WIEGO

Women in Informal Employment: Globalizing and Organizing

WIEGO Technical Brief No 12
October 2021

Formalization as Public Service Providers: Achievements and Obstacles for Colombia's Waste Pickers

Federico Parra and
Olga Abizaid

Technical Briefs

WIEGO Technical Briefs provide guides for both specialized and non-specialized audiences. These are designed to strengthen understanding and analysis of the situation of those working in the informal economy as well as of the policy environment and policy options.

About the authors

Federico Parra: Anthropologist, Masters in Anthropology and PhD in Political Studies and International Relations from the National University of Colombia. He is WIEGO's Coordinator of the Waste Picker Programme for Latin America, and a member of the Research Group on Environmental and Collective Rights of the National University of Colombia. He has accompanied the movement of waste pickers in Colombia in its organizational strengthening, advocacy around the regulatory framework and the consequent recognition as providers of public recycling services. With numerous publications, he is an expert in the field. Federico currently supports waste pickers' organizations that are members of the Latin American and Caribbean Network of Waste Pickers (Red LACRE). federico.parra@wiego.org

Olga Abizaid: Holds an M.A. degree in International Relations and International Political Economy from the Norman Paterson School of International Affairs. She is an urban policy analyst within the Urban Policies Programme at WIEGO and Advisor of the Focal Cities Initiative for Dakar, Senegal, and, in close collaboration with Federico Parra, has documented and supported the analysis of waste pickers' struggles in Colombia since 2016. olga.abizaid@wiego.org

Acknowledgements

The authors would like to thank the Association of Waste Pickers of Bogotá (ARB) and the National Association of Waste Pickers (ANR) for their contributions in the drafting of this Technical Brief. Their fight for — and achievements in — the recognition and the enjoyment of rights of women and men waste pickers in Colombia have placed Colombia as one of the few countries in the world where waste pickers are recognized and paid as recycling public service providers.

Publication date: October 2021

ISBN number: 978-92-95106-15-4

Please cite this publication as: Parra, Federico and Olga Abizaid. 2022. Formalization as Public Service Providers: Achievements and Obstacles for Colombia's Waste Pickers. WIEGO Technical Brief No. 12. Manchester, UK: WIEGO.

Published by Women in Informal Employment: Globalizing and Organizing (WIEGO).
A Charitable Company Limited by Guarantee – Company No. 6273538, Registered Charity No. 1143510

WIEGO Limited
521 Royal Exchange
Manchester, M2 7EN
United Kingdom
www.wiego.org

Series editor: Caroline Skinner
Copy editor: Bronwen Muller
Layout: Julian Luckham

Cover Photograph: Nohra Padilla, leader of the Association of Waste Pickers of Bogotá (ARB) and the National Association of Waste Pickers (ANR), leading a contingent of waste pickers to demonstrate against urban programmes and policies that affect their livelihoods. Photo credit: Juan Arredondo/Getty Images Reportage.

Copyright © WIEGO. This report can be replicated for educational, organizing and policy purposes as long as the source is acknowledged.

Table of Contents

Key Findings 5

Introduction 6

Methodology 6

Part 1. Recognition and Remuneration of Waste Pickers 8

1. Waste Pickers: Their Struggle and Their Jurisprudential Achievements in Bogotá 8
   1.1. Characterization of Waste Pickers and their Role in Waste Management 9
   1.2. The Fight Against the Private Provision of Waste Management Services 10
   1.3. Order 275 of 2011: New Guidelines around Waste Pickers and their Role in Public Waste Management 15
2. The Scheme Developed by the Government of the *Bogotá Humana* 17

Part 2. Regulatory Harmonization for the Integration of Waste Pickers as Providers of Recycling Public Services 21

3. Development of National Regulations 21
   3.1 The Logic of Waste Management until 2012 21
   3.2 Regulatory Harmonization (2013-2016) 24
   3.3 Debate on Recycling 28
4. The Path to Formalization According to the National Decree 596 28
   4.1 The Provision of Services by Waste Picker Organizations 28
   4.2 Formalization in Practice 30
   4.3 Timeline for Compliance 36

Part 3. Formalization in Balance 38

5. Assessment of the Formalization Process 38
   5.1 Achievements and Opportunities 38
   5.2 Restrictions and Threats 39
6. Formalization According to the Leaders from the National Association of Waste Pickers 41
7. Learnings from the Process to Formalize Waste Pickers in Colombia 47
   7.1 Assessment of the Formalization Path 47
   7.2 Lessons Learned from the Formalization Process 52
8. Epilogue. New Challenges in the Context of COVID-19 54
   8.1 The COVID-19 Pandemic and Coping Strategies of Colombian Waste Pickers' Organizations Providing the Recycling Public Service 54

Bibliography 56

Boxes and diagrams

Box 1. Bogotá's Scheme to Recognize, Integrate and Remunerate Waste Pickers 20
Box 2. Municipal Authorities' Non-Delegable Obligations According to Resolution 754 of 2014 25
Box 3. Municipal Responsibilities According to National Decree 596 of 2016 26
Box 4. Remuneration for the Provision of the Recycling Service 37
Diagram 1. Transitional Payment Scheme for Recycling Services Implemented by the Government of the Bogotá Humana 20
Diagram 2. Steps Towards Formalization According to the Association of Waste Pickers of Bogotá and the National Association of Waste Pickers 30
Diagram 3. Standing Remuneration Scheme for Recycling Services: National Regulations 35

Acronyms*

ANDI	National Business Association of Colombia [Asociación Nacional de Empresarios de Colombia]
ANR	National Association of Waste Pickers [Asociación Nacional de Recicladores]
ARB	Association of Waste Pickers of Bogotá [Asociación de Recicladores de Bogotá]
CCS	Commercialization Cost by Subscriber
CCU	Contract by Standard Conditions
CRA	Regulatory Commission for Water and Basic Sanitation Services [Comisión Reguladora de Saneamiento Básico y Agua Potable]
DANE	National Administrative Department of Statistics [Departamento Administrativo Nacional de Estadística]
ECA	Sorting and Recycling Station
EPR	Extended Producer Responsibility
ILO	International Labour Organization
IRR	Regional Initiative for Inclusive Recycling [Iniciativa Regional de Reciclaje]
MINAMBIENTE	Ministry of Environment and Sustainable Development [Ministerio de Ambiente y Desarrollo Sustentable]
MINVIVIENDA	Ministry of Housing, City and Territory [Ministerio de Vivienda, Ciudad y Territorio]
NGO	Non-Governmental Organization
OECD	Organization for Economic Co-operation and Development
ORA	Authorized Waste Pickers Organization
PGIRS	Integral Solid Waste Management Plan
RUPS	Unique Public Service Providers Register
SENA	National Training Service [Servicio Nacional de Aprendizaje]
SUI	Single Information System
SUPERSERVICIOS	Superintendence of Domiciliary Public Services [Superintendencia de Servicios Públicos Domiciliarios]
UAESP	Special Administrative Unit of Public Services of Bogotá [Unidad Administrativa Especial de Servicios Públicos]
UESP	Executive Unit for Public Services [Unidad Ejecutiva de Servicios Públicos]
VAT	Value-Added Tax
WIEGO	Women in Informal Employment: Globalizing and Organizing

* Many are listed by their acronyms in Spanish

Key Findings

- The recognition of waste pickers and their work from a rights-based perspective by the Colombian Constitutional Court has generated a structural change in waste management in Colombia that challenges neoliberal principles in the provision of public services.
- The rulings of the Colombian Constitutional Court establish the recognition of the position of waste pickers as actors in society, their role in the recycling value chain and their status as service providers in the waste management service.
- This recognition has given waste picker organizations the right to be remunerated for the materials they recover, collect, transport, collect and commercialize, in addition to the proceeds from the sale of the recovered materials.
- The Constitutional Court made the national and municipal authorities responsible for ensuring the inclusion of waste pickers in waste management and the development of support processes to enable their continuation and growth in the sector, and to be remunerated for their work. This includes intervening in the public services market through affirmative actions for waste pickers.
- Unfortunately, the competent national authorities - supported by a political coalition between authorities and conglomerates of private-public service providers - have privileged the principle of free competition that governs the provision of public services in Colombia in their interpretation of the Constitutional Court's orders.
- To resolve the tension between the vision favouring the rights of waste pickers and the principle of free competition, the Ministry of Housing, City and Territory has proposed the formalization process entailing the "integration" of waste picker organizations into the public services market by way of gradual compliance with the requirements that would prove their ability to "compete" with third parties in a free market scenario for the provision of recycling services.
- This mistaken view constitutes a major obstacle to the materialization of the Constitutional Court's orders and waste pickers' achievements, not only because of the difficulty faced by these informal economy workers to comply with requirements designed for formal actors, but also because of the lack of support and guarantees from municipal authorities. But the most significant pressure comes from the regulatory framework that has opened the door for private companies working on waste collection, logistics and middlemen-turned-service providers to compete with waste pickers' organizations for the incentives and/or payment for the provision of recycling services.
- On balance, the result of this view has been the formalization of recycling as an activity rather than the formalization of waste pickers as mandated by the Constitutional Court - namely, their recognition and remuneration for the provision of the recycling service and as an affirmative action to overcome their conditions of poverty and vulnerability.

Introduction

This technical note documents the rights-based advocacy process undertaken by the Association of Waste Pickers of Bogotá (ARB) and the National Association of Waste Pickers (ANR) over more than 30 years, resulting in their recognition and remuneration as public service providers within the regulatory framework for recycling[1] within waste management.

This process has resulted in important milestones. These include Constitutional Court rulings in favour of waste pickers' rights as service providers throughout the country, which led to a structural change in the understanding of waste management in Colombia; the materialization of payment for services, first in Bogotá and then in other municipalities; the development of a regulatory framework for recycling; and, most recently, the recognition of waste pickers' organizations providing recycling services as essential workers during the COVID-19 pandemic.

Despite these positive impacts, the process of recognition of waste pickers and their formalization within the solid waste management system remains incomplete and still faces significant challenges. These stem from the discrepancy between the spirit of the Colombian Constitutional Court's rulings in favour of waste pickers' rights and the interpretation that national authorities have enshrined in the regulatory framework and the operationalization of the recycling component of waste management.

The pandemic and the measures to control it have not only exacerbated some of the structural problems that were already evident; they have imposed additional burdens on waste pickers' organizations and created distortions in the value chain that threaten to erode the positive impacts for waste pickers' households because of the payment for the services they provide.

If not addressed through an inclusive process that considers the situation of waste pickers and the different stages of their organizational efforts, these challenges could result in further exclusion for these workers, who despite providing essential services continue to be vulnerable.

This Technical Brief was written by two WIEGO team members who have been active in accompanying, analyzing and documenting the struggles of waste pickers in Colombia. One of the authors, Federico Parra, is a researcher-activist who has worked closely with waste picker organizations since 1997 in a variety of positions, most recently in his role as Latin America Regional Coordinator for WIEGO's Waste Picker Programme.

It is important to note that the fight for waste pickers' recognition and remuneration, and the achievements derived from it, are attributable to the leaders of the ARB and ANR.

[1] Currently, waste management is divided into two components: domiciliary waste collection and recycling. The latter includes the collection, transportation, processing, and commercialization of recyclable materials.

In this fight, ARB and ANR have had various strategic allies since 2008, including WIEGO. In addition to ongoing work with these organizations, which facilitates constant information flows, WIEGO has done important work in several areas, including support for advocacy actions in the regulatory framework, as well as in the strengthening of the capacities of waste pickers and their organizations as political actors, particularly through awareness training for leaders and members on the recognized rights and how to ensure the enjoyment of these rights through recognition and remuneration as service providers.

The professional and academic profile of the Latin America Regional Coordinator for the Waste Picker Programme has allowed WIEGO to make contributions to the Colombian waste picker movement through an interpretivist analysis of public policies on waste management and critical analysis of the potential negative impacts of these policies on waste pickers' rights. These contributions have complemented the analyses undertaken by waste picker leaders themselves and have served as input for their actions to demand their rights.

The analysis presented in this Technical Brief is based on the experiences and knowledge of this work and on the review of public policy analysis documents, minutes of meetings and training processes with waste picker leaders, reports and assessments from the authors, the authorities and other sources, as well as Federico Parra's doctoral research work. It also includes reflection exercises undertaken with leaders from ANR and other like-minded waste picker organizations on the scope and limits of the regulatory framework for waste picking and a compilation of recommendations from the sector.

This analysis captures the process from the perspective, and in the voice, of informal workers and is produced from the authors' proximity to the process as they support the waste picker organizations driving this structural transformation, hence providing a unique perspective. The rigour and depth of the analysis presented here is based on a process of co-production of knowledge, characteristic of WIEGO's way of working (Ogando and Harvey 2018), which combines disciplinary expertise on public policy analysis with the knowledge, information and analysis generated by waste pickers through their experience of the process to gain recognition as public service providers. The objective is to evaluate what has been achieved and what challenges remain, as well as to define the strategic priorities and next steps to ensure that the recognition and formalization of waste pickers is carried out in accordance with the spirit of the Constitutional Court's rulings.

Moreover, the significance of the achievements of Colombian waste pickers thus far transcends the national context and is an important source of learning for other countries about the meaning of recognition and remuneration of waste pickers as public service providers, the impact on improving their livelihoods, and particularly what the formalization of informal workers **should and should not be.**

Part 1. Recognition and Remuneration of Waste Pickers

As argued in WIEGO's Technical Brief No. 9 *Reciclaje: ¡Sí, pero con recicladores!* (Parra 2015), a **significant structural** transformation took place in 2012 — first in Bogotá, and then elsewhere in Colombia — in the policy directives on public waste management services, and the role that waste pickers played within it, as compared to what had existed since 1990.

Influenced by the structural adjustment dictated by the Washington Consensus, in the 1990s the Colombian waste management scheme was structured around the collection, transport and burial of waste in sanitary landfills —the only authorized form of final waste disposal. This scheme privileged private corporations as concessionaires, entrusting them with the provision of this public service. At the normative level, the scheme was institutionalized through the Law on Public Services (Law 142 of 1994) and the regulations that derived from it, particularly, the rules relating to the definition of the costs and prices to be paid for waste management services.

Initially, the waste management service was measured in terms of the direct and indirect costs associated with the collection, transport and final disposal of each ton of waste. These costs were included in the utilities fee (that included waste management) charged to service subscribers depending on how they were classified as consumers (i.e., whether they were residential, commercial, institutional or large waste producers). However, the Regulatory Commission for Water and Basic Sanitation Services (CRA) Resolution 151 of 2001 introduced a regulation based on price index or **ceiling tariffs.**[2] With this change, waste collection and burial became a big business for domiciliary waste collection companies because it allowed them to secure high profitability rates, on the grounds of two factors. On the one hand, the permission given to these companies to charge the maximum price allowed by law; and, on the other, because of

> "[...] the regulator's difficulty to know the markets' particularities, the economies of scale, the technical conditions of the provision [of the service], and the demand for investments to mitigate environmental impacts" (UAESP 2006: 36, translation by the authors).

Although some of these errors were corrected in the immediately subsequent tariff regulations (CRA resolutions 351 and 352 of 2005),[3] the **ceiling tariff** still exists.

The sustainability and profitability of this waste management scheme were grounded in the production, transport and **sustained** burial of waste. Moreover, since the scheme was structured under the logic of public service provision, instead of a logic of integral waste management, all the other stakeholders

[2] "The ceiling tariff consists of a regulatory technique used by the regulator to establish the maximum price that a company may charge its subscribers. It is therefore based on consumption estimates defined by the regulator that will be applied to the formula corresponding to the type of subscriber (residential, small or large producer) in order to define the value to be charged to users by the provider company" (Ramírez 2005: 235, translation by the authors).

[3] Among them, those related to the problem generated by the national government regulatory entity's lack of sufficient information on the provision of the waste collection service.

in the production and consumption chain[4] were exempted from any responsibility.

Waste pickers, however, have historically engaged in the recuperation of materials long before this privatizing waste management scheme was established.

1.1 Characterization of Waste Pickers and Their Role in Waste Management

Made up of diverse segments of the population (poor, displaced by the armed conflict, new migrants to growing cities, and/or the unemployed), waste pickers recover a variety of materials such as glass, cardboard, paper, metals and plastics.

Initially, they recovered materials from waste disposed of in open-air dumps. In the 1990s, when open-air dumps were replaced with sanitary landfills and waste pickers lost access to them, they began to recover materials from waste disposed of in public spaces.

Since then, waste pickers have reintroduced potentially recyclable waste into the recycling value chain. In so doing, they have been the support for the various links that make up this chain — from the first intermediary to the industry that reuses these materials. Hence, **waste pickers' work can be understood as the provision of goods and raw materials to the recycling value chain**. With their labour, they provide manufacturers with inputs and significant savings. Depending on the recyclable material recovered, waste pickers prevent the extraction of virgin natural resources; the consumption of energy and water, among other inputs; and the emission of greenhouse gases typical of industrial processes.

Therefore, **waste pickers' work can be understood as a public environmental service with benefits to society in general.**

Also, the recovery of potentially recyclable waste from the streets and/or dumps has meant the extension of the lifespan of final disposal systems, as well as the reduction of water and gas pollution produced there. Furthermore, recuperation of recyclable materials by waste pickers on the streets means that these materials are not collected, transported and disposed of by domiciliary waste collection companies. Therefore, **waste pickers' labour can also be understood as the provision of public services of waste collection, transport and recycling.** The beneficiaries are the users of the waste collection service; the municipal authorities, who are the guarantors of the city's sanitary conditions; and the domiciliary waste collection companies, which continue charging the ceiling tariff despite their significant savings in operational efforts and costs through waste pickers' recuperation work.

For more than eight decades, waste pickers have been earning their livelihoods in this way. Despite the benefits that their work brings to society in general, until very recently waste pickers have suffered stigmatization (Coca 1998) and faced systematic restrictions and prohibitions in the legal and regulatory framework and by the authorities responsible for waste management. Waste pickers have also struggled to negotiate prices for the recyclable materials in markets and intermediation chains that both reflect the direct costs of recuperating materials and represent a fair remuneration for their work.

[4] Namely, people who dispose of waste, consumers, product marketers, importers, among others.

For this reason, waste pickers' working conditions have been characterized by technical precariousness and the enormous physical efforts involved in it, as well as by serious health and industrial safety risks. Their low incomes are a major obstacle to growth in the value chain. Moreover, waste pickers compete against each other, and with other actors, for the recyclable materials disposed of in public space where the "first come, first served" logic prevails, unless there is a pre-existing agreement between the owner of the materials and individual waste pickers, or unless some waste pickers repeatedly exercise a territoriality in certain places.

When open-air dumps began to be replaced by sanitary landfills in the 1990s, thousands of waste pickers, both women and men, were expelled onto the streets. This forced them to relocate wherever they could in the cities: squatter settlements, abandoned lots, spaces along railroad tracks, wetland rounds, and rivers, among others. This made waste pickers the target of municipal policies aimed at recuperating public spaces in Bogotá.

During that same decade, waste pickers suffered systematic expulsions from their settlements. This became a significant organizing trigger among them as they saw the need to join forces to defend their homes and territory.[5] These expulsions and waste pickers' resistance led to the emergence of a repertoire of collective action, including a litigation strategy with a rights-based perspective, that would later result in important changes. This struggle bore its first fruit in 1995, when waste pickers won the first process before the Constitutional Court, obtaining a judgement recognizing their right to a dignified relocation (T-617 of 1995, Constitutional Court of Colombia 1995).

However, the greatest threat to waste pickers' work did not come from the policies to recuperate public spaces, but rather from the policies related to the provision of waste management services. Centred on maintaining and consolidating the scheme based on the transport and controlled burial of waste in the hands of private corporations, these policies criminalized their work.

