



'Invisible' Women Street Vendors: Lacunae in the Street Vendors Act, 2014

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Abstract

This paper is a legislative note on the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (the Act). The purpose of this paper is to critically analyse the Act in the context of women street vendors in India and to highlight its merits and pitfalls. Research conducted in this field has shown that women street vendors face many challenges in the course of their work, which their male counterparts do not encounter. The author believes that the Act turns a blind eye to their unique needs and has given certain recommendations which will uplift the position of women street vendors and help reduce the significant challenges faced by them.

Keywords: Protection of Livelihood, Recommendations, Regulations, Street Vendors Act, Women Street Vendors.

Introduction

The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 was passed on March 4, 2014 in order to legalise and regulate street vending as a profession for those who have 'no other means of livelihood'.¹The Act addresses the main concerns of street vendors, i.e., harassment by municipal officials

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¹ STREET VENDORS (PROTECTION OF LIVELIHOOD AND REGULATION OF STREET VENDING) ACT, 2014, § 5(1)(b).

and the fear of being displaced. The Act provides them with space and security to vend.

As per the National Commission for Enterprises in the Unorganized Sectors (NCECUS) Report based on the studies conducted by the 55th National Sample Survey Organisation (1999-2000), the estimated number of street vendors in urban areas was in the range of 17 to 25 lakhs.² Women street vendors constitute a large percentage of this sector in every city, and hence there is a need to cater to their specific needs.³

Special Challenges Faced by Women Street Vendors

The position of women street vendors is unique. They face a set of additional challenges as opposed to their male counterparts. This section identifies the specific hurdles faced by women street vendors.

Childcare and Household Responsibilities

Patriarchal cultural norms believe that a woman is responsible for the management of a household. This puts a greater burden on the woman of the household as compared to the men. According to the UN Report on Women, Work and Poverty, women spend more time doing unpaid household chores such as cooking, cleaning and childcare, as compared to men.⁴ Hence, women street vendors have the dual responsibility of balancing both the household and their means of livelihood.

Women street vendors have to vend on the streets for long hours to make a living. Some of them start their day as early as 4:30 am and

² Ministry of Housing and Urban Poverty Alleviation, Twenty Third Report, *available at* <http://www.prsindia.org/uploads/media/Street%20Vendors%20Bill/SCR%20on%20Street%20Vendors%20Bill.pdf> (last visited Mar. 27, 2014).

³ *Id.*

⁴ MARTHA COHEN, PROGRESS OF THE WORLD'S WOMEN 2005: WOMEN, WORK AND POVERTY (Karen Judd ed., UNIFEM 2005).

end it at midnight.⁵ A study conducted by SNDT Women's University, Mumbai and International Labour Organisation (ILO) on street vendors in Mumbai shows that 31 percent of women street vendors are widowed.⁶ They start vending on the streets to support themselves and their families. Many women also take to street vending when their husbands get unemployed, and are major providers for most of their household expenses.⁷

The dual responsibility of balancing paid work and unpaid housework makes it difficult for women street vendors to concentrate fully on street vending and thereby earn a living. This is especially true for working mothers as they have limited access to childcare facilities due to low income. They are often forced to take their young children with them for work, which divides their attention between street vending and taking care of their children. This results in low sales and affects the health and wellbeing of the children.⁸ Women street vendors are also forced to interrupt their paid work for other household responsibilities such as sudden illnesses, family emergencies and taking care of elderly members.⁹ Any interruption in street vending reduces the sales of these women, resulting in low income compared to their male counterparts.

Poor Health due to Working Conditions

Street vendors have tough working conditions. They work for long and inflexible hours¹⁰ and travel great distances to work. They are

⁵ Debulal Saha, *Working Life of Street Vendors in Mumbai*, 54 THE INDIAN J. OF LABOUR ECON. 310 (2011).

⁶ Saha, *supra* note at 308.

⁷ Sharit K. Bhowmik, *Street Vendors in Mumbai*, MUMBAI READERS 2010, available at <http://www.udri.org/udri/MumbaiReader10/15%20Sharit%20K.%20Bhowmik%20-%20Street%20Vendors%20in%20Mumbai.pdf>.

⁸ Saha, *supra* note 5 at 310.

⁹ COHEN, *supra* note 4 at 6.

¹⁰ Tanja Berry, *Challenges and Coping Strategies of Female Street Vendors in the Informal Economy*, available at <http://upetd.up.ac.za/thesis/available/etd-04072010-141453/unrestricted/dissertation.pdf>.

also continuously exposed to pollution on the streets.¹¹ While these problems are common to both men and women street vendors, women vendors are more prone to ailments because of absence of public toilets.¹² A study conducted by SNDT Women's University, Mumbai and ILO shows that due to lack of access to public toilets, most women street vendors suffer from urinary tract infections and kidney problems. Ill health affects the women street vendors' capacity to sell their goods, and since they lack substitutes to take care of their stalls when they are sick, their work gets adversely affected. Also, the lack of access to toilets means that women street vendors do not get privacy to attend to nature's calls. This is especially problematic for women who are menstruating and may need to use toilets regularly. This makes the women street vendors more exposed to insecure situations, and hampers their ability to work outside the house to meet the demands of street vending. This in turn affects their ability to accrue income from street vending.

