

Street Vendor Act 2014 : - Unforgotten Promise



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ABSTRACT

The National Policy on Urban Street Vendors (2004) estimates the number of streetvenders in a city to be 2.5 percentage of the urban population (All-India 17-25 lakhs).¹ Despite such a massive population being engaged in an occupation, street vending is characterized by uncertainty, extortion and low standards of regulation. The Street Vendors Act 2014 aimed to solve these problems through a comprehensive mechanism. This paper evaluates The Street Vendors Act 2014's viability, status of implementation and monetary loss borne by street vendors due to its non-implementation. This is followed by ethnographic evidence and recommendations to improve the situation of Street Vendor.

Keywords : Street, Vendor, Act, Unforgotten, Promise, National, Policy.

I. INTRODUCTION

Street Vendors Act, 2014 defines a 'street vendor'² 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".

Street vendors contribute directly to the overall level of economic activity by exchanging various goods and services. It is a space for local entrepreneurship which may later manifest into big businesses. It's a massive source of employment and provides lower quality goods to those who can't afford it. Finally, street vending is a great example of a self-help initiative.

Urbanization has played a huge role in expansion of street vending. Lack of opportunities in rural areas led to migration from rural to urban areas in search of jobs and a higher standard of living. In that process, there was increasing unemployment within cities due to a gap between demand and supply of worker. Many turned to street vending since it didn't require much skill or capital.

Street vendors constantly faces the problem of harassment, eviction, bribery and municipal raids. A municipal raid is like a cat and rat game where the vendors run like rats as they see cat-municipal authorities.

II. BACKGROUND

During 1990s street vendor movements across the world became popular. In November 1995, representatives of street vendors from 11 cities and 5 continents came together and signed the **Bellagio**

¹National policy on urban street vendors 2004, page no-15

²The street vendors (protection of livelihood and regulation of streets vending) act, 2014, page no-03

International Declaration of Street Vendor. Taking inspiration from the same, Street Vending led to a fair amount of discourse in India.

In August 2001, the government set up a National Task Force on Street Vendor. Subsequently, the government released a National Policy on Urban Street Vendors in 2004 with the aim to protect livelihood of street vendor through a registration system and by creating a system of local management and self-governance to protect the vendor's rights.

The main problems of non-implementation of national policy on street vendor 2004 were identification of vendors, non-binding on state, surveying, harassment control and registration fees.

The ministry of housing and urban poverty alleviation (MHUPA) prepared the model legislation entitled street vendors (protection of livelihood and regulation of street vending) bill 2013³ which was passed by Lok Sabha on 6th September and on 19th February 2014 by Rajya Sabha. The assent of president was received on 1st May 2014 after which the notification sends to all the local governments. It had to be fully implemented in one-year time i.e. 1st May 2015. It is binding on all state and local governments.

III. METHODOLOGY AND DATA COLLECTION

This research paper is essentially a 3-point project revolving around Delhi. It involves:

- i) Critical Analysis of Street Vendors Act 2014
- ii) Tracking the Progress of the Act in Delhi
- iii) Cost born due to non-implementation of the Act with the NCR

³www.prsindia.org

This research paper involves primary and secondary research. The first part of the research involved a detailed study of the Act and a literature review. It also involved a discussion with around 20 Street Vendor Representatives.

To understand how far the Act has been implemented, the progress of Delhi's municipal corporations and government were tracked. The Central Act brought out major guidelines and deadlines, but since street vending is a fairly localized issue, specific rules were left to the municipal corporation. So, to understand how far the Act has been brought into action, each of the four municipal corporations in Delhi- North Delhi Municipal Corporation, South Delhi Municipal Corporation, East Delhi Municipal Corporation and New Delhi Municipal Corporation were contacted. Interviews were conducted with office bearer of each municipal corporation, and the status of the Act was evaluated.

For the final element of the paper, the loss in monetary terms due to no implementation of the provisions of the Act has been calculated. Non-implementation of the provision of the act has been most important because vendors losing most money due to bribing, eviction, penalties etc. Two markets from each of the four municipal corporations were selected for the study purpose.

