



A promise still to take roots: A Review of the National Policy for Street vendors in India

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Abstract

Street vending which provides gainful employment to millions of migrants and poor in cities suffer from negative perceptions, lack of regulations and subsequent contestations over the use of urban spaces. The street vendors' positive contributions to the public spaces and government receipts go unnoticed due to the failure of the urban governance to create adequate infrastructure and the persisting informal economy. Consequently, the substance of the spatial-temporal claim of street vendors to the urban public spaces become obscure and in conflict with the narratives of development of urban spaces.

In India the street vendors' right to livelihood is protected and their social protection is guaranteed by the national policy for street vendors. The policy was expected to provide street vendors legitimacy, dignity and social inclusion. Nearly two decades later, the policy has evidently brought about various positive impacts in the well being of street vendors. Little information is published by governments and city authorities to understand and evaluate the effectiveness of the implementation of the policy. But how far have we accomplished is a question that needs careful observation.

"Crisis reveals the character", so goes an old saying. The covid 19 pandemic and subsequent lockdowns of cities exposed the vulnerability of street vendors and limitations of the policy. Lockdown forced all industrial and commercial activities to be suspended and the streets of the country to be left deserted and empty for months. The crisis left the street vendors with no options for a livelihood but to stare at insecurity and uncertainty. This provided the context for a critical evaluation of the policy for street vendors.

Key Words: Street Vendors, Social Protection, Right to Livelihood, Lock-down and Policy for Street Vendors

INTRODUCTION

Street vending is an informal practice of millions of people worldwide. Though this petty trading is a natural and primitive form of markets, it's treated as illegal by governments. In many countries strict laws exist to penalize these people for encroaching public property, littering public spaces, creating traffic congestion, blocking footpaths, polluting streets, selling items harmful to health, engaging in piracy and so on. The city administrations frequently drive them out from streets and police book them under various criminal activities.

Recently various studies have pointed out that street vending practice needs to be considered as an employment of poor migrants (Hart,1973; Bhowmik, 2005). Some researchers argued street vendors are entrepreneurs of the developing cities, who nevertheless, suffer due to over regulation of government (Soto,1989). Studies which looked into the issue of equity in the cities argued that these practices shall be recognized and these people shall be accommodated in the plans and policies of governments (Bhowmik,2006). Studies from African cities calls street vending as 'social infrastructure' serving the urban poor and hence street vendor's right to public space should be viewed favorably as a claim to common resources of the city (Brown, 2006).

India's stance

India is the first country to recognize and devise a national policy for street vendors (hereafter, policy). The policy response intends to address the socio-legal problems of street vendors and to realize the economic potential of the practices. The policy is considered as a major step in the direction of alleviating urban poverty and social inclusion of the poor.

This paper is primarily an attempt to assess the objectives and the effectiveness of the national policy for street vendors. Apparently, the paper also discusses the various responses to policy such as compliance, negotiation and coping from street vendors . This paper is based on observations, scientific literature, news reports, interviews with street vendors and government officials.

The national policy for street vendors in India

The national policy for street vendors with its legislative, administrative and regulatory instrumentalities, proposes to implement the following measures at the central, the state and the municipal level. The policy was initially formulated and issued by GOI in 2004. It was further revised in 2009. In 2014, the GOI enacted Street vendors (Protection and Promotion) Act, which made protection mandatory and policy implementation obligatory to the State Governments and Urban Local Bodies.

Salient features of the policy

Surveying and certifying the street vendors

The law stipulates in all urban areas, street vendors must be surveyed under the monitoring of TVCs to identify the persons and their nature of business to provide them with a certificate of vending and identity card. Surveys need to be repeated every five years for issuing new certificates, though in the interim temporary certificates can be issued by TVC for the new applicants.

Spacing of street vendors/Plan of vending

All street vendors identified in the initial survey must be provided space for vending in the existing site or in the nearest spot desired by vendors. The total number of street vendors is assumed as 2.5% of the urban population, therefore an corresponding percentage of land shall be made available from the planning agency, which shall be included in the development plans. (social inclusion/development focussed) Moreover, the 'holding capacity' or the number of available spots shall be decided at the zonal or ward level and a zoning method shall be used to declare streets and public spaces in the city as restricted, no-restricted and no-vending zones by the TVCs. The zoning method shall not be used to discriminate against the vendors - citing overcrowding or sanitary concerns (address prejudice/bias). When the applications above such numbers are received, a method of drawing lots shall be used to select vendors.

Development and maintenance of vending sites

The municipal authority shall develop vending sites providing necessary basic infrastructure and public utilities in a proactive manner. The TVC shall overlook and decide upon the matters of cleanliness, environmental hygiene, public health and safety hazards probably raised about the vending sites and business practices. the TVC shall charge fees for maintenance and the vendors are expected to pay taxes as per the relevant laws (pro- formal economy).

