

STREET VENDORS ACT 2014

State Compliance Index 2017



CENTRE FOR CIVIL SOCIETY
Social Change Through Public Policy

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State Compliance Index 2017

AUTHORS

Prashant Narang
Dr Yugank Goyal



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Authors
Prashant Narang and Dr Yugank Goyal

Cover design and layout by
Usha Sondhi Kundu, Centre for Civil Society

Design assistance by
Ayushi Jain, Centre for Civil Society

For more information and other requests, write to:
Centre for Civil Society
A-69 Hauz Khas, New Delhi – 110016
Phone: +91 11 26537456 | Email: ccs@ccs.in | Website: www.ccs.in

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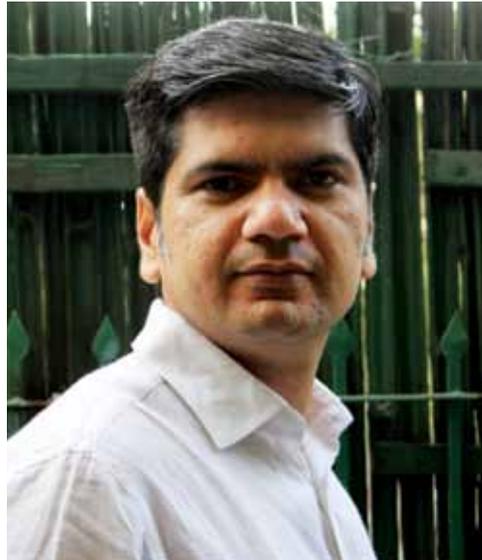
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About Authors

Prashant Narang

A lawyer by training, Prashant Narang is an economic freedom activist by choice. During his law school days, Prashant campaigned for liberalisation of the Delhi auto-rickshaw sector and produced a documentary entitled “Third Wheel”. After completing his LL.B. from the Campus Law Center, the University of Delhi, he assisted in cases challenging the licensing restrictions on cycle rickshaw pulling. Now at iJustice, he files and pleads public interest cases involving street vendors and budget private schools before various state high courts and the Supreme Court of India.

A ‘Nani Palkhivala’-gold medalist in the LL.M. program at Jindal Global Law School, he in his research publications has focused on regulatory barriers in legal service sector, intermediate public transport and school education sector. His paper ‘RTE-another license raj’ was awarded the best paper in professional category by Auro University, Surat at the National Conference of Law and Justice - 2014. Prashant also contributes to some of the well-known law blogs in India such as lawandotherthings.blogspot.com and mylaw.net and has taught ‘Law and Public Policy’ at top law colleges including the West Bengal National University of Juridical Sciences (WBNUJS or NUJS), Kolkata and National Law School of India University (NLSIU), Bengaluru in India.



Yugank Goyal

Yugank Goyal secured his Ph.D. in Economics and Law from University of Hamburg, Erasmus University Rotterdam and University of Bologna as Erasmus Mundus Fellow. He has an LL.M. from University of Manchester and Bachelor of Technology from NIT Surat, India.

Between 2009 and 2012, he was the Assistant Professor and Assistant Dean (Research & International Collaborations) at Jindal Global Law School. As a founding faculty member of OP Jindal Global University, he spearheaded several institution building initiatives, including designing curriculum and academic policies of the University. In his capacity as Assistant Dean, he cultivated research architecture of the law school in its formidable years, and led its collaboration with world's leading law schools and think tanks around the world. As a prolific public speaker in charge of University's outreach programmes, he has also addressed more than three hundred leading schools, colleges and universities in India on importance of law and social science education. He has taught courses like Economics I and II, Economic Analysis of Law, Institutions, Mathematics and Environment Science. Prior to joining JGU, he has worked as a Consultant on rural development projects with ICICI Bank's joint venture with West Bengal state government. He continues to consult governmental and non-governmental organizations on a variety of regulatory projects. Having studied engineering, economics and law, his work swiftly assumes interdisciplinarity. He has published widely on matters related to legal institutions, development economics, higher education and intellectual property. He has traveled widely and spoken in international fora on topics of his interest.



LIST OF ABBREVIATION

List of Abbreviation

CCS	Centre for Civil Society
I.N.A/N.A	Information Not Available
M.C.D	Municipal Corporation of Delhi
MGNREGA	Mahatma Gandhi National Rural Employment Guarantee Act
NASVI	Nationals Association of Street Vendors of India
N.D.M.C	New Delhi Municipal Corporation
RTI	Right to Information
SEWA	Self Employed Women's Association
SVACI	Street Vendors Act Compliance Index
TVC	Town Vending Committee
ULB	Urban Local Body

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Executive Summary

When the year 2014 marked the fervour of street vendors' solidarity movement, it gave hope that harassment and extortion would end. Street Vendor (Protection and Regulation of Street Vending) Act 2014, a culmination of previous policies into a central legislation, promised to be an authoritative take on the issue of freedom of business and trade of street vendors as enshrined under Article 19(1) (g) of the Constitution. However, as the study makes it evident, the non-compliance with the prescribed timelines has reduced the authority of the central Act to a mere piece of paper in some states.

The report studied the status of compliance of the Act in Indian states and came across a prevailing state of inertia amongst the state governments in executing the Act in its true letter. In doing so, we prepare an Index of Compliance, rating states on estimates that reflect their commitment to comply with the Act. However, due to non-responsiveness of states to RTI applications and telephonic calls for data collection, not all states could be covered. The 23 states that have been studied in this report are marked on the basis of compliance factors that are mentioned in the Act namely formation of schemes, rules, Town Vending Committees (TVC), etc. Out of the 23 states, Nagaland scored a zero on our rankings and stands alongside other nine states who also scored a zero for not responding to our data collection process. Apart from this, there are only nine states that have crossed a 50 per cent mark in the compliance index. This reflects the indifference with which the states have dealt with the Act.

While analysing each factor separately, we found out there was no state that complied with the provision of forming schemes and rules within the statutory period of six months and 12 months respectively.

Moreover, we also came across selective compliance by many states where one parameter, for instance the conduction of survey, has been implemented but other complementing parameters have been ignored. This inconsistency may be costly. While analysing the judicial trends post the passing of the Act, we found out that there are high courts such as those in Bombay and Rajasthan that have either denied or ignored the applicability of the Act in some cases in their respective states. In addition, some high courts have ignored the contours of Section 3(3) of the Act which protects the vendor from eviction before a survey is done. Although there do exist some cases where the courts have given judgments that favours the economic freedom for street vendors, the looming number of unfavourable judgments have subjected the vendors to the whims and fancies of the local authorities. We believe that the overall compliance of the Act in its true spirit has been anything but satisfactory in most of the states. What increases the vulnerability of the vendors is the lukewarm response that they have received from the judiciary. Therefore, if the street vendors are to be assured of the protection and justice that they fought for so many years, in its true spirit, the state governments need to be held accountable for the effective, efficient and encompassing compliance as well as the compliance of the central Act.

“If the street vendors are to be assured of the protection and justice that they fought for so many years, in its true spirit, state governments need to be held accountable for the effective, efficient and encompassing compliance of the Act.”

Abstract

In the words of Dr B.R. Ambedkar, “A common man needs bread, a house, adequate clothing, education, good health and above all the right to work with dignity on the world’s boulevards.” Street Vending is a huge informal sector in India and offers employment to several millions in the country. In order to regulate and protect the street vendors in India, the Parliament has enacted the Street Vendors (Protection of Livelihood

and Regulation of Street Vending) Act 2014. The onus of creating rules under the Act rests on the states and subsequently, they devolve compliance and regulation to the local bodies. Yet, states have made unequal efforts in complying with and implementing the Act in letter and spirit. This report tracks the status of compliance of the Act across India, statewise, and develops an index to assess their performance.



Introduction

The street vendors' right to carry out their trade in public spaces has been the subject matter of numerous debates and petitions in India. The Supreme Court has recognised their interest and has passed various judgments to prevent the harassment and abuse of the vendors by state enforcement agencies. Finally, in 2014, the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014 (in short "the Act") was passed. The Act aims to regulate and protect street vendors in India, at multiple levels.

While the Act is generally laudable, it has fallen short of expectations in several ways. For instance, even though the Act provides for the timelines for the formulation of the scheme and the rules, it lacks any provisions for a penalty for non-compliance with the deadline. It does not even grant deemed approval for vendors, that is, a license deemed to be granted if the application for license is not rejected within the stipulated time limit. Therefore, undue delays harm the hawkers/vendors and benefit police and bureaucracy. Not surprisingly, most states and the local authorities are lagging behind the timelines prescribed under the Act. This delay also implies the continuance of atrocities against the vendors; they are evicted from their zones without due process and relocation, extortion of money by the police and local authorities

and confiscation of their goods and equipment (Tauhid, 2014). Surprisingly however, courts have also been largely reluctant to apply the law and protect the vendors.

Legislative drafting not only demands careful selection of phrases and a set of practically benevolent objectives but it must also take into account the interests and incentives of various stakeholders involved in the sector. Information available with each of the stakeholder to achieve its interests while creating legal rights and obligations becomes important here as well. This report is a step in the direction of understanding what happens once an Act is passed, with regard to its compliance.

The report fulfils several functions. It briefly collates the history of the Act and illustrates the reasons for its relevance. It discusses the status of compliance of the Act in India by way of doctrinal research and examines core legal problems that exist amongst vendors. Most importantly, it constructs a matrix to rank states on the status of compliance of the Act. This benchmarking project employs various methods to collect information on the status of compliance, including filing applications under the Right to Information Act, 2005 across states of India, making more than 250 phone calls to expedite the RTI reply process and referring to secondary sources such as news stories.



Survey

Vendors

Town Vending
Committee

STREET VENDORS ACT

Licence



Schemes & Rules



Elections



History of the Street Vendors Act 2014

The question of a trader's right over public roads is almost as old as the Constitution of India, and quite like a sinusoidal curve in terms of Court's imagination of private usage of public space like roads.

Way back at the beginning of the first decade of independent India, the state of Uttar Pradesh faced a legal challenge when it attempted to prohibit private traders to ply buses on public roads. Uttar Pradesh government passed an Act to ban the private corporations to ply buses on the public roads. The legislation was challenged, and the matter went to the Supreme Court. In the case of *Saghir Ahmad v. State of U.P. and Ors* (1954), the Apex Court held that the state is only a trustee of the public roads on behalf

of the public. Therefore, the state only has a duty to regulate and see that the use does not create a conflict of rights, but it cannot monopolise and prohibit the use of public roads for private gain. The Court went ahead to say that the right extends to all forms of traffic which have been usual and accustomed and also to all which are reasonably similar and incidental to it. The Court further clarifies that public cannot be denied to do business on public roads and streets, however, putting reasonable restrictions and regulating it is the state's duty.

Surprisingly then, the same Court in 1967 changed its position over the nature of state's right over public roads and streets from being a trustee to the sole governor. The government in the case of *Pyare Lal etc. v. New Delhi Municipal Corporation* (1967) filed a counter-affidavit saying that the petitioner holding a temporary tehbazari permit has no right or interest in the land belonging to New Delhi Municipal Corporation. While the Supreme Court echoed

the same the same in its judgement, it further objected to cooking on the street and observed that the N.D.M.C. should have never allowed the petitioner to do business involving cooking and 'create permanent unhygienic conditions'.

In 1985, the Supreme Court in *Bombay Hawkers Union and Ors. v. Bombay Municipal Corporation and Others* quashed a condition of the proposed scheme on regulating vendors which prohibited the hawkers from selling cut fruits, food items and like. The Court acknowledged the practical situation that many working families depend on such hawkers for

Surprisingly then, the same Court in 1967 changed its position over the nature of state's right over public roads and streets from being a trustee to the sole governor.

food and like needs; therefore, there is no point in not allowing such hawkers to carry out business, though with restrictions on the practice of adulteration. However,

the Court in contradiction to the view held in *Saghir Ahmad's* case held that that public streets are meant for the use of the general public and "not for carrying out private trade or business". It is confusing as to whether the Court considers street vending to be useful for general public. One can find the Court legislating details here – hawkers cannot put up stalls or handcrafts, but they can protect their wares from the sun, rain, wind; the hawkers should be allowed to hawk until ten at night; the authorities must work in consultation with the street hawkers.

In the same year of 1985, the Supreme Court faced another petition, *Olga Tellis and Ors v Bombay Municipal Corporation* involving eviction of pavement-dwellers. The Court holds that the right to life includes right to livelihood without which there can be no life. Further, the Court in this matter said that it would be impractical to ask for evidence to show that eviction from pavements would lead to an end to the means of livelihood, it is a common sense view and need not be



established in particular cases. Despite paying tribute to Right to life and livelihood, the Court observed that the private use of a footpath or pavement being an unintended use, frustrates the intended purpose, and concluded that encroachments were illegal and equivalent to trespass. As a safeguard, the Court mandated the general rule of *audi alteram partem* to be followed, and held that a pavement dweller, even though he is an encroacher must not be evicted without a fair manner and procedure which includes an alternate to such dweller.

Alternative provision – this requirement was turned upside down by the same Court three years later (*Municipal Corporation of Delhi v. Gurnam Kaur*, 1988). In this case, where the Delhi High Court ordered the local authority either to construct an alternative stall or let the petitioner construct, the Supreme

Court on appeal laid down that there is no such legal obligation on the state authorities in respect of dwellers whom it evicts. The Supreme Court did talk about rehabilitation, but also observed that there is no right to do

business so as to cause a nuisance on a public street which is meant for the use of general public. Further, it also said that the petitioner cannot raise the issue to threat to life and liberty under Article 21 at the appeal stage at Supreme Court, *inter-alia*, because he had not raised the same before the High Court, whereas the same court just 3 years back in the case of *Olga Tellis* (1985) said that the issue of violation of or threat to a fundamental right to life could be raised at any stage.

However, in the same year a Constitution Bench by its judgment dated 30th August 1989 in *Sodan Singh and Ors. v. New Delhi Municipal Committee and Ors.*, came to the conclusion that Article 19(1)(g) of the Constitution is available to street vendors, subject to proper regulations. It held that all public streets and roads in the country vest with the State which acts as a trustee on behalf of the public and the members of the public are entitled

as beneficiaries to use them for trading as a matter of right subjected to the rights of other citizen. There were two interesting points – the Court refused to recognise any property right at a particular spot; secondly, it negated the submission based on Article 21 and found it inapplicable to street vending.

The question about the right of the hawkers as a fundamental right under Article 19(1)(g) was yet again opened in the case of *Navi Mumbai Hawkers & Workers Union & others v. the State of Maharashtra & others* (1998). While upholding the fundamental right to hawk in the hawking zones as guaranteed by Article 19(1)(g) of the Constitution of India, the High Court of Bombay found the requirement for a certificate of residence for 15 years in the state as unreasonable.

Further again in the case of *Maharashtra Ekta Hawkers Union v. Municipal Corpn., Greater Mumbai* (2004), the Supreme Court got into designing regulations and suggested that the permission for hawking is to be given considering factors like

the narrowness of the road, free flow of traffic or movement of pedestrians is hindered or where for security reasons an area is required to be kept free or near hospitals, places of worship, etc. The Court observed that it has in previous cases also recognised the fact that if properly regulated, the small traders can considerably add to the convenience and comfort of the general public, by making available ordinary articles of everyday use for a comparatively lesser price.

Lastly, in the year 2010 in the case of *Gainda Ram & Ors. v. MCD* (2010), the Court did uphold the right to sell on the streets for the poor but also recognised the need for municipal authorities to regulate activities on the street. The Court went on to observe that there is a need to enact a legislation to regulate hawking and the rights of street vendors.

