

**FORMALISING THE INFORMAL STREETS: A LEGISLATIVE
REVIEW OF THE STREET VENDORS (PROTECTION OF
LIVELIHOOD AND REGULATION OF STREET VENDING) BILL,
2012**

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Street vending is a vital economic activity in urban India. It is the largest informal sector which caters to the livelihood of the urban poor. Since the era of economic reform in the country, the sector has faced many challenges, which have been sought to be addressed by numerous legislative attempts- the most recent one being the introduction of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill 2012. This legislative report seeks to review the 2012 Bill. However, the discussion of the Bill in the report is confined to addressing certain core issues that the Bill seems to address and critically appraising the regulatory and policy responses to those issues contained in the provisions of the Bill. Part I of the paper will present a brief overview of the legal discourse on the issue by mapping some legal responses in foreign jurisdictions and briefly discussing some Indian case laws to establish the Indian legal position. Part II will examine the rights and duties of street vendors as laid down in the Bill. Part III aims to analyse the registration and licensing mechanism under the Bill. Part IV evaluates dispute redressal and appeal mechanism provided under the Bill. Finally, the report concludes by calling for the suggested amendments to be incorporated to the Bill to ensure its efficacy in letter as well as spirit.

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I. INTRODUCTION

The ambiguity surrounding the legality of carrying out street vending under local municipal bye-laws, has left such activities vulnerable to harassment by public authorities.¹ Nationwide campaigns conducted by groups representing the interests of street vendors and hawkers in India have therefore been demanding recognition and regulation of the trade.

Around ten million people in India are engaged in street vending activities², making it a sizable political interest group. Further, street vending in India is of much economic significance, as it presents informal employment opportunities and forms an important part of the retail market in India. On factoring in these issues, it is surprising that the grievances of this trading community have received little interest from policy makers. The street vendors' struggle for legal recognition has therefore alternatively been a struggle for them to get recognition for the social and economic contributions of their profession.

Some recurring issues underlying the demand for legal recognition are discussed as follows

A. INFORMAL EMPLOYMENT AND POVERTY ALLEVIATION

Economic growth is characterised by various forms of structural transformations. According to the three sector hypothesis, all economies undergo similar patterns of structural transitions while witnessing economic growth. The development trajectory shows a shift from agriculture to industry and finally to services.³ There are

¹ See R. Vaidyanathan, *India street vendors fight for their rights*, BBC NEWS INDIA (Jan. 29, 2013), <http://www.bbc.co.uk/news/world-asia-india-21193420>; see also Shaktiman Ghosh, *A question of Survival*, <http://www.india-seminar.com/2000/491/491%20shaktiman%20ghosh.htm> (last visited Aug. 15, 2013).

² Prabir Bhattacharya, *infra* note 11.

³ See generally Jens J. Krüger, *Productivity and Structural Change: A Review of the Literature*, 22 J. ECO. SURV. 330 (2008) available at http://www.vwl.tuwien.ac.at/hanappi/AgeSo/rp/Kr%C3%BCger_2008.pdf.

a number of factors which make these transitions imminent. One of the explanations, as forwarded by Jean Fourastié, explains this hypothesis on the basis of increasing labour productivity in the erstwhile predominant sector resulting in the release of excess labour which is directed to the developing sector.⁴ At each stage, the developing sector becomes the ‘catch basin’ for the labour force released from the other sector or sectors.⁵ Thus, development of each sector, in succession, is important for the absorption of the excess labour in an economy. Many contend that India skipped the intermediate phase by prioritising the services sector over the manufacturing sector before the latter could develop adequately.⁶ This is said to have affected the labour dynamics in the country, leading to ‘jobless’ growth.⁷ Further, formal sectors of both manufacturing and services have failed to generate employment avenues in pace with the growing labour force in India.⁸ The informal sector, on the other hand, has been instrumental in bridging the gap by providing for approximately 67.5 % of non- agricultural employment in the country⁹ and making a significant contribution

⁴ *Id.* at 332.

⁵ Andreas Breitenfellner & Antje Hildebrandt, *High Employment with Low Productivity? The Service Sector as a Determinant of Economic Development*, MONETARY AND ECO. POL’Y. Q1/06 110, 115 (2006) available at http://www.oenb.at/en/img/mop_2006_q1_analyses05_tcm16-42106.pdf.

⁶ See generally James P. F. Gordon & Poonam Gupta, *Understanding India’s Services Revolution*, (International Monetary Fund, Working Paper No. 171, 2004), <http://www.imf.org/external/pubs/ft/wp/2004/wp04171.pdf>

⁷ Sukti Dasgupta & Ajit Singh, *Will Services be the New Engine of Economic Growth in India?* 3 (Centre for Business Research, University of Cambridge Working Paper No. 310, 2005), <http://www.cbr.cam.ac.uk/pdf/WP310.pdf> (last visited Aug. 16, 2013).

⁸ Formal & Informal sector, see generally Indrajit Bairagya, *Liberalization, Informal Sector and Formal-Informal Sectors’ Relationship: A Study of India*, available at <http://www.iariw.org/papers/2010/3Indrajit.pdf> (last visited Aug. 30, 2013).

⁹ International Labour Organisation – Department of Statistics, *Statistical update on employment in the informal economy* (Jun., 2012), http://laborsta.ilo.org/applv8/data/INFORMAL_ECONOMY/2012-06-Statistical%20update%20-%20v2.pdf (last visited Aug. 16, 2013).

of about 55%, to India's GDP.¹⁰ Therefore, any regulation or policy formulation pertaining to informal trade should be considered within a macroeconomic perspective.

The most visible face of the informal sector in the urban landscape is that of the street vendor and hawker. In fact, informal trade arrangements have played an important role in cushioning the impact of the urban-rural migration.¹¹ This has been recognised in the Standing Committee Report on the Street Vendors Bill.¹² According to the Ministry of Housing and Urban Poverty Alleviation, there are around 10 million street vendors in India.¹³ The largest cities support the biggest numbers. Mumbai has 250,000 street vendors, Delhi has 200,000, Kolkata, more than 150,000, and Ahmedabad has 100,000.¹⁴ As a commercial activity, street vending has tremendous economic significance. In a survey report published in 2011, it was estimated that street vending in the *Bhadra* market area of Ahmedabad, with 3,500 vendors and 1,400 businesses operating, generated an annual turnover of around Rs. 95 crores or US \$ 19 million.¹⁵ Also,

¹⁰ (Please note that the figure provided is dependent on the definition 'informal sector' and is, therefore, the result of a subjective exercise). See United Nations, Econ. & Soc. Comm'n, G. Raveendran, *Estimation of Contribution of Informal Sector to GDP* (Expert Group on Informal Sector Statistics (Delhi Group) Paper no.7, May 2006) available at <http://www.unescap.org/stat/isie/reference-materials/National-Accounts/Measuring-Contribution-GDP-Delhi-Group.pdf> (last visited Aug. 16, 2013).

