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Dolna 17, Warsaw,  
Poland 00-773  
+48 226 0 227 03  
editorial\_office@rsglobal.pl

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# WASTE MANAGEMENT AS A KEY FACTOR IN ENSURING THE RIGHT TO A HEALTHY AND SAFE ENVIRONMENT IN MONGOLIA

**Maral Bold**

*Ph.D. Candidate, National Defense University, Mongolia;*

*Officer, Office of the Chairman of the State Great Khural (Parliament) of Mongolia*

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## ABSTRACT

Waste management is a crucial aspect of ensuring the right to live in a healthy and safe environment as outlined in the Mongolian Constitution. The Law on Waste governs waste-related matters in the country. The effectiveness of any social development is determined by the legal framework and its implementation. The volume of waste in Ulaanbaatar city is growing annually, and any discrepancies in laws, regulations, or management practices can impact Mongolians' right to a healthy and safe environment.

There are numerous factors contributing to the continuous increase in waste in Ulaanbaatar city each year, but the legal framework is crucial from a systemic viewpoint. Effective enforcement of the Waste Law would ensure that all citizens understand their obligations, comply with the law, and have the privilege of residing in a clean and secure environment. As per legislative regulations, the enforcement of the ratified law should be assessed every five years; however, the implementation of the Waste Law has not been reviewed since its inception to date.

According to the 23rd report of the National Human Rights Commission on human rights and freedoms in Mongolia, the country scored 29.6 on the index measuring global implementation of sustainable environmental policies, placing it 155th out of 180 countries worldwide and 19th out of 25 countries in the Asia-Pacific region. The report evaluates the enforcement of 8 laws to assess citizens' right to live in a healthy and safe environment. This study highlights potential areas for enhancing the enforcement of the Waste Law and the waste management system in Ulaanbaatar, addressing factors that impact the ability to live in a healthy and safe environment.

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## KEYWORDS

Waste Management, Laws, Legal Framework, Secure Environment

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## Introduction.

The Constitution of Mongolia guarantees citizens the right to reside in a healthy and secure environment, free from environmental pollution and disruption of natural equilibrium.<sup>1</sup> A healthy and secure environment is one that does not pose harm to the natural world (soil, water, air, plants, animals), society, and human life, and is maintained at an appropriate and acceptable standard. The acceptable standard is subjective and is determined by the current indexed indicators, which evolve with advancements in science, technology, and engineering. For instance, the cleanliness, health, and safety of soil, water, and air are assessed based on contemporary indicators.<sup>2</sup>

The enactment of the Waste Law is directly linked to the objective of guaranteeing Mongolians' right to reside in a clean and secure environment.

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<sup>1</sup> Constitution of Mongolia, 1992, art. 16, para. 16.2

<sup>2</sup> Lundendorj, N. (2024). *Scholarly commentary on the Mongolian Constitution*.

The Mongolian Constitution and the "Sanitation Law" passed in 1998 establish individuals' entitlement to a healthy and safe living and working environment. The provisions for supplying the populace with clean drinking water, maintaining air quality, and ensuring soil hygiene are outlined in Articles 5, 6, and 7 of the "Sanitation Law".

The "Law on Waste" was initially established in 2000, with regulations concerning waste management activities governed by laws prohibiting the import, cross-border transportation, and export of hazardous waste (2000), household and industrial waste (2003), and the use of specific plastic bags (2009). These laws laid the foundation for the legal structure of waste management in our nation.

In 2012, the laws were consolidated and revised to form the Law on Waste, which served as the foundation for the "Law on Waste" enacted on May 12, 2017. This law also introduced the 3R principle, emphasizing the reduction of waste at its source as a key initiative to enhance waste management across the country. Recent research indicates that there are shortcomings in the legal framework and practical execution of waste recycling activities governed by the Law on Waste.<sup>1</sup> (Table 1).

**Research status of the topic:** In our country, Dr. O. Bolormaa<sup>2</sup> and Dr. B. Tsogoo<sup>3</sup> have conducted research and successfully defended their doctoral theses on waste management and environmental pollution. B. Erdene and D. Ichinhorloo have also contributed to the field with their work on waste management. Additionally, in 2024, the National Human Rights Commission included a section on the "Implementation and conditions of the right to live in a healthy and safe environment" in its 23rd report on the state of human rights and freedoms in Mongolia.

