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ENVIRONMENTAL LAW

Laws and policies on plastic waste management

The systems in place for gathering and disposing of waste are insufficient, and there aren't enough recycling facilities to handle the enormous amount of plastic waste that is produced.

PARBAN CHAKMA

Plastic waste disposal is a serious issue for Bangladesh with only a small portion of the nation's annual plastic waste production – which is estimated to be 2 point 4 million tons – getting recycled. The remainder finds its way into landfills, bodies of water, and other locations where the waste contaminate the environment and endanger human health.

The management of plastic waste may be addressed under several laws. The primary environmental legislation in this regard is the Bangladesh Environment Conservation Act, 1995 (BECA). In 2002, the BECA was amended to use Section 6A which empowers the government, through the Ministry of Environment, Forest and Climate Change to impose bans on the manufacturing, production, display, marketing and sale of all or any kind of polythene shopping bags, among others, in any specific

part of the country or generally all over the country. Contravention of an order passed under Section 6A is an offence punishable by fine and/or imprisonment.

There are several other laws and regulations that may aid the reduction of plastic waste, such as the Solid Waste Management Rules, 2021 and the Jute Packaging Act, 2010. The Solid Waste Management Rules, 2021 sets out the procedures for collecting, transporting, and disposing of solid waste, including plastic waste and requires the manufacturers to report the amount of plastic that has been recycled. The Jute Packaging Act, 2010 promotes the use of jute bags as an alternative to plastic bags. Every product must be packaged in jute bags, as required by the Act. For using non-biodegradable synthetics for packaging, offenders risk a maximum of one year in prison and/or a fine of BDT 50,000.

The laws do reflect the government's willingness to

make waste management system more sustainable— indeed, it has also undertaken several projects to make Dhaka a clean city. With the help of the Bangladesh Climate Change Trust Fund, the Department of Environment (DoE) launched a pilot project in 2012 to test the 3R strategy—reduce, reuse, and recycle—for better waste management. Residential buildings in various parts of Dhaka were given four different types of waste bins under the project to store organic, inorganic, hazardous, and mixed wastes separately. The bins were coloured green, yellow, red, and blue. The 3R method called for recycling inorganic wastes like plastic and glass while using organic household waste to produce biogas and organic fertiliser.

To counteract the rising tide of plastic waste, these measures, however, have fallen short. These efforts, as a result, are unable to produce the desired outcomes. Effective management of plastic

waste faces many difficulties in Bangladesh. Lack of knowledge on the issue of plastic pollution is one barrier. In Bangladesh, many people still use and dispose of plastic products in an unsustainable manner because they are unaware of the negative consequences of plastic waste.

Lack of infrastructure for managing plastic waste is another problem. The systems in place for gathering and disposing of waste are insufficient, and there aren't enough recycling facilities to handle the enormous amount of plastic waste that is produced. Last but not the least, there is lack of political will across all administrative tiers to address the plastic pollution issue.

The management of plastic waste is a complex issue. It must be addressed well by the government to protect the environment and the people.

The Writer is Law Desk Intern, The Daily Star.

RIGHTS ADVOCACY How the RTI Act may contribute to curbing corruption

MD. HARISUR ROHOMAN

Bangladesh has long struggled with widespread corruption, which impedes social development, stunts economic growth, and erodes public confidence in the government. The Right to Information Act 2009 (RTI Act) has become a crucial weapon in the fight against this pervasive issue, allowing citizens and media to reveal corruption, hold public authorities accountable, and promote as well as harness a culture of transparency and accountability.

The RTI Act allows common people to get information from the authorities. By granting citizens access to information, the Act shifts the balance of power between the government and the common people. As a result, citizens can be actively involved in the decision-making process and ensure transparency, accountability, and impartiality of government institutions and officials.

According to section 4 of the RTI, every citizen has the right to request information from the relevant authorities, and the appropriate authorities are required to abide by any request for information from any citizens, subject to the restrictions of this Act. Consequently, this right makes it impossible to arbitrarily withhold vital information with respect to contracts, financial transactions, public service delivery, and other critical sectors, from the public.



According to section 8 of the RTI, anyone can ask the relevant responsible officer for information by sending a written, electronic, or email request. As a result, this provision of the RTI acts as a powerful deterrent to corruption,

as public officials know that their activity can be scrutinised and their misdemeanors can be brought to light. In addition, according to section 24 of the RTI Act, if anyone does not receive the information within the prescribed period or is aggrieved by any decision of the designated officer, he/she can appeal within the next 30 (thirty) days.

