



## ***Memorandum on The Street Vendor (Protection of Livelihood and Regulation of Street Vending) Bill, 2012***

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### **Introduction**

The proposed Street Vendor Bill is commendable in being a first step that will safeguard basic rights of the street vendors of India who have hitherto been neglected and in some cases harassed by the lack of legislation governing their livelihood.

In order to improve the effectiveness of the Bill and its delivery on the promises of equity and dignity to the lay street vendor, the Centre for Civil Society recommends the changes described in this memorandum. These are drawn from firsthand experience that CCS has in working with Street Vendors in Bihar and Rajasthan for several years. We believe these recommendations will help enormously in increasing the impact of the Bill.

### **Summary of changes proposed**

The changes that have been proposed are summarized under the following broad themes and listed in detail in the table that follows:

- 1. Eviction & Confiscation related (Sections 18, 19 & the Third Schedule):** Legal endorsement of confiscation & eviction can result in large-scale harassment of vendors due to mis-use. The right to dignity and equity in livelihood is guaranteed to Street



Vendors through the Supreme Court Judgment in *Sodhan Singh vs. NDMC (1989)*. Challenges if any in enforcing laws pertaining to Street Vendors, if any, should be dealt with in the same way as other law enforcement issues.

**2. Vendor Licensing & Penalties (Section 4 & the Third Schedule):**

The onus of registering vendors should be on the administration rather than on the vendors in order to spare them the transaction cost (by way of lost trading hours among other costs) and also to make this an efficient process. The requirements for registration of vendors, compensation for relocation etc. should be defined in the Law rather than be left for detailing in schemes at State level – for better protection of rights of Street vendors, ensuring minimum standards which are equitable and more effective implementation overall.

**3. Vending zone & natural markets (Sections 2, 21, Chapter VII & the Third Schedule):**

Distinction between Vending Markets and Vending Zones will help simplify the administration of this policy w.r.t. demarcating vending zones, managing them etc. and also leverage the value of natural markets which vendors will be best placed to identify. The need to preserve natural markets has been highlighted by other organizations working with street vendors too (e.g., NASVI & SEWA). Holding capacity to be defined in the Law, rather than by each State for more effective urban planning



- 4. **Town Vending Committees (Sections 22 & 23):** Committee size needs to be restricted to safeguard against dysfunctionalities of jumbo-sized groups; expert members may be invited on need basis rather than be listed as permanent members
- 5. **Dispute resolution mechanism (Section 20):** A State level Dispute Resolution Committee, will provide an opportunity for escalating grievances that do not get a fair hearing at the level of the local authority.
- 6. **Role of Local Authority (Sections 28 & 29):** The Bill needs to include the setting up of systems for ensuring effective implementation of the Act.

**Details of the recommendations:**

Section	Suggested Changes	Rationale
Section 2	Amend sub-clause (o) :  “vending zone” means part of the city marked by the local authority to divide the city into no vending zone, restricted vending zone and restriction free zone based on presence and movement of street vendors.	Drawing the distinction between Vending Markets and Vending Zones will help :  1. leverage the value of natural markets which vendors will be best placed to identify;

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	<p>Insert new sub-clause (p):</p> <p>“vending market” means an area or a place or a location, within restriction free vending zones, designated as such by the local authority for the specific use by street vendors or already being used for street vending and includes footpath, side walk, pavement, embankment, portions of a street, waiting area for public or any such place considered suitable for vending activities and providing services to the general public.</p>	<p>this will be of particular use for mobile / temporary vendors in restriction free vending zones which do not have designated vending markets</p> <p>2. simplify the administration of this policy by limiting the area needing strict monitoring &amp; enforcement to no-vending zones.</p>
Section 2	<p>Insert new sub-clause (q)</p> <p>“Vending Market Facilitator” means a street vendor appointed in a Vending market for</p>	<p>Vending Market Facilitators may be introduced to support the administration &amp; management of</p>

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	<p>management of market space and collection of the fee prescribed by the Town Vending Committee for maintenance of the Vending Market and submit to the Local Authority.</p>	<p>vending markets, thereby bringing in better efficiencies in management of this public space.</p>
<p>Section 4</p>	<p>Add Proviso 4(1) :</p> <p>Provided that the scheme shall ensure the creation of an open, inclusive, user friendly and transparent system for existing and prospective street vendors.</p> <p>FURTHER Provided that the onus of registration shall be on the Town Vending Committee. It shall take the necessary steps to provide for on the spot/on-site registration for existing street vendors in designated vending zones.</p> <p>FURTHER PROVIDED that the eviction of a street vendor shall be the last resort and that compensation for loss of livelihood should be in accordance</p>	<p>Onus of registering vendors should be on the administration rather than on the vendors to :</p> <ol style="list-style-type: none"> <li>1. ensure them the dignity and equity of livelihood guaranteed to them in the Supreme Court judgment in <i>Sodhan Singh vs. NDMC 1989</i></li> <li>2. spare them the transaction</li> </ol>