Subsequently, the Street Vendors Policy 2004 was introduced with the objective

This Act was drafted with the legislative intent of protecting the livelihood rights of street vendors as well as regulating street vending through demarcation of vending zones, conditions for and restrictions on the street vending.

“All public streets and roads vest in the State but the State holds them as trustees on behalf of the public. The members of the public are entitled as beneficiaries to use them, as a matter of right and this right is limited only by the similar rights possessed by every other citizen to use the pathways. The State as trustees on behalf of the public is entitled to impose all such limitations on the character and extent of the user as may be requisite for protecting the rights of the public generally.”

- Venkatarama Ayyar, J. (in *CSS Motor Service, Tenkasi & Ors. v State of Madras and Anr.* AIR 1953 Mad 279)

of providing and promoting a supportive environment for street vendors in India. However, the states failed to implement the national policy and the Supreme Court called for better compliance by the states under the national policy expeditiously.

Due to a lack of clarity in the judicial decisions, in 2009, the Street Vendors Policy 2004 was revised as the 'National Policy on Urban Street Vendors 2009'. The revised policy was not legally binding and made little progress on the matter of street vendors. In 2010, the Supreme Court directed the government to enact a law regulating street vending, and thus, the Street Vendors Bill 2012 was drafted. The Bill established a uniform legal mechanism for the regulation of street vending in the country. Under the Bill, the proposed legislation was recommended to be covered under Items 20, 23 and 24 of the Concurrent List under the Indian Constitution. It also made provisions for demarcating areas of vendors and prohibiting the leasing or renting of the vending sites.

The Bill was passed in both houses by February 2014 and became the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. This Act was drafted with the legislative intent of protecting the livelihood rights of street vendors as well as regulating street vending through demarcation of vending zones, conditions for and restrictions on the street vending. The Act now governs over all matters regarding the rights and duties of the street vendors in India.

There is, therefore, a need to ascertain the status of the compliance of the Act. This holds great importance to determine whether the legislative intent with which the Act was formulated is fulfilled or still stands unattained.

Solidarity Movement Leading to the Enactment

In the wake of economic reforms in the 1990s, while the economy was increasingly connecting with the world, street vendors remained heavily regulated.

In the period ranging from 1998-2003, some street vendors' organisations, trade unions and labour groups came together on a common platform to form National Association of Street Vendors of India (NASVI). It helped the vendors to approach various courts for their rights and led to certain judicial pronouncements in their favour.

Nationwide mobilisation of vendors as pressure groups influenced the Government of India to bring in National Policy for Street Vendors in 2004.

Meanwhile, Centre for Civil Society also started a state level campaign called "Jeevika" in Rajasthan and Bihar around this period (2009-2012) that finally resulted in state level legislations. Other organisations such as SEWA in Gujarat and Manushi in Delhi played an important role in organising street vendors and undertook litigation to safeguard their interests.

Due to mounting pressure on political parties coming from street hawkers pressure groups, the Parliament finally enacted the central Act after it was passed by Rajya Sabha on 19th February 2014. The Street Vendors Act 2014 aims to protect the livelihood rights of street vendors as well as regulate street vending through participatory bodies called Town Vending Committees, demarcation of vending zones, conditions for and restrictions on the street vending. The major features of this Act include the right to vend, the constitution of a town vending committee, the prevention of harassment and the creation of a redressal mechanism.

अब 130 मदों में मिलेंगे ठेलियों के लाइसेंस

केंद्र सरकार के पूर्व में ठेली 18-19 ठेलियां



सामुदायिक केंद्र का विनाशकारी प्रभाव... केंद्र सरकार के पूर्व में ठेली 18-19 ठेलियां

बैंगर-पोस्टर स्टार... अंतर-बैंगर की पुस्तक में 1000 का...

नवादा आसपास

पृष्ठ (पृष्ठ), 31 जुलाई 2014

नगर के फुटपाथी दुकानदारों का सर्वे शुरू

अवगत 600 फुटपाथी विक्रेताओं ने राज्य सरकार को सूचित किया



नगर के फुटपाथी विक्रेताओं के सर्वे शुरू किया है। नगर के फुटपाथी विक्रेताओं के सर्वे शुरू किया है। नगर के फुटपाथी विक्रेताओं के सर्वे शुरू किया है।

सर्वेक्षण के तहत नगर के फुटपाथी विक्रेताओं के सर्वे शुरू किया है। नगर के फुटपाथी विक्रेताओं के सर्वे शुरू किया है।

More clarity regarding rules for street vendors in the Capital with notification

- There will be 5 Town Vending Committees (TVC) in the city — North, South, East corporations, New Delhi Municipal Council and Delhi Cantonment
- The civic body commissioners will be the chairperson of each TVC
- There will also be a State TVC, with the Urban Development Principal Secretary as its Chairperson.
- The tenure of a TVC will be 5 years
- The TVCs will conduct surveys to finalise a fresh list of hawkers and vendors
- Monthly rental amount from hawkers to be revised from time-to-time, based on respective rates in the area



Metro

Your bond with Delhi

Artist paints about coming of age emotions Page 2

Street vendors launch agitation against MC

Protesters Poo Sen, 19/7/14

Protesters, led by Poo Sen, launched an agitation against the Municipal Corporation (MC) on Monday. The protest was held in front of the MC office in Connaught Place, New Delhi. The protesters demanded that the MC should stop the auctioning of street vendors' stalls and should provide them with proper facilities.



Protesters, led by Poo Sen, launched an agitation against the Municipal Corporation (MC) on Monday.

The protesters are demanding the cancellation of a team... The protesters are demanding the cancellation of a team...

The protesters are demanding the cancellation of a team... The protesters are demanding the cancellation of a team...

Concerns of street food vendors



sh view from the sidewalk... The vendors are concerned about the safety of their stalls and the health of their customers.

SUNDAY



Salient Features of the Act

Regulation of Street Vending

Section 3-11 provide for the regulation of street vending and the licensing of the street vendors. The statute directs the TVC to conduct surveys within the area under their jurisdiction for the identification of all the street vendors. Such surveys are to be carried out every five years, and the lists of the identified vendors have to be accommodated in the vending zones. It also makes provisions for the prohibition of eviction and relocation till the survey is complete and the vendors are provided with the vending certificates upon the submission of an undertaking. These certificates are only granted to those vendors who have completed the age of fourteen. The statute also provides for the supply of temporary licenses to those vendors who have initiated their trade between the gaps of two surveys undertaken by the TVC. A key provision also mentions that there shall be a formal capacity of each identified vending zone and where the number of vendors exceeds the capacity of the zone, the allocation of spaces is to be selected through a draw of lots. The vending certificate is non-transferable and is obtained after the payment of certain base fees, and the same can only be handed over to the spouse or beneficiary child of the vendor in case of his death.

The Right to Vend

Section 12-17 of Chapter III highlight that the street vendors have complete right to carry on the business of street vending if they possess the certificate of vending and in the limits of the prescribed vending zones. It emphasises on the legitimacy of street vending as a profession. A certificate of vending will be binding documental proof of the same and shall be extended to the jurisdiction of the vendor in case he is relocated from the original spot. The vendors have to abide by the cleanliness and public hygiene norms in the vending zones and the adjoining areas and have to pay for a base maintenance fee for ensuring the same to the Municipal Corporation.

Eviction and Relocation of Street Vendors

Section 18, 19 provide for the rights of the street vendors in cases of evictions and relocations. The statute provides that the local authority may, on the recommendations of the TVC, declare a zone or part of it to be a non-vending zone for any public purpose and relocate the street vendors vending in that area, in such manner as may be specified in the State scheme. It also allows for the evictions of those vendors whose certificates have expired or cancelled. But such evictions and relocations are to be undertaken only by the service of a 30-day notice by the local authority. Further, those vendors who have failed to vacate the place after the expiry of the notice shall be liable to pay the penalty up to Rs 250 for every day. This amount is exhaustive to the amount of the goods seized, and such seized goods are to be given back to the vendor upon payment of the specified fees. It is pertinent to note that where the goods seized are of perishable nature; the authorities have to release the goods immediately on the demand of the vendor.

Redressal Mechanism

The Act, in Chapter V, prescribes a government redressal committee which will consider the application of the street vendor and take steps for redressal by the rules set. It also allows vendors to appeal to a local authority if preferred. The Street Vendors Act 2014 also provides for the creation of three kinds of zones – restriction free vending zone, restricted vending zone, and no vending zone. The local authorities, taking into account surveys, are to create vending zones, where there are no restrictions on street vendors to whom the certificate of vending have been issued. Similarly, no vending zones are to serve as areas where street vendors are prohibited from selling their good due to lack of sidewalk space or congestion of roads and pedestrians.

WHAT DOES THE ACT PROVIDE FOR?

Eviction and Relocation



Drafting Schemes



Right to Vend



Prevention of Harassment



Redressal Mechanism



Town Vending Committee

REGULATORY CONUNDRUM

- As per section 5, one should have “no other means of livelihood” to be eligible for street vending. Although the provision may have a noble objective, but how will this be proved?
- Section 5 prohibits transferability of Certificate of Licensing. Restrictions on consensual transactions are usually difficult to enforce. How will this be done?

Plan for Street Vending

According to the second schedule of the Act, this plan is meant to be prepared by local authorities in consultation with the TVC. It involves laying down vending zones, non-vending zones and restricted zones for various markets. Civic amenities have to be created and regulated. The state government shall frame a scheme for street vendors. The local authority shall, in consultation with the planning authority, frame a street vending plan once every five years. The vending zones are to be determined after consultation with the First Schedule of the Act. Clause 3 of the First Schedule lays down principles for determination of no-vending zones. Over-crowding and sanitary concerns cannot be grounds of declaration of no-vending zones. Demarcation cannot be done before the survey as per 3(e) of the First Schedule

and yet many courts including the Supreme Court have held otherwise.

Town Vending Committee

TVC is the pivotal element of this Act. It is a participatory decision making body with representatives of government officials, municipal officers, street vendors, bankers, traffic police, NGOs, RWAs. TVC can conduct or order for a survey, registers vendors, gives certificate of vending, decides on allocation of spots, gives recommendations on zoning and maintain records.

Prevention of Harassment

Section 27 overrides all laws including

REGULATORY CONUNDRUM

- In the absence of any penalty against undue evictions in the Act, how will the courts ensure no abuse of power by police or municipal officials?
- Are evictions invalid if a notice is not served as per the Act? How will this be enforced?
- Will the hawkers need to prove that they have been hawking since the Act has been notified, to claim protection under section 3(3) of the Act?

various municipal corporation laws to accord protection to street vendors, provided vending is done as per the terms and conditions of certificate of vending.

Penal Provisions

There is penalty for street vendors for indulging in vending activities without a certificate of vending, for contravening the terms of certificate of vending. But there is no penalty for undue eviction, harassment, extortion applicable to police, municipal official. There is no liability of government agencies for not implementing the Act.

Drafting of Schemes and Rules

Although the Act prescribed deadlines for notifying rules and the scheme to avoid regulatory delays, there is no liability to ensure that this mandate is complied with. The Act naively presumes that the government machinery will act and draft rules and the scheme within the stipulated time proactively. There are no model rules or scheme prescribed by the Union Government.

REGULATORY CONUNDRUM

- Who will represent pedestrians in TVCs? Pedestrians are not organised as an interest group and have no representation as an association or union. Residents Associations and shopkeepers are usually concerned with parking lots, vendors with vending spots; who will raise the issue of footpaths in TVCs?

Status of Compliance amongst States - Case Laws

Eviction before Survey and TVC

In various circumstances, it has been seen that evictions of the street vendors take place without following the due process mentioned in the Act. This is why the Report assumes greater importance. The rationale of the Act is justified in its appropriate usage. For as long as the states remain non-compliant with the Act, protection and regulation of street vendors will only remain on paper.

For instance, in *Vaiso Jain v. NDMC and Anr* (2011), the petitioner was an “unauthorised” vendor and claimed to carry out his vending activities at Connaught Place, New Delhi since 1989, though he did not have a permission or license. NDMC conducted an inspection of entire Connaught Place and found that the petitioner was violating the terms and conditions of the order and also the provisions of the Street Vendors Act, thereunder petitioner was removed. Section 3(3) of the Act says that eviction of street vendors can be done after the survey is completed. The Court held that petitioner is entitled to protection as the Street Vendors Act is in force on 18th May 2016.

In *Mahatma Gandhi Sirukadai Vyaparigal Nala Sangam v. Secretary to Government, Local Administration* (2016), the Madras Court deferred the matter to the Town Vending Committee (to be constituted) and directed the respondents to implement the provisions of the Act and register the petitioners as street vendors. Same Court, in *V.P. Stalin v. The Commissioner of Police* (2015), held that the street vendor was entitled to protection under sub-section 3 of Section 3 of the Act against eviction.

In the case of *S. Selvam v. Thiruvarur Municipality*, (2015), Madras High Court took a different stand however. The petitioners prayed to the Court to direct the municipality to form Town Vending Committee. But the Court ordered the municipality to hear the representation of petitioners regarding

eviction. The Court also overlooked section 3 which clearly requires the authorities to not to carry out any eviction before conducting the survey and granting certificates.

Eviction due to traffic issues

Interestingly, traffic concerns have emerged as important reason for eviction of these vendors. There are at least four cases for the same.

The Gujarat High Court in the case of *Vishnumurthi Gopalbhai Acharya v. Vadodara Mahanagar Sewa Sadan* (2014), directed the state government to tackle the problem of traffic caused due to street vendors as per previous court orders (passed before the Act coming into force) in addition to the Central Act. This appeared to be confusing as the Act clearly prohibits eviction before the conduction of survey. The judgments does not state anything about survey or discuss any relevant provision.

The High Court of Bihar in the case of *Chandra Kishore Parasar v. State of Bihar* (2015) asked the state government to earmark vending zones while passing orders to address the problem of traffic. The Court without discussing the provisions of the Central Act suggested that the state can relocate and shift the street vendors after making vending and no-vending zones and can accommodate those who cannot be shifted to new vending areas in schemes like MGNREGA.

Zoning before survey

In case of non-compliance, ‘no vending zone’ is a contentious issue. Municipal Corporation or other concerned authorities in many places have declared a hawking zone as ‘no vending zone’ before constituting Town Vending Committees. Section 3 clearly provides that ‘no street vendor’ shall be evicted or relocated before the survey is carried out and certificates are issued. The Act nowhere mentions a distinction between street

vendors vending in unidentified zones and no-vending zones demarcated as per previous schemes. This is a clear violation of the Act though high courts have taken different views.

In the case of *Hawkers Adhikar Suraksha Samiti v. Union of India* (2016), the Delhi High Court said that no-vending zones created before the passing of Street Vendors Act, 2014 are not inconsistent with the provisions of this Act. The Court also overlooked the direction of the Supreme Court in *Maharashtra Ekta Hawker's Union & Ors. vs. Municipal Corporation, Greater Mumbai & Ors.*, that the National Policy on Urban Street Vendors, 2009 should be implemented throughout the country till the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012 becomes the law. Now continuing evictions by this scheme is not only ultra vires the Act but also a non-compliance of the direction of Supreme Court. The Court also observed that due to several compliance lapses, no-vending zones under the Act have yet not been formed. This view of the Delhi High Court gives the eviction authorities powers to evict the hawkers and street vendors who are vending in the no-vending zones created by previous schemes and regulations till a fresh zoning is done under the Act after due process. Therefore, the delay in a complete compliance of the Central Act is causing grave prejudice to the street vendors who were supposed to be protected by the Act. This view has been upheld by the Supreme Court in *Ajay Maken v Commissioner of Police* (2016) though the petition was dismissed without going into the merits of case. However, in *Heritage City Thhadi-Thhela Union and Anr. V Jaipur Municipal Corporation and Ors* (2016), the Supreme Court asked for an undertaking from the State Government. The counsel on behalf of the respondent government gave an undertaking that it would consult the Town Vending Committee, when constituted, on the already-marked no-vending zones.