Low Income Compared to Men

Research shows that women vendors have lower income than men. According to a study conducted by the National Commission for Enterprises in the Unorganized Sectors (NCECUS), the average daily income of men street vendors is around Rs.70 in most cities whereas women earn only Rs.40 per day.¹³ Women street vendors have less access to resources than male street vendors and this reduces their capacity to invest.¹⁴ This forces women to sell perishable goods such as fish and vegetables, which earn for them

¹¹ (The SNDT - ILO study on Mumbai found that around 85 per cent of the street vendors complained of suffered from ailments such as - migraine, hyper acidity, hyper tension and high blood pressure.) http://wiego.org/informal_economy_law/street-vendors-india (last visited Mar. 27, 2014).

¹² Bhowmik, *supra* note 7 at 3.

¹³ CHENN, *supra* note 4 at 8.

¹⁴ Bhowmik, *supra* note 7 at 3.

less money than garments and electronic items.¹⁵ Women street vendors' capacity to work is also impeded due to household responsibilities and sexual harassment. This is another reason which contributes to the low income of women street vendors.

Lower Savings

Most women street vendors have lesser disposable income than male street vendors as they tend to spend more of their income on household expenses, food, travel and education.¹⁶ It lowers their capacity to invest in their work and expand their business. It also impedes the ability of women street vendors to save and accumulate assets. In comparison, male street vendors spend a smaller percentage of their income on social security, leaving them with more disposable income in their hands. Thus, they have a higher capacity to invest than the women. It can be inferred that the economic position of women street vendors is worse than that of men street vendors.

Access to Credit

A study conducted by the Tata Institute of Social Sciences, Mumbai across 15 cities in India shows that only 27.8 percent of street vendors access credit from formal sources (like banks, co-operative systems) and 72.2 percent rely on informal sources (such as moneylenders, wholesalers and friends).¹⁷ The rates of interest charged by wholesalers and moneylenders are exorbitant, ranging

¹⁵ Renana Jhabvala, *The Role of Street Vendors in the Growing Urban Economies*, available at http://www.sewaresearch.org/Thanks_papers.asp?id=12 (last visited Mar. 27, 2014).

¹⁶ Berry, *supra* note 10 at 74. See, Saha, *supra* note 5 at 310. (Women street vendors mainly borrow money for their children's education and medical expenses of the family).

¹⁷ (TISS, Mumbai had conducted a study in 15 cities across India which was supported by United Nation Development Programme (UNDP), New Delhi on "Financial Accessibility of the Street Vendors in India Cases of Inclusion and Exclusion issues of financial inclusion of street Vendors." available at http://mhupa.gov.in/W_new/NCL_STREET_VENDING_23122011.pdf)

from 60 to 100 percent per annum.¹⁸ Women street vendors depend more on moneylenders and wholesalers for credit; around 64 percent of them depend on moneylenders as compared to 53 percent male street vendors.¹⁹ The high rates of interests charged by informal sources of credit sink the street vendors into indebtedness.²⁰ Since women borrow from moneylenders and wholesalers more than men do, there is a need for easy access to credit from formal sources at low rates of interests.

Sexual Harassment

Sexual harassment and crimes against women has become common in the recent times in India. According to the data available with the National Crime Records Bureau, the rate of crime committed against women was 41.7 percent in 2012.²¹ Women street vendors have to work for long hours and are more vulnerable to crime. They are victims of sexual atrocities perpetrated both by state authorities and non-state entities. It is a sad state of affairs when municipal authorities, who themselves are responsible for safeguarding the citizens, abuse their power and abdicate their responsibility. This leaves street vendors with no legal recourse.

Street Vendors Act, 2014: An Analysis

The Street Vendors Act, 2014 has addressed the main issue of street vendors, which is the lack of space and security to vend. However, the Act fails to recognise that male and female street vendors, though broadly in the same category, have different sets of needs. It is completely silent on addressing the special challenges that women street vendors face on a daily basis. The Act remains gender neutral, both in terms of its textual language and content. It also fails to incorporate the obligations imposed on states by the

¹⁸ National Consultation on Central Law on Street Vending, India Habitat Centre, New Delhi, 23rd December, 2011 *available at* http://mhupa.gov.in/W_new/NCL_STREET_VENDING_23122011.pdf.

