach of Public Duty

4.1 Introduction

People throw tons of plastic and other bottles, paper bags, cans, cigarette butts, garbage from various food items, tissue papers, clothes, and residential waste throughout the city every day. Everyone is so preoccupied with their own lives and jobs that nobody thinks about the repercussions of littering the environment, on the other hand, those who are conscious of the consequences of littering are becoming familiar and comfortable to littering since they witness waste being scattered everywhere. As a result, nobody feels the urge of changing their littering habits and cultivate the habit of cleanliness.⁹⁹

4.2 Environment Pollution

As already discussed, tossing waste in public places has a huge negative impact on the environment. The practice is illegal all across the world since it severely pollutes the overall environment and costs the state a significant amount of money and time to clean up. In our country, we discuss environmental pollution by industries while laying little emphasis on littering by individuals and its grave impact.

4.2.1 Water Contamination

Water is the most essential natural element for agriculture and every life form. The people of this nation are still known as "fish and rice create a Bengali."¹⁰⁰ As a riverine country, we rely on our rivers for farming and fishing; however these rivers are now transformed into "dustbins" due to pollution. Many rivers have already died, and the remaining ones are also dying as a consequence of two big issues: unlawfully inhabiting rivers¹⁰¹ and dumping waste. As the river

⁹⁹ UNB, 'Litter-free Dhaka still a distant dream: Experts' *The Daily Prothom Alo* (Dhaka, 15 October 2019) <<https://en.prothomalo.com/environment/Litter-free-Dhaka-still-a-distant-dream-Experts>> accessed 21 December 2022

¹⁰⁰ See Note-16

¹⁰¹ Tawfique Ali, 'Fresh onslaught on Meghna', *The Daily Star* (Dhaka, 08 December 2019) <<https://www.thedailystar.net/frontpage/river-grabbing-in-bangladesh-1837273>> accessed 22 December 2022

routes are very cheap transit for travelling and delivering, hence, people use these routes on an everyday basis at large and the riverbeds and surfaces are both becoming clogged with thrown waste.¹⁰² Furthermore, tossed waste from the land is carried into rivers, ponds, and other water bodies by rain water, and sewage causing river pollution harming the aquatic environments.¹⁰³ On top of all these, spitting, urinating and defecation in the water are adding to all the sufferings. All the wastes tossed into the waterbodies make the water of those places unsuitable for use and prolonged exposure and usage of such water can cause serious diseases and the bad smell from the water can also cause respiratory diseases in humans by causing serious air pollution.

4.2.2 Soil Pollution and Poisonous Harvest

The abundance of man-made waste is the primary cause of soil pollution. Man-made waste contains chemicals which are not present in nature hence it pollutes the soil. Thrown solid plastic items, single-use polythene bags, textile waste, fertilizer, burnt cigarette butts, and rotting foods are only a few of the things that contribute to soil contamination. Polluted soil not only lacks fertilization ability and qualitative nutrients in producing crops, but it can also pass toxic substances that can cause major health issues in individuals who consume them. So, as a farming-oriented country, we pollute the soil by tossing waste into it and then consume that poison through foods grown on that same polluted soil.

4.2.3 Air Pollution and Toxic Dust

The Air Quality Index of Bangladesh's capital was 161,¹⁰⁴ which falls under the red zone, and the degree of concern implies that the air quality is unhealthy.¹⁰⁵ People do not only throw waste in land but they also frequently burn those waste to clear it. During the burning process, the toxic compounds in the waste combine with the air, causing air pollution. This problem becomes particularly serious when plastic is burned, resulting in the release of several harmful gases and

¹⁰² See Note-102

¹⁰³ Department of Environment, Ministry of Environment and Forest Government of the People's Republic of Bangladesh, '*NATIONAL ENVIRONMENT MANAGEMENT ACTION PLAN*', (Volume II, Main Report 1995) <<https://documents1.worldbank.org/curated/en/329001468741610744/pdf/multi-page.pdf>> accessed 22 December 2022

¹⁰⁴ 'Air Quality in Bangladesh' (*IQAir*, 04 January 2023)<<https://www.iqair.com/bangladesh>>accessed 24 December 2022

¹⁰⁵ 'Air Quality Index (AQI) Basic' <<https://www.airnow.gov/aqi/aqi-basics/>> accessed 24 December 2022

microscopic particles that can damage a person's respiratory system. Making atmosphere toxic for people's health is illegal and also a punishable offence under the Penal Code 1860.¹⁰⁶ Furthermore, the terrible smell causes discomfort to people.