**Table 1.** Research on the duplications, violation deficiencies in legal provisions

№	Redundancy, violation, defect, and criteria for waste management regulations.	Explanation of the articles and provisions of the law.
<b>Duplications of legal provisions</b>		
1	Whether the text of the law includes provisions that are identical to those in other laws;	<p>The regulations for the termination of ownership rights specified in Article 5.3 of the Law are reiterated in Article 5.4.</p> <p>Additionally, Article 20.6 of the Air Law prohibits any activities that do not comply with waste disposal standards, including open burning of waste in unauthorized locations. This provision is similar to Article 10.3.3 of the Waste Law, which also addresses the issue of open burning of waste.</p>
2	Whether the law creates redundancies by duplicating the functions of state bodies;	Article 8.1.7 of this Law, which requires the approval of the report form by the National Environmental Protection Agency, does not ensure the coordination of executive functions among state organizations. There is an overlap in the content and regulation of Articles 8.3.1 and 8.3.5 of the Law.
<b>The violation of a legal provision</b>		
1	Whether the title of the law article aligns with the content of its sections and provisions;	<p>- Chapter 4 of the Law is titled "Management of general waste, including cleaning, collection, transportation, reuse, recycling, destruction, and burial." The definitions of legal terms in Article 4 of this Law do not specifically outline the content and extent of the terms cleaning and burial.</p> <p>- Section 42.2.1 of the Law states that the national program outlined in Article 7.1.1 should encompass goals and action plans for waste education. Sub-section 7.1.1 of this Law was invalidated by the Law passed on December 17, 2021, rendering this provision inconsistent.</p>

<sup>1</sup> Research on Identifying Duplications, 2023, p. 336

<sup>2</sup> Bolormaa, O. (2013). *Environmental risk assessment and comprehensive study on metro chemical-based pollution reduction*.

<sup>3</sup> Tsogoo, B. (2012). *Modeling of air pollution in Ulaanbaatar City due to industrial and automobile emissions*.

2	Whether the law article contradicts other laws or legal provisions;	The main function of the Parliament, as outlined in Article 6.1.1 of the Law, is restricted to overseeing the implementation of legislation <sup>1</sup> related to "work organized by the Government."
<b><i>The deficiencies in legal provisions</i></b>		
1	If the law delegates the authority to approve specific regulations on certain matters to other state entities, regardless of whether such regulations have been approved;	Article 8.1.12 of the Law states that the legal act approving the composition and rules of the waste professional council is not currently accessible in the Unified Database of Legal Acts and the Register of the Ministry of Environment and Natural Resources.
2	Whether the individual exercising specific rights and responsibilities is evident;	The individual responsible for implementing Law 16.5, which requires employees at waste management facilities to undergo training and pass an examination, is unclear. Similarly, it is unknown which organization must approve the monitoring plan for waste management activities as mandated by Law 16.2. The lack of separate legal articles defining the rights and obligations of citizens, businesses, and organizations in Article 10 of this Law creates ambiguity regarding the boundaries between these rights and obligations.
3	Is there a specific time frame mandated by law for a government agency or official to resolve a particular issue?	14.4 of the Law states that the citizen, business entity, or organization that has entered into the agreement specified in Article 14.2 of this Law shall determine the route and schedule for waste collection and transportation. This plan must be approved by the Governor of the soum or district, although the approval period is not specified. According to 16.2 of the Law, the operator of ordinary waste recovery, recycling, disposal, or burial activities must develop a monitoring plan for these activities and obtain approval from the management of the organization.
4	Whether the law includes the required regulations;	Article 8 of Law 8.8.2 mandates the review of energy price calculations from waste recycling activities, approval of tariffs, and issuance of a report. Article 9 of Law 9.3.1 requires the organization of state waste policy implementation at the territorial level.
5	Whether the articles, provisions, and regulations of the law are easily understood;	Section 19.1 of the Law specifies that a landfill may be shut down either fully or partially, however, the criteria for closure are not clearly defined. It remains uncertain as to which authority will be responsible for making the decision to close the landfill.
		Article 10.2.18 of the Law mandates that businesses and organizations must implement measures to minimize the negative effects of waste on human health and the environment, as well as to maintain safe operations. The specific activities that constitute these necessary measures are not explicitly outlined in this provision.