¹⁹ *Id.*

²⁰ Saha, *supra* note 5 at 308.

²¹ National Crime Records Bureau, Chapter 5. <http://ncrb.gov.in/CD-CII2012/cii-2012/Chapter%205.pdf>.

Convention on the Elimination of All Forms of Discrimination against Women (hereinafter referred to as CEDAW), which was ratified by India in 1993.²² The author has analysed the Act from the perspective of women street vendors. Though there are certain provisions that specifically pertain to needs and issues related to women street vendors, most of them do not resolve the real challenges faced by them.

One Third Representation to Women

Section 22 (2) (d) of the Act provides that one third of the members representing the street vendors in the Town Vending Committee shall be from amongst women vendors. This committee is the main body responsible for regulating street vending. The Act ensures the representation of women in the Town Vending Committee and incorporates them into the system. This is important because women street vendors constitute significant population affected by the decisions and policies of the Town Vending Committee. Participation of women street vendors in the decision making process will help address the specific women centred challenges to the forefront, in addition to the challenges faced by street vendors in general.

Giving due credit to this provision, it however has to be pointed out that the quota provided for women is only one third of the total members representing street vendors in the Town Vending Committee (which amounts to forty percent of the Town Vending Committee) and not one third of the total seats in the Town Vending Committee itself. Therefore, the actual quota for women is in effect only one third of forty percent, which amounts to 13.5 percent. Women constitute a large segment of the street vendors' population. In a study conducted on street vendors in Mumbai,²³ it was found that 59 percent of the vendors are men and 41 percent

²² (For a catalogue of dates of ratification, See, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en (last visited Mar. 26, 2014).

²³ Mumbai has the largest population of street vendors in India, roughly around 2,50,000, followed by Kolkata which has 2,00,000 street vendors. http://wiego.org/informal_economy_law/street-vendors-india (last visited Mar. 27, 2014).

are women.²⁴ A quota of 13.5 percent in the Town Vending Committee is therefore disproportionate to the percentage of women among street vendors.

Similarly, the quota for women street vendors in the Act has only been provided in the Town Vending Committee. There is no provision for representation of women in the committees to be set up under the dispute redressal mechanism of this Act.²⁵ The Dispute Resolution Committee is meant to be one of the primary fora for addressing the grievances of the street vendors.²⁶ It is imperative that women street vendors be represented in the grievance redressal process, since they are also stakeholders who will be accessing this mechanism. By not providing a quota for women in the dispute resolution mechanism, the Act has made insufficient provisions for incorporation of women street vendors into the system. It fails to ensure the participation of women at all levels of government, and in associations concerned with the public life of the country, as required under Article 7(b) of CEDAW, which states that:

“State Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right (a) to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; (b) to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; (c) to participate in non governmental organizations and associations concerned with the public and political life of the country”.

²⁴ Saha, *supra* note 5 at 304.

²⁵ Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, §20(1).

²⁶ Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, §20(2).

Preference to Women

Section 7 of the Act provides that the Town Vending Committee 'may' give preference to women for issuing vending certificates. This provision equips the Town Vending Committee with the right of positive discrimination in favour of women. Women street vendors are in more need of vending opportunities than their male counterparts. Research shows that a greater number of women street vendors are illiterate or less educated as compared to male street vendors. 31 percent have been widowed and are the sole bread winners of their families. It also shows that most women street vendors are older than the men; with 37 percent aged above 59 years compared to only 32 percent of male vendors.²⁷ As women street vendors have to spend more on social security and their average income is less in comparison to the men, these factors combined make it all the more necessary for women street vendors to be issued vending certificates so that they can vend, free from public harassment. However, the implementation of this provision is completely at the discretion of the Town Vending Committee and needs to be exercised judiciously.

Public Hygiene and Civic Amenities

Section 15 of the Act requires every street vendor to maintain cleanliness and public hygiene, in and around the vending zones. However there is a need to provide street vendors with facilities like waste removal systems, garbage dumps and latrines. Section 16 of the Act requires every street vendor to maintain civic amenities and public property. Section 17 of the Act provides that every vendor must pay periodic maintenance charges for the civic amenities provided in the vending zones. The Act does not define the term 'civic amenities' anywhere, thus creating legal ambiguity. Despite making a provision for maintenance of civic amenities, the Act fails to place an obligation on the appropriate government to provide street vendors with civic amenities. Lack of access to such basic facilities as water, toilets, garbage disposals, and electricity is one of the main constraints faced by street vendors.²⁸ The lack of these basic facilities affects the health of women street vendors. It is

²⁷ Saha, *supra* note 5 at 304.

²⁸ COHEN, *supra* note 4 at 10.

important that the Act must first make rules for provision of civic amenities to street vendors, before regulating the maintenance of these amenities.

