

#4 EVERY HUMAN HAS RIGHTS :

BUILDING INFORMAL SECTOR CAPACITY TO EXERCISE LEGAL RIGHTS IN DELHI, INDIA

by Bharati Chaturvedi¹

1. Background

In many parts of the developing world, waste is recycled by the informal sector. They face several barriers in their work. One of the biggest ones, as identified jointly with the sector, is the severe harassment they face from the police and municipal cleaners. The police demand an assortment of bribes to allow the waste recyclers to pick, carry and store waste. It also demands other cleaning services, sometimes rounding up wastepickers and taking them to the police station to undertake cleaning jobs. Some wastepickers also report that they have been sent by waste dealers to the police (and on the demand of the police) to be arrested or detained as suspects in criminal cases they have no link to or knowledge about. The municipal workers ask for bribes and for physical labour in cleaning up the roadside dustbins and loading collection vehicles. Such monetary and non-monetary demands reduce the meagre profit available to the recycler, and severely impede the solid waste management pathways. Besides, they reduce the sustainability of local micro-enterprises.

Chintan decided to act on the complaints to address the issue both institutionally and through capacity building on rights. This was done through an initiative based on feedback of the wastepickers and with their active participation. The NGO created a formal partnership with the local municipalities and the Delhi Police, also a key agency in impeding recyclers from accessing waste. It built capacity in all stakeholders to understand the barriers for the informal recycling sector and reduce them. This was all done in the context of existing organized wastepickers and identity cards issued to them in partnership with the municipality.

The intervention sought to build capacity within the informal sector about its legal rights, understand them in the context of their work, and to exercise them with the precise aim of reducing and removing these barriers, making recycling of solid waste easier and more lucrative. Equally, it sought to build capacity with the police to ensure some commitment to the intervention, as well as create a network of people with an improved understanding of the role of informal sector recyclers. Although Chintan was concerned that this might be a naïve approach, it decided to go ahead with it on a pilot basis.

This paper is based upon a three-year initiative that ended in 2006. It will describe how an innovative use of law, and its interpretation for wastepickers, was used to create a new legal

¹ Chintan Environmental Research and Action Group, Delhi, India

module that would facilitate them to exercise their rights and negotiate with the police in diverse ways. Over 4,000 people were offered capacity building to enhance their lives and work by exercising their legal rights. Besides, a similar interpretation of the law in the light of solid waste management enabled approximately 1,000 police personnel to understand the role of the informal recycling sector in urban India.

The initiative was much more complex than suggested by this brief description. All the aspects cannot be described here. Therefore, the work with itinerant buyers or small traders will not be discussed. Nor will the work with municipal workers be detailed.

Unfortunately, several of the communities of wastepickers who were trained and demonstrated a knowledge of the issue were broken up as a result of massive slum demolitions that continued all over Delhi till 2008. Apart from being a tragic fate for the poor, many of whom reverted to being homeless, it also deprives us of long term-tracking of the impact of this exercise in capacity building.

2. The Process

The process of creating capacity was a prolonged one, which required constant evolution of its pedagogy and content as well as repetition. However, the content-based risks and the continuous 'tweaking', based on feedback from the recyclers and the police, was vital to being able to meet the objectives. An important element of the work was also to allow the team in the field to actively participate in working out the priorities, so that they best matched the actual needs. From the year 2000, when Chintan began its field work and organizing, to 2006, when the described initiative was concluded, there were several shifts in the landscape of work of the wastepickers. These included the gradual shift of drug addicts to other geographical areas, thereby changing the need for education on dealing with accusations from neighbours that wastepickers were drug addicts and thieves. Instead, new capacity building on laws related to detention and deportation began to become important, because of a sharp increase in detentions of Indians mistaken for Bangladeshis. While the content of these varied from one set of problems to another, the essential capacity building template that Chintan created remained the same.

2.1 Making sense of the challenge

One of the reasons why police and municipal officials prey on wastepickers is because they can. The informal sector in general is highly vulnerable and subject to prejudice. Therefore, Chintan decided to work with the police and with the wastepickers. Both of these were in need of capacity to fill their knowledge gaps.

