

Chapter 5: Using the Law

by Melanie Samson

In addition to mass mobilisation, waste pickers and their allies in a number of countries have pursued legal battles to secure policy and legislation that are more supportive of waste pickers. This chapter looks at legislative and policy gains in Peru, Brazil, Colombia and India. It shows that different movements of waste pickers have prioritised winning different kinds of rights. Peruvian legislation has recently been changed to formally acknowledge the role of *recicladores* in municipal waste management systems. This mode of formal integration has been taken furthest in Brazil, where *catadores* have achieved progressive legislation at municipal, state and national levels, and where their work is now formally recognised as an occupation. In Colombia *recicladores* and their allies used constitutional and human rights law to establish their right to compete against companies for contracts to privatise municipal waste collection. The constitutional court set a precedent in ruling that the human rights of *recicladores* must be protected, and that they must be formally included in municipal waste management systems even when these are privatised. The case from India highlights a different legal strategy in which the KKKPK union prioritised winning collective social rights for its members based on the argument that the work they perform informally benefits the municipality.

Some questions to think about when reading this chapter include:

- How do the types of legislative and policy changes sought by different waste picker organisations relate to and strengthen their broader goals?
- How does the broader context affect what types of policy and legislation are most useful for waste pickers in different countries?
- What are the advantages of securing changes in policy and legislation?
- What are the limitations or risks of relying on changes at the level of policy and legislation?
- What is the relationship between using the courts and other organisational strategies?
- What are the implications of legislation focusing on organised waste pickers when the vast majority of waste pickers remain unorganised and many consciously choose not to join collective organisations?

Peru – Legislating Inclusion in Municipal Waste Management Systems³³

2008 was a landmark year for *recicladores* in Peru. The National Movement of Waste Pickers of Peru (MNRP) was officially formed on June 1. In addition, the Peruvian

³³ The following section on Peru is based on information provided via email interviews by Albina Ruiz, Executive Director of *Ciudad Saludable*, a non-profit that is involved in helping *recicladores* to organise, supporting the National Movement of Peruvian *Recicladores* (MNCR), conducting research and implementing waste management projects. *Ciudad Saludable* was also actively involved in advocating for the legislative changes. See <http://www.ciudadasaludable.org/es/> for further information on *Ciudad Saludable*.

government adopted several declarations and regulations that improve recognition of *recicladores* and require their integration into municipal waste management systems.

The first progressive change in waste management legislation dates back to 2004, when the non-profit organisation *Ciudad Saludable* and waste picker co-operatives that it had been helping to organise since 1998 mobilised around the General Law of Solid Waste (Law #27314). This law promotes the interests of *recicladores* by requiring municipal authorities to create conditions to benefit people and organisations that promote waste minimisation and separation at source.

Several years of implementation revealed a number of problems with the General Law, and *recicladores* and organisations working with them lobbied for changes. After a series of working meetings and consultations that involved the General Directorate of Environmental Health from the Ministry of Health, the National Advisory for the Environment, known today as the Ministry of the Environment, some municipal officials, several NGOs and representatives of organised *recicladores*, on June 28, 2008 a legislative decree that amends the General Law of Solid Waste came into effect.

Key changes in the decree include:

- A commitment to formalising people, operators and other enterprises that are involved in solid waste management.
- A commitment to develop measures to create healthy and safe working conditions.
- A commitment to promote participation of micro and small-scale enterprises in the management of non-hazardous waste.
- A requirement that provincial municipalities³⁴ implement a ‘Solid Waste Sorter Formalisation Programme’ in which the municipality will assign work zones for selective collection to *recicladores*. The *recicladores* will not be paid by the municipality and will earn their income from the sale of recyclables. The municipalities are charged with facilitating and monitoring the programme and promoting education and awareness amongst local residents and businesses.

On October 7, 2008 a Technical Rule was adopted governing the work of people who sort waste, including *recicladores*. The main objectives of the Rule encompass:

- providing guidance for operational activities that involve handling, sorting, packaging, collection and transportation of solid waste before its reuse
- ensuring proper management to prevent sanitary risks; protecting and fostering environmental quality, health and welfare of human beings.