Promotional Measures

Section 31 of the Act provides that the government may undertake promotional and welfare schemes for street vendors to make available credit, insurance and social security. The use of the word 'may' immediately obviates the positive obligation on the government to undertake welfare schemes for street vendors. Women street vendors have lower savings compared to their male counterparts and thus their ability to invest in their business is correspondingly less. This makes them a group which has greater need for savings and access to microfinance than men. Section 31 of the Act neither addresses the unique challenges faced by women street vendors nor does it make special provisions to ensure that credit, insurance and social security schemes are accessible to them. Article 12 of the CEDAW requires the state parties to grant free health care services to women for pregnancy and maternity and provide them with adequate nutrition during pregnancy and lactation. However, the use of the term 'may' in the provision fails to comply with the obligations of the state under CEDAW.

Conclusion and Suggestions

After a careful analysis of the Act, the author seeks to propose a few recommendations.

Childcare

The government should provide for crèches to take care of infants and children below the age of six (who have not begun schooling). The need for crèches was also recommended by Dr. Mirai Chatterjee, member, National Advisory Council (NAC) as a part of the social infrastructure facilities for women street vendors.²⁹

²⁹ National Consultation on Central Law on Street Vending, India Habitat Centre, New Delhi, 18 (23rd December, 2011) *available at* http://mhupa.gov.in/W_new/NCL_STREET_VENDING_23122011.pdf (last visited Mar. 27, 2014).

Initially, the government must seek support from nongovernmental organisations to fund the crèches, in terms of infrastructure and maintenance. This should gradually make the crèches self-sustainable. Women street vendors could be required to pay a nominal fee for using the services of the crèche. After recovery of the initial investment, the crèches will be sustained through the fees paid by the street vendors to access them.³⁰ The crèches should have basic infrastructure facilities like clean drinking water, toilets and recreation space. They should also provide at least one meal a day to promote adequate nutrition among infants and children, which will accordingly reduce the burden on their parents to provide them with meals.³¹ The crèches should be set up within the vending zones or in their immediate vicinity, to make them easily accessible to the street vendors. It will also keep the children close to their parents, in case of any emergency. The government should create awareness programs that educate street vendors about dividing the household responsibilities equitably between men and women. This will reduce the burden of childcare on women.³² Article 5(b) of the CEDAW requires the state parties to ensure that measures are taken to create awareness about the common responsibility of men and women in the upbringing of their children.

Health Care

The government should ensure that street vendors have access to public toilets, especially in and around the vending zones. To

³⁰ (A similar childcare scheme started in Gujarat by SEWA shows that women are ready to pay for childcare services, which helps to maintain their financial sustainability. It also makes the social security organisations less dependent on external funding.) http://www.sewa.org/Sewa_Services.asp(last visited Mar. 26, 2014).

³¹ (Children below the age of 6 years are not covered under the Mid-Day Meal Scheme of the government).

³² (Article 5(b) of CEDAW requires the State to take measures to "... ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.").

achieve this, the government should allocate adequate funds for construction of public toilets for both men and women. To maintain these toilets, the government could charge a minimal and affordable fee to those who wish to access them. The legislation should cover street vendors under health insurance. The health insurance should specifically address the needs of women, such as maternity care and prenatal and postnatal nutrition for the mother and infant. To improve the street vendors' access to health care, the government should establish tie ups with private clinics and hospitals around the vending zones. The expense of the medical treatment that private clinics and hospitals will provide should be borne by the street vendors' health insurance.

Access to Credit

The government should establish self help banking organisations which cater specifically to the financial needs of the women. These banks should provide women with access to microfinance for their savings and borrowings. A working example of an organisation that specifically serves women is the SEWA Bank.³³

Better Representation for Women

The Act should provide for representation of women in the committees set up for dispute redressal. The government should also set up a special committee to predominantly address women specific issues such as maternity, childcare, finance and sexual harassment. The committees set up under the dispute redressal mechanism of the Act should ensure both the speedy redressal of grievances. The government should also organise the women street vendors into a collective body to enable them to press their interests.³⁴ These collective bodies could function in a manner

³³ (The SEWA Bank was primarily established to free the self-employed women from the web of indebtedness cast by the moneylenders, and to enhance their access to credit for various expenses. The SEWA bank has 93,000 active depositors and nearly 34,000 borrowers. It is financially sound and viable and is also making credit easily accessible to self-employed women.)http://www.sewa.org/Sewa_Services.asp(last visited Mar. 26, 2014).

³⁴ COHEN, *supra* note 4 at 20.

similar to labour unions in industries, to provide women street vendors with collective bargaining power.

Sexual Harassment

The government should make the vending zones safe for women by ensuring that the state police are in close proximity, in order to monitor the vending zones. Awareness and training workshops should be conducted to sensitise police personnel towards women street vendors. The government should also ensure that women street vendors have easy access to public transport to and from their work.