Working with the police required access to the police and the confidence of the police in the intent of Chintan. This became possible because of Chintan's long history of confrontation and conciliation with the police.

In 2001, a brutal attack by the police on a group of wastepickers who were accused of stealing batteries resulted in a well-publicized march by the wastepickers, demanding their rights. The media, which was highly supportive, also followed the news story and a few of the policemen involved were transferred out. As a follow up, Chintan began a system to systematically enable wastepickers to meet the policemen who were relevant to their lives

and work. The police also welcomed the ideas as an alternative to constant friction. The process additionally took advantage of the police belief that wastepickers, even if not thieves themselves, knew who the thieves were. They requested that wastepickers to periodically inform them if they saw or learned about any thieves or other criminal activity. Chintan assured the police that if the wastepickers saw an illegal or suspicious activity, they would unhesitatingly inform the police. However, they would be unable to act as informers seeking immunity for themselves as this would break the fabric of the community they lived in and was seen as profoundly unethical. On their part, the wastepickers insisted that while they did not know many such people, they were willing to point out such persons when they saw them. After long consultations, the wastepickers decided that it was essential to safeguard their reputation as honest workers by pointing out the thieves operating in their area. Some junk dealers who sold drugs, pickpockets and a few other sundry law-breakers were subsequently reported to the police over the next two years. One or two of them had already paid off the police and therefore remained outside the influence of the law.

By 2002, there were many local Station House Officers who were innovatively looking at how such a partnership could be strengthened. In part, this was because of the regular meetings held with the local police and wastepickers. The underlying idea behind constant meetings was both to build familiarity between the police and wastepickers, and to create opportunities for waste recyclers to learn to use their newly-acquired knowledge about their rights and communication in *peaceful* situations. Chintan then organized the wastepickers to become pro-active in addressing this opportunity. One example of this was when a group of wastepickers worked with the police and local residents to address their security problems by designating the wastepickers who actually worked there and initiating a door-to-door waste collection so that other non-wastepickers with bags on their backs would not wander around that area looking for waste. Another rule was related to working at night. Many residents reported robberies of cars and from lawns at night. These are not easy to guard. Typically, wastepickers were being blamed for these robberies. Therefore, the Chintan wastepickers – comprising almost all the local wastepickers – negotiated with the police about legitimate working hours. In the summer, this was till 11 pm and in the winter, till 10 pm. Only those who worked there after this time would be challenged by the police. This took place largely because of the ongoing capacity building amongst the wastepickers.

One of the obvious lessons from this experience was the importance of being organized as a group. The police spoke to the wastepickers as an organized entity, with legitimate identity cards that the municipality had endorsed, so outsiders not in this group were not able to participate in the ongoing dialogues. The police also did not engage with non-members. Membership was confirmed by showing a valid identity card. During the course of the two years, the importance of being an organized identity was underscored repeatedly.

Building on this “formal” presence, the Chintan team began to look for ways to become involved in the training of the police. The background was important, because it helped to prepare the police for listening and learning. It also gave Chintan an opportunity to use examples, quotes and case studies from the colleagues of the police in the capacity building workshops, thereby creating confidence in them.

Apart from finding a way to begin conversations with the police and working with them, it was also vital to define the priorities of the wastepickers in this context. When the idea of

working on building capacity to secure legal rights was first floated, Chintan did not have the services of a lawyer. At the beginning, there were no available lawyers willing to work without a fee. Chintan used the time to identify the main kinds of problems that wastepickers and junk dealers faced. Most of the problems were related to the nature of the work and stereotypes² associated with it. Also the presence of such workers in public spaces was seen as a threat to public safety and hygiene. Enquiries uncovered a common belief that wastepickers steal and therefore, earn good incomes. These beliefs were used to justify the practice of asking for bribes. A fourth challenge identified by the wastepickers was related to municipal corruption and was based on existing municipal rules. It was therefore decided to focus on legal rights related to solid waste as well as constitutional rights and civil liberties.

