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The Regulatory Gap in Textile Waste Governance in India: A Critical Legal Analysis of the Post-2026 Solid Waste Management Framework

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ABSTRACT

India is among the world's largest producers and consumers of textiles, yet its legal treatment of textile waste remains fragmented. This article examines how Indian law currently classifies and regulates textile waste after the notification of the Solid Waste Management Rules, 2026 (SWM Rules 2026), which replaced the 2016 Rules. Using a doctrinal method, it traces the constitutional and statutory foundations of waste regulation, identifies where textiles enter the existing framework (as dry waste, as pre-industrial scrap, and as effluent-treatment sludge), and compares this treatment with the EPR architecture India has already built for plastic packaging, e-waste and batteries. The article argues that textile waste is presently governed by a general municipal-waste logic that places financial and operational burden on urban local bodies and the informal sector, while producers carry no statutory end-of-life responsibility. It identifies five structural gaps (definitional, financial, informal-sector, trade and enforcement) and offers, as the author's own proposals, design principles for a textile-specific regime. The EU's revised Waste Framework Directive is used only as a reference point for contrast.

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1. Introduction

Textile waste sits awkwardly in Indian environmental law. A discarded cotton shirt is municipal solid waste when it leaves a household, industrial scrap when it leaves a spinning mill, a recyclable commodity when it reaches a rag-sorting market, and potentially hazardous waste when it re-enters the system as dyeing-effluent sludge. Each of these states is governed, if at all, by a different instrument and a different authority.

This fragmentation matters because the composition of textile waste is changing. Synthetic fibres, blended fabrics and high-volume low-cost garments make material harder to reuse and to recycle mechanically. Legal scholarship has paid considerable attention to EPR for plastics and electronics in India, but textiles have received comparatively little doctrinal attention.

This article asks three questions. First, what is the legal status of textile waste in India after the SWM Rules 2026? Second, how does that status compare with the EPR model India has applied to other waste streams? Third, what design features would a textile-specific regime need in order to fit Indian conditions? The article is deliberately domestic in focus; comparative European material appears only briefly in Section 6.

2. Methodology and Source Hierarchy

The study is doctrinal. It relies on primary legal sources first: constitutional provisions, central statutes, subordinate legislation published in the Gazette of India, and judgments of the Supreme Court of India and the National Green Tribunal. Secondary sources (policy reports, commentary and law-firm analyses) are used only to locate primary instruments or to describe implementation, and are cited as such.

Throughout, the article distinguishes three categories of statement:

(a) **established law**, meaning provisions in force;

(b) **pending or proposed measures**, meaning drafts and policy proposals; and

(c) **the author's interpretation and recommendations**, which are labelled as such. Because the regulatory position is evolving, all instruments should be verified against the Gazette and the Ministry of Environment, Forest and Climate Change (MoEFCC) before final submission.

3. Constitutional and Statutory Foundations

3.1 Constitutional basis

The constitutional foundation for waste regulation lies in Article 21, which the Supreme Court has read to include the right to a healthy environment; in the Directive Principle in Article 48A, which directs the State to protect and improve the environment; and in the fundamental duty in Article 51A(g) (Constitution of India, 1950, arts. 21, 48A, 51A(g)). Through cases such as Vellore Citizens' Welfare Forum v. Union of India (1996) and Indian Council for Enviro-Legal Action v. Union of India (1996), the Court has incorporated the polluter pays principle and the precautionary principle into Indian environmental law (Vellore Citizens' Welfare Forum v. Union of India, 1996), (Indian Council for Enviro-Legal Action v. Union of India, 1996). These principles provide the doctrinal justification for placing end-of-life costs on producers, a point that becomes important in Section 5.

3.2 Statutory framework

The operative statutory source for most waste rules is the Environment (Protection) Act, 1986, under which the Central Government makes rules (Environment (Protection) Act, 1986). The Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 govern consent to establish and operate for industrial units, including textile processing units that discharge effluent (Water (Prevention and Control of Pollution) Act, 1974), (Air (Prevention and Control of Pollution) Act, 1981). The National Green Tribunal Act, 2010 (National Green Tribunal Act, 2010) provides the adjudicatory forum, and NGT orders have been a significant driver of waste-rule compliance.