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	with the rehabilitation provisions of the LARR Bill, 2011.	cost of registration (by way of trading hours lost), which may place a large economic burden on them.
Section 18 (1)	Add Proviso 18 (1) (i):  PROVIDED that the eviction of a street vendor shall be the last resort and that compensation for loss of livelihood should be in accordance with the rehabilitation provisions of the LARR Bill, 2011.	This Bill should ensure Street Vendors enjoy the right to carry on their trade with the dignity and equity guaranteed by the Supreme Court judgment ( <i>Sodhan Singh vs. NDMC, 1989</i> ) and are adequately compensated should eviction become unavoidable.
Section 19	Delete sub-section (1):	Legal endorsement of confiscation & eviction can result in



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	<p>The local authority, in addition to evicting the street vendor under section 18, may, if it deems necessary, confiscate the goods of such street vendor in such manner as may be specified in the scheme.</p> <p>Delete sub-section (2):</p> <p>The street vendor whose goods have been confiscated under sub-section (1) may, reclaim his goods in such manner, and after paying such fees, as may be specified in the scheme.</p>	<p>large-scale harassment of vendors due to misuse; additionally, the constitutionality of the section is debatable in light of Article 301 of the Constitution. It is therefore recommended that challenges in implementing laws pertaining to Street Vendors, should be dealt with in a manner similar to other law enforcement issues.</p>
Section 20	<p>Inserted new sub-section after sub-section (1):</p> <p>(2). The State Government shall, for the purpose of addressing grievances of persons who are dissatisfied by the decision of the committee under sub-section (3), constitute a permanent State-level Dispute Resolution committee</p>	<p>A State level Dispute Resolution Committee, will provide an opportunity for escalating grievances that do not get a fair hearing at the level of the local authority.</p>



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	<p>consisting of a person who has been a sub-judge or a judicial magistrate or an executive magistrate and such other persons having such experience in natural market and street vending activities as may be prescribed.</p> <p>Modify sub-section (4) as underlined below:</p> <p>(4) Any person who is aggrieved by the decision of the committee may prefer an appeal to the <u>State level Dispute Resolution Committee (instead of local authority)</u> in such form, within such time and in such manner as may be prescribed.</p> <p>Modify sub-section (5) as underlined below:</p> <p>(5) The <u>State level Dispute Resolution Committee (instead of local authority)</u> shall dispose of the appeal received under sub-</p>	



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	<p>section (4)</p> <p>within such time and in such manner as may be prescribed:</p> <p>Provided that the <u>State level Dispute Resolution Committee (instead of local authority)</u> shall, before disposing of the appeal, give an opportunity of being heard to the aggrieved person.</p>	
Section 21	<p>Insert new sub-clause (3):</p> <p>Planning Authority should reserve land in all new residential development plans for vending markets in accordance with principles of natural markets</p>	<p>The issue of adequate availability and accessibility of land for vending zones should be addressed pro-actively in future developments so as to mitigate the problem over time.</p>
Section 21	<p>Insert new sub-clause (4):</p> <p>While planning for street vendors in new residential areas concept of 'Natural Market' should be</p>	<p>New developments should consciously factor in principles of natural markets in planning for vending zones – so as to</p>

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	followed	leverage the benefits of the same & ensure equitable access to livelihood for street vendors.
Section 22	<p>Modified sub-clause (2) as underlined below:</p> <p>Each Town Vending Committee shall consist of :</p> <p>(a) <u>Mayor or Chairman, as the case may be, who shall be the Chairperson (sub-clause added)</u></p> <p>(b) Municipal Commissioner or Chief Executive Officer, as the case may be as <u>member</u> (instead of Chairperson) of the committee.</p> <p>(c) <u>One representative each from the police force, planning authority and residents welfare association (added as a separate sub-clause)</u></p>	<p>Committee size needs to be restricted to safeguard against dysfunctionalities of jumbo-sized groups; similar to other committees formed for local governance issues / with a target group, TVC membership may be restricted to street vendors (along with the Mayor, Municipal Commissioner &amp; one member of the police force) with the provision that key policy decisions be adequately publicized &amp;</p>

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	<p>(d) <u>Five street vendor representatives as members of the committee with at least 1 member each from disabled, women and Scheduled Caste/Tribe/Other Backward Caste segments who is</u></p> <p>(e) The Chairperson and members nominated shall receive such allowances as may be prescribed by the appropriate Government.</p> <p>(f) <u>Expert members may be invited on need basis for consultation on specialist topics (added)</u></p>	<p>feedback incorporated as necessary.</p>
<p>Section 23</p>	<p>Modified to specify frequency of meetings:</p> <p>The Town Vending Committee shall meet once a month in the office space designated for meetings allocated by the local authority and shall observe such</p>	<p>Defining frequency of meetings will help ensure efficacy of the Committee and ensure urgent matters of business do not suffer for want of discipline in convening the</p>