2.2 Building Capacity

The plan was to involve a lawyer to train a Chintan team in law and its interpretation, so that they could train others and reformulate this training in response to information and responses from the wastepickers and grassroots workers.

2.2.1 In-house capacity

The in-house capacity development was focused on training the trainers – all grassroots workers – and developing a curriculum for the wastepickers and other recyclers. A lawyer with proven commitment to human rights was hired to hold a multiple day workshop for the Chintan team to learn about law more broadly and then about the specific issues outlined. The team had no legal experience and had to be trained from the start. Based on their field experience and what they had learned, they helped the trainer keep focus on the most relevant themes. There was also a small representation of recyclers in this training, so that cross learning could enrich the process. The lawyer used the information previously supplied to her and the feedback to further strengthen the training.

After this training, the trainer and the Chintan team began to design a curriculum. The first curriculum was based on the nature of the complaints from the recyclers as well as fundamental rights. It comprised the broader institutions of justice in India (courts and the constitution), fundamental rights and case law.

The pedagogy was critical because nearly all of the recyclers were illiterate. The elements of teaching included stories about the constitution, and case studies (case law) that were explained using role-plays that involved the recyclers. Real-life examples were employed to show how the law could be used, and to create an interest in trying to apply the material to the situation at hand. The training also included ways of identifying policemen, and rights related to use of public space and arrest, as these were the most common complaints. Many charts and photographs were used to create learning tools. The prospective trainers made these tools as part of their own capacity building process, and this involvement helped to ensure that they would be comfortable in using them.

Initial pilot workshops showed that the team required further modification of its pedagogy. Some examples included images of the badges worn by policemen, for identifying their rank.

² Our interactions with the public and with some sections of the Delhi police indicated a widespread belief that wastepickers act as informants of thieves, whom they know as part of their social network, and also serve as thieves themselves. Junk dealers were believed to be involved in selling stolen goods.

This is important if an abusive policeman has to be identified or conversely, a helpful policeman has to be tracked down later. In the initial capsule, wastepickers were taught to ask the name or belt number of the policeman so that they could identify them again later. Many reported that, since they could not read, the policemen would either give them a false name or tauntingly show them his name badge. In many cases, there would be no name badge, making it impossible to trace the individual. A purely illustrative code was helpful in partially overcoming this difficulty.

This improved training module was finally ready after quite a lot of similar feedback. This process took almost four months.

2.2.2 Initial Workshops with the wastepickers

The reactions to the initial workshops on legal literacy made it clear that there was too much information for the wastepickers to easily absorb. This was then reduced, with many of the over-arching structures of law in India dispensed with. The content was also divided between two sessions. The instruction was interspersed with physical activities so that the sessions did not seem to be so academic. The general atmosphere of the workshop was lightened

- ♦ to break the monotony,
- ♦ to help both police and wastepickers to address each other as individuals in a workshop,
- ♦ to reduce, as much as possible, the sense of hierarchy,
- ♦ to help shift the tone of the workshop from learning in a room to activities that leave an enduring memory about the 'other',
- ♦ to encourage the participants to ask about the issues they did not understand, and
- ♦ to foster informal discussion

Finally, the team for future replication created a set of three workshops.

While these workshops were being held, a new system was created within the Chintan community mobilizer team to help the wastepickers use their knowledge. After every instance when a wastepicker complained of being beaten, abused or asked for a bribe, (s)he was asked to first go with the rest of the group to the police station to resolve the problem. Only if that was not successful would the Chintan team help. Often, the help would be over the phone rather than in person. This forced the wastepickers to use some of what they had learned and use telephone help for procedures, such as filing complaints, following up on complaints and meeting the police.

In some areas, however, an essential challenge lay between the approaches of *caring* for a group with capacity, and providing cold, rational legal advice on the phone. This was clearly seen when a particularly important member of the community was caught by the police, or had an accident or required any kind of legal help. At these moments, the community-based capacity was cast aside in favour of demanding Chintan staff loyalty, expressed by physical presence of the staff member in the field. It seemed as if the community perceived its legal capacity as a tool for everyday occurrences, but not a substitute for symbolic acts of solidarity and emotionally supportive exchanges at times that the wastepickers identified as particularly significant.

