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Has a Decade Been Enough? Revisiting the Impact of the Street Vendors Act, 2014 on the Experience of Women Vendors in 2024

Devanjali Banerjee

Research Fellow, West Bengal National University of Juridical Sciences (WBNUJS), Biddhannagar, Kolkata-700098, West Bengal, India; devanjali.banerjee@nujs.edu.

Abstract

Street vendors operate shops and stalls on public roads and throughfares and often face harassment and eviction from police and municipal officials. Consequently, vendors face considerable hardship in practicing their livelihood. In 2014, the Central Government enacted the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 ('the Act') intending to safeguard livelihood and social rights of street vendors. Despite the rights-based language and participatory institutions provided in the Act, its provisions have only been partially realised in 2024. For instance, only 17 states have set up grievance redressal panels for vendors (Nath, 2024). The passage of a decade merits an appropriate opportunity to review the Act especially because the past decade has seen the impact of the COVID-19 pandemic on our economy, among other changes. Within the larger community of street vendors, the experience of women vendors is related but also separate. This article attempts to summarize the formal legislation, policy and existing literature related to SVs in the context of gender. Specifically, the experiences and unique problems faced by women vendors will be discussed.

Keywords: *Street Vendors Act 2014, Street Vendors, Town Vending Committee, Women Street Vendors*

1.0 Introduction

"Street vendors constitute nearly two percent of India's urban population." (Bhowmik, 2005). Despite the large section of the population engaged in vending, the otherwise marginal nature of street-vending as an occupation has been regarded as an inconvenience upon public and civic amenities. Sinha and Unni (2024) note that SVs are viewed as "… obstacles to urban development instead of acknowledging them as legitimate contributors to the urban economy." Thus, intending to guarantee vendors' enjoyment of such constitutional rights, the Central Government enacted *The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act*, 2014 ('the Act') (Mathur, 2014). The Act brought a welcome change to the otherwise marginal nature of street-vending as an occupation, and was in keeping with the collective demands of the vendors' organizations such as National Association of Street Vendors in India (NASVI) (Sankaran & Madhav, 2013).

However, although a decade has passed since its passage, it has been reported (Nath, 2024) that key statutory institutions, namely, state grievance redressal panels, have not been set up in all states. This decade has also seen the COVID-19 Pandemic, which caused intense economic shockwaves in the Indian economy, with arguably the worst hit section in the informal sector being the vending community (Dimitrov, 2024). The various public health and safety norms led to lockdowns and social distancing, causing the use of public infrastructure like streets, roads, pavements to be almost completely abandoned. Specifically, women vendors being uniquely predisposed to being governed by oppressive social norms and restrictions, were a category of vendors that found their lives and livelihoods among the worst affected (Bhavani et al., 2021).

Given that such watershed events have occurred within a decade of the passage of the Act, it is important to analyse the legal statutes and policy framework of urban informal economy, through the lens of gender to understand the reasons for particular vulnerabilities of women as a social group, that lead to their disparate rate of impoverishment. This essay therefore attempts to summarize the existing literature, studies and briefs related to SVs in the context of gender.

The first part of this essay discusses the legal framework of the Act and the challenges faced concerning its implementation. The second part shall discuss gender and unequal sharing of poverty among women as a social group within the vending community. It will also discuss the impact of COVID-19 on women vendors. Finally, the essay will examine the specific challenges that arise in reading the concerns of gender and law related to the case of SVs.

2.0 Legal Framework

This part will examine the development of rules, regulations and policies governing street vending. National policies categorised street vendors ('SVs') and the current definition in the Act is informed by the same. Generally, SVs are those who offer goods or services for sale to the public from either a stationery or mobile unit (Section 2(l) of the Act). The two main authorities that deal with SVs are police and municipal officials. The Union government had formulated a National Policy on Urban Street vendors in 2004, which was later developed into the National Policy on Urban Street Vendors, 2009 (NPUSV), which had a model framework that state governments could implement.

