

Empower (ing) informal recycling chain to get Extended Producer Responsibility moving

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A Special Series on
Extended Producers Responsibility
and Inclusion



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A waste(rag) picker who picks up garbage early in the gray morning. Muttering darkly to herself/himself.. (s)he spears the remains of speeches and fragments of words with her/his stick, and throws them into her/his cart... (S)He is the morning garbage collector, but this morning is the morning of the day of the revolution.

-----Benjamin Walter in his 1930 critique of Siegfried Kracauer's novel *Die Angestellten*, (*The Salaried Masses*)

There is value in sifting through the remains of what we discard. And each act of sifting, collecting, sorting, grading, trading is a revolution of sorts.

So what does this have to do with Extended Producers Responsibility (EPR)?

The moment of truth came in when my colleague Krishna, a former child waste picker and a manager of a dry waste collection Center in Bengaluru, made a statement at one of the meetings on Inclusive EPR. He said, "We talk about producers' responsibility and stewardship, in terms of environment and economic angle but there is a more pressing issue that needs to be addressed, that of social cost and justice".

After all, waste is also a social priority, intricately connected to the sustainable development goals, culture and politics of the country. And the COVID-19 pandemic amplified the need for social-environmental stewardship for economic sustainability.

EPR in India

In June 2020, the Ministry of Environment, Forest and Climate Change, released the Draft Uniform Framework for Extended Producers Responsibility under the Plastic Waste Management Rules 2016. While this was the first time that such a document was released, India first introduced Extended Producers Responsibility (EPR) in 2011 under the Plastic Waste (Management and Handling) Rules, 2011 and E-Waste Management and Handling Rules, 2011.

This was the result of the recommendations made by the expert committee set up to examine the comments and suggestions including economic instruments in the Draft Plastics (Manufacture, Usage and Waste Management) Rules, 2009.

The major changes suggested by the Committee involved

- (i) Introducing a system of EPR for recycling plastic waste
- (ii) Requiring state and central fiscal policies to explicitly account for plastic waste
- (iii) Introducing "explicit pricing" for all plastic carry bags sold
- (iv) Setting up a state level advisory body to advise and assist in monitoring the impact of these rules and the degree to which they are complied with by different sections of society, and

(v) Including informal sector actors such as waste pickers, in plastic waste management.¹

The 2011 rules defined "Extended producer's responsibility (EPR)" as the responsibility of a manufacturer of plastic carry bags, and multilayered plastic pouches and sachets and the brand owners using such carry bags and multilayered plastic pouches and sachets for the **environmentally sound management of the product until the end of its life**. The rules also defined multilayered plastic (pouch or sachet) and defined the term 'waste pickers'² According to the 2011 Rules, plastic waste was defined as any plastic product such as carry bags, pouches or[multilayered plastic pouch or sachet etc. which have been discarded after use or after their intended life is over.

The PW (M & H) Rules 2011, put the onus on the municipal authority for setting up, operationalising and coordinating waste management systems, and working out the modalities of a mechanism based on EPR, for manufacturers and brand owners within the jurisdiction.

This included setting up collection centers for plastic waste involving manufacturers by financing the operations, channelising plastic waste to recyclers and engaging agencies or groups working in waste management including waste pickers.

Unfortunately not much progress was made. The Central Pollution Control Board's Annual Report 2012-13 observed that municipal authorities have not set up any mechanism or engaged any agency for the management of plastic waste and the trend continued.

Fast forward to 2016

The PWM Rules was declared as progressive and bold, as it put the focus of phasing out multi-layered packaging plastics, within a time frame of two years, and

¹ Report of the Expert Committee to examine the comments and suggestions including economic instruments in the draft Plastics (Manufacture, Usage and Waste Management) Rules, 2009<http://www.indiaenvironmentportal.org.in/files/draft-plastic-rules-2009.pdf>

² "waste pickers" mean individuals or agencies, groups of individuals voluntarily engaged or authorised for picking of recyclable plastic waste.

<https://cpcb.nic.in/displaypdf.php?id=cGxhc3RpY3dhc3RIL1BXTV9HYXpldHRILnBkZg==>

proposed a comprehensive framework on EPR, which was otherwise left to the discretion of the municipal authorities. However, the Plastic Waste Management (Amendment) Rules 2018, reversed the clause and stated multi-layered plastic 'which is non-recyclable or non-energy recoverable or with no alternate use' needs to be phased out. The reversal apart, the focus on EPR continued to gain momentum, given the Prime Minister's announcement of India's commitment to phase out single use plastic by 2022.

The Ministry issued the Standard Guidelines for Single Use Plastics (SUPs) on January 21st, 2019 to all states/UTs and ministries. The guidelines detail legal options for states and Union Territories to prohibit SUPs, while acknowledging the states that have already done so.

