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Mobilizing World Public Opinion against Use of Plastic Products

Kishor Dere

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SYMPOSIUM

MOBILIZING WORLD PUBLIC OPINION AGAINST USE OF PLASTIC PRODUCTS

DR. KISHOR DERE*

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INTRODUCTION

This article criticizes the current means and methods aimed to persuade people across the world to give up, or at least substantially minimize, the use of harmful plastics. International treaties, framework conventions, and municipal laws against plastic use are necessary but not sufficient to successfully overcome this global challenge. Instead, a popular and enlightened mass movement against the plastic usage is required. If users accept the detrimental effects of the plastics and change their consumption patterns to drastically reduce the global plastic demand, the global supply will plummet. The mass sharing of documentary audio and video recordings exposes the various harmful effects plastics have on human health, the environment, and ecosystems. Through social media platforms (e.g., YouTube, Twitter, Facebook), information exchange will shape the public's opinion against the menace of plastics.¹ Plastic use is ubiquitous and universal. Almost every household has fallen in love with the charming and bewitchingly beautiful, seemingly convenient, and apparently economical single-use plastic. However, in the long run, plastics are inherently dangerous, intrinsically poisonous, and extremely expensive. The latest information and communication technology must be used to alter consumer behavior prompting people to voluntarily shun plastic products and use jute,² cotton, or other eco-friendly bags and containers.

1. Other examples of information exchange channels are: mass media, smart phones, televisions, movie halls or theatres, public transport networks, public places, schools, colleges, universities, places of worship, restaurants, markets, hospitals.

2. Jute, also known as "golden fiber," is a natural fiber. Jute is inexpensive and has high tensile strength. It is considered environmentally friendly because it is biodegradable. See generally Mudit Kapoor & Udit Verma, *Is jute the right replacement for single-use plastic?*, BUS. TODAY (Oct. 3, 2019, 10:31 PM), <https://www.businesstoday.in/current/economy-politics/is-jute-the-right-replacement-for-single-use-plastic/story/382657.html>.

Encouragingly, the Indian government banned the use of single-use plastic products in October 2019.³ The ban prohibits the manufacturing, usage, and import of items such as “plastic bags, cups, plates, small bottles, straws, and certain types of sachets.”⁴ To allow people to adapt to alternatives, the government imposes penalties for non-compliance with the plastic ban after a six-months grace period.⁵ The government’s adoption of such sweeping measures is understandable because India has one of the world’s most polluted cities and villages. Moreover, it is extremely concerning plastic pollution is rising exponentially. Plastic pollution most visibly affects the oceans, where almost “50% of single-use plastic products end up, thereby killing marine life and entering the human food chain.”⁶

Similarly, “the European Union plans to prohibit single-use plastic items such as straws, forks, knives, and cotton buds by 2021.”⁷ Also, China’s commercial capital, Shanghai, began curbing the use of single-use plastics in catering.⁸ More significantly, Hainan, an island province of China, decided to eliminate single-use plastic altogether by 2025.⁹ Australia banned single-use plastics in 2011.¹⁰ In September 2014, California became the first state in the United States to ban plastic bags.¹¹ Likewise, the small Devon town of Modbury became the first European city to ban plastic bags in May 2007, followed by over fifty

3. Neha Dasguta & Maynak Bhardwaj, *Exclusive: India set to outlaw six single-use plastic products on October 2 – sources*, REUTERS (Aug. 28, 2019), <https://www.reuters.com/article/us-india-pollution-plastic-exclusive/exclusive-india-set-to-outlaw-six-single-use-plastic-products-on-october-2-sources-idUSKCN1VI19F>.

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

10. Gavin Butler, *Victoria is Set to Ban Single-Use Plastic Bags Across the State in November*, VICE (June 19, 2019, 8:32 PM), <https://www.vice.com/en/article/a3xqjk/victoria-ban-single-use-plastic-shopping-bags-november-australia-pollution-environment>.

11. OCEAN PROTECTION COUNCIL, *Single-use plastic bag ban signed in California*, OPC.CA. GOV, <https://www.opc.ca.gov/2014/10/plastic-bag-ban-signed> (last visited Nov. 22, 2020).

other European cities.¹² These bold initiatives need popular endorsement.

I. GLOBAL OUTREACH OF PLASTICS INDUSTRY

According to Grand View Research,¹³ data illustrates the global reach of the plastics industry. The international plastic market was worth \$568.9 billion in 2019,¹⁴ and it is anticipated “to grow at a compound annual growth rate (CAGR) of 3.2% between 2020 and 2027.”¹⁵

Because the consumption of plastics continues to grow in the automotive, electrical, electronics, and construction industries,¹⁶ the plastic demand is likely to rise. The new regime, seeking to reduce the overall weight of vehicles and enhance fuel efficiency to lower carbon emissions, gives a fillip to the plastic demand.¹⁷ Primarily in the production of automotive parts, plastic emerged as a substitute for metals, such as steel and aluminum.¹⁸

12. *Town bans plastic bags ‘forever’*, BBC NEWS, http://news.bbc.co.uk/2/hi/uk_news/england/devon/7067104.stm (last updated Oct. 29, 2007) [http://www.bbc.co.uk/devon/content/articles/2007/11/02/modbury_plastic_bags_for_ever_feature.shtml].

13. Grand View Research’s website provides statistics on the scope and extent of the plastics industry: “Grand View Research is an India and US-based market research and consulting company.” It is registered and headquartered in San Francisco, California. Annually, it conducts over 2,000 multi-country research studies for international clients. It “provides syndicated research reports, customized research reports, and consulting services.” Its database is used by academic institutions and Fortune 500 companies and includes analysis of 46 industries in 25 major nations. *About us*, GRAND VIEW RES., <https://www.grandviewresearch.com/info/about-us> (last visited Sept. 18, 2020).

14. *Plastic Market Size, Share & Trends Analysis Report by Product (PE, PP, PU, PVC, PET, Polystyrene, ABS, PBT, PPO, Epoxy Polymers, LCP, PC, Polyamide), By Application, By Region, And Segment Forecasts, 2020 – 2027*, GRAND VIEW RES. (June 2020), <https://www.grandviewresearch.com/industry-analysis/global-plastics-market> [hereinafter *Plastic Market Size, Share & Trends Analysis Report by Product*].

15. *Id.*

16. *Id.*

17. *Id.*

18. *Id.*

Leading, developing nations—Brazil, China, India, and Mexico—witnessed a construction boom that spurred a demand for plastics in 2018 and 2019.¹⁹ This demand recently had a short-term slump because various governments implemented lockdown policies, suspending manufacturing activities aimed at stopping the transmission of the COVID-19 virus.²⁰ After a brief lull, the demand for plastics will increase when China and India resume their construction and infrastructure activities.²¹

Due to new rules and regulations related to depletion and recyclability of conventional materials such as wood and metal, plastics emerged as substitutes.²² Cables, insulation, pipes, windows, storage tanks, and floorings heavily use plastic. Compared to metal and wood, plastic polymer fittings are simple and easy to install.²³ These fittings are also available in multiple colors, making them even more attractive.²⁴ These details highlight the multifaceted nature of the plastics problem and the various challenges in dealing with the series of crises plastics create.

II. THE IMPACT OF THE AMBITIOUS PLASTICS INDUSTRY ON UNITED STATES GOVERNMENT DECISION-MAKING

Despite the widespread global concerns over plastics' life-threatening role, the plastic industry invariably wants limitless growth of plastic manufacturing. The industry unambiguously and unabashedly declares its goal to promote "plastics manufacturing as a viable career option."²⁵ Recently released data bolsters this point of view by revealing that plastics, the eighth largest industry domestically, "accounts for more than one million jobs in the U.S. and \$432.0 billion

19. *Id.*

20. *Plastic Market Size, Share & Trends Analysis Report by Product, supra* note 14.

21. *Id.*

22. *Id.*

23. *Id.*

24. *Id.*

25. *About Us – Our Mission*, PLASTICS INDUS. ASS'N, <https://www.plasticsindustry.org/about-us#:~:text=Our%20Mission,a%20good%20steward%20of%20resources> (last visited Sept. 16, 2020).

in shipments.”²⁶ Because of its sheer size, the plastics industry is able to influence governmental decision-making at various levels.