4. Textile Waste under the SWM Rules 2026

4.1 The 2026 framework

The SWM Rules 2026, notified by MoEFCC and in force from 1 April 2026, replace the 2016 Rules (Ministry of Environment, Forest and Climate Change [MoEFCC], 2026a), (Solid Waste Management Rules, 2016). Secondary commentary describes a four-stream segregation model (wet, dry, sanitary and special-care waste) and a stricter processing hierarchy (The Statesman, n.d.). The Rules do not name textiles; they define dry waste as all waste other than wet, sanitary and special-care waste (r. 3(1)(s)), so household textile waste falls within the dry-waste stream by default (Ministry of Environment, Forest and Climate Change [MoEFCC], 2026a).

4.2 What this means for textiles

The consequence of this classification is that household and institutional textile waste is treated, in legal terms, as a segregation-and-handover obligation. Generators segregate; urban local bodies collect and

arrange processing; authorised recyclers or reuse agencies take the material. The framework is oriented around the waste generator and the local body. It does not, on the sources reviewed for this article, create a dedicated producer-financed collection and recycling system for textiles (Ministry of Environment, Forest and Climate Change [MoEFCC], 2026a), (The Statesman, n.d.).

This point requires care. Some secondary commentary suggests that the 2026 Rules extend EPR principles to textiles, while other analyses describe textile EPR in India as still under policy consideration. Pending verification against the Gazette text, this article proceeds on the more cautious reading: that a dedicated textile EPR regime with registered producers, targets and a certificate system is not yet in force. Authors adopting this position should confirm it against the primary notification.

4.3 Other points of entry

Textile material enters the legal framework at other points as well:

- **Industrial effluent and sludge. Textile dyeing and processing units are regulated through consent conditions under the Water and Air Acts, and sludge from effluent treatment may fall within hazardous-waste regulation under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016), depending on its characterisation.**
- **Pre-consumer scrap. Cutting waste and off-cuts from garment manufacture are industrial waste, which the SWM Rules 2026 exclude from their scope (r. 2) (Ministry of Environment, Forest and Climate Change [MoEFCC], 2026a), and are traded largely as commodities.**
- **Imports.** Trade in used clothing and rags is governed by customs and foreign trade rules rather than by waste legislation, which creates a boundary problem between 'waste' and 'secondhand goods'.

5. The Existing EPR Template

India has already built EPR regimes for other streams: plastic packaging (through amendments to the Plastic Waste Management Rules, 2016, most recently amended in 2026) (Plastic Waste Management Rules, 2016), (Ministry of Environment, Forest and Climate Change, 2026b), electronic waste (E-Waste (Management) Rules, 2022) (E-Waste (Management) Rules, 2022), and batteries (Battery Waste Management Rules, 2022) (Battery Waste Management Rules, 2022). The design features common to these regimes include mandatory registration of producers, importers and brand owners on a central portal; annual targets; and a certificate-based mechanism through which obligations are met and verified.

These regimes also reveal recurring weaknesses documented in commentary and by the regulator's own stakeholder consultations: concerns about certificate integrity, uneven state-level enforcement, and the difficulty of integrating informal collectors. A textile regime would inherit both the template and its weaknesses. The relevant doctrinal point is that the legal machinery for EPR already exists under the Environment (Protection) Act, 1986; what is missing for textiles is a notification, not a new legal foundation.

6. A Brief Comparative Reference

The European Union's revised Waste Framework Directive, Directive (EU) 2025/1892, entered into force on 16 October 2025 (Directive (EU) 2025/1892), (European Commission, 2025). It requires Member States to establish textile EPR schemes, with transposition due in June 2027 and schemes due by April 2028. France has operated a textile EPR scheme since 2007. For India, the relevance of these developments is twofold: they signal that export-oriented producers will face EPR-type obligations in key markets, and they offer design experience (fee modulation, producer responsibility organisations, treatment of social-economy collectors) without being directly transferable to an economy where informal sorting and recycling are central.

7. Structural Gaps

Definitional gap. Indian rules do not distinguish clearly between textile waste, used clothing destined for reuse, and pre-consumer scrap. Without these distinctions, targets, reuse obligations and trade rules cannot be framed coherently.

Financial gap. Under a dry-waste framework, the cost of collecting and processing textiles falls on local bodies, whose budgets are limited. Producers bear no statutory cost for end-of-life management, which is inconsistent with the polluter pays principle as developed in the case law cited above.

Informal-sector gap. Much of India's textile recovery, including rag-picking, sorting and shoddy-yarn recycling in clusters such as Panipat, takes place outside formal registration. A regime that registers only formal recyclers risks displacing existing livelihoods or driving material away from reported channels.