Recicladores and non-profits participated in discussions concerning the development of this Rule, and the MNRP lobbied the President to speed up its implementation, which nevertheless still took two years.

³⁴ Peru has two levels of municipalities – provincial and district. Each Provincial Municipality is made up of several Districts. District Municipalities must implement policies that are adopted by the relevant Provincial Municipality in spheres where they have jurisdiction.

Finally, in April 2008 a Commission was formed to develop a new Technical Health Regulation Bill. The Commission included the Ministry of the Environment, the Ombudsman Office, the Municipalities of Metropolitan Lima and Callao, the Regional Government of Junin, the MNRP (once it was formed), the Commission of Andean, Amazonian and Afro-Peruvian peoples, the Environmental Congress of the Republic and *Ciudad Saludable*, amongst other organisations. On October 30th it held a Walk of Joy in which 2,000 *recicladores* marched to present the Bill to Congress where it was formally introduced. The Bill includes the state's acknowledgment of the role played by *recicladores* and a commitment to formalising their work and integrating them into municipal waste management systems. In particular, it specifies the following requirements:

- Local regulatory regimes must incorporate *recicladores* as part of local solid waste management systems.
- Local government solid waste management programmes and projects must include the activity of independent *recicladores*.
- Local governments must establish regulations to facilitate the activities of *recicladores* as well as their organisations.



Members of the MNRP march in support of the new legislation, October 2008

(picture courtesy of Albina Ruiz)

Clearly, significant progress has been made towards ensuring that Peruvian law recognises and advances the role of *recicladores* in sustainable waste management systems. Nonetheless, Albina Ruiz, Executive Director of *Ciudad Saludable*, notes that although *recicladores* were consulted in the development of the new legislative regime, there was never consensus or universal support for the changes. Some *recicladores*

wanted to continue working on dumps and landfills which is now prohibited under the law. In addition, she also notes that those who support the changes remain sceptical about their ability to be realised. For example, whilst the legislative gains are important, Ruiz argues that the main challenge is to ensure that they are implemented. In municipalities such as Callao, where progressive policies have already been developed, execution has been slow due to bureaucratic and technical processes. Much work therefore remains to transform the possibilities created by the legislation into improved conditions for *recicladores*, and to ensure that the new legislation meets the needs of and benefits all *recicladores*.

Brazil – Legal Gains at Municipal, State and National Levels



MNCR leaders meet with President Lula of Brazil

(photo courtesy MNCR)

Brazilian *catadores* are organised at local, state and national levels in the strongest movement of waste pickers in the world (Medina 2007, 82). As discussed more fully in Chapter Three, the fact that the Workers' Party had a transformative agenda for the state and key individuals within the party and government administrations were supportive of *catadores* played an important role in helping to catalyse and facilitate the formation of *catadores'* organisations (Dias and Alves 2008, 8-9, 65). It is also perhaps one reason why mobilisation by *catadores* to create more inclusive and progressive legislation has been relatively more successful in Brazil than in other countries. As Dias points out, legislation promoting the social inclusion of *catadores* in Brazil is the result of strategic openings in the political system and mass mobilisation by *catadores*.

According to Dias, the mobilisation process around the Minas Gerais State Policy on Solid Waste (Law 18031/2008 – '*Política Estadual de Resíduos Sólidos de Minas*

Gerais) is a good example of how organised *catadores* have skilfully combined formal engagement with the state with protest action in order to bring about legislative change. In this case, demands by *catadores*' organisations and the state's Waste and Citizenship Forum led the Minas Gerais state to organise a series of debates, public hearings and seminars to discuss the need for inclusive waste management policies. During these events waste pickers not only participated in the round table discussions but also organised marches and sit-ins. In addition, the issue was debated at the Waste and Citizenship Festival. As a result of this mobilisation, at the end of 2003 the State Government adopted Resolution #67 that changed previous legislation forbidding *catadores* access to open dumps. This Resolution specifies that when closing an open dump municipalities should create labour and income alternatives for the *catadores* who are removed from the dumps. This was the first move towards recognising the social inclusion of *catadores*, a goal that has since been entrenched in the legal system due to the continued mobilisation of *catadores* around each piece of proposed legislation.³⁵

