

# PROTECTION OF RIGHTS OF STREET VENDORS IN INDIA: RETROSPECT AND PROSPECTS

—Sonia Aneja\*

***A**bstract—For a substantial percentage of urban poor, working in the unorganized sector is a common occurrence. Poverty and a lack of productive jobs, skills, and education force a vast number of individuals to seek work and a living in cities. Due to a labour shortage in the formal sector, people with the necessary skills are unable to find suitable employment. As a result, street selling has exploded in popularity as a means of earning a living in most of the larger cities, as it takes little money and little talent. Although street vending is a significant informal sector activity in cities, it is deemed illegal by local governments.*

*In India's Street Vending movement, the street vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 is a key step forward. The 2014 Street Vendors Act was passed with the goal of providing a ray of optimism.*

*Sadly, this Act has stayed on paper rather than being executed. The current legal framework is riddled with holes. The legal status of street sellers has remained unchanged since 2014. The public is largely unaware of the law prohibiting street vending. Without a doubt, through issuing guidelines and directives, the judiciary has played a significant role in safeguarding and enforcing the human privileges of street sellers, but it has not done so fully. As a result, in addition to legislative actions, it is critical to prioritize complementary measures.*

---

\* PhD & Assistant Professor (Law), Department of Law, University of Jammu, Jammu. <soniaaneja01@gmail.com>.

**Keywords:** Street Vendor, Unorganized, Legislation, Judiciary, Convention, Illiteracy.

## I. INTRODUCTION

The Organized Sector is not present in the Unorganized Sector. This is a group of people who have been unable to organize themselves properly due to a variety of factors such as the nature of their work, illiteracy, ignorance, small business size with minimal capital investment, dispersed nature of establishments, superior strength of the employer, and so on. We spotted street vendors all across the world, including in developed countries. Street sellers are an essential aspect of the urban economy as well as an important part of the informal economy.<sup>1</sup> For a huge segment of the urban poor, street vendors are crucial because they sell essentials such as groceries, food, and vegetables at inexpensive costs.<sup>2</sup>

Today, this is a matter of critical importance, and no civilized civilization can afford to ignore it. The community that operates within the welfare state framework envisioned in the existing Indian polity, with the goal of ensuring a minimum acceptable level of living for all members, is required to go forward and understand the needs and problems of street vendors, as well as to take various measures that will aid in their full development<sup>3</sup>. The majority of city officials are unappreciative of street vendors. Street vending is considered unlawful in one section, and street vendors are treated as lawbreakers. Despite the fact that street sellers have legal status to conduct business, their position has not changed.

## II. SOCIAL AND ECONOMIC SIGNIFICANCE

Since the dawn of time, street vending has been a vital element of Indian commerce. Many of the laws enacted by the British have remained mostly intact since the country's independence. Street vendors, as defined by the National Classification of Occupations, 1968, are hawkers, peddlers, street vendors, and Phariwalas who sell daily necessities and common products e.g., candies, toys, fabric and vegetables on the sidewalk or door to door. Vendors are thus a significant part of both the informal and formal economies in cities. It is

<sup>1</sup> 19 Sharit Kumar Bhowmik, "Street Vendors in Asia: A Review" 22-23 (2005).

<sup>2</sup> 21 Sharit Kumar Bhowmik, "Legal Protection for Street Vendors" 51, (2010).

<sup>3</sup> *Ibid.*

true that the existence of hawkers is beneficial to a huge segment of the urban poor, as street vendors sell low-cost commodities, including food.

### III. FROM A GLOBAL PERSPECTIVE

There is no universal labour standard for street sellers at the international level, and it differs from country to country. Some countries have a well-defined legal system, whereas others have jurisdiction overlap. Because globalization and urbanization intensified city-level clashes between vendors and local authorities, street sellers worldwide began to unite in the 1990s. In November 1995, the United Nations league of street vending held its first meeting in Bellagio, Italy with participants from eleven countries across five continents. The Bellagio International of Street sellers was endorsed by conference participants, which calls on countries to implement national street selling legislation. On a global scale, this was a watershed moment in the street vendor movement. The Bellagio International of Street Vendors, founded in November 1995,<sup>4</sup> encourages countries to develop national policies for street vendors, including granting legal status, issuing licences, and establishing proper hawking zones in urban areas. The most essential aspect is that India is a Sovereign nation to a number of international treaties.<sup>5</sup>

Street vendors, however, are covered by several international human rights treaties. Some of the most important ones have been mentioned in this article. All these international conventions give street vendors a variety of rights and protect them from discrimination. It tries to protect children against all kinds of deviations. The United Nations was founded with the goal of promoting equality for all people. Social justice is included in the United Nations Charter's preamble. Street vendors have access to all the Charter's fundamental rights (Preamble, Articles 1, 13, 56, 68, 105).<sup>6</sup> The Universal Declaration of Human Rights was enacted by the United Nations General Assembly in 1948 to uphold the United Nations Charter's responsibilities. Only the most

---

<sup>4</sup> *Id.* at 32.