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	<p>rules of procedure in regard to the transaction of business at its meetings, and discharge such functions, as may be prescribed.</p> <p>Provided that the meeting will be recorded and minutes shall be taken and shall be published on the website of the relevant local authority.</p> <p>FURTHER Provided that any details subject to the attendance, minutes, content, action taken, plans and execution of role and responsibilities of the Town Vending Committee and local authority shall be subject to the Right to Information Act.</p>	<p>meetings.</p> <p>Publishing the minutes will ensure transparency in the functioning of the Committee.</p>
Chapter VII	<p>Insert new Section after Section 27:</p> <p>The Town Vending Committee (TVC) will develop Vending Markets in the city as and where it</p>	<p>Vending Market Facilitators may be introduced to support the administration &amp; management of vending markets,</p>

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	<p>finds appropriate.</p> <ol style="list-style-type: none"> <li>1. TVC may appoint Vending Market Facilitator for the management of Vending Markets to collect the monthly fee as decided by the TVC, monitor the rules and norms set up by the TVC, cleaning and maintenance of the Vending Market.</li> <li>2. Vending Market Facilitator would be a street vendor from the same market.</li> </ol>	<p>thereby bringing in better efficiencies in Management. Details of the selection process may be prescribed by the concerned Town Vending Committee.</p>
Section 28	<p>Insert new sub-clauses (2-4)</p> <p>(2): The local authority shall setup a separate department within its office, with appropriate dedicated budget and an internal system to ensure compliance of the Act . It should also clearly assign duties and responsibility of the staff in charge to ensure accountability towards the street vendors to</p>	<p>Setup systems with adequate infrastructure and budgetary support for ensuring proper implementation of this Act</p>

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	<p>achieve the objectives of the act.</p> <p>(3) Officials and staffs of such department created under subsection (2) shall also undergo training to understand the issues concerning street vending activity and design innovative practical solutions from time to time.</p> <p>(4): The local authority shall publish an annual progress report covering in detail the work done, achievements accomplished, challenges faced and future plans etc.</p>	
Section 29	<p>Add new sub-clause(2):</p> <p>(2) A case of violation or non compliance of subsection (1) shall be liable for prosecution under the relevant section of the Indian Penal Code.</p>	<p>This will help protect Street Vendors' right to a livelihood with dignity and equity as guaranteed by the Supreme Court judgment in <i>Sodhan Singh vs. NDMC, 1989</i>.</p>

Section	Suggested Changes	Rationale
<p>Third Schedule</p>	<p>Recommend that the clauses in this schedule be defined in the law centrally.</p> <p>Specific recommendations w.r.t. some clauses are given below:</p> <p>( i) the period for which and the manner in which a certificate of vending may be renewed and the fees for such renewal.</p> <p>(u): Matters to be provided in the scheme: the principles for determining holding capacity of vending zones and the manner of undertaking comprehensive census and survey. Recommend instead that this should be covered in the Law</p>	<p>This will help better protection of rights of Street vendors, ensuring minimum standards which are equitable and more effective implementation overall</p> <p>(i)Recommend that the certificate of vending be issued for a period of 10 years and renewable for an additional 10 years on payment of a fee of Rs. 100</p> <p>(u)Recommend that this critical parameter be defined in the Law after consultation with experts.</p>



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Third Schedule	Delete :  p) the manner of confiscation of goods by the local authority.  (q) the manner of reclaiming confiscated goods by the street vendor and the fees for the same.	Legal endorsement of confiscation can result in large-scale harassment of vendors due to misuse; we recommend that challenges in implementing laws pertaining to Street Vendors, should be dealt with similar to other law enforcement issues.





## **About the Centre for Civil Society**

### **A. Organisational history, vision and mission**

Launched on 15 August 1997, Centre for Civil Society (CCS) is an independent, non-profit research and educational think tank based in Delhi committed to increasing opportunity, prosperity, and quality of life for every Indian by reinvigorating civil society and readjusting political society. Our mission is to promote social change through public policy by being a resource for innovative community and market based ideas for critical policy issues particularly in the areas of education, livelihoods, and governance. Our unique focus on public policy and longer-term solutions makes our research outputs crucial feeders into policy making and opinion formulation. Details are available online at [ccs.in](http://ccs.in)

One of our large focus area is livelihood reform, where we run the Jeevika Campaign, a research and advocacy initiative that calls to review, revise and remove restrictive regulations that condemn street entrepreneurs and other entry level professionals to lifelong illegality and poverty. The Campaign has scored several wins in advocating successfully on behalf of street vendors to ensure their right to livelihoods. Some of our wins include the Rajasthan state assembly passing the bill on street vending, the Bihar government drafting the street vendor bill and implementation rules for street vending.

