

National Policy for Street Vendors

Street vendors across several Indian cities have generally been regarded as nuisance value, their presence seen as inimical to urban development. However, the range of goods and services they provide renders them useful to other sections of the urban poor and thus they form an important segment of the informal economy. A draft national policy on street vendors argues that needs of this section are vital for urban planning purposes. Regulation of vendors and hawking zones and granting vendors a voice in civic administration need to become definitive elements of urban development policy.

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The ministry of urban development and poverty alleviation has recently finalised the draft national policy on street vendors. This policy is a landmark for the urban informal sector because for the first time the government has taken steps to regularise a major section of the self-employed. If implemented, one can hope that this important sector of the urban economy will get legal recognition.

The policy was prepared by the national task force for street vendors appointed by the ministry of urban development and poverty alleviation headed by the minister of state for urban development and poverty alleviation. Other members comprised senior officials of the ministry, mayors, municipal commissioners, senior police officials and representatives of trade unions. The author was a member of the task force an expert and was also a member of the drafting committee of the national policy.

Street Vendors and the Urban Economy

In most Indian cities the urban poor survive by working in the informal sector. Poverty and lack of gainful employment in rural areas and in smaller towns drive large numbers of people to the cities for work and livelihood. These people generally possess low skills and lack the level of education required for the better paid jobs in the organised sector. Besides, permanent protected jobs in the organised sector are shrinking, hence even those having the requisite skills are unable to find proper employment. For these people,

work in the informal sector offers the only means for their survival. This has led to a rapid growth of the informal sector in most of the larger cities. For the urban poor, hawking/street vending is one of the means of earning a livelihood, as it requires minor financial input and the skills involved are low.

There is also another section of the urban population that has taken to street vending, as studies from the metropolises of Mumbai, Ahmedabad and Kolkata show. 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 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. A study conducted by the author on street vending in seven cities show that around 30 per cent of street vendors in Ahmedabad and Mumbai and 50 per cent in Kolkata were former workers in the formal sector.

The number of street vendors has increased sharply during the past few years. It is now estimated that around 2.5 per cent of the urban population are engaged in this occupation. The total number of street vendors in India is around 1 crore. Mumbai has roughly 2.5 lakh street vendors and Kolkata has nearly 2 lakh. Other cities such as Ahmedabad and Patna have around 80,000 street vendors. Their numbers have increased after the liberalisation policy of 1991. Several large factories and establishments have closed down due to rationalisation and their workers have lost their secure jobs. Street vending is one of

the ways of eking out an existence for these people.

Street vendors are mainly those who are unsuccessful or are unable to get regular jobs. This section of the urban poor tries to solve their problems through their own meagre resources. Unlike other sections of the urban population they do not demand that government create jobs for them, or engage in begging, stealing or extortion. They try to live their life with dignity and self-respect through hard work. The study on street vendors in seven cities shows that the average earnings range between Rs 40 and Rs 80 per day. Women vendors earn even less. These people work for over 10 hours a day under gruelling conditions on the street and are under constant threat of eviction. A study of street vendors in Mumbai conducted by SNDT University and ILO showed that an overwhelming majority of them suffered from ailments related to stress – hyperacidity, migraine, hypertension, loss of sleep, etc.

The total employment provided through hawking becomes larger if we consider the fact that it sustains certain industries by marketing their products. A lot of the goods sold by hawkers, such as clothes and hosiery, leather and moulded plastic goods, household goods and some items of food, are manufactured in small-scale or home-based industries. While these industries engage a large number of workers, they could have hardly marketed their products on their own. In this way hawkers provide a valuable service by helping sustain employment in these industries.

The poorer sections too are able to procure their basic necessities mainly through street vendors, as the goods sold are cheap. The study on street vendors showed that the lower income groups spend a higher proportion of their income in making purchases from street vendors mainly because their goods are cheap and thus affordable. Had there been no street vendors in the cities the plight of the urban poor would be worse than what it is at present. In this way one section of the urban poor, namely, street vendors, helps another section to survive. Hence though street vendors are viewed as a problem for urban governance, they are in fact the solution to some of the problems of the urban poor. By providing cheaper commodities street vendors are in effect providing subsidy to the urban poor, something that the government should have done.