<sup>5</sup> Abhayraj Naik, "Contextualising Urban Livelihood: Street Vending in India". (2021).

<sup>6</sup> [Article 1- "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."

Article 2- "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty."

Article 3- "Everyone has the right to life, liberty and security of person."

Article 5- "No one shall be subjected to torture or to cruel, inhuman or **degrading treatment** or punishment."

Article 7—"All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination."

important provisions are mentioned. The United Nations General Assembly also approved the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

The International Covenant on Economic, Social, and Cultural Rights was signed on December 16, 1966, and several sections addressed street seller's human rights. The United Nations General Assembly passed the International Covenant on the Elimination of All Forms of Racial Discrimination on December 21, 1965 and Articles 1, 2, and 5 are relevant to the human rights of street vendors. Similarly, the Convention on the Elimination of All Forms of Discrimination Against Women was signed by the United Nations General Assembly on December 18, 1979, and Articles 1, 2, 3, 11, 15, and 24 are crucial for the street vendors' human rights.<sup>7</sup>

---

<sup>7</sup> Article 1(1)— “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their **economic**, social and cultural development.” and article 1(3) states that “The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, **shall promote the realization of the right of self-determination**, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.”

Article 2—

“1. Each State Party to the present Covenant undertakes **to respect and to ensure** to all individuals within its territory and subject to its jurisdiction **the rights** recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, **to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.**

Each State Party to the present Covenant undertakes:

To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

To ensure that the competent authorities shall enforce such remedies when granted.”

Article 6—“1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”

Article 9- “1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

Article 10- “1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

Article 26— “All persons are **equal before the law and are entitled without any discrimination to the equal protection of the law.** In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”]

#### IV. LIST OF ILO CONVENTIONS RATIFIED BY INDIA

There are ILO conventions (though all are not relevant for the street vending but some of them are still relevant) ratified by India, which are as follows:

- i. Equal Remuneration Convention, 1951
- ii. International Labour Standards (Tripartite Consultation) Convention, 1976
- iii. Abolition of Forced Labour Convention, 1957
- iv. Convention on Discrimination (Employment and Occupation) 1958
- v. Convention on the Worst Forms of Child Labour, 1999
- vi. Agriculture (Right of Association) Convention, 1921
- vii. Convention on Workmen's Compensation (Occupational Diseases) 1925
- viii. Convention (Revised) on Workmen's Compensation (Occupational Diseases) 1934
- ix. Employment Service Convention, 1948
- x. Convention on Equality of Treatment (Social Security) 1962
- xi. The Minimum Age (Underground Work) Convention was established in 1965
- xii. Benzene Convention, 1971
- xiii. Rural Workers' Organizations Convention, 1975
- xiv. Human Resources Development Convention, 1975
- xv. Labour Statistics Convention, 1985
- xvi. Maritime Labour Convention of 2006.

The International Bill of Human rights (UDHR, ICCPR, ICESCR) did not include street vendors as a weak and helpless or vulnerable group requiring protection. None of the equality clauses mentions street vendors as a protected category. However, in indirect way, recognition is given to the fact that street vendors are entitled to the same political, civil and economic rights as other, including measures necessary to enable them to become self sufficient.

Since the dawn of time, street vending has been a vital element of Indian commerce. Many of the laws enacted by the British have remained mostly intact since the country's independence. Street vendors, as defined by the National Classification of Occupations, 1968, are hawkers, peddlers, street vendors, and phariwalas who sell daily necessities and common products e.g., candies, toys, fabric and vegetables on the sidewalk or door to door. Thus, vendors

are a significant part of both the informal and formal economies in cities. It is true that the existence of hawkers is beneficial to a huge segment of the urban poor, as street vendors sell low-cost commodities, including food.

## V. INDIAN POINT OF VIEW

Under the Indian Constitution, street vendors have the following rights:

The Indian Constitution guarantees liberty, equality, unity, social and economic justice, and human rights. The Preamble, fundamental rights, and State Policy Directive Principles are mostly significant parts of the constitution that legitimize the government's commitment to its citizens. These clauses provide the government ability to improve the lives of the impoverished. The founders of the constitution made no prejudice amongst persons. The phrase "WE" in the Constitution's Preamble is a highly uplifting word that encompasses everyone, including street vendors.