Interestingly, in *Shri Vile Parle Kelvin Mandal and Ors. v. Municipal Corporation of Greater Mumbai and Ors.*, (2011), the Bombay High Court held that the government authorities cannot evict the hawkers even if they are hawking within 100 m of place of worship, hospital or educational institution, in contravention of directions issued in *Maharashtra Ekta Hawkers Union and others*

v. Municipal Corporation of Greater Mumbai and Ors. (2004) by the Supreme Court. The Court observed that the directions given by the Supreme Court had ceased to apply after the central Act came into force.

No applicability of the Act

Some of the high courts such as Bombay, Kerala, Rajasthan in some judgments were either reluctant or ignorant of the Act.

In the case of *CCS v. State of Rajasthan* (2015), the Rajasthan High Court stated that the Central Act is not applicable in the state of Rajasthan. The Court observed that the notification dated 1st May 2014 did not specifically mention Rajasthan, therefore, the notification did not make the Act applicable to Rajasthan. Interestingly, the notification did not mention any specific state as it applied to the whole of India. This judgment was challenged before the Supreme Court. For details, please see the case study.

The Bombay High Court in *Azad Hawkerc Union, Mumbai v State of Maharashtra* (2014) as well as in *Malad Pheriwala Sanagathan v Municipal Corporation of Greater Mumbai* (2014) did not even mention the Act though both the judgments were passed after 1st May 2014.

Cooking on streets

Street Vendors Act of 2014 also provides for modes and manners of conducting street vending. It can be easily understood by cases mentioned below.

In the case of *National Association of Street Vendors of India v. South Delhi Municipal Corporation* (2014), the High Court of Delhi ruled that the Municipal Corporation is incorrect in issuing public notices which had put a six month prohibition on street vendors selling cut fruits and other such food articles which attract flies and are exposed to dust. The Court among other things emphasised on section 3 of the Street Vendors Act, 2014 which require carrying out of surveys and give protection against eviction till the survey process is complete, chapter 8 which protects the street vendors

against harassment and section 33 of the Act which gives it overriding powers over other laws.

In *Shri Vile Parle Kelvin Mandal and Ors. v. Municipal Corporation of Greater Mumbai and Ors.*, (2011) the Bombay High Court held that a street vendor could sell only ready food items, but he is not entitled to cook or make food items at the place of vending. Cooking of food by a street vendor at the place of vending is not at all contemplated by the Street Vendors Act. Thus, those Street Vendors who are cooking food at the place of vending will not be covered by the definition of the Street Vendors under the Street Vendors Act and therefore are not entitled to protection under the Act.

Certificate of Vending

Licensing is an indispensable part of carrying out the business of street vending. Presently, there is a lot of ambiguity in this process because the Act does not provide a clear picture about whom a license shall be given to, whose license shall be valid, and other such concerns.

The Bombay High Court in the case of *Juhu Nagar Pheriwala Sanghathan v. State of Maharashtra* (2016) asked the vendors for a proof that they were hawking as on the cut off date of 1st May 2014, when the Act came into force, to be able to claim protection under the Act.

In *Asif Pasha v. The Commissioner* (2015), petitioners were street vendors and carried out their business in small temporary constructions or sheds raised by them at

public places. Mysore City Corporation evicted them from their respective places, where they were carrying out their business on a day-to-day basis. Petitioners requested that being poor self-employed people, they are entitled to the protection under the recently enacted Act. The Karnataka High Court held that petitioners were at liberty to approach the respondent Municipal Corporation for seeking appropriate license and permission to carry on their street vending business at a designated place complying with the conditions of such license as may be imposed by the Municipal Corporation regarding the Act of 2014.

In the case of *Rasheed V.K. v. State of Kerala* (2014), the Court simply deferred the issue of licensing to the municipal corporation and laid down that the authorities should not evict the petitioners until their claim for the license is considered by the corporation.

Miscellaneous

In the case of *Bhikharam Chandmal Sweets and Snacks Pvt. Ltd. v. Mayor, Kolkata Municipal Corporation* (2016) the Calcutta High Court while safeguarding the interests of a shopkeeper directed the authorities to ensure smooth passage to the shop but at the same time, refused to pass any order to evict the vendors surrounding the shop. It also observed that evictions under section 372 of the Kolkata Municipal Corporation Act, 1980 cannot be carried out due to the overriding protection granted by the central Act.

“Street hawkers create dirt and nuisance... If they were to be conceded the right claimed by them, they could hold society to ransom by squatting.”

- Shri Vile Parle Kelvin Mandal
v. Municipal Corporation of Greater Mumbai,
Bombay High Court (2014)

(अधिनियम) की पालना करो

जयपुर, अंकोल, सरकाही
जयपुर को हमारे पास को
इकटित से कमाए हुए पैसों
पढ़ने से रोकिये जा नहीं।

हैरिटेज सिटी थड़ी-ठंला यूनिशन, जयपुर रजि.
इकाई पंडित जी का वीराहा, हसनपुरा
श्रीविका अभियान

जयपुर विद्यापीठ अकादमिक
कार्य पुरातन व्यवस्थापिका
का अधिकार विभाग।

श्रीविका अभियान



Rajasthan – A Case Study

It was January 2015. Some vendors informed iJustice team (legal wing of Centre for Civil Society) that they are still harassed by the police and often evicted. The team decided to make a visit to the Pink City.

There were trucks, police vans, some police officers including senior ones and municipal officials present at the eviction site. It was a typical eviction drive that one usually sees in a market full of vendors such as Sarojini Nagar in Delhi. Fear, extortion and violence – all legitimised, except it was not “legitimate” this time.

The team went to a police station – Vaishali Nagar, and asked the cops there to lodge an FIR against an illegal eviction drive. But cops simply refused. When the lawyers showed them the new law, cops laughed and said, “Ye kanoon Rajasthan mein lagoo nahi hota (this law is not applicable to Rajasthan).” A law duly passed by the Parliament was being mocked by the state police.

The team helped vendor in filing private complaints in the Magistrate Court. Meanwhile, a PIL filed by Centre for Civil Society and Heritage Thadi-Thela union was pending in the Rajasthan High Court for more than two years. Media Action Group - a public interest arm of Rajasthan Patrika picked up this issue of vendor harassment and extortion and questioned the non-enforcement of law. Within a month, the High Court decided on the PIL, holding that the Central Act was not applicable to Rajasthan. According to the High Court, the notification dated 1st May 2014 issued by the Union Government was not applicable to Rajasthan since it did not mention Rajasthan expressly.

Unambiguously, the notification applied to the whole of India except, of course, Jammu and Kashmir. iJustice Team forwarded this question to an MP’s office to be raised in the Parliament. The reply given by the concerned minister in Parliament reaffirmed the obvious. CCS and Heritage city Thadi-Thela filed an appeal in the Supreme Court in August 2015. The Apex Court asked the authorities to hear out the “grievances” of the vendors. But this was not what the vendors asked for. There was a judgment in question raising a question of law; it was not a grievance. Instead of deciding its correctness, the Court fixed up a meeting with the government officials. Could the parties alter the High Court judgment consensually if they agreed?

As anticipated, nothing came out of the meeting. Meanwhile, the evictions continued. The only ray of hope came in September 2015



JAIPUR HOSPITAL COLLEGE OF NURSING

JAIPUR HOSPITAL SCHOOL OF...

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402 वैशाली न...

when the Court directed “status quo to be maintained ...” Yet evictions continued. On the other hand, there were adjournments. Vendors filed a contempt petition against the Commissioner.

Finally, after eight months, Jaipur Municipal Corporation vide counter-affidavit (27th April 2016) gave an undertaking to abide by the status quo “till such time”, i.e. till the procedures as given in the Act are fully complied with. Lo and behold! JMC agreed that the central Act was applicable. Here is what JMC mentioned in its counter-affidavit:

“27. That it is again humbly submitted that the Respondent herein is making all efforts in its capacity to ensure the implementation of the 2014 Central Act as well as the 2016 Rules.

27. That in the light of the aforesaid it is humbly submitted that since the DB Public Interest Litigation Petition No. 6623/2012 is still pending before the Hon’ble High Court, this Hon’ble Court may be pleased to dispose of the present Special Leave Petition with a direction to the Respondents herein to act in accordance with the 2014 Central Act and the Rules framed by the State Government thereunder within a prescribed time-limit, and maintain status quo as ordered by this Hon’ble Court on 28.09.2015 in the present Special Leave Petition till such time.”

The state government had framed rules by then. A draft scheme is also available online. As per the RTI filed in Aug/ Sep 2016, no scheme had been notified yet. There was no further information available whether the scheme had been notified.

The Supreme Court passed the final order on 8th July 2016. The order merely recorded an undertaking given by the Rajasthan Government to abide by the Central Act, particularly comply with section 21.

Meanwhile, several street vendor associations approached the Rajasthan High Court and got the stay order against evictions from the single benches. The PIL filed by the Heritage City Thadi-Thela union was still being pursued by the union. The High Court pulled up the government officials several times for not constituting the Town Vending Committee (TVC). Finally, in March 2017, the Town Vending Committee was constituted. However, it did not have any representatives of the NGOs. The first meeting of the TVC is scheduled for 21 March 2017.

Methodology

Collecting data for this research was not as easy as it seemed to be initially. There was more to it than just looking for the notification issued by each state government and recording when the rules were framed and the scheme was passed. One also needed to go through news sources extensively, at times not even in one's native language or a language that Google can translate. We also relied upon emails, which were then followed by phone calls to the state's Urban Development Department. Both emails and phone calls provided an insight into the bureaucratic working of the Indian government offices, rather interestingly.

To begin with the data collection, first, an excel sheet of all the states had to be made. Following that, different parameters were picked up from the Act, which could be answered in a yes/no format. Upon doing so, we arrived whether the state had done the following:

- Drafted rules within a year
- Drafted rules after a year
- Framed a scheme in six months
- Framed a scheme after six months
- Conduction of survey
- Creation of Town Vending Committees
- Certificate of vending issued
- Constitution of a Dispute Resolution Committee/ appellate committee
- Plan for street vending
- Conduction of street vendor elections
- First meeting of TVC has taken place
- Publishing street vendors' charter

Assessment of parameters

The primary goal of data collection was to go through different stages of planning, compliance, and evaluation of the Act in each state respectively. Meanwhile, the objective was to assess that the states had gone through these stages or not and then rank them according to the actions that they had taken by allotting them the values (subjectively). In

the end, social audit, publishing database, and publishing street vendors' charter had to be removed since there was not enough evidence available for them. Moreover, social audit takes place in every three years, and it has only been two years since the Act was passed. The last parameters to be added were the total number of towns, number of towns in which survey was carried out, and total number of town vending committees (TVC). These three parameters focus on the compliance stage of the Act, and it is with these three that one could truly assess the degree to which action had been taken by the state.

Stages of data collection

The first thing to be done was to look at the notifications for each state to find the dates for the rules and the schemes. It was confusing for a few states as some of them had a state Act regarding street vending, and their schemes and rules were quite similar to the one passed by the Central Government. The next stage was to look at media coverage of different states. There was not much printed about the Street Vendors Act, but there were several news articles on The Hindu, The Indian Express, and The Times of India. These articles helped in answering the parameters regarding conduction of surveys, certificates of vending, publishing of scheme in local newspapers, and TVC related parameters. If information was published somewhere, we could easily remove the false positives, even though risk of including true negatives remained. Hence, we resorted to RTIs as well.

RTI as a source

In total, we filed 31 RTIs and 18 appeals in the course of five months. RTIs were filed in 31 states and union territories, but only 23 states responded to the questions asked in

“The states which failed to reply appropriately to the RTIs, phone calls were made to follow up. Surprisingly, few of them had no knowledge about the Street Vendors Act, 2014.”

GOVERNMENT OF PUDUCHERRY
LOCAL ADMINISTRATION DEPARTMENT

No. 2013/DIR/LAD/RTI/2016-17

Puducherry, dt. 14.11.2016

To

Shri Prakash Sarang,
A-69, Hauz Khas,
New Delhi - 110 016.

Sir,

With reference to your RTI Appeal Petition dt. 7.11.2016 (Form-1 dt. 1.9.2016), it is informed that since the Director (LA)-cum-FAA is on long leave, your appeal petition will be taken up for consideration after he rejoins duty or until the alternative arrangement is made by the Government.

Yours faithfully,


(K. SARANGAPANI)
DEPUTY DIRECTOR (RD)

these applications. Many authorities wrongly interpreted the questions or ignored a few of them. Replies through RTI did not take into account the complete question or chose to answer only a part of it. This is reflected in the final data as Information Not Available (I.N.A.). Many states did not reply within time. Such a casual attitude of authorities in replying to RTIs made it very difficult to assess the information received through them. Out of the RTIs filed, only half were answered. The states which

failed to reply appropriately to the RTIs, phone calls were made to follow up. Surprisingly, few of them had no knowledge about the Street Vendors Act, 2014. First appeals as per the "Right to Information Act, 2005" were also filed, and exhaustive attempts were made to gather information through RTIs, as this source is the most reliable. But only two to three appeals were successfully answered.

Despite trying all these ways, we did not receive enough information from six states.

Findings and Discussion

Ranking

We engaged with secondary surveys of each state in India and through a series of RTIs, pulled out the compliance status of the Act (refer to the Data Collection in Appendix). To objectively compare different states on the bases of their performance in implementing the Act, we selected important features of the Act which are not only identifiable but also definitional in their scope and objective. The Act mandates state to undertake a set of steps to streamline street vending activities in their respective states, and most of these mandates are institutionally observable. This means that given the nature and scope of the legislation, the compliance becomes visible if we look at administrative structures that have been adopted and established by the governmental bodies. For instance, the Act proposes that the States come up with their respective Rules accompanying the Act. For most states, we can gather this information. This becomes our variable. If a state has drafted rules, we safely assume that their compliance is better than the one where rules have not been drafted. We collect a series of crucial variables to map the differential status in the compliance of the Act and see which state fares better relative to the other. We create a Street Vendors Act – Compliance Index, abbreviating it as SVACI.

Indices are used to compose a statistical measure, capturing an extensive set of information/data in compressed form. One can think about them as an abstract or synopsis of a lengthy research piece, or better still, the title of the paper. It is a compound measure of multiple indicators and variables. The index is a summary, a ranking framework which uses relative grading to give a snapshot of a large dataset, without compromising any significant information. As a statistical measure, it estimates items which are empirically related to each other. At a general level, an index is a scale, which orders things relative to each other based on a formulaic prescription.

The index captures a series of variables

that serve the twin purpose of having a material and significant impact on states' effectiveness in complying with the Act as well as being identifiable with little cost. The Act offers important mandates at the level of executive, leaving little outside the observable variables that we have captured in our study, which will have a significant impact on the Index. In other words, through our careful reading of the Act, we realise that variables which are not identifiable are the ones which would not have any impact on the compliance of the Act anyway. The Act has executive functions and makes specific administrative directives, carving out a compliance design.

Since preparing an Index of legislation is one of its kinds of efforts, we had to keep several things in mind. Firstly, the nature of data itself. Not all the variables which give an impression of how effective states have been are quantitative in nature. In fact, most of them have a binary choice variable, since estimating the strength of each attribute is very difficult to be observed. For this, we create this index with ordinal scale, in which relative position of items rather than the quantum of their difference becomes the measuring value. For most ordinal ranking, a scale (say of 1-10) is often the idea. We use values, relatively graded. This also means, that even for the few variables that have quantifiable attributes, we convert them into corresponding ordinal scales.