Humans notoriously perceive plastic as a blessing because of its attractive appearance and ease of handling. The plastic industry claims plastics are essential to principal industry sectors like housing, construction, transportation, and healthcare. The material is integral to the “innovation of products that move, shelter, feed, cure and entertain[] us.”²⁷ Experience shows indiscriminate and ubiquitous use of plastics in electronics, sporting gear, packaged foods, personal care products, home appliances, vehicles, toys, and other areas of day-to-day life.²⁸ The plastics industry lauds the plastic products’ role in human life.²⁹

The Plastics Industry Association (PLASTICS) vocally opposes the imposition of tariffs on plastic products, materials, and machinery.³⁰ PLASTICS believes tariffs do not create a level playing field.³¹ Instead, they tend to harm the United States’ plastics industry in the global market by generating anxieties and hampering sought-after free trade, which benefits the plastics industry and the world economy together.³² PLASTICS pursues industry related matters and advocates adopting

26. PLASTICS INDUS. ASS’N., EXECUTIVE SUMMARY, ONE INDUSTRY THAT MAKES A POSITIVE IMPACT: 2020 SIZE AND IMPACT 7 (2020), <https://www.plasticsindustry.org/sites/default/files/2020-Size%20%26%20Impact%20Report-Executive%20Summary.pdf>.

27. *Plastics Market Watch*, PLASTICS INDUS. ASS’N, https://www.plasticsindustry.org/data/plastics-market-watch?utm_source=google&utm_medium=pressrelease&utm_campaign=pmw_consurgoods (last visited Dec. 8, 2020).

28. *New Plastics Consumer Goods Market Watch Report Available*, PLASTICS INDUS. ASS’N (Mar. 30, 2020), <https://www.plasticsindustry.org/article/new-plastics-consumer-goods-market-watch-report-available>.

29. PLASTICS INDUS. ASS’N., *WATCHING: PLASTICS’ CONTRIBUTIONS TO HEALTHCARE: A SERIES ON ECONOMIC-DEMOGRAPHIC-CONSUMER & TECHNOLOGY TRENDS IN SPECIFIC PLASTICS END MARKETS* 4 (Fall 2019) (The industry claims: “Plastics improve the quality of healthcare for patients, save and extend lives, combat infections, diseases and illnesses, save money, contribute to the design and function of medical devices, and help protect and deliver pharmaceuticals into the body.”).

30. *Tariffs and Trade*, PLASTICS INDUS. ASS’N, <https://www.plasticsindustry.org/advocacy/tariffs-and-trade> (last visited Dec. 8, 2020).

31. *Id.*

32. *Id.*

free trade policies in the White House, in legislatures across the countries, and world capitals.³³

A. PLASTICS Lobbying in the United States

PLASTICS works to influence public policy according to its mission of advocating for plastics industry locally, nationally, and internationally.³⁴ The association runs an Advocacy Action Center (“Center”) to accomplish its goals.³⁵ Through the Center, PLASTICS provides a grassroots network to mobilize the 954,000 plastics workers across the United States.³⁶ Grassroots mobilization is critical in advocating for the cause. It is also helpful to unify the various segments of the broad-based plastics industry. After all, the plastic industry is among the largest manufacturing industries in the United States.³⁷ PLASTICS aspires to alter public policy by encouraging fellow-members of the industry to become more involved in politics and convey their views on critical issues impacting businesses to elected representatives.³⁸ It aims to proclaim its views to policy and decision-makers, “From Capitol Hill to state capitols across the country, the plastics industry’s collective voice will be heard!”³⁹ PLASTICS acknowledges the importance of a qualitatively different outcome to legislation affecting the plastics industry because of timely and relevant communications to supporting or opposing lawmakers. Its slogan is, “Take Action for Plastics”⁴⁰ which is a “grassroots tool.”⁴¹

PLASTICS’s President and CEO, Tony Radoszewski, firmly believes waste management is the appropriate course of action to tackle

33. *Id.*

34. *Advocacy Action Center, PLASTICS INDUS. ASS’N*, <https://www.plasticsindustry.org/advocacy/advocacy-action-center> (last visited Sept. 18, 2020).

35. *Id.*

36. *Id.*

37. *Id.*

38. *See id.*

39. *Id.*

40. *Id.*

41. *Id.*

the plastic waste problem.⁴² Imposing bans, fees, and taxes will not solve the issue.⁴³ For example, Radoszewski expressed satisfaction when, on March 4, 2020, the House Subcommittee on Environment and Climate Change decided to focus on recycling and waste management issues.⁴⁴ In particular, Radoszewski was pleased the subcommittee accepted PLASTICS's suggestions regarding effective plastic waste management.⁴⁵ He praised the RECOVER Act's commitment to provide federal grants to help improve the recycling programs of states and municipalities.⁴⁶ He also reiterated the plastic industry's pledge to innovate in various areas—material development, package design, and post-recovery technologies production—to improve recycling.⁴⁷

Likewise, Radoszewski supported the Plastic Waste Reduction and Recycling Act.⁴⁸ Congresswoman Haley Stevens introduced this bill, which aimed to “improve federal government’s research on recycling and development coordination.”⁴⁹ Radoszewski specifically emphasized, “Innovative companies are eager to use more recycled material to create new products and prevent waste from entering the environment.”⁵⁰

42. See *PLASTICS Responds to Introduction of Recycle Act*, PLASTICS INDUS. ASS'N (Nov. 22, 2019), <https://www.plasticsindustry.org/article/plastics-responds-introduction-recycle-act>.

43. *Fees, Taxes and Bans Will Not Solve the Plastic Waste Problem, Action Will*, PLASTICS INDUS. ASS'N (Mar. 5, 2020), <https://www.plasticsindustry.org/article/fees-taxes-and-bans-will-not-solve-plastic-waste-problem-action-will> [hereinafter *Fees, Taxes and Bans*].

44. See *id.*

45. See *id.*

46. *Id.*; See generally Press Release, Cárdenas, Bucshon Introduce the RECOVER Act (Nov. 15, 2019), <https://cardenas.house.gov/media-center/press-releases/c-rdenas-bucshon-introduce-recover-act> (RECOVER Act will allocate \$500 million in grants towards recycling programs. It also encourages public-private partnerships and the implementation of new programs to modernize recycling infrastructure.)

47. See *Fees, Taxes and Bans*, *supra* note 43.

48. *PLASTICS Responds To The Plastic Waste Reduction And Recycling Act*, PLASTICS INDUS. ASS'N (June 16, 2020), <https://www.plasticsindustry.org/article/plastics-responds-plastic-waste-reduction-and-recycling-act>.

49. *Id.*

50. *Id.*

Conversely, Radoszewski opposed New York State's decision to ban plastics.⁵¹ He thought the ban was ill-advised and lacked a clear understanding of its consequences: "In the long run, these types of bans cause unintended fallouts that oftentimes aren't seen until the laws go into effect."⁵² According to Radoszewski, these consequences include the "loss of jobs, confusion amongst businesses and consumers, and much more."⁵³ He also claimed plastics have a special role in making human life comfortable.⁵⁴ Therefore, instead of imposing a ban on plastics, he called for concerted efforts to collect and recycle plastic waste.⁵⁵

PLASTICS strongly disagrees with the Break Free from Plastic Pollution Act of 2020⁵⁶ because it argues plastic waste is hardly thirteen percent of the total municipal solid waste in the United States.⁵⁷ Radoszewski contrasted the Break Free Act with the existing RECOVER Act, RECYCLE Act, and Save Our Seas 2.0 Act.⁵⁸ Accordingly, he claimed the Break Free Act "is more interested in garnering headlines" and less interested in finding a solution to the problem of plastics pollution.⁵⁹

Radoszewski hoped to interact with the drafters of the bill along with other lawmakers and to "educate them" about economic and environmental advantages of plastic products and the countless medical losses of ignoring such benefits.⁶⁰ Radoszewski thanked Senator John Barrasso, the chairman of the Committee on Environment and Public

51. See *PLASTICS Comment On New York Plastic Bag Ban*, PLASTICS INDUS. ASS'N (Mar. 3, 2020), <https://www.plasticsindustry.org/article/plastics-comment-new-york-plastic-bag-ban>.

