

The Right to Vend

We are on the threshold of passing the historic Street Vendor Bill which will bring legitimacy to a profession that's considered a cornerstone of urban living, generates employment for close to 10 million Indians and is variously considered to be indispensable, inconvenient or a downright affliction depending on the shoes that you look at it from.

It is ironic that the strong and the big in Indian industry got to taste the joys of economic freedom way back in 1991, while the informal sector has continued to be weighed down by the demands of regulations and the need for licenses. As unlicensed professionals, street entrepreneurs enjoy no property rights to protect their source of income, and have therefore been subjected to the threat of extortion, confiscation of property and eviction on a daily basis.

The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012 is a welcome first step in bringing in long delayed reforms in this sector. With this, India will become one of less than two score countries globally to have laws dedicated to this marginalized sector.

A brief history of the Bill

The seeds of this Bill were sown in the 80's with landmark judgments from the Supreme Court in the *Bombay Hawkers' Union vs. Bombay Municipal Corporation* and *Sodhan Singh v. New Delhi Municipal Committee (NDMC)* cases where street vending was (a) recognized as a constitutionally recognized practice and (b) guaranteed as a fundamental right to carry on business subject to reasonable restrictions that may be imposed by the State in its role as a Trustee of public spaces.

It was almost two decades later that the National Policy on Urban Street Vendors was rolled out in 2004 and followed up with a revised Policy in 2009. These were implemented in only a handful of States and the Supreme Court finally set a deadline in October 2010, calling on the appropriate government to enact a law on street vending no later than 30th June 2011.

This deadline too has passed, but the Union Cabinet approved the Street Vendor Bill 2013 earlier this month which incorporates inputs from the Standing Committee on Urban Development and better addresses the interests of all concerned stakeholders than the version introduced last year.

Delays notwithstanding, this Bill will fill an enormous gap by giving a legitimate platform for millions of Indians to build livelihoods on. It will also be one of the first legislations internationally, to setup inclusive urban planning processes which draw inputs from street vendor members (through Town Vending Committees) in finalizing city-level plans.

What can be better

However, one of the key challenges in this matter is the question of balancing the vendors' right to dignity in livelihood & right to property with those of the citizen's right to public space. The question also includes the balance between rights of consumers to access the services/products

offered by street vendors and all the convenience and cost benefits that come with it with the rights of pedestrians, vehicle drivers and other general public to enjoy free, uncluttered passage.

The Street Vendor's Bill has attempted to safeguard interests all-round, but in doing so, it has damaged its chances of being implemented successfully. Of the many areas that various stakeholder groups have called for changes in, three that pose the greatest implementation risks, if not corrected in the law are:

1. **Jumbo-sized Town Vending Committees (TVC)** – the Bill asks for representatives from about 15 stakeholder groups including the local authority, planning authority, traffic police, local police, associations of street vendors, market associations, trader associations et al. to be included in the TVC. In trying to make the group representative, the Bill runs the risk of making it dysfunctional by bringing in too many members. Research shows that any group with greater than 8 and a maximum of 12 members fails to be effective. In the case of TVCs where a diverse set of stakeholders with competing demands need to come together, the larger the group size the greater the risk of complete failure. So, rather than trying to appease all groups by seeking to include them, the Bill can instead limit the core group to a maximum of 8 members and provide for others to be consulted on need basis on topics of greatest relevance to their interests.
2. **Demarcation of vending zones** – a commendable feature of the Bill compared to other international versions is the attempt to incorporate natural markets in the demarcation of vending zones. However, the Bill complicates the matter and generates implementation hurdles by asking for the demarcation of 3 types of zones namely restriction-free, restricted and no-vending zones. This will generate bureaucratic nightmares in tracking and enforcing this categorization and add little value to any of the stakeholders. What the Bill can alternately mandate is the demarcation of no-vending zones, and leave it to vendors & consumers to identify natural markets which serve their interests best in the rest of the city. This will, with one change, remove unnecessary regulation, avoidable implementation hurdles and empower the market to find optimized solutions.
3. **Dispute resolution mechanism** – given the many interests that need to be balanced, a robust, independent and responsive dispute resolution mechanism is critical to ensure that the implementation of the Bill is fair and transparent. The law currently provides for a committee(s) to be setup and for escalations to be taken to the local authority. This will however be insufficient given that the local authority may be an interested party in many of these disputes. The Standing Committee on Urban Development in its report on the Bill also recommends the formation of 'zonal grievance redressal systems' apart from defining a time-limit for resolution. This however hasn't been incorporated.

MGNREGA is a recent example of a successful legislation which has been implemented well – one of the key reasons for this is the fact that the Act is well drafted and leaves little ambiguity to wreck implementation. The Street Vendor Bill can learn from this. It is not too late to address these concerns, though at this stage, the onus is on members of parliament to voice these and other issues as they find appropriate before this Bill is passed. It remains to be seen if they will devote the time that legislations such as these warrant, to be studied and debated, before they are enacted.