

THE DRAWBACKS OF ENVIRONMENTAL LEGISLATION ON THE PLASTIC POLLUTION CRISIS IN SRI LANKA: RECOMMENDATIONS FOR ACTION

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Despite existing legislation, still Sri Lanka hasn't effectively addressed plastic pollution. This crucial issue should be answered effectively and immediately, not only because it diminishes the visual appeal of the environment, but also because it directly affects human health, animals' lives and the country's economy not just for the present generation but also for generations to come. By now, global plastic production has increased to 450 million tons¹, causing environmental pollution due to overuse. Around 0.5% of plastic waste ends up in the ocean, increasing the impact not only on humans but also on wildlife and marine species.² As an island nation, the impact of plastic pollution is higher than for land-locked countries and the recent 'X-press pearl' incident³ heightened lawmakers' concerns. Further, the rapid decline of fish stocks in coastal areas highlights the economic impact of the crisis.⁴ Therefore the need to reduce plastic pollution has become acute and the objective of this paper is to identify 'why Sri Lanka has failed to address plastic pollution despite existing legislations?' This study focuses on the inadequacy of current legislation regulating plastic pollution along with recycling processes and specifies the essentiality of public education and addressing root causes effectively. Moreover, it highlights the importance of

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¹ Hannah Ritchie, Veronika Samborska and Max Roser, 'Plastic Pollution' [2023] <<https://ourworldindata.org/plastic-pollution> > accessed 6 December 2024.

² Hannah Ritchie and Max Roser, 'How Much Plastic Waste Ends up in the Ocean?' [2023] <<https://ourworldindata.org/how-much-plastic-waste-ends-up-in-the-ocean> > accessed 6 December 2024.

³ 'X Press Pearl Incident | Sri Lanka | Oil spill Response' <<https://www.oilspillresponse.com/knowledge-hub/response/spill-journal-x-press-pearl/> > accessed 6 December 2024.

⁴ 'Marine Plastic Pollution: Opportunities for Sri Lanka' (*The Lakshman Kadiragamar Institute*) <<https://lki.lk/blog/marine-plastic-pollution-opportunities-for-sri-lanka/> > accessed 6 December 2024.

introducing possible alternatives to plastic use and provides recommendations that the government could adopt.

Literature review

Based on past scholarly work, the issue of weak environmental legislation on the plastic pollution crisis in Sri Lanka has been identified. *Abahya Suresh* suggested a plastic ban⁵ and *Fenty Puluhulawa* and others recommended implementing sanctions for violators⁶ while *Rohantha and others* addressed current plastic recycling industry and suggested to reform policies regarding plastic waste recycling.⁷ However, these didn't identify the origin of the issue which is a lack of strong legislation to regulate plastics and the defects of current laws. For this gap, the authors suggest legislation that collectively address reduce plastics, recycling, public awareness, incentives, penalties and enhancing alternatives to diminish the crisis.

Methodology

This research used a qualitative approach to analyse current literature to identify the issues, drawbacks and to propose actionable recommendations.

Legal framework, Recycling and International efforts

Sri Lanka's National Waste Management Policy⁸ is one of the attempts to address plastic pollution but doesn't directly classify plastic as a separate waste stream. Further, the National Environmental Act⁹ prohibited several plastic and polythene products in 2017. In 2021 a ban was imposed on PET and PVC materials used for packaging agrochemicals and in 2023 nine more single used plastic items were prohibited.¹⁰ Despite those policies, Sri Lanka continues to generate approximately 250,000 tons of plastic waste annually.

⁵ 'Plastic Pollution in the Marine Ecosystems of Sri Lanka' (*ResearchGate*) <https://www.researchgate.net/publication/340935976_Plastic_Pollution_in_the_Marine_Eco_systems_of_Sri_Lanka> accessed 6 December 2024.

⁶ 'Plastic Waste: Environmental Legal Issues and Policy Law Enforcement for Environmental Sustainability' [2024] (*ResearchGate*) <https://www.researchgate.net/publication/351521825_Plastic_Waste_Environmental_Legal_Issues_and_Policy_Law_Enforcement_for_Environmental_Sustainability> accessed 6 December 2024.