An expert in the field has examined the presence of duplications, contradictions, and omissions in the Waste Law. This could impact the enforcement of the legislation.

The original 2012 Waste Law did not include specific provisions for rewarding individuals who report violations of waste laws, only outlining general monitoring responsibilities for state inspection bodies, officials, and Governors.

However, the revised 2017 law now includes provisions for rewarding individuals who report waste violations, which is seen as a significant step in detecting environmental offenses and raising public awareness of their detrimental effects.<sup>2</sup>

In case of a breach of the Law on Violations, an individual will face a fine of 300,000 tugriks, while a legal entity will be fined 3 million tugriks<sup>3</sup>. The issue of reporting violations of waste legislation and promoting citizen involvement in this matter is a crucial aspect that requires attention in the environmental and legal framework of our country. For instance, the current Waste Law includes only one article addressing this issue<sup>4</sup>,

<sup>1</sup> Mongolian Parliament Law, 2024, art. 3.2

<sup>2</sup> Mongolian Law on Waste, 2017, art. 41, para 41.2

<sup>3</sup> Mongolian Law Offenses, 2017, art. 6.1

<sup>4</sup> Mongolian Law on Waste, 2017, art. 41, para 41.13

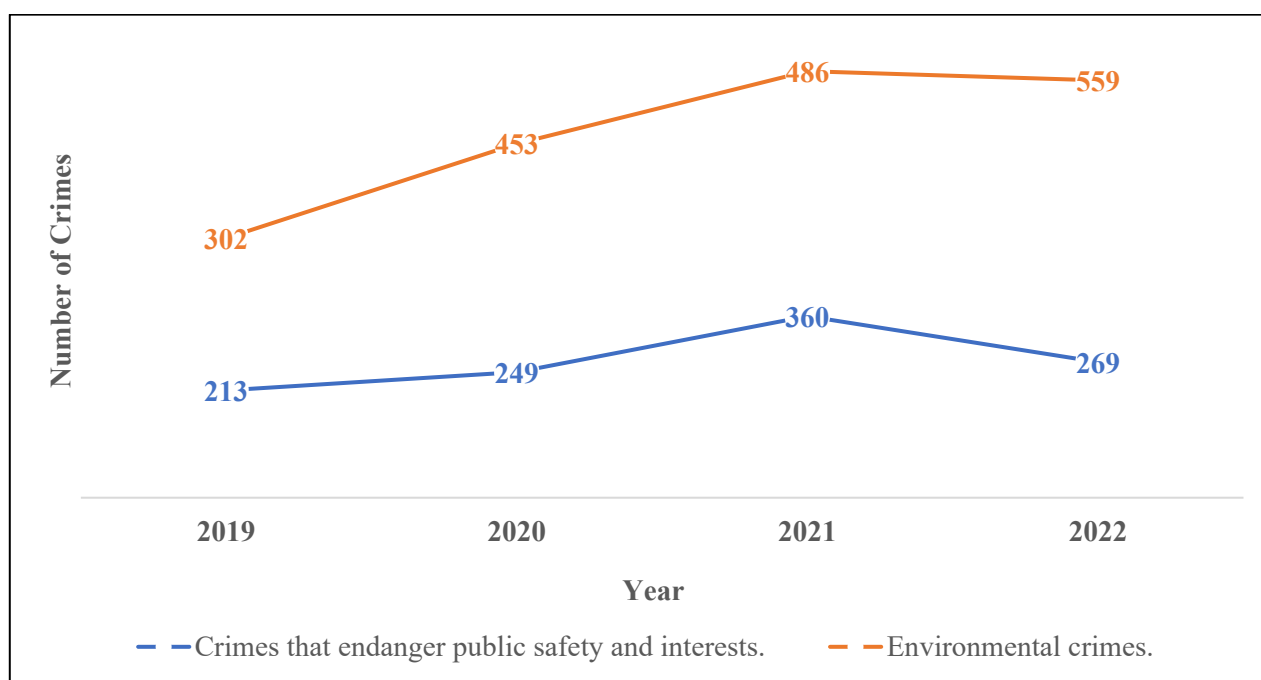
highlighting the necessity for further legal provisions and regulations to enhance citizen participation in identifying environmental offenses.

