

RIGHTS OF FOOTLOOSE SELF-EMPLOYED WORKERS IN URBAN INFORMAL ECONOMY

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Abstract:

The Right to life and personal liberty guaranteed in Article 19 of the Constitution of India recognises individuals' right to earn their livelihood. A significant portion of people contribute substantially to the urban informal economy work either as daily wage earners or as street vendors. Although they contribute significantly to the economy, these workers are exposed to high financial instability and a lack of social and policy protections. In the pretext of beautification of cities or smart city projects, many a time these street vendors are treated as a nuisance and often face eviction. The present paper challenges faced by the footloose self-employed workers in the urban-rural economy due to unstable policies and negative perceptions. Further, it identifies the role of civil society organisations in bringing them together, collective bargaining for their right, and changing societal attitudes where they feel secure.

Keywords: Self-Employed, worker, justice, civil society, collective bargaining, development, society

Introduction:

The right to carry on trade or business, mentioned in Article 19(1) (g) of the Indian Constitution, on street pavements, if properly regulated, cannot be denied. The term 'Street Vendors' describes persons selling goods and services on the street without having a permanent built-up structure. (India, 2012). The National Policy on Urban Street Vendors estimates that 2% of a city's population is composed of street vendors (Ministry of Urban Employment and Poverty Alleviation, 2014). A recent survey conducted by the NASVI found that Mangaluru, a city in southern India, has more than 3,500 street vendors (Hindu, 2015).

Poverty, lack of gainful employment in the organised sector, and a lack of education force these people to work in the unorganised sector. As it requires minor financial input and the skills involved are low, for them, it becomes only one of the means of earning a livelihood. Further, deindustrialisation in cities of the developing countries has created a scarcity of jobs. Many of these displaced, or their spouses, have become street vendors to overcome their problems by pooling their meagre resources and starting their own enterprises to lead a dignified life.

Though their role is significant, they are regarded as a nuisance, their presence seen as inimical to urban development. These vendors often face the threat of being dislocated or having their articles confiscated by the city administration in most parts of the country while earning their livelihood on urban roads. In Most cases, they are forced to pay bribes to remain.

Statement of problem:

Despite constitutional recognition, footloose self-employed workers in the urban informal economy face numerous challenges, including economic insecurity, lack of formal recognition, social marginalization, forced evictions, and unauthorized bribe demands by city authorities. Additionally, the absence of collective mobilization from the civil society hampered the protection of their right.

Aims and objectives:

On this background, the present paper aims to:

1. To identify the factors that contribute to the vulnerability and marginalisation of footloose self-employed workers in the rural economy;
2. To examine the issues that arise between the street vendors and city officials, such as forced eviction and unauthorized bribes;
3. To assess how well current laws and protections actually work for these workers and point out gaps.

Methodology:

The present paper is based on secondary sources. It has analysed scholarly articles published in magazines, newspapers, and national and international journals, including official reports published by NASVI, ILO, and The Economic Survey.

Judicial precedents related to street vendors in India

To understand the constitutional obligation of the government towards these urban vendors, it is relevant to study two important judgments delivered by the honourable Supreme Court of India. These judgements have helped synthesise the issues that street vendors are facing in India. The paper refrains from going into the details of each case and discussing the specific facts thereof.

Genda Ram vs Municipal Corporation of Delhi (2010) 10 SCC 715), is one of the best judgments delivered by the highest court in favour of these urban poor. It was delivered on 8 October 2010. The judgment states that town vending committees should be appointed to regulate street vending and ensure that they are allotted proper public space. The court has directed the government to pass the bill by 30 June 2011, to protect the fundamental rights of the citizens. This judgment pointed out the need for harmonising two conflicting rights of the street vendors to carry out hawking and of the commuters to move freely and use the roads without any impediment.

Sodan Singh and Others vs New Delhi Municipal Committee and Others ([1989] 3 S.C.R. 1038) dealt with the fundamental question that was addressed by the Supreme Court of India, in this case, whether the rights provided in Article 19(1)(g) and Article 21 of the Constitution, be restricted by the government under Article 19(6) of the Constitution. The court held that vendors have the right to carry out their business for their livelihood on the roadsides, as long as they do not interfere with the rights of other people. This means that their rights to carry out roadside business can be reasonably restricted depending on the utilisation of the road or any

other area. From the case, it can be suggested that the draft policy should provide a reasonable amount of space for the vendors to carry out their business or help them establish an alternate medium for their livelihood.