New Delhi Municipal Corporation	India Gate, Sarojnagar
North Delhi Municipal Corporation	Jama Masjid, Karol Bagh
South Delhi Municipal Corporation	Lajpat Nagar, Sarai Kale Khaan
East Delhi Municipal Corporation	Shahdra Main Market, shahdra Sabzi market

These markets were selected randomly through convenience random sampling method. Ten vendors were interviewed from each market. The vendors

were selected based on random sampling (semi-structured interviews; questionnaire attached). Loss per street vendor was calculated as follows:

S.no	Total Loss to each vendor in the market	Computational Method
1	Average monthly bribe paid	Direct Question to vendors
2	Average monthly goods damaged due to eviction	Average number of goods lost per eviction x Average number of evictions per month
3	Average monthly penalty paid to reclaim the goods lost	Average penalty paid x Average number of evictions per month
4	Average monthly affidavit charges	Average affidavit charges x Average number of evictions per month
5	(sum of all above) Total Loss for (Vendor 1)	_____

$$\begin{aligned} & \text{total loss in the market } \times \text{ per year} \\ &= \frac{\text{total loss for } v1 + v2 + v3 + v4 + v5}{5 \times \text{no. of vendor} \times 12} \\ & \text{Average loss Per vendor in new delhi Per year} \\ &= \frac{\text{total loss in (mkt1 + mkt2 + mkt3 + mkt4 + mkt5 + mkt6 + mkt7 + mkt8)}}{\text{total no. of vendors in these 8 markets}} \\ & \text{total loss to all the street vendor in New delhi per year} \\ &= \text{Average loss in delhi} \\ & \quad \times \text{Total no. of street vendors in new delhi} \end{aligned}$$

Where,

$$\begin{aligned} & \text{total no. of street vendor in delhi} \\ &= \text{Total population of new delhi} \\ & \quad * 2.5\%^4 \end{aligned}$$

Case 1: - Critical Analysis of The Street Vendors Act 2014

The Street Vendors Act 2014 mainly aims to empower street vendors through rights and grievance redressal mechanism.

The major features of this Act include:

1) **Right to Vend:** Sec 12-16 of Chapter III highlight that the street vendors have complete right to carry on the business of street vending. It emphasizes the legality and legitimacy of street vending as a profession. A certificate of vending will be binding documental proof of the same.

⁴As per National policy of urban street vendors approx..2.5% population of the city comprises of street vendors

2) **Town Vending Committee (TVC):** Section 22-26 of Chapter VII deals with town vending committee. Town Vending Committee consists of government officials, municipal officers, street vendors, bankers, traffic police, NGOs, to take into consideration the opinion of all stakeholders within the ambit of street vending. Town Vending Committee has to hold regular meetings and carry out functions relevant to vendor

3) **Plan for Street Vending:** According to the 2nd schedule of the Act, this plan is meant to be prepared by local authorities in consultation with the TVC. It involves laying down vending zones, non-vending zones and restricted zones for various markets. Civic amenities have to be created and regulated.

4) **Redressal Mechanism:** Chapter V in this act deals with government redressal committee which will consider the application of the street vendor and take steps for redressal based on the rules set. It also allows vendors to appeal to a local authority if preferred.

5) **Prevention of Harassment:** Chapter VII of the Act clearly pronounces that vendors following the terms and conditions of the certificate of vending cannot be prevented from carrying out their right to vend by any police or local authority in any manner. It is the most relevant provision of the Act since harassment is the biggest problem that street vendors face.

Critical Evaluation of the street vendors act 2014

1. **Chicken-egg⁵ situation:** -According to the Act, a Town Vending Committee has to involve a representation of 40% street vendors through an electoral process. For election, there is need to create voter list through survey which is conducted by TVC as per the act of 2014. This created a 'chicken-egg' situation within the Act. TVC needs to do a survey of vendors to give them certificates of vending, but, for the formation of the TVC, there needs to be a prior survey. This is creating massive problems for execution of the Act. The Town Vending Committee is responsible for the execution of all field-based functions.
2. **Street vending as the only source of livelihood for vendors:** -Section 5(2) of chapter II mentions that a street vendor has to ensure *that* he has no other means of livelihood except street vending. This provision could act as a hindrance in incentivizing vendors to apply for certificates of vending. It might be problematic for authorities to check whether vendors are taking up other jobs.
3. **Neglect the protection of fundamental right:** - Chapter III deals with right and obligation of street vendors. This act provides right to vend only. It talks nothing of the *protection* of the fundamental rights of street vendors that are currently being exploited. The state government needs to assure upholding of their fundamental rights like freedom of speech, freedom to occupy public space, freedom to protest which are continuously being mocked by the local authorities.
4. **No difference between major and minor penalty:** - Section 10 of the act implies that there is no difference in the kind of penalty that is going to be imposed, in all cases there is direct cancellation of the vending certificate and beyond.
5. **Final decision by municipalities authorities and police:** -According to section 27 of the Act, the police, and the municipal authorities are still the final deciding factors in which vendor is to be evicted and which vendors is not to be evicted. But it is usually seen that municipal authorities and police are responsible for violation of rule and law. They used to harass the street vendors.
6. **Unconstitutional provision:** - A municipal corporation which is purely an executive body is being converted into a judicial body with no judicial officers whatsoever. This provision violates principle of separation of power which is the essence of the Indian Constitution. In the Supreme Court Case of **Ram Jawaya Kapur V/S State of Punjab**, Chief Justice Mukherjee elaborated 'Our Constitution does not contemplate assumption, by one organ or part of the State, of functions essentially belonging to the other'. Section 28 does not specify the kind of officers who will be in-charge of this kind of criminal adjudication, making this provision unconstitutional.
7. **No vending certificate:** -The Act explicitly claims that if the number of vendors is greater than 2.5% of the local urban population of the area, they

