

Legal Aspects of Sight Pollution: Bangladesh Context

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Introduction

Since few decades, “pollution” has appeared as a major concern to all. Due to various human activities in the name of development, people are facing various kinds of pollution. Pollution has got momentum in impacting adversely to our natural environment in recent decades. In earlier days, pollution was not treated as the most fatal problem in Bangladesh but since last few decades, people of this country have been experiencing various severe consequences from such misdeeds. The term “pollution” has numerous reflexive effects on human organs. Through its occurrence, it starts reacting on the tongue, the eyes, the nose, and the skin and eventually on our inner organs and our minds. “Pollution” is a process of making air, water, soil, etc. dirty.¹ In other words, pollution is the contamination of the environment as a result of human activities. Pollution can be many-fold: air pollution, water pollution, soil pollution, noise pollution and even sight pollution. Sight pollution is also referred as visual pollution.

This paper will try to divulge the various legal aspects of “sight pollution” found in Bangladesh, such as- of the creation, legal provisions, gaps and possible solutions. The reason for raising this concern is that in our country the issue of “sight pollution” has not yet been seriously taken into account, though ample instances are existent and are causing great annoyance to all in our daily life.

Definition and Elements of Sight Pollution

In an article the term “visual pollution” has referred to those elements of the landscape or “townscape” that the community finds unattractive, including buildings, business signs, stoplights and street signs, telephone and utility poles, and weeds and litter². Visual blight includes billboards, power lines, cell towers, even ugly buildings. To the businessman, a well placed billboard may be a thing of beauty, but to the traveler whose view of the rolling hills or the rustic village is obstructed, it is visual pollution³. It is the most irritating one since it is able to be realized more easily, and it is also the more common. A lot of things may cause visual pollution. One

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¹ The Oxford Advanced Learner's Dictionary, 7th Edition

² Dunn, Madeline, updated by Montoya, Tito and White, Bob- Albuquerque's Environmental Story-Educating for a Sustainable Community

³ [www.pollutionissues.com/Ve-Z/Visual Pollution](http://www.pollutionissues.com/Ve-Z/Visual%20Pollution) (15 October, 2006)

of them are traffic jam which are too annoying for people⁴. Visual pollution falls roughly into three categories: natural, artificial and malicious⁵.

So, the word “sight pollution” can be described as “any mental and/or physical situation caused by seeing or visualizing any specific thing, object or scene which the society does not approve to be seen as such or which diminishes the aesthetic value of any particular thing or area and impacts adversely in one’s physical and psychological system and also on the natural environment”. Through analyzing this description the following elements can be found:

- i. There must be man-made occurrence of something;
- ii. It is seen generally;
- iii. It involves something which is not expected to be seen or which lowers down the aesthetic value of any particular sight or area;
- iv. It has some specific impact on physical and/or psychological system of human beings and also on the surroundings; and
- v. The impact must be adverse.

Origin of Sight Pollution in Bangladesh

The origin of causing sight pollution could be found during the British regime in this sub-continent. People of this region got many occasions to demonstrate their protest against the unfair attitudes and activities of the then Ruler. Since then projecting protest through posters, placards, flyers, handbills were very common to all and still retain their popularity. Besides these methods, graffiti⁶ was used as an effective mean to attract peoples’ attention. Most of the historical books mention these means as used in showing protest. The role of posters and graffiti were immense in communicating and achieving people’s demand but at the same time had contribution in polluting our natural environment. These objects and means were never realized as “pollution” rather termed as “nuisance” in some of the relevant laws.

Sources of Sight Pollution

Sight pollution has been contributing in causing peoples’ annoyance in many ways. As mentioned above that sight pollution was earlier caused mainly through posters and graffiti but now a day, the sources of sight pollution are diverse. As time is passing on, people are inventing new methods of causing sight pollution.

1. Advertisement of Products and Services

Now a day advertisement plays a great role in taking decision regarding any goods/products and services. To reach peoples’ mind various means

⁴ www.youngreporters.org/article on Visual Pollution, Turkey

⁵ What is Visual Pollution? www.propertyservices.com/pollution

⁶ Words or drawings scribbled on public or private property without owner’s consent.

of advertisement including those mentioned below have been introduced which in effect are causing sight pollution.

1.1 Posters on Walls: The use of papers in the form of posters, placards, leaflets are now mostly meeting the need of publishing advertisement of various goods, products and services to be offered. These paper based advertisements are pasted on the public wall to attract peoples' attention. Shortly after their pasting on walls, they often are found ripped off and the rest part remains pasted onto the wall in an ugly way. It is hard to find a wall in Dhaka without such an ugly sight. Even historical places, like Lalbagh Fort is loaded with posters on its walls⁷. It is unfortunate to note that the Lalbagh Fort along with other 93 structures have been declared by the *Rajdhani Unnayan Kartipakkhaya* (RAJUK) to be conserved due to their historical importance⁸ but implementation of this decision is absent.

1.2 Delivering Flyers at Terminals: People can be found at various bus stoppages, terminals, junctions and even at market places delivering hand bills and flyers or throwing them inside the public transports. In most cases, people do not keep or read these handbills; rather throw them on the ground which causes letter.

1.3 Advertisement inside Public Transports: Advertisement can also be seen pasted inside the public transports such as bus and minibuses. Most of these advertisements contain hundred percent guarantees to cure diseases, like cancer, asthma or sexually transmitted diseases and also of coaching centres and part time jobs.

1.4 Advertisement on Lamp-post and Trees: In Dhaka city, it is rare to get any lamp-post or trees free from any hanging banners, placards or small notices. These haphazard advertisements of coaching centres, concerts, post vacancies, trading, medical treatment and other services, though meet the various demands of common people, but surely cause sight pollution at large.

1.5 Advertisement through Billboards: While passing by any roads, billboards can be easily seen placed at different sites. Haphazard placement of billboards, without following the relevant rules, is seriously causing sight pollution as it puts pressure on our eyes and may result in severe accidents while passing under it or while driving. Recently, there was an incident of death and destruction of properties due to the sudden toppling down of such billboards⁹. Besides, few billboards contain pictures which are in no sense culturally compatible with the values of Bengali culture. These pictures are mostly of advertisements of foreign dresses and goods but shown in a way which should not be allowed to be projected so

⁷ News report on sight pollution in the supplement *Dhakay Thaki* of daily Prothom Alo, page 8, dated 5 June, 2011

⁸ Gazette Notification published on 12 February, 2009

⁹ News report on billboard in the supplement *Dhakay Thaki* of daily Prothom Alo, front page, dated 15 May, 2011

openly. Bengali culture is surely different from foreign culture and watching these advertisements is definitely putting to a great number of people in an embarrassing situation.

1.6 Graffiti: This is another common way to advertise products, goods and services to common people. The taggers¹⁰ can be found very active in doing so. Most of the road side walls are depicted with graffiti either of advertisement of any coaching centre, treatment centre or messages of any local political leader. Views of local leaders are often found expressed on public/private walls regarding occasions like felicitating national leaders, condemning opposition leaders, claiming for various rights or seeking support from public on any issue. Very recently, it is noticed that many private/public walls in Dhaka are covered with writings using sprays. Owners of these walls seem negligent and/or frustrated in stopping such irritating cultures or sometimes let their walls to be used for such writings. It involves huge money to erase graffiti which are either spent by private individual or government using peoples' money. As part of beautification of Dhaka and Chittagong, for ICC World Cup Cricket, 2011, many objects were placed, but right after their placement, these objects were found filled up by writings of common people. Such callous activities have jeopardized significantly the purpose for which those objects have been placed.

1.7 Banners, Small Hoardings and Placards: Placing of banners, small hoardings are seriously causing sight pollution, especially in Dhaka. While passing through Dhaka-Tongi Road and other roads of Gazipur district, a series of colourful banners, placards or hoardings can be found engraved along the side of roads or tagged with the lamp posts, containing greetings messages and pictures of the local political leaders along with the picture of the central leader. Adjacent to and in front of the Prime Minister's Office in Dhaka, banners, small hoardings can be found, containing messages of felicitation and pictures of our Prime Minister, receiving awards which are placed by the local political leaders.

2. Begging through Showing Scars and Diseases

At different road intersections and footpaths, especially in Dhaka, beggars often show their scars, diseases and illness to the people to get monetary assistance. This type of begging is another source of sight pollution. People rarely think of it in this way but it obviously has some impact on our physical and psychological systems. There are people who are really poor and needy and are begging money but at the same time a good number of people have been engaged in such begging as they have found this profession better than going for treatment, although they beg money for undergoing treatment. Besides, sometimes we hear that groups of people behind the scene are engaged in compelling poor people, by breaking their body parts, to beg.

¹⁰ Persons who draw graffiti, on peoples' property, without taking consent.