Dias and Alves (2008) provide an overview of some of the key legislative gains by *catadores* in Brazil at all three levels of the state. They note that the first gains were made at the local level in the early 1990s. Landmark changes within municipal legislation included:

- In 1990 the municipality of Porto Alegre adopted an Urban Cleansing Code which states that *catadores* organisations registered with the Urban Cleansing Department should be the preferred recipient of recyclables collected by the municipal recycling programme.
- In 1990 the municipal constitution of Belo Horizonte was amended to include a clause stating that the collection and sale of recyclables would preferably be done by co-operatives (although it did not explicitly state that these should be co-operatives of *catadores*).
- In 2000 Belo Horizonte adopted a law (#8052/00) creating an Urban Cleansing Superintendency responsible for carrying out environmental education programmes and providing technical advice to *catadores*' organisations.
- In 2004 the municipality of Diadema became the first municipality to adopt a law that allows for the signing of contracts with co-operatives to pay them for the provision of services as part of the municipal recycling programme.

Several states have adopted laws that acknowledge the role of *catadores* within municipal waste management systems:

- In 2001, the Environmental Policy Council (COPAM) in Minas Gerais State issued Resolution 52 that gave municipalities a six-month period to upgrade the final destination of waste and prohibit waste picking on dumps. After

³⁵ Personal communication with Sonia Maria Dias, March 26, 2009.

objections raised by *catadores* at the Second Waste & Citizenship Festival held in Belo Horizonte in 2003, this deadline was extended to the end of 2003 and municipalities were required to create labour and income alternatives for *catadores* displaced from the dumps.

- In 2004 Law #3517/04 of the Federal District of Brasília stated that organised *catadores* should receive recyclable materials generated in state buildings. On July 7th 2006 the state supplemented this with Law #3890, which requires the implementation of selective collection in all of the state's administrative regions, and that organised *catadores* should receive the recyclable materials.

Finally, Dias and Alves also describe important gains at the national level:

- In 2001 'Scrap Iron Picker', 'Paper or Cardboard Picker', 'Scrap Picker', 'Scrap Packager (co-operative)' and 'Scrap Sorter (co-operative)' were included as occupations in the Brazilian Classification of Occupations. This has led to formal recognition that the work of *catadores* is an occupation. It also means that it is possible to use official data bases to analyse the conditions of *catadores*.
- In 2007 the adoption of Law # 11.445/07 established national guidelines for basic sanitation. It amended previous legislation and made it unnecessary for bidding when municipalities contract *catadores'* organisations. As a result, municipalities can contract and pay *catadores'* associations and co-operatives to perform selective waste collection without putting this service out to a competitive tender.
- In August 2006 Presidential Decree 5940/06 was presented at the Fifth Waste & Citizenship Festival held in Belo Horizonte. Organised *catadores* had participated in the development of this decree. Following on the example of Brasília, according to this Decree selective collection must be implemented in all federal public buildings and the recyclable materials must be given to organisations of *catadores*. The Inter-ministerial Committee for the Social Inclusion of Waste pickers (CIISC), which includes representatives from key federal government ministries, the Presidential Staff Office, the National Economic and Social Development Bank, the Social Bank (CAIXA) and the MNCR, is responsible for its execution. Implementation was first initiated in 12 metropolitan regions through the establishment of agreements between the relevant public institutions and local organisations of *catadores* (Dias and Alves 2008, 59-62).

Clearly, tremendous strides have been made in transforming Brazilian legislation to promote the inclusion and advancement of *catadores*, both within municipal waste management systems and more generally as citizens. However, as Dias points out, the entire legal framework is based on *catadores* being members of formally organised co-operatives or associations. In a context where the vast majority of *catadores* are

unorganised and where many resist organisation, Dias voices the troubling concern that unless ways are found to address independent waste picking activities, the legal gains of organised catadores may end up creating new forms of social exclusion (Dias 2008, 3-4).

Colombia – The Right to Compete and Individual Human Rights

In 2003 and 2009 two cases were argued in Colombia's Constitutional Court that established the rights of *recicladores* to be involved in waste privatisation processes. In the second case the court also ruled that the government must implement municipal commitments in the city of Cali to include *recicladores* in separation at source initiatives and ensure the realisation of the basic social rights of the *recicladores* in that city.