¹¹ Prabir Bhattacharya, *The Informal Sector and Rural to Urban Migration: Some Indian Evidence*, 21 ECO. & POL. WKLY. 1255, 1259 (1998).

¹² Report on 'The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012, STANDING COMMITTEE ON URBAN DEVELOPMENT (2012-2013), available at <http://www.prsindia.org/uploads/media/Street%20Vendors%20Bill/SCR%20on%20Street%20Vendors%20Bill.pdf> (last visited Aug. 16, 2013).

¹³ See Mayank Austen Soofi, *Street Vendors: The God of Small Sellers*, LIVE MINT (Nov. 2, 2012), <http://www.livemint.com/Leisure/NN6NKSWIU0wsojynMwFBBJ/Street-Vendors—The-god-of-small-sellers.html>.

¹⁴ *Id.*

¹⁵ Alison Bown, Michal Lyons & Darshini Mahadevia, *Street Vendors in Ahmedabad* 19 (Cardiff University, Working Paper No. 2, 2012), http://www.cardiff.ac.uk/cplan/sites/default/files/Law-rights-regulation_working-paper-2.pdf (last visited Aug. 16, 2013).

organisations such as the International Labour Organisation have recognised street vending as an activity which represents cultural capital and serves as an ‘effective poverty alleviation solution’¹⁶ by providing entry level employment to the urban poor.¹⁷ This illustrates the economic and social significance of street vending.

B. THE ENCROACHERS OF ‘PUBLIC SPACE’?

In 2004, the Ministry of Housing and Urban Poverty Alleviation, in its policy note on Street Vending, stated that regulation of street vending should be “conceived of as a major initiative for urban poverty alleviation”.¹⁸ In view of all that has been stated above, the regulatory approach towards street vending should therefore be one that facilitates the commercial activity. However, street vending and its regulation remains a contest between the right to livelihood and the availability of public space, leaving the concerns of vendors as “business people” largely ignored.¹⁹ The legal discourse surrounding street vendors has been about ‘legitimising and normalising the street vendor’s presence on the street’ who are otherwise thought to be encroachers on public space. Such a perception has created a presumption of illegality and has thus left vendors vulnerable to harassment by public officials.

C. THE RESPONSE

The street vendors have responded by forming associations whose focal role is to negotiate with public authorities. For example, the Kolkata Hawkers Sangram Samiti was established in the wake of

¹⁶ Inter Press Service, *Informaleconomy: Street Vending in Asia*, TERRAVIVA 7 (May 8-11, 2006), http://www.ilo.org/wcmsp5/groups/public/—asia/—ro-bangkok/documents/publication/wcms_bk_pb_117_en.pdf (last visited August 17, 2013).

¹⁷ See also Sally Roeber, *How street vendors and urban planners can work together*, THE GLOBAL URBANIST (Nov. 13, 2012) <http://globalurbanist.com/2012/11/13/vendors-planners-work-together>.

¹⁸ *National Policy for Urban Street Vendors, 2009*, OF HOUSING AND URBAN POVERTY ALLEVIATION 3, <http://mhupa.gov.in/policies/index2.htm> (last visited Aug. 17, 2013).

¹⁹ Ashima Sood, *Vendor Street*, 29 Eco. & Pol. Wkly. 70, 70 (2011).

Operation Sunshine, a widespread eviction drive conducted by the West Bengal state government in 1996.²⁰ Certain organisations such as Manushi, a Delhi based NGO, have also played a crucial role by facilitating dialogue between public authorities and the associations. However, such negotiations have been ‘necessarily uncertain, laying down no firm principles, recognising no definite rights, but leaving everything to the repeated and always temporary negotiation of claims’²¹ At the same time, so as to garner more support for their cause, these groups have had to ally themselves with other political, privileged and influential groups.²² This nexus has led many associations into becoming influential participants in local politics giving them enough leverage to influence the implementation of regulations at a municipal level. Thus, in popular discourse, street vendors and hawkers are often seen as a ‘defiant’ class of encroachers.²³

Nonetheless, through the sustained and co-ordinated campaign of a group of civil societies and state actors, in 2004, the National Urban Street Vendors Policy (NSVP) was announced.²⁴ It was the first national level regulatory framework on street vending which was left to the States to adopt and implement. In 2009, the NSVP was revised and a Model Draft Bill on the subject was presented by the Central government. The States and Union Territories were to implement the National Policy for Street Vendors of 2004, taking into account this Model Bill.²⁵ However,

²⁰ Bhowmik, *infra* note 24.

²¹ Partha Chatterjee, *Keynote Address, Seventh Convocation at the West Bengal National University of Juridical Sciences* 8 (Feb. 24, 2013), <http://www.nujs.edu/news/7thconvocation-chief-guest-prof-partha-chatterjee-speech.pdf> (last visited on Aug. 17, 2013).

²² *Id.* at 9.

²³ *Regulate the Trade*, THE STATESMAN (Aug. 21, 2012), http://www.thestatesman.net/index.php?option=com_content&view=article&id=420748:edits&catid=38:editorial&from_page=search.

²⁴ See generally Dolf J.H. te Lintelo, *Advocacy Coalitions Influencing Informal Sector Policy: The Case of India's National Urban Street Vendors Policy in STREET VENDORS AND THE GLOBAL URBAN ECONOMY* (Sharit K. Bhowmik eds., 2010).

