



Vidhi

Centre For Legal Policy

BETTER LAWS. BETTER GOVERNANCE

To,
The Director,
Directorate of Municipal Admin,
9th Floor, V.V Towers,
Dr.Ambedkar Veedhi,
Bengaluru -01

Subject: Absence of any mention of waster-pickers in the *Draft Karnataka Municipalities Model Solid Waste Management Bye-Laws, 2018* as mentioned in the *Urban Development Secretariat Notification No. UDD 90 CSS 2018, Bengaluru, dated 10 - 07 - 2018.*

In response to the publication of the above captioned bye-laws, I would like to submit our comments and suggestions on behalf of the Vidhi Centre for Legal Policy, Bengaluru regarding the same.

A. Karnataka and its Waste Pickers

Karnataka has thus far been at the forefront of the recognition and integration of waste pickers into its solid waste management strategy. It has pioneered innovations in solid waste management strategies such as the establishment of Dry Waste Collection Centers (DWCCs) and door to door collection of garbage.

However, while the promulgation of the *Karnataka Municipalities Model Solid Waste Management Bye-laws, 2018* is certainly a step in the right direction, it is highly concerning that waste pickers, who are the backbone of Karnataka's solid waste management and recycling industry, have found no mention at all in the proposed draft. In this regard, we completely agree with the submissions of Hasiru Dala and would like to make further recommendations on the same.

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As per 2016-17 data, Karnataka has a population of 6.11 crore persons who on average generate 8.842 metric tons of municipal solid waste per day (TPD), out of which only 7,716 TPD is collected, a mere 3,584 TPD treated and the remaining 3,946 TPD is sent to the 207 operational landfills present in the state.¹

In so far as Bengaluru is concerned, the responsibility for solid waste management in the city rests with the Bruhat Bengaluru Mahanagara Palike (BBMP). The city alone produces between 3,500 to 5,000 TPD and is divided into 198 wards to facilitate its effective governance. The population density of Bengaluru has risen by 47% in the last decade alone and this has predictably led to a massive increase in the amount of waste generated in the city.² It is estimated that over 15,000 waste pickers operate in Bengaluru alone, with most of them being migrants or Dalits with minimal education.³ Studies show the waste pickers recycle over 20% of the waste generated in India, thereby benefitting Urban Local Bodies financially by reducing man power and costs. The services of waste pickers also help conserve and protect our environment by enabling the reuse of finite raw materials.

Considering the immense contributions of waste pickers to keeping Karnataka free of waste, it is therefore an unfortunate omission to not include them in the 2018 solid waste management byelaws.

In the following sections, the municipal framework in Karnataka will be laid down to provide an overview of the waste crisis in Karnataka. From there, the executive, legislative and judicial mandates obligating the Directorate of Municipal Administration to include waste pickers in all policy matters relating to waste management in the state will be laid down.

¹ Annual Report 2015-2016, Karnataka State Pollution Control Board,

<http://kspcb.kar.nic.in/Annual_Report_Eng_15-16.pdf> Last accessed: August 9, 2018.

² Pinky Chandran, Nalini Shekar, 'Informal Waste Workers Contribution Bengaluru,'

<<http://hasirudala.in/wp-content/uploads/2016/08/1.-Full-Paper-Chandran-Informal-Waste-Workers-Contribution-in-Bengaluru-1.pdf>> Last accessed: August 9, 2018.

³ Siddhartha Lodha, 'Integration of Waste Pickers in Bengaluru's Municipal Solid Waste Management System for their Income Security', <http://hasirudala.in/wpcontent/uploads/2016/08/Lodha_Siddhartha_PApaper.pdf> Last accessed: August 9, 2018.