Second, the variables must be weighted. Not all the variables contribute equally in translating the Act into 'compliance.' We assign weights to the variables in proportion to their apportioned contribution towards effective impact. This weighting is done to ensure that unimportant variables do not influence the Index more than they ought to be, and important ones remain central.

Thirdly, data is not consistently available for all the states in a uniform manner. This is expected given the unorganised manner in which information is often inventoried (if at all) in local government offices. The note on data collection in Appendix illustrates the massive

difficulty we faced in collecting the information. To address this problem, we have adopted two steps. First, we do not include states for which we lack more than 75 per cent of data. Since the considerable information was collected through filing RTIs in relevant departments in each state, as well as extensive rounds of phone calls, not receiving a satisfactory response encourages us to put these states at the bottom of the list. This is not to suggest that lack of information is translated as low SVACI, rather, it suggests that for states for which more than three-quarters of data cannot be found through primary and secondary sources, there is very little likelihood that they would have fared high in SVACI anyway. Second, we also assign lower weighting to variables which are not available for most states. This is justified due to the nature of the variables themselves. The Act is barely three years old, and there are variables for which compliance steps cannot be taken this early anyway. It is precisely this set of variables which has not been consistently available for most states, understandably. Hence, we award them

low weighting. But since it is important that states which have gone faster and engaged with these attributes are rewarded for their efforts, we did not knock these variables completely.

Fourthly, we treat the information collected from different sources at their face value. We consider the quality of data same, regardless of whether it comes from an internet source, newspaper story, RTI reply or telephonic conversation. This may come at the cost of reliability, but at this stage, there is simply no other way to accommodate salient features of the Act and observe its relative compliance in the states. In other words, the only alternative to preparing an index with fixed sources of data is not to have an index at all. We believe that it is important to conduct the exercise and attract further refinement in time to come through other scholars or government departments themselves, rather than not undertaking it at all. Fortunately, we worked hard to ensure we get most of our data from reliable sources indeed. More importantly, the source of every data point has been provided, for future research and revisions.

Following table illustrates the estimates.

I	Variable	Weight	Ordinal Value
1	Rules drafted	14%	1 if drafted 0 if not drafted
2	Scheme drafted	13%	1 if conducted 0 if not conducted
3	Surveys conducted,	10%	1 if conducted 0 if not conducted
4	Town Vending Committee,	12%	1 if constituted 0 if not constituted
5	Share of towns in which survey is carried out,	10%	Normalized already to 1
6	Number of Town Vending Committees created,	10%	Per unit district, normalized to 1
7	Dispute Resolution or Appellate Committee,	6%	1 if constituted 0 if not constituted
8	Plan for Street Vending,	7%	1 if done 0 if not done
9	Street Vending Elections,	6%	1 if held 0 if not held
10	Town Vending Committee First Meeting,	6%	1 if held 0 if not held
11	Summary of Scheme in two local newspapers,	6%	1 if published 0 if not published
		Total 100%	

Finally, there may be some state specific idiosyncrasies. For instance, Haryana has its Act and therefore does not have any rules or schemes. We treat it as fulfilling its criteria. Our

data collection method explains and addresses many of these issues.

The index has been calculated based on the following formula for the score of each state:

$$SVC_n = \sum_{i=1}^{i=n} \alpha_i V_i$$

Where, n is the state for which score is being calculated, α_j is the weight accorded to variable V_j for i th attribute.

Expanding the score, V_i is

Rules drafted, $R \mid i=1$

Scheme drafted, $Sch \mid i=2$

Surveys conducted, $S \mid i=3$

Town Vending Committee, $TVC \mid i=4$

Share of towns in which survey is carried out, $N_s \mid i=5$

Number of TVCs created, $N_{tv} \mid i=6$

Dispute Resolution or Appellate Committee, $DR \mid i=7$

Plan for Street Vending, $P \mid i=8$

Street Vending Elections, $E \mid i=9$

Town Vending Committee First Meeting, $M_{tv} \mid i=10$

Summary of Scheme in two local newspapers, $S_s \mid i=11$

$$SVC_n = \alpha_1 R + \alpha_2 Sch + \alpha_3 S + \alpha_4 TVC + \alpha_5 N_s + \alpha_6 N_{tv} + \alpha_7 DR + \alpha_8 P + \alpha_9 E + \alpha_{10} M_{tv} + \alpha_{11} S_s$$

The ordinal values ascribed are equal to 1 or 0, depending upon when the said attribute is present or not, barring the following exceptions.

N_s will be the number as it is, which his normalized already to 1

N_{tv} will be number of town vending committees per unit districts, normalized to 1

We now discuss the assignment of weights. It is reasonable to give higher weight to variables that must be initiated or implemented earlier rather than later. For those attributes which take time to be built up, weights will be lower. The former is comprised of $\alpha_i V_i \mid i=1,2,3,4,5,6$ and the latter, $\alpha_j \mid j=7,8,9,10,11$. Next, within α_i , we give higher weight to factors which are prerequisites for other attributes and which have a higher bearing on Act's compliance.

Hence, $\alpha_1, \alpha_2 > \alpha_3, \alpha_4 > \alpha_6 > \alpha_5 > \alpha_8 > \alpha_7 > \alpha_{12} > \alpha_9, \alpha_{10} > \alpha_{13}$.

The weights indicate what are the values that are important than the others to indicate effective compliance. It helps the scale not be influenced by factors which are 'not that important,' to reflect a realistic assessment of compliance status of the Act.

Note that the change of weights will be necessary if we seek to assess other variables. For instance, if we want to examine the implementation rather than the compliance status of the Act, we may want to accord higher weighting to variables like street vending elections. This may alter the index and change relative positions of the state. Since this Report is focusing on compliance, altered indices with implementation variables securing higher weights is mentioned in the Appendix. There, we also reproduce the scale keeping the same weight to all variables.

Two important notes before we produce our findings. For all V_i $i=7,8,9,10,11$, we have two problems. Firstly, we lack data for far more states in this compared to other factors, making a number of entries filled in as 'NA.' We will assume these values to be zero, because we will assume that our extensive work to pull out the data using a number of methods, which included phone calls and RTI applications (see method of data collection in the Appendix), leading no information being provided or available, indicates either the lack of interest of the relevant state bodies or the values being insignificant – making the award of 0, in either cases, a reasonable assumption. One may say that we are penalising states for not providing the information; we contend that this may indeed be deserved. Note that due to very little weighting associated with these attributes, the impact on overall Index will anyway be little.

Secondly, these variables ought to be taken as continuous since setting up dispute resolution committees, plans for street vending, meetings of town vending committees and publication of summaries of schemes in two local newspapers may have taken place in few places and not all, thus making it necessary for taking up the share rather than a binary of 0 or 1. But because (a) the share is very small in almost all the states, and (b) this information even within the state may be incomplete, we resort to taking up ordinary values for them, regardless

of the share. Since the weight of these factors is rather low, this assumption will not alter the primary conclusions.

Due to the paucity of data, we did not estimate scores for Arunachal Pradesh, Puducherry, Sikkim, Madhya Pradesh, West Bengal and Uttarakhand.

Table 1 (a) gives us a snapshot of the scores each state received in the SVACI metric. Delhi tops the list while Nagaland score zero. Notably, Chhattisgarh, Andhra Pradesh and Jharkhand have topped the list after Delhi. They are followed by the Northeastern states of Tripura, Manipur and Mizoram, which is indeed encouraging. This scores in the table are estimated by assuming

Table 1 (a): SVACI Scores assuming $n_a=0$

Rank	State	SVACI Score
1	Delhi	71.00
2	Andhra Pradesh	64.00
3	Chhattisgarh	63.30
4	Jharkhand	58.59
5	Tripura	58.50
6	Manipur	57.86
7	Mizoram	56.81
8	Kerala	55.92
9	Maharashtra	50.88
10	Punjab	49.00
10	Odisha	49.00
10	Karnataka	49.00
11	Goa	48.42
12	Assam	44.87
13	Bihar	41.71
14	Himachal Pradesh	38.70
15	Tamil Nadu	37.00
16	Haryana	35.97
17	Rajasthan	34.83
18	Meghalaya	33.00
19	Uttar Pradesh	23.00
20	Gujarat	14.00
21	Nagaland	00.00
21	Madhya Pradesh	00.00
21	Arunachal Pradesh	00.00
21	Puducherry	00.00
21	Sikkim	00.00
21	West Bengal	00.00
21	Uttarakhand	00.00

NA=0, and therefore, the states which were not included in the list also score zero, but we place them below Nagaland.

If only the states and variables with full information are looked at, the Index will look like shown in Table 1 (b). The difference between the two tables tell us, how sensitive are the states appearing in 1 (a) and not in 1 (b) to categories under which they did not have information. In other words, if a state that did not provide full information somewhere is lying higher in the score in Table 1 (a), it signifies that the state has lower sensitivity to missing variables and therefore the state of compliance is working out in desirable fashion in that state. Therefore, among the states with less information (and therefore missing out in 1 (b)), states like Maharashtra, Karnataka, Odisha, Punjab that lie above Tamil Nadu, Haryana, Rajasthan, are more effective in the compliance of the Act. Needless to mention, states with no information available (Arunachal Pradesh, Madhya Pradesh, Puducherry, Sikkim, West Bengal and Uttarakhand) perform the worst.

Table 1 (b): SVACI Scores removing all 'na' values

Rank	State	SVACI Score
1	Delhi	72.00
2	Chhattisgarh	64.3
3	Andhra Pradesh	64.00
4	Jharkhand	59.59
5	Tripura	59.50
6	Manipur	58.86
7	Mizoram	57.81
8	Assam	45.87
9	Kerala	42.92
10	Bihar	41.71
11	Himachal Pradesh	38.70
12	Goa	34.43
13	Meghalaya	33.00
14	Gujarat	0.00
15	Nagaland	0.00

If we were to observe only those attributes for which most of the information is available, it would mean V_i $i=1, 2, 3, 4$. The scores for such an ordering are illustrated in Table 1 (c).

Table 1 (c): SVACI Scores estimated when $i=1,2,3,4$

Rank	State	SVACI Score
1	Chhattisgarh	50
1	Delhi	50
1	Karnataka	50
1	Odisha	50
1	Punjab	50
1	Tripura	50
7	Maharashtra	40
8	Tamil Nadu	38
9	Assam	37
9	Jharkhand	37
9	Manipur	37
9	Mizoram	37
13	Andhra Pradesh	35
14	Rajasthan	27
15	Uttar Pradesh	23
16	Bihar	22
16	Goa	22
16	Haryana	22
16	Himachal Pradesh	22
16	Kerala	22
16	Meghalaya	22
22	Gujarat	0
22	Nagaland	0

Which of these scores are most reliable? Well, it depends on what is one looking for. A composite index of all the states gives a bird's-eye view of state's performance in a general sense. Since in this index, all 'na' have been equated to zero, it is better to view the grading of this scale rather than exact position. So one may not compare the states at the fourth and fifth position but the states at higher positions and lower. In some ways, the SVACI in 1 (a) could be re-worked as Group-Scale, with a discontinuity at large differences. So the revised scale would be:

Group A (best complying): Delhi, Chhattisgarh, Andhra Pradesh, Jharkhand, and Tripura

Group B (moderately complying): Maharashtra, Karnataka, Odisha, Punjab, Assam, Kerala, Bihar, Manipur, Mizoram and Goa

Group C (poorly complying): Gujarat, Uttar Pradesh, Meghalaya, Rajasthan, Haryana, Himachal Pradesh and Tamil Nadu

Group D (no compliance): Arunachal Pradesh, Madhya Pradesh, Nagaland, Puducherry, Sikkim and Uttarakhand

Note that Group D is collective of those states which did not provide us with any data, and given the extensive efforts we put in to fetch data, this group becomes a penalty for them not to respond. As stated earlier, it also acts as a proxy for poor performance, because any tangible effort would have no reason not to be revealed.

For purists in data, table 1 (b) makes more sense although we cannot rank every state in this case. Table 1(b) was constructed removing all data points for which there was no data available. The results are unalloyed with any assumption, although the scale remains shorter.

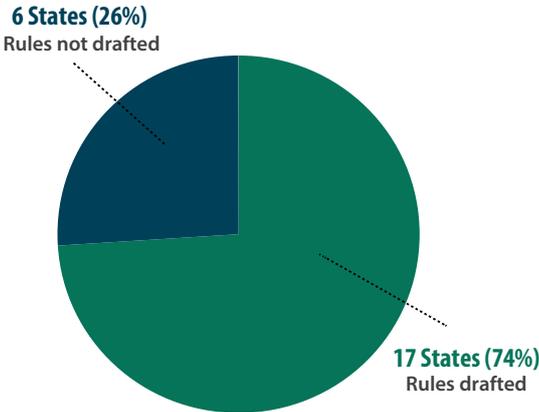
Table 1 (c) is ranked as if only Rules,

Schemes, Surveys and Town Vending Committees are considered to matter in assessing states' performance. This may be valuable for those who consider that it is a matter of time that other efforts are taken by the respective states. Using 1 (c) is a neat way of removing the 'na' data points because these variables are complete for almost all the states. In some ways, therefore, 1 (c) exhibits the true picture of states' differential performance. In other words, states falling behind in this table are the ones where the situation is indeed the worst because, for any effective compliance of the Act, one wonders what is the state doing if not even drafting Rules, for instance.



Parameter-wise compliance check

Rules



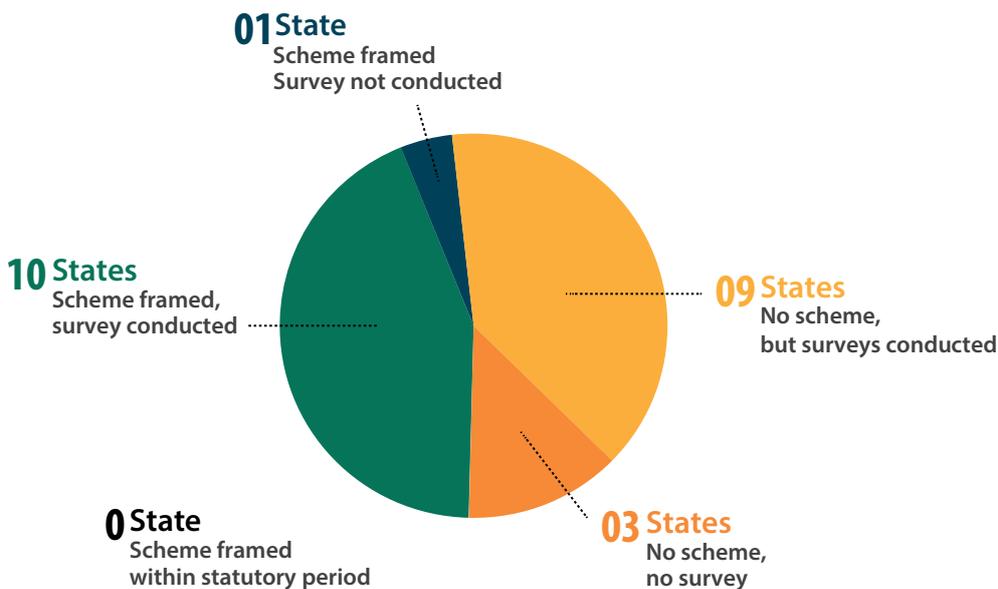
Pie-chart 1: Percentage of states that have framed rules.

