



RIGHT TO LIVELIHOOD FOR THE STREET FOOD VENDORS IN INDIA

Jayanta Boruah* & Sarthak Aryan**

ABSTRACT

In India, the issue related to street food vendors is seemed to have increased during this pandemic, even though such issues were common from time immemorial. India is also the same country where theoretically or jurisprudentially, Right to Livelihood has been attributed the status of Fundamental Right by the Supreme Court but subsequently the same Judiciary has faced several challenges in defending such Rights when matters related to Street Vendors came before it. As such a study related to the concerns made by the legal framework in addressing some of the common issues associated to the Right of Livelihood for the street vendors in the World's Largest Democracy becomes important. This Article therefore has tried to understand the gray areas of the existing Indian Laws and Policies dealing with the issue along with a comparative analysis of the other countries where such issues have been dealt upon with more precision with the help of doctrinal method of research. The pandemic has already brought several challenges and is about to bring even many more new challenges for regulating these increasing numbers of Street Vendors in India for which more precise reforms for bridging the gap between policy formulation and its practical implementations, are needed to be adopted.

* Research Scholar, North-Eastern Hill University, Shillong

** Student, National Law University and Judicial Academy, Assam.

INTRODUCTION

During the COVID-19 Pandemic one of the major causes of concern for the authorities is the migration of daily wage laborers and street food vendors who are not able to make ends meet. Due to lockdown they were forced to shut down the shops and their work, now they are left to starve for food. Even though in some parts the lockdown is being lifted or eased, the authorities are not allowing the unauthorized street food vendors. This has led to debates amongst the Legal Academia and Judicial Activists on the Right to Livelihood of the Street food vendors. In the Olga Telis case¹, the Supreme Court of India held that Right to Livelihood is a fundamental right of every citizen in India. However, subsequently the Court itself had to face several difficulties in defending Right to Livelihood of the marginalized sections of Indian society who had no property of their own and therefore were settled in Public Places conflicting with the Municipal Rules of Conducts. One such marginalized section is the population of Street Food Vendors, who due to lack of private ownership of property, establishes their business ventures in Public Places for maintaining their livelihood since there remains no other option for them. These people are dependent on daily income that is generated by their services to the customers. However, in certain cases they are forced to vacate or are removed from such locations on the ground of Public Interest. But the question arises, that in a country where there are estimated 10 million Street Food Vendors who are dependent on their street outlets for maintaining the livelihood of them and their families,² won't it be a violation of their fundamental right to livelihood if they are forcefully evacuated from such places on the ground of Public Interest? Or is it so that the ones who do not have private ownership over property do not deserve a Right to Livelihood in India? Or are the reasonable restrictions based on Public Interest sufficient enough to curtail such Right to Livelihood of the marginalized sections of our society? These questions assume importance for discussion and thus this Article will make an attempt to verify these questions by analyzing few major Judgments passed by the Indian Judiciary on disputes relating to

¹Olga Tellis v. Bombay Municipal Corporation, AIR 1989 SC 1988.

²IshaniDuttgupta, How FSSAI is ensuring that food offered by street vendors and online aggregators meet safety norms, ET BUREAU (May 12, 2020, 01:11 AM) <https://m.economictimes.com/industry/consproducts/food/How-FSSAI-is-ensuring-that-food-offered-by-street-vendors-and-online-aggregators-meet-safety-norms>.

Right to Livelihood in India for understanding the basic parameters that govern such rights and their implications on the Street Food Vendors.

JUDICIAL INTERPRETATIONS ON RIGHT TO LIVELIHOOD

The Preamble of Indian Constitution assures to protect the Dignity of the individuals. Dignity of an individual in the society is a clear reflection of the livelihood and standard of living in the society. However, street vendors in India are mostly found leaving under the constant fear of losing their livelihood and there are even instances of them being constantly harassed by the municipal bodies and police.³ As such can it be implied that street hawkers are outside the scope of such legal rights in India?

In order to understand the rights of street hawkers we need to establish, who Street Vendor or hawkers are? Hon'ble Supreme Court in *Maharashtra Ekta Hawkers Union v. Municipal Corporation, Greater Mumbai*⁴ clarified the concept of Street Hawkers or Vendors. The court said that a street hawker is a person who without any permanent place or structure, offers goods for sale to the public. Some hawkers are mobile as they tend to move from one place to another while others are stationary as they occupy a particular space on the pavements or any other public or private places.