Street Vendors and Public Space

Hawkers/street vendors have existed since time immemorial. In recent times however they have come to be regarded

as public nuisance by certain sections of the urban population. NGOs representing the elite sections, especially the residents' associations, are most vocal about eviction of street vendors from their vicinity. In Mumbai, for example, these associations are most vocal in restoration of pavements as public space only when street vendors 'encroach' on them. The constant tirade by this elite that street vendors deprive pedestrians of their space, cause traffic jams and encourage anti-social activities finds favour with the media which highlights these issues. The municipal authorities too act promptly on such advice by evicting these street vendors and depriving them of their livelihood. The inconvenience caused to the majority of the population who find it convenient to purchase from street vendors is never a consideration. The fact that no chawl committee, tenants' association or 'jhoparpatti'/'jhuggi' committee has ever complained against street vendors is of course irrelevant to the municipal authorities as well to these self-proclaimed defenders of public space.

The same enthusiasm is woefully lacking when pavements are leased as parking space or when shopkeepers encroach on them. None of these elite organisations have effectively raised their voices against the violation of the coastal regulation zone rules by builders. The moot questions are: from whom are they protecting public spaces? and, whom is it protected for? Judging from the activities of these 'protectors', the answer to the first question, from the urban poor and marginalised and, to the second question: for the affluent, including builders, shopkeepers, restaurant owners, etc, who have been blatantly encroaching on open spaces and pavements.

The Supreme Court has taken a different position. More than a decade ago, the New Delhi Municipal Corporation evicted a common street vendor, Sodhan Singh, who sold garments at Janpath in New Delhi. He appealed to the Supreme Court through a PIL claiming that the act violated his fundamental rights, more specifically his right to carry on business or trade (article 19(1g)). In a very significant judgment, the court ruled that, "if properly regulated according to the exigency of the circumstances, the small traders on the side walks can considerably add to the comfort and convenience of the general public, by making available ordinary articles of everyday use for a comparatively lesser price. An ordinary person, not very affluent, while hurrying towards his home after a day's work can pick up these articles without going out of his way to find a regular market. The right to carry on trade or

business mentioned in Article 19(1g) of the Constitution, on street pavements, if properly regulated cannot be denied on the ground that the streets are meant exclusively for passing or re-passing and no other use" (Sodhan Singh vs NDMC, 1989).

The above extract from the Supreme Court judgment is significant because it emphasises several important aspects of street vending and use of public space. The judgment notes the positive role of street vendors in providing essential commodities to common people at affordable prices and at convenient places. Moreover, the judgment notes that street vending, if regulated, cannot be denied merely on the ground that pavements are meant exclusively for pedestrians. The most important aspect is that street vendors are exercising their constitutional right to carry out trade or business hence it should be regulated properly and not abolished. Neither the elite NGOs nor the municipal authorities have ever given any thought to this judgment.

Policy Guidelines

The draft national policy tries to follow the guidelines of the Supreme Court judgment. It is an important document as it tries to restore some dignity to street vendors. Its introduction states: "The role played by the street vendors in the economy as also in the society needs to be given due credit but they are considered as unlawful entities and are subjected to continuous harassment by civic authorities". It further states that "this policy tries to ensure that this important section of the urban population finds recognition for its contribution to society, and is *conceived of as a major initiative for urban poverty alleviation*" (emphasis in original).