B. Karnataka's Solid Waste Management Framework

Karnataka Municipal Corporation Act, 1976

Section 58 of the Karnataka Municipal Corporation Act, 1976 deals with the obligatory functions of the municipal corporations. Under this section, the municipalities are under an obligation to make 'reasonable and adequate provision' for, cleaning of all public streets,⁴ the collection, removal, treatment and disposal⁵ of all waste and sewage that is generated by various districts in Karnataka and for the prevention and spread of dangerous diseases.⁶

Policy on Integrated Solid Waste Management, 2014

In order to tackle its solid waste management mandate, the Karnataka Government has also promulgated a Policy on Integrated Solid Waste Management⁷ which focuses on the three main aspects – feasibility, technological innovation, and capacity building in solid waste management. The policy aims to provide a framework for environmentally, financially and socially optimal waste management in the state. In order to achieve this aim, it proposes the establishment of an integrated and self-contained operating framework of solid waste management along with the adoption and improvement of existing technologies to facilitate scientific waste management. It envisions a pivotal role for ULBs which are tasked with raising awareness, scientific disposal and promoting the recovery of value from waste. It further provides extensive guidelines on scientific solid waste management including modes of collection, transportation and disposal of wastes. With regards to recycling it states that all recyclable materials should be segregated and transported in separate vehicles so as to ensure their optimum recyclability. The policy also promotes and provides directions for the use of processes such as composting and vermi-composting in order to recover value from waste while simultaneously reducing the burden on Karnataka's landfills.

From the above, it is clear that Karnataka does have a comprehensive legal framework for dealing with solid waste management as well as the legislative competence to include waste pickers in their solid waste management systems.

⁴ Section 58 (2) the Karnataka Municipal Corporation Act, 1976

⁵ Section 58 (3) the Karnataka Municipal Corporation Act, 1976

⁶ Section 58(22) the Karnataka Municipal Corporation Act, 1976

⁷ Policy on Integrated Solid Waste Management – Karnataka, Available here:
<<http://www.uddkar.gov.in/SWM%20Policy>> Last accessed: August 9, 2018.

C. Judicial Guidance in Karnataka

The two most important cases in the context of waste picker recognition in Karnataka are the *Lok Adalat case of 2011* (W.P.NO. 13473 OF 1998 (PIL)) and the ongoing case of *Kavitha Shankar v State of Karnataka*⁸.

The Lok Adalat for Environment Case is the bedrock of the rights of waste pickers in Karnataka. The Hon'ble Karnataka High Court specifically recognized the immense contributions of waste pickers to the solid waste management of the state and directed the BBMP. It directed the BBMP to register waste pickers for the first time in India. This was carried out with the help and cooperation of various NGOs. The next contribution of the case was in starting the process for the creation of the DWCCs and the handing over of the same to waste pickers to operate. More than anything, the Hon'ble High Court has highlighted the immense contributions of waste pickers to the solid waste management in the city.

In the *Kavitha Shankar* as well, the Karnataka High Court. noted the importance of decentralization of waste management in the state and stressed on the need for segregation of waste at source, which directly contributes to the increased efficiency of the DWCCs.

Therefore, the current non-inclusion of waste pickers in the Solid Waste Management bylaws is in derogation of the orders of the High Court of Karnataka.

D. Rules

In addition to the above, the Solid Waste Management Rules, 2016 (SWM Rules) and the Plastic Waste Rules, 2016 (PWM Rules) have explicitly defined the term 'waste picker' and have included provisions for facilitating their access to waste in India.

a. The Plastic Waste Management Rules, 2016

The Plastic Waste Management Rules, 2016, (PWM Rules) define waste pickers under rule 3 (aa) as 'individuals or agencies, who are voluntarily engaged or authorized for picking of recyclable plastic waste.' The rules mandate that the municipalities must 'engage with civil societies or groups working with waste pickers' in order to improve solid waste management in the county.

b. The Solid Waste Management Rules, 2016 (The SWM Rules)

⁸ WP no. 24739-40/2012

The SWM Rules delve into the concept of waste picking and recycling in considerable detail. The Rules define a 'waste picker' under Rule 3(1) (58): *'as a person or groups of persons informally engaged in collection and recovery of reusable and recyclable solid waste from the source of waste generation the streets, bins, material recovery facilities, processing and waste disposal facilities for sale to recyclers directly or through intermediaries to earn their livelihood.'* From the above, it is clear that the SWM laws in this country are fairly exhaustive in laying down duties and obligations to achieve the goal of making India's solid waste management scientific and structured. Karnataka has adopted these rules and is therefore bound to implement them.

Recognition, Integration and Capacity Building

There is explicit recognition in the SWM Rules that waste pickers provide a vital service. In fact, Rule 11(1) (c) specifically calls for the explicit recognition and acknowledgement of the primary role played by waste pickers in reducing waste in India.