3. Activities during Election

Indiscriminate use of papers and graffiti have been used in highlighting the profiles of election candidates and their mandates. Often, big arch shaped colourful gates, posters and banners are being used by the candidates and/or their supporters as part of election campaign. During every election, we see that these things are placed at various sites without following the relevant rules. Once these things are affixed, no and/or late attempts can be seen to remove the same even after the completion of election. Such attitudes simply create annoyance and trouble for people who hardly speak out on this matter. Recent newspaper reports have divulged that how the candidates of different *Paurasava* Elections, 2011, have violated the relevant election rules of “code of conduct”. These reports also provided information of the various illegal acts of election candidates, such as printing colourful photographs, making election symbols at a size much bigger than the prescribed limit, and even of hanging posters on “*Shahid Minar*”, a national monument! Graffiti on private/public property happens sometimes for which owners of such properties have to spend money from their own pocket to wipe out those graffiti. All these activities contribute in causing sight pollution.

4. Use of Technology

Now a days, use of various technologies makes peoples’ life much easier as we can get information very quickly through. The internet wires and cables can be found hanging crisscross in most part of Dhaka city and in most cases in a very risky way resulting in civic discomfort and health hazard and providing an ugly sight. Even, some of these cables can be found holding some paper based advertisements! Very recently, the government has taken an initiative to take off these wires and cables from such risky hanging but still most of the cables are still hanging in a way that are causing trouble. This is also evident from a recent news report¹¹.

5. Callous Human Behavior

It is not a rare scene in Bangladesh that a person can be seen urinating and worse at any roadside drains or footpaths, beside walls, even at parks and bushes. This shameless attitude shown by the persons are also responsible for causing sight pollution to others and exposing risks to public health. It is often found in the shopping mall that mannequins are placed without putting any dress or their dresses are being changed in an open place. It is surely an embarrassment to pass these mannequins without cloths. Sometimes, pet animals are let loose, in open space ignoring the purpose for which these spaces have been made or their scenic values.

6. Littering and Other Bad Habits

Another very common scene in Bangladesh is that people throw trashes

¹¹ Report on hanging cables in the daily Prothom Alo, page 7, dated 22 May, 2011

anywhere they feel convenient. This irresponsible activity only happens due to non-enforcement of relevant laws. While walking through a footpath, foot over bridge, stairs of any public office or public road, it is hard to find the same free from spits and other human wastes. Most people neither think of using tissues or napkins to put such wastes nor of using the designated spittoons and dustbins. Roads, foot over bridges, walkways and underpasses can be found full of litter. Even parks and other open spaces are sprinkled with litter as people use these areas as part of recreation¹². Besides, drains are choked by wastes; floating solid wastes can be found there and in the lakes, ponds, *khals*¹³ and even in the rivers¹⁴. Presently our sea-coast is also being affected by such bad human habits. Efforts have been made to clear these wastes but seem to be an abortive one. Educational institutions are also suffering from the same problem, as the walls of classrooms, desks, tables and chairs contain writings and pictures depicted by the students. Sometimes, seats of public transports can be found with writings of names, telephone numbers and indecent comments.

7. Dumping of Garbage

While walking on a footpath, public road or in a public place, garbage can be found dumped haphazardly. It can be broken parts of building construction materials, loose house-hold used products, rotten vegetables and other perishable items, debris and other liquid substances piled-up beside any public drain and even old/broken vehicles dumped at different places¹⁵. Sometimes, dumping of waste is done by the local government bodies while they clean any public road or drain and kept for a long time.

8. Unregulated Industrial Operation

Irrespective of their sizes, almost all the industries of Bangladesh drain out their toxic industrial wastes into the nearest water bodies. Almost every day, a news report can be found in any newspaper with/without a horrifying picture of floating solid wastes; the bizarre colour of the water and its quality¹⁶. The residents nearby these water bodies are forced to use such water for their daily work and to inhale the stinky odor emanating there from. Regular watching of such a site would have effect on our

¹² News on cleaning activities undertaken by Scouts at Ramna Park, Dhaka, in the supplement *Dhakay Thaki* of daily Prothom Alo, page 7 dated 29 May, 2011

¹³ Water retention area, larger than a pond, which may has linkage with river.

¹⁴ News on dumping of solid waste in *Chaktai khal*, Chittagong, in daily Prothom Alo, page 21, dated 9 May, 2011

¹⁵ News report on nuisance, in the supplement '*Ain Adhikar*' of the daily Prothom Alo, page 2, dated 5 June, 2011

¹⁶ News on tannery's liquid waste in Hazaribag, Dhaka, in daily Prothom Alo, front page, dated 9 May, 2011; Report on poisonous wastes and shrinkage through encroachment of the river Bhahmaputrya, in the daily Prothom Alo, page 9, dated 22 May, 2011; News report on water pollution in the supplement *Dhakay Thaki* of daily Prothom Alo, page 8, dated 5 June, 2011

mental system apart from its severe adverse health consequences. The stench emanating from the river *Buriganga*, in summer season, is unbearable. Apart from new reports, cases have been filed to prevent water pollution and encroachment of the river¹⁷, but no effective and persistent steps, to relieve the lives of the residents, other aquatic organisms and the river itself can be seen. These water bodies have a great role in providing environmental services besides their aesthetic values. The blatant attitudes of the owners of the industries are responsible in degrading the natural environment and causing immense health hazard at the vicinity.

9. Unplanned Township

Once Dhaka was called by “city of mosque” and was blessed with rivers, lakes and parks. It could be renamed as “city of encroachment and pollution”. The rivers of Dhaka such as *Buriganga*, *Sitalakkha*, *Turag* and *Batu* are constantly facing encroachment and pollution by various small/big land grabbers. The scenic views enjoyed by the elderly residents adjacent to these rivers would very shortly be written only in history books. The new generation is deprived of scenic views, breathing fresh air and enjoying natural beauty of rivers and lakes. Plenty of instances of encroachment and unplanned development of township can be noticed by visiting these places, as signboards of various land developers can be found or through news reports. These include, amongst others, attempt to shrink down the area of our National Parliament House by constructing new buildings; letting a portion of *Sohrawardi Uddyan*-a public park, for the construction of golf club; grabbing of lakes of Dhaka by different people and institutions, such as BGMEA Building at *Hatirjheel/Begunbari khal*, squeezing off Dhanmondi, Uttara and Gulshan-Banani lakes. Numbers of cases have been filed before the Supreme Court challenging these activities¹⁸. Apart from Dhaka, ample examples can be cited, such as indiscriminate selling of land adjacent to Cox’s Bazar sea-beach, coasts of Kuakata and St. Martins Island and transforming these natural beauties into “places of unplanned buildings”, in the name of so-called development. The unique views these areas possess are invaluable in terms of tourism and also play a significant role in providing eco-system services. Attempts can be seen to destroy the scenic beauties of the

¹⁷ *Dr. Mohiuddin Farooque v Bangladesh and Others* (Industrial Pollution Case, Writ Petition No. 891 of 1994; 55 DLR, HC 59); *Bangladesh Environmental Lawyers Association v Bangladesh and Others* (Bur ganga Encroachment Case, Writ Petition No. 4098 of 1998); *Human Rights and Peace for Bangladesh v Bangladesh and Others* (Buriganga Encroachment Case, Writ Petition No. 3503 of 2009)

¹⁸ *Bangladesh Environmental Lawyers Association (BELA) and Others v Bangladesh and Others* (Golf Court Case) Writ Petition No. 1859 of 2008; 2482 of 1998 (Gulshan Lake encroachment); *Dr. Mohiuddin Farooque v Bangladesh and Others* Writ Petition No. 7422 of 1997 (Encroachment of Gulshan Lake); *Dr. Mohiuddin Farooque v Bangladesh and Others* Writ Petition No. 948 of 1997 (Uttara Lake fill-up), *Bangladesh Paribesh Andolon v Bangladesh and Others* Writ Petition No. 3548 of 2003 (National Parliament Case); *State v Bangladesh and Others Suo Motu* Rule No. 19 of 2010 (BGMEA Case)

various sites of “*chharas*”¹⁹ and “hills/hillocks” in Cox’s Bazar, Chittagong, Sylhet and Chittagong Hill Districts²⁰. All these activities are causing sight pollution in effect. Cases have been filed in the Supreme Court to stop these illegal activities²¹.

Analysis of the Domestic Legal Provisions on Sight Pollution

It is essential to review the various provisions of laws as to whether these are sufficient to address the issue and whether these laws are at all being applied. Under this head, laws will be discussed in two sub-heads namely the relevant provisions and their analysis on gaps and existing situations.