52. *Id.*

53. *Id.*

54. *See id.*

55. *Id.*

56. See *PLASTICS Responds to Udall/Lowenthal Bill*, PLASTICS INDUS. ASS'N (Feb. 11, 2020), <https://www.plasticsindustry.org/article/plastics-responds-udallowenthal-bill> (referring to Break Free from Plastic Pollution Act of 2020 [hereinafter *Break Free Act*] that was drafted by Senator Tom Udall and Representative Alan Lowenthal).

57. *Id.*

58. *Id.*

59. *Id.*

60. *Id.*

Works, and other members of the Senate Committee for holding a hearing in mid-June 2020 regarding recycling issues in the United States.⁶¹ During the hearing, Chairman Barrasso alluded to the critical role plastics played in the United States' handling of the pandemic.⁶² Expert witnesses also highlighted the plastic's "low carbon footprint, [] the potential of improved recycling to recover the value of discarded plastic and create revenue for local governments, while reducing disposal costs."⁶³

Not only did Radoszewski outrightly dismiss critics, but he also disowned former dissenting employees of the Society of the Plastics Industry (SPI).⁶⁴ In an interview with FRONTLINE and NPR, the dissenters claimed the industry waged "plastics wars" on the waste recycling issue.⁶⁵ In response, Radoszewski characterized their views as emotions.⁶⁶ Moreover, he argued plastics transform human life by providing benefits to consumers, lowering emissions, and increasing products' second life possibilities.⁶⁷

Annually, PLASTICS confers sustainability innovation awards upon the plastic industry's members.⁶⁸ On March 20, 2020, Radoszewski urged federal, state, and local governments to consider

61. *PLASTICS CEO Comments On Today's Senate Recycling Hearing*, PLASTICS INDUS. ASS'N (June 17, 2020), <https://www.plasticsindustry.org/article/plastics-ceo-comments-todays-senate-recycling-hearing>.

62. *Id.*

63. *Id.*

64. *Plastics Industry Association Response to FRONTLINE & NPR: Plastic Wars*, PLASTICS INDUS. ASS'N (Apr. 1, 2020), <https://www.plasticsindustry.org/article/plastics-industry-association-response-frontline-npr-plastic-wars> (identifying the dissenting employees as Lew Freeman and Larry Thomas).

65. *See id.*

66. *Id.*

67. *Id.*

68. *See Accredo Packaging, Vartega And Eastman Win Second Annual Re/Focus Sustainability Innovation Awards*, PLASTICS INDUS. ASS'N (Feb. 14, 2020), <https://www.plasticsindustry.org/AccredoPackaging-Vartega-Eastman-Win-Refocus-Sustainability-Innovation-Awards> (Award winners are selected by a panel of recycling and sustainability experts from PLASTICS members.).

plastic resin and plastic producers as “essential.”⁶⁹ He aimed to ensure the plastic industry continues the sale of plastics during shelter-in-place orders.⁷⁰ Radoszewski cited a plethora of plastic virtues, such as its use as food protection and storage, protecting supermarket employees and customers from the threat of harmful viruses and bacteria hiding in reusable bags.⁷¹ He claimed Americans “live longer, healthier and better because of single-use plastics.”⁷² Radoszewski further asserted “single-use plastics will only become more vital” as COVID-19 spreads across the country.⁷³ Although perceptions and appearances may endorse such an understanding, one wonders whether these types of claims about plastics can withstand independent scrutiny based on scientific evidence.

PLASTICS recently released a report explaining the reasons behind the growing use of plastics as a key ingredient in the design, manufacturing, packaging, and consumer goods sales.⁷⁴ The report states in addition to the rise in e-commerce, consumer goods manufacturers and retailers are moving towards sustainable and recyclable products and packaging.⁷⁵ The Chief Economist of PLASTICS, Dr. Perc Pineda, indicates plastics’ contribution to the overall GDP surpasses other industries: “The real value added of plastic and rubber products in 2018 is estimated at \$75.0 billion – higher than that of paper, glass and aluminum industries.”⁷⁶ Moreover, the report claims, “plastic’s packaging performance in terms of carbon footprint outperforms other materials such as paper, aluminum and steel.”⁷⁷

69. *Plastics Industry “Essential” As First Line of Defense With Products To Fight Coronavirus*, PLASTICS INDUS. ASS’N (Mar. 20, 2020), <https://www.plasticsindustry.org/article/plastics-industry-essential-first-line-defense-products-fight-coronavirus>.

70. *Id.*

71. *Id.*

72. *Id.*

73. *Id.*

74. *New PLASTICS Consumer Goods Market Watch Report Available*, PLASTICS INDUS. ASS’N (Mar. 30, 2020), <https://www.plasticsindustry.org/article/new-plastics-consumer-goods-market-watch-report-available>.

75. *Id.*

76. *Id.*

77. *Id.*

According to the PLASTICS Committee on Equipment Statistics (CES), the primary statistics machinery's shipment in North America increased in the second quarter.⁷⁸ Dr. Pineda wrote, "Plastics equipment suppliers and converters serving essential consumer end-markets have a reason to be optimistic as economic conditions continue to improve."⁷⁹ The United States-Mexico-Canada Agreement (USMCA)⁸⁰ is a blessing in disguise for the plastics industry. Radoszewski claimed the United States' plastic industry's exports to Mexico and Canada were almost \$28 billion in 2019 and recruited over 150,000 American employees.⁸¹ These developments show the United States plastics industry's inherent strength and PLASTICS' success in advocating the industry's cause. To some extent, they also serve as a wake-up call to those who seek to minimize or stop the use of plastics.

B. PLASTICS Political Action Committee-PLASTICS PAC

PLASTICS asserts a flourishing plastics industry provides security to many families and empowers the communities where they live and pursue business activities.⁸² PLASTICS advocacy team ensures elected representatives understand the industry's importance.⁸³ PLASTICS conveys detailed legislative proposals to policy makers due to "positive working relationships"⁸⁴ it has cultivated with them throughout the

78. *Plastics Machinery Shipments Increased In The Second Quarter*, PLASTICS INDUS. ASS'N (Sept. 1, 2020), <https://www.plasticsindustry.org/article/plastics-machinery-shipments-increased-second-quarter>.

79. *Id.*

80. *See generally United States-Mexico-Canada Trade Fact Sheet Modernizing NAFTA into a 21st Century Trade Agreement*, OFFICE OF THE U.S. TRADE REP., <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/fact-sheets/modernizing> (last visited Nov. 23, 2020) (The USMCA is an agreement between the United States, Mexico, and Canada supporting "mutually beneficial trade leading to freer markets, fairer trade, and robust economic growth in North America.").

81. *Id.*

82. *Political Action Committee*, PLASTICS INDUS. ASS'N, <https://www.plasticsindustry.org/advocacy/advocacy-action-center/political-action-committee> (last visited Sept. 18, 2020) [hereinafter *Political Action Committee*].

83. *Id.*

84. *Id.*

years. The PLASTICS' Political Action Committee (PLASTICS PAC) is a unique forum that tends to the entire plastics industry's needs.⁸⁵ The PLASTICS PAC directs the plastic industry's employee resources and offers them visibility in Washington, D.C.⁸⁶

1. Supporting Candidates Who Support the Plastics Industry

PLASTICS PAC supports federal candidates—regardless of their party affiliations—who support PLASTICS issues and promote its legislative vision.⁸⁷ When selecting candidates, PLASTICS PAC adheres to the following principles when: (1) candidates must run for congressional not executive office; (2) candidates must provide pro-plastics industry platform; (3) PAC must prefer key congressional committees likely to contemplate legislation affecting the plastics industry; and (4) PAC must contribute directly to candidates' campaigns.

Although PLASTICS PAC claims it does not participate in the United States presidential elections, Radoszewski, in a recent letter to Joe Biden—former Vice President and 2020 presidential candidate for the Democratic Party—questioned Biden's stance on eliminating plastics.⁸⁸ Radoszewski argued the actual problem is the method of plastics disposal, not the plastic products themselves.⁸⁹ He further asserted, any decision to eliminate plastics will be detrimental to the environment and the economy.⁹⁰ He concluded hoping Biden, as the President-Elect, would decide matters based on empirical evidence rather than emotions.⁹¹

2. Influence of PLASTICS Letters upon White House

PLASTICS also makes efforts to influence the White House. In a March 2018 letter to President Donald J. Trump, PLASTICS formally opposed the Administration's decision to impose tariffs on steel and

85. *Id.*

86. *Id.*

87. *Political Action Committee, supra* note 82.