Further, Rule 15 of the SWM Rules now makes it mandatory for local bodies to formulate broad guidelines and to create a system that facilitates the integration of waste pickers into the waste management system.

Rule 11(1) (m), makes it mandatory to start a registration scheme for waste pickers. Under Rule 11(1) (a), the rules for the very first time envisage an inclusive and participatory mechanism where informal sector workers such as waste pickers and recyclers are also engaged in the creation of a state's waste policy and solid waste management strategy.

Rule 3(1)(31) also makes it mandatory for the municipal bodies to provide a 'Material Recovery Facility' where waste pickers may segregate, sort and store recovered wastes. The Rules also explicitly recognize the role played by MBOs of waste pickers.

Karnataka's and India's ability to successfully manage waste lies in its scientific disposal and in the nascent recycling sector of which waste pickers of this country form the very backbone. To this end, we hereby suggest the following amendments to the proposed bye-laws:

Suggested Changes and Amendments:

The following table shall explain the recommendations and reasoning pertaining to the Draft Karnataka Municipalities Solid Waste Management Bye-Laws 2018

Rule Number	Suggested Amendments	Rationale
CHAPTER I – GENERAL		
3. Definitions Agent/Agency	Inclusion of the term ‘waste pickers’ and ‘waste picker welfare organizations’ in the definition such that they may also be appointed as authorized agents by the ULB to act on its behalf for discharge of duties or functions under the SWM Rules and Bye-Laws.	The definition of Agent needs to include waste pickers and waste picker welfare organizations engaged in waste picking as they are primary stakeholders in the solid waste management in Karnataka. This recommendation is in accordance with the above enumerated judicial, executive and legislative obligations of the Karnataka Government.
3. Definitions: Empaneled Vendor	Inclusion of the term ‘waste pickers’ and ‘waste picker welfare organizations’ in the definition such that they may also be appointed as Empaneled Vendors by the ULBs.	The definition of ‘Empaneled Vendors’ needs to include waste pickers and waste picker welfare organizations engaged in waste picking as they are primary stakeholders in the solid waste management in Karnataka. This recommendation is in accordance with the above enumerated judicial, executive and legislative obligations of the Karnataka Government.
Insert Definition of ‘Authorized’	The term ‘Authorized’ must be defined and inserted into Rule 3 of the Bye-Laws.	The term ‘Authorized’ is used in Rule 8.3 and is not defined and leads to ambiguity.

<p>Insert definition of 'waste pickers'</p>	<p>Suggested Text: 58. "waste picker" means a person or groups of persons informally engaged in collection and recovery of reusable and recyclable solid waste from the source of waste generation the streets, bins, material recovery facilities, processing and waste disposal facilities for sale to recyclers directly or through intermediaries to earn their livelihood. (As per SWM Rules, 2016)</p>	<p>Waste pickers as primary stakeholders in the solid waste management in Karnataka, need to be included and therefore defined under the current Bye-Laws. This recommendation is in accordance with the above enumerated judicial, executive and legislative obligations of the Karnataka Government.</p>
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CHAPTER III- COLLECTION, DELIVERY AND TRANSPORTATION OF SOLID WASTE

<p>6. Door to Door Collection of Segregated Solid Waste</p>	<p>The term waste pickers must be included after 'ULB and/Agent' in the following rules: 6.1, 6.2, 6.3, 6.4,6.6,6.7 and 6.8</p>	<p>Waste Pickers must be included in the afore mentioned Rules as they are primary stake holders in the solid waste management of Karnataka. This recommendation is in accordance with the above enumerated judicial, executive and legislative obligations of the Karnataka Government.</p>
<p>8. Delivery and transportation of the Solid Waste by the Waste Generators in Certain Cases: 8.3</p>	<p>Rule 8.3 must include the term 'waste pickers' in addition to waste and scrap dealers.</p>	<p>One of the primary means of livelihood of waste pickers is through the resale of recyclable non-biodegradable waste. Therefore, this rule must include waste pickers as potential buyers of the same from waste generators.</p>