1.2 The Fight Against the Private Provision of Waste Management Services

Since the 1990s, waste pickers have fought to preserve their livelihoods in the face of the exclusion and criminalization that permeates the national and municipal legal, regulatory and policy frameworks for the provision of public services on waste management. The fight was particularly intense between 2002 and 2003.

An Exclusionary Legal and Regulatory Framework for Waste Pickers: 2002-2003

To provide context to the legal and regulatory framework, it is important to begin with the Political Constitution of Colombia of 1991. The constituents, after making a negative diagnosis of the efficiency and costs of state monopolies, decided to embed the principle of free competition in the provision of public services within the new Constitution. Their argument was that the market's logic would serve to organize and manage public services more efficiently.

The principle of free competition led to a second narrative that was consolidated in Law 142 of 1994,[6] and in its regulatory decree (Decree 421 of 2000). Law 142 establishes that private companies are the most suitable to become public

[5] See Parra 2015 for an account of how waste pickers began to organize and form associations and cooperatives.
[6] Law 142, referring to public services, does not include recycling services.

service providers, given that their nature and structure are designed to compete in market scenarios. However, for those cases where profitability conditions did not exist, other actors were allowed to participate as public service providers under the legal concept of "authorized organization". In these cases, community groups, such as waste pickers, could become non-profit legal entities to provide services in smaller municipalities (5th and 6th category[7]), rural areas and specific urban areas (socioeconomic strata 1 and 2[8]).

Thus, the law entrusted private corporations with the provision of waste management services in cities with the best market share. Waste pickers were relegated to providing waste management services in municipalities that, because of their size, did not produce many recyclables, and where transport costs for the commercialization of these materials were too high because of their remoteness from urban centres.

To reverse this, in 2002, ARB petitioned the Constitutional Court for the recognition of the right to equal participation in the provision of public waste management domiciliary services for solidarity organizations. Although the final ruling (C-741 of 2003) upheld the articles in question, it sided with the waste pickers' argument that the provision of public services by private corporations did not necessarily mean that it was efficient. Hence, it opened spaces for community groups (including waste pickers) to form authorized organizations to provide public services in all the municipalities of Colombia, regardless of their size.

That same year, the National Land Transit Code (Law 769 of 2002) demanded the **eradication** of animal-traction vehicles (art. 98), which at that time were waste pickers' second-most-used vehicle to transport recyclable materials.

José William Espinoza Sánchez, in his capacity as a private citizen, filed a claim of partial unconstitutionality of this article. The lawsuit reached the Constitutional Court. In Judgement C-355 (Constitutional Court of Colombia 2003b), the Constitutional Court established that animal-traction vehicles **could not** be eradicated if that meant violating the right to free circulation, and if with this tool waste pickers obtained their **vital minimum**.[9] The Court defined that these vehicles should be **replaced** without affecting the livelihoods of those who used them.

[7] According to Law 1551 of 2012 (Art. 7), municipalities in Colombia are categorized based on the number of inhabitants and level of taxable and non-taxable revenues. The 5th category corresponds to districts and/or municipalities with a population between 10,001 and 20,000 inhabitants and with an annual disposable income (*ingresos corrientes de libre destinación anuales*) of between COL$ 15,000 and COL$ 25,000 legal monthly minimum wages. The 6th category corresponds to those with a population equal to or less than 10,000 inhabitants who have an annual disposable income of no more than COL$ 15,000 legal minimum monthly salaries. The term "annual disposable income" should be understood as the set of taxable, non-taxable and transfer revenues that do not have a specific destination by law or an administrative act.

[8] The National Administrative Department of Statistics (DANE) classifies households according to six socioeconomic strata. Socio-economic strata 1 and 2 correspond to the lowest strata and are identified as populations experiencing poverty.

[9] The Constitutional Court developed jurisprudence around the definition of the vital minimum. This concept is enshrined in the Constitution in articles 1, Social State; 2, State as guarantor of the rights and duties enshrined in the Constitution; 11, inviolability of the right to life; and 85, protection of rights, in tandem with article 26, freedom to choose one's own profession or trade. The vital minimum is understood as activities that are indispensable to cover basic needs, like food, clothing, education, and social security (T-497 of 2002, cited in Constitutional Court of Colombia 2003b). The State is responsible for ensuring the vital minimum through, among other, affirmative actions in favour of the most vulnerable populations, so that they can lead a dignified existence.

Also in 2002, the city of Bogotá opened public tender N. 001 to select the concessioners to provide waste collection services in the city under the format of exclusive service areas.[10] In this tender, contracts for waste collection included selective collection routes for recyclable materials.[11]

This tender, which in practice meant the displacement of waste pickers, also excluded them from the outset because they could not meet the requirements to participate. For example, according to the conditions stated in the tender call (number 23), tenders were required to have a minimum experience of one full year in the provision of waste management services in municipalities with more than half a million inhabitants or 125,000 subscribers as well as a net worth of COP11.5 million as of 31 December 2001 (over USD 50,000).[12]

To defend themselves, ARB filed a writ of protection (*acción de tutela*)[13] against the Capital District of Bogotá (henceforth referred to as the municipal government of Bogotá), represented by the Executive Unit for Public Services (UESP),[14] arguing that the tender call had ignored waste pickers' fundamental rights to due process, equality, work and acts in good faith.[15] Although ARB lost the case in the first instance and appellate levels (the first instance court and the Superior Tribunal of Cundinamarca, respectively), the writ of protection reached the Constitutional Court. In Ruling T-724 of 2003, the Constitutional Court ruled in favour of the ARB, demanding that the government of Bogotá

> […] on future occasions [should] include affirmative actions in favour of waste pickers in Bogotá when it comes to contracting waste management public services, because the activities undertaken by them are linked to that service. This should be done to achieve real conditions of equality and to fulfil the social duties of the State. For no reason should [the city government] repeat the omissions with respect to waste pickers in Bogotá that were incurred in public tender No. 001 of 2002 (Constitutional Court of Colombia 2003c: Exhortation to the Bogotá Council. Translation by the authors).

The Court's emphasis on the notion of **affirmative actions**,[16] which is at the centre of the relationship between the State and waste pickers, should be highlighted. This notion is also at the core of the later jurisprudential achievements in favour of waste pickers.

In 2002, the regulatory decree of the Law on Public Services related to waste management (Decree 1713 of 2002) was issued (see MINVIVIENDA 2002). This decree stipulated that waste belonged to the State, which, in turn, ceded its

[10] Under this format, cities were divided into service areas, each of which would be serviced exclusively by one service provider.
[11] The selective collection routes are those aiming at collecting recyclable materials.
[12] At a value of COP 2,291.18 per USD, which was the representative market exchange rate on December 31, 2001.
[13] The writ of protection (acción de tutela) in Colombia is a mechanism enshrined in the Colombian Constitution of 1991 designed for citizens to demand before the judges the judicial protection of their fundamental constitutional rights. It is regulated by the decree 2591 of 1991 issued by the Constitutional Court of Colombia (Republic of Colombia 1991).
[14] UESP later changed its name and became the Special Administrative Unit of Public Services of Bogotá (UAESP).
[15] Acting in good faith is understood as the principle whereby it is assumed that all parties act without the intent to deceive.
[16] According to the Constitution (art. 13, subsections 2 and 3), affirmative actions are defined as policies or measures aimed at favouring certain underrepresented persons or groups to eliminate or reduce the social, cultural, political, or economic inequalities that affect them.

usufruct to the companies providing domiciliary waste collection services (art. 28). This meant that taking waste disposed of in public spaces constituted a theft from the State and domiciliary waste collection companies.

The ANR and the ARB mobilized to denounce the implications of this regulation, which, like the previous regulations, acted to limit waste pickers' work. To address this threat, both organizations implemented mobilization and communication strategies, which resulted in a retraction of that measure through the issuance of Decree 1505 of 2003 (MINVIVIENDA 2003). In this decree, article 28 was repealed, although without alluding to the rationale for such modifications.

In 2008, the national Congress issued the Law of Environmental Sanctions (Law 1259, *Ley de Comparendos Ambientales*).[17] This law penalized the extraction and transport in unsuitable vehicles— of waste deposited in public spaces to be collected by domiciliary waste collection companies. It also considered the improper management[18] of commercialization and/or classification of waste and their implications, a transgression. In other words, the law was imposing sanctions on all the different stages of waste pickers' work.

Again, the ARB and the ANR put in place a combination of strategies targeting both the public and lawmakers. To reach out to the former, they mobilized the media to present their arguments. And, to deal with the latter, they filed a writ of protection with the Constitutional Court to safeguard their rights. Their argument was that Law 1259 violated their right to work, and their right to the vital minimum, given that they earned their livelihoods by recuperating and commercializing recyclable materials. They also demanded respect for the principle of legitimate trust,[19] based on the historical recognition of their means of transportation. ARB and ANR also argued that the law disregarded the Constitutional Court's order to develop affirmative actions in favour of waste pickers as stated in Ruling T-724 of 2003 (Constitutional Court of Colombia 2003c) and C-355 (Constitutional Court of Colombia 2003b).

The Constitutional Court once more pronounced itself in favour of waste pickers. In Ruling C-793 of 2009, it reminded the national government that waste pickers live in conditions of poverty and vulnerability, and that, therefore,

> […] the State [was] not only obliged to adopt the necessary affirmative actions to help them overcome the condition of social exclusion in which they live, but must also refrain from adopting measures that, although, in general and abstract ways, seek to promote constitutionally legitimate ends, have a disproportionate impact on the livelihood activities carried out by informal waste pickers, without simultaneously offering them adequate income alternatives (Constitutional Court of Colombia 2009: number 5. Translation by the authors).

[17] "The objective of this law is to create and enforce environmental sanctions, so as to build civic culture regarding the adequate management of solid waste and debris […] through both pedagogical and economic sanctions to legal and natural persons that infringe the existing legal framework regarding solid waste, and incentives to reward good environmental practices." (Law 1259, art. 1, translation by the authors).

[18] For Instance, bad waste management referred to leaving spaces soiled, the use of public space to select materials, and transportation of materials with vehicles not authorized by law.

[19] The principle of legitimate trust states that if the authorities have recognized, or even promoted, certain practices, they cannot stop recognizing them in legal terms. This was important because waste pickers and their livelihoods had already been recognized by the Constitutional Court.

With this decision, the Constitutional Court made the application of Law 1259 conditional upon the existence of real affirmative actions in favour of waste pickers. In other words, if the conditions guaranteeing equal opportunities for waste pickers did not exist, the law could not be enforced.

Also in 2009, when the municipality of Cali decided to close the Navarro dump, hundreds of waste pickers were to lose their homes and only source of livelihood. Waste pickers from Cali's dumpsite filed a writ of protection with the Constitutional Court demanding that it uphold the right to work, the vital minimum and the principle of legitimate trust. The NGO CIVISOL and ANR supported this action. In Ruling T-291 of 2009, the Constitutional Court established the need to develop integral affirmative actions in favour of waste pickers. Such affirmative actions should involve not only all the pertinent municipal government entities, but also include education, housing, health, among others, as cross-cutting issues. The Constitutional Court also established that waste pickers had the right to grow as waste entrepreneurs (i.e., to move up in the value chain). Hence, any solution designed to integrate them in waste management needed to be made bearing that in mind.

In 2010, the government of Bogotá opened a call for a tender to choose the company that would manage the city's sanitary landfill. After analyzing the terms of reference of the tender, and systematically trying to influence them without success, the ARB introduced a motion of contempt of court before the Constitutional Court. The argument was that the tender's terms of reference did not respect the Constitutional Court rulings in favour of waste pickers issued since 2003. The Constitutional Court sided with waste pickers in Order 268 of 2010. The Constitutional Court also established a formula to include waste pickers' participation —represented by second-level organizations— in the recycling waste management technologies approved for the sanitary landfill.

A year later, Bogotá opened a call for what was then the largest tender for waste collection services in Colombia. Once again, the ARB reviewed the terms of reference of the tender and found that, to provide services, waste pickers were required to make alliances with domiciliary waste collection companies. Also, the provision of such services was to be done under the format of exclusive service areas.

This meant, in practice, a systematic exclusion of non-organized waste pickers. It also meant the violation of waste pickers' territorialities for the collection of recyclable materials, which, given the high socio-spatial segregation, tend to concentrate in certain urban areas.[20] The ARB, therefore, resorted to the Constitutional Court.

In Order 275 of 2011, the Constitutional Court annulled the tender. Moreover, in response to the authorities' failure to comply with the Court's previous orders, it established clearer and more forceful policy guidelines in favour of waste pickers. Order 275 built on the key jurisprudential principles regarding waste pickers' rights and developed them in such a way that changed Colombia's waste management paradigm, and the role of waste pickers within it. On the

[20] In Bogotá there are areas with segments of the population with higher purchasing power and whose consumption patterns imply the generation of larger amounts of better-quality recyclable materials. Hence, these areas are more attractive to waste pickers.

one hand, it created a complementary component within waste management focused exclusively on recycling, where waste pickers' work and contributions were to be recognized, integrated and remunerated. On the other hand, Order 275 inverted the hierarchy pyramid within waste management. From prioritizing the collection, transport and burial of waste, waste management was to give greater importance to the reduction and recuperation of waste.

1.3 Order 275 of 2011: New Guidelines around Waste Pickers and Their Role in Public Waste Management

Order 275 gathered all the existing jurisprudence regarding the defense of waste pickers' rights and deepened it for the case of Bogotá.

The first, and most important, affirmation is the designation of **waste pickers as subjects of special protection by the State**, not just on the grounds of their condition of poverty and vulnerability, but also because their work is, by nature, beneficial to the environment and constitutes a public good.

> By recycling solid waste, not only is the need to extract raw materials from ecosystems lower, but the lifespan of sanitary landfills is also extended. Therefore, recycling has a direct effect on the environmental impacts of production cycles within a consumer society (Constitutional Court of Colombia 2010: number 2.1. Translation by the authors).

Hence, the State must adjust its actions towards waste pickers to structurally transform their conditions of poverty and vulnerability. To do so, the State must implement affirmative actions. While financed and implemented by the authorities, these affirmative actions should also fall on society.

Given the nature of waste pickers' work and its linkages to waste management, the Constitutional Court ruled that the structural affirmative action, par excellence, was **waste pickers' integration, recognition, and remuneration as part of public waste management.** The Court, therefore, ordered:

> [...] the [Municipal government of Bogotá] to define, with the technical input from the CRA (Regulatory Commission for Water and Basic Sanitation Services), who will be exhorted to this end, special parameters to define how the services of waste recuperation, treatment and recycling will be offered. And how the provision of such services should be remunerated, be it through the tariff, or the establishment of a pricing scheme, so that these components [of waste management] can be managed entirely by those waste pickers' organizations that engage in the process of regularization (Constitutional Court of Colombia 2011: Concrete orders, number 11. Translation by the authors).

In defining how such integration should take place, the Constitutional Court upheld waste pickers' right to be **waste management entrepreneurs**, established in Ruling T-291 of 2009. In so doing, the Court determined that waste pickers' integration as service providers should be done through cooperatives, pre-cooperatives, associations, and enterprises of social character, all of which are organizations and legal entities of the solidarity economy recognized by the law as ways for community participation in the provision of services. By ordering waste pickers to constitute themselves under **these types of legal entities to provide services, characterized by their communitarian and redistributive**

nature, the intention of the Constitutional Court was to guarantee that the benefits of integration and remuneration within the waste management system reached all waste pickers, not only those waste pickers organized in authorized organizations, rather than benefitting just a few.

> To succeed in the regularization of recuperating, treatment, and recycling services within waste management services, the [Municipal government of Bogotá] may resort, among others, to the legal entity of "authorized organizations" for the provision of domiciliary public services, included by the Legislature in article 15, number 4 of Law 142 of 1994. Ruling C-741 of 2003 established that in the application of this law, these organizations were not limited to provide services in smaller municipalities in rural areas or in specific urban areas; [...] that they should also be able to compete for the provision of domiciliary public services anywhere within the national territory (Constitutional Court of Colombia 2011: specific orders number 111. Translation by the authors).

The Constitutional Court established **graduality** as a guiding principle of these affirmative actions. Graduality was important to the Court because it had ascertained the waste pickers' situation and was concerned that the existing regulatory framework was designed to regulate **formal corporations rather than informal workers.**

> [...] by mandate of the Constitution, waste pickers must be supported in order to **gradually** overcome exclusion, marginalization and the absence of affirmative measures in [their] favour, and this demands modifications to the regularization measures that respond to the formal economy, and that are hardly applicable to informal workers (Constitutional Court of Colombia 2015: number 7.3. Translation and emphasis by the authors).

In the orders issued after Order 275 of 2011, the Constitutional Court, quoting Order 587 of 2015, argued for the need to provide waste pickers with guarantees during the transition to the formal economy, particularly, **to ensure waste pickers' guaranteed access to recyclable materials.**

> All things considered, this Appeal Bench considers it necessary to emphasize both to the [Special Administrative Unit for Public Services] UAESP, and the rest of [government] entities that have participated in this process, that regardless of the model to be adopted, such model must comply with the orders and criteria contained in the rulings with regard to this subject matter that have been issued thus far [...] Among the most important aspects are the obligation to guarantee waste pickers' right to access recyclable materials, the defense of their work and the principle of graduality [...] Therefore, it should be emphasized that the models for the provision of domiciliary waste management public services **are not an end in themselves**; rather they must be understood as tools to implement the affirmative actions that have been adopted by this institution (Constitutional Court of Colombia 2015: number 11. Translation and emphasis by the authors).

In the paragraph above, the Constitutional Court provides fundamental guidance with regard to the relationship between the pre-existing formal waste management scheme (collection,

transport, and controlled burial of waste in the hands of private corporations) and a new scheme that, in addition to privileging recycling, recognizes and structurally integrates waste pickers and their organizations as service providers. In other words, the Constitutional Court ruled that the former scheme must be transformed to coexist with the second.

The Constitutional Court also stipulated that this process also imposed responsibilities on waste pickers and their organizations. The main responsibility was for them to engage in a process of formalization. The parameters of this process were to be defined by the national authorities responsible for regulating the provision of public services.

Thus, the Constitutional Court clarified that what remained to be determined was the meaning of formalization of waste pickers as public service providers within a regulatory framework of privatization and free competition, and how such a process should be developed, not if waste pickers should be included in waste management.

In January 2012, Gustavo Petro took office as mayor of the municipal government of Bogotá. His development plan, better known as "Bogotá Humana 2012-2016", included the "Bogotá Zero Waste" programme. In it, the administration outlined the actions that would allow Bogotá to make the necessary adjustments to face climate change, to promote environmental conservation and to encourage the development of an environmental culture among citizens.

This programme contained the following government sub-programmes:[21]

- Strategy for sustainable production.
- Reduction of waste generation through the substitution of inputs and final products by recyclables or biodegradable inputs.
- Reduction of waste through a culture of separation at source.
- Capacity-building and awareness-raising for citizens and users about the **waste management service** through massive campaigns highlighting the benefits of recycling, and solid waste separation and differentiation at source.
- Regularization and formalization of recycling services carried out by social solidarity enterprises integrated and managed by commercial organizations of waste pickers within the waste management service, [as well as] the promotion of **inclusion processes for waste pickers** (the latter a nodal point in the establishment of the Bogotá recycling scheme).
- Minimization of final disposal.
- Zero construction waste.
- Integrated management of special and hazardous waste.

To implement the Bogotá Zero Waste programme, and in compliance with the Constitutional Court's rulings, the government of Bogotá, under the helm of the UAESP, developed a Plan for the Inclusion of Waste Pickers. The plan proposed six main lines of action: disseminating the draft plan among the entire population of waste pickers in Bogotá; restructuring of the operational scheme for the provision of waste management services to incorporate recycling as an additional component

[21] For more details, see Parra 2015: 11.

of the service, where waste pickers would participate, which included the development of basic infrastructure and the constitution of recycling companies (which could include waste pickers); formalizing the entire population of waste pickers; developing policies to promote a culture of separation at the source among the citizenry; establishing selective collection routes, covering all users in the city; and ensuring the scheme's financial sustainability.