²⁵ Ranjit Abhigyan, *Growing Urbanization, Street Vendors and Policy Response*, NAVI (Oct. 12, 2012), <http://nasvinet.org/newsite/growing-urbanization-street-vendors-and-policy-response/>.

it received a feeble response from the States and soon demands were made for a mandatory central legislation on the subject.²⁶

It is in this context that The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012²⁷ (*hereinafter* “the Bill” or the 2012 Bill) was prepared, presented and finally introduced by the central government in the Lok Sabha on 6th September, 2012. Subsequently, the Bill was sent to the Standing Committee on Urban Development on 10th of September, 2012. The Committee submitted its report 6th March 2013. Several changes suggested by the Committee were incorporated in the Bill and after receiving the approval from the Union Cabinet of the Government of India, the Bill was to be tabled in the Parliament for its enactment.

The authors of this legislative report have sought to analyse and review the key provisions of this Bill. In order to effectively do the same, the authors have attempted to contextualise the Indian position on legislations pertaining to street vending by briefly outlining the international legal discourse on the same. The relevant case laws have then been discussed to establish India’s legal position. This is followed by a critical appraisal of the provisions that deal with the core issues that the Bill seems to address.

²⁶ See Press release, , *Kumari Selja unveils Draft Real Estate (Regulation & Development) Bill, 2011, Draft Model Property Rights to Slum Dwellers Act, 2011 and Central Legislation for Street Vendors*, MINISTRY OF HOUSING AND URBAN POVERTY ALLEVIATION, <http://pib.nic.in/newsite/erelease.aspx?relid=77101> (last visited Aug.16, 2013) held “*The progress on state legislation has not been encouraging. We are receiving continuous representations from the individual street vendors and their organisations to bring a central legislation which would be uniformly and mandatorily applicable to all the states and UTs*”.

²⁷ The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012, (Bill No. 104 of 2012), *available at* [http://www.prsindia.org/uploads/media/Street%20Vendors%20Bill/Street%20vendors%20\(Protection%20of%20Livelihood%20and%20Regulation%20of%20Street%20Vending\)%20Bill,%202012.pdf](http://www.prsindia.org/uploads/media/Street%20Vendors%20Bill/Street%20vendors%20(Protection%20of%20Livelihood%20and%20Regulation%20of%20Street%20Vending)%20Bill,%202012.pdf).

II. THE LEGAL DISCOURSE ON STREET VENDING

A. INTERNATIONAL DECLARATION ON STREET VENDORS

In November 1995, the Bellagio International Declaration of Street Vendors was signed at the inaugural meeting of the International Alliance of Street Vendors in Bellagio, Italy. This international declaration was a landmark development in the vendors' movement at the global level²⁸ and urged Governments to frame consolidated laws and policies for street vending and formulate national policies that included hawkers within the realm of urban development policies and standards of living.²⁹ In 2002, StreetNet, an international alliance of street vendors, was launched in Durban which borrowed its objectives from the Bellagio Declaration.³⁰ This alliance gained momentum in Africa by affiliating to a range of governments and non-governmental and policy research centres to work on street vending policies and legislations for the advancement of the socio-economic rights of the street vendors and hawkers.

B. STREET VENDING AND THE LAW IN INDIA

The issues regarding the legality of street vending and the right to carry on their business have plagued vendors for long.³¹ In India, the battle for legislation for the protection and promotion of street vendors and their interests began in the late 1980s. The Apex Court first recognised the need for schemes to be framed for the

²⁸ See generally Winnie Mitullah, Street Vendor and informal trading: Struggle for the right to trade, PAMBAZUKA NEWS (Jun. 1, 2006), <http://www.pambazuka.org/en/category/comment/34802>.

²⁹ The Bellagio International Declaration of Street Vendors, 1995 available at <http://www.nasvinet.org/userfiles/file/BELLAGIO%20INTERNATIONAL%20DECLARATION%20OF%20STREET%20VENDORS.pdf> (last visited Aug. 17, 2013).

³⁰ Streetnet International Launch Report, (Streetnet Steering Committee, 2002), <http://www.streetnet.org.za/docs/reports/2002/en/launchrep.pdf>.

³¹ Sharit Bhowmik, *Legal Protection for Street Vendors*, 51 ECO. & POL. WKLY. 12, 12 (2010).

regulation of hawker trade in *Bombay Hawkers' Union and Ors. v. Bombay Municipal Corporation*.³² Using the principles formulated in this case, the Court reiterated the need to cooperate and formulate a policy to regulate street vending in *Municipal Corporation of Delhi v. Gurnam Kaur*.³³ A significant breakthrough was in *Sodan Singh & Ors. v. New Delhi Municipal Committee & Ors. (NDMC)*³⁴, where the Apex Court had to ascertain the nature of the right to engage in street vending. The court held street trading to be a fundamental right of the citizens subject to reasonable restrictions under Article 19 (1) (g). The State is thus responsible to safeguard the street vendors' right to carry out their trade by allotting places for them to conduct their trade as well as by enacting laws under Article 19 (6) of the Constitution.³⁵ The court also held that the state could designate streets and mark places where hawker trade could be practiced. Thus, it was against this legal backdrop that the need for a comprehensive legislation addressing the rights and interests of street vendors emerged.

The first attempt to consolidate street vending into legislation was made in 2004 with the formulation of the 'Street Vendors Policy'. The Policy aimed to grant street vendors legal status and allow them to carry out their business in designated areas known as hawker zones and no hawker zones.³⁶ However, the policy failed to take note of executive difficulties that Governments faced in implementing the guidelines enshrined in the policy.³⁷ The Policy was later revised as the 'National Policy of Street Vendors' in 2009, which was somewhat similar to its predecessor.³⁸ A draft bill entitled 'Model Street Vendors

³² *Bombay Hawkers' Union & Ors. v. Bombay Municipal Corporation*, 1985 (3) S.C.C 528.

³³ *Municipal Corporation of Delhi v. Gurnam Kaur*, A.I.R 1989 S.C 38.

³⁴ *Sodan Singh & Ors. v. New Delhi Municipal Committee & Ors.*, 1989 (4) S.C.C 155.

³⁵ *Id.* ¶ 9.

³⁶ Satyam Shivam Sundaram, *National Policy for Urban Street Vendors and Its Impact*, 43 ECO. & POL. WKLY. 22, 23 (2008).

³⁷ *Id.* at 24.

³⁸ *Legal Protection for Street Vendors*, *supra* note 31 at 13.