Securing the Rights of Co-operatives to Compete in Bogotá



Bogota Recicladores March against new law

(photo by Juan Carlos Sierra)

The first case was taken forward in 2003 by the *Asociacion de Recicladores de Bogotá* (ARB) and a team of *pro bono* lawyers. The ARB was formed in 1990 when four *recicladores* co-operatives that had been fighting the closure of a landfill in Bogotá decided to formalise their relationship. Today 24 co-operatives in the city of Bogotá are members of the association.³⁶ Historically, all municipal waste management services in Bogotá were provided by EDIS (the city's department for public cleansing). In 1994 the EDIS employees went on strike to oppose plans to privatise the service.³⁷ During the strike the waste started to pile up, and the city found itself on the verge of a

³⁶ See Chapter Three for more information on the ARB.

³⁷ Personal communication with Adriana Ruiz-Restrepo.

sanitary crisis. The administration requested the assistance of the waste pickers, and the ARB responded by helping the municipality collect 700 tons of waste per day.³⁸ However, the strike was unsuccessful and a decision was taken to close EDIS.

Between 1994 and 1996 various providers were responsible for public cleansing services in Bogotá: 45% of the work was done by EDIS, the company which was in the process of being liquidated; 45% was done by private companies; and jointly with *Fundacion Social* (a foundation that provided support to *recicladores* organisations across Colombia), the ARB was contracted to provide 10% of the cleansing services of the city. However, when EDIS was completely shut down in 1996, the privatisation of public cleansing services was structured so that 100% of the collection, transport and final disposal of waste was handed over only to private corporations and the *recicladores* were completely excluded and consigned again to the informal economy.

This concession was scheduled to end in 2003 and the municipality was required to put out a new tender for the provision of cleansing services. The ARB had found international partners and was prepared to compete. With the combined financial capacity of the international partners, and the knowledge and experience of the *recicladores*, they felt they had a consortium capable of bidding for and winning a concession in one of the six zones of the city. However, the ARB soon discovered that it was not possible for it to enter the competition because law 142, regulating the domiciliary public services in Colombia, declared that only stock owned corporations were allowed to compete in the bidding process for concessions in Bogotá (Ruiz-Restrepo 2008). The lawyers³⁹ that the ARB and its partners had been using to structure the bid shifted to *pro bono* mode and drew on constitutional and human rights law to review the extent to which the law provided opportunities for the inclusion of poor people who were willing to enter the formal and mainstream economy.

In a paper titled “The Poor Shall Not Remain Small” (Ruiz-Restrepo 2008) one of the *pro bono* constitutional lawyers outlines the legal problems that the ARB faced, the arguments that the lawyers used to argue the case, and the outcome of the constitutional court judgment. Ruiz-Restrepo identifies three obstacles confronted by the ARB:

- Legislative discrimination between for-profit and not-for-profit organisations in Law 142 of 1994 meant that only stock corporations could provide domiciliary public services in large cities. Even though the ARB had already been providing cleansing services during and after the strike in Bogotá as well as in other smaller cities, it remained an association of co-operatives and was only eligible to provide services in smaller, almost rural, and thus less profitable, municipalities.
- The terms of reference for the tender were so narrow that it would be impossible for the ARB to meet them. For example, the municipality would only grant the concessions to those bidders who could demonstrate

³⁸ Interview with Norha Padilla, 14/01/2009.

³⁹ Attorneys Nestor Raul Correa Henao, Luis Jaime Salgar and Adriana Ruiz-Restrepo formed a team of ‘friends of the *recicladores*’. Alfonso Fidalgo, Elkin Velasquez and Diego Tobon also participated in their professional and personal capacity on a *pro bono* basis.

direct experience in cities of more than half a million people during the five preceding years. Not surprisingly, the corporations that had won the previous concessions all qualified, but the ARB did not meet the five year requirement.

- National Decree 1713 of 2002 established that once garbage was placed outside of the buildings it became the property of the private consortium operating in the area. This meant that *recicladores* could potentially be charged with theft for taking recyclable materials out of the waste-stream.