The above-mentioned recycling scheme, designed to be embedded within public waste management, was not fully implemented and the reasons for this can be found in the different explanations from the government entities responsible for following up, monitoring and overseeing its implementation, as well as the evaluations made by the municipal government itself. While some of the components of the scheme made important progress during the administration of the *Bogotá Humana*, others did not, among them, the formalization of the entire waste picker population (see Parra 2017: Chapter 4.2).

In addition, multiple factors resulted in adjustments to the original programme and additions of new policies. Firstly, the concerns of and resistance from many waste picker organizations regarding several of the proposals contained in the Plan for Inclusion prompted negotiations that resulted in modifications to the original plan (see below). Secondly, the high turnover of leadership at the UAESP — six directors in four years — meant that there were many non-harmonized proposals and reinterpretations of the plan. And thirdly, the initiative of the Bogotá government to re-municipalize the service of waste collection, transport and burial created a strong backlash and led to the political persecution of the mayor (See. Samson, Parra and Abizaid 2014).

In drawing a timeline of the struggle for the recognition of waste pickers, it is necessary to recognize that the government of the *Bogotá Humana* carried out important actions in compliance with the orders from the Constitutional Court.

1. The census of waste pickers. The innovative methodology and implementation used, which included quantitative techniques and qualitative recognition tools, allowed the administration to capture data characterizing these workers while they were working and laid the foundations for the development of a post-census system that can continuously update the information on waste pickers. The census also identified the collection centres of recyclable materials.
2. The campaigns to promote separation at source highlighting waste pickers' role as solid-waste managers.
3. A major process to replace animal-traction vehicles as a means of transport. More than 2,800 of these vehicles were replaced by one of the following options: motorized vehicles of different freight capacities;[22] support for plans and seed capital[23] to set up an alternative business; or the initial quota for subsidized housing.
4. Some selective collection routes were assigned to, and/or recognized for waste picker organizations.
5. More importantly, the government of the *Bogotá Humana* developed a scheme that allowed for the

[22] If two or more animal-traction cart owners established an alliance, they were able to obtain a shared vehicle with greater freight capacity through the substitution process.
[23] Seed capital refers to funds granted to start up entrepreneurial endeavours.

registration, recognition **and remuneration** of the service of collection, transport and recycling of solid waste provided by waste pickers.

The scheme to recognize and remunerate waste pickers resulted from a negotiation between the municipal government and a large coalition of waste picker organizations led by the ARB in tandem with allied actors, including organizations of small-scale collection centres owner, who were concerned with the implications of several of the government's proposals and displeased with the limited progress in the implementation of the Plan for Inclusion of Waste Pickers by December 2012.

For the negotiations, the municipal government created a technical team, which considered the positions and concerns of the coalition led by the ARB. It also assessed the progress and challenges facing the municipality's intent to re-municipalize the waste collection public service. With this information, the technical team found a legal formula to create an operational scheme for waste pickers' recognition and remuneration.

The scheme proposal put forward by the technical team was enshrined in the Municipal Decree 564 of 2012. And because by that time the first census report had been completed, when the decree was issued, the municipal government was able to implement it immediately. In other words, the municipal government had already identified the population that would be considered as service providers and that would benefit from the recognition and remuneration scheme for recycling public services.

The scheme considered the guidelines contained in the rulings and decisions of the Constitutional Court and used the figure of **marginal producers of public goods and services**,[24] contained in Law 142 of 1994, to include the recycler population as a public service provider.

In its design, the scheme respected waste picker organizations' demands, among them the recognition of the disparity of their organizational levels at the outset, and the inclusion of waste picker organizations' needs in the integration policies. It also considered waste pickers' demand that the existing recycling value chain, in which they already participated, be considered so that the operational scheme would not introduce structural changes to the way in which waste pickers had traditionally worked.

The scheme did include a modification to the original plan. Instead of replacing the 1,500 collection centres that existed with 60 large recycling parks, it allowed 250 collection centres to function as authorized centres within the waste management service for the weighing and registration of materials.[25]

To comply with the Constitutional Court's orders, but acting in the absence of a regulatory framework from the CRA, the municipal government of Bogotá developed a payment scheme for recycling public services using the legal resources that it had at hand, and it framed it within its goal of re-municipalizing waste management services (Municipal Decree 564). Within this payment scheme, each waste picker would be paid for each kilogram of waste that they collected, transported and

[24] According to Law 142 of 1994, the marginal producers of public goods and services are defined as "[...] the natural or legal persons that produce for themselves, or as a consequence or complement of their main activity, the goods and services generally provided by public service companies" (Art. 15, number 12, translation by the authors); that is to say, as such they are persons that provide public services. Translation by the authors.

[25] These collection centres had been identified in the census.

recycled at a rate equivalent to that paid to private or public companies for waste collection, transport and burial. Such payment would be done on an individual basis and not through waste pickers' organizations. The latter decision was structured that way, largely due to the organizations' concerns: they felt that before embarking on the management of public money, they needed to enhance their administrative, accounting and operational capabilities.

To participate in, and be remunerated through, the payment scheme,[26] waste pickers were given access to banking services, something previously out of their reach, provided that they were included in the census and that they registered their materials with the city's authorized collection centres.

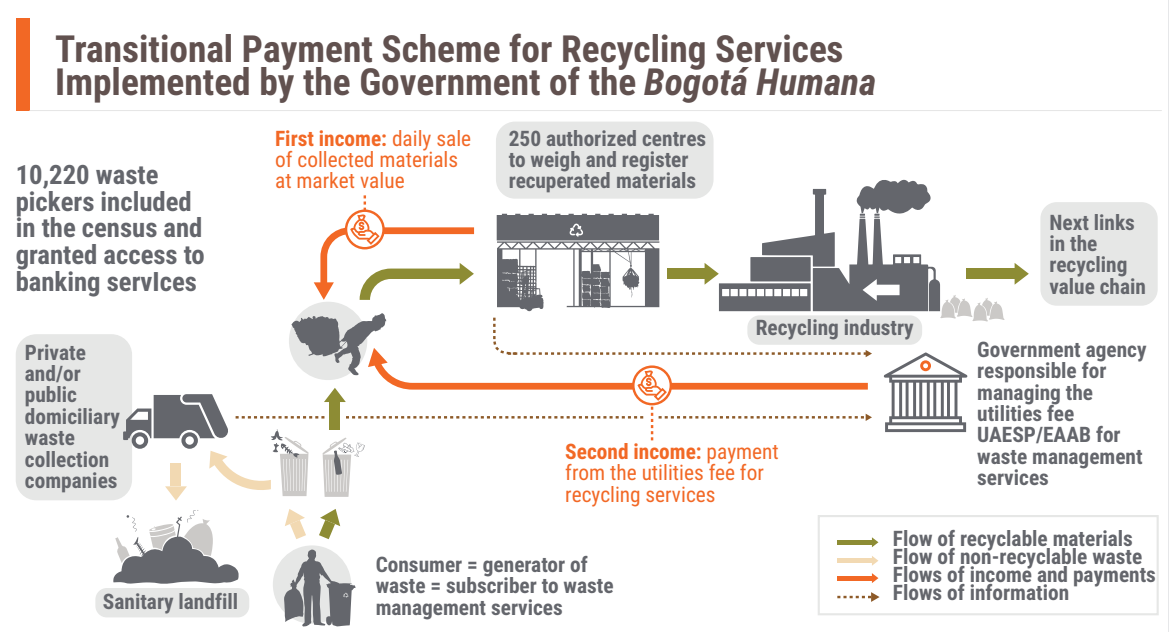
Box 1. Bogotá's Scheme to Recognize, Integrate and Remunerate Waste Pickers

To benefit from the payment scheme, waste pickers —organized or not— who were **registered in the census** could carry on with their collection and commercialization habits. However, to be able to register their materials for the payment scheme, they had to bring the recovered recyclable materials to one of the 250 authorized **collection centres**, where they were **weighed and registered on the official registries.**

Once the materials were registered, waste pickers could **sell the recuperated materials at that collection centre** and receive payment for the amount of the materials at their commercial value as they did before (first payment). However, they also had the option of weighing the materials, but not selling them, at that collection centre.[27]

The daily record in the official registry of the recuperated materials by quantities and types for each waste picker was the proof of service delivery. The UAESP centralized and systematized these forms to document the amount, in kilograms, of materials recovered, transported and sold by each individual waste picker (organized or not) participating in the payment scheme.

Based on this information the UAESP would take stock of this information, and remit to their personal bank accounts the payment for the service provided every two months.



Source: Adaptation from the diagram with the same title in Parra, 2019.

[26] This payment would be an additional income for the provision of recycling services..

[27] This, however, generated problems down the road. In the absence of government monitoring and control, serious waste traceability issues ensued in some cases.

It is important to mention that the *Bogotá Humana* government was motivated to make a structural change in waste management, where the focus was the re-municipalization of waste management vis-à-vis the services provided by domiciliary waste collection companies. To achieve this objective, it was open to the recognition and inclusion of waste pickers. However, the 2012 scheme was only provisional, until the national regulations on recycling were developed, as was mandated by the Constitutional Court in Auto 275 of 2011.

The payment scheme was the first structural action in compliance with the Constitutional Court orders in favour of waste pickers. This scheme had undeniable and significant achievements. Between March 2013 and December 2015, 10,220 waste pickers received more than USD 29-million for their services. These resources served to improve their family incomes and their living standards.

However, the scheme also had major shortcomings, among them, the lack of a strong monitoring and control system. The scheme also discouraged organizing processes of waste pickers in two ways: firstly, it paid waste pickers directly instead of doing that through waste picker organizations and, secondly, the municipal authorities failed in their responsibilities to support waste picker organizations in building and/or strengthening their administrative and operational capacity, and to create a complementary programme to organize independent waste pickers.[28] The last point is one of its major shortcomings.

Worse still, during the last year of the *Bogotá Humana* administration, the UAESP sought to reinstate the original plan for the inclusion of waste pickers that had previously been rejected by waste picker organizations. In the process, the UAESP pursued and defamed leaders and waste picker organizations that expressed their opposition to or serious concerns about this plan. At the same time, the UAESP granted benefits to the organizations that supported the plan. So, in addition to indirectly endangering the lives of waste picker leaders who opposed the administration's proposal, the government polarized, fragmented and pitted waste picker organizations against each other.

The regulations on the provision of recycling public services that were developed afterwards generated changes in the way in which waste pickers were integrated into waste management and established the path for their formalization as public service providers in Colombia.

Part 2. Regulatory Harmonization for the Integration of Waste Pickers as Providers of Recycling Public Services

3.1 The Logic of Waste Management until 2012

The Constitutional Court's orders in favour of recognizing and remunerating waste pickers as providers of recycling public services created a significant structural change. To fully understand the magnitude of this change, a review of the underlying logic of waste management until 2012 is necessary.

[28] An independent waste picker is someone who is not part of a formal organization.

As mentioned above, the provision of public services in Colombia is based on the principle of free competition, which is enshrined in the Constitution. Therefore, the quality, efficiency, coverage and frequency of the provision of public services is to be done in a context of competition among offerors. It is in the diversity of offers that the subscriber of the service (i.e., the user) will be able to choose the best option.

This principle, further developed in Law 142 of 1994, has privileged the provision of public services by private corporations on the assumption that their structure and operative logic is the most appropriate to thrive in a context of market competition. According to Law 142, municipal governments are the guarantors of the provision of public services. However, the municipalities should only provide these services themselves in the absence of private corporations, particularly in situations of low profitability or where it is evident that such an option would be the most efficient and economical for the subscriber.

The principle of free competition among public service providers or offerors for subscribers has prevailed particularly in public services that are not **natural monopolies**.[29] There are other types of services, where the operability of production, distribution or service provision hinders the free confluence of offerors (e.g., drinking water and sewage services). These services are monopolistic in nature.

The waste collection, transport and disposal public service fall within the principle of free competition for subscribers among offerors. However, due to its operability and the necessary economies of scale, it falls in an intermediate position, with a tendency to create natural monopolies or oligopolies. In other words, to ensure the profitability and efficiency of the service, it is not desirable that different waste collection companies compete for each of the subscribers of the service, since they could lose economies of scale by having overlapping or similar routes and/or by incurring the same direct operating costs just to collect a percentage of the total waste produced in each area.

Because of these market conditions, public waste management services operate under a logic of regulated competition. That means that, to ensure the efficiency expected in a scenario of free competition, the State intervenes to correct market conditions.

> [...] 'the regulator acts as a substitute for the market, taking on some of the functions of a competitor, attempting to provide a similar incentive to reduce costs by setting prices.' With that, it tries to control the natural monopoly, so that it behaves essentially in the same way as it would if it were subject to the competitive forces of the market, and not regulated (Helm 1994: 21, quoted and commented by Tabarquino 2011: 48. Translation by the authors).

Waste management-specific regulations centred on controlling the behaviour of entities providing services to protect society's interests and welfare. Price regulation has been the regulatory tool used to that end since the issuance of Resolution 151 by the CRA. Specifically, price regulation was used to prevent exploitative practices from providers towards users and from the State towards

[29] Namely, those services where, given their nature, several offerors can converge and compete for clients and/or subscribers almost spontaneously. This is the case of mobile phone services.

service providers. A tariff structure allowing domiciliary waste collection companies to charge the maximum price (ceiling tariff) for services provided was established by law.

The development of **exclusive service** areas was also an alternative tool to regulate competition in some municipalities. Under this format, the municipality was divided into areas that were assigned exclusively to one offeror. In this case, the competition does not take place in the interaction with users to offer the provision of services, but rather during the tendering process for the allocation of contracts to collection companies to serve these areas.[30]

The ceiling tariff model did not result in a reduction of fees for subscribers. On the contrary, 78 per cent of the domiciliary waste collection companies (according to a report from the CRA in 2011) took advantage of the price ceiling. This distortion was not corrected in the resolutions issued later (CRA Resolutions 351 and 352 of 2005, issued afterwards).

Those regulations were used to determine which costs were to be included in the formula to calculate subscribers' fees for waste management services. Some of these costs include:

- **Commercialization and invoicing.** Namely, the costs related to invoicing for the service, as well as their implications in terms of information-sharing with end users.[31]
- **Sweeping and cleaning.** This component was measured in kilometres starting from the gutters.
- **Waste collection and transport.** This refers to the costs of collecting and transporting each ton of waste from a centroid of up to a 20 km radius.
- **Excess transport** (only when required). This component refers to the costs of transporting waste from the limits of the service area (20km around the centroid[32]) to the final site of disposal.
- **Final disposal**. This refers to the costs related to the disposal of waste in a sanitary landfill. To promote regional schemes for final disposal, the underlying logic of the cost structure was that disposal costs would decrease as the tons of waste disposed increased. This, in turn, would result in lower fees for service subscribers.
- **Incentives for recycling**. This component recognized cost savings in final disposal obtained by recycling activities undertaken by recycling service providers if those did not negatively affect the subscriber's fee.

Waste collection and transport, the most expensive components of the system, accounted for approximately 70 per cent of the fee for waste management services, followed by the final disposal, and commercialization and invoicing. The incentives for recycling were never sufficiently attractive to formalize it as a service and therefore remained an activity undertaken informally by waste pickers without recognition or

[30] Although the exclusive service areas were normatively established in CRA's Resolution 151 of 2001, waste collection, transport and final disposal services were already operating in this way since 1994.

[31] This point refers to the detailed information on the costs of each of the components of the service that must be shared with end users on their utilities' invoices. This information is required as part of a transparency effort that public service providers must fulfil.

[32] The centroid is the "[p]oint identified with coordinates that represents the site where the waste production of the (service provision area) is concentrated, from which the distance to the final disposal site is estimated." (Resolution CRA 720 DE 2015, Art. 1.)

remuneration. Waste pickers' work, however, brought significant savings to the waste management service. According to the National Study on Recycling (*Estudio Nacional de Reciclaje*, Aluna Consultores Limitada 2011), waste pickers channelled between 11 and 16 per cent of the recuperated waste. These benefits were capitalized by domiciliary waste collection companies.

As seen above, the national authorities' task to harmonize regulations was no minor feat. The goal was to reconcile a scheme serviced by private corporations that rewarded and sustained incremental production of waste with a new one that recognized the role of waste pickers and the importance of recycling within the overall provision of public waste management services. Specifically, they had to regulate the recognition and formal integration of waste pickers as service providers and define a formula to remunerate recycling services as part of the utilities fee charged to subscribers for waste management services.

3.2 Regulatory Harmonization (2013-2016)

The new national regulations on recycling were the result of a combination of two factors, namely, the jurisprudence emanating from the Constitutional Court in favour of the waste pickers, and Colombia's interest in joining the OECD.[33]

The following are the most relevant regulations issued since 2013.

The National Decree 2981 of 2013,[34] was issued by the Ministry of Housing, City and Territory (MINVIVIENDA). This decree was the first national-level public policy establishing guidelines for the operation of waste management services in Colombia. It divided waste management services into two components, i.e., waste collection and recycling. While the decree includes new guidelines regarding waste management, it still retains many features of the previous scheme. In balance, this decree upholds the preponderance of the principle of **free competition of actors** in the provision of waste management services, and, hence, ignores in practice the **special regime** mandated by the Constitutional Court's rulings.

For example, the definition of **recycler**[35] used in the decree reads:

> [...] a natural or legal person that has constituted itself in accordance with the definitions of Article 15 of Law 142 of 1994 and those stated in this decree to undertake the activity of recycling of solid waste (MINVIVIENDA 2013: Definitions, translation by the authors).

Both in the definition of recycler and in the scope of operation, the decree 2981 extended the existing regulations of the waste collection scheme to the component on recycling public services. And by so doing, it equated waste pickers (recyclers) with all other service providers as defined under Law 142 whether they were companies, community organizations or any other legal entity authorized by law to provide public services. This allowed other actors to compete with waste pickers for the provision of recycling public services. The same was true in terms of the scope of the application of the decree.

[33] As a prerequisite to join the OECD, Colombia had to increase its recycling rates and align recycling norms to those applicable to existing OECD member countries.
[34] This decree was later compiled under National Decree 1077 of 2015.
[35] In Spanish, the word used to denote waste picker is *reciclador* (recycler). Yet, the definition used in the decree extended the definition of "recycler" to other actors, and was, therefore, problematic.

It established that all service providers, whether they provided waste collection or recycling public services, were to be subject to regulation.

Nonetheless, National Decree 2981 also includes positive features. Firstly, the statement that **recycling public services** should truly be established as a complementary component to waste collection public services. Secondly, the recognition that the **recycling component of waste management** should be planned in a participatory manner in each municipality, and that such effort should be driven by municipal authorities. Hence, the decree ordered municipalities to resume control of the service. Prior to this, the municipal governments delegated this service to domiciliary waste collection companies. With this measure, the Plans for the Integral Solid Waste Management (PGIRS) regained their place as a programmatic tool for municipal waste management. And thirdly, the recognition that affirmative actions in favour of waste pickers needed to be included and strengthened in a permanent and incremental manner in the PGIRS and municipal development policies and plans.

The decree also introduced, nominally, the hierarchy guiding waste management according to the following criteria.

1. Reduction at source
2. Recycling
3. Final disposal of generated non-recyclable waste

This new hierarchy is fundamental, given that in the past, the pyramid privileged waste collection and transportation for final disposal, and perceived any initiative diverting waste to different channels other than disposal as an action hindering the profitability of waste management services.

Resolution 754 of 2014[36] (MINVIVIENDA and MINAMBIENTE) strengthened the instrumental role of the PGIRS. This resolution also established how the PGIRS should reflect waste pickers' participation, the weight of the recycling component of waste management, and the responsibilities of the municipalities regarding the affirmative actions for waste pickers.