4.2.4 Sight Pollution

The effects of pollution that limit one's ability to appreciate a view are referred to as sight or visual pollution.¹⁰⁷ Some of the major causes of sight pollution can be overcrowding, excessive advertising, and littering. Littered places are an eyesore and distract the people from the aesthetic value of natural landscape posing a significant influence on local tourism since it makes tourist attractions appear to be disgusting. Littered areas are avoided by the common people and tourists due to health concerns and their unappealing appearance. It also harms people's quality of life.

4.2.5. Flood Every Year

According to the United Nations University for Environment and Human Security's 2016 World Risk Report, Bangladesh ranks fifth in the world in terms of disaster risk.¹⁰⁸ Floods, riverbank erosion, and cyclones are known natural water-related catastrophes that afflict its people.¹⁰⁹ Plastic waste is the root cause of floods and water logging in our nation during the rainy season. Owing to the absence of boundaries along the riverbanks, all the waste, spit, urination and defecation tossed in open places ultimately end up into the water bodies polluting them heavily, causing serious health and life threats and eventually causing water clogging during the rainy seasons. As a result, water from flood and heavy rain does not flow back into the river or sewer instead remains trapped making peoples' lives miserable.

4.2.6 Turning Tourist Spots into Garbage Spots

¹⁰⁶ The Penal Code 1860, s 278

¹⁰⁷ Mohammad Faysal Saleh, 'A Critical Appraisal of Bangladesh Environment Conservation Act,1995 and Rules,1997' (*Bangladesh Law Digest*, 03 September 2015) <<https://bdlawdigest.org/bangladesh-environment-conservation-act1995.html>> accessed 25 December 2022

¹⁰⁸ JICA, 'DISASTER Risk Reduction – Prevention, Mitigation, Rehabilitation & Recovery - and reinforced governance is fundamental of resilient society', (*JICA*, 2nd November 2016) <<https://www.jica.go.jp/bangladesh/english/activities/activity14.html>> accessed 25 December 2022

¹⁰⁹ Ibid

A country's tourist destinations highlight its beauty and tradition. It is a pity that our country has so many magnificent sightseeing sites packed with natural beauty and resources, yet people and tourists heavily pollute them by tossing waste.

Recently, Bidyanondo Foundation created Asia's largest waste sculpture called "Plastic Monster" on Cox's Bazar Sea beach, made solely out of plastic waste to raise awareness about the dangers of plastic in our environment.¹¹⁰ All plastic waste was collected from Cox's Bay and Saint Martin Island.¹¹¹ The 38-foot monster is raising awareness¹¹²; although it could not stop people from tossing waste, gradually turning numerous tourist attractions into dumping grounds. Hence, only a few banners and posters with awareness quotes will not solve our country's littering problems.

4.3 Few Noteworthy Environment Pollutants that are frequently tossed in Public Places

4.3.1 Plastic Waste

Polythene bags are cheap and easy to move goods, and so, it gained popularity in the Bangladeshi market in the late 1980s.¹¹³ However, following the 1998 flood, when all sewerage lines were discovered clogged with heaps of polythene bags, resulting in massive water-logging, all citizens, including the government, became aware of the dangers of polythene bags.¹¹⁴ This is why, the government had outlawed thin polythene and plastic bags, and Bangladesh became the first country to ban polythene bags in the world back in 2002.¹¹⁵ In supermarkets, as well as all of our country's stores, hawkers utilize huge amount of plastics. Bangladesh's fast expansion and industrialization led to a rise in both plastic use as well as pollution. Bangladesh's yearly per capita plastic usage in urban areas has tripled in the previous 15 years- from 3.0 kilos in 2005 to 9.0 kilos in 2020. From 2005 to 2020, the usage of Low-Density Polyethylene

¹¹⁰ Parvez Uddin Chowdhury, 'Plastic monster at Cox's Bazar beach teaches us a lesson', *The Daily Prothom Alo* (Dhaka, 22 December 2022) <<https://en.prothomalo.com/environment/8oy345n4s4>> accessed 26 December 2022

¹¹¹ Ibid

¹¹² Ibid

¹¹³ See Note-23

¹¹⁴ Ibid

¹¹⁵ The Bangladesh Environment Conservation Act 1995, s 6A

(LDPE) packaging materials (plastic bags, etc.) grew fivefold.¹¹⁶ Only 31% of the 977,000 tons of plastic used in 2020 were recycled.¹¹⁷ Single-use plastics such as shopping bags, packages, and wrappers account for the majority of wasted plastic trash and this is one of the common waste people throw away everywhere.¹¹⁸ However, ending the practice of polybags usage and enforcing the prohibition would need strong political will.¹¹⁹ This clearly indicates the government's failure to implement the law and ensure rule of law.