⁵ The 'chicken egg' term as commonly referred by government officials refers to the circular instruction within the act. The TVC is required to conduct a survey for creation

of vendor list, but for a TVC to be elected a vendor list needs to be present for election to happen.

won't be given certificates of vending unless they are relocated. A technical problem emerges from this. If the number of vendors in Delhi itself is greater than 2.5% of its total urban population, then they won't be given vending certificates. They won't be given non-harassment insurance or redressal mechanisms according to section 27 and 28 of the Act. Since these vendors are now illegal, they also come under the Bombay Prevention of Begging Act 1959 and can be prosecuted for the same.

Case II: Tracking the Progress of The Street Vendors Act 2014

The street vendors act implemented by each state government with consultation of municipal corporation and town vending committee. This research paper focus on implementation of the act in various municipal corporations. Delhi is divided into four municipal corporations.

- North Delhi Municipal Corporation
- South Delhi Municipal Corporation
- East Delhi Municipal Corporation
- New Delhi Municipal Corporation

Ministry of Housing and Poverty Alleviation (MHUPA)

Regarding implementation of the Street Vendors Act 2014, the MHUPA is simply a guiding force. Even though MHUPA created the Act, it is not the accountability body for the implementation of this Act. The MHUPA is keeping vigilance of the progress of all states on a monthly basis. Most of the States have missed the deadline for implementation of the Act, the MHUPA sends them reminders and notices to speed up work. The MHUPA is flexible about creating the Schemes specific to the requirements of state governments. It allows state governments to incorporate changes in their state-scheme keeping in mind the general guidelines of the Act. There is no

direct penalty imposed or strict order is sent by the MHUPA to the state governments.

Delhi Government

The Delhi Government released the Government of National Capital Territory of Street Vendors Scheme, 2015 on 23rd September 2015. These were then forwarded to the Municipal Corporations for implementation.

Mostly, the Act is in the process of implementation, but red-tapism is making it tougher for effective implementation. Trickling down to the grass-root authority is problematic in terms of time. Due to the consultation with various stakeholder, the implementation of the act causes avoidable delay.

Case III: - Cost Borne by Street Vendors due to Non-implementation of the Act

Harassment from local authorities in the form of eviction, penalties, bribery is the biggest problem that the street vendors face daily. The major focus of the Street Vendors Act has been to give vendors appropriate rights to empower them to fight the harassment. Due to non-implementation of the Act, this harassment continues to happen. This section aims to analyze the loss of street vendors in monetary terms due to non-implementation of this act.

Two markets from each of the four municipal corporations were visited, and 10 vendors from each market were surveyed. Averages based on their responses have been calculated. Major avoidable losses that they face daily are:

- i) Bribes paid to MCD and Police
- ii) Penalties paid during eviction
- iii) Loss of livelihood once they have been evicted
- iv) Damage to goods/loss of goods when goods are taken away

v) Affidavit Charges⁶

The responses were corroborated by other vendors and their representative. All figures are in ₹ Per month.

1. North Delhi Municipal Corporation

Jama masjid and Karol Bagh

Particulars	Jama masjid	Karol bagh
Average Income	33,400	45600
Average Profit	10,800	10800
Average number of times Police/MCD comes to evict (in days)	4	11
Average number of times goods are evicted (in days)	1	1
Average number of days goods stay with the police	4	2
Average penalty paid	230	720
Average bribe paid	360	1360
Average amount of goods lost	500	3200
Total number of vendors	1000	1500
Total Loss per year	₹ 1,48,80,000 ⁷	₹ 9,77,40,000

Source: - Primary data collection through survey

2. New Delhi Municipal Corporation

India Gate and Sarojini Nagar

Particulars	India gate	Sarojninagar
Average Income	39,600	43,200
Average Profit	12,300	11,700
Average number of times Police/MCD comes to evict (in days)	30	30
Average number of times goods are evicted (in days)	2	2
Average number of days goods stay with the police	4	8
Average penalty paid	28,200	690
Average bribe paid	3200	1600
Average amount of goods lost	500	12120
Total number of vendors	800	1400
Total Loss per year	₹ 18,56,64,000	Rs 46,23,36,000

Source:- Primary Data collection through survey

⁶ The approximate charge of affidavit is Rs 150/eviction

⁷Formula used to calculate loss per year in the market = (Bribe paid + prnalty paid +good damaged due to eviction+ affidavit charge) * number of street vendors in the market*12