Relevant provisions have been integrated within the chapter on fundamental rights to achieve the goals set out in the Preamble. Articles 12-35, which address fundamental rights, apply to everyone, including street vendors.<sup>8</sup> The Constitution requires the state to promote an egalitarian society based on the ideas of equality, justice, liberty, and welfare, so street vending should never be used as a reason to deny someone the right to seek justice.

Another essential element is that all citizens have the "right to life," which means that everyone, including street vendors, has the right to live in dignity. Articles 14, 19, (1) (g), 21, 32, 37, 38, 39, 39A, 41, 42, 43, 43, 47, and 226 of the constitution acknowledge that street vendors, like everyone else, have all essential human rights. Other constitutional clauses, such as Articles 243-P through 243-ZG, are also relevant.

Other constitutional provisions that apply to street vending include Articles 243-P through 243-ZG (read with the 12th Schedule), 265, 276, 301, 302, different items of the State List of the 7th Schedule, and the Concurrent List.

With respect to work and workers, the concordant approach of Parts III and IV of both the Constitution which associate with fundamental human rights and State Policy Directive Principles argues that the majority of them are focused at creating a well-dignified human life for employees. As a result, Directive Principles' goal is to create a democratic, socialist society in which everyone has a right to the most fundamental necessities of existence. It is fair to say that the Fundamental Rights appear to be deafeningly mute on the needs of those doing business on the street. The Street is not mentioned in

<sup>8</sup> *Equality before law.*—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

the provision of Constitution. The Constitution should be amended to include street vendors' interests. Even after seventy-four years of freedom, it is regrettable that, our country's laws contain no provision that particularly protects the human rights of street sellers.

**To Safeguard the Street Sellers' Livelihoods And Legislate Street Selling, The 2014 Street Vendors Act Was Passed.**

In *Maharashtra Ekta Hawkwars Union v. Municipal Corpn., Greater Mumbai*,<sup>9</sup> the Supreme Court ruled that the 2009 Street Vending Policy would continue in effect until Parliament passed suitable laws on the topic. Millions of individuals will be protected from incessant harassment and persecution and their livelihoods will be saved, if the 2012 Street Vendors Bill, becomes effect.

However, until the legislation is passed, the 2009 Policy should be implemented across the country. In fact, the suggested The "Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012" intended to safeguard street vendors' livelihood rights and social security even while legitimizing urban street selling in India and maintain consistency in the legislative framework for street selling across Union territories/States. The Ministry of Housing and Urban Poverty Alleviation created the 2014 Street Vendors, Bill in the Legislative Council on 6 September, 2013 and in the State Council on 19 September, 2014 with the title the 2014 Street Vendors Bill.

Petitioners challenged the plan reportedly created under Section 38 of the aforementioned Act via Government Resolution dated 09/01/2017 in *Savitribai Phule Vyavasaik Kalyankari Sauntha v. Panvel Municipal Corpn.*,<sup>10</sup> "with huge respect to the Parliament, we may note that the issue arises as a consequence of weak law" the High Court of Mumbai said. This observation is based on the terms and conditions that state that the study required under sub-section (1) of Section 3 cannot be operated unless TVCs with street seller representation as per Section 22 are formed and elections campaigns of vending representatives cannot be held unless the study required under 3 sub-section (1) can be operated. The question is that the TV ad. or the survey Comes first. It will only lead to disaster.

Every street seller has the privilege to participate in street selling activity in compliance with the rules of this contract set forth in the certificates of vending, according to Section 12 (1) of the Street Vending Act of 2014. According to Section 29 (1) of the Street Vending Act, this Act grants a street vendor a permanent, temporary or perpetual right to carry on selling activity in the selling areas granted to them and on any location where he performs on such selling operation.

---

<sup>9</sup> (2014) 1 SCC 490.

<sup>10</sup> WP/652/2017.

According to Section 52 of the Indian Easement Act, 1882 says that “when one person grants to another or to a definite number of other persons, a right to do, or continue to do, in or upon the immoveable property of the grant or, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a license”. Therefore, it can be said that the nature of Section 29 of the Street Vending Act is only giving license to the street vendor to carry on business of street selling operations.

The 2014 Street Vendors Act is a significant step forward in India’s street vending movement. The Preamble of this Act clearly states that it is an Act to govern street vending operations and to safeguard the interest of urban street vendors as well as for things related to or incidental thereto. However, there are various contradictory provisions in the Act and moreover the applicability of the Act is in question. For the purpose of giving benefit to the street vendors, identification is needed through survey and the survey has not been conducted in various states.