The main objective of the policy is to "provide and promote a supportive environment for earning livelihoods to the street vendors, as well as ensure absence of congestion and maintenance of hygiene in public spaces and streets". This may appear contradictory. The police and municipal authorities, backed by the so-called citizens' groups who fight for appropriation of public spaces, would argue that street vendors cause congestion and create unhygienic conditions. If street vendors are allowed to function streets cannot be free of congestion. This is not at all true. If hawking is properly regulated and the right environment is created, it can certainly be a positive contribution to urban life, as the Supreme Court judgment notes. Moreover, urban development plans must take street vendors as a part of the planning process and only then can there be any

semblance of order. At present, street vendors are treated as irritants to urban planning and organisation.

Provision for hawking need to be made in urban plans and existing street vendors need to be settled. The policy tries to tackle these problems through democratic means and collective action. Normally hawking and no-hawking zones are designated by the civic or police authorities. This is done in an arbitrary manner and in many cases interests of street vendors and needs of consumers are not considered. In many cases the authorities deliberately demarcate hawking zones in areas that are least likely to have consumers. The policy stresses that "designation of vendors markets/no-vending zones should not be left to the sole discretion of any civic or police authority but must be accomplished by a participatory process". Ward committees in large cities and town committees in smaller towns will take care of these issues. These committees will have representatives of the municipal authority, traffic and local police, associations of shopkeepers, traders and residents' associations including association of slum dwellers and representatives of street vendors. The representation of street vendors will be from membership-based organisations. These representatives will constitute 40 per cent of the members of the committee and a third of them will be women.

It is often found that apart from forcible evictions, street vendors are removed from streets under the guise of beautification of pavements. Potted plants or decorated signs are placed on pavements to prevent street vendors from plying their trade. At times, shops or residential plots encroach on pavements by cordoning off a portion in order to plant trees or flowers there. These kinds of encroachments often hinder pedestrians more severely than those by street vendors. The policy therefore states that, "no hawker/street vendor should be arbitrarily evicted in the name of 'beautification' of the cityscape. The beautification and clean up programmes undertaken by the states or towns should involve street vendors in a positive way as a part of the beautification programme."

Legal Changes

In the discussions while formulating the policy, senior police officials pointed out that Section 34 of the Police Act empowers the police to remove any obstructions on the streets. Hence, even if the municipal authorities demarcate areas as hawking zones, the police have the right to evict street vendors in these zones. This section needs to be amended in order to clearly

demarcate between a legal vendor and an illegal obstruction. Even licensed street vendors can be evicted under this law. The section reads: "No person shall cause obstruction in any street or public place by...exposing anything for sale or setting out anything for sale in or upon any stall, booth, cask, and basket or in any other way whatsoever." The policy has recommended that all states should amend their respective Police Acts and add the following rider: "Except in case of street vendors and service providers with certain reasonable regulations." Similarly, the central government should amend Sections 283 and 431 of the Indian Penal Code and include the rider. State governments have been advised to "remove the restrictive provisions" in the Municipal Acts to make street vendors inclusive in the city plan/cityscape.

Several state governments have laws that are detrimental to street vending and these need to be changed in order to legalise and regulate hawking. The worst offender in this regard is the government of West Bengal. Hawking or street vending in Kolkata is controlled by the municipal commissioner under the provisions of the Kolkata Municipal Corporation Act of 1980. This act prevents any type of vending on the streets. It was under these provisions that on the night of November 16-17, 1996 that the infamous 'Operation Sunshine' took place. More than a hundred thousand street vendors were forcibly evicted from the streets that night and property worth several crores of rupees were destroyed or confiscated. This action was, by all accounts, the most brutal action taken against the urban poor in any part of the country.

Matters did not end with Operation Sunshine. In 1997, the state government proposed an amendment to the Kolkata Municipal Corporation Act. This was Bill No. 33 of 1997 and was known as the Kolkata Municipal Corporation (second amendment) Bill, 1997. This later became an act. Section 371 of the act was amended as this section contains regulations on street vending. The original section prevented the use of any pavement for hawking goods. The amendment expanded this to include, "any basket, receptacle or goods on pavement, street, park or garden for display or sale" (Section 371, sub-section 1). This section further states (sub-section 1A) that any hawker contravening or abetting in contravening sub-section 1, shall be punished with rigorous imprisonment for a term extending up to three months or fined Rs 250.