88. *Id.*

89. *Id.*

90. *Id.*

91. *Id.*

aluminum imports.⁹² It reminded the President the American plastics industry, worth \$404 billion and employing 965,000 workers, wholeheartedly supports the U.S. Administration's manufacturing and economic policies.⁹³ It acknowledged the Administration's concerns regarding trade deficit with foreign nations.⁹⁴ However, PLASTICS disagreed with any policy imposing tariffs on steel and aluminum imports to rectify such problems.⁹⁵

PLASTICS explained the United States plastic industry's heavy dependence on steel and aluminum imports and the tariffs' cascading effect on raw material prices and plastics production, which eventually placing this burden onto the consumer.⁹⁶ In other words, the national plastic companies would suffer in domestic and international markets, weakening the United States economy.⁹⁷ Additionally, the tariffs would affect international trade law's free trade principle, causing unemployment and inflation.⁹⁸ PLASTICS argued such measures will ultimately harm the very people they aimed to protect.⁹⁹ PLASTICS summed up the tariffs' ensuing effects as: (1) benefitting America's trading rivals like China; (2) exacerbating existing trade inequities already weakening the American companies; (3) causing the loss of thousands of American jobs in fields like plastics, which depends on steel and aluminum to manufacture products; and (4) decreasing the American manufacturing's growth rate, particularly in plastics.¹⁰⁰ PLASTICS reminded the President of the 2017 Tax Cuts and Jobs Act's devastating impact on the plastic industry.¹⁰¹ It urged the White House

92. Letter from William R. Carteaux, President and CEO of PLASTICS to Donald J. Trump, (Mar. 7, 2018) (<https://www.plasticsindustry.org/sites/default/files/Tariffs%20Letter%20-%20Plastics%20Industry%20Association.pdf>) [hereinafter *Letter from William R. Carteaux*].

93. *Id.*

94. *See id.*

95. *Id.*

96. *Id.*

97. *Id.*

98. *Id.*

99. *Id.*

100. *Id.*

101. *Id.*

not to implement the import tariffs on steel and aluminum—major raw materials for plastic production.¹⁰²

Within a couple of weeks, President Trump temporarily exempted several countries from the tariffs, including, as negotiations under the North American Free Trade Agreement were underway, Canada and Mexico.¹⁰³ President Trump also exempted Argentina, Australia, Brazil, South Korea, and European Union (EU) member countries.¹⁰⁴ Moreover, ongoing negotiations with these nations included talks of permanent exclusion.¹⁰⁵ This demonstrates PLASTICS' influence on the U.S. Administration's top decision-makers.

C. Using COVID-19 to Revive Doubts about Efficacy of Banning Single-Use Plastic Products

The dramatic advent and exponential spread of the COVID-19 global pandemic created a sudden scarcity of cleaning supplies in the United States.¹⁰⁶ Most American households began to worry about the consequences of touching toilet seats, subway rails, and kitchen counters.¹⁰⁷ Across the country, people questioned, “How long can the novel coronavirus linger on surfaces?”¹⁰⁸ In March 2020, the *Journal of Hospital Infection* published an analysis of twenty-two studies,

102. *Id.*

103. *Trump Temporarily Suspends Steel and Aluminum Tariffs for Some Trading Partners*, PLASTICS INDUS. ASS'N (Apr. 2, 2018), <https://www.plasticsindustry.org/article/trump-temporarily-suspends-steel-and-aluminum-tariffs-some-trading-partners>.

104. *Id.*

105. *Id.*

106. *Cleaning and Disinfection for Households*, CENTERS FOR DISEASE CONTROL AND PREVENTION, https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cleaning-disinfection.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fprepare%2Fcleaning-disinfection.html (last updated July 10, 2020) (COVID-19 virus spreads from person-to-person, often among close contacts (within about 6 feet) through respiratory droplets. The virus could survive for hours to days on different surfaces. The best practices are cleaning and disinfecting dirty surfaces to prevent the spread.); Yasemin Saplakoglu, *Here's how long the coronavirus will last on surfaces, and how to disinfect those surfaces*, LIVE SCI. (Mar. 18, 2020), <https://www.livescience.com/how-long-coronavirus-last-surfaces.html>.

107. *Id.*

108. *Id.*

concluding viruses akin to COVID-19 could survive on plastic as long as nine days.¹⁰⁹

As COVID-19 continued its spread across the world, a renewed campaign against the ban on plastics use emerged in the United States.¹¹⁰ On March 15, 2020, John Tierney published an article on the Manhattan Institute's website criticizing U.S. state and local government decisions to continue the plastic bag ban and promote the use of reusable bags.¹¹¹ He called for the Department of Health to acknowledge "[d]isposable plastic is the cheapest, simplest, and safest way to prevent foodborne illnesses."¹¹² Tierney noted many state officials asked consumers to make "a more expensive, inconvenient and risky choice—all to serve a green agenda" that's actually harmful to the environment."¹¹³ Moreover, in the era of COVID-19, use of disposable bags would mean more consumers visiting shops with COVID-19 and similar ailments. Tierney condemned public officials for disregarding researchers' occasional warnings related to the transmission of deadly viral and bacterial diseases originating from reusable bags.¹¹⁴

Despite lawmakers' efforts to introduce legislation to reduce the use of plastics,¹¹⁵ the COVID-19 pandemic caused a shift in priorities from reducing greenhouse gas emissions to increasing public safety.

109. Guenter Kampf et al., *Persistence of Coronaviruses on Inanimate Surfaces and Their Inactivation with Biocidal Agents*, 104 J. OF HOSP. INFECTION 246, 246 (2020).

110. Karen McVeigh, *Rightwing thinktanks use fear of Covid-19 to fight bans on plastic bags*, GUARDIAN: ENV'T (Mar. 27, 2020, 04:00 AM), <https://www.theguardian.com/environment/2020/mar/27/rightwing-thinktanks-use-fear-of-covid-19-to-fight-bans-on-plastic-bags>.

111. John Tierney, *Using Tote Bags Instead of Plastic Could Help Spread the Coronavirus*, MANHATTAN INST. (Mar. 15, 2020), <https://www.manhattan-institute.org/using-tote-bags-instead-of-plastic-could-help-spread-the-coronavirus#:~:text=Viruses%20and%20bacteria%20can%20survive,the%20Journal%20of%20Environmental%20Health> [Originally published at N. Y. POST (Mar. 14, 2020), <https://nypost.com/2020/03/14/using-tote-bags-instead-of-plastic-could-help-spread-the-coronavirus/>.].

112. *Id.*

113. *Id.*

114. *Id.*

115. *See e.g.*, Right to Refill Act, S. 06813, 2019-2020 Gen. Assemb. (N.Y. 2019) (Lawmakers introduced a bill requiring food service establishments to accept consumers' reusable food containers.)

For example, Starbucks and other leading chains suspended accepting reusable cups, ostensibly to avoid the spread of COVID-19 infection.¹¹⁶ In New York, John Flanagan, the state's Republican Minority Leader, decried the New York's law proscribing single-use plastic bags.¹¹⁷ Senator Flanagan argued, "It is time to protect New Yorkers from the continuing spread of coronavirus by taking the additional steps of suspending the plastic bag ban and saying no to policies – at this time – that could lead to any additional case."¹¹⁸

Flanagan attempted to dissuade the New York State Legislature from implementing other reusable container laws, claiming Democrats' "desperate need to go green is unclean"¹¹⁹ during the fatal pandemic.¹²⁰ Many criticized the ban on single-use plastic,¹²¹ as New York swiftly became a COVID-19 hotspot.¹²² Columnist John Tierney proclaimed the ban as "unsanitary,"¹²³ while Senate Flanagan warned it "could lead to additional cases."¹²⁴

The New York State Department of Conservation (DEC) postponed the plastic bag ban's enforcement, originally scheduled to take effect

116. Karine Vann, *COVID-19 puts BYO coffee cups on hold, but sanitized reusable systems could fill the void*, WASTE DIVE (Mar. 25, 2020) <https://www.wastedive.com/news/byo-coffe-cup-reusables-coronavirus-covid-19-574817/>; see also Jodi Helmer, *Science Supports the End to the Reusable Coffee Cup Ban*, FOODPRINT (Sept. 29, 2020), <https://foodprint.org/blog/reusable-coffee-cup-ban/> (last visited Nov. 27, 2020).

