DUTIES OF INDIVIDUALS IN WASTE SORTING PRIOR TO DISPOSAL: A COMPARISON OF THAI AND FOREIGN LAWS

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Abstract - Thailand currently places insufficient emphasis on waste sorting prior to disposal, leading to issues such as overflowing waste and pollution caused by improper waste management. This study aims to achieve three objectives: (*1)* to examine the fundamental concepts regarding the duties of individuals in sorting waste before disposal, (*2)* to analyze Thai and foreign laws on assigning responsibilities for waste sorting, and (*3)* to propose recommendations for improving Thai laws by mandating waste sorting responsibilities. The findings reveal that, while Thailand has laws such as the Act on the Maintenance of the Cleanliness and Orderliness of the Country B.E. *2535 (*A.D. *1992)*, Chapter *3*, prohibiting the disposal of waste in public spaces, the Public Health Act B.E. *2535 (*A.D. *1992)*, Chapter *3*, on waste management, and the Penal Code Sections *380* and *396* addressing pollution in public water sources and improper disposal of animal carcasses, these laws do not mandate waste sorting duties for individuals nor include penalties for failing to do so. Consequently, individuals lack awareness of the importance of waste sorting, which negatively impacts the country socially and environmentally. The authors propose amending the Act on the Maintenance of the Cleanliness and Orderliness of the Country B.E. *2535 (1992)* by adding Section *34/1* to mandate that individuals sort waste before disposal. Furthermore, they recommend including Section *52/1* to impose penalties, stipulating that anyone violating Section *34/1* would face a fine not exceeding *1,000* Baht.

Keywords - Duties of Individuals, Waste, Waste Disposal, Waste Sorting

I. INTRODUCTION

Thailand is currently facing a severe waste management crisis, with an increasing amount of waste generated each year. In 2021, the total waste volume was 24.98 million tons, rising to 25.70 million tons in 2022 and 26.95 million tons in 2023 (Pollution Control Department, 2024) [1]. This issue has significant social and environmental impacts. Despite efforts from various sectors to address the problem through initiatives such as recycling programs and waste reduction projects, improper waste management practices remain widespread. Additionally, the disposal process often fails to comply with legal requirements, leading to the accumulation of municipal waste, hazardous chemical waste, and other types of waste in landfills, garbage dumps, rivers, beaches, urban areas, and communities (NuchprapaMoksat, 2022) [2]. This situation contributes to the spread of diseases, breeding grounds for dangerous animals, and improper landfill practices, which are major sources of greenhouse gases, global warming, and environmental pollution that adversely affect public health (MMM Corporation, 2024) [3].

II. RESEARCH OBJECTIVES

1. To study the fundamental concepts regarding the duties of individuals in waste sorting prior to disposal.
2. To examine Thai and international laws related to the duties of individuals in waste sorting prior to disposal.
3. To propose legal amendments and improvements to establish clear responsibilities for individuals in waste sorting before disposal.

III. SCOPE OF THE STUDY

This study focuses on defining the duties of individuals in waste sorting before disposal, based on the provisions of the Public Cleanliness and Orderliness Act B.E. 2535 (1992), the Public Health Act B.E. 2535 (1992), and the Penal Code of Thailand. Additionally, it includes a comparative analysis of relevant laws from Japan and South Korea.

IV. RESEARCH METHODOLOGY

This study employs a qualitative research approach by collecting and analyzing data from primary and secondary sources, including books, journals, and online materials (TattanunKonglamtan et al., 2023) [4]. A comparative legal analysis is conducted to examine Thai regulations alongside the waste management laws of Japan and South Korea, aiming to provide recommendations for appropriate legal reforms in Thailand.

V. EXPECTED BENEFITS

1. A clearer understanding of the fundamental concepts regarding the duties of individuals in waste sorting before disposal.
2. Insight into Thai and international laws governing the responsibilities of individuals in waste sorting before disposal.

3. Practical recommendations for legal amendments and improvements to establish clear individual responsibilities for waste sorting before disposal.