⁷ Rohantha Rukshan Jayasinghe and others, 'Exploring the Plastic Collection and Recycling Trends in Sri Lanka' [2023].

⁸ National Waste Management Policy, 2020.

⁹ No.47 of 1980.

¹⁰ 'Central Environmental Authority' <https://www.cea.lk/web/?option=com_content&view=article&layout=edit&id=1080> accessed 6 December 2024.

In 2007, the Ministry of Environment and Natural Resources initiated the National Post Consumer Plastic Recycling Project establishing 12 facilities for collecting and recycling plastics across 12 Local Authorities. In addition, the private sector plays a vital role in the process. However, only 4% of the plastics are recycled in Sri Lanka.¹¹ The United Nations has sponsored a global plastic treaty to effectively address plastic pollution. Sri Lanka's active participation in negotiations affirms a commitment to develop an internationally legally binding instrument. However, UN member states couldn't come to an agreement on treaty obligations and negotiations have been extended to next year.¹²

Drawbacks of the existing law

All of the above laws and policies have failed for several reasons, including shortcomings in the law-making process and lack of implementation. It appears that the prohibitions referred to above that they were passed without sufficient research. In 2017, a ban on plastic and polythene products was enforced shortly after the Meethotamulla garbage dump collapse¹³, as a hastily enacted measure in response to public pressure over poor waste management by the government. This hasty action prevented lawmakers from understanding the root causes of the issue and led them to merely apply a temporary fix called 'a ban'. This is evident from the failure to provide suitable alternatives before the ban was implemented. Laws are intended to improve the quality of life of the public. However, the failure to provide suitable alternatives has instead caused them inconvenience and eroded public trust in the government. The prohibitions were enacted without implementing any measures to educate the public before the ban came into effect. Since plastics have become an integral part of human life, drafters should provide an adequate transition period to shift from plastics to alternatives. This could be accomplished through prior notice and public education

¹¹ Rohantha Rukshan Jayasinghe and others, 'Exploring the Plastic Collection and Recycling Trends in Sri Lanka' [2023].

¹² 'EU Regrets Inconclusive Global Plastic Treaty – European Commission' < https://environment.ec.europa.eu/news/eu-regrets-inconclusive-global-plastics-treaty-2024-12-02_en#:~:text=After%20two%20years%20of%20negotiations,failed%20to%20reach%20an%20agreement.&text=The%20EU%20regrets%20that%20the,yesterday%20in%20Busan%2C%20South%20Korea. > accessed 6 December 2024.

¹³ 'Reducing Plastic Use in Sri Lanka' < <https://slmana.org/reducing-plastic-use-in-sri-lanka/#:~:text=A%20ban%20on%20the%20sale,environmental%20agencies%20in%20the%20country> > accessed 6 December 2024.

regarding prohibitions and available alternatives. Here all prohibitions were implemented 3-4 months after they were enacted. Although government's media notice stated that "this prohibition seeks to promote local industries engaged in eco-friendly alternatives"¹⁴ the government didn't provide an adequate preparation period or financial support to help local industries to enhance their products to meet future demand. In 2017, the government simultaneously imposed six prohibitions, demonstrating that drafters focused solely on responding to the Meethotamulla incident rather than addressing the broader issue of plastic pollution. They failed to recognize that plastic pollution is a complex problem that can't be resolved in one sweeping action but requires a step-by-step approach, including evaluating the effectiveness of one ban before implementing the next. Another defect is the failure to establish a monitoring system to guide and oversee the effectiveness of the ban.

The prohibitions failed to adequately consider the interest of parties potentially affected by the ban, in return leading to significant opposition from stakeholders who then pressured the government to reconsider the policies. Plastic manufacturers and retailers strongly opposed the policies due to livelihood impacts, while the public mainly objected due to the loss of convenience these measures caused. Thus, due to the unaddressed interests of stakeholders, the implementation of policies failed. Furthermore, the lack of commitment on the part of Local Authorities even though they were granted powers related to solid waste management, contributed to this failure.

Recommendations

This paper suggests a separate law to address plastic waste management, as previous enactments and recycling endeavours have proven ineffective. This Act should contain three parts: (1) reduction of the manufacture, sale, importation and exportation plastics; (2) recycling and (3) education, rewards, penalties and complaints.