The data above reveals a deliberate failure of the states to meet the objectives of the Street Vendors Act of 2014, which is to regulate street vending terms of the Act. The need which was highlighted by the Supreme Court way back in 1985, that the states must regulate street vending is still unmet. This lethargy and apathy for poor trying to have a respectful livelihood is

not merely a failure of state machinery but is a policy level depravity. The Act mandated a year's time to frame state rules for street vending vide section 36, but does not entail a penal provision for not adhering to the time limit. The data above is a consequential implication of this lacuna in the legislation. The statutory time frame of drafting rules within one year from the passing of the Act (March 14th, 2014) was not met by a single state out of the 23 we study here. Whereas 17 states were able to frame rules after the expiry of this time frame, the status of implementation in general remains questionable as many of them have not yet framed a scheme under section 38. But the most disquieting aspect of the above data is that six states out of the states studied have not yet been able to frame rules.

Scheme

Section 38 of the Act provides for a six-month period starting from the date of passing of this Act for framing schemes, in consultation with local authorities and Town Vending Committees. But the chart above shows that none of the states out of 23 states under study was able to frame scheme in any of its Urban Local Body (ULB), even within stipulated one-year period since passing of the Act. This shows a lack of seriousness and commitment at the level of state governments towards a law which



Pie chart 2: Time taken by state governments to frame the scheme under section 38 of the Street Vendors Act, 2014.

was framed after an exhaustive struggle of various stakeholders over a span of more than five decades.

However, five states were able to frame schemes in some of their ULBs within a period of two years, but only Delhi, Jharkhand, Mizoram and Maharashtra published the schemes in the local newspaper as mandated by section 38 (2) of the Act. Andhra Pradesh, Chhattisgarh, Tripura and Uttar Pradesh managed to frame schemes in some of their ULBs between periods of 24 months to 30 months after passing of the Act, but none of them published the schemes as per the Act. This means that only 48 per cent of the states have framed schemes till the writing of the Report and mere four out of 23 states have published them.

Surveys

According to section 3 of the Act, the Town Vending Committee shall conduct a survey in the manner and within such time as provided in the scheme under section 38. As the data above shows, four states have still not conducted surveys which mean that these states are still absolutely in the same position as were before passing of the Act. However, the number of states that have conducted surveys also do not reflect fulfilment of objects of the survey as the number of ULBs in which surveys have been done in each state is far below the actual number of ULBs in that state.

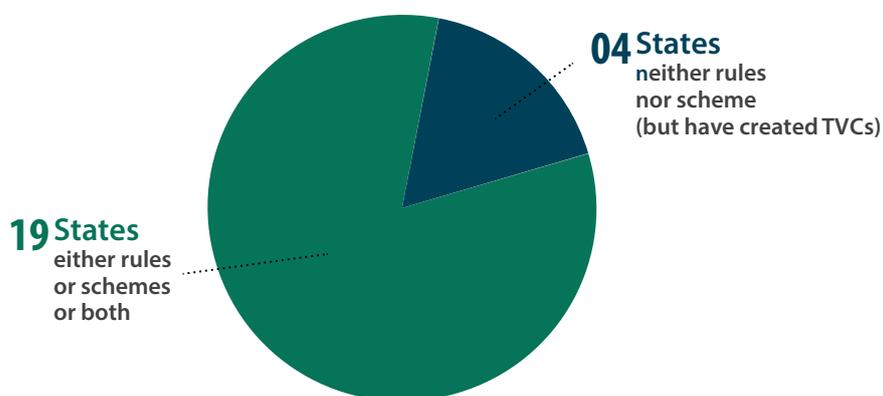
Though the Act provides that no street vendor should be evicted or relocated before conducting

the survey, harassment is still continuing because of no clear demarcation of no-vending zones or restricted vending zones which were to be created after conducting surveys.

States with TVCs but without rules or scheme

Though after nearly three years, nineteen states have formulated either schemes or rules and eight of them have both but four states still have neither rules nor scheme. This means that these four states have still not acted at all for the basic compliance of the Act. However, surprisingly, six out of the eight states which have neither scheme nor rules, have created Town Vending Committees. This reflects a bypassing approach of the state governments towards the provisions of this Act. These states might have evaded the pre-requisites for constituting a TVC, which included provisions like reservations to the appropriate strata, adequate representation of social workers and functions like maintaining records and managing street vending under its jurisdiction, or for the TVCs to have social audit.

The Act has rightly embodied the judicial direction in the case of *Sodan Singh v. New Delhi Municipal Corporation*, that the street vendors must be given a say in the rules and bodies governing them by reserving 40 per cent of seats in the TVCs for the representatives of street vendors. But by creating TVCs without framing rules and scheme as per Street Vendors Act, 2014 rights enshrined in this Act might have been diluted.



Pie chart 3: States that have created TVCs but have framed neither rules nor schemes under the provisions of The Street Vendors Act, 2014.

Plan for Street Vending

Section 21 of the Street Vendors Act, 2014 provides for a plan of street vending to be formulated by every local authority on recommendations of Town Vending Committees to promote the vocation of street vendors covering various important matters like surveys, criteria for earmarking no-vending zones, identification of areas for restricted and vending zones, identifying natural markets, etc. But unlike the rules and schemes, no time frame has been given for formulating a street-vending plan, though clause (e) of section 3 of the First Schedule says that no zone should be declared as a no-vending zone before conducting survey and formulation of the street-vending plan.

The chart below shows that only seven states out of a total 23 studied, have street vending plans, though information for seven states could not be availed through any of the sources mentioned in the methodology section. That means that out of 16 states of which information was available nine states have yet not made any plan for street vending which is more than the states that have a street-vending plan. It need not be mentioned again that even before the passing of this Central Act many Supreme Court and High

Court judgments have directed for making street vending plans.

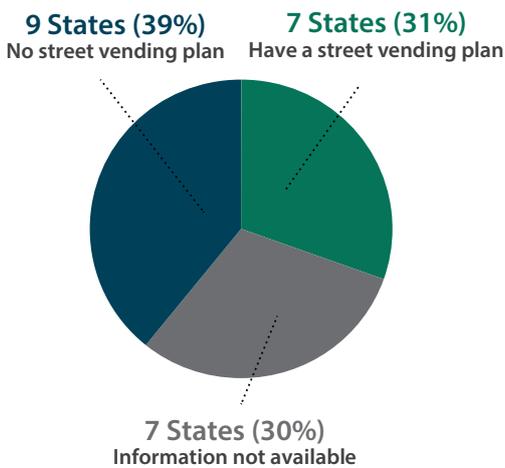
Out of nine states that do not have street vending plans, seven states have formed TVCs. This shows that state governments have undermined the interdependency factor that calls for synchronized functioning of all regulatory tools required for desired results.

Town Vending Committees and Street Vendors’ Election

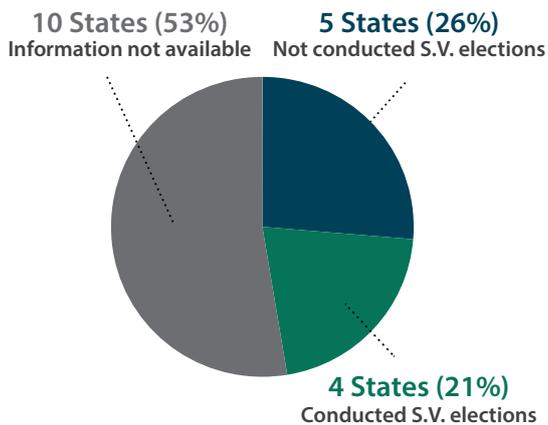
The above data show the position of the states that have formed TVCs. Out of 23 states studied except Gujarat, Nagaland, Tamil Nadu and Uttar Pradesh, all others have created TVCs. The study revealed that out of the 19 states that have formed TVCs, ten states have not conducted elections.

Clause (d) of subsection 2 of section 22 of the Street Vendors Act, 2014 says that in the formation of each TVC a minimum share of 40 per cent has to be given to the representatives of local street vendors. This provision further provides that these representatives shall be elected by the street vendors themselves.

But contrary to legislative provisions, these five states have constituted TVCs without having elected representatives of street vendors.



Pie chart 4: State wise data on the basis of plan of street vending.



Pie chart 5: States that have formed TVCs divided on the basis of conduction of street vendors’ election.

द-जिन्दाबाद

धूपथ दुकानदार, थडी-ठले वाला का चाहय
आजीविका, सुरसा और सम्मान का अधिकार।

को बैंक
CO BANK

रही रेली नही रेला है,
गोबर का मेला है।

पूरा करा, पूरा करा।

अजमेर रेलवे
अध्यक्ष

रेली नही रेला है,
जदूरों का मेला है।

अशोक गहलोत सर
हमारे लिये श



State Compliance Status

Andhra Pradesh

The state of Andhra Pradesh has yet not drafted rules but framed its scheme for street vending in June 2016. It also created TVCs and has conducted surveys as well as street vendor's election. This implies that the TVCs would be able to render its functions efficiently. Though, the state government failed to adhere to any of the timeframes for rules or schemes it has successfully created a structure which even has dispute resolution committees in a few areas. This state has complied with all the parameters except framing rules and publishing its schemes according to the Street Vendors Act, 2014.

Drafted Rules within the statutory period	No
Drafted Rules	No
Framed Scheme within the statutory period	No
Framed Scheme	Yes
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	Yes
Conduction of Street Vendors Election	Yes
Plan for Street Vending	Yes
Published Scheme	No

Assam

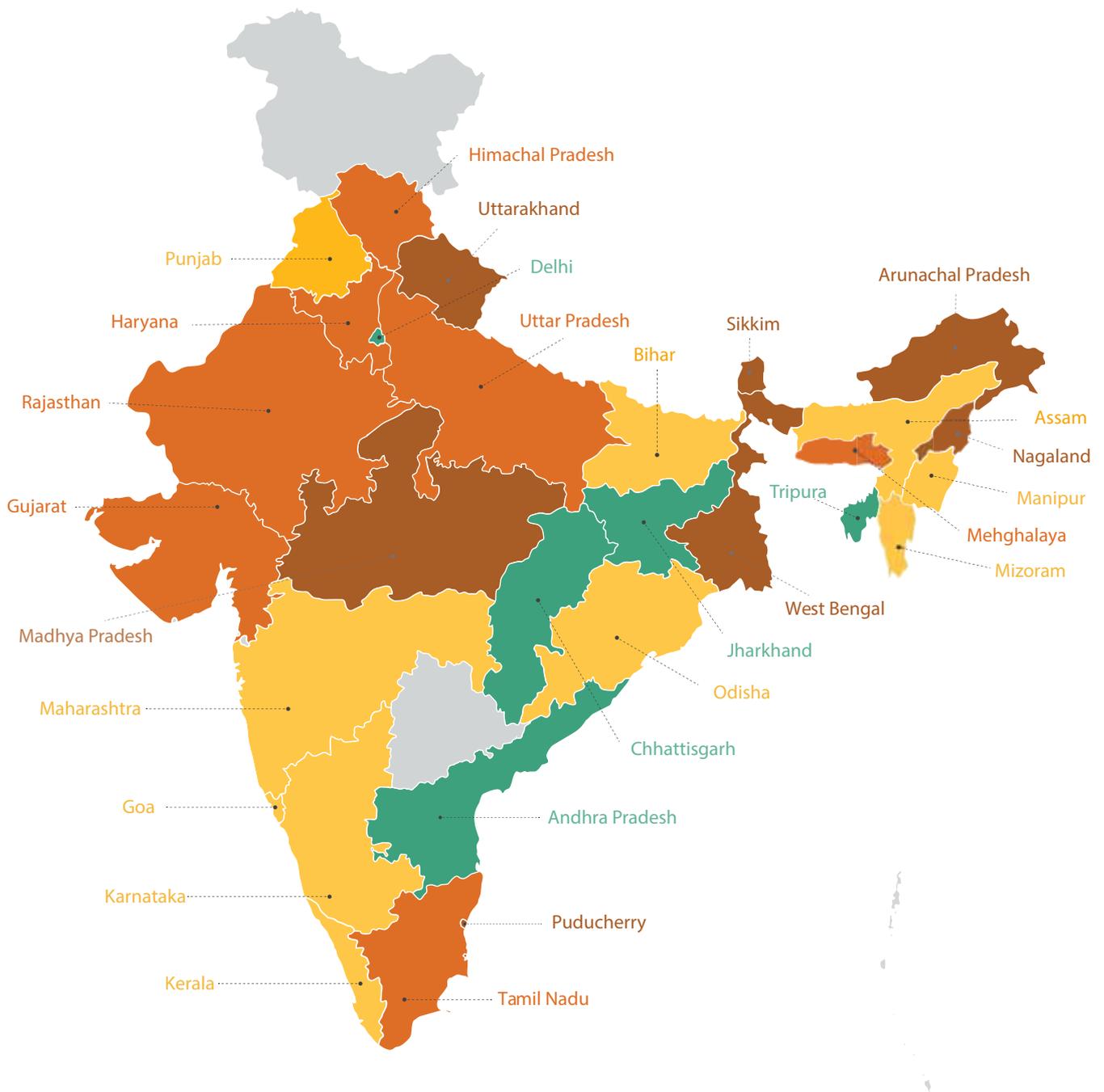
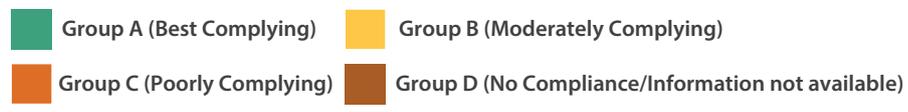
Assam though, made rules on February 26th 2016 after the expiry of statutory time frame but has not framed a scheme as yet (NASVI, 2014). Assam has constituted TVCs without conducting elections. Surveys of street vendors are conducted but have no street-vending plan. The implications of such selective compliance have been highlighted in the analysis above. The functionality of TVCs remains doubtful in such a scenario where there is no scheme.

Drafted Rules within the statutory period	No
Drafted Rules	Yes
Framed Scheme within the statutory period	No
Framed Scheme	No
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	No
Conduction of Street Vendors Election	No
Plan for Street Vending	No
Published Scheme	No

Bihar

The position of Bihar must be studied in light of the fact that Bihar has a working state Act on Street Vendors. The table shows that Bihar has conducted elections of street vendors as well as constituted TVCs. The state has street vending plans in few places, but it has no dispute resolution committees. The central Act has provisions for dispute resolution committees which can limit the number of litigation arising in street vending.

Drafted Rules within the statutory period	No
Drafted Rules	No
Framed Scheme within the statutory period	No
Framed Scheme	No
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	No
Conduction of Street Vendors Election	Yes
Plan for Street Vending	Yes
Published Scheme	No



Chhattisgarh

Chhattisgarh has framed rules as well as a scheme after the expiry of time frame as per Street Vending Act, 2014. However, the state constituted TVCs without conducting elections but it has conducted surveys. There are street vending plans in few areas of Chhattisgarh but there are no dispute resolution committees in the state yet.

Drafted Rules within the statutory period	No
Drafted Rules	Yes
Framed Scheme within the statutory period	No
Framed Scheme	Yes
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	No
Conduction of Street Vendors Election	No
Plan for Street Vending	Yes
Published Scheme	No

Delhi

Delhi despite being the national capital region failed to frame schemes and rules within the statutory period. The union territory has still no street vending plan for its local bodies. Though Delhi framed both schemes and rules after the expiry of timeframe, it has conducted surveys in some of the areas. The compliance contradiction in Delhi lies in constituting TVCs without holding street vending elections. There is no dispute resolution committee in any of the urban local body of Delhi.

Drafted Rules within the statutory period	No
Drafted Rules	Yes
Framed Scheme within the statutory period	No
Framed Scheme	Yes
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	No
Conduction of Street Vendors Election	No
Plan for Street Vending	No
Published Scheme	Yes

Goa

The status of Goa seems very bizarre as it has created rules, TVCs and also conducted surveys but has yet not framed scheme. How would the TVCs be governed is a not a question. Goa has conducted street vendors' elections. Except conducting surveys and creating TVCs, Goa has failed on all other parameters.

