

Street Vending in India

Rights, Livelihoods and Policy Challenges

An interview with Dr. Sharit K Bhowmik



Indira Gandhi Institute
of Development Research



CENTRE FOR
POLICY
RESEARCH



IRIS Knowledge Foundation



National Institute of
Urban Affairs

Street Vending in India: Rights, Livelihoods and Policy Challenges

An Interview with Dr. Sharit K Bhowmik¹

Sharit K. Bhowmik is currently working with the RCUES, Mumbai. As Kaveri Gill writes, he is “not only a respected expert on the urban poor and the informal sector, but is the best kind of academic, that is, one who steps out of his ivory tower to engage in the real world and seeks to influence policy for the better.”

Prof. Bhowmik has been extensively involved in advocacy for street vendor’s rights, and shared with SHRAM his experiences with the processes of lobbying for legislation, the state of street vendors’ organizing in India, how we can rethink public space, and the need for now more than ever, to identify vending not as a matter of urban space and planning alone, but a question of rights and livelihoods.

Can you tell me something about the Street Vendor’s Act?

The Act was passed last year, last March, and so far, nothing has been done. You see, the thing with the Act is that two things have to be done. First, this is a central act and thus implementation depends on the State. When the Centre passes an act, this becomes model guidelines for the state to follow. Subsequently, the States have to issue guidelines, rules, for implementing it. So there may be some changes here and there with the states—like you see what is happening with labour legislation now—they can’t change too much but they can tinker around with it. But this hasn’t happened yet. Along with that, what comes along in September 2013, is that the Supreme Court issued a judgement in the case of Maharashtra Ekta Hawkers Union vs. BMC—this is more or less similar. The act is very similar to the national policy, and the Supreme Court judgement was also on the basis of the national policy, and the basic points are:

- Every city, every municipality has to conduct a survey of the existing hawkers. Until then, no hawker can be disturbed; until the survey is complete. They had said 4 months for this, and now it is 2015.
- The second point is (which is common to all 3), there has to be a Town Vending Committee, which will have 40% representation of the street vendors, and the remaining 60% will be of other stakeholders.
- The third, is that the Town Vending Committee will regulate street vending, determine hawking zones, etc.

The other important point is evictions. They said existing hawkers cannot be displaced, they have to be given licences/permits which makes them permanent there; and the Town Vending Committee will decide whether other places can be allocated for new hawkers.

The Town Vending Committee does various other things. Because they will charge license fees, that money should be used for various things. One is of course for welfare, and the other is training programs, to educate vendors about the Act; workshops, and so on, which will help them to formalize hawking.

However the more important part is the question of evictions. Evictions are the major issue faced by these people, because they are done in a completely haphazard way, with no regard for human rights. Now this act says very clearly that eviction will be the last resort. In case hawkers have to be shifted, they have to be given another place similar to that so that their business is not affected. Second is that they must be given at least one month's notice. In case they don't shift, the first step would be to fine them. The fine can progressively increase, and only the last resort is eviction. Whatever has been seized, if it is perishable it must be returned on the same day, and non-perishable, within three days. Further the fine that is imposed cannot be more than the value of the goods.

Nowadays what is happening is that the fines (first of all there is no seizure list, they have no regard for law) they just lift them up, take away their goods, and the fines are exorbitant—if the value of the goods is something like 100 rupees, the fine will be exorbitant, something like 17000, and most of the time they don't even get everything back, because there is no seizure list.

As a result of this there is massive corruption and it all goes to the pockets of the municipality—it is a huge racket—This is why street vending can never be legalized. Unless the government has a very strong political will, it can't be done, because the stakes are very high.

In Mumbai itself, when TISS had conducted a survey in 1988, 380 crores was the amount collected in bribes. Now it will be at least three times the amount. That study also covered only municipal land, which is a fraction of the land in Mumbai; there is railway land, MHADA land, and so on. All of these put together will be at least double the number, which is why it helps a lot of these people to keep this illegal.

Does any of the legislation have any potential to curb corruption?

The only thing which can be used now and which is being used now, is the Supreme Court Judgement.

For example, the BMC has a policy on street vending but it is marked as confidential. This document follows the national policy; but they don't implement it, and no-one reads it.

The central government, even when Manmohan Singh was Prime Minister, had sent letters to all the Chief Ministers asking them to follow the national policy. But it is just on paper.

They are not interested, and everybody is involved in it—there are politicians involved, there are moneylenders involved—and all of them are making money off the poor. So it will be difficult to legalize it.

Can you tell me more about the recent controversy about the hawking zones set up by the Mumbai DP?

When the elites come out against the hawkers, it actually suits the municipality, because they use this as an excuse to keep the hawkers' situation unstable. In fact, *the DP has no business setting up hawking zones*. The DP is for 20 years. How can a hawking zone be put in place for 20 years? An area might be redeveloped before that. People might sell their houses and it might become a factory; and then no hawkers will want to come there.