1. Apex Law

1.1 Relevant Provisions: Until very recently, the Constitution of the Peoples Republic of Bangladesh had no specific provision on any kind of pollution or protection of environment. Part II of the same talks about the fundamental principles of state policy. State recognizes these policies as fundamental though it is not bound to provide any guarantee for their enforcement. Article 11 says “...fundamental human rights, respect for the dignity and worth of human person shall be guaranteed...” Article 15 embarks the state’s responsibility to attain steady improvement in material and cultural standards of living of people and also of securing the right to reasonable rest, recreation and leisure. Through the 15th Amendment of our Constitution, the urgency of protecting and conserving the natural environment and resources has been reflected in Article 18A. It mentions that the State has the responsibility to conserve and develop the environment for present and future citizens and also to make provisions for the conservation and safety of natural resources, bio-diversity, forest and wildlife. Citizens and public servants have duties regarding the observance of law, performing public duties and protecting public property (Article 21); conserving national cultures and heritage of people and for its enrichment (Article 23); protecting against any sort of disfigurement and damages of all monuments or places of historical importance (Article 24).

Part III of our Constitution mentions of fundamental rights of the people which are guaranteed for the citizens. Article 32 guarantees, amongst others, the protection of peoples’ life and personal liberty; the freedom of movement throughout Bangladesh is guaranteed in Article 36; and peoples’ right to hold property is stated in Article 37. These rights can be enforced unless specific restrictions do not prevent in enforcing the same.

¹⁹ Stream flows through hill/hillock.

²⁰ News report on hill cutting in Cox’s Bazar in the daily *Jugantor*, page 18, dated 1 June, 2011

²¹ *Bangladesh Environmental Lawyers Association (BELA) and Others v Bangladesh and Others* Writ Petition No. 6848 of 2009 (To save St. Martins Island); *Dr. Mohiuddin Farooque v. Bangladesh and Other* Writ Petition No. 6020 Of 1997 (Hill cutting in Chittagong)

1.2 Gaps and Existing Situation: The juxtaposition of both the causes of sight pollution and various provisions of our supreme law of the land can be used to try and divulge the agony of common people. Though the government is responsible for improving cultural standards and conserving national heritage, the people are being forced to watch advertisements of foreign shops containing pictures which are not attuned to our traditional culture. The violation of right to property can be evident while passing through a road or public places where advertisements either are hanging over and/or affixed on public/private properties. Our government is responsible to secure peoples' right to rest, recreation and leisure and protect public property, but most of our recreational areas, such as parks, playgrounds, lakes and rivers are in such a state that cannot satisfy peoples' demand. The constant dumping of various debris, into our common properties, like lakes and rivers and razing of natural hills for residential purposes, are few unfortunate examples of sight pollution. These natural beauties should be kept, maintained and conserved in a way so that the right to recreation of present generation and generations yet to come can be protected. Almost everyday, the national and local daily newspapers publish advertisements of selling lands adjacent to the Cox's Bazar and Kuakata sea beaches for making different resorts, motels, apartments and so on. It is needed to come forward to stop the grabbing of these natural blessings. The concerned authorities, like RAJUK, various developmental authorities and local government bodies responsible for urban and rural planning, are duty bound to secure people's right to rest, recreation and leisure as mentioned in Article 15 or public property mentioned in Article 21. The fundamental right to life, as mentioned in Article 32, inherently includes right to healthy environment which has been recognised through a case judgement²². This right can not be enjoyed if a resident next to any lake has to see the lake containing dirty water, floating/flowing litters and to inhale air with bad smell. This could lead to various health hazards apart from sight pollution. The freedom of movement mentioned in Article 36 is hindered for a walker/traveller as he would not want to pass through a park or a river which is filled up with wastes. Once common people start avoiding these places for recreation, they will turn into places for dumping or for doing other things, resulting in encroachment. A building owner could not properly enjoy his right to property, as guaranteed in Article 37, if his house and outer walls contain graffiti. This is surely not a meaningful life within the meaning of right to life as guaranteed in Article 32. During election time, recurrent violation of the code of conduct by the candidates becomes a common phenomenon and the violator has been punished rarely for committing the offence.

2. Local Government Laws

There are various local government laws in Bangladesh, such as:

²² *Dr. Mohiuddin Farooque v Bangladesh and Others* Writ Petition No.92 of 1996, 48 DLR,HC 438 (Danish Condensed Milk Case)

- i. The Local Government (City Corporation) Act, 2009 (last amended in 4 December, 2011);
- ii. The Local Government (Paurashava) Act, 2009;
- iii. The Local Government (Union Parishad) Act, 2009;
- iv. The Rangamati Hill District Local Government Parishad Act, 1989;
- v. The Khagrachhari Hill District Local Government Parishad Act, 1989;
- vi. The Bandarban Hill District Local Government Parishad Act, 1989; and
- vii. The Chittagong Hill District Regional Parishad Act, 1998
- viii. The Beautification and Advertisement Guidelines, 2009.

All these laws, except the guidelines (mentioned in serial viii.), contain almost same provisions. The basic difference among them is the level of punishment. It varies from maximum fine of Taka two thousand to fifteen thousand for commission of any offence stated in the laws and if the offence is the continuing one, additional Taka two hundred to five hundred will be charged for each day. The punishment is even lower (five hundred taka and twenty five taka respectively) for the violation of the laws mentioned in serial iv- vii.

2.1 Relevant Provisions: Since these laws have almost similar provisions, here, the Local Government (Paurashava) Act, 2009 and the Beautification and Advertisement Guidelines, 2009 are discussed.

2.1.1 Functions & Powers: As per this law, it is the main responsibility of Paurashavas to provide all civic amenities [Section 50(1)]. This law directs Paurashavas to do all needful to undertake the functions mentioned therein including beautification [Section 50(2)]. The functions stated in section 50 and schedule II include amongst others: i. collection, disposal and management of wastes from drains and roads; designating places for their disposal; ii. maintenance of the drainage and sewerage system; iii. declaring and maintaining public water body for recreational purpose; iv. maintenance of public roads for the convenience of people; v. developing and maintaining parks and open spaces for the recreational purposes; vi. arranging tours; conservation of the historical places; ensuring facilities for the recreation of people; and promoting national culture; vii. preventing prostitution and begging through irritating request or through showing scars, diseases/illness; and viii. initiating development plan for it. The Paurashavas are empowered to take all such actions necessary to implement the functions stated in the Act; constitute various Permanent/Standing Committees including for waste disposal, town planning and environment development, where experts of relevant field could be invited and/or co-opted (Section 55). The Act allows access of people to the meetings of their respective Paurashavas unless the meeting is confidential (Section 57). It is a duty of the Paurashavas to submit to the government their annual reports (Section

52) and to publish citizen charters to ensure better service for citizens (Section 53).

2.1.2 Offences: Schedule IV provides a list of offences which include amongst others: i. not paying applicable taxes and fees; ii. keeping animals and parking vehicles on roads not designated as such; iii. letting animals to stray; iv. negligent letting of sewerage wastes to be flowed in public roads/places; v. dumping/throwing any refuse on any street or in places not designated as such; vi. disposing of carcasses of animals without the sanction of the Corporation; vii. fixing any billboard, notice, placard or other means of advertisement against or upon any building or place, not designated as such; viii. letting loose any pet animals; ix. begging unfortunately for alms, or exposing or exhibiting with the object of exciting any deformity or disease or any offensive sore or wound; x. practising prostitution in any area, not designated as such; xi. illegal encroachment and commission of public nuisance in any public place and streets; and xii. attempts and abatement of any of the offences, mentioned in the Act. As per this law, Mayor/Councillors and other officers would be treated as “public servants” within the meaning of Section 21 of the Penal Code, 1860.

2.1.3 The Beautification and Advertisement Guidelines, 2009: This is not a law, but it mentions areas where placing of any sort of billboards for advertisement are prohibited. These restricted areas include air port, government hospital, traditional structures, and parks and so on.