Part 1 – Reduce production, sale, importation and exportation.

The prohibitions and standards to reduce plastic production, sale and export should be brought under this act. As importation depends on international standards, it should align with a binding global treaty. If

¹⁴ Media Release, Central Environmental Authority [2023]
<https://www.cca.lk/web/images/pdf/2023/PR/Press_Release_-_2023.08.23_English_new.pdf> accessed 6 December 2024.

the global plastic treaty comes into force, it will play a crucial role in this regard. Before implementing prohibitions, it's essential to introduce and develop suitable non-plastic alternatives for products being banned. As an exception, products for which it's difficult to find a substitute should be replaced with one that contains a lesser amount of plastics, and the government should facilitate the improvement of those alternatives to become zero plastic. In accordance with this Act, the government should provide financial assistance to appropriate parties such as new inventors and existing local industries that produce eco-friendly alternatives. There should be a transition period of around one year for all stakeholders to comply with prohibitions- for example to clear stocks already manufactured before prohibition, stop the production process, support manufacturers to enter into new fields, find new alternatives and improve existing alternatives. Thus, the government should provide a reasonable date of implementation from the enactment of the act.

Part 2 – Recycling

(I) Empower recycling

We recommend establishing a recycling committee called the 'Plastic Waste Recycling and Management Committee' for every division to function under the Central Environmental Authority. The proposed Recycling Committee should manage the entire recycling procedure from collecting plastics to disclosing recycled materials to buyers. The Committee should encourage existing recycling centres to improve their performance, assist interested companies to enter into recycling, provide new recycling technological knowledge, provide financial assistance to recycling centres and encourage buyers to purchase recycled materials. The committee will represent recycling centres' challenges to the government, acting as an intermediary between the two. Further, the committee should educate the public about possible alternatives and discourage them from using plastics.

(II) Measures to reduce barriers to recycling.

It's proposed that the Act should introduce a plastic waste separation system based on their resin code which improves efficiency at recycling centres by reducing the need to sort waste, as recyclables and non-recyclables arrive pre-separated. Committees must designate a specific day each week to collect plastic waste from households. Following norms of reciprocity, to enhance public participation in the waste separation system, the Act should establish a reward system. Recycling plastics with heavy dyes makes the process more difficult

and time consuming.¹⁵ These dyes make the recyclable plastics into complex non-recyclables and the government should impose some restriction on manufacturers to change their heavy dyed packaging into fewer colours.

Part 3 – Education, Penalties and Complaints

The law should introduce a way to educate the public on plastics management, including relevant laws, waste sorting, recycling process, limitations of recycling and alternative measures like reuse and refusal of plastics, available incentives and the public's role in contribution. Regarding this, the recycling committee should hold monthly meetings on an accessible date for all villages in each division. From every village the Public Health Inspector and Grama Niladhari should participate, and the recycling committee should educate them about the issues mentioned above. The committee will inquire whether waste separation and plastic collection are being effectively implemented in villages. Once in every three months, a committee member should conduct an awareness programme in every village about new information in this regard and the member will verify whether the Public Health Inspector and Grama Niladhari have effectively communicated the knowledge shared during monthly meetings with villagers and will gather public concerns to report to the committee. The act should establish penalties for violators and a compliance system for the public to report misconduct by the committee or related individuals to the CEA.

Conclusion

This paper focused on attempts taken to address plastic pollution in Sri Lanka and their failure due to law-makers inadequate understanding of policies. Plastic pollution can't be addressed only through prohibitions and recycling. This paper suggests adopting a separate act to address plastic pollution while understanding the requirement of collective contribution of laws, recycling, public awareness, and possible alternatives. The proposed Act establishes several systems to address all those aspects. Those efforts along with an international treaty and international assistance outlined a path to reduce plastic pollution in Sri Lanka.

¹⁵ 'Why Only a Tiny Fraction of Your Plastic Actually Gets Recycled' (*Environment*, 24 September 2024) < <https://www.nationalgeographic.com/environment/article/why-recycling-plastic-doesnt-always-get-recycled> > accessed 6 December 2024.