This is also a violation of both the Supreme Court ruling, which says the Town Vending Committee is the one to make the hawking zones, and also the Act, when it comes into effect.

At present what is happening is that the Supreme Court ruling is in place. But, everybody knows this will be enforced by the local high courts. When I asked the hawkers, you know this is in violation of the act etc., they said yes, we can do it, we can put a case in the High Court but that will take two years to come up. So what do you do? You can't go to the Supreme Court all the time because they will direct you to the High Court, and that will take a long time. So they know that, that this is what is going to happen. And at the most, they will get an apology.

The hawkers' movement has been trying to get some regularization, but this is not happening.

What is the status of the Town Vending Committees presently?

There is a TVC, it has been formed, but it hasn't met. The Act says it should meet with the Municipal Commissioner once a month. Especially in the formative stage this is definitely necessary. But it is not happening.

Another thing is that the TVC has 40% hawkers, and this is something everyone is opposing. I was a part of the seven-member committee that drafted the Act, and the

Task Force. Initially we had suggested 25%. Then in the last meeting someone said it should be 50%. Then, the secretary of what is now HUPA, suggested that 50% is too much, let's keep it at 40%. Then, no-one protested, and everyone was there. Now everybody is protesting.

Last year the BMC has appointed a 2-member committee to decide on hawkers, and there people were telling me, oh sir, you have done a very bad thing by keeping this at 40% of hawkers, they will be united against us... I kept telling them look, it isn't a question of them versus you, why can't you work together? This isn't an Opposition vs. Government, you all have to work together to find a solution.

Then, another foolish thing they are telling me—if you allow hawkers, no-one will be able to step out of their houses, there will be hawkers all over!

I said fine, very good, but who is going to buy from them? They also need clients.

But that's what people think—unregulated hawking will mean that they will be all over the place.

But the laws of the market will apply; if you need 10, 15, 20 vegetable vendors in one place and you put 100 vendors there, all of their incomes will go down, and some of them will move to another place. If you work with the assumption that street vendors have one basic principle in mind, which is to cause harassment to the public, then obviously you come to that conclusion, but if they make it all so difficult, who will buy from them?

In Khargar reports have come that street vendors are harassing people, but that is something they will never do.

In fact, it's the other way around, studies have shown that vendors make streets safer for women...

Even this KPS Gill, said one of the ways he fought terrorism in Punjab was through hawkers, because they are the eyes and ears of that place. In 1997, 19th of October, Operation Sunshine: the government of West Bengal overnight evicted over 100000 hawkers, burned their things, etc. There was a big movement; the CPM cadre came out, rapid action force, the police, etc. There was opposition as well... but the fact is that after that when I went to Calcutta, many people told me, life has become insecure. When hawkers are not on the street, other things happen. In the evening, the streets are deserted.

Even here, jewelry shops prefer having hawkers outside, it is safer.

A lot of it is that people don't have enough information. I've seen in several places, where I was speaking about the informal sector, a very positive response of people from elite areas, who were interested in hearing this other side. The media gives only one side of the story, the newspapers feed you one type of story—that hawkers cause confusion. But the confusion on the streets is created by car parking, not street vendors; we've done studies that have shown this.

But can you hold cars responsible; cars are important to the city, hawkers are not?
All these celebrities who were protesting; do their maidservants not buy from hawkers?
Will she be allowed inside a shopping mall?

Do you think that the urban informal sector will now have more of a voice in urban planning and space?

If it works.

Because of the SC judgement, Town Vending Committees have been set up. I have detailed information about Delhi and Bombay so I can tell you about these two cities. Here, the Town Vending Committees have been set up, with the requisite numbers. But, they don't function.

The last meeting of the Town Vending Committee in Mumbai was July 2014.

Another thing is that in the metros, you can't really just have a TVC because it's too big. So you should also have block-wise or ward-wise committees. What these people in Bombay have done—there are no guidelines for ward-wise—but what they've done, is that ward committees have only the municipality, because the Supreme Court is ambiguous. If the ward committee is going to decide where the hawkers are going to be put, this is difficult; because the hawkers, and other stakeholders, should also have a say.

What about other conflicting legislation?

The Act makes it very clear that this Act supersedes all existing legislation.

You had written that street vending has often been relegated to an issue of planning, and not as an issue of livelihoods.

That is why the act came in. I've been very involved with the work of NASVI, which actually did a lot of work for the Act.

The national policy is only guidelines, and we insisted there should be a law. In 2000, when we first talked about the National Policy, people said what is the need for this, this is a matter for the states, no, not even states, municipalities; and I suggested look, you have national slum policy, let's at least have a white paper, and they agreed to this. That's the beginning of how the Task Force etc. were set up.