2.2 Gaps and Existing Situation: Perusing the provisions of these laws, it is clear that every local government body has very specific tasks to prevent sight pollution by keeping public roads and places free from any sort of encroachment, damage, nuisance and inconvenience. If these tasks can be effectively carried out by it, the people might not experience annoyance caused by various advertisements, strange human behaviour and bad habits, mentioned under earlier headings. Generally, a person has to pay extra money for buying a plot/house/apartment adjacent to any public park, water body or open space assuming the fact that he would get fresh air and plenty of light and unobstructed scenic views. It is unfortunate that none of these facilities can be enjoyed by the owners of such houses. By lifting their window curtains or opening the window, their sight, with utter disgust, will only catch a horrible view that all filthy things are being dumped into or floating in such places. They can only be blamed themselves for buying such houses, adjacent to lakes, by paying extra money and eventually forcing themselves to accept their misfortune and hardship. They, though tax payers of their respective city corporation/*paurashava*/union *parishad*, rarely think of claiming at least a decent and peaceful right of living in their houses which is embedded as a fundamental right in Article 32 of our Constitution. If they think of complaining before the relevant local government bodies regarding the right to recreation, they will be getting no justice from the counterpart. No effective and persistent step is taken by these authorities to tackle the problem associated with peoples' right to healthy environment and right to recreation, although these Acts empower them to do so. Beggars can

be found all around Dhaka City showing their sores, deformities and diseases, though the Dhaka City Corporation has specific duty under this Act to stop such begging. Most public and private walls, lamp posts, some trees are covered by posters, notices and advertisements of all kinds, whereas the city corporations/*paurashavas*/union *parishads* seem inactive in preventing such illegal activities. Small shops making and selling tea, cigarette, light snacks, candies could be seen placed on footpaths or in the road corners in Dhaka. These shops are illegal as they have not taken any permission from the local government authorities and are contributing to make the vicinity ugly. Defying the specific guidelines on billboard, these are placed indiscriminately which are reported in national daily. It has been reported that people are suffering from sight pollution through the billboards, and how billboards are being projected in contravention of the guidelines of 2009. These billboards are placed in such a risky way that there are chances of accidents. In 2010, a giant billboard placed at Gulshan DCC Market-1 toppled down and took two human lives and injuring others, besides causing destruction of public and private property²³. These laws make the relevant authorities responsible to evict all encroachment but the existing scenario is totally reverse. Besides, the restrictions imposed for placing billboards and advertisements are mentioned in the guidelines, which cannot be enforced by law. It is worth mentioning here that the city of Sao Paulo, in Brazil²⁴ has specific law, named the Clean City Act, 2007 to ban billboards and advertisements. Besides, in the USA, there is a law called the Highways Beautification Act, 1965 containing specific provisions on this.

3. Police Laws

The metropolitan areas of Bangladesh have separate police laws applicable for these areas and have similar provisions except the level of punishment. The applicable police laws are:

- i. The Dhaka Metropolitan Police Ordinance, 1976;
- ii. The Rajshahi Metropolitan Police Ordinance, 1992;
- iii. The Chittagong Metropolitan Police Ordinance, 1978;
- iv. The Khulna Metropolitan Police Ordinance, 1985;
- v. The Sylhet Metropolitan Police Ordinance, 2006;
- vi. The Barishal Metropolitan Police Ordinance, 2006; and
- vii. The Police Act, 1861 (It applies to areas excluding the metropolitan areas.)

3.1 Relevant Provisions: As the provisions are almost same, in this article, only the Dhaka Metropolitan Police Ordinance, 1976 is discussed.

²³ Report on billboard in the supplement *Dhakay Thaki* of the daily Prothom Alo, , front page, dated 15 May, 2011

²⁴ News Report on 18 June, 2007 titled "Sao Paulo: The City That Said No to Advertising" in [www. Businessweek.com/innovative/content](http://www.Businessweek.com/innovative/content)

3.1.1 Functions: As per section 15 (c) every police officer's general duty is to prevent the commission of public nuisances to the best of his ability. Although the law does not define the term "nuisance", it however empowers the respective Police Commissioners to make regulations regarding the prohibition of hanging or placing of any cord, pole across a street or making of a projection or structure so as to obstruct traffic or the free access of light and air [Section 25 (1) (i)]. A police officer shall destroy or cause to destroy any animal, found in the street or public place, which to his opinion and also of the opinion of the veterinary officer that it is so diseased or severely injured and keeping it alive would be a cruelty to it. In such a case, while destroying it must be screened from the public gaze, as far as possible (Section 35).

3.1.2 Penalty: The penalty imposed for negligent letting loose any animal which causes danger, injury or annoyance to any person, is fine of maximum taka five hundred (Section 70). The penalty for slaughtering any animal or cleaning a carcass or hiding in or near to or within the sight of a street or public place is a fine of taka five hundred maximum (Section 73). The penalty of soliciting for the purpose of prostitution in any street or public place or within sight of any such place is imprisonment extending upto three months or of fine of taka five hundred maximum or both (Section 74). The penalty, for committing any nuisance by relieving himself or spitting or throwing any litter, refuse or rubbish so as to cause annoyance to any passer-by in or near any street or public place, is of fine extending taka two hundred (Section 80). The penalty for begging and exposing offensive ailments, sores, wounds or deformity in any street or public place is imprisonment extending upto one month. The penalty for spitting in any building or place occupied by the government or local authority in contravention of a notice board affixed therein, is a fine of taka one hundred maximum (Section 83). The penalty for affixing bills, notice or paper against or upon any building, wall, tree, fence, post, pole or other erection with calm, ink or paint or in any manner whatsoever is a fine of taka two hundred maximum (Section 95). Abetting of the aforesaid offences will be treated as an offence under the law (Section 97).

3.2 Gaps and Existing Situation: These laws specifically direct to take action against any sort of nuisances. As sight pollution in most cases fit with the term 'nuisance', it is the duty of respective police officers to prevent the commission of nuisance. Besides, our Constitution mentions the duty of all public servants to protect our public property from any sort of destruction and spoilages. These laws also direct the police to prevent public from showing any bad behaviour. Begging through showing ailments and affixing any advertisement in a place not designated as such should be stopped by the police officers. Surprisingly, these duties as directed by the police laws are seen to be performed rarely and due to their negligence, instances of sight pollution are increasing in an alarming manner and rate. These laws provide a negligible amount of fine as punishment of committing these nuisances. Such penalty is in no way compatible to the level of offence and hence offenders are fearless to repeat the same. Even though police takes

action to demolish any illegal erection of post or pole, the wrong-doers in most cases do the same offence immediately after their demolition. Rather, it becomes an open secret that most of the police officers take bribe or other unfair advantage from such wrong-doers, for which honest police officers are suffering from image problem.

4. Election Laws

There are numerous laws regarding election which contain several provisions having relevance to the issue of sight pollution. These laws are:

- i. The Political Parties and Candidates Code of Conduct Rules, 2008;
- ii. The Code of Conduct for Union Parishad Elections, 1997;
- iii. The Code of Conduct for Upazila Election, 2008;
- iv. The Code of Conduct for Paurashava Election, 2010; and
- v. The Code of Conduct for City Corporation Elections, 2008.

4.1 Relevant Provisions: The provisions of various election laws are basically similar to each other and here the Political Parties and Candidates Code of Conduct Rules, 2008 is discussed.

4.1.1 Permitted and Prohibited Activities: Rule 7 of this law prohibits the candidates or their representatives to affix any sort of poster, leaflet or handbill on any building, wall, tree, electric or telephone pole, standing things, government/local government establishment, vehicle including bus, truck, train, steamer, launch, and rickshaw; however, hanging of posters is permitted under the law, and the poster should be black and white in colour, with the size not exceeding 23 inches by 18 inches; and the size, height, and diameter of election symbol should not be more than 3 metre. As per Rule 9 graffiti on wall, building, pillar, roof of a building, bridge, road divider, vehicle, and any other establishment is prohibited. The candidates or their representatives can not construct any *pandle* beyond 400 square feet in size; set any election camp on any road or public place but can place maximum one camp at each union *parishad/paurashava/city corporation* (Rule 10).

4.1.2 Penalty: According to Rule 18 the penalty for violating these provisions is imprisonment of maximum 6 months or fine of Taka fifty thousand maximum or both.

4.2 Gaps and Existing Situation: It is evident from the above mentioned provisions that election related laws contain some strong prohibitions imposed on candidates. These prohibited activities have their roots in causing annoyance to people at large and polluting our environment in various ways including visually. In recent past years, Bangladesh had experienced a number of elections. The candidates of these elections in most cases defied to obey the rules regarding code of conduct. From Parliamentary to local government elections, common people witnessed candidates' defiance to law. News paper reports were published regularly about this matter and no prompt action had been taken against the violators, and actions if taken were very insufficient and insignificant. In very recent Mayoral elections

2010 and 2011, there were instances of affixing posters on walls, vehicles, and public properties. Some of the candidates made their election symbols at a size far bigger than the authorized size. Although graffiti was found less in recent election campaigns, but placing of camps in public places was seen. The laws permit hanging of posters but as there is no specific limit of hanging, people had to endure sight pollution caused by these posters. The posters, once the election is over, are in most cases still found hanging, making the vicinity ugly and cause annoyance to people for a long time. These laws do not prescribe any direction to the candidates or the election commission to take actions for their prompt removal once the election is over.

5. Advertisement Laws

Various laws contain provisions regarding advertisement. Since other types of advertisements have already been stated in separate heads, in this head only undesirable and indecent advertisement related laws are discussed. They are:

- i. The Undesirable Advertisement Control Act, 1952; and
- ii. The Indecent Advertisement Prohibition Act, 1963

5.1 Relevant Provisions: The Undesirable Advertisement Control Act, 1952 prohibits advertisement of treatments or offering treatments of any venereal disease, sexual disorder, and irregularity of menstruation or any other prescribed disease, infirmity or abnormality; or offer to prescribe any remedy therefore; or giving or offering to give any advice in connection with the treatment thereof; it also prohibits the printers or publishers in doing so (Section 3). The term “advertisement” is defined in section 2 (1) as any notice, sign, visible representation, announcement, bill, hand-bill, circular or pamphlet, whether pictorial or otherwise. The penalty for violation is imprisonment extending one year or with fine of maximum 1000 taka or with both (Section 5).