VI. LITERATURE REVIEW

6.1 Definition of Waste

The term waste refers to discarded materials or objects that are no longer needed and require disposal. Waste can exist in solid or liquid forms, be biodegradable or non-biodegradable, reusable or non-reusable, and may pose hazards to humans and the environment if improperly managed (Tak Bai Subdistrict Administrative Organization, 2017) [5].

6.2 Types of Waste

Waste is generally classified into four main categories:

1. General Waste: Waste that decomposes slowly, cannot be recycled, or is not cost-effective for recycling, such as instant noodle wrappers, foam containers, and tissue paper (Blue bin).
2. Organic Waste: Biodegradable waste from households, restaurants, markets, and agricultural activities, including food scraps, fruit and vegetable peels, meat leftovers, leaves, branches, animal carcasses, manure, and compost (Green bin).
3. Industrial Waste: Waste generated from manufacturing processes, where reusable components should be sseparated to maximize utility, such as factory scraps, vehicle remnants, and industrial spare parts (Yellow bin).
4. Hazardous and Infectious Waste: Waste that contains contaminants, hazardous substances, or medical waste, including batteries, syringes, medical equipment, and mobile phones (Red bin) (Extra Plus, 2022) [6].

6.3 Fundamental Concepts of Waste Sorting Before Disposal

The primary purpose of waste sorting is to promote sustainable resource management, efficient resource utilization, and effective recycling. Proper waste separation helps minimize the amount of waste requiring disposal. Waste sorting should begin at the individual level, ensuring that waste is disposed of in the appropriate bins and separated correctly before being discarded (Department of Health, 2018) [7].

6.4 Principle on the criminal penalty

Criminal penalties are defined in Section 18 of the Penal Code, which outlines five types of punishment: asset forfeiture, fines, detention, imprisonment, and the death penalty. Each form of punishment is based on the following fundamental principles:

1. Asset Forfeiture – This applies to property that has been used or possessed for the purpose of committing a crime, or property acquired through criminal activity. Such assets may be confiscated unless they belong to an innocent third party who was unaware of the offense.
2. Fines – A person sentenced to a fine must pay the specified amount as determined by the court's ruling. If the fine is not paid within 30 days of the court's decision, the court may seize assets to cover the fine or order detention in lieu of payment. If the court believes the offender may evade payment, it may require bail or order detention as a substitute for the fine in advance.
3. Detention – This is a form of punishment that restricts physical freedom but is less severe than imprisonment. Offenders sentenced to detention are held in a designated detention facility rather than a prison. This penalty is an alternative to imprisonment in cases where the court sentences an offender to imprisonment for no more than three months and if the offender has never been imprisoned before or has only been imprisoned for minor offenses due to negligence (misdemeanors). The court may order detention for no more than three months instead of imprisonment.
4. Imprisonment – The prison term begins from the date of the court's judgment. If the offender was detained before the judgment, the period of pre-trial detention is deducted from the total imprisonment term. Imprisonment restricts the offender's freedom, preventing them from going anywhere, with the aim of fostering remorse and encouraging behavioral change to prevent reoffending after release (BodinSangboonchu, 2023) [8].
5. Death Penalty – The law prescribes execution by lethal injection or poisonous substances as a means of permanently removing the offender from society (iLaw, 2018) [9].

VII. RELEVANT THAI LAWS

7.1 The Public Cleanliness and Orderliness Act B.E. 2535 (1992)

This act establishes rules prohibiting the disposal of waste in public and common areas under Chapter 3, including:

Section 31: Prohibits individuals from: (1) Spitting, coughing up phlegm, chewing and spitting betel nut, or blowing the nose onto roads, public transport floors, or boats. (2) Disposing of waste in public areas outside designated bins or locations provided by local authorities.

Section 32: Prohibits individuals from: (1) Dumping waste in public areas. (2) Neglecting waste accumulation on their property in a way that is visible to the public.

Section 33: Prohibits individuals from dumping waste, sewage, or other substances onto public roads or into water sources.