In order to address these problems judicial actions were presented against (1) Law 142/1994; (2) Bogotá's tendering process; and (3) the ceding of ownership of waste to private companies conducting collection by Decree 1713/2002. The legal arguments put before the Constitutional Court used the innovative approach of focusing on how policy and legislation that were technically and formally legal undermined human rights and principles such as equity and dignity that are protected by the Constitution. Some of the key arguments were that:

- The requirement that services be provided by stock corporations was based on the false assumption that they are more efficient. It unfairly prevented co-operatives from even having the opportunity to bid for the contract and therefore violated the right of waste pickers to decide how to associate (freedom of association) as well as the right to participation. The requirement also created insurmountable barriers to entering the formal economy.
- The terms of reference for the bid were not broad enough to allow groups such as the ARB to compete and did not include any mechanisms to alleviate the negative effects on *recicladores*. The lawyers argued that it was up to the municipality to prove that its measures were not discriminatory and that the contract should include positive discrimination to improve the position of *recicladores*.

Ultimately all of these arguments were successful and the Constitutional Court ruled that:

- It was unfair to exclude co-operatives from the bidding process.
- The terms of the proposed contracts would worsen the marginalisation and discrimination faced by *recicladores*.
- Future contracts should include affirmative action for *recicladores*.

In addition, the National Decree that made waste the private property of contractors was overturned by National Decree 1505 of 2003.

Although the ARB secured a positive ruling, the awarding of the contract had already proceeded. As a result, the ARB will only be able to bid for the next round of contracts scheduled for 2010, as well as for planned processes to privatise the areas for waste recycling in the city. The court ruling does, however, ensure that the ARB will be

able to fulfil its goal of competing to win future privatisation contracts. This, it argues, is central to *recicladores* pursuing their right to life and their right to development (Ruiz-Restrepo 2008).

Ensuring the Human Rights of Recicladores in Cali

In 2009, the foundation CIVISOL, which includes some of the *pro bono* lawyers involved in the 2003 case, began to devise a legal strategy to further advance the rights of *recicladores*.⁴⁰ This was in response to an urgent call for assistance put out by the National Association of *Recicladores* or *Asociación de Recicladores Nacional* (ARN) for help in responding to Law 1259. The law had been passed by the national government in December 2008. It provided for an environmental fine of up to US \$500 for opening garbage in public places. The ARN was extremely concerned that the new law would make it impossible for *recicladores* to access the materials on which they depend for their livelihood.



Recicladora in Cali

(photo by Shailly Barnes)

⁴⁰ The following information on the Cali case is based on two skype interviews with Adriana Ruiz-Restrepo, conducted on July 3 and 4, 2009.

CIVISOL informed the ARN that one option available to the *recicladores* would be to take the law for judicial review. But at best this would result in the Constitutional Court removing either problematic articles from the law or the entire law from the juridical order. It would not result in a binding requirement for the government to take action to protect and promote the rights of *recicladores*. A better option would be to find 'writs of human rights protection' issued to *recicladores* and use these to force government to take action to ensure the human rights of *recicladores*. Writs of human rights protection are special court orders requiring the state to secure someone's human rights within a specified period. They are issued when there is either no other way to secure the right in question, or regular means of doing so would be so time-consuming that the right would be threatened. According to Colombian law, all writs of human rights protection are reviewed by the Constitutional Court. The Court looks for precedent-setting cases and then selects them for review. CIVISOL discovered that more than one hundred *recicladores* from the city of Cali had applied for writs of human right protection and that the case had already been scheduled for review by the Constitutional Court. CIVISOL therefore decided to intervene to try to establish and extend the rights of *recicladores*.

Recicladores had been working on the Navarro dump in Cali since 1967. Historically the dump had been managed by the municipal waste management department called EMSIRVA. On the pretext of improving the financial operations of EMSIRVA the national government took it over in and proceeded to privatise it instead. Collection and transportation of waste was privatised in three of four parts of Cali. Plans were laid to privatise the dump, liquidate EMSIRVA and privatise service delivery in the last remaining part of the city.