Eviction, relocation and redressal mechanism

The right to vending under Article 14(1)g of the constitution, as clearly described in this Act provides street vendors protection from eviction or forceful relocation. The law stipulates affected vendors are to be served a 30 day prior notice before such a procedure in case of the expiration of certificate of vending or conversion of land use for a public purpose. If the vendors unwilling to relinquish the site after the notice period shall face fines, penalties or confiscation of goods as proposed in the scheme of vending. The TVC shall be in-charge of addressing any grievances in the given procedures

The scheme is a blue-print for the administrative and logistical actions at state and municipal level anticipated in the implementation of the law for street vendors. It shall be prepared by the State Governments or Governments of UTs or Cantonment Boards for the areas under their jurisdiction, which shall be in congruence with the provisions of the street vendors law, 2014.

Town Vending Committee (TVC)

This committee shall be vested with powers to administer the scheme of vending, design and modify and monitor the plan of vending and decide upon the grievances in each Municipal authority. This committee shall decentralize its functions to zonal or ward levels, headed by CEO/Commissioner of the city, all major departments in the local authority, the police/traffic police, Banks, represented by traders, residents, NGOs and a quota of 40% representation to street vendors (including 30% women representatives).

Scope: Rights, Regulations and Representations

The national policy for street vendors acknowledged the occupation of street vending as a legitimate livelihood practice, which otherwise was an illegal and a criminal activity. The policy promulgated the duty of the state to bring in equity by actively pursuing poverty alleviation and social welfare of street vendors. It drafted in resonance with the Supreme Court judgements extending the protection of Article 14g(1), the fundamental right of citizens to carry out trade to street vendors. Thereby through the formulation of the policy, the government has played its role as a protector of poor and vulnerable citizens, furthering the constitutional objective of securing justice, liberty, equality and fraternity.

Secondly, to ensure the 'right to vending' to street vendors, policy details the regulatory mechanism in cities, acknowledging the promise of vendors to adhere to self-regulation. The vending committees proposed at city level anticipates the furthering of democratic governance in the municipal governance. The representation of street vendors and other interest groups who lay claim to urban spaces in the committee follows the intent to promote participation in urban local governance.

Thirdly, the government aims to address the informality surrounding the practice of street vending. The process of registering their businesses and vending practices helps better chances for their inclusion into the urban planning both spatial as well as community development plans. The data of the nature and typologies of vending at cities helps to create schemes and programmes tailored to their needs and potential for growth and development. Regulations proposed in the policy also help the city government to manage the resources well, such as by accurately estimating and responding to the changes in land use and by employing taxation and user fees.

The policy for street vendors therefore provided the legitimacy for the livelihood practices of nearly an estimated 50 million persons. The national policy for street vendors is wholeheartedly welcomed by street vendors organizations, who played a constructive role in its formulation. They have partnered with various city and state governments to implement the policy steps. However, the policy elicited mixed responses from various other stakeholders, including State and city administration. The Street Vendors Act, 2014 protects the economic rights of street vendors as self-employed individuals and as marginal groups in cities provides social protection.

Limitations of the policy

Contested spaces: The policy measures draw a roadmap for accommodating street vendors 'claim to the urban spaces' in the cities. However, the devil rests in the details - street vendors 'make a claim' to streets or sidewalks, which are frequented by pedestrians and commuters, which turn out to be a 'natural market' for their goods and services. There are plenty of other claimants to the portion of a street, such as the shopkeepers, private businesses, housing colonies, and so on. Apparently, the electricity boards and water supply and sewage agencies, waste collectors claim to use the roads, 'on the merit of their services' that run across the streets. Often these conflicting claims are presented in the wrap of the classic urban debate – The pedestrians versus motorists, where the former is the ubiquitous muse of the urban planners and latter who taxed or tolled to ride and pay for parking the vehicles. The broader contours of street level contestations are also the product of the perceptions, especially of elites and middle class who shape a discourse on public spaces that exclude the poor (Anjaria, 2006).

Ambiguity of legal interpretations: The state governments or urban administration can ask the vendors to stop the business or relocate from a site, if it is required for 'public purpose' as per the policy. In effect, the notional protection provided in the policy actually benefits very few street vendors. Similarly, the protection and benefits of the policy excluded the street vendors in railway land or properties and archaeological sites. It may be noted both are spaces which provided huge commercial opportunities for street vendors for long periods of time. In addition, the various court orders obtained by vendors in short intervals contradict one another on the same issue showing the ambiguity of law in the case of using streets for vending purposes.