Drafted Rules within the statutory period	No
Drafted Rules	Yes
Framed Scheme within the statutory period	No
Framed Scheme	No
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	No
Conduction of Street Vendors Election	No
Plan for Street Vending	No
Published Scheme	No

Gujarat

Gujarat has only drafted the rules but it has failed in complying with rest of the provisions of the Act. The state has neglected all the tools of regulating street vending which have been observed in many judicial decisions, various schemes and legislations. This is not only a violation of rights of street vendors but is also a complete indifference towards the issues arising from street vending which affect all.

Drafted Rules within the statutory period	No
Drafted Rules	Yes
Framed Scheme within the statutory period	No
Framed Scheme	No
Conducted Surveys	No
Constituted TVCs	No
Dispute Resolution Committee	No
Conduction of Street Vendors Election	No
Plan for Street Vending	No
Published Scheme	No

Haryana

During the study it was found out that Haryana has a very similar state Act for Street Vending. The data above should be read in light of the existence of this Act. Haryana has conducted surveys and has also created TVCs. However, even after exhausting all the sources mentioned in the methodology no information could be collected about dispute resolution committees, street vendors' elections, and plan of street vendors and publication of scheme.

Drafted Rules within the statutory period	No
Drafted Rules	No
Framed Scheme within the statutory period	No
Framed Scheme	No
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	I.N.A.
Conduction of Street Vendors Election	I.N.A.
Plan for Street Vending	I.N.A.
Published Scheme	I.N.A.

Himachal Pradesh

Himachal Pradesh has not yet framed either schemes or rules. The state also failed on parameters like formation of dispute resolution committee and conducting street vendors' elections. However, it has created TVCs and conducted surveys. Though again the same question arises in the state of Himachal Pradesh as to how will the TVCs function without any scheme and rules.

Drafted Rules within the statutory period	No
Drafted Rules	No
Framed Scheme within the statutory period	No
Framed Scheme	No
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	No
Conduction of Street Vendors Election	No
Plan for Street Vending	Yes
Published Scheme	No

Jharkhand

Jharkhand has a very mixed response on the parameters in the study. This state framed rules after the statutory period for framing rules expired, though it has not yet formulated scheme. Jharkhand has TVCs and has also conducted surveys whereas the Street Vendors Act, 2014 provides that TVCs and surveys have to be formed and conducted as per the scheme of the state. It also has street vending plans in few areas but has failed to constitute dispute resolution committee and conducting street vendors' elections till date.

Drafted Rules within the statutory period	No
Drafted Rules	Yes
Framed Scheme within the statutory period	No
Framed Scheme	No
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	No
Conduction of Street Vendors Election	No
Plan for Street Vending	Yes
Published Scheme	Yes

Karnataka

Karnataka has drafted both rules and scheme, though both after expiry of statutory period. The state also has conducted surveys and created TVCs (Kamath, 2016). However, no information could be gathered for dispute resolutions committees, street vendors' elections and plan for street vending. But an overall analysis shows that the state is slow but is on the path of compliance which brings it in the category of states which have both schemes and rules.

Drafted Rules within the statutory period	No
Drafted Rules	Yes
Framed Scheme within the statutory period	No
Framed Scheme	Yes
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	I.N.A.
Conduction of Street Vendors Election	I.N.A.
Plan for Street Vending	I.N.A.
Published Scheme	I.N.A.

Kerala

The state of Kerala again like many others shows contradictory compliance status. Initially, it had TVCs and even conducted surveys in a few areas but without having any rules or scheme. Now, the state has framed the rules and scheme. There are no plans for street vending and elections have also not been held in any of the Urban Local Body. Though, Kerala has dispute resolution committees but these tools cannot work efficiently without supporting structure which the state has failed to create till date.

Drafted Rules within the statutory period	No
Drafted Rules	Yes
Framed Scheme within the statutory period	No
Framed Scheme	Yes
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	Yes
Conduction of Street Vendors Election	No
Plan for Street Vending	No
Published Scheme	No

Maharashtra

Maharashtra has failed in conducting surveys. The overall status is still doubtful due to no information on plan for street vending, dispute resolution committee and street vendors' election. But Maharashtra is among those very few four states which have published its scheme in local newspapers (Waghmode, 2016).

Drafted Rules within the statutory period	No
Drafted Rules	Yes
Framed Scheme within the statutory period	No
Framed Scheme	Yes
Conducted Surveys	No
Constituted TVCs	Yes
Dispute Resolution Committee	I.N.A.
Conduction of Street Vendors Election	I.N.A.
Plan for Street Vending	I.N.A.
Published Scheme	Yes

Manipur

Manipur has all the regulatory bodies except a dispute resolution committee. But the status remains doubtful like many other states because of not having a scheme yet. The state did not frame rules within the statutory time frame. Manipur has a plan for street vending in some of its areas and has also conducted elections for representatives of street vendors. TVCs are also present in some of the urban local bodies of Manipur.

Drafted Rules within the statutory period	No
Drafted Rules	Yes
Framed Scheme within the statutory period	No
Framed Scheme	No
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	No
Conduction of Street Vendors Election	Yes
Plan for Street Vending	Yes
Published Scheme	No

Meghalaya

Meghalaya has merely conducted surveys and created TVCs in some areas. It has failed on all other parameters. The state authorities in Meghalaya seem to have not understood the interdependency of various tool of regulating street vending. Merely conducting surveys and creating TVCs without any parent scheme to guide it and rules for laying the scope and responsibilities of TVC cannot yield any result.

Drafted Rules within the statutory period	No
Drafted Rules	No
Framed Scheme within the statutory period	No
Framed Scheme	No
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	No
Conduction of Street Vendors Election	No
Plan for Street Vending	No
Published Scheme	No

Mizoram

The state of Mizoram has yet not framed a scheme for street vending. Mizoram though without any scheme conducted surveys and has created TVCs. No elections have been held in any of the urban local body of this state. Not even a single dispute resolution committee has been formed in the state till now.

Drafted Rules within the statutory period	No
Drafted Rules	Yes
Framed Scheme within the statutory period	No
Framed Scheme	No
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	No
Conduction of Street Vendors Election	No
Plan for Street Vending	Yes
Published Scheme	Yes

Nagaland

There is not much information available through other secondary sources about reasons for non-compliance.

Drafted Rules within the statutory period	No
Drafted Rules	No
Framed Scheme within the statutory period	No
Framed Scheme	No
Conducted Surveys	No
Constituted TVCs	No
Dispute Resolution Committee	No
Conduction of Street Vendors Election	No
Plan for Street Vending	No
Published Scheme	No

Odisha

No information could be gathered for dispute resolution committee, street vendors' elections, plan for street vending and publication of scheme for the state of Odisha. But the state has framed both rules and scheme, though both after the expiry of statutory deadlines. TVCs have been created in some urban local bodies. Odisha also conducted surveys of street vendors in few areas in the state.

Drafted Rules within the statutory period	No
Drafted Rules	Yes
Framed Scheme within the statutory period	No
Framed Scheme	Yes
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	I.N.A.
Conduction of Street Vendors Election	I.N.A.
Plan for Street Vending	I.N.A.
Published Scheme	I.N.A.

Punjab

The status of Punjab and Odisha is same in terms of implementing the model of street vending regulations as per the provisions of the Street Vending Act, 2014. Information could not be gathered for dispute resolution committee, street vendors' election, plan of street vending and publication of scheme for the state of Punjab as well.

Drafted Rules within the statutory period	No
Drafted Rules	Yes
Framed Scheme within the statutory period	No
Framed Scheme	Yes
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	I.N.A.
Conduction of Street Vendors Election	I.N.A.
Plan for Street Vending	I.N.A.
Published Scheme	I.N.A.

Rajasthan

Rajasthan has created TVCs in a few areas but has no scheme for governing the same. The state has only framed rules and conducted street vending elections but has completely failed on all other parameters of regulatory tools. Without conducting surveys, elections have been held which reflects an compliance dichotomy. The table above shows that the state has casually implemented a few provisions without understanding the formation complexities like created TVCs before notifying the scheme.

Drafted Rules within the statutory period	No
Drafted Rules	Yes
Framed Scheme within the statutory period	No
Framed Scheme	No
Conducted Surveys	No
Constituted TVCs	Yes
Dispute Resolution Committee	No
Conduction of Street Vendors Election	Yes
Plan for Street Vending	No
Published Scheme	No

Tamil Nadu

Tamil Nadu seems to be on an compliance path as it has framed rules and scheme after expiring of deadlines and has also conducted surveys of street vendors. However, even after almost three years to passing of the Street Vending Act, 2014 the state has only been able to reach at the compliance stage as reflected in the table above. No information could be gathered for the last four parameters in the table, therefore the overall status of the state remains doubtful.

Drafted Rules within the statutory period	No
Drafted Rules	Yes
Framed Scheme within the statutory period	No
Framed Scheme	Yes
Conducted Surveys	Yes
Constituted TVCs	No
Dispute Resolution Committee	I.N.A.
Conduction of Street Vendors Election	I.N.A.
Plan for Street Vending	I.N.A.
Published Scheme	I.N.A.

Tripura

The state of Tripura though failed to meet any of the statutory deadline for rules and scheme, but has successfully framed both after the expiry of the period. Tripura has conducted surveys in some of its areas and also constituted TVCs. However, the state has still not been able to form dispute resolution committees, hold elections of street vendors or have a plan for street vending. Tripura also failed to comply with the statutory requirement of publishing the scheme in local newspapers. The overall status of compliance is thus very poor in the state as reflected in the table above.

Drafted Rules within the statutory period	No
Drafted Rules	Yes
Framed Scheme within the statutory period	No
Framed Scheme	Yes
Conducted Surveys	Yes
Constituted TVCs	Yes
Dispute Resolution Committee	No
Conduction of Street Vendors Election	No
Plan for Street Vending	No
Published Scheme	No

Uttar Pradesh

Uttar Pradesh has merely framed scheme and conducted surveys. The state authorities failed to adhere to the timeframes provided for framing rules and scheme in the Street Vending Act, 2014. Uttar Pradesh has still not been able to frame its state rules for street vending. However, the information for last four parameters in the table remains unavailable even after exhausting all the sources mentioned in methodology. The state has not created a Town Vending Committee in any of its urban local bodies. The table above shows skimpy compliance for the state of Uttar Pradesh.

Drafted Rules within the statutory period	No
Drafted Rules	No
Framed Scheme within the statutory period	No
Framed Scheme	Yes
Conducted Surveys	Yes
Constituted TVCs	No
Dispute Resolution Committee	I.N.A.
Conduction of Street Vendors Election	I.N.A.
Plan for Street Vending	I.N.A.
Published Scheme	I.N.A.

Limitations

One of the major limitations of this exercise is its focus on compliance with the procedures mandated in the Act. This index does not reflect on the content of the scheme or the rules. The scheme may be too complicated, detailed and unfavourable to vendors but this index does not capture the substantive details.

Secondly, the data, though it was sourced from multiple sources was not available for all states and all the parameters. There is always a limitation of resources – money and time; therefore, it was not possible to try further and wait for more data. We filed applications under the RTI Act, but it was not possible for us to wait for disposal of appeals and file second appeals. We had to consider the pending information as “information not available”. At best, we called up the concerned government departments

some times to supplement RTI information, but overall, the data collection could not be perfect.

Third, we did not allocate any negative weight to violations such as demarcation of no-vending zones before constituting TVC and evictions before the survey. This is controversial as courts including the Supreme Court have mostly upheld such zoning. The Act lacks any liability or penalty for such violations and merely stops at prescribing the procedure for evictions and zoning. However, this is important, and we will try to incorporate these parameters in the next phase though this may be challenging regarding veracity of data.

Fourth, one might like to use “distribution of Certificate of Vending” as a parameter instead of the survey conducted. This may be an option for the next phase.



Conclusion

Street vendors constitute a significant part of India's population, who are in need of a safe and secure livelihood. At present, rights of these vendors are being violated by the very state institutions which are supposed to protect them. In 2014, Government came up with an Act to protect rights of street vendors but as this report shows, proper compliance by states has not taken place yet. Even courts have showed unsatisfactory response in a desired implementation of this Act.

For instance, even though the Act clearly prohibits evictions under section 3(3) till a survey is done, evictions are still taking place. Firstly, we have witnessed that many of the cases post-2014 pertain to the issue of eviction. Secondly, many states have demarcated no-vending zones without conducting survey and constituting Town Vending Committees, it is in direct contravention of the Act. Courts as well as government authorities must look at the First Schedule under section 21 of the Act. Clause 3 of the First Schedule lays down principles for determination of no-vending zones which many government bodies and courts have not paid attention to. Third, some states and courts have tried to prohibit cooking on the street either through scheme or judgment. The central Act has no such provision. Such regulations are against the spirit of the central Act.

While the narratives of implementation are important, there is much to be achieved by organizing ideas in quantitative fashion. This Report attempted to estimate the

compliance of Indian states with the Act and its principles. We identified a list of variables that – taken together with carefully decided weights – reflect an overall impression of how compliant the states have been as with regards to implementing this Act. The exercise results in an Index that ranks state relative to each other. Indeed, no index is perfect and there are limitations of data handling. Hence, we have given in the Appendix, fresh indices with changed weights, encouraging scholars to investigate these parameters further. Further, the Report does not delve into causes for non-compliance leaving it to future research. At this stage, the purpose was modest – examination of the state of affairs in compliance of the Act. This alone is a useful entry point to understanding the shortcomings.

It would be wise to read the Index in the light of court judgments. Some states that have done better on the Index, have not been supportive of street vending on above counts. For example, Delhi has framed rules as well as a scheme. But, initially the scheme notoriously prohibited cooking on road. Then, evictions continued on ground of no-vending zones, upheld by the High Court of Delhi and affirmed by the Supreme Court. Indeed, at this pace, it will take several years for the Act to be fully complied with, in the entire country. This makes the Report even more important. It shows the distance each state has to cover to comply with the Act. And therefore, could be used as a Policy Guide in setting compliance targets.