It also lists measures to promote eco-friendly alternatives and makes a reference to the Guidelines of Creation of Management Structure for Hazardous Substances that provides assistance for innovative technologies and treatments for different waste streams through a sub-scheme SAMPATTI (Sustainable Management of Pre-owned Asset Through Trade Initiatives) Innovative solutions for municipal solid waste segregation, handling and treatment. The SUP Guidelines further details social awareness and public education and actions to be taken by government offices.

The disappointment in the guidelines is the section on EPR which states that certain single use plastics products including PET bottles used for packaging beverages including water may not require prohibitive actions as they come under the recycling/processing channels under EPR. The most disturbing note is on Multi Layered Packaging (MLP), which states as replacement technologies are not available, hence it is not suitable to phase out or prohibit the use of MLP at this stage and only those which are non-recyclable or non-energy recoverable should be phased out with no mention of explicit EPR obligation.

Why are the Draft Guidelines on EPR problematic?

Going back to Krishna's statement on EPR, the draft guidelines on EPR are problematic as it completely ignores the informal waste workers and the actors in the recycling value chain. In a move to fasttrack, the EPR guidelines **no consultation with waste pickers and other informal waste collectors, or representatives of waste pickers, informal recyclers.**

The Action Taken Report of the Ministry of Environment, Forest and Climate Change (MoEFCC) based on the report of the Expert Committee on NGT Order in Him - Jagriti Case and the CPCB Interim Report on EPR framework ³ details steps undertaken to formulate a policy of EPR. The meeting ' National EPR framework under PWM Rules, 2018 on 25th October 2019, lists participants from industry bodies, government representatives and corporates. There is no inclusion of representatives of waste pickers and other informal recyclers. Any consultation, in framing an EPR policy must be multi-stakeholder, for solutions to emerge. The policies need to be built from an understanding of collection on the ground, with people working in waste along with industry representatives, given that the majority of current recycling activity takes place in the informal sector.

Need for holistic approach to waste and resource policy

The fundamental flaw in the design of the guidelines, can be attributed to the rules - SWM Rules 2016, PWM Rules 2016. E-Waste Rules 2016, BMW Rules 2016, Hazardous Waste Management Rules 2016. All these rules have a singular focus on managing waste, without taking into account the need for resource efficiency and productivity. to improper enforcement of the rules and the livelihoods involved in these "already existing circular economies" - The need for the hour is an umbrella policy of Resource Efficiency to be able to implement a life cycle based approach towards circular economy and adopt the six principles of Reduce, Reuse, Recycle, Refurbish, Redesign and Remanufacture. A significant benefit of this approach is job creation in recycling sectors - directly leading to benefits socially, economically and environmentally.

³ Action Taken Report of MoEFCC based on the report of the Expert Committee on NGT order in Him-Jagriti Case
https://greentribunal.gov.in/sites/default/files/news_updates/Action%20Taken%20Report%20in%20OA.No.15%20of%202014-%20Him%20Jagriti.pdf

EPR then will move beyond it being lip service, but will have accrued benefits across - air, water and land and hold companies responsible.

Shifting Blame

In the twenty fifth Lok Sabha Report Standing Committee on Urban Development (2018-2019) on Solid Waste Management including Hazardous Waste, Medical Waste and E-Waste of the Ministry of Housing and Urban Affairs⁴ notes Pune's model of bringing wastepickers into the city's solid waste management systems. In Chapter IV on issues related waste collection, segregation and recycling, the discussion is on

- Need for setting up robust infrastructure and upgrading set up for Scrap Dealers.
- Need for joint efforts by Corporates, Recyclers etc with State Governments/ULBs..
- Need for promoting segregation at Source
- Need for essential registration of waste pickers by every municipalities and ensuring their safety
- Need for scientific collection and transportation of Solid Waste alongwith its time-bound target and monitoring
- Extended Producer Responsibility

It's interesting to note the submissions from ASSOCHAM, especially the representative from Pepisco : *While the representative makes a valid point on the need for resource conservation, and the need for well thought , collective, cohesive and equitable approach among key stakeholder, the submission ignores a key stakeholder the informal waste workers.*⁵ The representative further states that urban local bodies in India lack infrastructure capability, which is valid observation. However, the disconcerting argument that the representative makes is the

⁴ http://164.100.47.193/lssccommittee/Urban%20Development/16_Urban_Development_25.pdf

⁵ "Sir, we all know that urban solid waste management poses a great risk to the environment, society as well as offers an excellent opportunity for resource conservation that the society can really capitalize on. So, urban solid waste management needs a well thought , collective, cohesive and equitable approach among key stakeholders. The key stakeholders here are: urban local bodies, which is our Municipal Corporations, the regulators – CPCB and Ministry of Environment, businesses house corporate like us and community and consumer. All wastes begin its journey as a part of products that businesses produce for consumers to consume. So, that is the genesis of waste

challenge to successful EPR stems from the informal sector removing high recyclable revenue material, which in a way is scapegoating the informal sector, while completely keeping silent on the value of multilayered packaging material or the responsibility of the producer, manufacturer or brand owners to invest in redesign of the packaging products.