117. Morgan McKay, *NY Senate GOP: Postpone Plastic Bag Ban*, SPECTRUM NEWS (Mar. 12, 2020, 05:44 AM), <https://spectrumlocalnews.com/nys/central-ny/ny-state-of-politics/2020/03/12/ny-senate-gop-postpone-plastic-bag-ban>.

118. *Id.*

119. *Id.*

120. *Id.*

121. Alyssa Danigelis, *Two States Delay Plastic Bag Bans in Response to Pandemic*, ENV'T + ENERGY LEADER (Mar. 20, 2020), <https://www.environmentalleader.com/2020/03/states-delay-plastic-bag-bans/>.

122. See, e.g., *Covid in the U.S.: Latest Map and Case Count*, N.Y. TIMES, <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html> (last visited Sept. 15, 2020) (explaining that the coronavirus devastated New York City during spring in 2020, as exemplified by the fact there were temporary morgues set up in the city).

123. John Tierney, *Greening Our Way to Infection*, CITY J. (Mar. 12, 2020), <https://www.city-journal.org/banning-single-use-plastic-bags-covid-19>.

124. Danigelis, *supra* note 121.

March 1, 2020, until October 19, 2020.¹²⁵ Moreover, DEC encouraged New Yorkers “to take common-sense precautions to keep their reusable bags clean.”¹²⁶ The New York State Supreme Court upheld the *Bag Waste Reduction Law*, requiring the DEC to start implementing it on October 19, 2020.¹²⁷

Likewise, on March 18, 2020, Maine’s Governor Janet Mills signed a bill postponing the state-wide ban on single-use plastic bags until January 15, 2021.¹²⁸ The Governor signed the bill (LD 1532) banning single-use plastics in July 2019.¹²⁹ Notably, Vermont’s Governor also signed a bill (S.113) to ban the plastic bags shortly after Governor Mills.¹³⁰

On March 17, 2020, relying on an earlier report, the National Institutes of Health reported COVID-19 could remain on plastic for three days.¹³¹ The earlier report stated “SARS-CoV-2 was more stable on plastic and stainless steel than on copper and cardboard, and viable virus was detected up to 72 hours after application to these surfaces.”¹³² Moreover, a 2018 study suggested a reusable grocery bag (RGB), contaminated by a virus and used at grocery supermarkets, poses a

125. *Bag Waste Reduction Law*, N.Y. STATE DEP’T OF ENVTL. CONSERVATION, <https://www.dec.ny.gov/chemical/50034.html> (last visited Nov. 27, 2020).

126. *Id.*

127. *Id.*

128. Press Release, Office of Governor Janet T. Mills, Governor Mills, Legislature Spearhead Emergency Legislative Package to Respond to COVID-19, State of Maine (Mar. 17, 2020), <https://www.maine.gov/governor/mills/news/governor-mills-legislature-spearhead-emergency-legislative-package-respond-covid-19-2020-03-17>.

129. Chloe Teboe, *Gov. Mills signs Maine plastic bag ban into law*, NEWS CTR. ME. (June 17, 2019, 04:56 PM), <https://www.newscentermaine.com/article/news/local/gov-mills-signs-maine-plastic-bag-ban-into-law/97-927d1d19-9010-4674-8acd-1530c5368ba3>.

130. Cole Rosengren, *Maine, Vermont governors sign plastic bag bans on same day*, WASTE DIVE (June 18, 2019), <https://www.wastedive.com/news/maine-vermont-governors-sign-plastic-bag-bans-on-same-day/557098/>.

131. *New coronavirus stable for hours on surfaces: SARS-CoV-2 stability similar to original SARS virus*, NAT’L INST. OF HEALTH (Mar. 17, 2020), <https://www.nih.gov/news-events/news-releases/new-coronavirus-stable-hours-surfaces>.

132. Neeltje van Doremalen, et al., *Aerosol and Surface Stability of SARS-CoV-2 as Compared with SARS-CoV-1*, 382 NEW ENG. J. OF MED. 1483, 1564 (2020).

significant risk to public health.¹³³ The RGBs come into contact with different surfaces.¹³⁴ Humans excessively use RGBs to carry a number of household products other than groceries.¹³⁵ Thus, RGBs crisscross “the hygienic boundaries between private homes and public spaces such as grocery carts and checkout stands.”¹³⁶ This study drew upon *Food Protection Trends*’ earlier research analyzing the likelihood of RGBs’ contamination.¹³⁷

The latter research revealed a “large number of bacteria can be present in reusable bags and are capable of increasing 10-fold in a trunk within a two-hour period.”¹³⁸ It also found only 3% of customers reported washing RGBs.¹³⁹ Few other research projects discovered a symbiotic relationship between RGBs and a norovirus outbreak in the north-western parts of the U.S.¹⁴⁰ Here, the researchers noticed aerosolized norovirus spreading from an infected person contaminated RGBs.¹⁴¹ The 2018 study’s main objective was to explore the probability of polluted RGBs transmitting viruses within a grocery store’s premise.¹⁴² The study hypothesized norovirus could be transmitted from a polluted RGB to multiple surfaces in the public grocery store.¹⁴³ This research project aimed to generate data capable to spot crucial control points which could be the focus of revised norovirus management strategies in grocery stores.¹⁴⁴

133. Ryan Sinclair, et al., *The Spread of a Norovirus Surrogate via Reusable Grocery Bags in a Grocery Supermarket*, 80 (10) J. OF ENVTL. HEALTH 8, 13 (2018).

134. *Id.*

135. *Id.*

136. *Id.*

137. See generally David L. Williams, et al., *Assessment of the Potential for Cross-Contamination of Food Products by Reusable Shopping Bags*, 31(8) FOOD PROTECTION TRENDS 508 (2011).

138. *Id.* at 512.

139. *Id.* at 510.

140. See, e.g., Kimberly K. Repp & William E. Keene, *A Point-Source Norovirus Outbreak Caused by Exposure to Fomites*, 205 THE J. OF INFECTIOUS DISEASES 1639, 1640-41 (2012).

141. *Id.*

142. Sinclair, *supra* note 133, at 8.

143. *Id.*

144. *Id.* at 8-9.

On July 13, 2018, Competitive Enterprise Institute (CEI) asserted banning plastic use was detrimental to the environment and customers.¹⁴⁵ The CEI listed the following five reasons for opposing plastic bans:

- 1) Most of the plastic waste is not from consumers;
- 2) Vast majority of plastic waste is due to poor disposal practices overseas, not in the United States;
- 3) Plastic use is more sanitary and safer to use than other alternatives;
- 4) Plastics have important environmental benefits; and
- 5) Plastics are economical.¹⁴⁶

Elaborating on these five points will help to clarify and understand the debate on outlawing plastics—especially the argument in favor of retaining plastics.

1. Most of the plastic waste comes from fish nets

CEI staff member, Angela Logomasini, argues 46% of the Pacific Ocean's pollution stems from fish nets.¹⁴⁷ If it were added to the ropes and lines, it accounted for a whopping 52% of the trash.¹⁴⁸ Large plastic crates, bottle caps, and microplastics make up the remaining plastic rubbish.¹⁴⁹ Therefore, this was not merely a consumer waste issue but a larger problem to overcome.¹⁵⁰

Logomasini argued while bans on consumer plastic products may help the opportunistic politicians' rhetoric, in reality, such bans detract attention from designing realistic solutions capable of combatting the problem of plastic waste in the oceans.¹⁵¹ The CEI published this article

145. Angela Logomasini, *Five Reasons Banning Plastics May Harm the Environment and Consumers*, COMPETITIVE ENTER. INST. (July 13, 2018), <https://cei.org/blog/five-reasons-banning-plastics-may-harm-environment-and-consumers> [hereinafter Logomasini, *Five Reasons*].

146. *Id.*

147. *Id.* (based on the report brought out by The Ocean Cleanup).

148. *Id.*

149. *Id.* (microplastics are small fragments of plastic).