## VI. IN INDIA, A JUDICIAL APPROACH TO STREET SELLING

The Apex court supported the right to livelihood of street vendors for the first time in *Bombay Hawkers’ Union v. Bombay Municipal Corpn.*,<sup>11</sup> declaring that arbitrary restrictions on the street vendors cannot be enforced.

The Supreme Court held in *MCD v. Gurnam Kaur*<sup>12</sup> and *Sodan Singh v. New Delhi Municipal Committee*,<sup>13</sup> because such a privilege of survival must be maintained with procedural safeguards, and also that lane sellers have the privilege to operate their venture that could be relinquished on the shrine of people’s ostensible right using the street corners.

Other factors which contribute to the importance of these cases include:

- a) the identification of the factors that push people to sell their wares on the street
- b) a scarcity of suitable employment options.

In the *Sodan Singh* case, the court further stated that if the administrative authorities do not take action to ensure effective management and planning of street sellers, individuals’ fundamental rights will be violated. Following that, in cases such as *Sodan Singh v. UOI*, the Supreme Court set model regulations

---

<sup>11</sup> (1985) 3 SCC 528.

<sup>12</sup> 12 (1989) 1 SCC 101.

<sup>13</sup> (1989) 4 SCC 155.



for administrative bodies to follow until adequate legislation could be enacted. On the other hand, the application of these principles became the title of significant law suit before many Supreme Court and eventually the High Court.

The Supreme Court was required to revisit and alter previous directions in *Maharashtra Ekta Hawkers Union v. Municipal Corpn., Greater Mumbai*,<sup>14</sup>

In *Gainda Ram v. MCD*,<sup>15</sup> the Hon'ble Judge ruled that the fundamental right of street vendors, simply and they are poor and work in the informal sector, cannot be left in limbo, nor can it be determined by a variety of norms, programmes, and policies that vary on the instructions of the authorities from time to time. Based on a study of previous judgements, it appears that, during the last few decades, both the high courts and the supreme court have actively participated in recognizing and attempting to enforce the rights of street vendors by giving guidelines and recommendations. One of the most important organs of the government, the judiciary, has always been proactive in safeguarding citizens' rights, and street vendors are also citizens of the country.

## VII. DRAWBACKS OF THE ACT

Only a small portion of the act's numerous recommendations have been carried out in the seven years since it was passed. Only now, after considerable resistance, are Delhi's street vendors inspected and given licences and certificates of vending. However, because there is no dividing line between the city's vending and non-vending zones, the street vendors have nowhere to set up shop. The vast majority of sellers say that during the past few years, the police, neighbourhood watch groups, and society as a whole have repeatedly harassed or forced them to leave their locations. Despite being protected by the law, street sellers continue to be marginalised and their status becomes more perilous.

## VIII. CONCLUSION

The 2014 Street Vendors Act was passed with the primary objective to improve the condition of Street vendors and to help them in getting some justice. But unfortunately, this act has not been implemented in toto, it just remained engrossed in paper rather than at work the current legal framework is riddled with holes, and this Act contains numerous elements that are incompatible. in paper not in work. Generally, the authorities violate the human rights of the street sellers. Because of the Act's faults, the situation of street sellers has remained unchanged. The sensitization of the Public about the Street Vending law has not been done in proper manner and the street vendors are not aware

---

<sup>14</sup> (2004) 1 SCC 625.

<sup>15</sup> (2010) 10 SCC 715.

of their rights. They have not been provided even the basic facilities like water, toiler.

### **IX. RECOMMENDATIONS**

1. The Municipalities should ensure basic facilities to the street vendors. There is an urgent need to raise street vendors understanding of their rights and responsibilities under the code. This vital legislation should also be made known to the broader population.
2. The government should make arrangements for conducting the requisite public awareness efforts, which can be aided by various Non Governmental Organisations(NGOs).
3. Implementing officials need to be sensitized and trained to put into practice, With a slew of legal requirements dealing to street vendors' fundamental rights to trade and enterprise, as well as their right to a living.
4. The greatest lacuna of the legislation is in its inadequate coverage. Making new laws or guaranteeing that existing laws are enforced would not be enough to alleviate the challenges of street sellers.
5. Law adoption and implementation must be accompanied by social and economic measures, as well as enough public awareness. As a result, in addition to legislative actions and judicial activism, the necessity of complementary measures must be prioritized.
6. Establishing a consolidated database for street vendor eviction and relocation cases. Making policy would benefit from this.
7. Urban Local Bodies are advised to seek empty locations close to parks, community centre's, etc., demarcate them, and announce them as vending zones or markets. For street sellers, this might present commercial opportunities. Vending areas outside of cities are a waste of resources, according to the analysis.