The most important aspect of this resolution is that it mandates both the inclusion of waste pickers and the

Box 2. Municipal Authorities' Non-Delegable Obligations According to Resolution 754 of 2014

1. Formulation and development of the PGIRS.
2. Definition of the areas for the establishment of waste sorting and recycling stations (ECA).
3. Adoption of measures to promote processes of waste separation at source, selective collection, and collection and recycling.
4. Formalization of waste pickers (*recicladores de oficio*),[37] so that they can participate in an organized and coordinated manner in the provision of public services according to the current regulations.
5. Implementation and strengthening of affirmative actions in favour of waste pickers.
6. Update of the census of waste pickers within their territory, and identification and provision of identity cards to waste pickers to determine the beneficiaries of focalized affirmative actions in favour of this vulnerable segment of the population.

[36] This resolution was also compiled in National Decree 1077 of 2015.
[37] A *reciclador de oficio* is someone whose main economic activity and source of income is waste picking.

structural affirmative actions required to achieve inclusion, for example the PGIRS.

The National Decree 2981 of 2013 and the Resolution 754 of 2014, along with other similar regulations, were compiled and modified by **National Compilation Decree 1077 of 2016.**[38]

In **Resolution 720 of 2015**, the CRA, in compliance with the Constitutional Court's orders, finally established a formula to remunerate the recycling public service component within overall waste management. This formula equated the services of solid waste collection, transport and recycling to the services of collection, transport and final disposal of non-recyclable waste.[39]

However, the most significant regulation for waste pickers is the **National Decree 596 of 2016** (MINVIVIENDA 2016a), outlining the requirements that must be met by providers of recycling public services. This decree also sets the path for the formalization of waste pickers wishing to be recognized as public service providers in that component of waste management.

Specifically, the decree makes municipalities responsible for formulating and/or adjusting the PGIRS, guaranteeing waste pickers' participation in an organized and coordinated manner through the formalization of *recicladores de oficio*, considering their diverse organizational levels.

Box 3. Municipal Responsibilities According to National Decree 596 of 2016

1. Update of the census of waste pickers in their territory to assess and develop targeted affirmative actions in their favour.
2. Develop a programme for the inclusion of the waste pickers in the PGIRS, including:
   - Capacity-building for *recicladores de base* who are enumerated within the census (baseline and updates), including:
     - Capacity-building on the recognized organizational legal entities for the provision of waste management services as set out in Law 142.
     - Capacity-building in administrative, commercial, financial, technical and operational aspects of the provision of waste management public services in the recycling waste management component, as well as organizational structures and business entrepreneurship.
     - Technical and operational advice for integrated recyclable solid waste management and generation of added value.
3. Support the formalization of waste pickers. This process should consider the different levels of vulnerability that exist among waste pickers, which should be identified in the census of the PGIRS. Progress towards the formalization goals should be evaluated on an annual basis.
4. Municipal Interventions and affirmative actions that are not included within the provision of waste management services should be budgeted for and incorporated into the financial plan of the PGIRS and in the Municipal Development Plan (MINVIVIENDA 2016a: Article 2.3.2.5.5.1. Municipal Responsibilities).
5. Provide infrastructure and equipment to waste pickers' organizations to ensure waste pickers have the capacity to provide recycling waste management services, on condition that they be used to that end. Any other use of the infrastructure and equipment, including maintenance, support and operation costs, would not be allowed, and would imply the removal of the support. (MINVIVIENDA 2016a: Article 2.3.2.5.5.2)

[38] A compilation decree gathers all existing regulations on a subject matter to provide regulatory coherence.
[39] The formula also included a percentage that was to be used for the strengthening of waste pickers' operativity. .

The decree also establishes that recognition as service providers within the recycling component requires organizations to offer integral services. In other words, the provider must collect recyclable materials, transport the materials to the sorting and recycling station (ECA), and sort and weigh the waste at the ECA[40] (MINVIVIENDA 2016a: Article 2.3.2.5.2.1.5).

There are several things in this decree that should be highlighted. First, it is the first national decree that refers to the jurisprudence in favour of waste pickers. Second, the decree uses a definition of **recycler** that considers the sectoral particularities of this population.

> "*Reciclador de oficio*" is a […] natural person who routinely carries out the activities of recuperation, collection, transport, or classification of solid waste for its subsequent reincorporation as a raw material into the productive economic cycle; who obtains her/his own and her/his family's livelihoods from this activity (MINVIVIENDA 2016a, definitions, number 36. Translation by the authors).

Third, the decree states that the recognition of ***recicladores de oficio's* labour as the provision of recycling waste management public services** should be the guiding principle in the process of formalization. Fourth, it calls for collaboration between waste management services' users, waste pickers, domiciliary waste collection companies and other actors. Fifth, the decree says that the formalization of *recicladores de oficio* as recycling service providers should be done gradually and be structured in eight phases over five years, starting from the moment the waste picker organization registers with the Unique Public Service Providers Register (RUPS).[41] Sixth, it establishes that service users must separate and adequately present waste and prohibits them from asking for any compensation in exchange for handing in recyclable waste. Seventh, and most important, the Decree 596 defines the responsibilities that municipal authorities have in the accompaniment[42] of waste pickers during the formalization process, and in the creation of an enabling environment to that end. This is particularly important because, as will become clear, it serves to remedy some of the contradictions contained in the decree. Eighth, thanks to ANR's advocacy, the decree, in its final version, did not include the segmentation of the recycling waste management services into exclusive service areas.[43] It also recognized the means of transportation commonly used by waste pickers. These two provisions prevented adverse impacts on waste pickers' territoriality and their means of production.

But the decree also contains some problematic points, particularly the language used in the section regarding its application. Moving away from the narrow definition of recycler included in the definitions section, with regard to operability, it uses the term "persons providing recycling waste management

[40] The latter represents a challenge, and, in some cases, an obstacle for those waste pickers' organizations that do not have their own collection centre.

[41] The Decree 276 of 2016 (MINVIVIENDA 2016b) delves in greater detail on the requisites for each of the eight phases, as well as on the timelines that waste pickers' organizations must fulfil.

[42] In this brief the word "accompaniment"—a direct translation of the word in Spanish *acompañamiento*—refers to ongoing counseling and support on technical and organizational development.

[43] According to the ANR's analysis, the establishment of exclusive service areas for each of the organizations providing the service would have resulted in unequal and inequitable access to recyclable materials among waste pickers' organizations, and between these organizations and independent waste pickers.

services" to denote those allowed to provide that service. By doing that, the decree again opens the possibility for domiciliary waste collection companies and waste logistics companies,[44] which have more technological, logistical, economic, infrastructure and marketing resources to provide recycling public services.

This has been a source of tension. If read in that way, and without reference to the jurisprudence in favour of waste pickers created by the Constitutional Court, the decree could be interpreted as displacing waste pickers — organized or not— by these other actors. It also means that independent waste pickers will necessarily have to organize to participate in the waste management system and be paid for recycling services in the short-to-medium term, and to retain access to recyclable materials in the long term.

Another point of concern is the extremely demanding requirements established in the decree. Only the most established organizations can meet them and only with a lot of effort. It will be difficult for weaker organizations to comply with these requirements, and for unorganized waste pickers, they are almost impossible to fulfil.[45]

3.3 Debate on Recycling

Established in 2014, the **Alliance for Inclusive Recycling**, promoted by the Regional Initiative for Inclusive Recycling (IRR), has provided strategic space in the debate on solid waste management in Colombia. The Alliance brings together the national government, particularly the Ministries of Housing City and Territory, Labour, the Environment, and Commerce; the ANR; the National Association of Entrepreneurs of Colombia (ANDI),[46] as well as international and national NGOs,[47] to facilitate multi-stakeholder debates on recycling, despite it not being a public policymaking entity.

In particular, the alliance has been a space where ANR and allied organizations have been able to **raise awareness** of the reality facing waste pickers and their organizations among national authorities; to present their deep concerns about the negative impacts of public policies targeting waste pickers; and to propose policy alternatives that address waste pickers' needs.

4.1 The Provision of Services by Waste Picker Organizations

To recapitulate, for the Constitutional Court the **structural affirmative action** needed to overcome waste pickers' situation of vulnerability was their recognition, integration, and remuneration as recycling public service providers. The national government's interpretation of this was that waste pickers' organizations had to meet the requirements to **become public service providers.**

The first step in the process to recognize waste pickers is conducting the census

[44] Within the value chain, waste logistics companies are found between the collection and marketing of waste. They are business legal figures who look out for post-industrial waste and for large waste generators. They usually establish transactional relationships to acquire recyclable waste, either by buying it from the generator or by exchanging goods or direct services.
[45] This question will be analyzed in further detail in the following section.
[46] The ANDI congregates the representatives of the recycling industry and Acoplásticos.
[47] These NGOs have provided support to waste pickers and included international NGOs like WIEGO and AVINA, as well as national NGOs like Fundación Familia and CEMPRE Colombia.

to identify the beneficiaries of the affirmative actions that require special protection by the State as ordered by the Constitutional Court. In other words, the first step is to identify the *recicladores de oficio*, namely:

> […] natural persons (not legal entities), who **routinely** undertake activities of **recuperation, collection, transport or classification of solid waste** that is later reincorporated as raw material into the productive economic cycle; and who, by so doing, **earn their livelihoods and those of their families** (MINVIVIENDA 2016a: definitions, number 36. Translation and emphasis by the authors).

The census should also include a characterization of waste pickers and whether they belong to organizations.

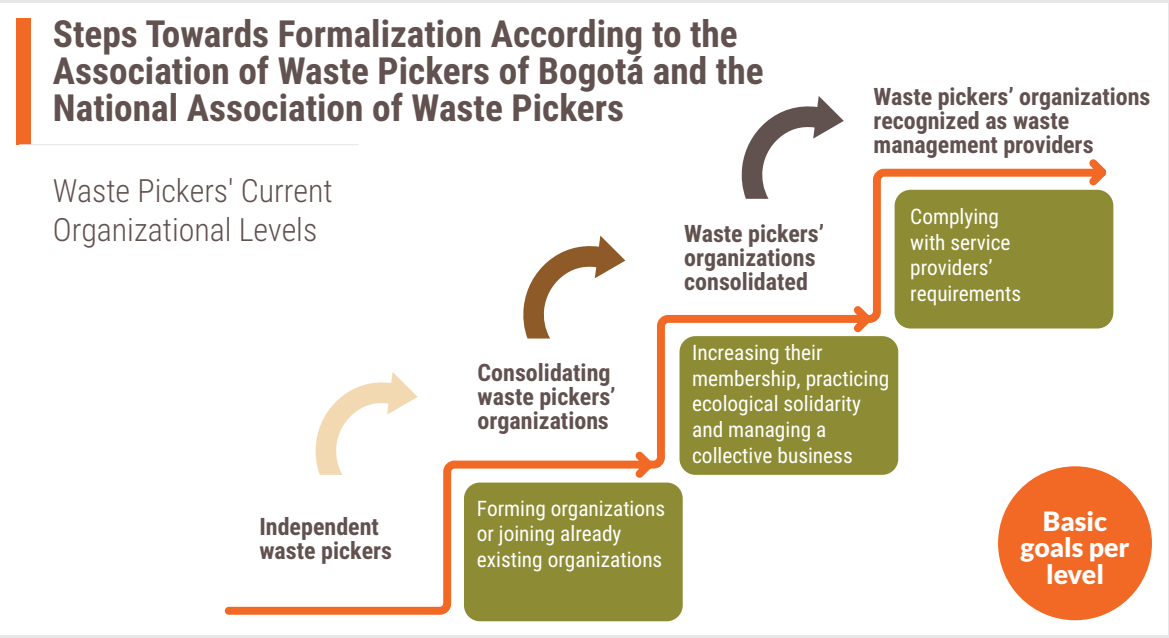
With the census, municipal governments can obtain data on the size and the organizational and productive needs of each category of waste pickers within their jurisdiction. This information can also inform the formulation of municipal government plans and programmes, as well as the development of projects to help consolidate and strengthen waste pickers' organizations. In turn, these plans, programmes and projects must be included in the municipal PGIRS and development plans. **These plans do not constitute the formalization process**; instead, they are a platform for achieving formalization.

According to the regulations, waste pickers' formalization is to be understood as their organizations' compliance with and fulfilment of the requirements and technical standards to be recognized as recycling public service providers. Waste pickers need to be recognized and accredited as individuals working in this occupational sector within the census of waste pickers, and also be part of a formal organization in the solidarity economy. Formal recognition as service providers can only be enjoyed when waste pickers are organized, regardless of whether the municipal authorities provide them with targeted support, as mandated in the regulations.

This fact represents a critical and problematic initial bias in the formalization process for those who labour as independent workers. Therefore, the organizational level is, and will be, a determining factor when projecting the success of formalization.

The percentage of independent waste pickers varies from municipality to municipality. However, according to the 2011 *Estudio Nacional de Reciclaje* (Aluna Consultores Limitada 2011), they represented approximately 70 per cent of the total number of waste pickers. The remaining 30 per cent had chosen to undertake a type of formal organization. Since then, the percentage of independent waste pickers may have changed at the national level because of the organizing incentives created by the payment for recycling public services and by some government actions. However, a large percentage of waste pickers continue to work independently.

In practice, the organizational level of existing organizations is defined by their ability to fulfil two functions. The first is the representation and defense of their members and the second is operational, i.e., the coordination and management of the collection, transport, processing and collective commercialization of recyclable materials recuperated by their members. A consolidated organization should fulfil both functions. If it only fulfils one of them, especially the first, the waste



Source: Adaptation from an illustration titled "Escalera de la formalización según la ARB y ANR", in Parra 2017: 580

pickers' organization is considered as being in the process of consolidation.

In the illustration above, the dark gray arrow shows the process waste pickers' organizations must follow to formalize as recycling public service providers, as described in National Decree 596 of 2016. This step is the final stage of the process. The steps defined by the beige arrow (the transition from being independent to the creation of an organization in process of consolidation), and by the brown arrow (the evolution towards becoming a consolidated organization) must be accompanied by municipal governments. They should also be part of the projects contained in the programmes for the inclusion of waste pickers within the municipal PGIRS.

In other words, without the support and accompaniment of the municipal authorities, the process of formalization of waste pickers in their jurisdictions will be extremely difficult.

4.2 Formalization in Practice

To be recognized and authorized to provide recycling public services, waste pickers need to be organized[48] and their organizations must comply with several formal, administrative, operational and infrastructural requirements.

Upholding the prevalence given to the principle of free competition in the provision of public services, National Decree 596 of 2016 reiterates the possibility of non-waste pickers actors (i.e., waste management companies, waste logistics companies and other actors) to provide recycling public services. Having access to all kinds of resources, these actors are better equipped to meet the regulatory requirements sooner, hence, tilting the balance towards them and potentially displacing waste pickers' organizations.

[48] The current scheme does not contemplate non-organized waste pickers. ARB has advocated for the inclusion of mechanisms that would allow inclusion of independent waste pickers into the payment scheme.

To balance this situation, the Ministry of Housing, City and Territory decided, as an affirmative action intervention, to relax the requirements for waste pickers' organizations seeking recognition as service providers. Such flexibility, however, was paired with the condition that the requirements must be met within a period of five years starting from the formal recognition of the waste pickers' organization as a service provider. After this period, and **with the appropriate support**, waste pickers' organizations were expected to comply with service delivery standards.

According to National Decree 596, the first requirement to formalize is to be included in the official census of waste pickers in the municipality, and to be a member of a waste pickers' organization that has decided to formalize to provide recycling public services. Organizations should preferably incorporate as one of the constitutionally-recognized entities allowed to provide public services, i.e., co-operatives, pre-cooperatives, and associations; and also should produce their official constitutive and registration certificates. When registering with the Chamber of Commerce, the organization must state that its objective is to provide waste management services in the recycling component.[49]

According to the regulation, at least 80 per cent of the organization's members must be registered within the official census of waste pickers in the municipality, and the organization's leadership must consist of *recicladores de oficio*.

The Superintendence of Public Domestic Services (henceforth, Superintendence), the comptroller agency, is responsible for verifying that required conditions are met before approving the registration of the waste pickers' organization and granting it the RUPS that would accredit it as a recycling public service provider.

With the RUPS, the organization can access the Single Information System (SUI), the official platform where public service providers register their activities. To do this, waste pickers' organizations must prepare all their legal documentation. Organizations must also have a minimum installed administrative capacity to use this platform and to register, organize and systematize their internal processes of collection, transportation, storage and commercialization, and report on the services provided.

At the administrative level, this implies the existence of a system recording the amount of recyclable materials recovered, collected, transported and commercialized by the organization. Implicitly, it also implies access to a computer, the internet, and requisite skills to use software compatible with the SUI to upload their information.

In operational terms, the decree states that to provide **integral** recycling services, waste pickers' organizations must consolidate and articulate the processes of collection, transportation, storage, preparation and commercialization of recyclable materials. In other words, the organizations providing this service must be able to provide all these service elements —they cannot provide just some.

To be recognized as a recycling service provider, the organization must have at least one collection and processing centre (also known as sorting and recycling stations, ECAs) for recyclable materials. These spaces must comply with minimum health, environmental and safety

[49] This does not prevent the organization from including other productive activities when registering if they so decide.

standards to operate and must be clearly geo-referenced and registered with the Superintendence through the SUI.

The municipalities **can (and should)** endow organizations with an ECA as an affirmative action measure. They can do so in accordance with transfer mechanisms included in National Decree 596, such as the **contributions under condition.**[50] This has not happened in some cases, so waste pickers' organizations have resorted to leasing collection centres or to establishing alliances with intermediaries who agree to operate under the regulations on ECAs and comply with the required conditions to operating under the organizational form of an Authorized Waste Pickers' Organization (ORA) for service delivery.

Thanks to ANR's advocacy efforts, the operative scheme for the provision of recycling public services by waste pickers' organizations recognizes the figures of micro-collection routes. These are individual members of waste pickers' organizations undertaking street-by-street recuperating, collecting and transporting recyclable materials from garbage bags disposed of in public spaces in a non-exclusive manner. The regulatory framework also established the macro-route as part of the service provision scheme, which includes the collection and transport of recyclable materials from the micro-route areas to the organizations' ECA, or ECAs if they have more than one.[51] This scheme allows for the transport of recyclable materials in human-pulled vehicles, complemented (if possible) with motorized vehicles that facilitate the macro-routes. The organizations' means of transportation must be registered with the Superintendence through the SUI. In their role as promoters and guarantors of affirmative actions in favour of waste pickers, municipalities **can —and should—** also provide or facilitate access to motorized vehicles .

To register the recyclable materials in the ECA, the waste pickers' organization must have a weighting system that is monitored by the responsible authority.

In addition, the organization is required to gradually consolidate its corporate image. In operational terms, this implies the use of uniforms and applying minimum standards of industrial safety (gloves, boots, cap, overalls, etc.). Their corporate image must gradually be reflected on the vehicles used to transport the materials.

Once these requirements have been met, the organization can begin to report on the services they have provided within the SUI. These reports must be substantiated with the sales receipts for recyclable materials collected, transported, stored and sorted by the waste pickers' organization. That is, the organizations in the process of formalizing must issue invoices when they sell their materials, be it to intermediaries or directly to industrial manufacturers. This measure has pushed the formalization of the recycling value chain from the bottom-up, starting with waste pickers who have historically worked in informal

[50] A contribution under condition by a municipal or district government is the endowment of goods or rights to use infrastructure and equipment needed to undertake recycling public services. They will be granted under condition that they would not be used to cover maintenance, sustenance or operation of such infrastructure and equipment and their contributions may not be considered in the calculation of the fee for recycling public services (National Decree 596 of 2016). This is a tool available to municipal governments to provide affirmative actions to vulnerable populations.