7.2 The Public Health Act B.E. 2535 (1992)
This act establishes regulations for waste and refuse management under Chapter 3, including:

Section 20: For the purposes of cleanliness and proper waste collection, transport, and disposal, local government authorities are empowered to issue regulations regarding:

1. Prohibiting the dumping of waste in public areas, except in designated locations provided by the local government.
2. Requiring waste bins or collection facilities in public and private sectors.
3. Establishing proper methods for waste collection, transportation, and disposal, and ensuring that building owners or property occupants comply with hygiene regulations.
4. Determining service fees for waste collection and disposal by local authorities or authorized individuals, within the limits set by ministerial regulations. Local authorities must ensure that waste management fees comply with hygiene standards.
5. Setting guidelines, methods, and conditions for waste collection, transport, and disposal for licensed operators under Section 19, including defining maximum service charges.
6. Other necessary regulations to ensure compliance with public health standards.

VIII. PENALTIES

8.1 The Public Cleanliness and Order Maintenance Act B.E. 2535 (1992)Section 54 stipulates that any person who violates or fails to comply with Section 8 paragraph one, Section 15, Section 20, Section 22, Section 26, Section 27, Section 29, Section 31, Section 32, Section 35, Section 39, Section 40, or Section 41 shall be liable to a fine not exceeding 2,000 baht. This law primarily focuses on regulating individual behavior in maintaining cleanliness and orderliness in public places or public ways. However, it does not comprehensively cover the overall waste management process (Office of Natural Resources and Environmental Policy and Planning, 2017) [10].

8.2 The Public Health Act B.E. 2535 (1992)Section 72 stipulates that any person who violates Section 19, Section 33 paragraph one, or Section 34 shall be liable to imprisonment for not more than six months or a fine not exceeding 50,000 baht, or both. Section 73/2 stipulates that any licensee who violates a local ordinance issued under Section 20(5) concerning infectious waste or hazardous waste from communities shall be liable to imprisonment for not more than one year or a fine not exceeding 100,000 baht, or both.

IX. FOREIGN LAWS

9.1 Japanese Law
Japan places great importance on waste management, where every citizen is responsible for waste disposal. The country has enacted legislation to regulate plastic waste management, which has been effectively enforced, resulting in Japan achieving a high level of success in waste management (Chiang Mai Energy Research Institute, 2020) [11].

Section 2 of the Waste Management and Public Cleansing Act (Act No. 137 of 1970) clearly defines "waste" as garbage, bulky waste, ashes, sludge, excreta, waste oil, acidic waste, alkaline waste, animal carcasses, and other unclean or unusable materials, whether in solid or liquid form.

The Waste Management and Public Cleansing Act (Act No. 137 of 1970) assigns the responsibility of waste management to all citizens, businesses, local governments, and the national government, with a shared goal of reducing waste (Reduce), reusing materials (Reuse), and recycling (Recycle) to maximize resource efficiency in Japan. The law assigns responsibilities to various sectors as follows:
Citizens are responsible for minimizing waste production, recycling, sorting waste types, and disposing of their waste as much as possible (Section 2(2)).

Local governments have the authority to issue municipal ordinances to regulate the roles of agencies and citizens in maintaining public cleanliness (41). Section 94 of the Japanese Constitution (42) grants local governments the power to enact municipal ordinances. However, the authority to impose penalties within municipal ordinances is limited by the Local Autonomy Law (43), Section 14(3), which stipulates that imprisonment or detention must not exceed two years, fines must not exceed one million yen, and penalties such as detention, confiscation, and minor administrative fines must not exceed 50,000 yen. Nearly all prefectures in Japan have issued municipal ordinances related to public cleanliness.
The Japanese government has implemented various programs to raise public awareness about proper waste management and cleanliness. Additionally, it mandates that both individuals and businesses take responsibility for managing the waste they generate and maintaining cleanliness in public areas. This approach fosters a sense of responsibility, beginning with individuals maintaining cleanliness in their private spaces and managing their waste before extending their responsibility to public areas. When every citizen adopts a sense of responsibility and cleanliness, it collectively enhances the nation's waste management efficiency and success.