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Appendix

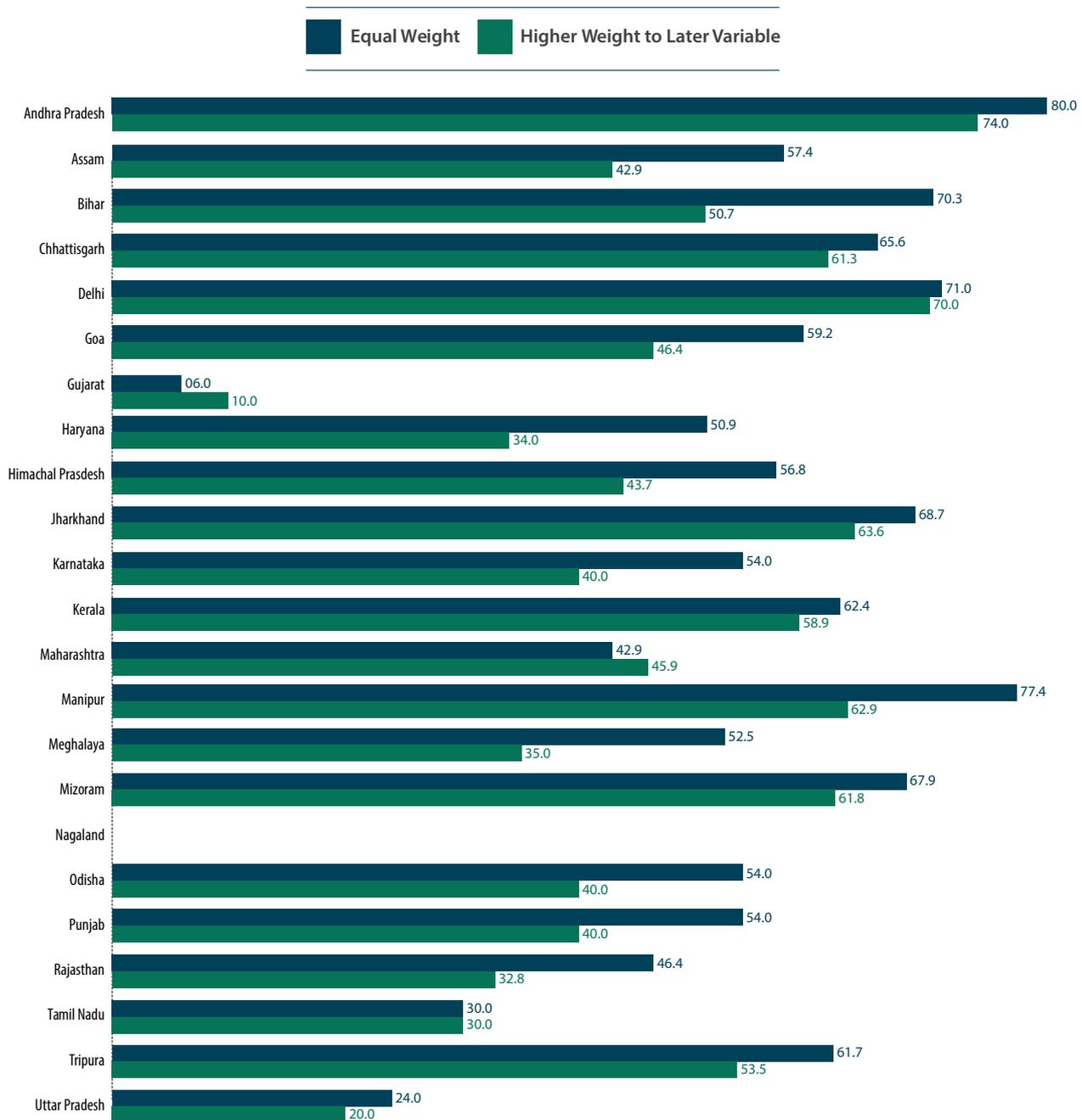
Rank	State	SVACI Score
1	Andhra Pradesh	80.0
2	Manipur	77.4
3	Delhi	71.0
4	Bihar	70.3
5	Jharkhand	68.7
6	Mizoram	67.9
7	Chhattisgarh	65.6
8	Kerala	62.4
9	Tripura	61.7
10	Goa	59.2
10	Assam	57.4
10	Himachal Pradesh	56.8
11	Punjab	54.0
12	Odisha	54.0
13	Karnataka	54.0
14	Meghalaya	52.5
15	Haryana	50.9
16	Rajasthan	46.4
17	Maharashtra	42.9
18	Tamil Nadu	30.0
19	Uttar Pradesh	24.0
20	Gujarat	06.0
21	Nagaland	00.0

Table I: Ranking of the states when a higher weight was given to the later variables such as conduction of surveys and street vendors elections.

Rank	State	SVACI Score
1	Andhra Pradesh	74.0
2	Delhi	70.0
3	Jharkhand	63.6
4	Manipur	62.9
5	Mizoram	61.8
6	Chhattisgarh	61.3
7	Tripura	53.5
8	Bihar	50.7
9	Kerala	58.9
10	Maharashtra	45.9
11	Himachal Pradesh	43.7
12	Assam	42.9
13	Karnataka	40.0
13	Odisha	40.0
13	Punjab	40.0
14	Goa	46.4
15	Meghalaya	35.0
16	Haryana	34.0
17	Rajasthan	32.8
18	Tamil Nadu	30.0
19	Uttar Pradesh	20.0
20	Gujarat	10.0
21	Nagaland	00.0

Table II: Ranking of the states when the weight of each variable was kept equal.

Significant change in the performance ranking of the states if more weight is given to implementation variables such as conducting surveys and street vendors' elections



This graph shows us that there can be significant change in the performance ranking of the state if more weight is given to implementation variables such as conducting surveys and street vendors' elections. It

is interesting to see states such as Bihar, Haryana and Meghalaya showing major difference when implementation factors are given priority. This can be further explained or looked into by further investigation.

रजिस्ट्री सं० डी० एल०—(एन)04/0007/2003—14

REGISTERED NO. DL—(N)04/0007/2003—14



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 8] नई दिल्ली, बुधवार, मार्च 5, 2014/ फाल्गुन 14, 1935 (शक)

No. 8] NEW DELHI, WEDNESDAY, MARCH 5, 2014/PHALGUNA 14, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 5th March, 2014/Phalguna 14, 1935 (Saka)

The following Act of Parliament received the assent of the President on the 4th March, 2014, and is hereby published for general information:—

THE STREET VENDORS (PROTECTION OF LIVELIHOOD AND REGULATION OF STREET VENDING) ACT, 2014

(No. 7 OF 2014)

[4th March, 2014.]

An Act to protect the rights of urban street vendors and to regulate street vending activities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

Short title,
extent,
commencement
and
provisions.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in any provision to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

(4) The provisions of this Act shall not apply to any land, premises and trains owned and controlled by the Railways under the Railway Act, 1989.

24 of 1989.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in respect of matters relating to,—

(i) a Union territory without Legislature, the Central Government;

(ii) the Union territories with Legislature, the Government of the National Capital Territory of Delhi or, as the case may be, the Government of Union territory of Puducherry;

(iii) a State, the State Government;

(b) “holding capacity” means the maximum number of street vendors who can be accommodated in any vending zone and has been determined as such by the local authority on the recommendations of the Town Vending Committee;

(c) “local authority” means a Municipal Corporation or a Municipal Council or a Nagar Panchayat, by whatever name called, or the Cantonment Board, or as the case may be, a civil area committee appointed under section 47 of the Cantonment Act, 2006 or such other body entitled to function as a local authority in any city or town to provide civic services and regulate street vending and includes the “planning authority” which regulates the land use in that city or town;

41 of 2006.

(d) “mobile vendors” means street vendors who carry out vending activities in designated area by moving from one place to another place vending their goods and services;

(e) “natural market” means a market where sellers and buyers have traditionally congregated for the sale and purchase of products or services and has been determined as such by the local authority on the recommendations of the Town Vending Committee;

(f) “notification” means a notification published in the Official Gazette and the term “notify” shall be construed accordingly;

(g) “planning authority” means an Urban Development Authority or any other authority in any city or town designated by the appropriate Government as responsible for regulating the land use by defining the precise extent of areas for any particular activity in the master plan or development plan or zonal plan or layout plan or any other spatial plan which is legally enforceable under the applicable Town and Country Planning Act or the Urban Development Act or the Municipal Act, as the case may be;

(h) “prescribed” means prescribed by rules made under this Act by the appropriate Government;

(i) “Schedule” means the Schedule annexed to this Act;

(j) “scheme” means a scheme framed by the appropriate Government under section 38;

(k) “stationary vendors” means street vendors who carry out vending activities on regular basis at a specific location;

(l) “street vendor” means a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, side walk, footpath, pavement, public park or any other public place or private area, from a temporary built up structure or by moving from place to place and

includes hawker, peddler, squatter and all other synonymous terms which may be local or region specific; and the words “street vending” with their grammatical variations and cognate expressions, shall be construed accordingly;

(m) “Town Vending Committee” means the body constituted by the appropriate Government under section 22;

(n) “vending zone” means an area or a place or a location designated as such by the local authority, on the recommendations of the Town Vending Committee, for the specific use by street vendors for street vending and includes footpath, side walk, pavement, embankment, portions of a street, waiting area for public or any such place considered suitable for vending activities and providing services to the general public.

(2) Any reference in this Act to any enactment or any provision thereof, shall, in relation to an area in which such enactment or such provision is not in force be construed as a reference to the corresponding law, if any, in force in that area.

CHAPTER II

REGULATION OF STREET VENDING

3. (1) The Town Vending Committee shall, within such period and in such manner as may be specified in the scheme, conduct a survey of all existing street vendors, within the area under its jurisdiction, and subsequent survey shall be carried out at least once in every five years.

Survey of street vendors and protection from eviction or relocation.

(2) The Town Vending Committee shall ensure that all existing street vendors, identified in the survey, are accommodated in the vending zones subject to a norm conforming to two and half per cent. of the population of the ward or zone or town or city, as the case may be, in accordance with the plan for street vending and the holding capacity of the vending zones.

(3) No street vendor shall be evicted or, as the case may be, relocated till the survey specified under sub-section (1) has been completed and the certificate of vending is issued to all street vendors.

4. (1) Every street vendor, identified under the survey carried out under sub-section (1) of section 3, who has completed the age of fourteen years or such age as may be prescribed by the appropriate Government, shall be issued a certificate of vending by the Town Vending Committee, subject to such terms and conditions and within the period specified in the scheme including the restrictions specified in the plan for street vending:

Issue of certificate of vending.

Provided that a person, whether or not included under the survey under sub-section (1) of section 3, who has been issued a certificate of vending before the commencement of this Act, whether known as licence or any other form of permission (whether as a stationary vendor or a mobile vendor or under any other category) shall be deemed to be a street vendor for that category for the period for which he has been issued such certificate of vending.

(2) Where, in the intervening period between two surveys, any person seeks to vend, the Town Vending Committee may grant a certificate of vending to such person, subject to the scheme, the plan for street vending and the holding capacity of the vending zones.

(3) Where the number of street vendors identified under sub-section (1) or the number of persons seeking to vend under sub-section (2) are more than the holding capacity of the vending zone and exceeds the number of persons to be accommodated in that vending zone, the Town Vending Committee shall carry out a draw of lots for issuing the certificate of vending for that vending zone and the remaining persons shall be accommodated in any adjoining vending zone to avoid relocation.

Conditions for issue of certificate of vending.

5. (1) Every street vendor shall give an undertaking to the Town Vending Committee prior to the issue of a certificate of vending under section 4, that—

(a) he shall carry on the business of street vending himself or through any of his family member;

(b) he has no other means of livelihood:

(c) he shall not transfer in any manner whatsoever, including rent, the certificate of vending or the place specified therein to any other person.

(2) Where a street vendor to whom a certificate of vending is issued dies or suffers from any permanent disability or is ill, one of his family member in following order of priority, may vend in his place, till the validity of the certificate of vending—

(a) spouse of the street vendor;

(b) dependent child of the street vendor:

Provided that where a dispute arises as to who is entitled to vend in the place of the vendor, the matter shall be decided by the committee under section 20.

Categories of certificate of vending and issue of identity cards.

6. (1) The certificate of vending shall be issued under any of the following categories, namely:—

(a) a stationary vendor;

(b) a mobile vendor; or

(c) any other category as may be specified in the scheme.

(2) The certificate of vending issued for the categories specified in sub-section (1) shall be in such form, and issued in such manner, as may be specified in the scheme and specify the vending zone where the street vendor shall carry on his vending activities, the days and timings for carrying on such vending activities and the conditions and restrictions subject to which he shall carry on such vending activities.

(3) Every street vendor who has been issued certificate of vending under sub-section (1) shall be issued identity cards in such form and manner as may be specified in the scheme.

Criteria for issuing certificate of vending.

7. The criteria to be followed by the Town Vending Committee for issuing certificate of vending to a street vendor shall be as specified in the scheme, which may, apart from other things, provide for preference to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, women, persons with disabilities, minorities or such other categories as may be specified in the scheme.

Vending fees.

8. Every street vendor who has been issued certificate of vending shall pay such vending fees as may be specified in the scheme.

Validity and renewal of certificate of vending.

9. (1) Every certificate of vending shall be valid for such period as may be specified in the scheme.

(2) Every certificate of vending shall be renewable for such period, in such manner, and on payment of such fees, as may be specified in the scheme.

Cancellation or suspension of certificate of vending.

10. Where a street vendor who has been issued a certificate of vending under this Act commits breach of any of the conditions thereof or any other terms and conditions specified for the purpose of regulating street vending under this Act or any rules or schemes made thereunder, or where the Town Vending Committee is satisfied that such certificate of vending has been secured by the street vendor through misrepresentation or fraud, the Town Vending Committee may, without prejudice to any other fine which may have been incurred by the street vendor under this Act, cancel the certificate of vending or suspend the same in such manner as may be specified in the scheme and for such period as it deems fit:

Provided that no such cancellation or suspension shall be made by the Town Vending Committee unless an opportunity of hearing has been given to the street vendor.

11. (1) Any person who is aggrieved by any decision of the Town Vending Committee with respect to issue of certificate of vending under section 6 or cancellation or suspension of certificate of vending under section 10 may prefer an appeal to the local authority in such form, within such period, and in such manner, as may be prescribed.

Appeal from decision of Town Vending Committee.

(2) No appeal shall be disposed of by the local authority unless the appellant has been given an opportunity of hearing.

CHAPTER III

RIGHTS AND OBLIGATIONS OF STREET VENDORS

12. (1) Every street vendor shall have the right to carry on the business of street vending activities in accordance with the terms and conditions mentioned in the certificate of vending.

Rights of street vendor.

(2) Notwithstanding anything contained in sub-section (1), where any area or space, as the case may be, has been earmarked as no-vending zone, no street vendor shall carry out any vending activities in that zone.

13. Every street vendor, who possesses a certificate of vending, shall, in case of his relocation under section 18, be entitled for new site or area, as the case may be, for carrying out his vending activities as may be determined by the local authority, in consultation with the Town Vending Committee.

Right of street vendor for a new site or area on relocation.

14. 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 allowed to him.

Duty of street vendors.

15. Every street vendor shall maintain cleanliness and public hygiene in the vending zones and the adjoining areas.

Maintenance of cleanliness and public hygiene.

16. Every street vendor shall 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.

Maintenance of civic amenities in vending zone in good condition.

17. Every street vendor shall pay such periodic maintenance charges for the civic amenities and facilities provided in the vending zones as may be determined by the local authority.

Payment of maintenance charges.

CHAPTER IV

RELOCATION AND EVICTION OF STREET VENDORS

18. (1) The local authority may, on the recommendations of the Town Vending Committee, declare a zone or part of it to be a no-vending zone for any public purpose and relocate the street vendors vending in that area, in such manner as may be specified in the scheme.

Relocation or eviction of street vendors.

(2) The local authority shall evict such street vendor whose certificate of vending has been cancelled under section 10 or who does not have a certificate of vending and vends without such certificate, in such manner as may be specified in the scheme.

(3) No street vendor shall be relocated or evicted by the local authority from the place specified in the certificate of vending unless he has been given thirty days' notice for the same in such manner as may be specified in the scheme.

(4) A street vendor shall be relocated or evicted by the local authority physically in such manner as may be specified in the scheme only after he had failed to vacate the place specified in the certificate of vending, after the expiry of the period specified in the notice.

(5) Every street vendor who fails to relocate or vacate the place specified in the certificate of vending, after the expiry of the period specified in the notice, shall be liable to pay for every day of such default, a penalty which may extend up to two hundred and fifty rupees, as may be determined by the local authority, but shall not be more than the value of goods seized.

Seizure and reclaiming of goods.

19. (1) If the street vendor fails to vacate the place specified in the certificate of vending, after the lapse of the period specified in the notice given under sub-section (3) of section 18, the local authority, in addition to evicting the street vendor under section 18, may, if it deems necessary, seize the goods of such street vendor in such manner as may be specified in the scheme:

Provided that where any such seizure is carried out, a list of goods seized shall be prepared, as specified in the scheme, and a copy thereof, duly signed by the person authorised to seize the goods, shall be issued to the street vendor.

(2) The street vendor whose goods have been seized under sub-section (1) may, reclaim his goods in such manner, and after paying such fees, as may be specified in the scheme:

Provided that in case of non-perishable goods, the local authority shall release the goods within two working days of the claim being made by the street vendor, and in case of perishable goods the local authority shall release the goods on the same day of the claim being made by the street vendor.