[51] That is why, when an organization is asked to report the area where they provide services, it normally reports the entire municipality as their service area.

employment and moving upwards to other actors, generating tensions and significant challenges for this sector.

Formalization has also meant the imposition of taxation regulations not previously applicable to waste pickers. Some of these, for instance, sales tax on plastic[52] recuperated by waste pickers, run the risk of discouraging or creating obstacles to the work of waste pickers' organizations.

4.2.1 Operational Processes of Waste Pickers' Organizations

At the beginning, members of waste pickers' organizations are not expected to structurally transform their habits in terms of recuperation, collection and transport of recyclable materials, or to alter their territoriality or collection routes.

The terms and conditions of the organizations' operation are to be stated and publicized through a Contract by Standard Conditions (CCU). The CCU serves to inform users about the existence of the waste pickers' organization and that it has been recognized as a recycling public service provider. It also informs users about the operational aspects related to service delivery. The CCU must be submitted to the CRA for approval. After one year of being recognized in the RUPS, the organization must have a website with information detailing the services it provides.

In the absence of established habits of separation at the source, waste pickers and their organizations' macro- and micro-routes are determined by the frequency and routes used in the non-recyclable domiciliary waste collection and transport service. Given the challenges to change waste separation habits, and the investment and time required to do so, it is essential that the operational scheme of the recycling public service provided by waste pickers and the domiciliary waste collection service provided by the domiciliary waste collection companies be harmonized in terms of National Decree 596 of 2016.

This means that waste pickers' organizations should be able to collect and recover recyclable materials from waste bags before —and with sufficient time—waste collection companies do their rounds. Waste pickers' organizations should be informed timeously and in advance of any changes in the frequency, route or schedule of the domiciliary waste collection service. And any public information or training on the adequate presentation of waste undertaken by domiciliary waste collection companies should promote the role of waste pickers as recycling public service providers. This requires the intermediation of municipal authorities as the guarantors of the provision of public services in their municipality and of the affirmative actions in favour of waste pickers. It also requires the sustained and intensive promotion of practices and habits of segregation at the source and adequate presentation of materials for collection on the recycling route.

4.2.2 The Operation of Recycling Public Services by Waste Pickers' Organizations

Members of a waste picker organization, in the process of formalizing, work on their micro- and macro-routes just as

[52] The national authorities wanted to charge value-added taxes (VAT) to each of the transactions involving purchase and sales within the plastic recycling supply chain, including the sales of plastic recuperated by waste pickers' organizations. Fortunately, the unwarranted imposition of this tax to waste pickers' organizations was addressed and resolved by the authorities in a timely manner.

they have done in the past. They collect the materials and transport them to the ECA where the quantity of recyclables collected is recorded in the organization's system. Once this is done, the materials are commercialized according to type and quantity (measured by weight). Depending on the organization, payment to their members for the materials can either be made immediately or in the medium term and is determined based on the commercial market value and the recycling value chain. This first payment is what waste pickers used to get in exchange for the recuperated materials.[53] Organizations keep a daily record of the quantity of materials recuperated by each of their members.

Simultaneously, the organization keeps an inventory of the amount of material in the organization's ECA, where they collectively accumulate and commercialize the recyclable materials. Each time the material is commercialized, the transaction is recorded through an invoice. This allows the organization to do an accurate monthly measurement of the amount of recyclable material that has been collected, the amount that has been rejected for being in poor condition or contaminated, the material that remains in inventory, and the actual quantity of recyclable materials that have been sold. The last is the figure that is uploaded onto the SUI along with the respective receipts. This is how the organization can demonstrate the scope of the service they have provided.

This information is also shared with the waste collection company, which, in turn, must keep a record of the amount of non-recyclable waste collected, transported and disposed of in landfills. According to National Decree 596, domiciliary waste collection companies must provide support to waste picker organizations for invoicing, collecting the payment for the service, and distributing the payment from the utilities fee to waste pickers' organizations. In practice, the waste collection company must add the amount of non-recyclable waste that it has collected with the amount of recyclable waste that was effectively commercialized and reported by the waste picker organization(s) providing services to determine how much the subscriber should be charged for waste management services for each billing period.[54]

In Colombia, the invoice for recyclable and non-recyclable waste management services is usually combined with other utilities (e.g., water and sewage services, electricity).[55]

Regardless of their socioeconomic status, all subscribers must pay for these services and there is a deadline to make the payment at a bank. Once the payment deadline has passed, the waste collection company collects an amount that is close to the calculated amount for the provision of the service. The payment for recycling services for each organization is calculated based on the information reported by them and that the SUI sanctioned. Domiciliary waste collection companies are responsible

[53] According to the *National Study on Recycling* (Aluna Consultores Limitada 2011), on average, this payment was COP120,000 per month, equivalent to USD18.97 in 1991. But in addition to being outdated, this estimate includes the payment that non-organized waste pickers received from selling materials.

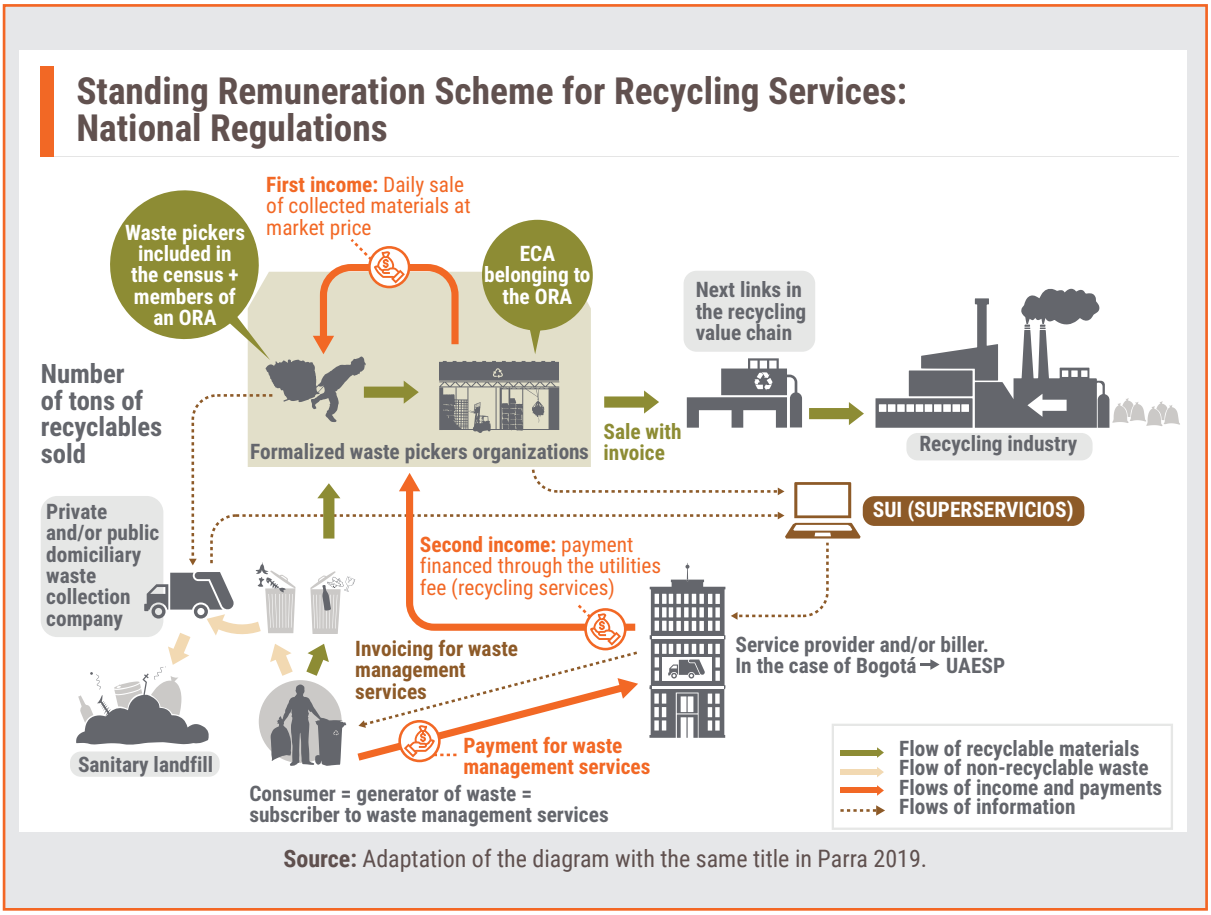
[54] Billing periods can be monthly or bi-monthly.

[55] It is done this way, firstly, because of the enormous difficulty to measure the individual consumption of waste management services, particularly given that users discard their waste in public spaces so that it can be collected; and secondly, because the public nature of the service becomes the guarantee of cleanliness in that area of the city.

for billing, collecting and forwarding the resources related to service payment to the organizations. These resources, in addition to other supports stipulated in the regulation, constitute the payment waste pickers' organizations receive for the service of collection, transport and recycling of materials.

Waste picker organizations must be actively engaged throughout the whole process. Once they report information in the SUI, they need to meet with the waste collection company to agree on the quantities of recyclables reported, and to be informed of the billing and actual collection of payment for the service from subscribers.[56]

Waste picker organizations, in the process of formalizing, distribute approximately 70 per cent of the resources received as payment among their members according to individual productivity.[57] Twenty-five per cent of the payment is used to cover direct costs and related administrative and operational reinvestments for service delivery and for the operation of the ECA(s). Of the remaining 5 per cent, 4 per cent is allocated to the subscriber of the service as an incentive to separate waste at the source and present adequately their waste for collection and 1 per cent is to cover other costs.



Source: Adaptation of the diagram with the same title in Parra 2019.

[56] This is a must, given that there might be discrepancies for different reasons; for instance, not all subscribers pay their utilities on time, the existence of unoccupied dwellings that are not meant to pay for services, or inconsistencies in the service delivery derived from discounts and devolutions to subscribers.

[57] Nonetheless, most of the organizations studied in the context of this document used additional criteria to determine distribution of these resources, including solidarity with older people and people with disabilities.

4.3 Timeline for Compliance[58]

Year One

- Development of a subscriber database that includes the beneficiaries of their services within each collection macro-route. This database has been one of the most difficult requirements to meet. On the one hand, municipal authorities were supposed to support the organizations to build this database, and, in most cases, such support has not materialized. On the other hand, the housing context of the cities[59] and the absence of direct rapport between waste pickers and the public has made it difficult for organizations to create and/or consolidate such databases.
- A **business development plan**, namely, a planning and programmatic instrument. The plan should contain an administrative, organizational and operational baseline for the organization with a view to identifying areas that need to be strengthened for the organization to become a public service provider. This knowledge is useful for budgeting and defining the strategic lines of investment that will be financed with a percentage of the resources from the utilities fee. These strategic lines should be included in the business development plan.
- Development of a **portfolio of services** to position the organization in relation to the users, other service providers and the municipal authorities. This exercise, as well as the development of an **institutional website**, needs to be completed within one year of registration. The website will be the means of communication between the subscriber and the service provider organization and must contain information on the organization as well as the general terms and conditions they have for service delivery.

Year Two

- Establishment of a **programme for service provision** that should detail the operational and technical aspects related to the provision of recycling services.
- Implementation of **service supervision systems.**
- While the registration as a service provider is done in year one, it is only in year two that the **scale calibration registry** is required.[60]

Year Three

- Waste picker organizations must ensure that all their staff have a **certificate in occupational skills** on recycling issued by the National Training Service (SENA). Waste pickers must demonstrate knowledge regarding, among others, the management of materials for recycling, personal safety, occupational health and safety concepts, and recycling processes (Duque and Parra 2016).[61]
- Identifying the beneficiaries of the service allows the organization to have a clear **report of the services in the macro-route** with information on the location and different levels of separation at the source, as well as on good or bad practices.

[58] The Ministry of Housing, City and Territory extended the timeline from 5 to 8 years for complying with the requirements to be recycling public service providers in November 2021.
[59] With 'housing context', we refer to the existing spatial configurations of buildings and dwellings, or residential complexes, the topography, etc. that influence the way in which waste is discarded.
[60] The scale calibration registry must be done before the Bureau of Weights and Measures, which has branches in all the regions in Colombia.
[61] The certification of occupational skills serves to demonstrate that waste pickers have theoretical and practical knowledge on the standards pertaining to recycling.

Box 4. Remuneration for the Provision of the Recycling Service

The following example, constructed by the authors, illustrates how the payment to waste picker organizations is determined.

The city of Villa Verde has approximately 300,000 inhabitants, who are grouped into 50,000 subscribers (each with an average of six inhabitants) to the waste management service (domiciliary waste collection + recycling services). In Villa Verde there is only one private company that provides waste collection services, which disposes of waste in the sanitary landfill on the outskirts of the city.

According to the official census, there are about 300 waste pickers in the municipality and of them, only 100 are organized into two associations: The Villa Verde Waste Pickers' Cooperative (COORRECICLAVILLAVERDE), consisting of 70 members, and the *Asociación de Recicladores Por un Mañana* (ASOREPOM), with 30 members. The remaining 200 waste pickers are not organized, but like their organized peers, they collect recyclables on the streets.

Accompanied by ANR and other support organizations, the two organizations started the formalization process. Because of its experience in this area, the previous administration loaned COORRECICLAVILLAVERDE a space to be used as a collection centre under the form of *comodato*.[62] Now that the waste picker organization has met all the requirements to formalize, this collection centre has become its ECA. ASOREPOM, instead, established an alliance with the owner of a collection centre that was close to them, so that the centre could function as an ECA for ASOREPOM members.

According to the domiciliary waste collection company in Villa Verde, waste production amounts to 1,000 tons per month. COORRECICLAVILLAVERDE and ASOREPOM reported having effectively recycled on average 100 and 30 tons of materials per month, respectively, during the last half-year period. In other words, adding the two components of waste management services, an average of 1,130 tons of waste (domiciliary non-recyclable and recyclable) was collected and transported monthly. Of these, 130 corresponded to recyclable materials recuperated and recycled.

Using the current utility fee structure,[63] the domiciliary waste collection company establishes its costs:

For each ton of waste collected and transported (CRT) it receives: x

For each ton of waste disposed of in a landfill (FDC) it receives: y

Based on its costs, the domiciliary waste collection company, in conjunction with the two waste picker organizations, establishes the base value to calculate the payment for recycling services (VBA).

$$VBA = (x + y) = z$$

In this example, we assume that all subscribers paid for the service in full and on time, i.e. 100% of the utility fee was collected. To determine the amount that needs to be paid to each organization for the provision of the recycling public service, and to avoid significant variations from month to month for the service subscribers, the domiciliary waste collection company multiplies the VBA by the average monthly tons reported during the last six months by each organization.

The formula to calculate the payment to waste pickers' organizations would be as follows:

Remuneration to COORRECICLAVILLAVERDE: 100 x z

Remuneration to ASOREPOM: 30 x z

Both organizations are also entitled to an additional payment included in the service charge called **commercialization cost by subscriber** (CCS). This item corresponds to the costs for the billing process, the collection and transfer of the fee, as well as other costs derived from customer services.

[62] According to the Colombian Civil Code (art. 2200), the *comodato* is a loan contract where one party grants a movable tangible property at no charge so that the other party can use it. Once the latter has finished using the property, it can be returned.

[63] Based on existing regulations, the Base Value of Recycling (VBA) is determined by the sum of the average cost of waste collection and transport (CRT) and the average cost of the final disposal of waste (CDF) incurred by non-recyclable waste service providers, and how these are affected by the incentives granted to subscribers for separating materials at the source (DINC). *VBA= (CRT+CDF) x (1-DINC).* Until a baseline has been established, DINC will have a value equal to 0, hence, *VBA = (CRT+CDF).*

- Given the complexity of the processes involved in the provision of recycling public services, by year three the organizations must have **paid personnel.**

Year Four

- Organizations must **respond directly to requests, complaints and claims (PQR)** that until then were received and transmitted to them by domiciliary waste collection companies.
- **Have an emergency and contingency plan.**

Year Five

- Consolidation of the organization's accounting systems and up-to-date **financial statements.**
- The identification of their beneficiaries is used to create a **georeferenced map of service delivery within the Magna Sirgas Programme** —the software used in Colombia specifically for this purpose.

Part 3. Formalization in Balance

While it may seem early to make a full-fledged assessment of the application of National Decree 596 of 2016, some problems have already emerged. In some cases, these issues have been resolved; but in others, they remain. Among them, the development of the regulatory framework on recycling has evolved independently from —and without synchronizing it with— the timelines that waste pickers must abide by in the formalization process.

The assessment of the progress made towards formalization by the organizations should urgently be made concomitant to the application of these regulations.

Even if several of the points below could change and/or no longer exist in the future, this document presents a balance of the achievements, opportunities, threats and restrictions that the process of formalization as recycling service providers has meant for waste pickers in Colombia up to December 2019. This analysis was done based on the experience of accompanying waste pickers' organizations, ANR's members and allied organizations, undertaken by WIEGO and the study *Caracterización de organizaciones de recicladores en proceso de formalización* (Universidad Nacional de Colombia/SUPERSERVICIOS 2018).

5.1 Achievements and Opportunities

The first achievement is, undoubtedly, **the creation of a clear path** that any waste picker organization in Colombia can follow to be recognized as a recycling service provider. To be recycling service providers, organizations need to comply with a series of competencies, requirements and procedures within a specific timeline (five years of obtaining the RUPS).

The second major achievement is **the definition of a series of responsibilities for each of the actors involved in the provision of the recycling public service**, aimed at guaranteeing both the consolidation of the waste pickers and their organizations as recycling service providers, and their capacity to provide such service adequately.

Thus, the municipal authorities as guarantors of the provision of this service have the responsibility to safeguard waste pickers' rights in their municipality and provide them with adequate support according to their organizational level.

To facilitate that, regulations governing all the components of the provision of public waste management services were equipped with a decision-making process, and with improved and more adequate public policy tools to this end.

Municipalities can and should define, and intervene in, the relationships between the various stakeholders, e.g., domiciliary waste collection companies, service users and waste pickers. In other words, the mandate is for municipal authorities to regain political control over public waste management, which they previously delegated to domiciliary waste collection service providers.

Domiciliary waste collection companies, in terms of their operations, must be harmonized with waste pickers' organizations to enable the latter to provide the recycling service. Consequently, they must facilitate the following processes: cost definition, invoicing, payment collection and the payment transfer to waste pickers' organizations as compensation for the service they provide.

Users, grouped into subscribers, in addition to paying for the service, must develop separation habits at the source and properly present recyclable materials, following the educational initiatives made in this regard by municipal governments and service providers.

The third achievement is **the establishment of a remuneration scheme for the recycling service**. Although this scheme does not yet reflect the actual direct costs incurred by waste pickers in service provision, the payment does represent a source of income and a significant improvement in the material conditions of waste pickers and their organizations.

Despite the disconnections between the different actors and the problems in the system to consolidate the information, this regulatory framework has allowed for **the measurement, sizing and visibility of the service that entails the recuperation, collection, transport and recycling of recyclable materials**. There has been an increase in the quantities of recyclable materials recovered with respect to the available baseline. However, there is no estimate that shows what percentage of this increase is due to the formalization of the recycling public service or the possibility of measuring what already existed, but has only started to be recognized and made visible. Regardless of the lack of consolidated data, the figures reveal the magnitude and significance of the recycling component within public waste management services.

Finally, it is important to note that the policy reorientation of public waste management services reverses former priorities in favour of an **adequate hierarchy in waste management**. This reversal moves towards a model of waste management that is socially, economically and, above all, environmentally more sustainable than the model based on the transport and controlled burial of waste.