Need for Collective Inputs for Shared Progress

The Guideline Document Uniform Framework for Extended Producers Responsibility - June 2020, makes for an interesting reading when read along with the Guidelines for Extended Producers Responsibility Implementation under PWM Rules, 2016 by NEPRA Environmental Solutions Private Limited⁶. The NEPRA document starts positively acknowledging the complexity of the market structure for production, buying and selling plastic packaging materials, and the presence of a number of formal and informal entities.

Unfortunately, most documents and reports always point out the occupational and environmental hazards of informal waste collection, without offering concrete solutions for infrastructure upgradation for better access to waste. The NEPRA document proposes Fee based Model Collective & Individual PRO Model and Individual Waste Management Agency Model / Plastic Credits Model. It also asserts that waste management systems already exist and EPR must act as a support to these systems, but contradicts itself when it recommends Collective PRO model and suggests a dual model - where the local services of waste collection and parallel collection is established. That apart the document fails to put in place a vision for inclusion of waste pickers and other informal waste collectors, and fails to recognise the ability of informal aggregators/traders in the recycling space as experience to scale up to a PRO level

Cut back to the MoEFCC's document, it proposes similar models as the NEPRA

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[https://www.eprconnect.in/assets/pdf/pwm-rules/Draft%20Guidelines%20for EPR Implementation Plastic Waste Management 2016 Producer Brand%20Owner Importer manufacturer CPCB models framework credit takeback registration form1.pdf](https://www.eprconnect.in/assets/pdf/pwm-rules/Draft%20Guidelines%20for%20EPR%20Implementation%20Plastic%20Waste%20Management%202016%20Producer%20Brand%20Owner%20Importer%20manufacturer%20CPCB%20models%20framework%20credit%20takeback%20registration%20form1.pdf)

document, allowing for a top down approach to solve the problem of waste, without clear inputs to inclusion of the informal sector. Under the PRO section, it merely states that the program shall promote the inclusion of waste pickers in a manner which improves their working conditions and incomes. The document quotes the Indore model of waste pickers selling at the MRF, which then discounts the contribution of waste pickers and ignores market dynamics allowing for the MRF to sell to recyclers, instead of waste pickers being able to sell to the highest provider. This in a way excludes waste pickers from being able to collectively bargain, for higher prices, the justification being that they are paid wages/salaries.

The document further complicates the functioning with duplicity of roles, for the ULB and the waste management agency. The responsibility of baseline data, must rest with the Municipality, in line with what is proposed in Part 2: of the Manual on Municipal Solid Waste Management - In the Section 1.4, page 38, 39 under the Table 1.4 Matrix for Collection of Baseline Information Under Institutional Aspects specify the need for identification of Stakeholders which includes list of known recyclers in the ULB, approximate number of waste pickers and persons involved in the kabadi system within the ULB jurisdiction and identification of NGOs, voluntary groups, SHGs involved in SWM. There is also a lack of convergence document released in March 2018, by the Ministry of Housing and Urban Affairs released a document titled "Empowering marginalized groups- Convergence between SBM and DAY-NULM". The document also lacks essential social and gender justice and governance provisions.

Why Inclusive EPR?

Inclusion and Integration are often used interchangeably. However, they are not the same. Integration means mere acknowledgement of waste pickers and other informal waste collectors and must move beyond registering waste pickers and engaging registered waste pickers in collection - to expand the benefits to the entire downstream recycling industry.

Merely co-opting waste pickers in an EPR plan threatens their livelihoods in earning

fair compensation, lacks opportunities for social mobility, destroys natural waste markets, criminalises informal recycling and will perpetuate inequalities by privatisation, deepen discrimination and increase harassment.

Inclusion, on the other hand, means respecting different settings, systems, operations and the varied groups in the informal waste space and allowing for full participation in policy design and governance that affect their livelihoods.

Inclusion moves beyond, register, regulate and tax, and looks at ways to improve technical capacity, access to finances, upgradation of infrastructure, skill upgradation, and social security. Inclusion, also acknowledges that the informal economy varies across the country, respects the entrepreneurial nature of work and that a one size fits all policy, will not serve any purpose of achieving the recycling mandate.