Trade gap. The legal boundary between waste and secondhand goods in import and export rules is thin, and sorting requirements in destination markets are tightening.

Enforcement gap. Experience under existing EPR regimes suggests that registration requirements without verifiable data produce paper compliance. Textile fibre blends complicate verification further.

8. Proposals for Reform

In light of the regulatory gaps identified in the existing framework, there is a need to develop a comprehensive and textile-specific regulatory mechanism to ensure the effective management of textile waste in India. The following recommendations represent the author's proposed legal and policy reforms and do not describe the existing legal position. First, the Central Government should consider introducing a dedicated Extended Producer Responsibility (EPR) regime for textile waste under the Environment (Protection) Act, 1986. Such a framework should draw upon the existing EPR mechanisms applicable to plastic packaging, electronic waste and batteries, while incorporating provisions specifically suited to the textile sector. The proposed regime should require textile manufacturers, importers and brand owners to take responsibility for the collection, segregation, recycling and environmentally sound disposal of textile products after their useful life. Its implementation may be undertaken in a phased manner, initially covering large manufacturers, established textile brands and major importers, before gradually extending its application to smaller producers.

Second, the proposed regulatory framework should provide clear statutory definitions and classifications of different categories of textile waste. In particular, it should distinguish between pre-consumer textile waste, including manufacturing leftovers, fabric off-cuts and production rejects; post-consumer textile waste, comprising discarded garments and household textiles; and reusable used textiles that remain suitable for further use. Such classification is essential because each category requires a different approach to collection, treatment, recycling and disposal. A clear distinction would also assist regulatory authorities in determining the respective responsibilities of manufacturers, consumers, importers, recyclers and local bodies. It would reduce interpretational difficulties and facilitate the development of measurable waste-management targets.

Third, the proposed textile waste management regime should formally recognise and integrate the informal sector, which plays a significant role in the collection, sorting, repair, reuse and recycling of discarded textiles in India. Rag-pickers, waste collectors, small-scale traders and informal recycling units should not be treated merely as peripheral participants in the waste-management process. Instead, the regulatory framework should establish accessible registration mechanisms and provide opportunities for their participation as recognised service providers under producer responsibility arrangements. Their integration should be supported through fair payment mechanisms, occupational safety measures, access to training, and appropriate institutional assistance. This approach would not only protect the livelihoods of individuals dependent on informal textile recovery activities but also strengthen the existing recycling network and improve the overall efficiency of textile waste management.

Fourth, the financial obligations imposed under the proposed EPR framework should be linked to the environmental characteristics of textile products rather than being based on a uniform fee structure. The proposed system may adopt an environmentally differentiated fee mechanism that considers factors such as fibre composition, durability, recyclability, the use of blended or synthetic materials, and the availability of suitable recycling technologies. Products made from materials that are difficult to recycle or that involve more complex waste-treatment processes may attract higher producer responsibility fees, whereas products designed for durability, repairability and recyclability may qualify for reduced financial obligations. Such an approach would encourage manufacturers to incorporate sustainable design practices at the production stage and promote the development of textiles that generate comparatively lower environmental burdens throughout their life cycle.

Finally, the proposed framework should establish a system of outcome-based monitoring and verification to ensure that producer responsibility obligations are fulfilled in practice rather than merely demonstrated through documentation. Compliance should not be determined solely by the quantity of textile waste collected or transferred to authorised recycling facilities. Instead, producers and registered recyclers should be required to maintain verifiable records indicating the actual end use of collected materials, including the quantities reused, repaired, recycled, recovered or disposed of through environmentally sound methods. A transparent reporting mechanism, supported by periodic audits, digital tracking systems and independent verification, could help prevent inaccurate reporting and improve regulatory accountability. The Central Pollution Control Board and State Pollution Control Boards may be entrusted with appropriate monitoring and enforcement responsibilities within their respective jurisdictions. Collectively, these proposed reforms could provide the foundation for a more accountable, inclusive and environmentally sustainable textile waste management regime in India, shifting the existing approach from general waste disposal towards producer accountability, resource recovery and circular economy principles.

9. Conclusion

After the SWM Rules 2026, textile waste in India is legally present but regulatorily thin: it is classified, but not assigned a responsible producer. The legal and institutional machinery for a textile EPR regime already exists; what is absent is a notified instrument that applies it to this stream and a design that works with, rather than around, the informal sector. The polluter pays principle, long embedded in Indian jurisprudence, supplies the doctrinal justification. The remaining questions are of design and enforcement, and they are where future research should concentrate.

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