4.3.2 Cigarette Butts

Cigarette butt is a tiny but deadly environmental killer. In Bangladesh alone, 71 billion cigarette sticks which include single-use plastics were manufactured in FY21.¹²⁰ Smoked cigarette butts have turned into a serious threat to our country's environment because they do not disintegrate easily; they might breakdown gradually in the presence of environmental variables such as rain and sunlight which is a very long-time process. A cigarette butt becomes 38% degraded after two years.¹²¹ Tobacco does not only kill consumers and causes major illnesses including lung cancer and cardiovascular disease, but it also heavily pollutes our agricultural land, forests, fishing areas, and other precious natural resources¹²² endangering our ecosystems, weather patterns, food and nutrition security.¹²³ According to WHO, the tobacco business costs our world more than 8 million people's lives, 600 million plants, 200,000 hectares of soil, 22 billion tons of groundwater, and 84 million tons of Carbon dioxide per year.¹²⁴ Cigarette filters are made of cellulose acetate (plastic fibers).¹²⁵ As a result, smoked cigarettes discharge plastic

¹¹⁶ The World Bank, 'Meeting Bangladesh's Plastic Challenge through a Multisectoral Approach, (*The World bank*, 23rdDecember 2021) <<https://www.worldbank.org/en/news/feature/2021/12/23/meeting-bangladesh-s-plastic-challenge-through-a-multisectoral-approach>> accessed 26 December 2022

¹¹⁷ Ibid

¹¹⁸ Ibid

¹¹⁹ SM NajmusSakib 'Bangladesh's polybag ban falls flat in stopping production, use' *Asia-Pacific* (Dhaka, 02 July 2021) <<https://www.aa.com.tr/en/asia-pacific/bangladesh-s-polybag-ban-falls-flat-in-stopping-production-use/2292293>> accessed 26 December 2022

¹²⁰ Desk N, "Bangladesh Observes World No Tobacco Day to Discourage Consumption" *bdnews24.com*(Dhaka, 31 May 2022) <<https://bdnews24.com/environment/bangladesh-observes-world-no-tobacco-day-to-discourage-consumption>>accessed 26 December 2022

¹²¹ Ibid

¹²² Ibid

¹²³ Ibid

¹²⁴ World Health Organization, 'WHO raises alarm on tobacco industry environmental impact' (WHO, 31 May 2022) <<https://www.who.int/news/item/31-05-2022-who-raises-alarm-on-tobacco>> accessed 27 December 2022

¹²⁵ Tik Root, 'Cigarette butts are toxic plastic pollution. Should they be banned?' (*National Geographic*, 09 August 2019) <<https://www.nationalgeographic.com/environment/article/cigarettes-story-of-plastic>> accessed 27 December 2022

fibers along with nicotine, arsenic, toxic metals, and releases over 7,000 harmful toxins during the process.¹²⁶ Furthermore, cigarette filters are not recyclable and one time use, making them a total waste. It takes years for cigarette filters to decay, and as they do, they break down into small particles of plastic known as micro plastics, which are becoming a growing threat for waterways and oceans.¹²⁷ They release toxic chemicals into the water which can stay there for almost 10 years.¹²⁸ People ignorantly throw away cigarette butts as if it is a not a big deal. It is a matter of shame that, even police personnel toss cigarette butts like a normal person in our country. Tossing cigarette butts on the ground or throwing out from a vehicle window is so extremely common that 75% of smokers confess to doing it.

4.4 Conclusion

Our people have clearly ruined the soil, air, and water by tossing waste. A healthy life in Bangladesh is now a pipe dream. It is not that people are not aware of environment pollution; they are ignorant and have become used to with tossing waste and getting unpunished and unaccountable for their crime. A strong rule of law, enactment of particular legislations with appropriate sanctions is the only solution to prevent and ban tossing waste and littering of our surroundings.

¹²⁶ Ibid

¹²⁷ Ibid

¹²⁸ Ibid

5. Conclusion

5.1 Findings

We are trying to mop up the wet floor while the water pumps are still running, which means the government is adopting new legislation, rules, and regulations, waste management concepts, creating infrastructure, and expanding the waste-dumping landfill space, but not punishing the litterers who are consistently polluting our environment. People throw waste daily without a second thought because they remain unpunished after committing the crime of littering and this is where the rule of law of a country ends whereby the citizens and the authorities responsible for running the state go unaccountable and unpunished.