An additional challenge lay in the choice of trainer. When the trainer was either clearly from a privileged background, or particularly well-dressed, (s)he inspired more confidence amongst the group. This could be on account of the popular (and not incorrect) perception that “educated” and “privileged” individuals have a better idea of how to safeguard their

interests and how to deal with the police. This caused friction within Chintan, as some staff found themselves less acceptable than their colleagues in the eyes of the wastepickers. Such de-motivation then reflected negatively in other interactions with waste recyclers, further causing the staff member to be marginalized. Consequently, capacity building within the organization had to be regarded as an essential tool for everyone, regardless of their role. Also, there was an attempt to ensure personnel outside the programme also participated in this capacity building, so that there was less hostility within Chintan's own team about 'capacity to build capacity'.

2.2.3 Initial workshops with the police

The workshops with the police were focused on their field staff – the most junior police officers, who directly interact with the wastepickers every day. We requested for them because discussions and brainstorming with the wastepickers suggested that in part, their actions against recyclers were based on prejudice and therefore they needed the workshops the most. The wastepickers were also concerned to improve the sector's lost reputation through these workshops. There was a conscious effort to encourage the police to speak their mind, so Chintan preferred that their seniors not to be present, making the environment more relaxed and conducive to debate.

Creating the workshops for the police was a challenge. The lawyer we worked with was instrumental in helping to structure them and even led the first two workshops to help set the tone and encourage reactions and the responses from both the police and the wastepickers. Since the police are well versed in law, any capacity building exercise in this context is useful only if it addresses attitudes towards recyclers, apart from the impacts on them of violations of their legal rights. It was also essential for it to be an experiential exercise. Therefore, this workshop was designed to address the issue of wastepickers in the context of the urban environment and health and safety for everyone.

An evaluation showed that many wastepickers were able to recognize police with whom they had shared a workshop (see the case study) and vice-versa. More importantly, they also learned to approach the policemen they knew when they required help, regardless of whether the policeman was directly involved in the case or not. Many of the policemen also gave them assistance through their networks. This assistance was in the form of help with procedures, informal advice on the best course of action, and help with writing and registering complaints.

A typical workshop would not address the wastepicker issue head on, but focus on their professional contribution in solid waste management and urban issues. It would last for a day, and be held on neutral premises. It would comprise the following exercises:

- ♦ Each policeman was allocated a wastepicker as his partner for the day. They would each have to spend 10 minutes, learning about the other. They would then introduce each other publicly as a first step. Typically, the wastepickers would learn very little about their partners because, unlike the police officers, they were not trained to ask questions. There would usually be a few stormy discussions when either wastepickers or the police would add their own opinions about their partners. This first session would typically be very hostile.

- ♦ A detailed module on waste recycling and the city would follow, with the objective of making the role of recycling clear. This would then make the linkage between the city and the recycler clear.
- ♦ A few wastepickers would then narrate their life-stories – why they came to do this work and how it helped them live.
- ♦ A final step of the first part would be this question, posed to the police. “Imagine if the police all went away on a holiday. What would the city look like?” The wastepickers were then asked to sketch a drawing of their visions. Most of their drawings depicted blood and disorder. Then, a second question would be posed. “What if the wastepickers all went away?” The test of the success of the first part would be if the policemen depicted a dirty city with scattered waste, indicating that they had understood the benefit brought by wastepickers.
- ♦ Another indicator of the success of the workshop process would be if the police were less hostile to the ‘moral shortcomings’ of the wastepicker at this stage, and the wastepickers participated more.
- ♦ After lunch, the session would include games for 15 minutes followed by an intense legal session. Here, various case studies of real stories of wastepickers were taken to illustrate how their rights were violated. The police would then comment and defend the actions of the police, resulting in a debate. The moderator would then step in, suggesting various alternative scenarios.
- ♦ The workshop would conclude by brainstorming to find 10 ways in which the police and the wastepickers could work better to help the city to be cleaner and healthier for everyone.