The Indecent Advertisement Prohibition Act, 1963 also defines the term “advertisement” in section 2 (a) as any notice, circular, or other document, displayed on any house, building or wall, or published in any newspaper or periodical, any announcement made orally or by any means of producing or transmitting light or sound, but does not include trade circular issued by manufacturers of drugs to medical practitioners. The word “indecent” includes whatsoever may amount to any incentive to sensuality and excitements of impure thoughts in the mind on an ordinary man of normal temperament, and has the tendency to deprave and corrupt those whose minds are open to such immoral influence, and which is deemed to be detrimental to public morals and calculated to produce pernicious effect, in depriving and debauching the minds of persons [Section 2 (b)]. It prohibits, in section 3, persons from taking any part in publication of any indecent advertisement and knowingly allowing displaying any indecent advertisement on any property or public place or announcing therefrom upon which he has ownership, possession or any control. Section 5 directs persons authorised

to seize and detain any document, article or thing containing indecent advertisement and to be forfeited to the Government.

5.2 Gaps and Existing Situation: These laws, though age-old, have some specific provisions regarding showing, printing and publishing advertisements either undesirable or indecent in nature. The flagrant violations of these provisions are extremely obvious in the Bangladesh context. There is no instance of stopping the violation of these laws and people seem either have no reaction and/or simply are disgusted with the issue and accept it as a usual practice or find this culture interesting. These undesirable and indecent advertisements can be seen everywhere especially at terminals, inside public transports, on buildings, walls, public places, poles, roads, trees, printed and electronic medias and so on. As these laws have never been enforced by the concerned authorities and not known to all and also as the laws provide insufficient punishment, these illegal activities are going on unabated. Some of the billboards in Dhaka contain advertisements of outfits and dresses which in no way is compatible with our Bengali culture. Our Constitution specifically talks about promoting our culture not of other nations. It is indeed an embarrassment to watch these indecent advertisements with our family members. These two specific laws on advertisement clearly prohibit the printing, publishing and allowing the showing of such undesirable and indecent advertisements, whereas on the contrary people have to see the same which can be treated as sight pollution.

6. Environmental Laws

Our environmental legislations do not define the term “sight pollution” but through the interpretation of the definition of “pollution”, sight pollution is covered. The basic laws on environment are:

- i. The Bangladesh Environment Conservation Act, 1995;
- ii. The Environment Conservation Rules, 1997.

6.1 Relevant Provisions: In this head the above mentioned laws are discussed.

6.1.1 Definitions: In section 2 of the Bangladesh Environment Conservation Act, 1995, few definitions have been given. “Pollution” is defined as “such contamination, or other alteration of the physical, chemical or biological properties of air, water or soil, including change in temperature, taste, turbidity, odour or any other characteristics of these or such discharge of any liquid, gaseous, solid, radioactive or other substances into air, water, or soil or any elements of the environment as will or likely to create nuisance or render such air, water or soil harmful, injurious, detrimental or disagreeable to public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational or other benefits, uses, or ecosystems including livestock, wild animals, birds, fish, plants or other forms of life”. “Waste” means “any liquid, gaseous, solid and radioactive substance the discharge, disposal and dumping of which may cause adverse impact on environment”. “Environment” is defined as “air, land, water and physical properties and the inter relationship which exists among and between them and human beings,

other living beings, plants and micro organism”. “Environment conservation” is “the quantitative and qualitative improvement of different components of environment and prevention of degradation of standards”.

6.1.2 Functions: It authorises in section 4 the Director General of the Department of Environment (DoE) to take all such steps as deemed necessary for the conservation of environment, improvement of environmental standards and control and mitigation of pollution of environment- including coordinating with other agencies; advising/directing concerned persons; examining any place or plants regarding pollution and ordering to mitigate the same. The Government, to conserve any area from environmental degradation, can declare it as “ecologically critical area” (ECA) as per section 5. This law prohibits the cutting of hills in section 6B and filling up and/or changing the nature of wetland in section 6E. Section 7 empowers the DoE to determine the compensation and direct the concerned person or group of persons to pay and take other corrective measures that is responsible, either directly or indirectly, through any act or omission, in causing injury to the ecosystem. The establishment or adoption of any industrial unit or project without obtaining environmental clearance from the DoE is prohibited under section 12.

6.1.3 Penalty: This law prescribes in section 15 the penalties ranging from imprisonment of one to ten years or fine of Taka five thousand to ten *lacs* or with both.

6.1.4 The Environmental Conservation Rules, 1997:

Rule 3 details out the factors to be considered while declaring any area as ECA; and the process of issuing environmental clearance for different categories of industries and projects basing on their impact on environment is elaborately mentioned in Rule 7.

6.2 Gaps and Existing Situation: The DoE has enormous power to accomplish the objectives of the law. The issue of “sight pollution” is covered within the definition of pollution as it mentions the word “recreation”. Public places and water bodies including coasts, rivers, parks, gardens, *khals* and lakes and so on serve the recreational purpose of the community apart from providing environmental services but on the contrary the rivers, lakes and parks of Dhaka project an ominous sign by not serving the intended purpose to the visitors and persons passing through or by their sides. Most parts of these *khals* and lakes become a dumping place of wastes of all kind. Peoples’ right to recreation is defied by causing pollution including sight pollution though this law authorizes to take necessary steps with other government agencies to keep their scenic beauties through pollution control. The rivers around Dhaka city, namely, *Buriganga*, *Shitalakkhaya*, *Turag* and *Balu* are constantly polluted by the dumping of industrial or municipal wastes and public interest litigations have been filed to stop such illegal activities²⁵.

²⁵ *Bangladesh Environmental Lawyers Association v Bangladesh and Others*, Writ Petition No. 4098 of 1998 (River Encroachment Case)

Though these rivers and the Gulshan Lake have been declared as ECA²⁶, no effective initiative could be seen to protect these areas from environmental degradation. The water quality of river *Buriganga* has reached such a state that experts advise not using the river water for drinking or other house-hold purpose. Cox's Bazar has the longest sea beach in this world but recent news paper reports tell how wastes are choking some parts of our coast and giving a wrong signal to the tourists especially the foreigners. Mushrooming of concrete structures is going on unabated and developers have initiated various development projects before taking environmental clearance. These developers give attractive advertisements in print and electronic media and the relevant agencies are not taking prompt action against the same. Besides, ample news reports can be found in the national dailies regarding the cutting of hills and filling up of wetlands. Very few instances of filing cases by the concerned agencies against such violators could be seen, though very recently, attempts have been taken by the Magistrate of the DoE to fine some of the offenders. Basically, sporadic, weak and/or non-enforcement of the relevant provisions is contributing to a large extent to the non-compliance of these legal provisions and putting common people in a helpless situation and depressing them from enjoying natural beauties.

7. Urban Planning Laws

There are numerous laws regulating the issue of urban planning. These are:

- i. The Building Construction Act, 1952;
- ii. The Town Improvement Act, 1953;
- iii. The Chittagong Development Authority Ordinance, 1959;
- iv. The Khulna Development Authority Ordinance, 1961;
- v. The Rajshahi Town Development Authority Ordinance, 1976;
- vi. The Chittagong Hill Tracts Development Board Ordinance, 1976;
- vii. The Chittagong Division Development Board Ordinance, 1976;
- viii. The Water Supply and Sewerage Authority Act, 1996;
- ix. The Public Parks Act, 1904; and
- x. The Conservation of Play Ground, Open Space, Park and Natural Reservoir of All Metropolitan Areas, Divisional Towns, Municipal Towns of Districts of Bangladesh Act, 2000. It is commonly known as *Joladhar Ain* (Wetland Act/ Act No. 36 of 2000).

7.1 Relevant Provisions: The Town Improvement Act, 1953 talks about the planning of Dhaka. As per section 74, the use of land for purposes other than that laid down in the Master Plan²⁷, prepared and published by the RAJUK under section 73, by any person is unlawful. The Master Plan and

²⁶ Declared through gazette notification by the Ministry of Environment and Forest on 4th October, 2009

²⁷ Dhaka Metropolitan Development Plan (1995-2015)

the Detailed Area Plan (DAP)²⁸ are the documents of Dhaka containing the *mouza* maps and the descriptive particulars of roads, public and other buildings, fields, parks, pleasure-grounds and other open spaces, wetlands i.e. flood flow zone, sub-flood flow zone, retention ponds, etc. and also allocating areas of land for use of agricultural, residential, industrial or other purposes. The laws named in serial number iii.-vii. have similar provisions like it.