In June 2008 the dump was closed and replaced by a new private landfill that did not allow waste picking. Although promises had been made to the *recicladores*, nothing was done to compensate them for their loss of livelihood. They protested at the dump the day that it was shut down, and then in August 2008 they seized the symbolic La Mernita church to insist that their demands be met. Once again they were assured that their concerns would be addressed, and once again they were left with nothing but false promises. Having lost their means of generating an income and facing starvation, many of the *recicladores* applied for and were awarded writs of human rights protection requiring the state to protect their rights to food, work, life and social security. However, little had been done to give these writs effect by the time that the Constitutional Court was scheduled to review them in 2009.

In its *amicus* to the Court, CIVISOL raised a number of arguments relating to the writs, Law 1259 and the privatisation of service delivery to advance the rights of the *recicladores*. It convinced the Court to order that the writs of human rights protection that had previously been granted needed to be upheld and that the basic social rights of those *recicladores* to things such as food, education and health care must be enforced. The Court also ordered the municipality to conduct a survey to identify *recicladores* without writs and to develop a plan to fulfil their basic social rights.

The lawyers then turned to ways in which *recicladores* could continue to generate a livelihood and sustain themselves and their families. Once they had been evicted from

the dump there were theoretically only two ways that the *recicladores* would have been able to pursue their profession – by collecting recyclables in the streets or by collecting recyclables directly from households as part of separation-at-source programmes. However, the lawyers argued that without the intervention of the Court neither of these options would be available to the *recicladores*. They pointed out that due to Law 1259 the *recicladores* were forbidden to collect recyclables out of waste in the streets and faced heavy fines if they tried to do so. The Court agreed that this limited the rights of *recicladores* to work and suspended the application of the law in Cali.

The lawyers also argued that it would be impossible for the *recicladores* to initiate separation-at-source programmes, as the national government had included these in the tenders awarded in three parts of the city for privatised service delivery. Although the companies were not implementing any such programmes, they still maintained a legal monopoly over them. The lawyers argued that by including separation-at-source programmes in the privatisation contracts, the national government had violated Cali's 2004 Integrated Waste Management Plan which stated that by 2004 there would be separation-at-source and a selective recyclable route that would include *recicladores* and formalise their role in waste management. The Court therefore ruled that within two weeks the municipality needed to establish a multi-stakeholder committee to develop a plan to bring *recicladores* into the formal economy. According to the criteria laid down by the Court, the committee includes but is not limited to, representatives from different levels of government, civil society, the Association of *Recicladores* of Navarro, FERRESURCO (the network of *recicladores* organisations in Cali), the ARN, CIVISOL, the mayor and the legal representative of EMSIRVA (or the company that succeeds it if it is liquidated). The plan must be in place by no later than November 29, 2009, and the Court stipulated that by December 1, 2009 the mayor of Cali must submit a report on the plan to the Court that details indicators to track the inclusion process.

At the time of the review by the Constitutional Court, the contract to deliver waste management services in the fourth area of Bogotá was out for tender. The Court ordered that the tender be suspended. It further instructed that the terms be redrafted to allow waste picker organisations to submit bids and to give points to companies that include waste pickers in formalised positions.

Finally, the Court recognised that without access to recyclables there was a strong risk that the *recicladores* and their families would starve while they waited for the new policies and tender to be put in place. It therefore ruled that the environmental agencies of the Cali Municipality and the Department⁴¹ to which it belongs must cooperate with civil society organisations in creating a campaign to encourage residents to separate out their recyclables and give these directly to *recicladores*.

The Court ruling did much to advance the legal and human rights of *recicladores* in Bogotá. But, as was identified in the Peruvian case, many challenges remain with respect to the implementation and realisation of these rights. The Court created space for the *recicladores* to participate on the committee to draft Cali's new policy as well as

⁴¹ A Department is the equivalent of a state or province in federal systems of government.

to bid for the privatisation contract. However, as the Court did not require that they be provided with resources to facilitate their participation, the *recicladores* must now struggle to build their own capacity and secure the finances and assistance required to take advantage of these opportunities.