(Protection of Livelihood and Regulation of Street Vending) Bill was introduced but Governments did not take sufficient legislative action. In 2009, the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill was introduced. However, the Bill was critiqued to have ignored many pressing issues. The foremost problem that it overlooked was the issue of natural markets which sprang up in places where consumers found them useful.³⁹ Secondly, it ignored the vending rights of those who were already selling on the streets.⁴⁰ Further, it lay down eviction as the last resort and ignored the numerical aspect of street vending.⁴¹ The Supreme Court, in *Gainda Ram & Ors. v. Municipal Corporation of Delhi & Ors.*,⁴² highlighted the need for a comprehensive Bill and directed the Government to pass this Bill by June 2011. In an attempt to address the shortcomings of the 2009 Bill, a revised bill was drafted with the help of the National Advisory Council and was introduced in the Lok Sabha in September 2012. Despite many improvements over the 2009 version, civil society groups allege that the present Bill has major shortcomings.⁴³

III. ANALYSING THE STREET VENDORS (PROTECTION OF LIVELIHOOD AND REGULATION OF STREET VENDING) BILL, 2012

A. RIGHTS AND DUTIES

Chapter III of The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012 deals with the “Rights and Obligations of Street Vendors”. Section 12 and 13 grant substantive rights to the street vendors while Sections 14 -17 mandates that certain duties to be performed by street vendors.

³⁹ Legal Protection for Street Vendors, *supra* note 31 at 13.

⁴⁰ Legal Protection for Street Vendors, *supra* note 31 at 14.

⁴¹ Legal Protection for Street Vendors, *supra* note 31 at 14.

⁴² *Gainda Ram & Ors. v. Municipal Corporation of Delhi & Ors.*, 2010 (11) S.C.A.L.E 36.

⁴³ Mohammed Ali, *Street vendors find shortcomings in Bill*, THE HINDU, (Nov. 5, 2012), <http://www.thehindu.com/news/cities/Delhi/street-vendors-find-shortcomings-in-bill/article4066639.ece>.

It is extremely crucial that this legislation succeeds in empowering street vendors with substantive rights given the vicissitude of their lives. A recent survey of street vendors in seven cities, found that their working conditions are egregious.⁴⁴ The street vendors cannot access social security or health services and their earnings typically fall well below the statutory limits for minimum wages.⁴⁵ Another sad reality is that street vendors need to rely on bribery as a way of living. The survey revealed that street vendors are compelled to pay daily and weekly bribes and fines to municipal and police authorities, but even this does not free them from the shackles of the fear of eviction.⁴⁶ These individuals are treated as being expendable and they are often beaten, cheated, jailed by the police and abused by unsympathetic, urban middle class customers.⁴⁷ Since they are part of a largely unorganized sector, they have little recourse to legal aid or justice.⁴⁸ In light of all these harsh realities, it is essential that street vendors are provided an armoury of rights. A balance needs to be attained between the conflicting demands of street vendors on one hand, and the general public, formal enterprises and city officials on the other.

a. *Right to carry on business*

Street vending has endured for centuries in spite of efforts to curb it. Its main advantage is the ease of entry that provides a chance of generating a subsistence income for the urban poor.⁴⁹ In a situation

⁴⁴ Hawkers and the urban informal sector: A study of street vending in seven cities, *supra* note 24 at 12.

⁴⁵ Harsh Mander, *Reclaiming the city for street vendors*, THE HINDU, (Nov. 3, 2012), http://www.thehindu.com/opinion/columns/Harsh_Mander/reclaiming-the-city-for-street-vendors/article4058121.ece.

⁴⁶ Mander, *supra* note 45.

⁴⁷ Mari Marcel Thekaekara, *In defence of the street economy*, INFOCHANGE, (Apr., 2009) <http://www.infochangeindia.org/livelihoods/sidelines/in-defence-of-the-street-economy.html>.

⁴⁸ Thekaekara, *supra* note 47.

⁴⁹ Sally Roevert, *How street vendors and urban planners can work together*, THE GLOBAL URBANIST (Nov. 13, 2012), <http://globalurbanist.com/2012/11/13/vendors-planners-work-together>.

where permanent jobs in the organized sector are decreasing, even those with requisite qualifications and skills are unable to find **employment**.⁵⁰ Therefore, the profession of street vending is lucrative to the unskilled, uneducated urban poor.

Section 12 (1) confers the “right to carry on the business of street vending activities”. However, this right is subject to the terms and conditions outlined in the certificate of vending. In the earlier version of the Bill that was introduced to the Lok Sabha, this particular section also contained the qualification that street vendors can carry on their business only in the vending zones allotted to them. This has been subsequently deleted in the version of the Bill passed by the Lok Sabha.

Section 12 (1) confers a positive right to street vendors. However, it must be noted that a street vendor cannot carry out his business wherever he wishes to. The Supreme Court of India, in *Bombay Hawkers’ Union vs. Bombay Municipal Corporation*,⁵¹ stated that even though street vendors have a right to carry on the business of street vending as per Article 19 (1) (g) of the Constitution, their right is subject to the provisions of clause (b) of that Article. The state can impose “reasonable restrictions” on street vending in the interests of the general public. It was also held in the instant case that public streets, by their very nomenclature and definition, are meant for the use of the general public.⁵² Therefore, street vendors do not have the right to carry out their trade or business so as to cause nuisance, annoyance or inconvenience to the other members of the public.⁵³

Street vendors often advantageously locate their workplaces in areas with sound pedestrian flows. Majority of them fall in central business districts and teeming transport junctions. This leads to a

⁵⁰ Hawkers and the urban informal sector: A study of street vending in seven cities, *supra* note 24, at 12.

⁵¹ *Bombay Hawkers’ Union*, *supra* note 32, at ¶ 8.

⁵² *Bombay Hawkers’ Union*, *supra* note 32, at ¶ 8.

⁵³ *Bombay Hawkers’ Union*, *supra* note 32, at ¶ 8.

conflict of interest with the general public, large enterprises, real estate developers and the government who want access to the same space.⁵⁴ Too many street vendors in these areas can also aggravate problems in urban governance, such as traffic congestion, solid waste management, and public health risks.⁵⁵

b. *No-vending zones*

Section 12 (2) contains a non-obstante clause which says that notwithstanding anything contained in sub-section (1), no street vendor shall carry out any vending activities in a zone which has been earmarked as a “no-vending zone.” Therefore, the Bill clearly provides that the appropriate government will demarcate no-vending zones to ensure that the general public is not inconvenienced.⁵⁶

No-vending zones lead to a very problematic situation. For the sake of public convenience and order, it is required that street vending is not allowed in certain areas of the city. But the inevitable drawback is that many street vendors lose their livelihood in the process of earmarking no-vending zones. For example, in Bhubaneswar, the BMC did not consult the street vending committees before identifying the no-vending zones. Therefore, the government’s attempts to re-categorize street vendors will inevitably lead to forceful re-location.