5.1.1 Lack of Proper Legislation and Rule of Law

Laws are not a teaching tool, but a tool for keeping order in society. People obey the laws when they know they will be penalized for their offence for sure and when the proportions of punishment are excessive for the offence. The government has enacted several environmental laws, but they are proving to be insufficient because,- firstly, the punishment is not harsh enough to create fear and respect, and secondly, laws are not implemented properly.

5.1.2 Reckless Authority and Citizens

Environmental pollution is an entirely man-made disaster in our country. We have adequate legislation to safeguard our environment from human contamination and penalize litterers. Increasing public awareness alone is insufficient since, in the 2018-2019 fiscal year, 219 public advertisements were created and disseminated in electronic media to make people aware of environmental pollution, yet the littering issue remains unchanged. Therefore, we need appropriate authorities to perform their role and stop individuals who fall under their control from polluting public places, but the authorities remain mute on the subject as they are not made accountable for not performing their duties.

5.1.3 Lack of Infrastructure and Maintenance

People toss waste due to the lack of dustbins in public spaces. The dustbins that the city corporation installed across the city are not adequate, properly maintained, and secured, and so, practically all of them are either destroyed or stolen. The dustbins were made of such poor-quality metal that some only lasted a week or two.

5.1.3.1 Presence of Litter in an Area

There is a connection between the existence of litter in a certain area and the purposeful throwing of waste at that location. When people see waste piled up somewhere, they assume it is the proper place to dispose of waste. We have waste dumping sites in open streets where passersby throw waste and thus build up a waste throwing habit.

5.2 Recommendations

The collection of waste and its management are the duties of the city and municipal corporations at the grassroots level, but the power to make major rules, policies, and plans, budget for waste management infrastructure, delegate power to city corporations and municipal corporations, and enactment of legislation to control industrial activities and people's behavior is in the hands of the government, and such power is conferred by the constitution. To prevent individuals from throwing waste in public places, the government should first take the appropriate measures.

5.2.1 Implementing a Standard Waste Management System (WMS)

Establishing, developing, and maintaining a standard WMS consists of a variety of aspects, which the Government of Bangladesh is striving to achieve through a number of policies, plans (e.g., National Environment Protection Action Plan, the 8th Five Year Plan, etc.), guidelines, rules, regulations, and authorities, yet people continue tossing waste and littering public places vehemently. For the purpose of this study, the author has attempted to provide a few recommendations relating to WMS, which are current dire need.

Public Dustbins:

1. Build immovable concrete dustbins every 250 meters in all directions, so that people do not have to hang on to waste for too long and thieves cannot steal the bins. Separate bins for paper, glass, organics, and plastic would make the recycling process faster and more effective, but this would take a significant budget to accomplish, so we can just construct two, one for absolute waste and one for recyclable waste.
2. The dustbins should be constructed in such a manner that they do not spread bad odors, and street dogs, cats, crows, and goats cannot access them and spill the waste.
3. To encourage children to use the dustbins and develop the habit of cleanliness, the bins in front of schools and children's institutions should be attractive and appealing to the children.
4. Literacy rates are particularly low in rural regions, and few people are aware of which items are recyclable. So, if the dustbins are designed in the shape of the object to be dumped (for instance, bottle-shaped dustbins can be made), it will be extremely beneficial for people to comprehend and will also grab their attention.

5.2.2 Eco-Friendly Alternatives to Non-Biodegradable Products

Single-use and non-biodegradable products should be banned; instead, we can use biodegradable products made from natural elements. Paper bags can be used instead of polythene, and glass bottles can replace metal and plastic bottles. However, where it is impossible to find any alternatives to plastic, there science can be used to innovate one.

5.2.2.1 FASTIX – Fast Degradable Intelligent Plastics

Fastix can be the best biodegradable alternative to single-use polythene products made by Ecospear Pvt. Ltd. These bags are the same as plastic in appearance and usage but, unlike plastic, have no negative side effects on nature. Abandoned Fastix bags only take 90-147 days to naturally biodegrade, whereas normal plastic does not decompose completely even after 400 years. It is a biodegradable, eco-friendly plastic that is 100% natural, biodegradable, recyclable, and harmless to animal life.