3. South Delhi Municipal Corporation

Sarai KaaleKhaan and Lajpat Nagar

Particulars	Sarai Kale kha	Lajpat nagar
Average Income	47400	43200
Average Profit	11400	11700
Average number of times Police/MCD comes to evict (in days)	5	30
Average number of times goods are evicted (in days)	1	2
Average number of days goods stay with the police	3	8
Average penalty paid	570	690
Average bribe paid	160	1600
Average amount of goods lost	4000	12120
Total numbers of vendors	250	1700
Total loss per year	32,40,000	54,02,40,00

Source: - Primary Data collection through survey

4. East Delhi Municipal Corporation

Shahdra Market and Shahdra Sabzi Market

Particulars	Shahdra Market	Sabzi Market
Average Income	70000	37200
Average Profit	16200	9800
Average number of times Police/MCD comes to evict (in days)	2	7
Average number of times goods are evicted (in days)	1	1
Average number of days goods stay with the police	3	4
Average penalty paid	1010	1260
Average bribe paid	1000	1640
Average amount of goods lost	4000	21000
Total number of vendors	1000	200
Total Loss per year	₹ 7,39,20,000	₹ 89,20,00

Source: - Primary Data collection through survey

From just these eight markets (comprising of 8,150 vendors) there has been a loss of R.s 1,43,63,40,000. Loss per vendor is ₹ 1,76,238 per year. This means

29.64% of each street vendor's income per year is lost due to harassment. The National Policy says that street vendors are approximately 2.5% of the urban population. Therefore, total loss of Street Vendors in

Delhi due to Non-implementation of the Act is ₹ 71,88,23,84,311 per year.

Findings

- **Corruption:** -The corruption is the main cause of non-implementation of this act from both municipal authorities and policies. After the implementation of the Street Vendors Act 2014, eviction may have reduced in many markets, but corruption through exploitation continues. Dalal System⁸ is rampant.
- **Red-Tapism:** -It passes through number of authorities for implementation which is the main cause of delay in implementation. They have crossed the deadline for the implementation of the scheme.
- **Fear to street vendors:** -Vendors are crippled under the authoritarian rule of the municipal authorities and do not protest in fear of losing their livelihood. Municipal authorities harass them through Dalali system.
- **Lack of awareness and empowerment:** -Street vendors are unaware of their rights and how to use their rights. By virtue of being illiterate, many of them can't file applications in case of evictions or lodge FIRs against Police officers in case of harassment.
- **Lack of collective action:** - Collective Action by the street Vendors is the only thing that has helped so far in terms of awareness and stopping to bribe payments. But it is usually seen that there is no cooperation and coordination among street vendors.
- Many unions are in association with NGOs like NASVI, SEWA, Manoshi, etc. who keep updating

them with progress in the government departments.

- ₹ 71,88,23,84,311 of street vendor's income can be saved per year within New Delhi if the Act is implemented properly.
- The stay order is effective in stopping eviction by municipal authorities.
- Many people whose goods are evicted do not even go back to collect their goods from the municipal authorities because penalty to be paid is almost the value of those goods.
- Sanitation is a massive problem for women vendors there.

Recommendation

- ❖ There is a need to create a dedicated committee within state governments which works to ensure correct implementation of the Act. Penalties, notices, deadlines, incentives etc. need to be regulated by this committee. This committee should monitor the proper implementation of this act.
- ❖ The municipal officers/Police men should report the complaint, reason for eviction, goods evicted, penalty charged with receipt etc. in written form rather than arbitrarily evicting vendors on a complaint that cannot be verified. A copy of the records should be available to the public and vendor.
- ❖ Awareness campaign should be launched by NGO and vendors union to disseminate information to street vendors about their rights.
- ❖ 60% of the Town Vending Committee comprising of various stakeholders can be created. This partial Town Vending Committee can then create a voter list and conduct elections.

⁸ An internal system where municipal authorities have deployed a few street vendors from within the market to collect bribes on the behalf of the municipal authorities.

- ❖ There should be the simplification of registration process and single window clearance.
- ❖ There should be the proper arrangement of public toilets for women vendors.
- ❖ Issue of vending certificates easily and quickly without any technical complication.
- ❖ Diversification of income source for street vendors to sustain livelihood.

IV. CONCLUSION

The street vendors act 2014 is the fundamental step by the Government of India to protect, promote and sustain livelihood for the street vendors. Collaborative and cooperative approach need to be adopted in order to ensure proper implementation of the act. Central government, state government and local government should work in mutually coordinated manner. This act has provided the structural framework within which the right of street vendors has been exercised. The street vendors contribute to the economic growth of the country. There is a need to link them in the formal system of the economy.

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