Most significantly, under section 10 of this Act, the Information Commission was established. This independent commission can be crucial in defending the public's right to information. Because, following Section 13 of the RTI, the Information Commission has the same authority as a civil court and is competent to hear and address complaints regarding several matters related to the provisions of the Act.

Even though RTI Act has created the scope for significant progress in the battle against corruption, difficulties still exist. These difficulties include resistance from the bureaucracy, a lack of citizen awareness and a lack of resources to handle information requests. To overcome these obstacles, ongoing efforts must be increased to raise awareness about the provision of the Act, strengthen the institutions responsible for implementing it, and ensuring citizens' access to information in a prompt and efficient manner.

The RTI Act has potential to change the country's governance landscape by strengthening anti corruption measures and empowering citizens. To overcome obstacles and strengthen the RTI's implementation, however, consistent as well as concerted efforts are needed. Bangladesh can continue its march towards eradicating corruption with the assistance of an informed and involved citizenry, and a robust and transparent system.

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FOR YOUR INFORMATION

Legal remedies for medical negligence

It is essential to pass a comprehensive medical negligence law that defines medical negligence and establishes compensation standards by updating existing laws and regulations.

NOOR AFROSE

Recent news reports have highlighted a tragic incident where a lady and her child lost their lives due to alleged medical negligence at the Central Hospital. This incident brings to light the regrettable fact that incidents like these happen quite frequently in Bangladesh. Various incidents of medical negligence are a sum of surgical errors, delayed/denied patient care during an emergency, administration of incorrect medication, infliction of lasting physical harm during surgical procedures, among others. Consequently, it prompts us to question the potential legal remedies that can be pursued in such situations.

Despite the fact that medical negligence is not specifically addressed by Bangladeshi criminal law, similar offenses are addressed under provisions of the Penal Code 1860. Sections on negligent conduct involving drug adulteration (Section 274), negligently causing death (Section 304A), causing a miscarriage (Section 312), and endangering life or safety (Section 336) are among them. These offenses are all punishable by a minimum of six months and a maximum of seven years

in jail. However, medical professionals are shielded from lawsuits by clauses like Section 88, which absolves them of responsibility if the harm was unintentional, done in good faith, and with the victim's consent. Also, section 92 safeguards practitioners acting in good faith for the victim's benefit in situations where consent is impossible or the victim lacks a capable guardian.

Then comes the Consumer Rights Protection Act 2009. Under this Act, medical negligence is deemed a violation of consumer rights, as patients are seen as consumers and medical institutions as service providers. Section 53 of the Act focuses on medical negligence particularly, providing penalties such as imprisonment and fines. However, complaints must be lodged within 30 days with the authorised person, and the magistrate can only take actions if a charge sheet is submitted within 90 days.

Medical care may be viewed as a contractual arrangement, hence negligence on part of a doctor may also be deemed a breach of contract. In such instances, the injured patient may seek redress under the 1872 Contract Act. Furthermore, if doctors violate the conditions of the contract, patients



can seek temporary or permanent injunctions under the Specific Relief Act of 1877. Aside from that, the Medical and Dental Council Act of 2010 gives the council the jurisdiction to withhold registration or remove practitioners' names from the register for carelessness or misconduct. Gross negligence by doctors and dentists can be considered misconduct and can result in expulsion from the register.

Medical negligence can be addressed constitutionally as well. The Constitution of Bangladesh recognises the fundamental right to life (Article 32) and the enforcement

of fundamental rights (Article 44). The State has the duty to ensure the basic necessities of life, including medical care (Article 15), and to improve public health (Article 18). Article 102 (read with Article 44) allows them to file writ petitions for redress.

In recent years, judicial activism has played a significant role in providing remedies for medical negligence cases. For instance, in 2011, Labaid Hospital was directed by High Court to compensate the wife of a deceased Dhaka University professor. In 2016, Japan Bangladesh Friendship Hospital faced penalties for concealing a

child's death. The High Court Division awarded compensation to victims who lost their eyesight in 2018. Also, in *Delwara Begum v Dr. Md. Surman Ali*, the High Court Division ordered the continuation of a medical negligence case that had been discharged by the trial court on account of inadequate consideration of evidence.

In conclusion, it can be said that the lack of particular codified legislation in Bangladesh to address medical negligence leads to a patchwork of remedies, that are accompanied by procedural complexities and the usual financial constraints. Furthermore, the failure to enforce High Court Division's directives worsen the problem. To solve these issues sustainably, it is essential to pass a comprehensive medical negligence law that defines medical negligence and establishes compensation standards by updating existing laws and regulations. Furthermore, the introduction of Health Tribunals with the assistance of medical professionals, could provide an effective tool for disposal of cases of medical negligence as well.

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