The same issue came up when we started talking about the Act, they said how can you have an Act, this is town planning. And we said, look, this is like NREGA. The NREGA is administered by the Panchayats but it is a national act, and it is an act for livelihoods, and hawking is also a question of livelihoods. It is not an urban issue, but a livelihood issue.

Another important factor was the National Advisory Council, we had people like Mira Chatterjee of SEWA who was very keen, and in fact she got the NAC to organize the first meeting on the law, which was where the whole discussion came up.

There were a lot of lacunae initially. The problem is that there was not mechanism for appeal, etc. Then it was introduced in Parliament, and it took one year in the Lok Sabha, and then I was one of the people invited to comment. We all coordinated our responses after discussion, and it was passed the next year, in 2013 in the monsoon session and it was passed without any opposition. In fact it took four hours to pass because everybody wanted to speak in support of it! Every political party wanted to talk about how necessary it is.

In 2000, I had done a survey for NASVI, and we found this was the only source of information on street vending. We found that in all the seven cities except Bangalore, the population of street vendors, through various sources, was roughly 2.5%.

I knew the best source of information, in Bombay for example, would be the lorry inspectors. They are the ones who go around and are in charge of evictions, and they are the ones who will know everything, every gully; why—because they are collecting money from them. Go with them in the truck and you will see where the hawkers are. And it worked; wherever we went, hawkers began running.

This also reflects the kind of privileges they have; and they will not just give this away. This is why it is important to look at the livelihoods aspect; we must look at how to provide livelihoods to people.

In public discourse though; it's still looked at as an issue of space and planning.

That's why I emphasize the DP has no right to do this; only the town vending committee can do this.

What the DP did was deliberately to provoke people, was put hawkers where there were none.

This goes against the Supreme Court Ruling, and the national policy, which say that you must first have a survey. Having hawkers in Pali Hill makes no sense because there are no hawkers there. They are on Hill Road.

For example, Hindu Colony never had hawkers; why, because it is adjacent to Dadar Station, and people get their goods from there. But they insisted on having hawkers there.

My own feeling is that this was done to instigate the local people against hawkers, and then the municipality can take out a drive against them.

It's not just hawkers, it's also with migrant workers who come here for work and live in slums. I had done a study on slum areas near Port Trust, we had done a survey in 2000, for CSR activities. We had seen what was necessary and given recommendations; like schooling, water, toilets--now I find the whole place has been demolished. Because they say the Port area will be taken for housing, and if these people are allowed to be there, they will also have to be provided with housing. Port trust has made so much money out of these people already.

You see, there is a lot of money to be made off the poor.

Does the Act have provisions for access to institutional finance for street vendors?

See another thing about street vending is that if you regularize it, there are two ways they save money. One is they won't give *hafta*. 20% of their money goes into this. Even those who don't pay bribes are under pressure as they suffer when the raid comes.

Another thing is the moneylenders. See, they have no institutional finance. So they depend on moneylending which is very high. We had done a study in fifteen cities for UNDP.

We found only one bank in our study, Canara Bank in Bangalore, which was giving money to street vendors, but they said that they must have *something*, either a union, a cooperative...

These self-help groups are a big business now. There are big microcredit organisations. They were saying that banks should reduce the interest on us... they were charging 30% interest. They said if the banks bring it down to 12, we will bring it down. But even 30% is okay. Because if you look at it, in effect, these people are paying 120%. If you see, in Bombay if you borrow money through informal sources, you are paying that much as interest. And out of that they take 'processing charges' and so on. Then they will suggest, why are you paying 1000 a month, pay 75 a day...which comes to much more. My friend, Kapurchand Gupta, a union leader, was stabbed. I start my book with this, with his case. He was stabbed by two moneylenders. He was stabbed 24 times. When they were caught, they said this man has caused us a loss of about 40 lakhs. Can you imagine, 40 lakhs. Because what this man was doing was he was calculating all this.

In one case, they first said give us your jhopri, and they got one fellow drunk when he said no, and made him sign. And Kapurchand got to know so took him to the police station, etc. So, all of these things happen.

What happens in this situation, is that they don't realize in most cases. Like cotton farmers. What you make out of hawking, is the same as what you are spending. So what do you have for yourself? Borrowed money. Though it seems like you are getting more money in hand. And the loans they take are not just for their business, for children's education, house repairing, etc. Which is alright; because if he could put it into his business and earn more he would pay for these things himself.

But the banks are *willing* to give loans, provided there is some stability. So once they have a license, they will give loans.

Another aspect is these microfinance people; every week or two weeks they have meetings, and these are held in the afternoon. And if you don't attend these meetings you are fined. For a street vendor, being off the street is bad, they lose business. One fellow said that if he calculates all that, he doesn't make much because as it is he is paying 30% interest, plus one day's work is gone.