150. *See id.*

151. Logomasini, *Five Reasons*, *supra* note 145.

in response to the European Union's plastic ban policy.¹⁵² Logomasini claimed the E.U. ban was "absurd."¹⁵³ At the same time, Starbucks promised to remove plastic straws from its thirty thousand stores across the world by 2020.¹⁵⁴ This effort was part of a larger corporate initiative to reduce or altogether stop the use of plastics.¹⁵⁵ Companies like Royal Caribbean, McDonald's, Hyatt, American Airlines, and Alaska Airlines took part in the initiative.¹⁵⁶

Aside from these bold corporate and international moves banning the single-use plastic products, some U.S. cities also followed suit.¹⁵⁷ For instance, Seattle became the first American city to outlaw the use of plastic straws and utensils.¹⁵⁸ The CEI article opposed the growing trend of prohibiting plastics use and questioned the rationale behind such policies.¹⁵⁹ Logomasini viewed these legislative and policy measures as doing little to tackle the problem of ballooning plastic garbage in the oceans.¹⁶⁰

Logomasini referred to a Ocean Cleanup report to refute the arguments against disallowing the use of plastics.¹⁶¹ This report deals with the vexed issue of plastic pollution in the Pacific Ocean.¹⁶² Located between Hawaii and California, the Great Pacific Garbage Patch (GPGP) is the largest of five offshore plastic accumulation zones in the world's oceans.¹⁶³ The Ocean Cleanup's scientists extensively analyzed this area¹⁶⁴ and found 1.15 to 2.41 million tons of plastic enter

152. *See id.* (explaining that to curb the menace of ocean pollution, the EU followed in the footsteps of Britain and implemented the ban).

153. *Id.*

154. *Id.*

155. *Id.*

156. *Id.*

157. *Id.*

158. *Id.*

159. *Id.*

160. *See id.*

161. *See id.*

162. *Id.*

163. *The Great Pacific Garbage Patch (GPGP)*, THE OCEAN CLEANUP, <https://theoceancleanup.com/great-pacific-garbage-patch/> (last visited Sept. 12, 2020).

164. *See id.*

the GPGP from various rivers annually.¹⁶⁵ At least half of this plastic is less dense than water, implying it would not sink upon entering into the ocean.¹⁶⁶ The mass of the plastic in the GPGP is approximately eighty thousand tons, which equals five hundred Jumbo Jets.¹⁶⁷ If the study also included the less dense outer region, the total mass of plastic would have been one hundred thousand tons.¹⁶⁸

The GPGP's plastic pollution jeopardizes the marine and aquatic life, poses risks to human health, and has far-reaching economic implications.¹⁶⁹ Laurent Lebreton, an oceanographer and co-author of the Ocean Cleanup's report, considered these developments "alarming."¹⁷⁰ He underlined the need to implement "substantial international measures"¹⁷¹ in the next few years to terminate the recurrent inrush of plastics into the Pacific Ocean.¹⁷² The report also advocated for plastic removal initiatives like coastal and ocean cleanups.¹⁷³ Logomasini construed this demand to adopt substantial international measures and support plastic removal initiatives as opposing the logic behind plastic ban policy.¹⁷⁴ This interpretation seems biased—a mischievous attempt to distort the original report—and aimed to perpetuate the use of plastic products regardless of their scientifically proven harmful effects.

165. *Id.*

166. *Id.* (citing Laurent C.M. Lebreton et al., *River Plastic Emissions to the World's Oceans*, 15611 NATURE COMM. 1, 8 (2017).)

167. *Id.*

168. *Id.*

169. *See id.*

170. Laurent Lebreton, *The Exponential Increase of the Great Pacific Garbage Patch*, THE OCEAN CLEANUP (Mar. 22, 2018), <https://theoceancleanup.com/updates/the-exponential-increase-of-the-great-pacific-garbage-patch/>.

171. *Id.*

172. *Id.*

173. *Id.*

174. *See* Logomasini, *Five Reasons*, *supra* note 145.

2. *Poor plastic disposal practices in foreign nations generate most of the plastic waste*

Based on the *Science Magazine*'s research findings, the CEI article vehemently argued against the emerging global consensus on banning plastic products.¹⁷⁵ The article asserted Asian and African nations were responsible for releasing the bulk of plastic waste because of their dated plastic waste management policies.¹⁷⁶ The magazine reported, due to unsafe disposal practices, such as uncontrolled or poorly supervised landfills, littering, and lack of plastic waste management, between 77% and 83% of the oceans' plastic waste came from twelve countries in Asia, including China.¹⁷⁷ In contrast, the United States' waste handling practices, strictly controlled landfills and properly defined recycling programs, thoroughly check problematic pollution levels of water, oceans, and seas.¹⁷⁸ The CEI article, to further strengthen its claim, cited a 2017 study report claiming as much as 95% of the plastic filth penetrated into the oceans from eight rivers in Asia and two rivers in Africa.¹⁷⁹

To properly understand the CEI's use of the *Science Magazine*'s research findings to oppose the ban on the plastics use, it is essential to independently analyze these findings. The report's authors indicated plastic waste will continue to rise as the world's population grows.¹⁸⁰ The traditional waste management practices—burning or burying—were effective in controlling inert or biodegradable waste.¹⁸¹ Nowadays, however, the pervasive use of synthetic plastics requires adopting an innovative approach to combat plastic waste.¹⁸² The report prescribed downstream waste management strategies, extended producer responsibility and expanded recovery systems, to reduce

175. *See id.*

176. *Id.*

177. *Id.*

178. *Id.*

179. *Id.*; Christian Schmidt et al., *Export of Plastic Debris into the Sea*, 51 ENVTL. SCI. & TECH. 12246, 12252 (2017)(referencing supporting information).

180. Jenna R. Jambeck et al., *Plastic Waste Inputs from Land into the Ocean*, SCI. MAG., Feb. 13, 2015, at 770.

181. *Id.*

182. *Id.*

waste.¹⁸³ It underscored the importance of improving waste handling infrastructure in developing nations, requiring a heavy investment and a long gestation period.¹⁸⁴ While the global south develops such effective and efficient infrastructure, the global north should reduce waste and discourage plastics use.¹⁸⁵

Further, the *Science Magazine* suggested industrialized nations like the United States implement policies aimed to reduce waste and control the use of single-use plastics.¹⁸⁶ In contrast, Logomasini, relying upon this report, detested the policy of restricting single-use plastics.¹⁸⁷ Likewise, the CEI rationalized its fierce opposition against the plastics ban by citing to a 2017 *Environmental Sciences and Technology* report.¹⁸⁸ However, the report did not actually object to the plastics ban.¹⁸⁹ Rather, the report read, “A substantial fraction of marine plastic debris originates from land-based sources and rivers potentially act as a major transport pathway for all sizes of plastic debris.”¹⁹⁰ Thus, if land-based sources generate most of the plastic waste that reaches rivers and oceans, regulating these sources must naturally control plastic waste. Logomasini, however, conveniently overlooked this aspect and hastily concluded the plastics waste management problem in Asian and African countries was a prime concern.¹⁹¹ She believed plastic bans diverted attention away from meaningful solutions that confront the plastic trash in the oceans.¹⁹² It is indeed an unfortunate and unscientific way of dealing with the plastic pollution crisis.

3. Plastic Use Is More Sanitary and Safer to Use Than Other Alternatives

To thwart efforts requesting legislative action to prohibit plastic bags, the CEI article fervently argues reusable grocery bags (RGBs)

183. *Id.*

184. *Id.*

185. *See id.*

186. *Id.*

187. *See* Logomasini, *Five Reasons*, *supra* note 145.

188. *Id.*

189. Schmidt et al., *supra* note 179, at 12246.

190. *Id.*

191. Logomasini, *Five Reasons*, *supra* note 145.

192. *Id.*

generally play host to bacteria and jeopardized the people's health who used such bags.¹⁹³ The author claimed plastic packaging helped carry food in a hygienic and disease-free manner and reduced food waste.¹⁹⁴ That is to say, plastic bags do not transmit a disease.¹⁹⁵ Such arguments appear as sheer propaganda in plastic's favor, ignore the harsh realities of life, and therefore, do not withstand an objective scrutiny.

4. Plastics Have Important Environmental Benefits

The CEI article also argues plastics are more environmentally-friendly because they consume less energy during production and transportation.¹⁹⁶ Thus, plastic products—straws, utensils, and foam cups—promote energy conservation, while the alternatives like paper are energy-intensive, generate more waste, and create more pollution.¹⁹⁷ This argument cleverly overlooks the larger picture of plastic pollution.