The NPUSV was a progressive policy that acknowledged the contribution of SVs to urban poverty alleviation and provided for establishing a master plan, inclusively, for the SVs. (Kusakabe, 2014; Roever, 2014). The implementation of the NPUSV was left to the discretion of state governments, which were tasked with enacting legislation to embody the provisions of the policy. The lack of binding legal effect and consequent inadequate political will to implement the provisions minimised the beneficial effects of the policy. This led to passage of the Act.

2.1 General Overview of Provisions of the Act

A key aspect of the Act has been representation of vendors within the 'Town Vending Committee' ('TVC'). This has been mentioned in Section 22 of the Act. Some aspects of the NPUSV, such as the Street Vending Plan and a participatory approach, have been included and built upon further in the architecture according to Section 21 of the Act. The Act provides for the demarcation of vending zones and the establishment of a TVC. The members of the TVC include a Municipal commissioner / Chief Executive Officer, and such other members representing the local authorities of the region, and provides for other stakeholders' inclusion, such as civil society and other community organizations, PRS India. (n.d.). Apart from these members, the Act further holds that representatives of SV associations (through elections in the prescribed format) may constitute 40 percent of the total membership of the TVC, with the proviso that at least one-third of the representation of SV on the TVC "*shall be from amongst women vendors.*" Thus, the Act does provide for representation from women vendors in particular within the framework of the vending ecosystem. There is further reservation for "*due representation*" from minority groups such as social minorities such as Scheduled Caste, Scheduled Tribes, Other Backward Classes, and other minorities such as persons with disabilities.

In terms of functions of the TVC, according to the Act, this involves regulation of civic facilities provided under the Act, such as issue or cancellation of certificate for vending and other administrative functions such as conduct of survey of SVs in the area of jurisdiction every five years. As for rights of the SVs, the Act provides for the right of vendor to conduct business in designated vending zones, according to the terms of their certificates of vending. Further, vendors with such certificates, shall be entitled to a new site for conduct of business in case of relocation for any reason.

In terms of duties of the vendors, they are expected to maintain hygiene and cleanliness in the vending zones; to maintain the civic amenities and public properties available to them; and are expected to pay a mandatory maintenance charge for the relevant amenities provided her. There is also an obligation to be mindful of the time slots available to the vendors in case of sharing of a particular vending space with other SVs. Finally, the Act also lays down provisions for establishment of a dispute resolution or grievance redressal committee, constituted by the local state government.

2.2 Rights Framework under the Act

The Act creates a regulatory framework that incorporates certain institutional systems to protect SVs from eviction.

As mentioned earlier, there is a requirement for a certificate for vending as per Section 4 as well as payment of vending fees as per Section 8, as a condition precedent to conferring a right to vend under the Act. The Act also takes into account the role of family members in the own-account nature of vending, in that the Act allows for family-members (in any order mentioned by the SV in the required undertaking) may be permitted to vend in place of the original certificate-holder in case of the same's death, permanent disability or illness.

Chapter IV of the Act provides for some protections in the context of eviction and relocation by: providing for a 30-day notice period prior to any eviction from the place as specified in the certification, and allowing for a right to movable property, in case of reclaiming of seized goods after the lapse of a 30-day period. Such mechanisms incorporate due-process checks and reduce the ambit for unauthorized evictions and seizure of vendors' goods and wares.

3.0 Problems With Implementation of the Act

According to a report that had been tracking implementation among states in the five years since the passage of the Central Act, the progress with setting up institutions has been decidedly slow (Anand et al., 2019). While the Act holds that each Urban local body ('ULB') has at least one TVC, only one-third of the 7,623 ULBs within India have set up such TVCs. Perhaps the most damning finding in this report is that around 40 percent of such TVCs do not have any vendor representatives, as mandated by the Act, which is at cross-purposes with the idea of decentralised and participatory governance that the TVC sought to embody. The report also notes that the grievance redressal committee as mandated by the Act, had been set up in only four out of the total twenty-eight states and two Union Territories.