The Supreme Court in the *Olga Tellis v. Bombay Municipal Corporation* has said that right to livelihood is a part and parcel of Right to Life; hence it is a fundamental right. The contention which was raised was whether this right of livelihood is absolute or not? If at all a person is deprived of right to life and personal liberty let alone right to livelihood then it should be according to just, fair and reasonable procedure established by law. Such procedure will be declared void if it has not followed the fair and just procedure. It becomes clear from the above case that right to livelihood is not absolute, it is under certain reasonable restrictions.

The Olga Tellis judgment caused a great deal of confusion and there was a need to distinguish Right to trade and business under Article 19 (1) (g) from the right to life and personal liberty under Article 21 as it was contented that if street hawkers or vendors are not allowed to carry out its trade and business by the Municipal authorities then it amounted to the violation of

³ Hussain Indorewala, Behind Our Prejudice Against Street Vendors Lies a Flawed Idea of Public Space, THE WIRE (May. 26, 2020, 01:11 AM), <https://thewire.in/society/street-vendors-urban-public-spaces>.

⁴ (2004) 1 SCC 625.

RIGHT TO LIVELIHOOD FOR THE STREET FOOD VENDORS IN INDIA

rights conferred under Article 21. The Supreme Court took up this question in *Sodan Singh v. New Delhi Municipal Committee*.⁵ The court said that the vendors have fundamental right under Article 19 (1) (g) to carry out trade but this right to carry out trade is not attracted in Article 21, the two rights are remote to each other and cannot be connected together. The court also said that the streets are meant for pedestrians exclusively and if it is not properly regulated rather is used for any other purpose then it would defeat the very purpose of roads. Now another contention which was raised was that to what extent a street hawkers can exercise its right to carry out trade and what are the reasonable restriction that could be put on the street vendor's rights under public interest. In the *Sodan*⁶ case the court said that the all the public roads and streets are under the jurisdiction of State and State holds them as a trustee for the public. Under the trustee and beneficiary relationship, a trustee makes decision for the best interests of beneficiary and similarly the state being the trustees has to make law that protects the interests of street trader who being the part of the beneficiary, uses the roads and streets for the purpose of trading but street trader beneficiary rights is subjected to rights of other members of public including pedestrians. In *Sodan* ruling itself, while answering the question as to what extent the street vendors can exercise their right to carry out trade on streets the Supreme Court said that street trading comes under the ambit of fundamental rights but with some reasonable restriction under Article 19 (6). The street vendors can choose to carry out trade but they cannot do so at any particular place of their choice. The court said that the street trading cannot be permitted on every road and added that roads, streets and footpaths are meant for public use not for private purpose. The Court further clarified and reiterated its ruling in *Sodan Singh v. NDMC (II)*⁷ where the Court again held that the street vendors have the right to trade but with some reasonable restriction. This right of street trading includes hawking without being stationary on any particular place and moving from one place to another. Court clearly stated that on the instances of Street vendors exercising their right to trade, it is expected that such rights will come in conflict with the general rights of other people like pedestrians. That's why Court emphasized on the need for a proper regulation.

⁵*Supra* note 1.

⁶Hussain, *Supra*note 3.

⁷ AIR 1992 SC 1153.

Coming to the issue that whether those who do not have private ownership over property deserve a Right to Livelihood in India or not, the Supreme Court in *Gainda Ram vs. MCD*⁸ gave shameful reminders to the governments to make laws and resolve problems of the street hawkers. Due to lack of legislation regarding civic authorities' initiatives for protecting the interests of street vendor and hawkers, the Supreme Court in *Sodan Singh vs. U.O.I.*⁹ gave out model guidelines to be followed till the legislature frames legislation. But these guidelines attracted more litigations and became an issue for High Courts forcing them to revise these guidelines in *Maharashtra Ekta Hawkers Union vs. Municipal Corporation Greater Mumbai*.¹⁰ The Court went further and held in Maharashtra Ekta Hawkers Union case¹¹ that the right to hawk is the fundamental right and it cannot be unreasonably restricted. In order to restrict hawking in a certain area, hawking zones should be created. The lack of legislation and negligence for the welfare of street vendors made the Court to observe that just because the hawkers belong to poor and unorganized sector they cannot be denied from their fundamental rights.¹² It could be implied from the above cases that the Supreme Court wanted to reconcile the rights of hawkers with the best interest of pedestrian. After Supreme Court reiterated the authorities to address the issues of the street vendors but the situation has not changed and the street vendors are still facing problems due to the lackadaisical attitude of the authorities, the bodies and instruments made by the legislature decade ago that has become ineffective now.¹³ Even after Supreme Court direction in 2013¹⁴, Delhi High Court also directed the Delhi government and the South Delhi Municipal Corporation (SDMC) not to evict or obstruct the street vendors from carrying out trade. The High court cited the Street Vendors Act, 2014 and directed the SDMC not to remove or relocate any street vendor until the survey is completed and certificate of vending is issued to all street vendors.¹⁵