The objective of the Building Construction Act, 1952 is to prevent the haphazard construction of building and excavation of tanks in Bangladesh. No person can construct, re-construct, add or alter any building without the sanction of the Authorized Officer (Section 3) or use lands or buildings for purposes other than that mentioned in the sanction (Section 3A) and shall be directed to dismantle or remove any such unauthorised construction (Section 3B). It also restricts cutting of hills in section 3C; and also empowers Authorized Officers and any police officer, not below the rank of Sub-Inspector, in section 10A, to seize things used in hill cutting and arrest person engaged in such illegal activities.

The Authority, established under the Water Supply and Sewerage Authority Act, 1996, has the responsibility, under section 17, of constructing, developing and conserving systems for collection, pumping, processing and disposal of sewage and industrial wastes. Any activity resulting in damaging the sewerage system is a punishable offence under this law.

The government may make rules, under the Public Parks Act, 1904 for the management and preservation of any park and for regulating the same. Through such rules, admission of persons, bicycles can be regulated; bringing of dogs into the park, plucking, breaking trees/branches, disfiguring any buildings, monuments, removing marks, labels attached to trees/plants can be prohibited (Section 4).

Under section 5 of the *Joladhar Ain*, 2000, no person can: change the characteristics; or use otherwise; or rent/lease out, transfer to use otherwise, of any play ground, open space, park and natural reservoir earmarked as such; even cutting down of trees in any park is treated as change of character. The term "change of character" is defined in section 2(h) as earth filling, constructing any sort of building, semi-building, hut or any sort of change to the areas earmarked in the Master Plan or in any other government gazette notifications. The penalty for violating this provision is imprisonment for maximum five years or of fine extending to fifty thousand taka or with both (Section 8).

7.2 Gaps and Existing Situation: All these laws have specific provisions regarding town planning but in reality ample instances of violation are found. In the Master Plan of Dhaka, 68 parks, 10 play ground and 43 *khals* are earmarked but very few is in existence in their real sense. Those which still exist have lost most of their original character and failed to deliver the

²⁸ Prepared by RAJUK through a gazette notification dated 22 June 2010

service. Many lakes and *khals* have been encroached and fill up and now used for totally reverse purposes. Residential and commercial buildings have been constructed in lakes of Gulshan²⁹, Dhanmondi and Uttara. Begunbari *Khal* and *Hatirjheel* are also suffering the same problem and BGMEA building is still standing there defying all these legal provisions. Kalyanpur *Khal* now looks like a drain with garbage floating on it and Dholai *Khal* is now just carrying the name without any trace of it. Many parks of Dhaka instead of serving the recreational facilities are used for truck garage, site for electric and water pumps and for other purposes. Such illegal uses are going unabated, though there are strict provisions to halt the same. Different cases have been filed to restore their original character, so that both environmental and recreational aspects can be protected³⁰. Very recently, it is evident from news reports that a giant developer company has been directed to stop encroaching and land-filling of the Boalia *khal*³¹. The residents, next to Gulshan-Banani-Baridhara Lake, instead of enjoying a scenic view, see the sight of wastes piled up along the lake bank or floating on water, and so forth line of huts made of polythene where poor people live, as they have no place to go. The colour of the lake water is also evidence of its quality. These residents and the persons passing through these lakes are suffering regularly with such sight pollution although the residents paid a huge sum of money as “additional” just to enjoy the scenic views. No persistent initiative in punishing wrong-doers for “changing the character” of an open space or wetland can be seen, though our Prime Minister has repeatedly expressed her willingness to protect these natural blessings and has given direction to conserve these places and cases have been filed for restoration.

8. Laws on Disadvantaged Groups

There are people around us who can be termed as disadvantaged groups either because of their poverty or of diseases, and/or unemployment. The laws dealing with them are:

- i. The Lunacy Act, 1912;
- ii. The Vagrant and Homeless People (Rehabilitation) Act, 2011; and
- iii. The Bangladesh Disabled Welfare Act, 2001.

8.1 Relevant Provisions: The Lunacy Act, 1912 empowers the police officer, in section 13, to arrest all persons found wandering at large whom he has reason to believe to be dangerous by reason of lunacy and to take forthwith before the Magistrate; a magistrate, upon getting any information regarding

²⁹ News report on encroachment of Gulshan Lake, Dhaka, in the daily Prothom Alo, front page, dated 21 May, 2011; on Gulshan Lake pollution, in the daily Prothom Alo, page 24, dated 5 June, 2011

³⁰ *Bangladesh Environmental Lawyers Association (BELA) v Bangladesh and Others* Writ Petition No. 3475 of 2003(To save the parks of Dhaka Case); *State v Bangladesh and Others, Suo Motu* Rule No. 19 of 2010(BGMEA Case)

³¹ News report on encroachment of Boalia *khal*, Dhaka, in the daily Prothom Alo, front page, dated 8 January, 2012.

any person deemed to be lunatic, may cause him to be produced before him and summon his relative who has or ought to have the charge of him, under section 15.

The Vagrant and Homeless People (Rehabilitation) Act, 2011 defines “homeless” as a person who has no specific place to reside or who helplessly lives either in the town or village as floating and does not take any government allowance from anywhere. A “vagrant” is a person who has no certain place to stay overnight and strolls around with no specific intention and as such irritates people in this manner or is found engaged, either by himself or under provocation, asking for alms in any public place but does not include a person collecting money or asking for food or gifts for a charitable, religious or other purpose (Section 2). The “Vagrant Advisory Board” constituted, under section 4, is required to advise the government to undertake schemes for the betterment of vagrants and homeless people (Section 5). Any police officer authorized in this behalf, may require any vagrant to appear before a Special Magistrate (Section 9); and such vagrant or homeless person can be ordered to be handed over to the reception centre or shelter home for maximum two years (Section 10); a vagrant can by him/herself or any local government authority apply to stay in such shelter home (Section 11). As per section 16, in every shelter home, there must be provisions for their welfare, learning discipline and training. For the rehabilitation of these people, the government must initiate some programme or may seek assistance from any private organization (Section 18). As per section 20, once, such persons are capable of doing job; they shall be released from the shelter home. A “Vagrant Welfare Fund” is to be created and maintained under section 21 of the Act. According to section 22, a vagrant shall be punished with three months imprisonment if s/he escapes from the shelter home or does not return in time.

The Bangladesh Disabled Welfare Act, 2001 provides various duties and functions of the coordination committee, executive committee and district committee, constituted for this purpose, for the welfare of disabled people, which includes amongst other to initiate activities to resist and prevent disability; identify disabled; educate, provide health care, rehabilitation and employment; facilitate their transportation and communication; provide social safety and so on.

8.2 Gaps and Existing Situation: These laws have specific provisions regarding lunatics and vagrants whom we often see at different places. Either these lunatics are found walking without/with extremely dirty clothes or shouting at people. Vagrants begging money from people is a very common scene in Dhaka. Various news reports suggest that in most cases these vagrants are being used by some groups of persons who are dependant on the earnings of these vagrants. The authority responsible to take proper steps to stop the same seems negligent to perform their duties. Some news reports also the law enforcing agencies of taking bribes from these vagrants and allowing them to be on the streets. These causing serious sight pollution to all. There are instances when the authority acts promptly in removing

vagrants and all beggars from the city road, like ICC World Cup Cricket, 2011. If this can be done during any special occasion, it could also be done regularly. As there are specific laws to regulate this issue, its implementation is expected to be seen. Plenty of disabled persons can be seen all around the country, especially at terminals, near bus stops, traffic signals, mosques, at foot over bridges, underpasses, footpaths, whose lives are in a miserable condition either because of such disability or forced to be used as such by other persons or groups and now have chosen begging as their profession. These laws on disabled and disadvantaged have sufficient provisions to address these problems but their application, has probably, never been implemented.

9. Laws on Nuisance

Pollution, in general, is treated as a matter that falls under the term nuisance. The laws that deal with this issue are several in numbers and have mostly been discussed in previous different heads. In this head, only couple of laws will be mentioned. These are:

- i. The Penal Code, 1860; and
- ii. The Code of Criminal Procedure, 1898.

9.1 Relevant Provisions: The Penal Code, 1860 details out certain activities as offences and provides penalty for the same. According to section 268, a person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right. A common nuisance is not excused on the ground that it causes or fouls the water convenience or advantage. Corrupting or fouling water or public spring or reservoir, so as to render it less fit for the purpose of which it is ordinarily used, is a punishable offence. The penalty is imprisonment for a term which may extend to three months, or with fine which may extend to five hundred taka or with both (Section 277). Making atmosphere noxious to health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way is an offence. The punishment is fine which may extend to five hundred taka (Section 278). Causing danger, obstruction or injury to any person in any public way by doing any act or omission is a punishable offence; the punishment is fine maximum of taka two hundred (Section 283). As per section 284, the punishment for doing any negligent conduct with respect to poisonous substance is imprisonment extending six months or fine upto taka one thousand or both. The punishment for committing any public nuisance, not otherwise punishable under this Code, is fine extending to taka two hundred (Section 290). The punishment for unlawfully compelling any person to labour against his/her will is imprisonment extending one year or with fine or both, under section 374.