India – Winning Collective Rights and Benefits for Waste Pickers

As discussed in previous chapters, the *Kagad Kach Patra Kashtakari Panchayat* (KKPKP) trade union in Pune, India has fought for and won changes that facilitate the formal integration of waste pickers into municipal waste management systems. In addition, it has mobilised to win social benefits for waste pickers, arguing that they are already performing socially and environmentally useful labour that benefits the state and residents. As Chikarmane and Narayan (2005) outline, major victories have been achieved in the spheres of health care and education.⁴²

As a first step towards securing social benefits for waste pickers, the KKPKP had to struggle to gain recognition for them as workers. This process needed to start within the KKPKP membership; initially, most waste pickers did not view what they did as “work” and thought of it as only rummaging through garbage. Through a critical reflective process the waste pickers realised that they preferred waste picking to other forms of available work such as domestic work or construction, and that they wanted to improve their conditions. They began to define themselves as workers, to recognise the social, economic and environmental contributions of their own labour, and to believe that it would be possible to change their conditions through the formation of a union and collective action.

Starting in 1993, thousands of waste pickers participated in rallies and demonstrations demanding that municipal and state governments recognise them as workers.



KKPKP mass meeting
(picture courtesy of KKPKP)

⁴² The following information is drawn from Chikarmane and Narayan's 2005 paper entitled “*Organising the Unorganised: A Case Study of the Kagad Kach Patra Kashtakari Panchayat (Trade Union of Waste pickers)*”. It can be found at www.wiego.org/program_areas/org_rep/case-kkpkp.pdf.

Based on research that quantified the contributions of waste pickers, the union determined the amount of money that the waste pickers save the municipalities in transport costs and how much income they generate for the local economy. The union also established that the waste pickers make an important contribution to the environment. In 1995 and 1996, the municipalities of Pune and Pimpri Chinchwad acknowledged the contribution of waste pickers to municipal waste management systems and endorsed the waste pickers' KKP KP identity cards, officially authorising them to collect scrap. Validation of the identity cards had a tremendous psychological effect on the waste pickers and the public at large as it helped to legitimise their work. The identity cards have also provided practical assistance to the waste pickers who have used them as bail and as surety.

Once this relationship between waste pickers and the state had been established, the KKP KP could mobilise to make claims on the state.



KKP KP member with her Identity Book

(picture courtesy of KKP KP)

Health care was a key issue for KKP KP members. Studies showed that they suffered from occupation-related musculo-skeletal problems, respiratory and gastro-intestinal ailments, tuberculosis, eye infections and major injuries related to the performance of their work. Due to their low levels of income, most waste pickers could not afford proper treatment.

The KKP KP argued that it was unfair that the municipality gained financially from the work of waste pickers, as they reduced transport and disposal costs by taking recyclables out of the waste-stream, but all of the health costs were borne by the waste pickers themselves. After sustained mobilisation by waste pickers that was supplemented by research demonstrating their contribution to the municipal

waste management system, the Pune Municipal Corporation agreed in 2002-2003 to create a Scheme for Medical Insurance for all Registered Waste Pickers in the city. The municipality now includes payment of the annual premium to the New India Assurance Company in its annual budget.

The KKPKP has also won major victories in the sphere of education. These relate to ensuring that waste pickers can benefit from existing laws as well as secure special support for the children of waste pickers. All children have the right to go to school and public education is free in India. However, the children of waste pickers were often turned away as they didn't have age certificates and weren't properly dressed. Together with children's rights organisations, the KKPKP mobilised to end this discrimination. They negotiated agreements with government departments to get rid of procedural requirements that limited access, and they sensitized people working in the school system to end the harassment experienced by these children. When combined with enrolment drives run by the KKPKP, this substantially improved the ability of the children of waste pickers to access their right to education.

The KKPKP also successfully mobilised for the children of waste pickers to be included in the Central Government-aided Scheme for Pre-Matric Scholarships to Children of those Engaged in Unclean Occupations. This scheme initially applied only to the children of night soil carriers. At first the government refused the KKPKP's demand as it said that waste picking was not an unclean occupation. KKPKP members then participated in rallies and protests. The media played a pivotal role in this campaign by carrying articles that revealed the terrible conditions that waste pickers work in and shaming the government for declaring it too clean to merit help. Since 2001, waste pickers in the state of Maharashtra have been able to use their municipally endorsed KKPKP identity cards as proof that they work in an unclean occupation, and their children can benefit from participation in the scheme (Chikarmane and Narayan 2005).