5. Plastics Are Economical

Further, the CEI article asserts plastic bags are cost-effective, not just more efficient and sanitary.¹⁹⁸ As a result, plastic items are affordable for consumers around the world.¹⁹⁹ The author claimed a ban on plastic goods will increase the cost of doing business and eventually burden the consumers.²⁰⁰ However, the author ignored the long-term costs of plastic pollution while drawing attention towards the short-term economic advantages.

The plastic ban antagonists are determined to relentlessly pursue their pro-plastic propaganda. For example, Rev. Ben Johnson, recently discovered a positive pro-plastic outcome amid the devastating

193. *Id.*

194. *Id.*

195. *Id.*

196. *Id.*

197. *See id.*

198. Logomasini, *Five Reasons*, *supra* note 145.

199. *Id.*

200. *Id.*

COVID-19 pandemic.²⁰¹ According to his analysis, the global pandemic helped expose redundant and irrelevant regulations administrative agencies often thrust upon people.²⁰² Therefore, to fight the menace of COVID-19 infection, at few places governments banned the use of RGBs during the pandemic and permitted customers to use plastic bags.²⁰³ This ban had its genesis in the fear consumers hardly washed RGBs.²⁰⁴ Thus, these shoppers' bags brought from their respective homes could accelerate the spread of COVID-19 infection.²⁰⁵

In March 2020, the Midwest supermarket chain Hy-Vee took an independent action advising customers to avoid using reusable bags.²⁰⁶ It reflected fears that there were difficulties in monitoring the RGBs' cleanliness.²⁰⁷ Hy-Vee spokesperson, Tina Pothoff, however, quickly added prohibiting the RGB use was a temporary measure, and it did not in any way alter Hy-Vee's overall concerns over the environment's protection.²⁰⁸

Dr. Michael J. Knight, who teaches at George Washington University School of Medicine and Health Sciences, remarked COVID-19's ability to survive on the RGBs was unclear.²⁰⁹ However, previous

201. Rev. Ben Johnson, *Thank God for single-use plastic bags*, ACTON INST.: POWERBLOG (Sept. 1, 2020), <https://blog.acton.org/archives/116969-thank-god-for-single-use-plastic-bags.html>.

202. *Id.*

203. *Id.*

204. *See id.*

205. *See id.*; *see also* Staff Report, *Grocers now banned from using customers' reusable bags*, N.H. UNION LEADER https://www.unionleader.com/news/health/coronavirus/grocers-now-banned-from-using-customers-reusable-bags/article_f6e76317-11d1-5405-a094-ade6744bba58.html (last updated Mar. 23, 2020) (statement of Governor Chris T. Sununu: "Our grocery store workers are on the front lines of #COVID19, working around the clock to keep New Hampshire families fed. With identified community transmission, it is important that shoppers keep their reusable bags at home given the potential risk to baggers, grocers and customers.")

206. Kayla Ruble, *Are plastic bags at the grocery store safer than reusable totes?*, YAHOO NEWS (Apr. 8, 2020), <https://news.yahoo.com/plastic-bags-grocery-store-safer-151100350.html>.

207. *Id.*

208. *Id.*

209. *Id.*

research, not directly related to the coronavirus, revealed RGBs can carry a lot of germs or bacteria if consumers do not clean their bags frequently and adequately before and after every use.²¹⁰ Therefore, Dr. Knight believes RGB restrictions are needed to control the spread of COVID-19 infection.²¹¹

Rev. Benson, however, did not mention Governor Sununu lifted the March 2020 temporary ban on July 27, 2020.²¹² Nor did he allude to this controversy's different dimensions.²¹³ Governor Sununu urged the shoppers to wash their RGBs in washing machines with hot water and detergent or with disinfectant spray.²¹⁴ Surfrider Foundation, a nonprofit organization, working in the field of ocean pollution, hailed Governor Sununu's decision to re-impose a ban on plastic bags.²¹⁵ Melissa Gates, Regional Manager of Surfrider Foundation, declared the world would survive the COVID-19 crisis.²¹⁶ Gates noted single-use plastic bags, not RGBs, threaten public health.²¹⁷ She also urged Governor Sununu to order grocery stores to let customers bag their own groceries.²¹⁸

Thus, before the COVID-19 global pandemic, there was a discernible environmental policy trend in several cities, states, and national governments that banned single-use plastic products. Just as shoppers were getting used to carrying their RGBs to the supermarket, the arrival of COVID-19 drastically changed that scenario. As the pandemic slowly subsides, governments are permitting the use of eco-

210. *Id.*

211. *Id.*

212. *See* Rev. Ben Johnson, *supra* note 201.

213. *See id.*

214. Chris Sununu, (@GovChrisSu), TWITTER, (July 27, 2020), <https://twitter.com/GovChrisSununu/status/1287784759528226818> (The New Hampshire Governor's Tweet on re-banning plastics and re-allowing RGBs reads as follows: "Today I will be issuing a new emergency order that rescinds the ban on reusable bags when shopping. We looked at the latest data, consulted with officials at public health and ask individuals to be courteous and respectful to retail/grocery workers by cleaning your reusable bags.")

215. Annie Ropeik, *Sununu Lifts N.H.'s Ban On Reusable Bags During Pandemic*, NHPR (July 27, 2020), <https://www.nhpr.org/post/sununu-lifts-nhs-ban-reusable-bags-during-pandemic#stream/0>.

216. *Id.*

217. *Id.*

218. *Id.*

friendly RGBs and prohibit the harmful plastic bags after a temporary relief offered during the COVID-19 peak. For example, Canada decided to enforce a ban on six types of single-use plastics starting in 2021. In 2019, as part of the global effort to combat the menace of plastics, as many as 170 nations resolved to substantially slash their plastic consumption by 2030 and have already begun to curb use of single-use plastics.²¹⁹

Rev. Benson did not account for these latest developments that are leading different states to revoke the short-term RGB ban and restore the plastics ban. Instead, Rev. Benson negatively commented on different state governments' failures to repeal obsolete laws prohibiting the use of plastic bags.²²⁰ For example, the United Kingdom's conservative government doubled the penalty rate for each plastic bag use.²²¹ Rev. Benson opined George Eustice, British Secretary for Environment, announced an end to exemptions granted to small businesses meant to help the industry adjust to the plastic ban law.²²² Paradoxically, while authorities in San Francisco, California and other jurisdictions rescheduled the enforcement of plastic ban laws, the United Kingdom's government preferred to increase its plastic bag fee.²²³ Criticism of pro-environment policies neglects the extensive and long-term environmental harm caused by plastic bags. There is, however, interestingly a reference to Angela Logomasini's pro-plastic and anti-RGB work. Logomasini firmly believes:

- 1) RBGs are not necessarily better for the environment;
- 2) Cloth bags can harbor deadly bacteria;

219. *Canada to ban single-use plastics as early as 2021*, BBC WORLD NEWS (June 10, 2019), <https://www.bbc.com/news/world-us-canada-48477087>. See Victoria Masterson, *As Canada bans bags and more, this is what's happening with single use plastics around the world*, WORLD ECON. FORUM (Oct. 26, 2020), <https://www.weforum.org/agenda/2020/10/canada-bans-single-use-plastics/>. See also Imogen Calderwood, *16 Times Cities and Countries Have Banned Single-Use Plastics*, GLOB. CITIZEN: ENV'T (APR. 25, 2018), <https://www.globalcitizen.org/en/content/plastic-bans-around-the-world/>. See also Tina Casey, *COVID-19 Fallout: A Temporary Relief for Plastic Bags*, TRIPLE PUNDIT (Apr. 22, 2020), <https://www.triplepundit.com/story/2020/covid-19-fallout-temporary-relief-plastic-bags/87306>.