5.2 Restrictions and Threats

The main threat to waste pickers' recognition and remuneration as recycling public service providers comes from the preponderance given by national authorities —erroneously, in our view— to the principle of free competition. In their view, the collection, transport and recycling of materials, as a component of the public waste management service, needs to be guided by the same principle that defines the domiciliary waste collection service. In other words, the underlying assumption is that the free confluence of actors must be allowed

to achieve the necessary standards of efficiency, coverage and universality in service delivery.

In so doing, the national authorities forget that the jurisprudence of the Constitutional Court defined the recognition and remuneration of the recycling service as an affirmative action in favour of waste pickers. According to the Constitutional Court, the formalization of the recycling service is aimed at enabling waste pickers to overcome their condition of poverty and vulnerability, not to create business opportunities for companies and other third parties.

Furthermore, free competition, in principle, occurs among equals. However, waste pickers and their organizations **are not on an equal footing** with the actors that intend to compete with them for the provision of the recycling service (among them, domiciliary waste collection companies, waste logistics companies, intermediaries and companies created by some waste industrialists).

Therefore, and following the jurisprudence of the Constitutional Court, if the principle of free competition is to remain, the first contestation that can be made to the interpretation used by national authorities is that **such competition should be among waste pickers only. And even in this case, it is not possible to speak of a level playing field between waste pickers.**

Nevertheless, the logic of free competition has prevailed. In the eyes of the national authorities, granting waste pickers' organizations more flexibility on the timelines is enough for them to comply with the requirements to provide public services, and hence, making the need for affirmative actions in their favour unnecessary. They believe that this will suffice to ensure that waste pickers' organizations are not displaced by the entry of companies into the public service of collection, transport and commercialization of recyclable waste. Evidence says otherwise.

Firstly, the payment, financed through the recycling fee, now constitutes a new incentive for the entry of actors outside the recycling chain into the provision of these services. The payment, together with the sale of recyclable materials, represents an attractive business. So, now, protected by the principle of free competition, waste logistics companies, intermediaries in the recycling chain and domiciliary waste collection companies, among others, are competing with waste pickers for recyclable materials. And although these actors need to meet more requisites, these additional requirements are not an obstacle preventing them from offering recycling public services given their financial, technical and technological muscle. They can also exceed the collection capacity of waste picker organizations, which, despite benefitting from a gradual route towards formalization, are far from capable of matching the capacities of those companies.

The supposed graduality and easing of the requirements become clearly insufficient measures. They do not strengthen waste pickers' organizations or create warranties for them to have guaranteed access to recyclable materials.

In effect, what has happened is that national authorities have strengthened the recycling service, instead of strengthening waste pickers' organizations, thus contradicting the jurisprudence of the Constitutional Court which placed their protection above other public policy criteria.

Secondly, the timeframe to comply with the formalization process to become service providers cannot be the same for all waste pickers' organizations, given the heterogeneity that exists among them in terms of organizational levels. Some organizations have been able to meet requirements within the established timeline. However, a large segment of waste pickers, those who are unorganized and waste pickers grouped in weak organizations, are far from being able to integrate into the process to engage in formal service delivery. Moreover, these groups will find it more difficult to access waste in a context of increasing competition.

The Constitutional Court established that affirmative actions should benefit all waste pickers. According to the regulation, municipal authorities are responsible for creating programmes that target the different types of waste pickers according to their organizational level, and to accompany and strengthen them to ensure that they can participate in this formalization process. Unfortunately, there are very few municipalities doing this. Thus, a significant part of the country's waste picker population is being left behind.

Thirdly, in addition to the failure of municipal authorities to play their role, there is tension between the protection of waste pickers' rights and the use of free competition as the guiding principle for the provision of public services. The national normative framework mandates municipal governments to take control of waste management, to ensure guaranteed access to recyclable materials for waste pickers, and to formalize their participation in the recycling component of the public waste management service in a harmonized way. In other words, municipalities must have a say in the decisions pertaining to both the domiciliary waste collection, transport and final disposal services and the recycling services in their territorial jurisdiction.

Most municipalities have not fulfilled these tasks. In some cases, they have even acted in ways that further harm waste pickers. But the most serious issue is that, in the few cases where the municipalities have assumed responsibility for the control of waste management and their role as guarantors of waste pickers' rights, the SSPD has demanded that the right to free competition not be affected. In other words, for the SSPD, the measures undertaken by municipalities to ensure waste pickers' guaranteed access to recyclable materials are seen as market restrictions.

In summary, the main risk factors that this path to formalization entails for waste pickers in Colombia are the level of requirements vis-à-vis their organizational levels, the absence of adequate accompaniment, and lack of guarantees that preserve waste pickers' livelihoods during the transition.

In June 2019, three years after National Decree 596 came into force, female and male leaders from member organizations of ANR gathered to assess, based on their own experience, the implications for them of the path to formalization established in the regulatory framework for the recycling component of waste management. This section gathers the positions of 140 leaders, captured during the National

Workshop to Review and Analyze the Recycling Scheme in Practice.[64]

In the workshop, leaders from waste pickers' organizations, in their own voice, identified the challenges in the regulatory framework on recycling, and the path to formalization it establishes. The rest of this section describes, according to these leaders, the main challenges they face.

Inconsistencies of the Legal and the Regulatory Frameworks with the Spirit of the Constitutional Court's Orders

The regulation of the recycling component of public waste management services is not consistent with the rulings of the Constitutional Court, nor does it identify or adequately reflect the condition of waste pickers as subjects of special protection by the State or the preferential treatment that they and their organizations should have.

In particular, the recycling scheme is governed by the Law on Public Services (Law 142 of 1994), and is, therefore, an obsolete scheme that does not facilitate the protection and promotion of waste pickers' organizations as recycling service providers.

Moreover, it is outrageous that the National Decree 596 allows the recognition and remuneration of other actors who are not subject to special protection especially when the Constitutional Court's rulings viewed those measures as affirmative actions directed towards waste pickers.

According to leaders of waste pickers' organizations the decree gives more burdens than rights to waste pickers.

The Transition to Formality Does Not Consider the Situation of Waste Pickers' Organizations

Several of the requirements for waste pickers' organizations to be recognized as public service providers, as well as the timeline to formalize (see section 4.1), are very difficult to meet. One such requirement is to maintain a user register or database. Obtaining the identification and complete information of subscribers (e.g., the Unique Subscriber Identification Number or NUIS) is a major challenge for waste pickers' organizations due to, among other factors, their actual capacities, and the negative imaginaries and the cultural rejection towards waste pickers among the population in the municipalities in Colombia.

Waste pickers' organizations are also required to acquire and run an ECA, develop education campaigns for separation at the source, create a business development plan, geo-reference their macro and micro routes, and to register their vehicles or means of transport, including human-powered vehicles.

The five-year phase-in to move towards formalization was seen as an affirmative action to give waste pickers' organizations time to adapt to the requirements, which, in addition to the possibility of receiving remuneration from day one, would allow them to fulfil service delivery standards. It has become clear that this timeframe has not been enough.

Some of the reasons for this are:
Firstly, compliance with the timelines established in the regulation require waste pickers' organizations to be strengthened and receive substantial technical and organizational support from

[64] "Taller Nacional de Revisión y Análisis Gremial del Esquema de Aprovechamiento en Ejecución". This workshop was organized by ANR, the law firm PRÁVNE, and WIEGO, and took place on July 11-12, 2019, in Bogotá.

municipalities and other governmental bodies. In many cases this has not happened. Secondly, waste pickers' organizations in Colombia are at various levels of organizational development and, therefore, require differentiated actions to address their specific needs. And thirdly, waste entrepreneurs can provide the service from day one without the need to use the phase-in steps to enter the business. With this phased approach waste entrepreneurs can capture all the recyclable materials, leaving waste pickers' organizations without access to them. In such a scenario, it would be useless for waste pickers' organizations to be granted graduality to fulfil the requirements, if afterwards there will be no recyclables to collect.

In the process of creating and registering waste pickers' organizations as service providers, there are no mechanisms to filter and guarantee they are in fact solidarity-based waste pickers' organizations. The disastrous result of this failure, attributable to municipal authorities, is that by December 2019, 68 per cent of those presenting themselves as waste pickers' organizations to provide recycling public services could not prove that they were formed by *recicladores de oficio* (SUPERSERVICIOS 2018: 17).

There is a need for a new mechanism to recognize waste pickers as well as a transition period that guarantees that the provision of the recycling service will remain exclusively for waste pickers' organizations during the process of formalization as is stated in the International Labour Organization's Recommendation 204.

In particular, the registration as a service provider in the Single Registry of Public Service Providers should be done in a differentiated manner to give priority to waste pickers' organizations. The registration should also have controls to verify that these organizations are in fact made up of *recicladores de oficio* and that they actually operate as an organization.

The registration process should also identify the organizations that do not consist of waste pickers, yet seek to co-opt and take advantage of the benefits and rights gained by waste pickers.

The most critical issue, however, is the failure of municipal authorities, whose support is critical and fundamental to waste pickers' successful transition to formalization, to fulfil their responsibilities. These include, for example, the full identification of waste pickers and their organizations through a census as well as a process to verify that the organizations are waste pickers' organizations. Once waste pickers have been identified, municipal authorities should develop programmes for organizational accompaniment and capacity-building for formalization. **This has not happened.** Finally, municipalities must guarantee waste pickers' access to recyclables by including them in public waste management operative schemes.

Problems in the Operational Model of the Recycling Component of Waste Management

a) Lack of a culture of separation at the source

   The promotion of separation and proper presentation of waste has not taken place. This is a structural problem that ends up affecting, and being assumed by, waste pickers.

   Furthermore, the users' incentive to separate waste at home and present it properly is poorly formulated and designed. The mechanism to measure it does not work because it is almost impossible to identify and individualize the responsibility for good or bad

practices in the presentation of waste; there are waste containers in several municipalities where part of the waste is disposed of; and the payment to waste pickers' organizations for the recycling service is determined on the basis of tons of materials effectively recycled (commercialized), and not per subscriber served or per area cleaned.

The issue of capacity[65] and large producers is critical. Its design is perverse, as it requires that, if there is a significant volume of recyclables, the subscriber be labeled as a large producer and that they pay. directly to the waste picker organization for the service. However, the commercial value of recyclables makes it unattractive for large producers to use this format, given that selling the recyclable materials would be more profitable than paying for the collection service.

b) Costing and pricing of recycling services

The current definition of the costs of the recycling service, understood as avoided costs, does not reflect the actual costs incurred by waste pickers' organizations in service delivery because waste pickers and domiciliary waste collection actors provide different services and work differently. For instance, waste pickers recuperate mixed waste and then sort it. Furthermore, recyclables cannot be compacted and, therefore, take up more volume and the means they use to carry them are human-powered. In other words, the costs of the recycling service are higher. In practice, this means that by being paid less than the actual cost of providing the service, waste pickers end up subsidizing the recycling service.

Costing of the recycling service should be based on the actual service delivery practices of waste pickers as service providers. Progress has been made in this regard in a study by the ARB and WIEGO in 2010.

Regarding the waste management fee, unfortunately, society has been misinformed into believing that the increase in the utilities fee is primarily due to the inclusion of waste pickers and the payment for their services. However, the services that have weighed most heavily on the spike in the waste management fee are city cleaning, bridge and monument washing, grass cutting and tree trimming, and street sweeping.

By placing undue responsibility on waste picker organizations, this misinformation has the potential to negatively affect the relationship between waste pickers' organizations and society, and worse, to be used as an argument to discredit their ability to provide this service.

c) The principle of collaboration between domiciliary waste collection companies and waste pickers' organizations

The assumption that such collaboration would be harmonious is only theoretical and there are important problems with this presumed collaboration. In its design, the scheme creates a conflict of interest, given that domiciliary waste collection companies are

[65] The capacity (*aforo*) is defined as "[...] the result of specific measurements, duly made by a valuator authorized by the concessionaire, with respect to the amount of solid waste produced and presented by a subscriber either individually or jointly to the waste collection concessionaire." Permanent Waste Management Capacity: This is carried out by the waste collection concessionaire for subscribers who are large or small producers of solid waste, when they collect the waste presented by the user (UAESP 2019, translation by the authors).

both judge and party. Waste pickers' organizations depend on them to do the invoicing, payment collection and the transfers of service payment. But domiciliary waste collection companies can hamper these processes by delaying the transfer of resources to the organizations by two or three months —sometimes even for a year and a half.

Domiciliary waste collection companies need to provide waste pickers' organizations with the information that is available to them in a more explicit, detailed, clear, and transparent way. This includes, for instance, the balance of masses (i.e., amount of recyclable waste plus the amount of waste disposed of), the costs of their fee, and the fee for recycling, as well as the amount of money collected in the municipality.

An even bigger threat from the relationship with domiciliary waste collection companies is that they may set up their own recycling initiatives while blocking waste pickers. And the worst is that despite the complaints made to the entities responsible, nothing is done.

d) Use of official platform

The processes to report information in the virtual platforms for service providers are very complex and need to be simplified. Also, given the instability of the platform, the time to ensure that reporting is timely, and fluid should be extended.

e) Process to handle petitions, complaints and grievances

The process to respond to and handle petitions, complaints, and grievances (PCG) is complex for waste pickers' organizations because it was designed for the entrepreneurial scheme that prevails for the provision of non-recyclable waste management —and not for waste pickers' organizations. To illustrate this point, it would suffice to show how difficult it is for waste pickers' organizations to fully identify subscribers, or take into account, given that the same subscriber may have been served by several organizations, it is very difficult for the organization to identify their subscribers.

f) Monitoring and control

In monitoring and controlling the provision of the recycling service, as well as that of the formalization process, the responsible authorities only look at the shortcomings of waste picker organizations in relation to the list of requirements stipulated in the regulations. However, they fail to see the lack of compliance of municipal authorities with their responsibilities to support the process of formalization of waste picker organizations; the obstruction of the process by, or the non-compliance of, domiciliary waste collection companies; or the realities of competition in the territory, within the municipalities.

Furthermore, it is important that the Superintendence has actual data on waste production in the municipalities that is disaggregated by type of material, as well as access to well-crafted and updated censuses of waste pickers to properly undertake their monitoring and control functions. Otherwise, it will lack baseline information to make comparisons and will not be able to determine whether the organizations are formed by waste pickers, or if the volume of materials reported within the recycling component of waste management matches what has been produced.

Recommendations from Waste Pickers' Organizations

The Constitutional Court's rulings are hierarchically superior to the regulations issued by the executive branch at national and municipal levels. In other words, these regulations must comply with the jurisprudence emanated from the Constitutional Court. However, the formalization decree (National Decree 596), as well as the tax and administrative regulations related to the provision of recycling services, **do not adequately reflect the orders** in favour of waste pickers issued by the Constitutional Court.

Until now, formalization, according to National Decree 596, has been understood as the adaptation of solidarity-based organizations to the entrepreneurial model used in the waste management component of collection, transport and burial of non-recyclable waste. The formalization process has not contemplated other viable alternatives that already exist and are equally valid, such as a labour-intensive system for recovering recyclable waste, carried out by waste pickers cooperatives and associations. The social and environmental benefits resulting from waste pickers' work that would influence the cost-benefit analysis of utilities fees have not been considered and, therefore, have not been factored in. In other words, the formalization-equity-environmental sustainability equation has not yet been addressed.

The Constitutional Court states that any formalization process should begin by recognizing waste pickers' work means and practices, and, based on them, it mandates that significant, comprehensive and progressive improvements be generated that respond to waste pickers' heterogeneous organizational levels in each municipality.

Therefore, obsolete regulations or those designed exclusively for entrepreneurial schemes of waste collection and burial should be imbued with the jurisprudence emanating from the Constitutional Court, which includes solidarity economy organizations made up of waste pickers —who, according to the Constitutional Court, are subject to special protection by the State.

This means that the provision of the recycling service must recognize and be structured around the system that waste pickers' organizations have created and that builds on, and strengthens, their labour, as well as the direct rapport between waste pickers and the public.

Capacity building and the development of responsibilities among each of the different actors within the chain, particularly the users, is determinant to move towards a formalization process that reflects waste pickers' needs and interests, and that fosters a dynamic where citizens separate and appropriately hand in their recyclable waste to their organizations.

There is also an urgent need for municipal authorities —who are responsible to ensure waste pickers' right to guaranteed access to waste— to fulfil their responsibility and to integrate waste pickers' protection and support demands into their policy agenda and programmatic policy instruments.

7.1 Assessment of the Formalization Path

At first glance, it could be argued that the formalization process of waste pickers implemented in Colombia resulting from the rulings of the Constitutional Court has had significant outcomes.

This is illustrated in an evaluation of the process up to June 2019 by the Superintendence (SUPERSERVICIOS 2019). According to the Superintendence, 488 service providers proved that they collect, transport, store and commercialize recyclable materials (namely that they comply with the provision of integral services of recycling). Of the 488 service providers, 428 said they comply and are interested in formalizing, meaning that most recycling service providers (88%) are participating in a gradual process of formalization. In theory, 428 waste pickers' organizations are entitled to benefit from the "flexible" scheme to formalize and the rest (60) are private companies.

Of the 428 waste pickers' organizations, only 349 reported information on the number of members they had —but some of these members belonged to more than one organization. Once the issue of double affiliation was identified and the data consolidated, the Superintendence estimated that as of December 2019, 32,066 waste pickers were providing recycling public services. It should be noted, however, that not all the waste pickers' organizations that provide services are being remunerated, so there is no actual information on how many waste pickers are being paid for the recycling public service.

The number of municipalities with at least one waste picker organization providing the public service of recycling has increased and, by December 2019, there were 94.

Finally, according to the national study on recycling (Aluna Consultores Limitada 2011) the average income of a waste picker was COP12,000 at the time of the study (USD61 as of 2011).

While there is no consensus on the data to be used as a baseline to determine an average increase in monthly income per waste picker, it is important to note that the formalization and remuneration of waste pickers as recycling public service providers has brought significant increases for waste pickers belonging to a service provider organization. These increases are attributable to the income from the service fee. As explained earlier, this additional income relates to the amount of recyclable material collected, transported and brought by each waste picker to their organization's sorting and recycling centre, and corresponds to 70 per cent of the payment for each ton reported as part of the service. Defining an average amount is difficult because it varies according to individual productivity month by month, and because this remuneration is paid to the organizations for the total amount of tons reported within the system also month by month. It is the organizations that distribute the payment directly to their members.

The study commissioned by the Superintendence in 2017, and published in 2018, on the characterization of waste pickers' organizations in the process of formalization and carried

[66] While the Brief was written in 2019, the reflections in this section were updated in March 2021.

out by the Institute of Urban Studies of the National University, established a correlation between the size of the waste pickers' organization and the monthly income of their members: the larger the organization, the greater the potential income of its members. This correlation does not, however, consider each waste picker's productivity, which is determined by the quantity and quality of the materials recovered in their micro-route, their means of transport and whether they have "fixed sources"[67] of recyclable material. Notwithstanding this bias, the study notes that a waste picker, on average, can collect between 2.4 and 2.7 tons of recyclables per month, and that 67 per cent of the organizations in the process of formalization that were included in the sample surveyed reported that each of their members earns between COP400,000 and COP800,000 (USD127-170 as of August 2017) per month from the collection, transport and sale of recyclables (Universidad Nacional de Colombia/Superintendencia de Servicios Públicos Domiciliarios 2018).

An assessment by Federico Parra of the situation in the early 2020s, informed by field observations and direct contact with grassroots waste pickers' organizations in different parts of Colombia, presents a less optimistic picture. The monthly average income of an organized waste picker from the sale of recyclable material hovers around COP300,000 (approximately USD103 in 2020), and the second income from the utilities fee, between COP120,000 and COP200,000 (approximately 42 USD and 70 USD in 2020), which would amount to approximately USD145 per month. It should be noted, though, that these figures are not the result of a statistical study and are, therefore, not representative. There are a significant number of organized waste pickers who are above this average, and an even larger number of unorganized waste pickers who only earn income from the sale of recyclable material.