CHAPTER V

DISPUTE REDRESSAL MECHANISM

Redressal of grievances or resolution of disputes of street vendors.

20. (1) 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.

(2) 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.

(3) On receipt of grievance or dispute under sub-section (2), the committee referred to in sub-section (1) shall, after verification and enquiry in such manner, as may be prescribed, take steps for redressal of such grievance or resolution of such dispute, within such time and in such manner as may be prescribed.

(4) Any person who is aggrieved by the decision of the committee may prefer an appeal to the local authority in such form, within such time and in such manner as may be prescribed.

(5) The local authority shall dispose of the appeal received under sub-section (4) within such time and in such manner as may be prescribed:

Provided that the local authority shall, before disposing of the appeal, give an opportunity of being heard to the aggrieved person.

CHAPTER VI

PLAN FOR STREET VENDING

Plan for street vending.

21. (1) Every local authority shall, in consultation with the planning authority and on the recommendations of the Town Vending Committee, once in every five years, prepare a plan to promote the vocation of street vendors covering the matters contained in the First Schedule.

(2) The plan for street vending prepared by the local authority shall be submitted to the appropriate Government for approval and that Government shall, before notifying the plan, determine the norms applicable to the street vendors.

CHAPTER VII

TOWN VENDING COMMITTEE

22. (1) The appropriate Government may, by rules made in this behalf, provide for the term and the manner of constituting a Town Vending Committee in each local authority:

Town Vending Committee.

Provided that the appropriate Government may, if considers necessary, provide for constitution of more than one Town Vending Committee, or a Town Vending Committee for each zone or ward, in each local authority.

(2) Each Town Vending Committee shall consist of:—

(a) Municipal Commissioner or Chief Executive Officer, as the case may be, who shall be the Chairperson; and

(b) such number of other members as may be prescribed, to be nominated by the appropriate Government, representing the local authority, medical officer of the local authority, the planning authority, traffic police, police, association of street vendors, market associations, traders associations, non-governmental organisations, community based organisations, resident welfare associations, banks and such other interests as it deems proper;

(c) the number of members nominated to represent the non-governmental organisations and the community based organisations shall not be less than ten per cent.;

(d) the number of members representing the street vendors shall not be less than forty per cent. who shall be elected by the street vendors themselves in such manner as may be prescribed:

Provided that one-third of members representing the street vendors shall be from amongst women vendors:

Provided further that due representation shall be given to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, minorities and persons with disabilities from amongst the members representing street vendors.

(3) The Chairperson and the members nominated under sub-section (2) shall receive such allowances as may be prescribed by the appropriate Government.

23. (1) The Town Vending Committee shall meet at such times and places within the jurisdiction of the local authority and shall observe such rules of procedure in regard to the transaction of business at its meetings, and discharge such functions, as may be prescribed.

Meetings of Town Vending Committee.

(2) Every decision of the Town Vending Committee shall be notified along with the reasons for taking such decision.

24. (1) The Town Vending Committee may associate with itself in such manner and for such purposes, as may be prescribed, any person whose assistance or advice it may desire, in carrying out any of the provisions of this Act.

Temporary association of persons with Town Vending Committee for particular purposes.

(2) A person associated under sub-section (1) shall be paid such allowances as may be prescribed.

25. The local authority shall provide the Town Vending Committee with appropriate office space and such employees as may be prescribed.

Office space and other employees for Town Vending Committee.

Publication of street vendor's charter and data-base and carrying out of social audit.

26. (1) Every Town Vending Committee shall publish the street vendor's charter specifying therein the time within which the certificate of vending shall be issued to a street vendor and the time within which such certificate of vending shall be renewed and other activities to be performed within the time limit specified therein.

(2) Every Town Vending Committee shall maintain up to date records of registered street vendors and street vendors to whom certificate of vending has been issued containing name of such street vendor, stall allotted to him, nature of business carried out by him, category of street vending and such other particulars which may be relevant to the street vendors, in such manner as may be prescribed.

(3) Every Town Vending Committee shall carry out social audit of its activities under the Act or the rules or the schemes made thereunder in such form and manner as may be specified in the scheme.

CHAPTER VIII

PREVENTION OF HARASSMENT OF STREET VENDORS

Prevention of harassment by police and other authorities.

27. Notwithstanding anything contained in any other law for the time being in force, no street vendor who carries on the street vending activities in accordance with the terms and conditions of his certificate of vending shall be prevented from exercising such rights by any person or police or any other authority exercising powers under any other law for the time being in force.

CHAPTER IX

PENAL PROVISIONS

Penalty for contraventions.

28. If any street vendor—

(a) indulges in vending activities without a certificate of vending;

(b) contravenes the terms of certificate of vending; or

(c) contravenes any other terms and conditions specified for the purpose of regulating street vending under this Act or any rules or schemes made thereunder,

he shall be liable to a penalty for each such offence which may extend up to rupees two thousand as may be determined by the local authority.

CHAPTER X

MISCELLANEOUS

Provisions of this Act, not to be construed as conferring ownership rights, etc.

29. (1) Nothing contained in this Act shall be construed as conferring upon a street vendor any temporary, permanent or perpetual right of carrying out vending activities in the vending zones allotted to him or in respect of any place on which he carries on such vending activity.

(2) Nothing contained in sub-section (1) shall apply to any stationery vendor, if a temporary leasehold or ownership right has been conferred on him by a lease deed or otherwise, in respect of a place at specific location where he carries on such vending activity in accordance with the provisions of any law for the time being in force for carrying out such vending activity.

Returns.

30. Every Town Vending Committee shall furnish, from time to time, to the appropriate Government and the local authority such returns as may be prescribed.

Promotional measures.

31. The appropriate Government may, in consultation with the Town Vending Committee, local authority, planning authority and street vendors associations or unions, undertake promotional measures of making available credit, insurance and other welfare schemes of social security for the street vendors.

32. The appropriate Government may, to the extent of availability of financial and other resources,—

Research, training and awareness.

(a) organise capacity building programmes to enable the street vendors to exercise the rights contemplated under this Act;

(b) undertake research, education and training programmes to advance knowledge and understanding of the role of the informal sector in the economy, in general and the street vendors, in particular and to raise awareness among the public through Town Vending Committee.

33. The provisions of this Act shall have effect notwithstanding anything inconsistent therein contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Act to have overriding effect.

34. The appropriate Government may, by general or special order in writing, delegate such of its powers and functions under this Act (excluding the power to frame scheme under section 38 and power to make rules under section 36), as it may deem necessary, to the local authority or the Town Vending Committee or any other officer, subject to such conditions, if any, as may be specified in that order.

Powers to delegate.

35. (1) On the recommendations made by the appropriate Government or otherwise, if the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend the Schedules and thereupon the First Schedule or the Second Schedule, as the case may be, shall be deemed to have been amended accordingly.

Power to amend Schedules.

(2) A copy of every notification issued under sub-section (1), shall be laid before each House of Parliament as soon as may be after it is issued.

36. (1) The appropriate Government shall, within one year from the date of commencement of this Act, by notification, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the age for street vending under sub-section (1) of section 4;
- (b) the form, period and manner of filing appeal with the local authority under sub-section (1) of section 11;
- (c) the persons and the experience such person shall have under sub-section (1) of section 20;
- (d) the form and the manner of making application under sub-section (2) of section 20;
- (e) the manner of verification and enquiry on receipt of grievance or dispute, the time within which and the manner in which steps for redressal of grievances and resolution of disputes may be taken under sub-section (3) of section 20;
- (f) the form, the time within which and the manner in which an appeal may be filed under sub-section (4) of section 20;
- (g) the time within which and the manner in which an appeal shall be disposed of under sub-section (5) of section 20;
- (h) the term of, and the manner of constituting, the Town Vending Committee under sub-section (1) of section 22;
- (i) the number of other members of the Town Vending Committee under clause (b) of sub-section (2) of section 22;
- (j) the manner of elections among street vendors under clause (d) of sub-section (2) of section 22;
- (k) the allowances to Chairperson and members under sub-section (3) of section 22;

(l) the time and place for meeting, procedure for transaction of business at meetings and functions to be discharged by the Town Vending Committee under section 23;

(m) the manner and the purpose for which a person may be associated under sub-section (1) of section 24;

(n) the allowances to be paid to an associated person under sub-section (2) of section 24;

(o) the other employees of Town Vending Committee under section 25;

(p) the manner of maintaining up to date record of all street vendors under sub-section (2) of section 26;

(q) the returns to be furnished under section 30;

(r) the manner of publishing summary of scheme under sub-section (2) of section 38.

(3) Every rule and scheme made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or scheme or both Houses agree that the rule or scheme should not be made, the rule or scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or scheme.

(4) Every rule or scheme made by the State Government under this Act shall, as soon as may be after it is made, be laid before each House of the State Legislature where there are two Houses, and where there is one House of the State Legislature, before that House.

Power to
make bye-
laws.

37. Subject to the provisions of this Act or any rule or scheme made thereunder, the local authority may make bye-laws to provide for all or any of the following matters, namely:—

(a) the regulation and manner of vending in restriction-free-vending zones, restricted-vending zones and designated vending zones;

(b) determination of monthly maintenance charges for the civic amenities and facilities in the vending zones under section 17;

(c) determination of penalty under sub-section (5) of section 18 and section 28;

(d) the regulation of the collection of taxes and fees in the vending zones;

(e) the regulation of traffic in the vending zones;

(f) the regulation of the quality of products and services provided to the public in vending zones and maintenance of public health, hygiene and safety standards;

(g) the regulation of civic services in the vending zones; and

(h) the regulation of such other matters in the vending zones as may be necessary.

Scheme for
street vendors.

38. (1) For the purposes of this Act, the appropriate Government shall frame a scheme, within six months from the date of commencement of this Act, after due consultations with the local authority and the Town Vending Committee, by notification, which may specify all or any of the matters provided in the Second Schedule.

(2) A summary of the scheme notified by the appropriate Government under sub-section (1) shall be published by the local authority in at least two local news papers in such manner as may be prescribed.

39. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to
remove
difficulties.

Provided that no order shall be made under this section after expiry of three years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

THE FIRST SCHEDULE

(See section 21)

PLAN FOR STREET VENDING

(1) The plan for street vending shall,—

(a) ensure that all existing street vendors identified in the survey, subject to a norm conforming to two and half per cent. of the population of the ward, zone, town or city, as the case may be, are accommodated in the plan for street vending;

(b) ensure the right of commuters to move freely and use the roads without any impediment;

(c) ensure that the provision of space or area for street vending is reasonable and consistent with existing natural markets;

(d) take into account the civic facilities for appropriate use of identified spaces or areas as vending zones;

(e) promote convenient, efficient and cost effective distribution of goods and provision of services;

(f) such other matters as may be specified in the scheme to give effect to the plan for street vending.

(2) The plan for street vending shall contain all of the following matters, namely:—

(a) determination of spatial planning norms for street vending;

(b) earmarking of space or area for vending zones;

(c) determination of vending zones as restriction-free-vending zones, restricted-vending zones and no-vending zones;

(d) making of spatial plans conducive and adequate for the prevalent number of street vendors in that city or town and also for the future growth, by adopting such norms as may be necessary;

(e) consequential changes needed in the existing master plan, development plan, zonal plan, layout plan and any other plan for accommodating street vendors in the designated vending zones.

(3) Declaration of no-vending zone shall be carried out by the plan for street vending, subject to the following principles, namely:—

(a) any existing market, or a natural market as identified under the survey shall not be declared as a no-vending zone;

(b) declaration of no-vending zone shall be done in a manner which displaces the minimum percentage of street vendors;

(c) overcrowding of any place shall not be a basis for declaring any area as a no-vending zone provided that restrictions may be placed on issuing certificate of vending in such areas to persons not identified as street vendors in the survey;

(d) sanitary concerns shall not be the basis for declaring any area as a no-vending zone unless such concerns can be solely attributed to street vendors and cannot be resolved through appropriate civic action by the local authority;

(e) till such time as the survey has not been carried out and the plan for street vending has not been formulated, no zone shall be declared as a no-vending zone.

THE SECOND SCHEDULE

(See section 38)

Matters to be provided in the Scheme for Street Vendors framed by the appropriate Government:—

- (a) the manner of conducting survey;
- (b) the period within which certificate of vending shall be issued to the street vendors identified under the survey;
- (c) the terms and conditions subject to which certificate of vending may be issued to a street vendor including to those persons who wish to carry on street vending during the intervening period of two surveys;
- (d) the form and the manner in which the certificate of vending may be issued to a street vendor;
- (e) the form and manner of issuing identity cards to street vendors;
- (f) the criteria for issuing certificate of vending to street vendors;
- (g) the vending fees to be paid on the basis of category of street vending, which may be different for different cities;
- (h) the manner of collecting, through banks, counters of local authority and counters of Town Vending Committee, vending fees, maintenance charges and penalties for registration, use of parking space for mobile stalls and availing of civic services;
- (i) the period of validity of certificate of vending;
- (j) the period for which and the manner in which a certificate of vending may be renewed and the fees for such renewal;
- (k) the manner in which the certificate of vending may be suspended or cancelled;
- (l) the categories of street vendors other than stationery vendors and mobile vendors;
- (m) the other categories of persons for preference for issue of certificate of vending;
- (n) the public purpose for which a street vendor may be relocated and the manner of relocating street vendor;
- (o) the manner of evicting a street vendor;
- (p) the manner of giving notice for eviction of a street vendor;
- (q) the manner of evicting a street vendor physically on failure to evict;
- (r) the manner of seizure of goods by the local authority, including preparation and issue of list of goods seized;
- (s) the manner of reclaiming seized goods by the street vendor and the fees for the same;
- (t) the form and the manner for carrying out social audit of the activities of Town Vending Committee;
- (u) the conditions under which private places may be designated as restriction-free-vending zones, restricted-vending zones and no-vending zones;

- (v) the terms and conditions for street vending including norms to be observed for up keeping public health and hygiene;
- (w) the designation of State Nodal Officer for co-ordination of all matters relating to street vending at the state level;
- (x) the manner of maintenance of proper records and other documents by the Town Vending Committee, local authority, planning authority and State Nodal Officer in respect of street vendors;
- (y) the manner of carrying out vending activities on time-sharing basis;
- (z) the principles for determination of vending zones as restriction-free-vending zones, restricted-vending zones and no-vending zones;
- (za) the principles for determining holding capacity of vending zones and the manner of undertaking comprehensive census and survey;
- (zb) principles of relocation subject to the following:—
- (i) relocation should be avoided as far as possible, unless there is clear and urgent need for the land in question;
- (ii) affected vendors or their representatives shall be involved in planning and implementation of the rehabilitation project;
- (iii) affected vendors shall be relocated so as to improve their livelihoods and standards of living or at least to restore them, in real terms to pre-evicted levels;
- (iv) livelihood opportunities created by new infrastructure development projects shall accommodate the displaced vendors so that they can make use of the livelihood opportunities created by the new infrastructure;
- (v) loss of assets shall be avoided and in case of any loss, it shall be compensated;
- (vi) any transfer of title or other interest in land shall not affect the rights of street vendors on such land, and any relocation consequent upon such a transfer shall be done in accordance with the provisions of this Act;
- (vii) state machinery shall take comprehensive measures to check and control the practice of forced evictions;
- (viii) natural markets where street vendors have conducted business for over fifty years shall be declared as heritage markets, and the street vendors in such markets shall not be relocated;
- (zc) any other matter which may be included in the scheme for carrying out the purposes of this Act.

P.K. MALHOTRA,
Secy. to the Govt. of India.

