

Street Vendors in India get Legal Protection

by Sharit Bhowmik

On the 5th of March 2014, the President of India approved a law passed by both houses of Parliament, titled 'Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.' This is a landmark legislation for around 10 million street vendors operating in different cities in India. The Act has not yet been operationalised because the day it received the presidential assent, the Model Code of Conduct for the general elections came into effect. Under this code, no new laws can be enforced till a new government is formed after the elections namely after 16 May 2014.

Extent of street vending

India is perhaps the only country that has provided legal protection to street vendors for conducting their business. According to the act, between 2 and 2.5 % of the urban population is engaged in street vending. In metros like Mumbai and Delhi, street vendors number 250,000 in each. The Act defines a street vendor as:

a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, side walk, footpath, pavement, public park or any other public place or private area, from a temporary built up structure or by moving from place to place and includes hawker, peddler, squatter and all other synonymous terms which may be local or region specific...

The Act states that no existing street vendor can be displaced until the local authorities conduct a census of street vendors in the concerned urban centre. All existing vendors have to be provided with permits for conducting their business and a Town Vending Committee (TVC) will supervise the activities of the vendors. This committee, which will be the main policy making body on street vending, comprises municipal authorities, police, the health department and other stakeholders. Representatives of street vendors will constitute 40% of its membership and women will comprise at least 33% of the street vendors' representatives.

Rent seeking and evictions

Street vendors in almost all Indian cities do not have any legal right to ply their trade. They sell legal products, but their trade is considered illegal. As a result, they fall prey to unscrupulous rent-seeking staff of the municipality and the police. The estimated annual rents in Mumbai and Delhi are around \$13 million and \$ 10 million respectively. In addition, local

mafia too extract their pound of flesh for allowing them to operate in the area. Even after taking bribes, the municipal authorities evict them from the streets and confiscate their goods. In most cases, they are not given any receipt for the confiscated goods. Hence, when the street vendor goes to reclaim the goods after paying the fine, the person may find that half the goods are missing.

The new law states that eviction should be the last resort for regulating street vending. It may be possible that street vendors in a particular area need to be relocated because of space constraints or due to construction work. In such cases, they have to be given alternative sites closer to their original place of work. In case they do not move, they should be warned, and then fined. If these methods fail, then evictions can be conducted after giving them a notice. The affected street vendors will have to be given a seizure list and the vendor can reclaim the goods the same day if they happen to be perishable (fruits, vegetables etc) or within 24 hours if they are non-perishable (garments, footwear etc). The fine imposed will not be more than the value of the goods confiscated.

Legalising street vending

Besides regulating street vending into hawking and non-hawking zones, the TVC can also collect fees for issuing licenses. It has to provide space for existing street vendors and also make provisions for accommodating new entrants. The TVC must also conduct regular programmes for educating street vendors on their rights and the provisions of the Act.

The Act recognises that every urban area has "natural markets" for street vendors which need to be preserved. Natural markets are those places where street vendors concentrate because they serve an important function for the public at large. For instance, there would be street vendors selling fruits and cooked food outside public hospitals as the patients and visitors find it convenient. Similarly, street vendors can be found outside religious places selling flowers and other offerings, outside parks selling snacks, toys and balloons. Fruit and vegetable sellers as well as garment vendors and those selling household utensils can be found outside local railway stations or bus terminals. People who travel from

their workplaces find it convenient to shop from these vendors before they return home. However, the police, municipality and transport authorities take up a different view. They try to evict street vendors from these places arguing that vendors create congestion. Hence, once the Act is in effect, these natural markets can be regulated for the benefit of both, the public and the street vendors.

This Act is important because street vendors are perhaps the most visible section of the informal economy. They provide essential commodities to people at cheap and affordable rates. The urban poor benefit from their services. We therefore find a situation where one section of the urban poor (street vendors) subsidise prices of essential commodities for other sections of the urban poor, something that the state should have done.

Recognition of street vendors as legal entities will protect them from rent seeking officials and the local mafia. Legality will also give them access to institutional credit with reasonable rates of interest. At present street vendors rely on users who charge exorbitant rates of interest (between 120% to 300% annually).

Struggle for rights of street vendors

This Act is a major victory for the urban poor; it was a result of a long drawn struggle by organisations such as National Association of Street Vendors of India (NASVI) and Self Employed Women's Association (SEWA). These two organisations, in collaboration with the Ministry of Urban Development, had convened a large meeting of street vendors and their representatives in Delhi in May 2001. Prior to this, NASVI and SEWA had conducted studies on street vending in seven major cities in the country. The findings of this study were placed in this meeting. The idea was to impress upon the government the need to protect street vendors in conducting their business. The government then appointed a taskforce for drafting a national policy on street vending. This policy was approved by the cabinet in January 2004. In the same year, the Indian National Congress-led United Progressive Alliance (UPA) was voted into power. It set up a commission on enterprises in the informal economy and one of its tasks was to review the existing national policy and frame a composite law on street vending. The new policy was passed in 2009. The Prime Minister wrote to all the state (provincial) governments to implement this policy. However, this policy had no legal backing and could serve merely as guidelines for the state governments.

NASVI and SEWA felt that this was not enough. What was needed was a law which would grant legal rights to street vendors. Bureaucrats in the government argued that such a law was not possible at the national level because urban issues, according to the Constitution of India, was a responsibility of the state governments who have the authority to

modify or change municipal rules. It was then argued, that street vending should not be seen as an issue of urban policy, but rather, as an issue of livelihoods. This implied that there could be a central law which was mandatory for the state governments to implement. In 2005, the Government of India had taken a similar policy decision by introducing the Mahatma Gandhi National Rural Employment Guarantee Act which provided for 100 days of employment in the rural areas. This was a central law which was implemented by the local self governing bodies within the states. Hence, the Centre would provide funds for implementing the Act; the execution was done by the state governments.

NASVI had organised demonstrations and meetings of street vendors in all its constituents in the states to create pressure from below for a uniform law to protect street vendors. These movements were crucial for compelling the government to take up a progressive stand. It goes to the credit of NASVI that it could bring to centre stage the problems of street vendors in the country. NASVI also campaigned among political parties of all hues for the need to protect street vendors. Hence, when the Act was introduced in the Lok Sabha (the House of the People), it was passed unanimously. In fact, all political parties participated in the discussion and stressed on the need to protect the vulnerable sections of the urban population. After a year, when it was introduced in the Rajya Sabha (Council of the States), there was some hesitation from the main opposition parties because they felt that this Bill would be in effect just before the upcoming elections and the ruling political party would take the credit. NASVI then organised demonstrations in front of the offices of these opposing political parties and hundreds of its members gathered in Delhi, embarking on an indefinite hunger strike till the Bill was passed in the House. Five days later, on 20th Feb 2014, the Bill was finally passed in the Rajya Sabha and it became an Act which was sent to the President for the final assent.

This long period of struggle has been successful, but it has not ended. The new government has to implement the provisions since the act has been published in the Gazette of India. It has to instruct the state governments to frame rules for implementing the act. The street vendors have to ensure that the central and state governments enforce the act. This will depend on how far organisations like NASVI and SEWA can take the struggle forward.

Sharit Bhowmik is a National Fellow of the Indian Council of Social Sciences and is based at Tata Institute of Social Sciences, Mumbai. He is actively involved in the activities of NASVI.