Under section 133 of the Code of Criminal Procedure, 1898, upon receiving a police-report or other information and on taking evidence, the District

Magistrate, a Sub-divisional Magistrate or a Magistrate of First Class can order any person who does any unlawful obstruction or nuisance to remove the same from any way or public place.

9.2 Gaps and Existing Situation: Usually people treat “pollution” as nuisance. Though there are specific provisions to prevent activities causing annoyance to people, plenty instances of these annoying activities can be found around us. Indiscriminate placing of advertisements, fouling the water of rivers, lakes, obstructing footpaths and other public places are a few examples of causing various types of pollution including sight pollution. These sections of laws are hardly enforced and the penalty imposed for their violation is too nominal. The law enforcing agencies and other concerned authorities seem, in most cases, indifferent to apply these legal provisions. Such inaction contributes to attracting people more to defy these legal provisions.

Case Laws on Sight Pollution in Bangladesh, India & Pakistan

Under this head, few cases, filed in the courts of Bangladesh, India and Pakistan, are discussed only. As sight pollution is not treated as a serious concern to common people, no exclusive petition on this issue can be found filed in the Indian Sub-continent. There are cases where if directions are given upon redresses sought they would serve the purpose of stopping sight pollution.

Bangladesh

As mentioned earlier that “pollution” is considered in one of our age-old laws i.e. the Penal Code, 1860 as “nuisance” but it is surprising to note that no case could be traced as instituted in any court regarding this issue. It can be interpreted in the way that though people treat these activities as “trouble” but are mysteriously reluctant to file a case before the court. Probably non-application of this legal provision helps the continuance of the misdeeds and has got its strong and persistent momentum in our country.

In 1994, for the first time in history, a public interest litigation (PIL) was filed, by Bangladesh Environmental Lawyers Association (BELA)-a national NGO, before the High Court Division regarding the enforcement of various election laws where aesthetic aspect was raised³². The respondents of this writ petition were the Election Commission, who was entrusted with the responsibilities of conducting the election of the Commissioners and Mayor of the Dhaka City Corporation on 30th January, 1994. The other respondents were the Ministry of Local Government, Rural Development and Co-operative, the Dhaka City Corporation, and the Ministry of Home.

The petitioner’s submission was that the candidates of that election were responsible for ravaging of the walls and buildings all around Dhaka by words and signs of different colours and size which created such an ugly

³² *Bangladesh Environmental Lawyers Association (BELA) v The Election Commission and Others* (Writ Petition No. 186 of 1994), 46 DLR, 1994 HC 235

sight that it repelled every body's view from every direction thereby causing torture upon the vision and extreme dissatisfaction, resulting in loss of peace and mental equilibrium. The petitioner also complained of the reckless use of microphone and loudspeakers at all places and at all hours of the day throughout the city which, added to the usual noise of the city due to other causes, had been aggravating the noise pollution causing hazard for the health of city-dwellers as much as creating hindrance to the normal activities. The erection of gates, arches and camps on the streets and pavements were seriously obstructing the public thorough-fare and causing hindrance to normal use of thorough-fares which also affected the mental equilibrium of the city-dwellers to an extent which was likely to become a health hazard. It was also stated in the petition that the respondents being fully aware of the violations of the various laws and the rules by the candidates, had not taken adequate action for preventing them or for correcting the damage already done in violation of the laws and the rules.

The court hearing both the parties directed the respondents to take necessary actions against violators who created environmental hazard and pollution dangerous to the life, peace of the city-dwellers immediately before election and to prevent further abuse of the rights of the city dwellers. The election was held only after the compliance was ensured.

In another case filed by petitioners who were all minors aged below ten years, the High Court Division issued a show cause notice to the relevant government authorities as to their inaction in taking effective steps to stop using Bangladeshi children as camel jockeys in the United Arab Emirates (UAE). The petitioners felt distressed in watching on television of the sights of children falling from the camel-back during camel race³³. This case is still pending before the court.

A conversion of a public place, named as "*Lal Math*" which is meant for park, by the government agencies to construct residential plots, community centres and police station was challenged before the High Court Division, where Rule was made absolute in part and direction to use the place as park was ordered³⁴. In the PILs on the conservation of parks and playgrounds of Dhaka and Sylhet, the High Court Division, has pronounced a judgment in 2011 and has directed the relevant government agencies to demarcate these areas with proper boundary marks and names and also to evict all encroachers from these public recreational places³⁵. To protect the rivers of Dhaka, the High Court Division, in a judgment pronounced "*continuous mandamus*" and directed the relevant government authorities to demarcate

³³ *Master Issa Nibras Farooque and Others v Bangladesh and Others* (Writ Petition No. 278 of 1996)

³⁴ *M. Saleem Ullah and Others v Bangladesh and Others* (Writ Petition No. 4484 of 1996, 55 DLR, HC 1)

³⁵ *Bangladesh Environmental Lawyers Association v Bangladesh and Others*, Writ Petition No. 3474 of 2003(Parks of Dhaka Case) & , Writ Petition No. 9216 of 2006(Parks of Sylhet Case)

the area of these rivers through proper survey, and to construct, roads and walkways along these rivers to prevent encroachment and also to take all necessary activities required to save these rivers³⁶.

Since sight pollution affects our “right to life”, in one case the court held that “the expression does not mean merely an elementary life or sub human life but connotes in this expression the life of the greatest creation of the Lord what has at least a right to a decent and healthy way of life in a hygienic condition. It also means a qualitative life among others, free from environmental hazards”³⁷.

Apart from these cases mentioned above, numbers of PILs have been pending before the High Court Division, which though do not directly filed to get redress on the issue of sight pollution but, if granted, in effect will serve the purpose. These cases involve industrial pollution and encroachment of rivers; uses of public places, parks and playgrounds for different purposes; polluting, filling up of and construction in lakes and *khals*; unauthorised razing of hills; unplanned developmental activities in the coastal areas, and so on³⁸.

Pakistan

Many good judgments have been pronounced by the Pakistan Supreme Court. These are linked to sight pollution. Regarding the use of public place, the court has discouraged denial of valuable rights of the residents in respect of the plot, meant for specific purpose and has held that “the plots in a Housing Scheme for public use cannot be converted for other use”³⁹; and had reiterated in another case wherein it was held that without obtaining no objection from the general public, such plots cannot be used for any other purpose⁴⁰. Subsequently, in another case the court held that the conversion of Jubilee Park in Islamabad into a Mini Golf Park, which was earmarked in the original scheme, and was meant for low income groups, who were deprived of the benefits of having their own private gardens, compared to higher income groups, amounted to the denial of rights guaranteed to them⁴¹. In a landmark case, the Supreme Court held that the word 'life' has not been defined in the Constitution but it does not mean nor can it be restricted only to the vegetative or animal life or mere

³⁶ *Human Rights and Peace for Bangladesh v Bangladesh and Others* (Writ Petition No. 3503 of 2009)

³⁷ *Dr. Mohiuddin Farooque v Bangladesh and Others*, Writ Petition No. 891 of 1994, 55 DLR 2003 HC 69, relevant page-79(Industrial Pollution Case)

³⁸ Case references cited in earlier headings in footnotes 17, 18, 20, 21, 22, 25 and 30.

³⁹ *Fazal Din v Lahore Improvement Trust*, (PLD 1969 SC 223)

⁴⁰ *Ardeshir Cowasje v Karachi Building Control Authority* (1999 SCMR 2883)

⁴¹ *Moulvi Iqbal Haider v Capital Development Authority and Others* (PLD 2006 SC 394)

existence from conception to death. A wide meaning should be given to the word 'life' to enable a man not only to sustain life, but also to enjoy it⁴².

India

The Indian Supreme Court is very much pro-active in conserving natural environment and protecting peoples' right to life. A leading PIL was filed to stop the discharge of trade effluents by the tanneries in Kanpur, to the river *Ganga*, which was causing considerable damage to the people who used its water and also the aquatic life in it. In this case, the court took a bold stance in protecting the fragile environment by applying the notion of "strict liability" if circumstances deserves and directed to close down the tanneries which had directed to take steps for primary treatment, even though that might bring unemployment⁴³. To save the *Taj Mahal* from environmental pollution, in a leading case, the Supreme Court of India directed to shift industries those were responsible for polluting the ambient air around Taj Trapezium Zone (TTZ) and causing damage to it as its white marble became yellowed and blackened in places⁴⁴. The public trust doctrine, along with precautionary principle and polluter pays principle, were applied in another case where a public land was leased out to a private company which constructed a Motel beside the river *Beas* and made some construction on the riverbed and the banks of the river to save the Motel from flood, which had forced the river to divert its course and caused damage to the people of the locality. The court directed the lease be quashed and also of restoration of the land to its original condition, the cost of which was borne by the Motel⁴⁵. A case was filed against Ratlam Municipality which was not providing sanitary facilities to the dwellers and the court directed the municipality, who pleaded financial inability, to remove nuisances within six months⁴⁶.