5.2.3 Public Participation in Recycling Initiative

Recycling is a series of processes that transform waste into new, usable products. Broken glass, waste wood, metal, cardboard, paper, plastic, fabric, tires, battery cells, electronics, and many other things can be recycled and repurposed, but many people are unaware of the processes. People either throw away recyclable waste or sell it for a very low price to a junk or scrap dealer known as a "Bhanggarwala". So, if the government can establish a "Recyclable Waste Bank" in every district managed by the concerned city corporation, as "The Plastic Bank" of Canada, people will not toss a single bottle in a public place or in their household garbage bin. The point of the tale is that if we can provide people with a benefit, they will actively engage in the waste recycling process.

5.2.3.1 Waste Pickers (Tokai)

Independent waste pickers known as "Tokai" (primarily minor children and the elderly from homeless or slum dwellers) play an important role in removing thrown waste from public places. Hundreds of thousands of poor waste pickers work from sunrise to sunset every day with a sack on their back, hoping to earn enough money to feed themselves and their families. These waste pickers earn relatively little money by collecting and exchanging waste, particularly recyclable and reusable items made of plastic, metal, glass, and electronics. So, if the government can build a recyclable waste corporation in which only independent waste pickers may sell their gathered waste from public places for money, they can operate as a large waste collection labor force without being officially hired and paid by the government. The best part is that the government can pay these waste pickers using the profits earned from recycling their exchanged waste.

5.2.4 Awareness

Awareness campaigns have not proven effective in our country, but the government should continue to conduct them and strongly focus on making people aware of dumping different types of waste in proper manners and the consequences of not doing so. The government alone cannot solve this issue, and so it is important that people from every background come forward- one should not only prevent himself from tossing waste and littering but also should stop others from doing so, and even after that, if others continue to do such acts, then the responsible citizens should inform their respective local authority and the concerned authority shall be duty-bound to

take active action against such litterers and where such an authority fails to duly execute his duty, he shall be bound to answer before appropriate higher authority. This can duly restore the rule of law within the state.

5.2.4.1 Carry a Litter Bag

People should keep a little comfortable waste pouch or bag in their vehicle or carry it with them whenever they go out to dump their tiny and plastic waste until they find a waste disposal container. This simple step will help to keep not only people's cars in good condition, but also the streets clean. It is highly advisable for those who chew gum on a daily basis, use plastic-wrapped goods, eat bottled drinks and plastic-packed foods.¹²⁹ Japanese people use “Horupo,” a trendy but traditional pouch to use as a waste storage that can carry small-sized waste for a short-period.¹³⁰

5.2.5 Rule of Law and Legal Liabilities

Awareness may only give a person information about the dangerous consequences of throwing waste in public places and how to properly dispose of different sorts of waste, but it cannot compel them to follow the waste disposal instructions at all costs. Owing to lack of rule of law, people go unpunished for littering public places. As a result, we cannot rely just on public awareness and biodegradable products; we must also make special provisions for quick and decisive prosecution of litterers.

5.2.5.1 Amount of Fine

The amount of the littering fine should be increased to such an amount that any person will think at least ten times before throwing a waste negligently, and after one penalty, the person will never do such an act in his lifetime.

5.2.5.2 Corrective Cleaning Work Order (CCWO)

¹²⁹ Shanon, 'Japanese company designs fashionable pouch to keep scraps of trash in', *Japan Today*(Tokyo, 10 February 2022)<<https://japantoday.com/category/features/new-products/Company-designs-fashionable-pouch-to-keep-scraps-of-trash-in-1>>accessed 29 December 2022

¹³⁰ Ibid

The CCWO should be passed by the Parliament. Under the order, litterers will be required to clean a specified public area decided by the proper authority for a fixed time as punishment.

5.3 Concluding Statement

It is not only our moral and social responsibility as responsible citizens to keep our nation clean and litter-free, but also our constitutional duty to conserve and develop the environment for present and future generations. We have already caused a significant amount of harm to our ecosystem. Now, ensuring a green and pollution-free future should be our ultimate goal, but unfortunately, people in our nation, including us, pollute our environment daily by tossing waste everywhere, especially in public areas, without any hesitation. In our nation, people of all ages, even from 6 years old kid to 60 years old adult, have the tendency of tossing waste, which is a disgrace for all of us. It would be incorrect to suggest that it is high time to address the waste throwing habits of our citizens since time has passed and individuals of all ages have strongly formed and normalized waste throwing habits despite having laws. To prevent such hazardous behavior by our citizens, awareness and the enactment of new legislation are not enough. Only ensuring the rule of law and huge penalties can make people bound to stop the crime of littering public places by tossing waste, and this is the only key we have.

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