From the above cases, the following issues are merged: (i) regulation regarding places where vendors can carry out their business, (ii) regulation regarding the articles which can be sold by the vendors, (iii) regulations and procedures regarding eviction of vendors, (iv) issues of extortion, bribery and harassment of street vendors, and (v) issues of relocation and rehabilitation. Resolving these issues will help the primary users of the road by providing them with cleaner and less crowded roads, and at the same time, reducing the hassles for street vendors. Despite these progressive judgments, municipal authorities continued to harass street vendors.

Legislative Framework for the Street Vendors in India

The National Alliance of Street Vendors of India (NASVI), in collaboration with SEWA, conducted a comprehensive survey of street vendors across India in 1999. Their efforts prompted the Minister for Urban Affairs to establish a National Task Force on Street Vendors to develop a National Policy regarding Street Vending.

The National Policy on Street Vendors was introduced in 2004, recognising the constitutional rights of street vendors to earn their livelihood without contributing to congestion of public spaces. The policy was revised in 2009 and included a model law for street vending that state governments could modify according to local and regional requirements. The objective was to establish a consistent legal framework, which culminated in the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014, which came into force on May 1st 2014.

Main highlights of the Act

- The Act is designed to safeguard the livelihood rights of street vendors and regulate their activities by designating specific areas for vending and outlining street vending restrictions on street vending.
- The Town Vending Committee must conduct a survey on Street Vendors in its area at least once every five years.
- Anyone wishing to start street vending must first register with the Town Vending Committee (TVC), after which they may apply for a vending certificate that will be issued based on certain criteria.
- The state government is responsible for developing policies for street vendors. Local authorities, in partnership with planning bodies, must prepare a street vending plan every five years.
- The TVC comprises the municipal commissioner, representatives of street vendors, local authority, planning authority, local police, resident welfare association, and other traders' associations.

The Karnataka Government to Support Urban Street Vendors launched two schemes under the centrally sponsored National Urban Livelihood Mission (NULM) in 35 cities with a population

of more than one lakh, and 181 smaller towns in the State. They will be funded by grants under the Jawaharlal Nehru National Urban Renewal Mission (JnNURM). Mangaluru is one of the cities under the NULM project.

Concluding Remark:

There is no doubt that these policies implemented by the Central and the State Governments are a huge relief to the street vendors of the city. The Mangalore City Corporation, to facilitate the process of identifying the vending zones, has comprised a committee consisting of street vendors, officials of the City Corporation, and they have identified the vending zones too. But it is indeed ironic that these vending zones can accommodate around 500 street vendors in the central business district area of the city and around 1,000 in other parts of the City Corporation and it has yet to find an alternate site for the rest of the street vendors. Further, a complication has arisen in the vending zone identified by the MCC opposite Lady Goschen Hospital has now been used as a parking stand for goods tempo. The goods tempo drivers have been seeking an alternative parking lot.

Most of the street vendors in Mangaluru are migrant workers, poor, and illiterate. The registration process followed by the City Corporation is very cumbersome, requires many documents, and is expensive, so this has not created a culture of trust among the street vendors. There is a need to organise awareness campaigns and to simplify formalities for registration under the Act before implementation. Further, a study reveals that these vendors earn very low despite their tight work schedules, and in addition to this, they suffer from ailments related to stress – hyperacidity, migraine, hypertension, loss of sleep, etc. The City Corporation has to address these issues in its policies, and it has to organise regular free medical camps and educate the street vendors on problems relating to health, nutrition, and child care. To bring them within the ambit of social insurance, urban local bodies, NGOs should encourage them to enrol under social security schemes like Rashtriya Swasthya Bima Yojana (RSBY) for health insurance, Aam Aadmi Bima Yojna (erstwhile Janashree Bima Yojna) for Life Insurance, or any such state-specific insurance schemes. The state government should organise free skill development training programmes. Participation in government-sponsored rural employment guarantee schemes can be encouraged. While demarcating the vending zones, the Town Vending committee has to maintain a proper balance between the usable space and the number of vendors without compromising the issues of traffic, environment, and basic public sanitation facilities in vending zones. In addition to this, to support and encourage the street vendors, the state government, along with the urban local bodies, should frame effective participatory rules and allow suggestions from unions, the general public, and street vendors. A strong union, determined NGOs, self-help groups, and a firm political will can pressurise the government to implement these policies and to address the issues relating to this neglected, marginalised section.

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