⁵⁴ Dasgupta & Singh, *supra* note 7.

⁵⁵ Dasgupta & Singh, *supra* note 7.

⁵⁶ The Street Vendors(Protection of Livelihood and Regulation of Street Vending) Bill, 2012, *supra* note 27, at § 2 (c) says: (The First Schedule says that a Street Vending Plan shall contain determination of three types of zones- restriction-free-vending zones, restricted-vending zones, and no-vending zones. Clause (g) of The Second Schedule says that it shall be the duty of the local authority to ensure that no vending activities are carried on in no-vending zones. Clause (t) of The Third Schedule says that the conditions under which private places may be designated as no-vending zones should be provided in the scheme for street vendors provided by the appropriate government. For example, recently in Bhubaneswar, the Bhubaneswar Municipal Corporation (BMC) identified 12 major areas in the city as “no-vending zones.” Few of the identified no-vending zones are Governor House to Police Commissioner’s office and PMG Square to railway station.)

Thus, therein lays the problem. The city of Bhubaneswar has 55 authorized vending zones which accommodate nearly 2,600 vendors.⁵⁷ On the other hand, around 22,000 street vendors exist in Bhubaneswar. This creates a complicated situation in which the street vendors are vociferously demanding new vending zones, while the government is earmarking more and more no-vending zones. This is how indirect limits on the number of street vendors allowed to carry out their trade are imposed and leads to exclusion of a large number of vendors. This explains why street vendors are left with no other option but to bribe the concerned authorities so as to carry on their business. The license permit raj which has been prevailing since the 1990s for the regulation of street vendors had a ridiculously low limit for the number of licenses to be provided to street vendors in a city, and this is only a small fraction of the actual numbers who vend in the city.⁵⁸ In Mumbai, for instance, an estimated 2 lakh hawkers operate, but the municipal corporation arbitrarily fixed a ceiling of only 14,000 licenses, and even those were not issued for many years.⁵⁹ The reality was far worse in Kolkata, where all street vending activities were banned by law, and hawking was a cognisable and non-bailable offence.

c. Right of to re-location

Section 13 confers the right for a new site or an area on relocation to the street vendors. It is a positive substantive right which will be a great tool in ensuring the livelihood of street vendors in case of displacement from their original location, but the pre-requisite condition is that this right will only be available to those street vendors who have a certificate validating their street vending. Thus, the fate of those street vendors who do not have a certificate will hang in the balance. Even though the Bill requires every street vendor to be registered with the Town Vending Committee, experience tells us that the number of vendors who do not possess a certificate will be far larger than the number of vendors who do possess one. Determination

⁵⁷ Alison Bown, Michal Lyons & Darshini Mahadevia, *supra* note 15.

⁵⁸ Mander, *supra* note 45.

⁵⁹ Mander, *supra* note 45.

of the new site will depend on the decision of the local authority in consultation with the Town Vending Committee.

d. *Obligations of street vendors*

Sections 14, 15, 16 and 17 lay down four duties which should be performed by street vendors. Section 14 mandates that where a street vendor occupies space on a time-sharing basis, he shall remove his goods and wares every day at the end of the time-sharing period allotted to him. This provision serves a dual purpose. First, it is aimed at ensuring that public space in use for vending is not misused, and no permanent structures are built on it. Second, it is aimed to prevent the causing of nuisance to the subsequent street vendor who would be using the space after the said time-period. But the impact of this provision is that it adversely affects the business potential of street vending. All wares sold by street vendors may not be mobile or portable.

Section 15 envisages a duty upon every street vendor to maintain hygiene and cleanliness. Every street vendor has been given the duty to maintain cleanliness and public hygiene in the vending zones and adjoining areas. This is an ambiguous provision and is liable to be misused by authorities to unnecessarily harass street vendors. No uniform standard as to what would constitute “cleanliness and public hygiene” has been laid down. Also, the vendor is supposed to maintain hygiene in the vending zones and “adjoining areas”. The term “adjoining areas” is vague has also not been elucidated in the Bill. Necessary safeguards need to be introduced to ensure that this provision is not misused for harassing street vendors.

The National Urban Policy for Street Vendors chalked out by the Ministry for Housing and Urban Poverty Alleviation contains an elaboration on the maintenance of cleanliness by street hawkers. Under Section 7, it states the importance of self-regulation, especially with respect to food vending in sensitive areas such as schools and nearby areas, parks and where there is considerable exposure to children.⁶⁰ It

⁶⁰ National Policy for Urban Street Vendors, 2009, *supra* note 18, at Cl. 7.

also says that street vendors should assume responsibility to keep the environs clean by properly disposing their wastes. Street vendors have often been targeted by the government in the name of public safety, sanitation and a more modern, western look as cities expand.⁶¹ Yet, the irony is that in spite of the government's fervent concern regarding public sanitation and safety, a number of public events, bazaars, religious festivals and other activities take place on our streets with the whole-hearted approval of government authorities.⁶² It is essential that safeguards are provided which will ensure that section 15 is not misused to victimise street vendors through "cleanliness drives".

Sections 16 and 17 are complementary to each other. They are aimed at ensuring that the civic amenities and public properties in vending zones don't deteriorate due to street vending activities being carried on. Section 16 states that every street vendor shall have the duty to maintain civic amenities and public property in the vending zone in good condition and not damage or destroy or cause any damage or destruction to the same. Section 17 states that every street vendor is under an obligation to pay such periodic maintenance charges for the civic amenities and facilities provided in the vending zone as may be determined by the local authority. Thus, these provisions impose a monetary burden on street vendors. Such periodic maintenance charge is highly unfair as it imposes a monetary burden on those individuals whose earnings are far below the minimum wage requirements.

Activists point out that laws for the rights of street vendors, and the way they are interpreted, make it difficult, almost impossible, to implement them. Therefore, it is important for this Bill to grant more rights to the street vendors, and burden them with fewer obligations.

