

Legal Recognition of Street Vendors

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THE STREET Vendors (Protection of Livelihood and Regulation of Street Vending) Bill that was introduced in the Lok Sabha on 6 September 2013 is a landmark for protection of this important section of the urban poor. The bill is an outcome of the consistent efforts of organisations such as Self Employed Women's Association (SEWA) and National Association of Street Vendors of India (NASVI) who have, for over a decade, been pressurising the government to grant legal recognition to street vendors. The National Advisory Council too took up the issue and framed a draft legislation. The nodal ministry-Housing and Urban Poverty Alleviation-(HUPA) was in favour, but it was wary of a central law as street vendors were under the jurisdiction of the local bodies and hence only the state governments could influence these bodies. It was argued that street vending should not be viewed as an urban development issue but rather as a livelihoods issue. Another important legislation, namely, MGNREGA, was passed as a central legislation because it deals with livelihood though it is operated through local bodies. The law for street vending could be regarded in a similar manner. This led to the final drafting of the bill. It was introduced in the Lok Sabha on the last day of

the monsoon session of Parliament in 2012.

Why Street Vendors?

Over the past few decades we can observe that there is substantial increase in the number of street vendors in the major Indian cities. Mumbai and Delhi have around 250,000 each. In fact, the National Policy of Urban Street Vendors, 2009 and the present bill state that around 2.5 percent of the urban population is engaged in street vending. This is a fairly large section of the country's population and it cannot be ignored.

A large section of street vendors in urban areas are those with low skills and who have migrated to the larger cities from rural areas or small towns in search of employment. These people take to street vending when they do not find other means of livelihood. Though the income in this profession is low, the investment too is low and the people do not require special skills or training. Hence for these people, men and women, street vending is the easiest form for earning their livelihood.

There is also another section of the urban population that has taken to street vending. These people, or their spouses, were once engaged in better paid jobs in the formal sector. Most of them were employed in the textile mills in Mumbai and Ahmedabad

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and engineering firms in Kolkata. Formal sector workers in these three metropolises have had to face large-scale unemployment due to the closure of these industries. Many of them, or their wives, have become street vendors in order to eke out a living.

The total employment provided through hawking becomes larger if we consider the fact that they sustain certain industries by providing markets for their products. A lot of the goods sold by hawkers, such as clothes and hosiery, leather and moulded plastic goods and household goods, are manufactured in small scale or home-based industries. These industries employ a large number of workers. The manufacturers could have hardly

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marketed their products on their own. In this way hawkers provide a valuable service by helping sustain employment in these industries.

At the same time, by supplying commodities such as cooked and raw food and clothes and utensils at cheap rates the other sections of the urban poor benefit. Hence, we find that one section of the urban poor, namely, street vendors, are, in fact, subsidising the other sections of the urban poor—something the state should be doing. However, these aspects are rarely recognised by the local authorities who, more often than not, view street vendors as illegal encroachers.

Main Features of the Bill

The most important body at the local level is the Town Vending Committee. This will be the focal point of the policy as it will decide on issues such as issuing of certificates to vendors, deciding on areas for street

vending and the amount to be collected as fees/tax from vendors, besides a host of other activities. The Municipal Commissioner/Chief Executive Officer of the local body will be the chairperson. Representatives of street vendors will comprise 40 percent of the total membership while civil society representatives (NGOs and CBOs) will constitute 10 percent. The remaining 50 percent will have representatives of the different government stakeholders such as, police, traffic police, municipal authorities, etc. The important point here is that street vendors will have a say in the decisions as they are given a substantive representation. Till now all decisions regarding street vending were taken by the local authorities or the state governments. There are also other very significant issues relating to the profession.

The first function of the TVC is to conduct a survey of existing street vendors (Section 3). The TVC has to ensure that all existing vendors are accommodated on the pavements or other places selected for the purpose. No street vendor will be evicted till the survey is completed. The TVC will issue certificates of vending to the vendors identified in the survey (Section 4). Existing vendors who have licenses will be allowed to continue till their license expires and they will be eligible to certificates of vending after that.

If a person wants to vend after the survey is completed, the TVC will give her/him a certificate provided space is available. In case the number of street vendors in a zone exceeds the holding capacity of that zone, the vendors will be provided space through draw of lots. Those who do not get space will be accommodated in adjoining zones.

Section 5 of the bill states that the person who is awarded the certificate alone has the right to vend. The vendor must not have any other source of income besides street vending and the minimum age is 14 years. The person cannot give the certificate to others. The exception is if the person is ill or becomes physically disabled to vend, the children or spouse can take up the trade. This is an important point as

it will prevent spaces being given to others at a price.