The issues in implementation were exacerbated by the unique challenges posed by the executive orders issued by central and state governments during COVID-19. Soon after it was notified as a 'disaster' under the Disaster Management Act (DMA), 2005, the Ministry of Home Affairs, Central Government was empowered to direct state governments to issue orders restricting freedom of movement of people (Bhavani et al., 2021). Even so, perhaps apprehending that such orders would affect the liberties of vulnerable sections, National Disaster Management Authority (NDMA), taking into account the possible impact of COVID-19 restrictions on the poor and vulnerable in India, instructed states to: "adopt a humane approach in dealing with the public, particularly those who are left adrift by the lockdown." The sale of essential goods was permitted by executive orders by central and state governments, but none of the women vendors interviewed by Centre for Civil Society were able to ply their trade from March to July 2020. (Bhavani et al., 2021). In fact, over half (50 percent) of SV's mobile units were confiscated by the police authorities (Criminal Justice & Police Accountability Project (2020).

4.0 Gender and Unequal Sharing of Poverty

According to Ray (1998, pp. 279–283), at a fundamental level, poverty itself may not be distributed equally among members of a household. It can also be understood in the context of economic opportunities available to women vendors. The basis of this distribution can be understood from the effect of social attitudes regarding 'working women' or women working in public environments.

As Ray notes and writing in the context of development economics, he submits that this unequal sharing by way of devoting care, nutrition and monetary resources to those seen as more valuable in the household, is akin to the 'lifeboat ethic.' According to this ethic, a lifeboat may support only two persons, yet it has three persons aboard. The solution then is to eliminate the third person. The third person on the lifeboat is usually the female, regardless of age. The basis of such intrahousehold discrimination is gender-bias, rooted in the lack of value attributed to household labour, in a case where men work and women do domestic work. However, Ray asserts that even in cases where both the man and woman earn income, but where women are paid less for similar work, this bias will continue to operate. Thus, women's economic opportunities are impacted in this regard.

4.1 Impact of COVID-19

The COVID-19 pandemic pushed many Indians into poverty, and the poverty rate "likely rose to 9.7% in 2020, up sharply from the January 2020 forecast of 4.3%." (Kochhar, R., 2021). To put this into perspective, the number of poor in India was estimated to be 134 million a year into the

pandemic, which was more than double the figure of 59 million that the number of poor were projected to be prior to the impact of COVID-19 on the world economy. (Kochhar, R., 2021). In the context of women vendors, according to a study conducted by the Centre for Civil Society, the pre-pandemic daily earnings of 45 percent of women vendors interviewed was up to Rs. 500, while 55 percent earned up to Rs. 1000 daily. (Bhavani, et al., 2021). However, due to pandemic lockdowns, 82 percent of the interviewees reported zero income during that period while 15 percent reported that their post-pandemic daily earnings were between Rs. 50 to Rs. 300. Unfortunately, this downward trend in income levels continued even after vendors were allowed to ply their trade at their usual locations. Since July 2020, 25 percent of the interviewees reported a fall in their income. The study was conducted based on interviews with 40 women vendors from Rajasthan and Delhi. However, these findings may be generalized given that the lockdown orders were on a national level, with most state governments responding with public lockdowns. This is an illustration of the lifeboat ethic as well as the disproportionate effect of an impoverishing effect of the COVID-19 executive orders passed by Central and State governments.

4.2 Women and the Informal Sector

Ray's formulation regarding unequal sharing of poverty is reflected in the pay gap even among women in the informal sector. Informal employment as an umbrella term, includes a variety of forms of employment, including self-employment within informal organizations, as well as wage employment in informal occupations. (Gallin, 2004) Workers in an informal economy are those who lack employment safeguards, social protections, representation in decision-making, and labour rights in general. According to WIEGO's Holistic Framework that studied 20 developing countries, even within the informal economy, women earned the least, Rosaldo and Tilly (2012). Gallin (2004) summarizes the main issue of the informal economy as being the "*absence of rights and the social protection of the workers involved in it*." Moreover, own-account workers are often known as precarious workers as they are seen as victims, rather than actors in the market and lack bargaining power to claim within it.

4.3 Unequal Access to Public Spaces

The lack of material infrastructure in public spaces precludes the full use of the same by women SVs. (Shilpa Phadke et al., 2011) The right to access public resources, including urban spaces, is noted as a primary entitlement by Sankaran in terms of informal workers. Moreover, the conventional aspect of respectability in the division of the public and private spaces implies that public visibility of women is acceptable only until a certain time or space, given that the rightful space of women would be the home.