220. See Rev. Ben Johnson, *supra* note 201.

221. *Id.*

222. See *id.*

223. *Id.*

3) Paper bags are energy intensive;
4) Plastic bag ban could increase solid waste;
5) Plastic bag ban will not significantly lower ocean pollution; and
6) Plastic bag bans can close small businesses and put employees out of work.²²⁴

Rev. Johnson's endorsement of Logomasini's work is indeed a morale booster to blind supporters of plastic bags. In an earlier piece, Logomasini wrote the growing clamor—almost gravitating towards universal consensus—for stopping plastic products' usage was "absurd."²²⁵ Her opinion was mere rhetoric, helpful to political leaders. It does little to solve the problem. Logomasini's view misrepresents facts and ardent advocacy for the use of plastic goods at any cost. Such an approach represents a callous and cynical disregard for empirical evidence on pollution generated by plastic goods. Furthermore, Christian Britschgi argued Britain's "country-wide bag fee is encouraging consumers to switch from single-use bags to thicker, reusable bags that use more plastic."²²⁶ Rev. Ben Johnson advised Britain's legislators to pay attention to Allen Moses's views who suggested RGBs could cause COVID-19 infections leading to political leaders' resignations.²²⁷ Allen Moses wrote: "If the coronavirus spreads, then scientists will check supermarket carts and checkouts and reusable bags. And heads will roll when citizens find out the politicians were warned in advance that their bag legislation put the public at risk."²²⁸

This myopic suggestion misses the wood for the trees—it is sheer short-sightedness. Moreover, one may wonder, why governments should only take pro-plastic views seriously. In fact, one may

224. Angela Logomasini, *Plastic Bag Mania Will Do More Harm Than Good*, COMPETITIVE ENTER. INST. (Feb. 1, 2019), <https://cei.org/blog/plastic-bag-ban-mania-will-do-more-harm-good>.

225. Angela Logomasini, *Counterpoint: Plastic Bans Won't Solve Ocean Plastic Problem*, COMPETITIVE ENTER. INST. (May 5, 2018), <https://cei.org/content/counterpoint-plastic-bans-wont-solve-ocean-plastic-problem>.

226. Rev. Ben Johnson, *supra* note 201.

227. *Id.*

228. *Id.*

tentatively infer diehard fans of plastic bags misuse the COVID-19 pandemic to confuse people by portraying RGBs as agents of death.²²⁹

After warning politicians to overlook the aforesaid views of Moses at their own peril, Rev. Ben Johnson thanked God for “convenience and health benefits provided by the single-use plastic bags.”²³⁰ He observed replacing a minor ecological threat to animals with little known risk to human beings is “the height of irresponsible policy.”²³¹ Such a view seems to be based on anthropocentrism that privileges human beings over all other species in the universe. It is unwise for human beings to subordinate and harm other species. In the era of climate change and global warming, there is, however, an urgent need to embrace ecocentrism and respect right to life of all species. Scientific research illustrates pollution created by plastic goods jeopardizes not just non-human animals but human beings too.²³² “Once regarded mostly as an eyesore or a nuisance, plastic waste is now widely understood to be a cause of species extinction, ecological devastation, and human health problems.”²³³ Therefore, if banning plastic products can play a crucial role in resolving the tough problem of plastic pollution, it must be adopted and enforced in letter and spirit.

III. FUTILITY OF LEGISLATIVE AND REGULATORY BANS WITHOUT WHOLE-HEARTED PUBLIC SUPPORT

The very idea of banning single-use plastic products seems naive and over-simplified, especially when there is no standard definition of “single-use plastic.”²³⁴ In fact, it is not an exaggeration to state that the

229. See Karen McVeigh, *Rightwing thinktanks use fear of Covid-19 to fight bans on plastic bags*, GUARDIAN: ENV'T (Mar. 27, 2020, 04:00 AM), <https://www.theguardian.com/environment/2020/mar/27/rightwing-thinktanks-use-fear-of-covid-19-to-fight-bans-on-plastic-bags>.

230. Rev. Ben Johnson, *supra* note 201.

231. *Id.*

232. See generally *Our planet is drowning in plastic pollution*, UN ENV'T, <https://www.unenvironment.org/interactive/beat-plastic-pollution/> (last visited Nov. 28, 2020).

233. Sharon Lerner, *Waste Only: How the Plastic Industry Is Fighting to Keep Polluting the World*, INTERCEPT (July 20, 2019, 4:20 AM), <https://theintercept.com/2019/07/20/plastics-industry-plastic-recycling/>.

234. Lillian Power et al., *Should We Ban Single-Use Plastics?*, 50 ENVTL. L. REP. 10003, 10004-5 (2020).

nomenclature “single-use plastic” is a contradiction in itself. Especially if one were to look holistically at legislative and regulatory developments and consider the perspective of public policy.²³⁵ One cannot disregard the power of supply and demand, albeit in its crude form. As long as there is demand for plastic from consumers, there will be supply of plastic products in the market. Therefore, instead of harping on prohibiting the production, sale, and use of plastic products, it is better to appeal to human reason and seek change in their consumption patterns. There must be an attitudinal change among various stakeholders—customers, consumers, product users, and companies that either manufacture plastic or use it for packaging products.²³⁶

A careful study of some legislative definitions of “single-use plastic” reveals inherent paradoxes. For instance, under Vermont law, single-use plastic is a product that is jettisoned immediately after “one use.”²³⁷ The law is ambiguous as to whether “single-use” means one use by everybody in the consumption chain or the very first use by anyone right at the outset. Thus, the term “single-use” has varied interpretations.²³⁸ In contrast, Washington D.C.’s law targets specific items for either bans or taxes.²³⁹ While the D.C. law loosely defines “single-use plastic,” it merely identifies particular items used for a specific reason.²⁴⁰ Furthermore, while the Vermont law highlights stirrers, straws, and bags,²⁴¹ the European Union law attempts to target nine items in a graded fashion.²⁴² It includes outright bans, labeling specifications, and mere reduction stipulations.²⁴³ The EU’s definition of plastic is quite wide—including both single-use and other types of plastics.²⁴⁴

235. *Id.*

236. *Id.*

237. *Id.* at n.1 (“VT. STAT. ANN. tit. 10, §6691: ‘Single-use product’ or ‘Singleuse’ means a product that is generally recognized by the public as an item to be discarded after one use.”).

238. *Id.*

239. *Id.*

240. Power, *supra* note 234.

241. *Id.*

242. *Id.* at n.2.

243. *Id.*

244. *Id.* at n.3.

“Single-use plastic product” means a product that is made wholly or partly from plastic and that is not conceived, designed or placed on the market to accomplish, within its life span, multiple trips or rotations by being returned to a producer for refill or re-used for the same purpose for which it was conceived.²⁴⁵

The lack of consensus in defining “single-use plastic” demonstrates one of the challenges in accomplishing the goal of legislating and enforcing a ban on the single-use plastic.

IV. LEARNING FROM OTHER MASS MOVEMENTS

A common thread that runs through paramount issues—nuclear disarmament, banning of anti-personnel landmines, smoking in public places, promotion and protection of human rights, animal rights, environment protection, and many others²⁴⁶—is that an individual or a group could not single-handedly achieve these lofty goals and cherished ideals. Historically, only a mobilized society with an enlightened opinion and dedicated leadership paved way for realizing these dreams. The involvement of masses and classes in championing mass movements, a sense of solidarity, and a spirit of self-sacrifice tremendously helped to advance the sought-after transformation. This also applies to the issues of plastics. Based on scientific evidence on plastics pollution and its deadly consequences,²⁴⁷ there is an urgent need to create a global movement. Disseminating this information to masses and convincing them to stop using plastic products will decrease the demand for plastics in the market. Given users and/or consumers avoid plastics, supply of plastics would eventually diminish.

CONCLUSION

Laws and regulations banning plastic use cannot succeed unless people change their minds and consumption patterns involving extensive, mechanical, and mindless use of plastics. Global public

245. *Id.*

246. Other issues include: anti-slavery, apartheid, untouchability, racial discrimination, decolonization, right to self-determination, labor rights, women’s rights, children’s rights, abortion, equality, justice, equal pay for equal work, education, jobs, LGBT rights.

247. See generally *Our planet is drowning in plastic pollution*, *supra* note 232.

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education on adverse effects of plastics is essential to counter the plastics industry's pro-plastic propaganda. The plastic industry is rich and influential enough to set legislative agenda both in the global south and global north. Executives, legislatures, judiciaries, and even research communities are susceptible and vulnerable to the plastic industry's lucrative and enticing offers. Therefore, taking all stakeholders onboard is necessary to mobilize the world public opinion against the disastrous consequences of the plastic use.