Another important issue is eviction and confiscation of property. This is the most dreaded fear for any street vendors. The municipal authorities come in vans or trucks and swoop down on 'illegal' vendors and confiscate their goods. Many well off vendors have been reduced to penury after these raids. The fines for recovery are steep, in most cases more than the value of the goods. For example, in Mumbai, the fine for recovering a confiscated hand cart is Rs. 17,000 which is more than not just the value of the cart but also of the total goods on it. If the street vendor is bold enough to ask for the goods, s/he will find that over half is missing.

The bill states in Section 5 that eviction should be the last resort. If street vendors in a locality need to be relocated due to genuine reasons, they have to be provided alternative sites. In case some vendors refuse to move they will be issued a notice that they should move within a specified period. If this fails, the local authority may impose a fine of Rs. 250 a day. If even this is not a deterrent, the authorities may forcibly evict them. However, there

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The bill further elaborates the procedures for recovery of confiscated goods. Perishable goods (fruits, vegetables, cooked food, etc) must be returned on the day of eviction and in case of non-perishable goods (clothes, utensils, etc.) they may be returned not later than two days. The local authorities may impose a fine but under no circumstance can the fine be higher than the value of the goods confiscated.

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Though the TVC is the most powerful authority dealing with recognition and regulation of street vending, there is a need for redressal of grievances. Section 20 notes that every city/town will have a Grievance Redressal Committee with a former civil judge or judicial magistrate, who will chair the committee. There will be two other members who will be professionals but will not be employees of the government or local body. This committee will hear on cases relating to applications (certificates of vending). In case of disagreement with the verdict, the vendor may approach the local authorities. The bill clearly states that every vendor must be heard before any decision is taken.

In order to promote street vending, the TVC, in consultation with the planning authority will prepare a plan for street vending every five years. It is important that the plan will not be used to adversely affect the street vendors.

This aspect is very important from the point of town planning. We find in all city development plans that public spaces are demarcated for all purposes such as parks and gardens, educational institutions, hospitals, etc. but rarely do we find the inclusion of street vendors. As a result street vendors invariably become encroachers.

In the case of eviction we find that the police has greater powers. Section 34 of the Indian Police Act states that the police can remove any person who offers goods for sale in public. Each state has incorporated this clause in its police act. This implies that even if the local authorities allow street vendors in a particular street the police can evict them under provisions of this clause. The bill states in Section 27 that any street vendor operating with a certificate of vending and who is vending in a demarked area cannot be prevented by any person or the police. This clearly makes clause 34 redundant. The bill also states that once it becomes an act it will supersede all existing laws and rules relating to street vending.

Besides protecting street vendors, the bill also has provisions for promotion of different aspects of their lives. These include measures of financial inclusion, social security, insurance and welfare schemes. The bill also directs governments to organise capacity building programmes so that street vendors are able to understand their rights and duties under this bill. The TVC should conduct research on street vending and organise training programmes on the role of the informal sector in the country's economy.

Conclusion: the Good and the Bad

We have not attempted an exhaustive explanation of the bill. There are many more issues. For example the first schedule provides details on the plan for street vendors and the second schedule deals with the scheme for street vending that each state government should undertake. There are also other aspects in the bill that we did not elaborate on. We have tried to lay down the main issues that the bill deals with.

There are also some adverse aspects. The bill excludes railways from its purview. This is unfortunate because licensed vendors have been an important part of rail travel, especially for the poor. We find that in most large railway stations vendors of tea and snacks have been replaced by 'branded' kiosks such as Café Day or similar ventures. The prices of drinks and snacks are at least three times what the vendors charged. Similarly, the food served on the long distance trains has become expensive even for middle class passengers. Licensed vendors could provide facilities at much lower rates.

Street vendors are asked to keep their vicinity clean, but a major problem for most vendors, especially women vendors, is lack of toilets. For food vendors, running water is needed for cooking and cleaning. The bill could have made special provision for these. The expenses could be recovered from the fees charged. Women working as vendors stay on the street the whole day. They are unable to ease themselves and as a result suffer from diseases.

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The author had conducted a survey of street vending in the Parel area of Mumbai where there are large numbers of women vendors. They are mainly spouses or daughters of former textile workers. We found that all women suffered from diseases of the urinary tract or had kidney stones. They also restricted drinking of water. Hence, toilets are extremely important for these women. The bill could have raised this issue. □

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