The author believes that integrating this concept into legal drafts is highly beneficial for daily life, as it systematically instills public awareness. Laws should not merely enforce compliance or prohibitions but should also serve as a tool to cultivate public consciousness. Moreover, besides fostering civic awareness, the government's role in providing accurate knowledge on proper waste management and enforcing a clear, structured, and stringent system is crucial in strengthening collaboration between the public and private sectors. Japan's waste management system serves as an exemplary model for other countries aiming to develop sustainable and efficient waste management practices (Public Law Net, 2024) [12].

9.2 South Korean Law

The Republic of Korea has a system for monitoring illegal waste disposal, such as discarding waste in unauthorized areas, by appointing Honorary Agents. These agents are selected from volunteers, including waste collectors, residents of communal housing, and business operators, who form groups to inspect improper waste disposal. This system enables public participation in monitoring and highlights that law enforcement alone cannot effectively address illegal waste disposal; it requires cooperation from the general public. Additionally, individuals who report illegal waste disposal may receive a reward of up to 80% of the imposed fine.

Although the law does not explicitly require citizens to separate waste, Article 8(1) of the Waste Control Act states that no one shall dispose of waste in areas other than designated waste collection locations or containers provided by the Mayor of a Special Self-Governing City, the Governor of a Special Self-Governing Province, Si, Gun, Gu authorities, or waste container managers. It also prohibits household waste disposal that does not comply with designated methods. Violations of these provisions are subject to an administrative fine of up to one million won, as stipulated in Article 68(3) of the Waste Control Act. This effectively mandates the use of waste treatment services that require waste separation and impose service fees. For those living in apartment buildings, compliance is monitored, and warnings are issued by building managers to ensure proper waste disposal according to type.

Section 7 of the Waste Control Act mandates that all individuals must maintain environmental cleanliness, reduce waste, and promote recycling. Similarly, Article 6 of the Act on the Promotion of Saving and Recycling of Resources requires citizens to facilitate resource recycling by separating recyclable waste, consuming recycled products, reducing single-use items, and cooperating with state, local government, and business initiatives to achieve the objectives of the law. These provisions encourage voluntary cooperation rather than imposing mandatory actions. South Korea has implemented these measures to manage waste comprehensively, covering waste reduction, reuse, and recycling. The foundation of an effective waste management system is strict law enforcement, penalties for violations, and public awareness campaigns promoting proper waste separation from the source. Through continuous awareness campaigns, South Koreans have developed the habit of waste separation, leading to sustainable waste reduction. Additionally, standardized waste classification symbols on packaging facilitate easy, convenient, and modern waste sorting for the public (Yaowaree and Kanokkon, 2022) [13].

X. CONCLUSION

Although Thailand has enacted laws related to waste management and disposal, such as the Public Cleanliness and Order Maintenance Act B.E. 2535 (1992), the Public Health Act B.E. 2535 (1992), and Sections 380 and 396 of the Penal Code, these laws do not impose direct obligations on waste generators to reduce or separate waste at the source. The emphasis on waste separation before disposal is insufficient, enforcement of relevant legal provisions remains weak, and penalties are not clearly defined (UdomsitSinthipong, 2022) [14].

RECOMMENDATIONS

The author suggests amending the Public Cleanliness and Order Maintenance Act B.E. 2535 (1992) by adding Section 34/1, which states: “Individuals shall be required to separate waste according to type before disposal.” Additionally, a clear criminal penalty should be established for non-compliance by adding Section 52/1, which states: “Anyone who violates Section 34/1 shall be subject to a fine not exceeding 1,000 baht.” By stipulating individual responsibilities for waste separation and defining penalties for violations, compliance with the law will increase, ultimately contributing to cleaner cities.

ACKNOLEDGMENT

The author would like to express sincere thanks to SuanSunandhaRajabhat University for kindness and support to this paper.

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