B. 'COUNTING HEADS': REGISTRATION, LICENSING AND CERTIFICATION
UNDER THE BILL

Street vendors have long been subject to a trajectory of oppression and limitations by the state, and one of the primary means

⁶¹ Krüger, *supra* note 3.

⁶² Krüger, *supra* note 3.

of inflicting such limitations has been the mandate for ‘registration and licensing’ of street vendors. The stiff governmental regulatory framework regarding licensing has been a serious institutional hindrance to the economic freedom of informal vendors. In order to comprehend the implications of the paradigm of Registration under the Bill, a reflection on the problems associated with compulsory registration would be helpful.

a. *The Problems with the Current Licensing Regime*

The laws that were laid down by the British in the nineteenth century imposed mandatory licensing on all street hawkers; and hawking without such license was perceived as an ‘illegal’ occupation.⁶³ While such a framework of registration could have advantages in terms of recognition of the occupation of street vending as a legitimate employment arena in the eyes of law, the implementation of the same has had quite the contrary perverse effect.⁶⁴

The registration system for awarding licensing has been opaque and stagnated, whereby municipalities have placed arbitrary and appallingly low ceilings on the total number of licenses that can be granted in a city, effectively delegitimising most of this trade.⁶⁵ For example, the city of New Delhi possesses one of the most robust practices of street vending. In an affidavit submitted by the Municipal Corporation of Delhi to the Supreme Court,⁶⁶ it was estimated that though there were around 3 lakh vendors in the city, yet the municipality had granted licenses to an outrageously low number of 3,000 hawkers only.⁶⁷ To aggravate this, various municipalities over the country effectively stopped granting licenses after the 1960’s. Effectively, the web of licensing set by the

⁶³ See generally Lintelo, *supra* note 24.

⁶⁴ PARTH SHAH, & NAVEEN MANDAVA, LAW, LIBERTY AND LIVELIHOOD: MAKING A LIVING ON THE STREET 23 (2005).

⁶⁵ Mander, *supra* note 45.

⁶⁶ See generally R. Vaidyanathan, *supra* note 1.

⁶⁷ See generally R. Vaidyanathan, *supra* note 1.

government covered only a nominal number of vendors, rendering large populations of 'illegal' traders.

The most perilous implication of the licensing regime was the attitude and sense of contempt imbibed by the municipal authorities and the police. This left the vendors subject to mass harassment by policing authorities who constantly threatened the hawkers of eviction. The street vendors became easy targets of extortion and a substantial portion of their capital was diverted in bribes to protect their livelihood from a hostile state.⁶⁸

The Bill has been criticised for excessive delegation to the municipal authorities by providing for certain provisions to be specified in the relevant 'schemes'. Several provisions under registration and certification have been left to be determined by the local authorities. In the following analysis, the authors attempt to illustrate how this could lead to exploitation and harassment of the street vendors. Further, the authors argue that the mandate of compulsory licensing led to the inclusion of a culture of illegality in the eyes of public officials, insecurity of tenure and diversion of a large share of incomes of street hawkers to bribes and extortion.

b. *Analysing Provision for Registration under the Bill, 2012*

Sections 3-11 (Chapter II) of the Bill lay down the regime of registration and licensing for hawkers. While a perusal of the provisions may seem to remedy the inequities and protect the livelihood of street vendors, a deeper analysis shows a mere half-hearted effort by the State.

1. Application for Registration: Imposing Arbitrary Criteria.

Section 3 of the Bill lays down the procedure for application of registration. The Town Vending Committee (TVC) prescribes that

⁶⁸ See Hawkers and the urban informal sector: A study of street vending in seven cities, *supra* note 24. (It discusses that survey conducted by this study indicates that almost 20% of the income of street vendors is lost to rent-seeking by public officials.)

anyone aged 14 and more may apply. However, it subjects the application to such '*form and manner*' and mandates the application '*be accompanied by such documents*' as specified by the relevant schemes.⁶⁹ Here, the authors see a dilution in the process as often street vendors lack official documents and evidence of their legitimised hawking. In fact, municipalities have continually exploited street hawkers and rejected registration on grounds of non-recognition and insufficient documents. For example, a scheme formulated by the Municipal Corporation of Delhi required fine receipts or 'challans' as documentary evidence for hawkers to qualify for a hawking license.⁷⁰ Such arbitrary standards for scrutiny of claims and applicability to registration, set by the municipalities, required that the Act delineate more specific standards for application, instead of leaving them entirely to the discretion of the government setting the 'scheme.' In this regard, the recommendations made by the recent 23rd Report of the Standing Committee ('Standing Committee Report') can serve to be reconciliatory. Acknowledging that illiteracy and inability to produce cumbersome documents could be a handicap to the vendors in their registration process, the Report recommends the requirement of only a single document as evidence during the registration process. The authors conform to this recommendation and argue for such flexibility to be incorporated within the provisions of the legislation to avoid exploitation of the vendors during the application process.

Further, it has been criticised that the burden of registration is on those applying for it, and a person vending without a license would be subject to penalty. This continues to place the vendors within the grapples of bureaucracy. Here, it is relevant to juxtapose the provisions of this Bill with the system of registration under the National Policy on Urban Street Vendors, 2009. Under Provision 4.5.4 of this Policy, the Municipal Authority is under an obligation to undertake a comprehensive census of the existing

⁶⁹ The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012, *supra* note 27, at § 3.

⁷⁰ Krüger, *supra* note 3, at 320.

vendors in consultation with the Town Vending Committee and with the assistance of experts for the purpose of granting them lease to vend.⁷¹ Hence, we see that here the burden of registration is on the Municipality, which significantly smoothenes the exercise of registration and to a large extent simplifies the process for street vendors. Further, there is a safeguard in terms that in case anyone has been missed out in the census or is a 'new entrant' they have the right to apply for a license,⁷² hence ensuring complete inclusion of all vendors in the registration scheme.

Hence, the process of registration still vests considerable power in the hands of municipalities. In order to protect the livelihood of such workers, the law must envisage a transparent process by a broad-based agency which includes representatives of vendors.⁷³

2. Processing of Registration Application

Section 4 of the Act dealing with the processing of the registration application, is commendable as it lays down certain safeguards for the vendors. It obligates the Town Vending Committee to afford opportunities to every applicant to rectify possible deficiencies and grants automatic registration in case no response is received after completion of the mandated period of registration. However, this section has a lacuna wherein this 'period' within which applications for registration must be granted has not been specified in the Bill, but is to be prescribed in the 'scheme.' Section 2(j) of the Act defines 'scheme' as one framed by the 'appropriate Government' under Section 40. The Standing Committee Report recommendation is noteworthy in this regard, as it mandates a one month time period to be stipulated in the legislation to issue certificates to the street vendors.