In the statement of objects and reasons, the act states in 2(ii) that in order to prevent encroachment in public places, "it has been

decided to declare any such encroachment by the street vendors, stall holders and other organisations as cognisable and non-bailable offence." It is ironic that alleged rapists and murderers, in some cases, are granted bail, but street vendors selling wares on the street are regarded as more dangerous criminals. This is perhaps an indication of the attitude of the state government towards the urban poor.

Legalising Street Vending

One of the ways of legalising street vendors is by issuing licences to them. The municipal authorities are thus able to keep a check on the number of vendors and can also earn revenue through licence fees and other charges. However, the experience with licensing has been very negative. In cities like Mumbai, the municipal authorities have stopped issuing licences for several years. As a result, the number of licensed vendors is around 14,000 whereas the total number of vendors is around 2.5 lakh. Moreover, the census of street vendors conducted by TISS-YUVA found that approximately 8,000 of the vendors covered possessed licences. In other cities the situation is more or less similar. In Patna, street vendors can obtain licences but only after filling a cumbersome form every day, before starting their business. The vendor is required to give minute details about the place of business, nature of business, description of goods sold, etc. Given the low level of literacy of street vendors, one wonders how many of them can perform this intricate task every day.

Legalising of street vending through licensing should remove the basis of their harassment, extortion and eviction by the concerned authorities, provided this system is more liberal. The unlicensed street vendor is vulnerable to all sorts of extortion from various quarters. The police and municipal authorities extract rents for allowing them to operate. Studies on street vendors indicate that around 20 per cent of the meagre earnings of these people are paid as rents. The underworld too steps in in many places, ostensibly to provide 'protection'. Vendors become victims of these corrupt practices and also dependent on them for their survival. It is estimated that rents collected from street vendors and cycle-rickshaw pullers in Delhi is a staggering Rs 50 crore daily. In Mumbai street vendors pay around Rs 400 crore as rents. At times of special action by the municipal authorities on street vendors, rents increase 10-fold or more. In 2000 when Khairnar, a deputy municipal commissioner of Mumbai, started conducting raids on street vendors in central and south Mumbai, rents

increased tremendously. Vendors in these places were paying between Rs 50 and Rs 100 daily to municipal employees to warn them of an impending raid.

Rent seeking is related to unlicensed vending. However the licensing system, even if liberalised, may itself provide new avenues for rent seeking. The draft policy notes: "...numerical limits to such licences, which are sought to be justified on the argument that congestion in public places would thus be avoided, has given rise to an elaborate regime of rent seeking. In the first instance, rents are derived from the issue of licences, since the demand exceeds the (often arbitrary) numerical limits of such licences. Second, given that the demand for services of street vendors exceeds the supply from licensed vendors, a number of unlicensed vendors seek to operate, and rents are extracted during enforcement by allowing them to operate without licences." The policy therefore recommends that instead of licences, there should be a simple registration of street vendors and non-discretionary regulation of access to public spaces in accordance with planning standards and nature of trade/service. Registration of street vendors will be done by the ward committees as these are best suited to assess the situation at the ground level and vendors will be provided identity cards. The registration fee is to be nominal and will be fixed by the urban local body (ULB). Registration will be renewed after every three years. The registration fees, monthly maintenance charges and fines, if any, will be collected by the ward committee on behalf of the ULB. A portion of the revenue collected will be allotted to the ward committee for its operations.

Another aspect connected with legalisation is eviction. Besides causing financial hardship and impoverishment, eviction leads to loss of dignity for the vendor. The policy lays down that evictions should be avoided but where relocation of street vendors is necessary, a minimum notice of 30 days should be served to them. It further notes that vendors or their representatives should be involved in planning and implementation of relocation and efforts have to be made to ensure that vendors in the new locality have the same earnings as the pre-evicted level. The states too have been asked to take comprehensive measures to check and control the practice of forced evictions.