CHAPTER IV- SECONDARY STORAGE OF WASTE

10.1 Dry Waste Collection Centres and Material Recovery Facility	'Waste pickers' must be included in Rule 10.1.	Waste Pickers have been given the right to operate or man Dry Waste Collection Centres as per the Karnataka High Court Judgment in Kavitha Shankar v State of Karnataka. As per Rule 15(h) of the SWM Rules, 2018, it is the duty and responsibility of local authorities to set up material recovery centres to enable 'informal or authorized waste pickers and waste collectors to separate recyclables from the waste and provide easy access to waste pickers and recyclers for collection of segregated recyclable waste such as paper, plastic, metal, glass, textile from the source of generation or from material recovery facilities;
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10.2 Deposit Centre for Domestic Hazardous Waste	'Waste pickers' must be included in Rule 10.2.	Waste Pickers must be included in the afore mentioned Rule as they are primary stake holders in the solid waste management of Karnataka. This recommendation is in accordance with the above enumerated judicial, executive and legislative obligations of the Karnataka Government.
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CHAPTER V – PROCESSING AND DISPOSAL OF SOLID WASTE

<p>13. Processing of different categories of solid waste</p>	<p>'Waste pickers' must be included in Rule 13.</p>	<p>As Rule 13 enumerates all other stake holders such as ULBs, waste generators, agents, empaneled vendors, it must also include the waste pickers who are primary stake holders in the solid waste management of Karnataka.</p>
<p>13.2 Processing of Recyclable Non Bio-Degradable Waste</p>	<p>'Waste pickers' must be included in Rule 13.2.</p>	<p>One of the primary means of livelihood of waste pickers is through the resale of recyclable non-biodegradable waste. Therefore, this rule must include waste pickers as operators of the Dry Waste Collection Centres of the same from waste generators.</p>
<p>15. Other Provisions Relating to Processing of Solid Waste: 15.4</p>	<p>'Waste pickers' must be included in rule 15.4 as they have a right to operate small scale composting and biomethanization plants maintained by the ULBs, any other public authority or government departments.</p>	<p>This suggestion is in accordance with the above enumerated judicial, executive and legislative obligations of the Karnataka Government.</p>
<p>15.5</p>	<p>'Waste pickers' must be included in rule 15.5 as they have a right to construct, operate and maintain solid waste processing facilities and associated infrastructure.</p>	<p>This suggestion is in accordance with the above enumerated judicial, executive and legislative obligations of the Karnataka Government.</p>
<p>15.6</p>	<p>'Waste pickers' must be included in rule 15.6.</p>	<p>Waste Pickers must be included in the afore mentioned Rule as they are primary stake holders in the solid waste management of</p>

		Karnataka and sale of recyclables is their primary source of livelihood. This recommendation is in accordance with the above enumerated judicial, executive and legislative obligations of the Karnataka Government.
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CHAPTER IX: USER FEE FOR MANAGEMENT OF SOLID WASTE

23. Provisions with Respect to User Fee Payable to ULB and Empanelled Vendors: 23.1	‘Waste pickers’ must be included in rule 23 along with the ‘ULB and/ its Agent’	Waste Pickers have been given the right to be paid user fees for services rendered as per the Kavitha Shankar v State of Karnataka judgment of the Karnataka High Court as mentioned above.
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CHAPTER XI: OTHER RESPONSIBILTIES AND DUTIES OF THE ULB

28.2: Review of the Empaneled Vendors and Agents.	‘Waste pickers’ must be included in rule 28.2 along with the ‘Empaneled Vendors and Agents’	Waste Pickers must be included in the afore mentioned Rule as they are primary stake holders in the solid waste management of Karnataka and sale of recyclables is their primary source of livelihood. This recommendation is in accordance with the above enumerated judicial, executive and legislative obligations of the Karnataka Government.
28.11 Occupational Safety	‘Waste pickers’ must be included in rule 28.11 in addition to ULB staff and Agents as they too should follow safety precautions as	Waste Pickers must be included in the afore mentioned Rule as they are primary stake holders in the solid waste management of

	primary stake holders who collect, transport and handle solid waste in Karnataka.	Karnataka and sale of recyclables is their primary source of livelihood. This recommendation is in accordance with the above enumerated judicial, executive and legislative obligations of the Karnataka Government.
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We hope these submissions are taken board and changes made in the larger interests of solid waste management for Karnataka and the welfare of waste pickers.

Sincerely,



Akhileshwari Reddy

Research Fellow

On behalf

Vidhi Centre for Legal Policy, Bengaluru.