Recommendations and Conclusion

It is apparent from the above discussion that plenty of laws exist dealing either directly or indirectly, to tackle sight pollution. Analyzing the issues involving sight pollution, reviewing the various legal provisions and their level of implementation, following steps can be considered to address the issue:

1. Changes in Election Laws

The existing election laws can be amended by inserting provisions regarding:

⁴² *Ms. Shehla Zia and Others v WAPDA* (Human Rights Case 15-K of 1992, PLD 1994 SC 693)

⁴³ *M.C. Mehta v Union of India* (AIR 1987, 4 SCC 463)

⁴⁴ *M.C. Mehta v Union of India* (Writ Petition No. 13381 of 1984, AIR 1997 SC 734)

⁴⁵ *M.C. Mehta v Kamal Nath and Others* (AIR 1997, 4 SCC 463)

⁴⁶ *Municipal Council, Ratlam v Shri Vardhichand and Others* (AIR 1980, SC, 1622)

- i. Mentioning of the quantity of posters and other structures to be hung and placed, as the case may be, in any area.
- ii. Taking some sort of bond and/or security from the candidates regarding their commitment to remove all campaign materials from the area within a specified time once the election is over.
- iii. Taking prior approval, from the Election Commission, regarding the design of the posters before its printing and hanging.
- iv. The empowerment of the Election Commission to suspend the official declaration of the name of the winning candidate till a specified time so that the candidates can dispose off all materials used in election campaign; if the candidates do not comply with the direction, money should be deducted from the candidate's *jamanot* (money deposited as security money to the Election Commission) to remove all materials. And
- v. Imposition of high penalty for the violation of election laws.

2. Changes in Advertisement, Local Government and Police Laws

The following points can be taken into consideration in changing these laws.

- i. In the local government laws, there are no specific provisions regarding the allocation of places in every village/union/ward where people can affix their advertisements instead of putting them haphazardly wherever they want. Again, the design of such advertisements must follow the specifications which must be mentioned in these laws. Increased amount of fine must be imposed on the violators.
- ii. Penal provision should be inserted in all relevant laws as to the disfigurement and/or defacement of any statues and historical structures; and also for creating sight pollution.
- iii. These laws must contain provisions regarding adequate instruments/tools/vehicles of these authorities to remove the nuisance from public places. Adequate budget and manpower must be allocated to undertake these works properly.
- iv. These laws need to add a specific prohibition regarding the hanging cables with the mention of high penalties.
- v. All these laws contain nominal punishment; hence need necessary amendments for inflicting greater and stringent punishment to offenders.

3. Amendments in Town Planning & Environmental Laws

- i. Till present no land zoning law has been formulated to stop haphazard and unplanned development. It is absolutely necessary to prepare the Master Plan and the DAP of all areas of Bangladesh

in line with relevant town planning laws. The provisions of DAP prepared for Dhaka should be strictly adhered by all so as get a liveable Dhaka. Again, monitoring of the compliance of these two documents is essential by all relevant agencies.

- ii. The Bangladesh Environment Conservation Act, 1995 and the Wetland Act, 2000 have prohibited changing the nature of any wetland and open spaces, for which many cases are pending before the court. But persistent attempts can be seen to change their nature. Hence, these laws can incorporate provisions of imposing punishment of imprisonment as mandatory instead of keeping discretionary power of the court. This law must spell out specifically the issue of sight pollution.
- iii. Strict enforcement of law should be ensured for protecting our coastline from any sort of nuisance. There is a policy named “Coastal Zone Policy, 2005” as part of government’s vision to take necessary steps. Since this document can not be enforced by law, a specific rule should be formulated regarding the management of the coastal area.

4. Keeping of Commitments in Election Manifesto by Candidates & Showing of Right Signals by Political Leaders

The election manifesto of the candidates must have a commitment towards compliance of all election rules and also of a promise to remove the campaign materials in a given time. The political leaders should project prompt actions against their followers and supporters who placed different banners, posters or hoardings on any public place felicitating the leader and thereby causing sight pollution.

5. Community Policing

To resist sight pollution, community policing can be introduced to stop nuisances like: using public places and public transports for distributing flyers, hand-bills, and so on; graffiti on public/private walls and buildings; dumping and throwing trash here and there.

6. Volunteering by Social Organizations to Maintain Recreational Places

Different social organizations should initiate taking stringent measures to protect and maintain places of recreations so that people can get fresh air and new generations can avail these places for outdoor games, exercise and other social activities and hence step out of the culture of engaging only in “Face Book” and video games which eventually will invite health complications.

7. Initiating *Suo Motu* Actions by Judges

Besides, filing of cases by aggrieved persons, judges can initiate *suo motu* actions against the offenders who are creating problems in our day to day life, and this may bring a positive deterrent effect for the offenders.

8. Rewarding the Heroes

Persons assisting the relevant agencies in identifying the polluters and taggers should be rewarded by the government. Officers of relevant government agencies who are actively serving the nation in resisting any sort of activity causing damage to natural environment must get incentives to pursue the cause. The government may initiate rewarding persons/ organizations/ business houses that have projected great responsibility in keeping any locality clean and beautiful by declaring him/it as “Envirostars” for a year or allowing them tax waivers.

9. Job Creation to Stop Begging

For the betterment of people who are begging at different places and/or unemployed, the government and NGOs working in the relevant field must initiate motivational programme and creation of jobs so that they can come out of begging. Recently, the present government has taken an initiative of “job creation for 100 days” for these people but it is not done on a regular basis. So, this can be undertaken regularly.

10. GO/NGO Partnership for Placing & Maintaining Public Toilets, Dustbins and Spittoons

“Cleanliness Partnership Programme” can be initiated by government and non-governmental organizations to get better result as it will grow a sense of ownership among participants. Plenty of spittoons, dustbins, public toilets, either stationary or mobile, can be constructed, placed and maintained through such programme.

11. Enhancing the Role of Ministry of Tourism to Keep Natural Beauties and Heritage Beautiful

“Beautification Initiative” can be undertaken by every government/non-governmental offices at regular intervals. The Ministry of Tourism can come forward to keep our national heritages and natural beauties beautiful, so that tourists find them attractive.

12. Corporate Social Responsibility of Business Houses

Giant business entities should come forward to project eagerness as part of their corporate social responsibility in keeping the areas, where their offices and/or factories/industries are located, clean and beautiful which may encourage others to keep those areas clean.

13. Role of Educational Institutions

All educational institutions can undertake various activities including the following to make their students understand the urgency of keeping neighbourhoods clean:

- i. Schools have great opportunity to educate their pupils at their childhood regarding the impact of pollution and their expected role in combating the same. It should be engraved in the mind of

youths that sight pollution involves negative behavior and it is unacceptable.

- ii. Different educational institutions can arrange “Clean Campus Contest” to make students with the necessity of resisting sight pollution. Award can be given to the best batch who can maintain classrooms and premises free from graffiti and other annoying activities causing pollution.
- iii. Educational institutions can arrange different contests and competitions on this issue like, debate, essay writing, drawing and invite renowned personalities to deliver lectures before them.

14. Role of Religious Leaders

In our country religious leaders play a great role in taking decisions. These leaders should shoulder the responsibility in raising the consciousness and attitudinal change of mass people by explaining the importance of clean environment.

15. Creating Mass Awareness

Massive awareness programs should be initiated by government, NGOs and Media in order to motivate people to abide by the laws. They can people of: all civic rights and clamming of the same by filing tort cases relating to nuisance; demanding incorporating “right to environment” in the Constitution of Bangladesh as a fundamental right; and claiming the formulation of specific laws on nuisance like “Clean City Act” or “City Beautification Act” that have been found in other countries.

The issue of sight pollution is caused in Bangladesh due to lack of enforcement of relevant laws. If these laws are strictly applied without mercy, people would think twice before doing any misdeeds. People of this country in most cases do not apply civic sense and are not conscious about other peoples’ feelings. Growing of civic sense should be practiced from early stage of life and parents must preach the same and have a role in teaching their children. Making our country beautiful should always be kept in our mind and our responsible attitude will help showcasing a different Bangladesh towards the world. As our State has pledged, in the Constitution, to conserve the natural resources, forest and biodiversity for present and future citizens, strong measures should be taken to achieve the same. As part of intergenerational equity, we are duty bound to preserve our natural beauties for the generations yet to come. Meaningful and positive attitudinal change of our mindset and enforcement of relevant laws will make possible to stop causing sight pollution.