Self-Regulation and Organisation

Street vendors can be assets to the urban system if they are given the opportunity to contribute to its development. Being a

part of the marginalised urban poor, they are treated as trouble-makers whose sole purpose is to create chaos on the streets. This attitude is prevalent not only towards street vendors but also towards the other sections of the marginalised. The civic authorities and the urban elite seem to regard a majority of the urban population as obstacles to improving urban environment. Whenever the question of citizens' initiatives for improving cities arises, the reference is invariably to the middle and upper middle class. It is these people and their representative NGOs who, it seems, can take on the responsibility of improving the cities. The vast majority of the urban population is not only kept out of these initiatives but they are, more often than not, regarded as the main problem. In other words this majority is denied citizenship.

The fact is that no plan for improving the city can be successful without the participation of the urban poor. They need to be integrated into the planning process and in campaigns for a better environment. The experience of another marginalised section of the urban workforce, namely, ragpickers, has shown this. Ragpickers have been regarded as a nuisance and they are blamed for spreading garbage. They are harassed by civic authorities and by middle class residents associations. In fact these people, who form the poorest section of the urban population, are engaged in activities that are very positive for the environment as they collect recyclable materials from the city's garbage. Instead of victimising them for their activities, the civic authorities could instead incorporate them in keeping the city clean. In fact there are instances where this has happened and results have been positive. In Ahmedabad, the Self-Employed Women's Association (SEWA), a trade union of women in the informal sector, has been able to include ragpickers in the 'clean city' campaign. In Mumbai, the Stree Mukti Sangathana too, has involved ragpickers in beautification campaigns in some parts of the suburbs. Such moves are not only beneficial for the urban environment, they also try to restore citizenship to the marginalised.

In the case of street vendors too, their involvement in keeping the pavements clean could be very beneficial for the urban population. But this cannot be done if hawking is regarded ipso facto as illegal. If hawking is legalised and regulated, street vendors could be given the responsibility of keeping their environment clean. This would be readily accepted by them as no hawker likes to work in unclean surroundings. The policy in fact recommends that

beautification programmes should necessarily involve street vendors and their organisations.

The main highlight of the policy lies in its stress on self-regulation among street vendors. This aspect becomes more important in the case of food vendors who need to operate under hygienic conditions. The policy stresses that instead of having health inspectors, food vendors must ensure hygiene through self-compliance. It states, "though quality control is essential, the practice of 'health inspector' may not be suitable for the hawkers." This is mainly because such inspections encourage rent seeking rather than the objective of promoting hygiene. Street vendors therefore need to take up the responsibility of quality control. If this is violated, the ward committee can take action by imposing fines or by asking the offenders to close their business.

Another aspect the policy stresses is encouragement of collective organisations among street vendors. One of the objectives of this policy is "to promote organisations of street vendors e.g. unions/cooperatives/associations and other forms of organisations to facilitate their

empowerment." Along with empowerment, organisations of street vendors will be the basis of their credit, social security and insurance programmes recommended in the policy.

When implemented, the policy will be an important step towards empowering this section of the urban population and giving them a sense of dignity and citizenship. Street vendors are micro-entrepreneurs and they need to be treated as such. The urban population, who form the consumers, too will benefit. **[PW]**

[All quotations are from the 'Draft National Policy on Street Vendors' prepared by the National Task Force on Street Vendors which was appointed by the Ministry of Urban Development and Poverty Alleviation, Government of India. The surveys mentioned are: 'Hawkers and the Urban Informal Sector: A Study of Street Vendors in Seven Cities' conducted by Sharit K Bhowmik on behalf of National Alliance of Street Vendors of India (NASVI), 2001; 'Census Survey of Hawkers on BMC Lands' conducted by Tata Institute of Social Sciences and Youth for Voluntary Action and Unity for Brihanmumbai Municipal Corporation, 1998; 'Study of Hawkers in Mumbai' conducted by SNDT Women's University and International Labour Organisation, 2000.]"

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