In Mongolia, laws have been put in place to criminalize waste-related offenses under criminal law. Since 2002, these offenses have been categorized as crimes against environmental protection regulations, and since 2017, they have been considered crimes against public safety, interests, and the environment. (Table 2).

**Table 2.** Types and categories of waste-related crimes and offenses subject to criminal liability under criminal law.

Criminal Code of Mongolia, 2002	Criminal Code of Mongolia, 2017	Related violations and crimes
Crimes against environmental protection regulations	Crimes that endanger public safety and interests.	Disposal of hazardous waste, toxic chemicals, and dangerous substances.
	Environmental crimes.	Air pollution, environmental pollution, non-compliance with regulations regarding the cleaning, transportation, and disposal of toxic chemicals and industrial waste, contamination of soil and water, and non-compliance with laws regarding toxic and hazardous chemicals.

The courts have been resolving an increasing number of crimes of this type in recent years.<sup>1</sup>



**Fig. 1.** Indicators of waste-related crimes and violations that are punishable under criminal law.

The rise in environmental crimes has been consistent since 2019, highlighting the urgent need for effective waste management, enhanced oversight, and stronger legal frameworks. Proper waste management is crucial not only for safeguarding the environment but also for upholding people's right to a healthy and safe living environment.

During the early 1990s, Mongolia underwent a shift to a market economy, leading to significant changes in waste management practices in Ulaanbaatar. The transition from a centrally planned system resulted in a decline in organization and an increase in private sector involvement, but oversight and standards were lacking. However, from the mid-2000s onwards, there has been a substantial increase in waste generation, posing

<sup>1</sup> *Crime statistics 2022*. (2022). <https://downloads.1212.mn/hZII2rb2ltdpFKFS-Ml-4rBs7xxGsGO5nZfDsu8.pdf>

challenges in waste collection and transportation in Ger districts. (The capital city has a population of 1,640,781 people residing in 465,059 households as of 2024. Among them, 715,121 individuals live in Ger districts across 204,670 households, while 925,660 people reside in house districts within 260,389 households.<sup>1</sup> (Metropolitan Statistical Office, January, 2024). Since 2013, waste service fees have been levied as a form of taxation in the budget, marking a crucial step towards establishing a sustainable source of funding.

In 2017, the introduction of the "Waste Management Strategy 2017–2030" document signaled a new phase in the sector's development, yet Ulaanbaatar's waste management still grapples with various challenges in practical settings. These challenges include:

**Challenges and obstacles:**

- Streamlining the organizational structure and financial management of waste management at both the capital and local levels;
- Providing systematic training and support for engineers, technicians, and personnel, as well as adopting and implementing local technologies and innovations;
- Constant changes in officials and experts responsible for waste management due to frequent law amendments, unstable governance, and shifts in political parties and electoral systems, leading to unclear and inconsistent policies;
- Weak coordination of legal frameworks related to nature and environmental issues across different sectors;
- Disjointed policies and structures in waste management and other sectors, resulting in missed opportunities and underutilization of resources.

**Conclusions**

Article 16, paragraph 2 of the Constitution of Mongolia guarantees the right of every individual to reside in a healthy and secure environment, free from environmental pollution and disruption of natural equilibrium. The legislature is responsible for enhancing this constitutional right by enacting additional laws. The Constitution's glossary specifies that the government must establish criteria for this right and conduct relevant assessments in accordance with the Constitution.

In alignment with this principle, the Constitution of Mongolia has been revised to align with laws such as the Law on Environmental Protection, the Law on Environmental Impact Assessment, the Law on Toxic and Hazardous Substances, the Law on Air Pollution Payments, the Law on Air, the Law on Water Pollution Payments, the Law on Water, the Law on Hygiene, the Law on Water Supply and Sewerage of Cities and Towns, and the Law on Waste Management. These laws govern waste-related matters.