They actually wanted us to incorporate microcredit agencies into the act as well! Microcredit is a big thing. Anything small is actually very big... it looks very little, but if you look at the turnover, it's quite a lot.

It really doesn't help you get out of poverty. You're running to stay in the same spot. You don't make a breakthrough.

What is collectivisation and mobilisation like, for street vendors today?

It's there, but I don't know how much. TISS said 14% in those days, it must be around that much...what happens is, all these self-employed people, they have different problems. It's easier for women; women who come to street vending are the poorer sections. So for them it's a life and death situation...as Ela Bhatt says, the main thing about women is that because they are so atomized into their own world, they work when they are in the home...once you get them together, this itself it a big thing.

You do have collectives and organisations of Street Vendors. In Mumbai you have Sharad Rao's organisation (Bombay Hawker's Union), they claim to be the largest; but they are also the union of the Bombay Municipal Corporation. He is also with the NCPA, which is why a lot of people joined that. But there are others. Maharashtra Ekta Union, but I believe that is defunct. Just as there was another Supreme Court case in 2010, in Delhi, It was Gaiinda Ram vs. MCD. This also said, within one year you need legal protection. They said just because they are poor and unorganised, doesn't mean they have to depend on the Supreme Court for their existence; the State also has a responsibility. This is one of the things we kept saying.

The biggest, I think, is Azad Hawkers Union, this DS Singh's, it is a big union. And also Shaheed Bhagat Singh Hawkers Union. There are some unions.

What happens is often their strength may be more than what they are. And many times hawkers don't want it. Locally hawkers will have an informal association which will negotiate with the police and the municipality for allowing them to stay. Then there are touts also; who would be local politicians and others; like corporators etc. So that way you could say it is organized, but it is really not, to a large extent. Because union density is not much anywhere in any case. In India they say in the organised sector the density is higher. But that is because 70% of the organised sector is the PSUs, where trade unions are easier. But they need some sort of forum for pressing their demands.

What proportion of street vendors are migrants? And is this a generalisation; is this a part of the same discourse that identifies them as outsiders?

That is it...you'll find a peculiar feature in Mumbai, (not the rest of Maharashtra), more than 60, 70% of the street vendors will be North Indians. That is why the MNS is so against them. Even when the BMC had appointed to the committee, they said the MNS people were objecting.

But you see, what is an insider what is an outsider?

If you see twelve years as a limit, most of them have been here for more than twelve years. Many of them were born here. But because you get ghettoized, they may not know Marathi, because you are living in your own community all the time; someone

who works with construction workers was telling me in RA colony, there is one group of workers who only know Telegu. I've seen this happening abroad also, many Sardars in California don't know english.

It depends on what you look at as local and what is not.

I was reading Johnathan Shapiro Anjaria's article on how the street is imagined...he says right now, the state sees the street as a space of transit, a space for people to get from one place to another, and in this discourse the street is not being constructed as a place of work.

David Harvey's argument, which I also use, is what constitutes public space? Because public space means different things for different people.

The pavements, in the mornings, for the elites is a place for your morning walks, and should not be littered by the homeless. But for the homeless it is a place to sleep. For street vendors, *naka* workers, ragpickers...these are places where you carry out your livelihood...so it is for the state to decide how to regulate these things. And the Supreme Court has also said that, in the Sodan Singh case, they said street vendors can be positive, for someone who is not too well off. If they are properly regulated, you can't say pavements are only for passing through.

And it's also interesting to think that with these licenses, you are giving the regulators a space on the street to call their own.

But this is what being done all the time. Most of the DPs, even earlier, they have places for markets; but Bombay never did. You have place for schools, parks, gardens... but not markets.

And most of the time these people are given space for free. Private colleges, have sometimes got space for free. Like the international schools in Navi Mumbai, have got land at very cheap rates, and they make money out of that, and there is nothing wrong with this. But that is also public space.

In Delhi, most of the encroachments are not done by hawkers, but housing societies. There was this lady who wrote in Hindustan Times, 'Give us back our pavements'; pavements should come back to these people, why give them 40% representation they will lobby, etc. And she said in Connaught Place, why do you want to sell books? You should have cafeterias there. So there's nothing wrong with cafeterias, which is again obstructing pedestrians, but you can't have booksellers?

Again, that Alister, who was sentenced to 6 months and then 3 years, because he was driving and he killed some people; this fellow Kakkar, ad wiz, says; but they had no business sleeping on the streets.

This fellow from IIT had asked, look all over the world, like in Paris, you have cafes on the street and nobody is objecting; the only objection is when the poor are involved.

'Sharit Bhowmik was interviewed by SHRAM Anchor Radhika M Chakraborty, in May 2015