### **B. CCS team and boards**

Our team comprises of 30 full-time staff, 30 interns, and scores of volunteers annually, not to mention a large family of CCS graduates and supporters. The team includes highly qualified researchers and campaign specialists from multi-disciplinary backgrounds with post-graduate degrees in Economics,



International Relations, Development Studies, Law, History, Mathematics, Political Science, and Management Studies. CCS is also supported by highly esteemed scholars, academics, and intellectuals who guide some of our research efforts, provide us with institutional support and guidance, and impart their expert inputs and opinions.

CCS is headed by Dr Parth Shah whose research and advocacy work centre on the themes of economic and livelihood freedom, choice and competition in education, property rights approach for the environment, and good governance and new public management. He has published extensively in international and Indian journals, on various topics from currency regulation, to education policy.

He has been an advisor and consultant to Central Information Commission and Indian Council for Research in International Economic Relations, and was an Evaluator of the Education Guarantee Scheme of the Madhya Pradesh Government. Parth is on the editorial board of EducationWorld, Vishleshan, and Khoj, and is informal advisor to many non-profits. He has taken liberal ideas to numerous national and international workshops and conferences and writes regularly in the popular media. He holds a PhD in Economics from Auburn University, and taught economics for 7 years at the University of Michigan. Parth was also visiting faculty at JNU and MS University in Baroda.



## ***Board of Trustees***

<b>Name</b>	<b>Brief Bio</b>
<b>Gurcharan Das</b>	Former CEO of Procter & Gamble India and later Managing Director, Procter & Gamble Worldwide. Author of India Unbound and The Difficulty of Being Good. Columnist for Times of India, Dainik Bhaskar, Eenadu, and other papers and guest writer for Wall Street Journal, Financial Times, Foreign Affairs, and Newsweek.
<b>Ajay Shah</b>	Currently Professor at the National Institute for Public Finance and Policy in Delhi. Former consultant to Department of Economic Affairs at the Ministry of Finance. Formerly Associate Professor, IGIDR. Listed in Top 10 economists in the Indian Express supplement 'The Most Powerful Indians in 2010 ', January 2010.
<b>Amit Kaushik</b>	Former Director in the Ministry of Human Resource Development. Involved in the drafting of the Right to Education Bill, 2005. Worked with UNICEF and UNESCO in designing policies for non-formal education in several countries like Lebanon and Iraq.
<b>Arun Duggal</b>	Former CEO of Bank of America in India. Board member of Shriram Capital, and Vice Chairman of Indian Venture Capital Association. Founder Director of Bellwether Microfinance Fund that provides equity capital to promising MFIs and Senior Advisor to Transparency International.
<b>Premila Nazareth</b>	Independent governance and research consultant. Worked with the World Bank, the Economist Intelligence Unit in New Delhi and UNCTAD in New York. Also spearheaded grassroots education and national transparency initiatives in India, working closely with India's Right to Information movement.
<b>O P Vaish</b>	Founder of a law firm called Vaish Associates, with offices in Delhi and Mumbai and presence all over India. He is involved in many civic and philanthropic activities.
<b>Ashish Dhawan</b>	Co-Founder and Senior MD ChrysCapital Investment Advisors. Formerly at GP Investments, a \$1 billion private equity fund in Brazil.



## **Board of Advisors**

<b>Name</b>	<b>Brief Bio</b>
<b>Luis Miranda</b>	Chairman, IDFC PE. Set up IDFC Private Equity and awarded Infrastructure Investor's "Asian Infrastructure Fund Manager of the Year 2009" and PEI's "Best Private Equity Firm in India – 2009". Earlier a Partner at ChrysCapital.
<b>Ankur Shah</b>	Portfolio and BD Manager, Acumen Fund, responsible for building Acumen Fund's Education portfolio and presence in the Middle East and Europe. Formerly with McKinsey advising Fortune 100 companies in the US on M&A and growth opportunities.
<b>Iris Madeira</b>	COO, Madhavi Desai Consulting, an education-consulting firm. Iris Madeira, National Co-ordinator, India FNST Alumni Network (IFAN), 2009 and Member of Core Group, Praja Foundation.
<b>Nitai Mehta</b>	Founder and Managing Trustee of Praja Foundation, an initiative to establish accountability and transparency in government.
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<b>Raj Bothra</b>	Physician
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<b>Vinay Bharat Ram</b>	Chairman and Managing Director, DCM Limited, flagship company of the DCM group. Visiting faculty at IIM (A), University of Delhi and IIT (Delhi).
<b>Leland Yeager</b>	Economist and expert on monetary policy and international trade. Professor Emeritus at both Auburn University and the University of Virginia.