What should be the way forward?

“Existing efforts at setting up plastics recycling systems and enforcing EPR rules have shown limited success. This analysis shows that a one size fits all policy created without the input and consideration of those who currently do the work is doomed for failure. For too long India has depended on precarious, caste-oppressed workers to do its dirty work. Cleaning up waste chains, securing resources and protecting the environment will require bold and inclusive actions.”

- Manisha Anantharaman

Inclusive EPR needs to be built around the principles :

Principle of Preventive Action

- **Prevention of Waste:** While designing an EPR framework, moving up the waste hierarchy model must be applied. Important for this, is to redesign the packaging materials, with waste prevention as the core principle. The framework must incentivise prevention
- **Zero Waste to Landfill:** EPR schemes must ensure that no dry waste - biodegradable waste reaches the landfill, with strict action on those

defaulting at all levels - consumers, corporations, and urban local bodies. An EPR framework, must also explore Zero Waste to Landfill Certification in the long run, where the onus is on recycling, rather than energy recovery as a process

Principle of Cooperation

- **Participatory Platforms:** Any system must be inclusive of all stakeholders and not just top down. The need is for a more consultative and participatory model of policy making.
- **Prioritising Partnerships with 'real' waste picker organisations:** Waste picker organisations are those who have the term wastepicker incorporated in their articles of association/Trust Deed/Bye laws etc and have been working on the ground for a minimum of two years. Grassroots approach factors in milestones at each level.
- **Increasing public awareness** and programs to promote segregation and change perceptions of the informal waste economy

Principle of Sustainable Development Goals

- **Investments in Infrastructure:** All current waste management infrastructure needs to be upgraded - both at the municipal level and the informal recycling markets.
- **Recognising Complexities and Supporting Material Flow Supply Chain:** EPR that supports informal material flow, and support extended by ensuring price stability, when market price falls, investments in improving entrepreneurial capacity and business acumen, and equitable distribution of profits across the recycling value chain
- **Recognising that formalisation is not a panacea for inclusion** and there is need for gender and social justice provisions. Formalisation is also beyond registration of waste pickers, it is not a one step process. Equally important is to recognise the hybrid economy that exists around plastic waste management - in the form of scrap shops, informal waste markets, and informal recycling hubs. Microentrepreneurship needs to be recognised, valued and enhanced. Opportunities for independent waste pickers and

recyclers must be mapped out

- **Dispute resolution system:** Mechanisms for inclusion, across stakeholders must have robust mechanism to handle disputes
- **Move to a Repair and Rent Economy:** Mandating recycled plastics in production and move towards repair, rent economy

Precautionary Principle

- Recognising the problems to tackle low value waste, bulky waste materials and design systems of EPR that goes beyond chemical recycling, energy recovery, and thermal treatment
- Holding corporations responsible for the 'Green Pledges of Reducing Plastic Footprint', in line with waste hierarchy, to avoid greenwashing

In conclusion, I repeat what Krishna articulated, "With the right support, we (waste pickers and other informal recyclers), can become key enablers in solving the plastic problem. We need to be invited to the table, to discuss policies that will affect our livelihood and until you see as partners in this, the problem is not going anywhere".

Recommended Readings

How Corporates Diluted Laws Which Were Supposed To Make India Plastic Free

<https://thelogicalindian.com/environment/lobbying-plastic-legislation-23898>

Building back better circular economy policies in South Asia

<https://circulareconomy.earth/publications/building-back-better-circular-economy-policies-in-south-asia>

UNEP (2018). SINGLE-USE PLASTICS: A Roadmap for Sustainability

http://www.indiaenvironmentportal.org.in/files/file/singleUsePlastic_sustainability.pdf

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Pinky Chandran is an independent researcher, author and a community journalist. She co-founded Radio Active 90.4 MHz Bangalore's first community radio station, in 2007. She is the founding member of the Solid Waste Management Roundtable (SWMRT), Bengaluru and a Trustee at Hasiru Dala. She has co-authored Valuing Urban Waste: The need for a comprehensive recycling policy Version 1 (2018), Hasiru Dala; , A Mirage: Assessment of Swachh Bharat Abhiyan and SWM Rules 2016: Wastepickers Perspectives across India, supported by Alliance of Indian Waste Pickers and IGSSS (2019); “Communicating the Sustainable Development Goals-A Toolkit for Community Radio Stations”, developed by SMART and Supported by UNESCO and UNICEF (2020). Garbage inspires her to write poetry.

Note: This essay is an abridged version from the book Valuing Urban Waste: The need for a comprehensive Recycling Policy, Hasiru Dala Edition 2