Another important point in this light is the absence of any provision for 'temporary registration'. As elucidated above, the

⁷¹ National Policy for Urban Street Vendors, 2009, *supra* note 18, at Cl. 4.5.4 (a).

⁷² National Policy for Urban Street Vendors, 2009, *supra* note 18, at Cl. 4.5.4 (c).

⁷³ See generally Krüger *supra* note 3.

process of registration may not always be expeditious considering the discretion to determine the time period is with the Municipality. Such extended waiting periods can be potential set-offs for the livelihood of street vendors owing to their low financial status, as they are potentially precluded for vending hence losing out on crucial revenue each day. Section 5 of the 2012 Bill explicitly prohibits any person from commencing or carrying out any street vending activity unless he holds a certificate. In this regard, the Urban Policy on Street Vendors, 2009 makes a significant provision for ‘on the spot’ temporary registration on a renewable basis for the period of processing of the registration application.⁷⁴ Such a provision assumes great importance for street vendors. However, it has been excluded from the 2012 Bill.

Another recommendation of the Standing Committee that serves to satisfy the long term interests of street vendors must be highlighted here. It is suggested that at the later stages, the Municipal Authority in consultation with the TVC should undertake a comprehensive digitalized photo census/survey/GIS mapping of the existing vendors. The authors are in agreement with this plan as it will be a step forward in ensuring that all vendors are registered in an efficient manner.

c. Concentration of power in hands of Municipality: Delegation through the ‘Scheme’

Further, under Section 7, the criteria to be adhered to by the Town Vending Committee while granting a license is also delegated to the ‘scheme’. Further, critical aspects such as the validity of the certificate of registration, the process for renewal of the certificate under Section 9 and the vending fees under Section 8 are left to the discretion of the government framing the ‘scheme’. Another instance of the excessive delegation as pointed out in the Standing Committee Report is the wide discretion of local bodies regarding renewal of certificates.

⁷⁴ National Policy for Urban Street Vendors, 2009, *supra* note 18, at Cl. 4.5.4 (f).

Such a regime of licensing under the Act is a major shortcoming as most of the crucial policies and aspects of registration are left to be determined in the scheme. This will lead to concentration of powers in the hands of the municipal authorities that do not have any representation of street vendors.⁷⁵ Leaving such important policies to the discretion of municipal bodies can be potentially harmful as municipalities have constantly treated vendors with contempt and have been seen to possess an inherent perception of illegality of street vending. Madhu Kishwar and Parth Shah, in one of their most forward works on the livelihood of street vendors have discussed the ‘vested interest’ of Municipalities explaining how exploiting and harassing the street vendors is a regular source of revenue for such officials.⁷⁶ Hence, it has been vehemently argued that policies regulating street vendors must not be left in hands of the officials that have portrayed a trajectory of oppression and marginalization of such individuals. This has even been recognized by the Supreme Court in *Gainda Ram v. MCD*⁷⁷ - The Standing Committee recommends in this regard that provisions of the Bill be more specific, such as the renewal period of licenses be prescribed in the legislation itself.

d. *Criticising Individual Registration: the need for ‘family identity cards’*

On perusing the scheme of registration under the 2012 Bill, it is amply evident that the certification and registration for vending is granted on an individual basis. However, several organisations such as SEWA (Self Employed Women’s Association) have continually asserted the nature of street vending to be one of a family business⁷⁸ where different members of the family often carry out vending on the same location at different times. In such cases, when a license is granted to an individual only, it puts other members of the family at the behest

⁷⁵ Ali, *supra* note 43.

⁷⁶ See generally Law, Liberty and Livelihood, *supra* note 64.

⁷⁷ Ram, *supra* note 42, ¶ 67.

⁷⁸ NATIONAL CONSULTATION ON CENTRAL LAW ON STREET VENDING, MINISTRY OF HOUSING AND URBAN POVERTY ALLEVIATION 14 (Dec. 23, 2011), http://mhupa.gov.in/W_new/NCL_STREET_VENDING_23122011.pdf.

of illegality and threat of eviction by municipalities. Hence, drafters of the legislation must recognize the nature of the business and grant family registration and identity cards.⁷⁹

e. Threat of Eviction under the Police Act, 1861

An important point to be noted while assessing the licensing regime, that aims to provide security of livelihood to street vendors, is the power of eviction vested by the Police Act, 1861. Section 34 of this Act lays down explicit prohibitions that adversely affect street vendors,

“No person shall cause obstruction in any street or public place by...exposing anything for sale or setting out anything for sale in or upon any stall, booth, cask, and basket or in any other way whatsoever.”⁸⁰

In light of such a provision, there is considerable scope for authorities to circumvent the protection provided under the Street Vending Act and continually subject street vendors to harassment and eviction. Thus, the new Bill must explicitly make provisions to override such conflicts to ensure security of livelihood to street vendors.

C. DISPUTE RESOLUTION MECHANISM

Appeal Against TVC Regarding Certificates

The Act takes a step forward when providing for an appeal mechanism as to decisions on registration, issue of certificate and cancellations made by the Town Vending Committee. Section 11 envisages an appeal to the local authority, and further Section 11 (2) prescribes an opportunity to be heard to every applicant. However, the pitfall again lies as the manner, form and period of appeal vests in the discretion of the municipality.

⁷⁹ SEWA, *Memorandum submitted to Secretary Ministry of Housing on Poverty Alleviation on 3/5/2012*, <http://www.sewa.org/PDF/Central%20Law%20for%20Street%20Vendors.pdf> (last visited Aug. 17, 2013).

⁸⁰ See Sharit K. Bhowmik, *Street vendors in Mumbai, Part II: Laws and regulations*, <http://urb.im/mm/120716st> (last visited Aug. 17, 2013).

General Grievance Redressal and Dispute Redressal Mechanism

With respect to general grievance and dispute redressal, Section 20(1) states:

“The appropriate Government may constitute one or more committees consisting of a Chairperson who has been a civil judge or a judicial magistrate and two other professionals having such experience as may be prescribed for the purpose of deciding the applications received under sub-section (2):

Provided that no employee of the appropriate Government or the local authority shall be appointed as members of the committee.”