Thus, we see that the urban informal economy inhabits an area of fragmented regulation between aspects of a formal and informal employment sector, and the consequent conflicts between the two spheres highlight the vulnerabilities, risks and exclusion of opportunities of trade and livelihood, that are experienced uniquely by women vendors. As Chen et. al (2005) notes, women informal workers tend to be in more precarious forms of employment, and the implication of particular support of the women's demographic implies that specific challenges arise in case of women in informal work, which require specific solutions.

5.0 Specific Challenges, Reading Gender and Law Together

A Report that has studied judgments and orders passed by the Supreme Court and some High Courts between 2017 and 2018 related to the Act, and notes that eviction disputes remain the most contested in all such pronouncements (Anand et al., 2019). A source of confusion stems from the vagueness of the definition of SV under the Act and the process of identification sans surveys, along with diverging conceptions of vending zones, leading some Courts to uphold pre-2014 demarcation of vending zones. Despite the overriding clause of the Act, some courts have upheld state and local laws over the protective framework of the Act, in certain eviction suits. One of the major sticking points have been evictions based on respecting public interest, with some High Courts such as Delhi and Calcutta, calling for evictions without any orders as to relocations. Kerala High Court has been observed to deliver more progressive judgments wherein protections have been extended to all SVs, regardless of legal status under the Act. Moreover, Bombay High Court had also reprimanded the Bombay Municipal Corporation and Maharashtra state government regarding the non-implementation of the Act. Sah, P. (2024, August 2).

Abuse of authority, which includes seizure of goods, harassment by officials, demands for bribes have also been highlighted as other challenges in the experiences

of a SV. Another challenge arises from confiscation of merchandise, which regardless of the lawful nature of such confiscation, could lead to wiping out the SV's total stocks, and might prompt her to take loans at predatory rates from local money lenders, thus trapping her in cycles of debt and exposing her to further economic vulnerability with an increasing inability to meet household requirements.

Women SVs from Ahmedabad had mentioned that local police often take goods such as vegetables and fruits for free, and allow others to do the same, as a way of showing power. Often, such SVs end up giving their wares for free to persons to ensure they do not return to the area. Thus, other issues such as theft of goods also come up as challenges.

Most women tend to see their work as an extension of their familial duty, as wives, sisters or mothers providing for family rather than as workers per se. (Kabeer et al., 2013) The socio-cultural roots of patriarchy imply that a woman's activities and purposes in the public domain remain inextricably linked. Due to the pressure to play multiple roles, wife, mother and worker, the overall pressure leads to the excess stress borne by such vendors, who have to brave extreme weather, unsanitary conditions and unhealthy spaces. This is hard for new mothers whose prenatal, neonatal and postnatal health is hit by the demands and lack of infrastructure in vending. Sexual safety is another important concern that often causes women to pack up their wares earlier than their male counterparts to not stay beyond sundown, or for them to prefer stationary vending spaces rather than the riskier mobile units.

The concerns of sexual safety also create a divide between two spheres for women, the public space and the private space and this distinction between the two spaces is the essential definition of respectability or moral character (Kapur, R., & Cossman, B., 1996). An appreciation of the public-private dichotomy helps to shed light on why the activities of women whose very occupation is reliant on being visible in public spaces, are so stigmatized, inter alia, other considerations.

6.0 Conclusion

According to a brief by the Impact and Policy Research Institute, there are three problems related to the Act. (Shalini Sinha & Unni, 2024). First, harassment and eviction have continued despite the rights-based language of the Act. Second, provisions relating to representation of vendors have largely been overlooked. Thirdly, SVs are viewed as "obstacles to urban development." In light of the studies, briefs and the framework of the Act, it is submitted that women vendors face a double burden of 'gender and vendor' discrimination. In other words, in addition to all the challenges of being a SV in an urban informal economy, women vendors experience evictions, abuse and harassment by police, municipal officials and others. It is hoped that the policy landscape in the coming decade will be able to take such concerns into account and thereby safeguard women SVs' fundamental right to livelihood within the framework of the existing regulatory frameworks.

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