The ambiguity and uncertainty on street vendors' legitimacy continues to attract lawsuits. This uncertainty arises from the nature of the practice itself, i.e., the informal legal relations of street trade and their socioeconomic position at the intersection of many legal rights including the right to livelihood, the right to use of public commons, the right to affordable essential goods, the right to safety, the right to trade, the right to dignity (Naik, 2013). Due to this, the very objectives of the policy are thus subjected to interpretations of the law in each instance. Therefore, the effectiveness of the government intervention through the formulation of a national policy for street vendors is a function of the contests over the urban spaces mediated by the bureaucratic and judicial officers.

The status of implementation of the policy in Indian cities

Lack of active response from the state and local government bodies

Most of the cities in India are yet to create a mechanism for providing them the benefit of the national policy and the Street vendors Act, 2014. The implementation of policy varied across the cities, while some cities implemented it effectively (Kumar, R., 2012), in many other cities it has not been considered at all. A recent survey by Centre for Civil Society (2017), an organization advocating for street vendors reveals the shady implementation of street vendors policy by the state and city administrations. The study shows, even after a year of passing of the Street Vendors Act, 2014, only 23 states had initiated the process of framing a scheme for street vending along with forming Town Vending Committees in cities. It further finds after 3 years, only half of these 23 states made schemes, however reluctant to publish them. The 19 states which formed rules or schemes started some initiatives, meanwhile the rest were not acted at all upon the Act.

Similarly, the states which drafted the scheme of vending also have adopted their own criterion in certain provisions. Section 4.1 of the parent Act, the minimum age of vending is 14 years. However, in the Rules of ten states—Assam, Andhra Pradesh, Chhattisgarh, Goa, Gujarat, Haryana, Punjab, Rajasthan, Sikkim and West Bengal—the minimum age of vending has been prescribed as 18 years. The State Rules of Kerala and Tripura have provision for a Dispute Redressal Committee (DRC) at state level in their capital cities. In Uttar Pradesh, the rules of filing complaints to grievances redressal committee is not clearly mentioned. In Tamil Nadu rules mention an application fee of INR 500 to approach the DRC. In Meghalaya Rule states that the appeal may also be summarily rejected on valid grounds in the first instance and to be spelt out in the form of speaking order, to which the vendors have expressed strong opposition since oral decisions may be open to misuse and varying interpretations later (YUVA, 2019). As per the rules, the frequency and quorum for the meeting differs in various states, in Kerala and Goa mentions they meet once every two months, while many others recommend twice in a year. Similarly, some States stipulate a minimum of one-third or one-fourth the total strength of the TVC shall be presented for a meeting. However, there are state schemes which do not mention these details.

Ineffective Town Vending Committees

There are practices by city officials diluting the true intent of the policy. As many as 6 states have formed TVCs without framing a scheme nor conducting surveys. The TVC committees are formed to initiate surveys and manage the scheme in cities. However in many cities TVC members are appointed instead of elected as representatives of street vendors. Thereby the legitimacy and authority of TVC to implement the Act weakened and they slowly became defunct without agendas and fell to obscurantism. These administrative interpretations of the policy resulted in bureaucratic discrepancies, arbitrary selection of beneficiaries and representatives in the TVC becoming a major reason for subversions in the policy at city level (CCS, 2017).

In another instance, city administrations have outsourced the identification, listing of vendors and bank account opening to NGOs, working under the National Urban Livelihood Mission. In some cities which had little organization of street vendors, city authorities have contracted security agencies operating paid parking yards to implement street vendors policy.

Meanwhile in cities where some survey exercises are conducted in line with policy to identify vendors, the officials and street vendors organizations differ staggeringly with the estimations and identifications of street vendor populations. Thereby excluding the non-assertive and unorganized groups like hawkers, people from nearby villages who sell their agricultural, forest or home-made products seasonally or people who practice long distance trails and only occasionally work in the urban area.

Recently, various Government schemes for financial inclusion and social welfare have been extended to street vendors. A major step in this direction is the PM Street Vendor's AtmaNirbhar Nidhi (PM SVANidhi) started during the COVID-19 pandemic and consequent lockdowns which have adversely impacted the livelihoods of street vendors. The scheme provides micro-credit facilities with interest subsidy at 7% per annum on regular repayment of loan amount upto INR10000, which includes consistently extending of the loan amount upon repayment and other benefit of financial inclusion into banking system. It was estimated to benefit 5 crore street vendors. However, the data of *PM SVANidhi Portal* shows in the initial phase of the scheme 3 million street vendors received loans, while 1 million applications were either rejected due to the lack of identity card or related formal documents. The scheme benefited less than 10% of the estimated beneficiaries under the scheme, which is around 50 million. There is no availability of data about people who didn't even know about the scheme. At the same time in some instances, the scheme helped the identification process of vendors in many cities.