As of 2022, Mongolia has a total of 396 registered waste collection centers, covering 3,811.6 hectares. This represents a 2.3% increase in the number of centers and a 2.8% increase in the area compared to the previous year. The volume of ordinary solid waste collected and transported also increased from 2.24 million tons in 2020 to 2.4 million tons in 2021 (a 7.1% increase) and to 2.5 million tons in 2022 (a 3.9% increase)<sup>2</sup>.

Based on the data, it is evident that there are shortcomings in the implementation of the Waste Law in Mongolia, attributed to duplications, contradictions, and inconsistencies within the law. The study reveals significant challenges in the current waste management system, particularly in Ulaanbaatar city where 41.2% of the population resides in Ger districts, presenting unique waste collection and management challenges.

The rise in environmental crimes has been consistent since 2019, highlighting the urgent need for effective waste management, enhanced oversight, and stronger legal frameworks. Proper waste management is crucial not only for safeguarding the environment but also for upholding people's right to a healthy and safe living environment as guaranteed by the Constitution.

**To address these issues, the following proposals are suggested: These include:**

*Legal Framework Enhancement*

- Evaluate the enforcement of the Waste Law: Conduct a comprehensive five-year review of the Waste Law implementation as required by legislative regulations, which has been overdue since the law's inception.
- Rectify legal inconsistencies: Address redundancies, contradictions, and inaccuracies identified in the Waste Law through systematic legal revision to ensure clarity and enforceability.

<sup>1</sup> Metropolitan Statistical Office. (2024, January). *Population distribution statistics of Ulaanbaatar city*. Ulaanbaatar, Mongolia.

<sup>2</sup> *Solid waste account*. (2022).



- Strengthen citizen participation mechanisms: Introduce enhanced reward systems for individuals who report illegal waste disposal activities, with district citizens' assemblies actively promoting such reporting and conducting thorough investigations into offenders.

*Enforcement and Penalties*

- Implement criminal penalties: Replace monetary fines with criminal penalties for serious waste law violations to serve as stronger deterrents against environmental crimes.
- Clarify roles and responsibilities: Define specific responsibilities for implementing various provisions of the Waste Law, particularly regarding training requirements, monitoring plan approvals, and enforcement timelines.

*Education and Awareness*

- Integrate waste education into curricula: The central state administrative body overseeing waste education should mandate the inclusion of waste management education in preschool, primary, secondary, vocational, and higher education curricula to enhance public knowledge and foster waste awareness from an early age.

- Enhance public awareness campaigns: Develop comprehensive public education programs to increase understanding of waste management obligations and environmental protection responsibilities.

*Institutional Coordination*

- Establish unified waste management policy: The central state administrative body responsible for environmental matters should implement a cohesive policy and approach to waste management across Ulaanbaatar city and all 21 provinces.

- Improve inter-agency coordination: Strengthen coordination of legal frameworks related to environmental issues across different sectors to eliminate policy fragmentation and resource underutilization.

- Address governance stability: Develop mechanisms to ensure policy continuity despite changes in officials and political leadership, maintaining consistent waste management strategies.

*Infrastructure and Service Delivery*

- Enhance Ger district waste management: Develop specialized waste collection and transportation systems tailored to the unique challenges of Ger districts, where the majority of Ulaanbaatar's population resides.

- Streamline organizational structures: Reform the organizational structure and financial management of waste management at both capital and local levels for improved efficiency.

- Invest in human resources: Provide systematic training and support for engineers, technicians, and personnel while promoting the adoption of local technologies and innovations.

*Monitoring and Evaluation*

- Establish regular assessment mechanisms: Implement systematic monitoring and evaluation procedures to track the effectiveness of waste management policies and their impact on citizens' right to a healthy environment.

- Develop performance indicators: Create measurable indicators to assess progress in waste reduction, environmental protection, and public health outcomes.

These recommendations, if implemented comprehensively, will contribute significantly to ensuring Mongolians' constitutional right to live in a healthy and safe environment while establishing a sustainable and effective waste management system for the country's future development.

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- (National Human Rights Commission of Mongolia, 2023, p. 11)
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