Despite these significant results, it is important to reflect further on the process and assess if the path set forth to formalize waste pickers indeed responds to the spirit of what was mandated by the Constitutional Court. The Court's rulings emphasized, on one hand, the recognition of waste pickers because of their public and environmental function; and, on the other, the need to guarantee their livelihoods during the transition to formalization as a measure to protect them given their situation of vulnerability.[68]

More importantly, the reflection about the formalization process **should evaluate whether it responds to what formalization should look like according to the needs and demands of waste pickers** (see Section 6). It should also elucidate on the nature of formalization to determine if it is a desirable formalization process that will result in the gradual extension of rights,

[67] A "fixed source" refers to a mutually agreed commitment that the subscriber will give that individual waste picker their recyclables.

[68] Having guarantees for waste pickers' livelihoods until real livelihood alternatives are offered has been a constant item in multiple pronouncements by the Constitutional Court. When speaking about formalization, the Constitutional Court has reiterated the responsibility of the State to ensure waste pickers' livelihoods during the transition process. This guarantee is also one of the guiding principles of ILO's Recommendation 204.

protections and favourable[69] conditions for them to exercise their work, or if, on the contrary, it is an undesirable process of formalization.[70]

In addition to the consideration of the ultimate objectives of informal workers, the evaluation of the formalization process should inquire about the issues that formalization seeks to address: what and who should formalize, the associated costs and benefits, and who are the winners and losers in this process. It should also examine whether informal workers were consulted in, and agreed to, the design and implementation of the formalization initiative, and if the initiative responds to, or hampers, their interests.[71]

When using these questions to guide the outcomes and/or challenges analysis of the formalization process of waste pickers in Colombia, some of the more obscure aspects of the process emerge (e.g. the ones that put at risk the only opportunity **to build an inclusive and redistributive system** that includes waste pickers in the provision of public services.

Real Integration of Waste Pickers into the Recycling System? The Devil is in the Details

It is impossible to determine from an in-depth review of the official data how many of the 428 organizations registered by December 2019 were indeed waste picker organizations. This is very troublesome given that there are waste logistics companies or intermediaries that have sought to seize the benefits and revenues generated by the utilities fee that are intended for waste pickers.

This could be controlled by verifying that the members of these organizations are included in the municipal censuses of waste pickers, which, in theory, are mandatory. Unfortunately, 42 per cent of the municipalities where waste pickers' organizations are providing recycling services do not have a census of waste pickers. Worse, only 35 per cent of the waste pickers that form part of the 488 organizations are registered in municipal waste picker censuses.

Regulatory Loopholes Feed Neoliberalism's Opportunism

As of December 2019, of the 488 organizations registered as recycling service providers, 60 were companies. These companies have taken advantage of the loophole created within the regulatory framework by capitalizing on the fact that, in the formalization process for waste pickers, authorities emphasized the formalization of the recycling component of waste management (namely, the provision of this service). In addition, the regulations regarding recycling services have upheld the principle of free competition. These companies have begun to provide the service without the gradualism

[69] A desirable process of formalization would be one where there is a gradual materialization of workers' organization, collective voice and bargaining power, of their legal identity and status; of basic infrastructure and transport services; of regulated access to public spaces and natural resources; of economic rights, including labour, commercial and property rights; as well as policies, laws and programmes aimed at increasing productivity and viability of informal companies, and the salaries/incomes and productivity of people working in informal employment (See. Chen 2019: 10).

[70] While undesirable formalization processes can take multiple forms, such processes can include the creation of contracting practices that subordinate people working in informal employment and/or their organizations or economic units; and/or that only impose requisites and obligations without offering the benefits of moving towards formality (See. Chen 2019).

[71] These questions form part of the WIEGO guidelines created to monitor and evaluate the different approaches to formalization (WIEGO, Formalization Committee, 2018: 1).

and flexibility given to waste pickers' organizations as part of their transition towards formalization. Yet, because of their characteristics, they are poised to seize the benefits and incentives originally intended for waste pickers.

While, in theory, these 60 companies would seem to be outnumbered by the supposed 428 waste pickers' organizations that are registered, among the companies are large corporations capable of swallowing up the entire market, even before waste pickers' organizations can transit to formalization.

To illustrate this point: Veolia, the French transnational corporation, formally entered the country in 2018,[72] and is increasingly acquiring domiciliary waste collection companies and recycling service companies in several municipalities. In the municipality of Pasto, in the southeast of Colombia where WIEGO began to document the implications of the arrival of this company, Veolia's purchase prices for recyclable materials were so high that waste pickers' organizations could not match them for their members. To respond to the actions of this big transnational corporation, ANR is undertaking actions to defend waste pickers' interests in this municipality and in all of Colombia.

The State: Guarantor of Rights or of the Market?

The Court also entrusted the State with making waste pickers subjects of special protection by the State, developing affirmative actions to redress their conditions of inequality and vulnerability, and protecting their livelihoods during the formalization process.

However, in addition to upholding the principle of free competition, the national authorities created incentives for non-waste picker actors within recycling regulations. These actors have the potential to hinder waste pickers' inclusion and sustainability as service providers. The decision to include an **incentive for recycling** in National Decree 596 is an example of this. This incentive allows **domiciliary waste collection companies to position** themselves in the recycling component of waste management and consolidate themselves within this value chain. In the eyes of waste pickers' organizations, the regulation has put them in an asymmetric power position *vis-à-vis* these companies. The regulations act to the detriment of waste pickers' organizations and create incentives for these companies to become their competitors instead of fulfilling their responsibilities, in particular, because these companies are responsible for invoicing, collecting payments and distributing the payment of the recycling service.

As if this was not already bad enough, the municipal authorities are not fulfilling responsibilities entrusted to them in the regulations. To date, more than 80 per cent of the municipal governments have failed to develop affirmative actions in favour of waste pickers and to offer their organizations technical, administrative, material (infrastructure or facilities), or accompaniment throughout the different phases of formalization. And yet, the government entities responsible for monitoring and controlling public services evaluate the services provided by waste pickers' organizations using the same criteria designed for formal companies operating within an entrepreneurial

[72] Veolia already had a presence in Colombia through subsidiaries and other companies where it held shares.

model, turning a blind eye to the original situation of the organizations.

To make matters worse, the Extended Producer Responsibility (EPR) policy drawn up by the Ministry of Environment and Sustainable Development, in clear disconnection with the regulations for the provision of recycling services established in National Decree 596, urges companies to recover their packaging by **alternative means** to those already in existence, including waste pickers, and creates the legal figure of **waste managers**, companies dedicated to recycling, making room for business initiatives that seek to enter this segment of the chain. This adds incentives for the entry of even more actors that could displace waste pickers.

To deal with all the threats mentioned above, ARB and ANR (in tandem with its regional offices) have denounced them through legal actions, one of which was a contempt of court filed before the Constitutional Court. And in alliance with support organizations, such as WIEGO, they have made public denunciations, published academic and other documents in strategic spaces, and have participated in public fora and in the media. There has also been active participation within the Regional Initiative for Inclusive Recycling leading to strong statements of concern from the alliance regarding what is happening in Colombia.

According to ANR, the decree needs to be amended to resolve its structural failures but ensure that its merits are preserved. To that end, ANR has filed several legal challenges and counterproposals, which have resulted in 2021 in a commitment from the Ministry of Housing, City and Territory to extend the timelines in the process of formalization, and amend National Decree 596 of 2016.

Meanwhile, a minority group of waste picker organizations led by the Asociación de Recicladores Unidos por Bogotá (ARUB) filed in 2017 a lawsuit before the Supreme Court asking for the decree to be nullified. If successful, this lawsuit would imply the cessation of the remuneration of waste pickers under the operational scheme defined by National Decree 596 of 2016 of the Ministry of Housing, City and Territory in relation to resolution 720 of 2015 of the CRA.

Yet Another Issue: Failures in the Traceability of the Recycling Service

Since the end of 2020, the Superintendence has been requesting several of the recycling public service providers (waste pickers' organizations and private companies) to withdraw a certain number of tons of recyclables resulting from their monthly collection, transport and commercialization services that have been reported in the official platforms for the recycling public service. The Superintendence defends this decision by arguing that it has found that some of these reports are, "in theory", above the amount of recyclables produced for a given municipality. This measure has generated many tensions with waste pickers' organizations and private recycling service providers, as it has shown the serious difficulties of the monitoring and control system for an ever-growing number of recycling public service providers and the capacity of the Superintendence to oversee them.

This also illustrates the inability of the regulation to ensure the traceability of the tons of recyclable waste that are reported within the collection, transport and management of recycling waste. Some of the problems observed include the reporting of tons of recyclables made up of special waste (e.g. electrical and electronic equipment and construction

waste) – waste that does not come from the provision of the recycling public service; waste that was purchased directly from collection centres rather than collected and transported from households; or the reporting of tons of recyclables that were collected in a different municipality to which they are allocated for remuneration.

Further complicating this is the fact that not only do many municipalities not have a census of waste pickers, they also lack information on the amount of waste produced in their locality and on averages of how much of that waste is recyclable. This means that the Superintendence does not have a baseline to assess whether the figures for waste recycling services reported in a given municipality correspond to reality.

In the absence of this information, the Superintendence has resorted to using national statistics as a reference, thus ignoring the specific characteristics of waste production in each municipality, or sometimes making use of reference figures for waste production that are outdated or inadequate measures of waste production. This has been a source of frustration, as it suggests that many of the requests to slash the number of tons of recyclable materials reported into the system are unfunded, and are, therefore, unfair.

This is a very serious issue that affects the waste pickers' organizations providing recycling waste management services in the correct way. It is therefore urgent to adapt the regulation in question.

ANR has demanded that the national government amend National Decree 596 of 2016, stating that, while the merits of the decree must be recognized, there is an urgent need to correct its flaws, particularly with the prevalence of favouring non-waste pickers in the market for the provision of recycling waste management services over compliance with the Constitutional Court's orders regarding the recognition and development of affirmative actions in favour of waste pickers.

7.2 Lessons Learned from the Formalization Process

The evaluation of the path to formalization by waste pickers in this Technical Note shows that, while there are important achievements, there are also significant challenges inherent to the approach to formalization adopted by the Colombian authorities. The different views around formalization held by the Constitutional Court, the national authorities and waste pickers are evident. What we are witnessing is a struggle for the meaning of the concept of formalization itself. This is not irrelevant: the current process of formalizing labour related to recycling is not the same as formalizing waste pickers' informal employment, which was the spirit of the orders from the Constitutional Court.

The formalization of informal workers cannot be done through the application of formulas designed for formal workers, nor can the requirements to be fulfilled be the same. To promote waste pickers' formalization, it is important to first have a clear understanding of the situation of their organizations, and of waste pickers' habits, work practices, technology and organizational forms, and particularly how to ensure guaranteed access to recyclables for these workers. And building on that, to commence working on gradual improvements, defined in the workers' own terms to advance towards decent work standards.

Instead, the current formalization process has been created using an entrepreneurial model. In the view of waste pickers,

the goal of formalization is not to move towards corporate entrepreneurship. Their objective is the recognition and remuneration of their work, as well as opportunities to advance in the recycling chain, but not under an entrepreneurial model. There are socio-productive forms of organization embodied in the solidarity economy that have already been recognized within the regulations pertaining to the provision of the recycling service. The advantages of opting for these types of organization are grounded on their nature: they are redistributive, labour-intensive and collaborative, based on interpersonal relations among waste pickers and their organizations, and with the public.

For the new paradigm in waste management, one that prioritizes the recycling of reusable materials as was ordered by the Constitutional Court, to materialize, it is imperative that the responsibility not fall exclusively on waste pickers. Rather, what is needed is a dynamic of co-responsibility among all the actors involved, including national and municipal authorities, domiciliary waste collection companies and the population.

In the case of the population, this implies the separation and adequate presentation of waste to reduce work-related risks for waste pickers and to augment the amount of recuperated recyclable materials. It also requires understanding from the public of the benefits that the work of waste pickers brings to them and to the environment, and the public's awareness of waste pickers' living and working conditions. In addition, the public should recognize the value of waste pickers' services, and the direct connection between the payment for these services and the improvements in these workers' living conditions and livelihoods.

The linkages between the population and waste pickers and their organizations are also fundamental to re-signify waste pickers' work and to help consolidate their identity as recycling public service providers, leaving behind the stigma that has been associated with them.

This reflection about the path to formalization has also drawn important learnings for the work that WIEGO does in Colombia in support of waste pickers. One is the relevance of using a rights-based approach as a fundamental tool to counteract the principle of free competition and the arguments that advocate for the inclusion of waste pickers using a market-based logic driven by supply and demand.

Formalization, as a gradual process within a continuum towards obtaining rights, should be monitored on an ongoing basis, and the intervention and advocacy strategies should be regularly assessed to respond adequately to new situations, and to emerging threats and opportunities. In recent years, to be better able to meet the needs of waste pickers' organizations and to accompany them during the transition process, WIEGO has commissioned studies and used consultancies to build our technical knowledge around the provision of public services. Also, to strengthen the linkages between the population and waste pickers, WIEGO has supported ARB in the elaboration of social maps in Bogotá to define communication and interaction strategies to help promote the population's preference of waste pickers over other recycling service providers, and to address territorial conflicts among waste picker grassroots organizations.

More importantly, to support waste pickers' organizations in their efforts to advocate for a desirable formalization process, we continue to explore in tandem with them the meaning of formalization

from their point of view, as well as the meaning of being solidarity-based organizations that provide recycling public services.

8.1 The COVID-19 Pandemic and Coping Strategies of Colombian Waste Pickers' Organizations Providing the Recycling Public Service

This report was written during 2019 and was updated in April 2020 when COVID-19 had already been classified as a pandemic. Given the impacts of the pandemic, it was deemed necessary to add a brief write-up to discuss how waste pickers' organizations in Colombia, thanks to progress in their consolidation as recycling public service providers, coped with the externalities of COVID-19.

The negative impacts of the pandemic have hit Colombia hard. The virus has demonstrated the fragility of Colombia's health system, in particular, the gaps in health coverage. Because of the ways in which COVID-19 is transmitted, the national and local authorities have mandated by decree strict lockdowns and social isolation measures to prevent contagion. The pandemic, together with these sanitary measures, have exacerbated, and made visible, the vulnerability of different sectors of informal workers. In the absence of a policy for income replacement, these workers have exposed themselves to possible infection by continuing to work to earn their livelihoods. In other words, social isolation without income replacement means hunger.

In response, the ANR and the ARB engaged in a strategic discussion with their grassroots organizations and decided to lever the recognition of waste pickers as public service providers to call on the authorities to expand the meaning of such recognition so that the recycling component of waste management is designated as an essential service. To support this argument, they referred to the existing jurisprudence regarding the protection of their work, as well as its relevance to maintain the lifespan of landfills, and their role in providing the packaging industry with raw materials.

These efforts resulted in the national government's inclusion of recycling as an essential service in the special decrees regarding sanitary measures to deal with the pandemic, and the recognition of waste pickers' organizations among the service providers allowed to work during lockdown. Such permission was granted with the directive that work in all waste management practices, including recycling collection centres, was to follow hygiene protocols, including the use of personal protective equipment (PPE).

Despite the importance of such recognition, ANR's member organizations still needed to address the most sensitive aspect: minimizing the risk of contagion due to overexposure to the virus through contaminated waste. To this end, the organizations developed the following measures:

- Older waste pickers were to stay at home. To mitigate the impacts of income loss, many organizations provided them with an income. This was in addition to the government cash grants normally provided to the older population in situations of poverty and the supplementary government cash grant of USD40 per month distributed to 2.6 million families in poverty and vulnerability.
- The organizations have distributed their supply of PPE (uniform, gloves, mask, caps) to their affiliates, so that they

can wear them while working. They have requested and received support in this regard from various actors in the recycling value chain to be able to replace them as often as possible.

- Waste pickers' organizations have implemented campaigns in alliance with some municipal administrations to urge the public to adequately separate recyclable waste and, particularly, to identify hazardous waste.
- Organizations have shared information on waste management protocols with their affiliates, including how to reduce contact with waste as much as possible, the need to avoid agglomerations, as well as on the relevance of wearing proper PPE and frequent hand washing. To this end, waste pickers' organizations installed mechanisms that carry water and soap in their vehicles and other means of transport.
- The sanitary measures implemented in the collection centres include the installation of hand-washing stations and, in some of them, even whole-body disinfection systems. There is also a safety protocol for the handling of recyclables: cognizant of the lifespan of the virus on surfaces, all materials arriving at the centre must be stored for more than four days before being sorted.

However, the government's recognition of the recycling public service as an essential service has not been accompanied by the provision of adequate protections for waste pickers. As a result, waste pickers' organizations have had to meet these demands using their own resources. In addition, a significant number of waste pickers, most of them unorganized, have been unable to comply with safety measures and protocols, which has meant working in difficult conditions.

In balance, despite the criticisms to the formalization process made in this paper, it can be argued that many waste picker organizations were better prepared to deal with the challenges unleashed by the pandemic because of the formalization process. And while it is too early to evaluate these measures, there is evidence of the progress made in the process of consolidating waste picker organizations as service providers in Colombia.

Bibliography

Aluna Consultores Ltd. 2011. *Estudio nacional del reciclaje y de los recicladores* [*National Study of Recycling and Waste Pickers*]. Bogotá, Colombia: CEMPRE. Available at: http://www.anrcolombia.org/index.php/biblioteca-de-consulta/investigaciones-y-reportes?download=93:informe-condensado-del-estudio-nacional-de-reciclaje-agosto-2011-arb-cempre-aluna-consultores.

Asociación de Recicladores de Bogotá (ARB) and Women in Informal Employment: Globalizing and Organizing (WIEGO). 2011. *Propuesta de trabajo para el cálculo de costos de recolección y el transporte de material reciclable, enmarcación tarifaria para su remuneración dentro del servicio público de aseo y condiciones necesarias para modelo operativo.* [*Work Proposal for the Costing of the Collection and Transport of Recyclable Material, Remuneration Through Users´ Fees for Public Waste Management Service, and the Necessary Conditions for the Operationalization of the Model*]. Mesa Distrital de Concertación para la inclusión del gremio [District Round Table on the Inclusion of Waste Pickers]. Bogotá, Colombia. Unpublished Document.

Chen, Martha. 2019. "The Formalization debate: WIEGO Influence, Stance & Engagement." Paper presented at WIEGO Webinar, 26 September. Unpublished Document.

Coca, Martha. 1998. *La sublevación de los imaginarios, los habitantes de Bosa frente a los comuneros* [*The Uprising of the Imaginaries: Bosa Inhabitants vis-à-vis the Commoners*]. Master's Thesis in Anthropology. Bogotá: National University of Colombia.

Duque, Maria Eugenia and Federico Parra. 2016. *Certification of Occupational Skills: A Decisive Step Towards Professionalizing Waste Collection as an Occupation and Recycling of Solid Waste in Colombia.* Illustrated Report. Manchester, UK: WIEGO.

Helm, Dieter. 1994. "British Utility Regulation: Theory, Practice, and Reform." *Oxford Review of Economic Policy* 10(3), pp. 17-39.

Ogando, Ana Carolina and Jenna Harvey. 2020. "Knowledge co-production with and for organizations of informal workers: building democratic capacity for social change." In Jacques Charmes (Ed.). *Research Handbook on Development and the Informal Economy.* United Kingdom: Edward Elgar Publishing, pp: 317-345.

Parra, Federico. 2015. Reciclaje: ¡Sí, pero con recicladores! Gestión pública del aprovechamiento con inclusión de recicladores: Un nuevo paradigma en el manejo de los residuos en Bogotá, Colombia [*Recycling: Yes, but by waste pickers! Public Waste Management with Waste Pickers' Inclusion: A New Paradigm in Waste Management in Bogotá, Colombia*]. WIEGO Technical Brief (Urban Policies) No. 9. Manchester, UK: WIEGO. 32 pages.