Lack of a proper grievance redressal mechanism

Nearly 18 years after the formulation of the policy and the more recent passing of Street Vendors Act, 2014, urban street vendors in India are routinely chased away over petty contests which decide 'who has the muscle to dictate the behaviours on the street?' The bureaucracy which normalized the evictions and neglected the financial exploitation of vendors are entrusted to protect their rights. In the absence of checks and balances, such as a strong grievance redressal mechanism the very objectives of the policy fail. In most cities street vendors are still petitioning the governments, bribing the administration, playing cat and mouse with the police on the corners to survive street survival games.

Negotiation and Coping strategies of street vendors

Fostering self- efficacy among vendors by building organisational strength

The delays and poor implementation of policy forced street vendors to adopt various strategies to negotiate with the municipal authorities and cope with the regulations. Following the formulation of

national policy various street vendors have organized themselves into associations and organizations and started self-advocacy for implementing the policy. Street vendors use various types of advocacy campaigns like letter writing to municipal officers, secretaries of state departments, ministers in the state and officers and ministers in central government. They have learned to use emails to officers often keeping copies to ministers and other political leaders. Thereby keeping various offices in the communication loop, they have often successfully negotiated with their right to continue using urban space for work and pressurize the government to implement the measures described in the policy.

In many instances they have taken individual responsibility helping the corporations in initiating the process of surveying and by nominating their representatives to TVCs. Some organizations of street vendors have prepared and issued self-certified identity cards, showing their willingness to regulate their own activities to reduce traffic congestion or operate only in certain time periods.

Utilising voting power to make clear negotiation to get their needs met.

In many Indian cities street vendors have emerged as a political constituency, which gives them bargaining power using their voting strengths in the elections to local self-governments and state legislatures. They use collective bargaining to promote the rights and well-being and voice for realizing the benefits of conventions on decent work and social protection floors in the International Labor Organization (ILO). They conduct public demonstrations, such as street vendors day observed every year by various organizations internationally and act in solidarity with organisations of other informal workers like domestic workers, sanitation workers, home-based workers, waste pickers etc to advance their advocacy at national and international forums (Bonner & Carré, 2013) (Horn, 2014).

Utilising formal media support to voice their grievances

As part of advocacy efforts, they have reached out to traditional media for supporting their cause which elicited a positive response. The representation of street vendors in media reports are changing from problem creators to service providers and their issues are reported with sympathy. The influence of new media, such as social media platforms and blogs reporting the cultural importance and tourist potential of street vending also helped them to attract public support.

The legitimacy and organizational efforts helped them to claim dignity to their occupation and claim a positive image as self reported to the media.

Active participation in utilising government schemes in a formal way

PM Street Vendor's AtmaNirbhar Nidhi (PM SVANidhi) created an overwhelming response from street vendors to voluntarily come forward to stake their claim and catalysed grassroots level demands for implementing the other procedures in the national policy for street vendors. The negotiation and advocacy in the light of this scheme enabled them to obtain certificate of vending in many cities as well as other means of proving their identity through Letter of Recommendation (LoR) from urban local

body counselors and in some instances from recognised organizations of street vendors such as NASVI or SEWA.

Legal awareness about their rights help them fight their cause in the court

Street vendors continue to use various legal strategies of negotiating for space by citing their right to work and livelihood. Some of them effectively use courts for stopping evictions or relocations by filing injunctions and writ petitions. They have also devised quick communication and response strategies in the streets and sidewalks, where they face regular action by authorities. The vendors observe the route of the officials and municipal action teams warn others in real time to clear the space quickly and escape legal action. They also observe during the day possible time intervals which increases the chances of encounter with officials and avoid such time periods.

Informal strategies to avoid confrontations with the police

Street vendors are also increasingly adopting a strategy of being light weight for being mobile and constantly moving. They also avoid drawing too much attention to themselves while doing business, instead just by flashing items in their hands or in the small hand-held bag they quickly sell their items and move on. In some cases, vendors have completely changed trades and vended low-value items, which offers less losses in case of confiscation of goods.

Conclusion

The national policy is a relevant and well formulated intervention to protect the street vendors. They have gained legitimacy for their occupation which in turn helped in the process of advancing their rights and well-being. It brought many positive impacts such as providing a framework for regulation of street trade using public spaces and awareness among vendors to claim their rights and rightful position. Similarly, the policy helped street vendors accessing formal credit and social welfare schemes of central and state governments.

In the meantime, the full benefits of the policy have not reached the street vendors at the receiving end. The ambiguity about the various rights, administrative bottlenecks and the apathy of the bureaucracy have failed millions of potential beneficiaries to conduct their livelihood practices in a dignified way. Also the lack of implementation of the policy contributes to the continuing informality of the trade practices, avoidable conflicts and lengthy litigations.

In a developing country like India where millions of people are at the risk of hunger and poverty, instruments like street vendors' policy acts as an opportunity to foster human potential, while delivering social justice. Therefore, the state governments, bureaucracy and the local authorities need to prioritize the issue of street vendors and accelerate the implementation to realize the full potential and promises of the policy.

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