However, it was difficult to constantly work with batches of 25 policemen for an entire day, both on account of expense and that Chintan’s own team was exhausted after a day of workshops. Such was the effort involved that they found it difficult to undertake one each week on a long term basis. Integration into the training programme of the police themselves was seen as a viable alternative. So a formal capacity building exercise took place in order to help the police catch up and learn about these emerging issues. Chintan shifted to holding workshops on a weekly basis here and soon all training was being held in the training facility. A modified version of the programme outlined above was initially implemented, and later other ideas were used.

3 Outcomes

One of the most dramatic outcomes of this initiative was that the number of complaints against the police reduced dramatically in the area where this initiative took place. From nearly five complaints a week in 2001, the numbers fell to approximately one complaint a month, often resolved locally. While it was clear from various kinds of evaluations that the legal literacy and the approach to working as an organized group had played an important role, it was not clear whether the reduction in numbers of drug addicts among the membership had contributed to this improvement. We were inclined to believe that, while most wastepickers did not recall even 50% of the technical details, they were able to confidently discuss certain rights. Of these, the right to life, the right to being treated equally before the law, the right to travel anywhere in the country and the right to a clean environment were among the rights most frequently recalled. They were recalled as “Dhara 14”, “Dhara 21” etc, – the constitutional article numbers of each right.

It was also clear to us that the wastepickers were able to make the linkages between their rights and their services to the city. In fact, legal literacy also acted as a mechanism for organization and as an identity-building process, the wastepickers showing a greater degree of assertiveness in comparable situations of conflict. An example of this included interrogation about their work by policemen on the streets.

It was not possible to demonstrate that this programme had direct impacts, but an increase in livelihoods was seen as instances of beating, burning of bags of waste and informal exclusions from particular areas ceased to be reported. Therefore there was a notional increase in disposable income, amounting to approximately Rs. 1000 per month per person.

In 2006, the Delhi Police passed an order appointing nodal officers in each zone of Delhi to specifically deal with issues related to wastepickers and their complaints.

An unexpected consequence was that, within a year, several active wastepicker members became peripheral members, stating that the biggest obstacle to their work had been resolved so that they could now spend more time earning and less in organizing to solve their problems. This remains a challenge, since it can be expected that new situations and new policies will result in fresh problems to threaten the livelihoods of tomorrow's wastepickers.

4 Wider Lessons

This initiative concerning legal rights provided Chintan with several lessons in capacity building:

- The importance of organizing: Illegality creates so much vulnerability, that it is essential to be part of a formal organization to protect even the most basic rights.
- Shifting the arguments can work strategically: Chintan found that the language of a clean city with higher recycling rates struck a more sympathetic chord with the police, and helped them see wastepickers in a more positive way.
- It is vital to include the police in any plan to improve the livelihoods of informal recyclers. Legal literacy is a critical tool needed by the informal recycling sector.
- It is vital to constantly innovate, add and change the modules, in order to keep them useful and relevant. In this case, issues such as Indian citizenship became relevant and we had to prepare for them. Moreover, fresh news, case studies and other examples are essential updates because they encourage meaningful discussion.
- Due to staff turnover, there was a need to undertake training of trainers, which was expensive to organize. The same issue also applied to the police, since officials and staff are regularly replaced.
- Capacity building requires constant up grading and networking to ensure that vitally important groups are able to benefit from ongoing opportunities.

In North India, solid waste management involving the informal sector always intersects with the law and police, regardless of how the waste handling system is designed. Therefore, all systems must also include a strong aspect of legal capacity building for the various stakeholders so that the work on the ground is sustainable and profitable for the poor.

Note: This paper is based on my personal experiences when leading the project on legal rights. I would like to thank the many waste recyclers, my colleagues at Chintan, and Chintan's various partners for their efforts in the initiative, contributing also to my learning.