Parra, Federico. 2017. *De la dominación a la inclusión, la población recicladora organizada en Bogotá como sujeto político* [*From Domination to Inclusion: Bogotá Organized Waste Pickers as Political Subjects*]. Dissertation for the degree of Doctor of Political Studies and International Relations. Faculty of Law and Political and Social Science. Bogotá: National University of Colombia.

Parra, Federico. 2019. "La formalización de los recicladores en Colombia como prestadores del servicio de aseo en el componente de aprovechamiento: Logros retos y amenazas" ["The Formalization of Waste Pickers in Colombia as Waste Management Service Providers in the Recycling Component: Achievements, Challenges and Threats"]. In Gregorio Mesa (Ed.). *Estándar Ambiental y Derechos Ambientales en posacuerdos de Paz: Algunos Estudios de Caso* [*Environmental Standard and Rights in Colombia's Post-Peace Agreements: Some Case Studies*] (1st Ed.). Research Group on Environmental and Collective Rights (GIDCA). Bogotá: National University of Colombia. Faculty of Law and Political and Social Science. Gerardo Molina Social and Law Research Institute (UNIJUS).

Ramírez-Gómez, Javier. 2005. "Régimen legal del servicio público domiciliario de aseo" ["Statutory Scheme for Dimiciliary Public Waste Management Services"]. *Revista de Derecho*. 23 (July), 213-239. Barranquilla, Colombia: Northern University. Available at: https://www.redalyc.org/pdf/851/85102309.pdf.

Samson, Melanie, Federico Parra and Olga Abizaid. (2014, January 21). "Trashing Democracy in Bogotá: The Real Issue Behind the Mayoral Crisis". *The Global Urbanist*. Available at: http://globalurbanist.com/2014/01/21/trashing-democracy-in-Bogotá.

Superintendencia de Servicios Públicos (SUPERSERVICIOS). 2020. *Informe sectorial de aprovechamiento 2019* [*Recycling Sectoral Report*, 2019]. Bogotá: SUPERSERVICIOS, National Planning Department, Presidency of the Republic. Available at: https://superservicios.gov.co/sites/default/files/inline-files/informe_sectorial_aprovechamiemto_2019_0_0.pdf.

Tabarquino-Muñoz, Raúl Andrés. 2011. *Los servicios públicos domiciliarios en Colombia. Una mirada desde la ciencia política y la regulación* [*Domiciliary Public Services in Colombia through the Lens of Political Science and Regulation*]. Available at: http://www.eumed.net/libros-gratis/2011c/997/index.htm.

Unidad Administrativa Especial de Servicios Públicos (UAESP). 2006. *Documento de Soporte Técnico. Plan Maestro de Manejo Integral de Residuos Sólidos* [*Technical Support Document. Integrated Solid Waste Management Master Plan*]. Bogotá, Colombia. Unpublished Document.

Unidad Administrativa Especial de Servicios Públicos (UAESP). 2019. *Documento Técnico para la Actividad de Aprovechamiento en el marco del Servicio Público de Aseo* [*Technical Note on Recycling Activities within the Framework of Public Waste Management Services*]. 2 April 2019. Bogotá: UAESP. Available at: https://www.uaesp.gov.co/sites/default/files/documentos/DTO_Aprovechamiento_Anexo_2_Version_publicacion_para_comentarios_02_04_2019.pdf?width=800&height=800&iframe=true.

Universidad Nacional de Colombia-Instituto de Estudios Urbanos/ Superintendencia de Servicios Públicos Domiciliarios. 2018. *Caracterización de organizaciones de recicladores de oficio en proceso de formalización, informe final* [*Characterization of Waste Picker Organizations undergoing a Formalization Process: Final Report*]. Bogotá: National University of Colombia. Available at: https://www.anrcolombia.org/index.php?option=com_phocadownload&view=category&download=52:caracterizacion-de-organizaciones-de-recicladores-de-oficio&id=11:herramientas-formalizacion-sspd&Itemid=131.

WIEGO Formalization Committee. 2018. *Different Approaches to Formalization: Guidelines for Monitoring & Assessing*. Manchester, UK: WIEGO. Unpublished Document.

Mayorship of Bogotá. 2012. *Decreto municipal 564 de 2012 por medio del cual se adoptan disposiciones para asegurar la prestación del servicio público de aseo en el Distrito Capital en acatamiento de las órdenes impartidas por la Honorable Corte Constitucional en la Sentencia T-724 de 2003 y en los Autos números 268 de 2010, 275 de 2011 y 084 de 2012* [*Municipal decree No. 564 of 2012 Adopting Provisions to Ensure Public Waste Management Services in the Capital District, in Observance of the Honourable Constitutional Court's Orders Issued in Ruling T-724 of 2003 and in the Orders No. 268 (2010), No. 275 (2011) and No. 84 (2012)*]. Available at: https://xperta.legis.co/visor/legcol/legcol_de9fe5942c4501cae0430a01015101ca/coleccion-de-legislacion-colombiana/decreto-564-de-2012.

Congress of Colombia. 1994. *Ley de Servicios Públicos (Ley 142 de julio 11 de 1994) por la cual se establece el régimen de los servicios públicos domiciliarios y se dictan otras disposiciones* [*Law on Public Services No. 142 of 11 July 1994 Establishing a Scheme for Domiciliary Public Services and Containing Other Provisions*]. Available at: https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=2752.

Congress of Colombia. 2008. *Ley 1259 de 2008 por medio de la cual se instaura en el territorio nacional la aplicación del comparendo ambiental a los infractores de las normas de aseo, limpieza y recolección de escombros; y se dictan otras disposiciones* [*Law No. 1259 of 2008 Introducing Country-Wide Enforcement of the Environmental Control Instrument on Offenders of the Rules on Waste Collection, Cleaning and Rubble Collection, and Containing Other Provisions*]. Available at: https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=34388.

Congress of Colombia. 2012. *Ley 1551 de 2012 por la cual se dictan normas para modernizar la organización y el funcionamiento de los municipios* [*Law No. 1551 of 2012 Enacting Rules to Modernize the Organization and Operation of Municipalities*]. Available at: http://www.secretariasenado.gov.co/senado/basedoc/ley_1551_2012.html.

Comisión de Regulación de Agua Potable y Saneamiento Básico. 2001. *Resolución 151 de 2001. Regulación integral de los servicios públicos de Acueducto, Alcantarillado y Aseo* [*Resolution No. 151 of 2001. Comprehensive Regulation of the Public Services of Aqueduct, Sewage and Waste Management*]. Available at: https://normas.cra.gov.co/gestor/docs/resolucion_cra_0151_2001.htm.

Comisión de Regulación de Agua Potable y Saneamiento Básico (CRA). 2005a. *Resolución CRA 351 de 2005 por la cual se establecen los regímenes de regulación tarifaria a los que deben someterse las personas prestadoras del servicio público de aseo y la metodología que deben utilizar para el cálculo de las tarifas del servicio de aseo de residuos ordinarios y se dictan otras disposiciones* [*CRA Resolution No. 351 of 2005 Establishing the Tariff Regulation Regimes with which Providers of Public Waste Management Services Are Required to Comply and the Methodology to Be Used for the Calculation of Ordinary Waste Management Service Fees, and Containing Other Provisions*]. Available at: https://servintegral.com.co/file/normatividad/CRA%20351%20DE%202005.pdf.

Comisión de Regulación de Agua Potable y Saneamiento Básico (CRA). 2005b. *Resolución 352 de 2005 por la cual se definen los parámetros para la estimación del consumo en el marco de la prestación del servicio público domiciliario de aseo y se dictan otras disposiciones* [*CRA Resolution No. 352 of 2005, Defining the Parameters to Estimate Consumption in the provision of Domiciliary Public Waste Collection Services, and Containing Other Provisions*]. Available at: https://normas.cra.gov.co/gestor/docs/resolucion_cra_0352_2005.htm.

Comisión de Regulación de Agua Potable y Saneamiento Básico (CRA). 2015. *Resolución 720 de 2015 por la cual se establece el régimen de regulación tarifaria al que deben someterse las personas prestadoras del servicio público de aseo que atiendan en municipios de más de 5.000 suscriptores en áreas urbanas, la metodología que deben utilizar para el cálculo de las tarifas del servicio público de aseo y se dictan otras disposiciones* [*CRA Resolution No. 720 of 2015 Establishing the Tariff Regulation Regimes with which Providers of Public Waste Management Services in Municipalities with More than 5,000 Subscribers in Urban Areas Are Required to Comply and the Methodology to Be Used for the Calculation of Waste Management Service Fees, and Containing Other Provisions*]. Available at: https://www.promoambientaldistrito.com/web/wp-content/uploads/2018/09/Resolucion-CRA-720-de-2015.pdf.

Ministerio de Salud y Protección Social. 2002. *Ley 769 de 2002 por la cual se expide el Código Nacional de Tránsito Terrestre* [*Law No. 769 of 2022 Issuing the National Code of Land Transit*]. Available at: https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/INEC/IGUB/ley-769-de-2002.pdf.

Ministerio de Vivienda, Ciudad y Territorio (MINVIVIENDA). 2000. *Decreto 421 de 2000 por el cual se reglamenta el numeral 4 del artículo 15 de la Ley 142 de 1994, en relación con las organizaciones autorizadas para prestar los servicios públicos de agua potable y saneamiento básico en municipios menores, zonas rurales y áreas urbanas específicas* [*Decree No. 421 of 2000, Regulating Article 15, Numeral 4, of Law No. 142 of 1994, Pertaining to the Organizations Authorized to Provide Public Drinking Water and Basic Sanitation Services in Small Municipalities, Rural Areas, and Specific Urban Areas*]. Available at: https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=4639.

Ministerio de Vivienda, Ciudad y Territorio (MINVIVIENDA). 2002. *Decreto 1713 de 2002 Por el cual se reglamenta la Ley 142 de 1994, la Ley 632 de 2000 y la Ley 689 de 2001, en relación con la prestación del servicio público de aseo, y el Decreto Ley 2811 de 1974 y la Ley 99 de 1993 en relación con la Gestión Integral de Residuos Sólidos* [*Decree No. 1713 of 2002 Regulating Law No. 142 of 1994, Law No. 632 of 2000, and Law No. 689 of 2001 Concerning the provision of Public Waste Management Services; and Decree 2811 of 1974 and Law No. 99 of 1993, with Respect to the Integral Solid Waste Management*]. Available at: https://corponarino.gov.co/expedientes/juridica/2002decreto1713.pdf.

Ministerio de Vivienda, Ciudad y Territorio (MINVIVIENDA). 2003. *Decreto 1505 de 2003 Por el cual se modifica parcialmente el Decreto 1713 de 2002, en relación con los planes de gestión integral de residuos sólidos y se dictan otras disposiciones* [*Decree No. 1505 of 2003 Partially Amending Decree No. 1713 of 2002, With Regards to Integral Solid Waste Management, and Containing Other Provisions*]. Available at: https://www.icbf.gov.co/cargues/avance/docs/decreto_1505_2003.htm.

Ministerio de Vivienda, Ciudad y Territorio (MINVIVIENDA). 2013. *Decreto 2981 de 2013 por el cual se reglamenta la prestación del servicio público de aseo* [*Decree No. 2981 of 2013 Regulating the provision of Public Waste Management Services*]. *Published on 20 December 2013*. Available at: https://www.minvivienda.gov.co/sites/default/files/2020-08/decreto-2981-de-2013-reglamentario-del-servicio-publico-de-aseo.pdf.

Ministerio de Vivienda, Ciudad y Territorio (MINVIVIENDA). 2015. *Decreto 1077 de 2015 por medio del cual se expide el Decreto Único Reglamentario del Sector Vivienda, Ciudad y Territorio* [*Decree No. 1077 of 2015 Issuing the Single Regulatory Decree in the Housing, City and Territory Sector*]. (2019 updated version). Available at: https://minvivienda.gov.co/sites/default/files/normativa/1077%20-%202015.pdf.

Ministerio de Vivienda, Ciudad y Territorio (MINVIVIENDA). 2016a. *Decreto 596 por el cual se modifica y adiciona el Decreto 1077 de 2015 en lo relativo con el esquema de la actividad de aprovechamiento del servicio público de aseo y el régimen transitorio para la formalización de los recicladores de oficio, y se dictan otras disposiciones* [*Decree No. 596 of 2016 Amending and Supplementing Decree No. 1077 of 2015 with Reference to Recycling Activities Within Public Waste Management Services and the Transitional Scheme to Formalize Waste Pickers de oficio, and Containing other Provisions*]. Available at: http://es.presidencia.gov.co/normativa/normativa/DECRETO%20596%20DEL%2011%20DE%20ABRIL%20DE%202016.pdf.

Ministerio de Vivienda, Ciudad y Territorio (MINVIVIENDA). 2016b. *Resolución 276 de 2016 por la cual se reglamentan los lineamientos del esquema operativo de la actividad de aprovechamiento del servicio público de aseo y del régimen transitorio para la formalización de los recicladores de oficio acorde con lo establecido en el Capítulo 5 del Título 2 de la parte 3 del Decreto número 1077 de 2015 adicionado por el Decreto número 596 del 11 de abril de 2016* [*Resolution No. 276 of 2016 Regulating the Operating Scheme Guidelines for Recycling Activities within the Waste Management Service and the Transitional Scheme for the Formalization of Waste Pickers de oficio, in Accordance with Decree No. 1077 of 2015, Part III, Title II, Chapter V, Supplemented by Decree No. 596 of 11 April 2016*]. Available at: http://extwprlegs1.fao.org/docs/pdf/col157820.pdf.

Ministerio de Vivienda, Ciudad y Territorio (MINVIVIENDA) and Ministerio de Ambiente y Desarrollo Sostenible (MINAMBIENTE). 2014. *Resolución 754 de 2014 por la cual se adopta la metodología para la formulación, implementación, evaluación, seguimiento, control y actualización de los Planes de Gestión Integral de Residuos Sólidos* [*Resolution No. 754 of 2014 Adopting the Methodology to Develop, Implement, Evaluate, Monitor, Control and Update of the Integral Solid Waste Management Plans*]. Available at: http://www.libreriadelagestion.com/wp-content/uploads/2018/12/RESOLUCI%C3%93N-754.pdf.

Republic of Colombia. 1991a. *Political Constitution of Colombia. Bogotá: Republic of Colombia*. Available at: https://dapre.presidencia.gov.co/normativa/constitucion-politica.

Republic of Colombia. 1991b. *Decreto 2591 de 1991 por el cual se reglamenta la acción de tutela consagrada en el artículo 86 de la Constitución Política*. [*Decree No. 2591 of 1991, which regulates the writ of protection, set forth in Article 86 of the Political Constitution*]. Available at: https://www.corteconstitucional.gov.co/lacorte/DECRETO%202591.php.

Republic of Colombia. Civil Code. Available at: https://www.ccc.org.co/file/2011/03/codigo-civil-colombiano-art-633-a-652.pdf.

Superintendencia de Servicios Públicos Domiciliares (SUPERSERVICIOS). 2019. "Informe a mayo 30 de 2019 sobre la prestación del servicio público de aprovechamiento" ["Report as of May 20, 2019, on the provision of the Recycling Public Service"] Presentation at *Unidos por el reciclaje* [*United for Recycling*], organized by WIEGO, the Smurfit Kappa Colombia Foundation and the Grupo Familia Foundation. 10-13 June 2019. Bogotá, Colombia.

Constitutional Court of Colombia. 1995. *Sentencia T- 617/95 sobre la protección del espacio público y protección de bienes de uso público* [*Judgement T-617/95 on the Protection of Public Space and the Protection of Public Use Goods*]. Available at: http://www.corteconstitucional.gov.co/relatoria/1995/t-617-95.htm.

Constitutional Court of Colombia. 2002. *Sentencia T-497/02 sobre licencia de maternidad-Derecho prestacional/Licencia de maternidad-Fundamental por conexidad* [*Judgement T-497/02 on Maternity Leave – Welfare Benefits Law / Maternity Leave – Fundamental by Linkage*].

Constitutional Court of Colombia. 2003a. *Sentencia C-741/03 sobre la legislación regulativa de la prestación de servicios públicos* [*Judgement C-741/03 on Regulatory Legislation of Public Service Delivery*]. Available at: http://www.corteconstitucional.gov.co/relatoria/2003/C-741-03.htm.

Constitutional Court of Colombia. 2003b. *Sentencia C-355/03. Código Nacional de Tránsito Terrestre* [*Ruling C-355/03. National Code of Land Transit*]. Available at: http://www.corteconstitucional.gov.co/relatoria/2003/C-355-03.htm.

Constitutional Court of Colombia. 2003c. *Sentencia T-724/03. Acción de tutela por adjudicación de contrato de aseo* [*Judgement T-724/03. Writ of Protection upon Award of Waste Collection Contracts*]. Available at: http://www.corteconstitucional.gov.co/relatoria/2003/T-724-03.htm.

Constitutional Court of Colombia. Sentencia C-793/09. *Sentencia condicionada en infracciones de normas ambientales - Aplicación por eventual interpretación contraria a la constitución/Sentencia condicionada en infracciones de normas ambientales - Aplicación para la protección de los derechos de los recicladores informales de basura.* [*Judgement Contingent to Breaches of Environmental Rules – Enforcement upon a Possible Interpretation Contrary to the Constitution / Ruling contingent to Breaches of Environmental Rules – Enforcement for the Protection of Informal Waste Pickers' Rights*]. Available at: http://www.corteconstitucional.gov.co/relatoria/2009/c-793-09.htm.

Constitutional Court of Colombia. 2009. *Sentencia T-291/09. Derecho a la igualdad -Alcance frente a grupos tradicionalmente discriminados o marginados* [*Judgement T-724/03. Right to Equality – Scope and Effect regarding Groups Traditionally Discriminated Against and Marginalized*]. Available at: http://www.corteconstitucional.gov.co/relatoria/2009/t-291-09.htm.

Constitutional Court of Colombia. 2010. Auto 268/10. *Solicitud de cumplimiento de la Sentencia T-724 de 2003*. [Order 268/10. *Request for compliance with Judgement T-724 of 2003*]. Available at: http://www.corteconstitucional.gov.co/relatoria/autos/2010/a268-10.htm.

Constitutional Court of Colombia. 2011. *Auto 275/11. Solicitud de cumplimiento de la Sentencia T-724 de 2003 y del Auto 268 de 2010*. [*Order 275/11. Request for Compliance with Judgement T-724 of 2003 and with Order 268 of 2010*]. Available at: http://www.corteconstitucional.gov.co/relatoria/autos/2011/a275-11.htm.

Constitutional Court of Colombia. 2015. *Auto 587/15 Pronunciamiento frente a la medida cautelar decretada en el Auto 089 de 2015, en el marco del seguimiento a las órdenes proferidas en el Auto 275 de 2011, en cumplimiento de la Sentencia T-724 de 2003 y de los parámetros fijados en el Auto 268 de 2010* [*Order 587/15. Pronouncement regarding the Precautionary Measure Granted by Order 089 of 2015, as a Follow-Up to the Directives Issued by Order 275 of 2011, in Pursuance of Judgement T-724 of 2003 and of the Parameters Set Out by Order 268 of 2010*]. Available at: http://www.corteconstitucional.gov.co/relatoria/autos/2015/a587-15.htm.

About WIEGO

Women in Informal Employment: Globalizing and Organizing (WIEGO) is a global network focused on empowering the working poor, especially women, in the informal economy to secure their livelihoods. We believe all workers should have equal economic opportunities, rights, protection and voice. WIEGO promotes change by improving statistics and expanding knowledge on the informal economy, building networks and capacity among informal worker organizations and, jointly with the networks and organizations, influencing local, national and international policies. Visit www.wiego.org.