It is useful to quote the erstwhile Section 20(1), before the incorporation of the Standing Committee recommendations, which provided:

“The local authority shall, for the purpose of disposing of an application received under sub-section (2), constitute a permanent committee consisting of a person who has been a sub-judge or a judicial magistrate or an executive magistrate and such other persons having such experience in natural market and street vending activities as may be prescribed.”

A notable change is the absence of the Executive Magistrate, as recommended by the Standing Committee. Defying logic, the presence of influential persons like the Executive Magistrate would not be desirable. Malpractices within the committee would lead to a situation of helplessness among the street vendor population. But the statutory requirement of experience of the members in natural market and street vending activities has been unnecessarily removed. In the opinion of the authors, retention of a statutory directive about the desired qualification of the committee members is a desirable.

Pursuant to the recommendations of the Standing Committee, the Bill now has specificity about the size of the committee. However, the committee had proposed that the size of the committee be fixed

according to the population density. The authors opine that the number of members in the committee may be in proportion to the street vendor population. Although understandably it is a practical decision, a one size fits all solution may not be desirable.

The committee has no fixed tenure and there is no removal mechanism mentioned. The Bill may make provisions for flexible tenure, to be mentioned at the formation of the committee, in accordance with the local conditions and factors.

Another change is that the Bill has provided the power to the “appropriate government” to constitute one *or more* committees, as opposed to just one permanent committee in the previous draft of the Bill. If jurisdictional aspects are handled well, then this can be a laudable provision in the Bill.

Section 20(2) of the Bill states:

“Every street vendor who has a grievance or dispute may make an application in writing to the committee constituted under sub-section (1) in such form and manner as may be prescribed.”

It is pertinent to mention Section 9C (2) of the Industrial Disputes Act, 1947 which states:

“(2) Where an industrial dispute connected with an individual workman arises in an establishment referred to in sub-section (1), a workman or any trade union of workmen of which such workman is a member, refer, in such manner as may be prescribed such dispute to the Grievance Settlement Authority provided for by the employer under that sub-section for settlement.”

According to the Bill, only the street vendor himself can register a complaint with the Town Vending Committee. However, the Industrial Disputes Act permits even the trade union of the aggrieved workman to refer the dispute to the concerned authority. Thus, Section 20(2) of the Bill should be amended to allow the street vendor organisations to refer a member street vendor’s grievance. This will make the dispute redressal mechanism more accessible to the

poor, illiterate street vendors and will invoke confidence in them to register a complaint.

Section 20(3) provides that the Committee, upon receipt of the application, shall, after verification and enquiry, take steps for grievance redressal or dispute resolution according to the procedure prescribed. The Standing Committee report suggests that a time limit may be prescribed for disposal of cases by the Dispute Redressal Committee. This is not incorporated in the revised Bill. It would be advisable to statutorily have a reasonable *upper* time limit for disposal of applications and appeals. The time and manner may be prescribed within the upper limit. Apart from ensuring that the Committee does not sit on applications, this was also an opportunity for the affected parties to appeal under Section 20(4) even if no ‘decision’ is taken.

Section 20(4) provides that a person aggrieved by the decision of the committee may approach the local authority on appeal. Earlier, the provisions of the Bill stated that the local authority shall constitute the committee. In addition, the local authority sits in appeal over the committee. This was a circular mechanism, and keeping in mind the past experiences and observations in Supreme Court cases, it is a positive change in Section 20(1) to give the “appropriate government” the responsibility of appointing the committee members, and also supply a *proviso*, stating that no member of the local authority or the appropriate government can be part of the committee.

IV. CONCLUSION

The *Objects and Reasons* stated in the Bill recognise that street vendors are an ‘important segment of the urban population’.⁸¹ It recognizes that street vending ‘acts as a measure of urban poverty alleviation without major Government intervention’ and is an ‘integral

⁸¹ *Statement of Object and Reasons*, MINISTRY OF HOUSING AND URBAN POVERTY ALLEVIATION (Aug. 31, 2012), [http://www.prindia.org/uploads/media/Street%20Vendors%20Bill/Street%20vendors%20\(Protection%20of%20Livelihood%20and%20Regulation%20of%20Street%20Vending%20Bill,%202012\).pdf](http://www.prindia.org/uploads/media/Street%20Vendors%20Bill/Street%20vendors%20(Protection%20of%20Livelihood%20and%20Regulation%20of%20Street%20Vending%20Bill,%202012).pdf).

part of the economic growth process within urban areas' and that 'growth of street vendors is likely to have an upward trend'. In summing up the object of the Bill it has been stated that –

*"...the proposed Bill is aimed at protecting the livelihood rights and social security of street vendors and regulation of urban street vending in the country and ensuring uniformity in the legal framework for street vending across States and Union territories"*⁸²

However, the Bill, in letter, seems to be doing little justice to its 'intent'. The drafters seem to have recognized the socio-economic justification and significance of street vending but, for the most part, the Bill talks about restrictions, prohibitions and regulations in the form of compulsory registrations, 'no-vending zones' and penalties in case of non-compliance.⁸³ In addition to what has already been discussed above, the 'federal' character of the proposed law is already facing oppositions from the States. This raises concerns about its success as a 'uniform legal framework'.⁸⁴

On one hand, the Bill seems to have failed in addressing most of the loopholes present in the existing policy framework. The rights it provides are conditional to the extent that it may easily be denied to the intended beneficiaries. The important tasks of deciding principles that would govern determining of holding capacity of vending zones and process of relocation continue to be left to the 'appropriate governments'. On the other hand, it does make some positive attempts at moving beyond the contest between urban land and livelihood by providing 'promotional measures' like access to credit and insurance facilities through self-regulated structures. Therefore, the Bill represents the acceptance of the premise that street

⁸² *Id.*

⁸³ Mander, *supra* note 45.

⁸⁴ See generally *The Federal Hawker*, THE STATESMAN (May 14, 2012), http://www.thestatesman.net/index.php?option=com_content&view=article&id=409880:edits&catid=38:editorial&from_page=search.

vending is an important regulatory issue with significant socio-economic consequences and one that warrants a mandatory federal legal framework. Is a promising legal framework wherein, if requisite changes are made, it could do justice to its 'intent' in implementation as well?