⁸ 2010(10) SCC715.

⁹ 1998(2) SCC727.

¹⁰ 2004(1) SCC 625.

¹¹ *Ibid.*

¹² *Supra* note3.

¹³ Maharashtra Ekta Hawkers Union v. Municipal Corporation Greater Mumbai, MANU/SC/0927/2013.

¹⁴ *Ibid.*

¹⁵ PTI, Make Town Vending Committee functional in 8 weeks, says Delhi High Court, Economic Times (Oct 21, 2014, 02:32 PM), <https://economictimes.indiatimes.com/news/politics-and-nation/make-town-vending-committee-functional-in-8-weeks-says-delhi-high-court/articleshow/44898888.cms>.

COMPARATIVE ANALYSIS OF THE RIGHT OF LIVELIHOOD FOR STREET HAWKERS AROUND THE WORLD

The main cause of concern for the street vendors around the world is the legal status. This led to signing of Bellagio International Declaration of Street Vendors in November 23rd 1995 which urged the signatories' countries to give legal status to street vendors and hawkers by providing hawking zones and enacting laws to improve their conditions. It also urged the governments to provide them with credit facilities and their access to legal system. India is a signatory of this declaration but nothing was done until 2001 when after pressure from civil societies and Supreme Court rebuking's that the government formed a task force which formed the National Policy in 2004 for protection of street vendors.

There are some practices that are dominantly practiced against street vendors around the globe. One is not providing legal status to the street vendors. Like in Los Angeles, United States, many activists are organizing campaigns to legalize the food vendors because it will help in regulating the quality of food and provide the vendors with economic benefits.¹⁶ Another is large scale policy of violent evictions of street vendors from public cases. The logic which is given for these evictions is the pursuance of modern, hygienic and ideal city. The street hawkers are linked to poverty and backwardness and they depict a bad view of the city in the eyes of the tourists.

Cases of these evictions are documented by Women in Informal Employment: Globalizing and Organizing (WIEGO), which is non-profit organization working for improving the conditions of workers involved in the informal sectors or working poor. According to WIEGO study¹⁷ the cases of major evictions all around the globe includes Vietnam government ban on the street vendors in Hanoi,¹⁸ the forced removal of hawkers from the historic center of Mexico,¹⁹ Human Rights concern during the 2010 FIFA World Cup in South

¹⁶ Elson Trinidad, The Singapore Solution to L.A.'s Illegal Street Food Vending Problem, KCET (May 30, 2020, 08:13 PM), <https://www.kcet.org/social-focus/the-singapore-solution-to-las-illegal-street-food-vending-problem>.

¹⁷ Sally Roeveer & Caroline Skinner, Street vendors and cities, IIED, 4, 4-6(2016).

¹⁸ Grant McCool, Hanoi sweeps vendors from city streets, REUTERS (Jun 1, 2020, 1:17 PM), <https://www.reuters.com/article/us-vietnam-hawkers/hanoi-sweeps-vendors-from-city-streets-idUSBK19988820080701>.

¹⁹ Milenio, Street vendors in city center despite assurance they wouldn't be permitted, MEXICO NEWS DAILY (May 28, 2020, 01:12 AM), <https://mexiconewsdaily.com/news/street-vendors-in-city-center/>.

Africa due to wide scale evictions of poor and street vendors²⁰ and wide scale forced eviction during the Commonwealth Games in Delhi²¹ along with evictions during the Under-17 FIFA World Cup in Kolkata.²² Politically motivated eviction campaign for obtaining support of upper and middle class voters has also been observed, like the Operation Dongosolo²³ in Malawi in which street vendors were removed from the streets of major cities of Malawi causing huge loss of livelihood for household depends who relied on occasional vending.²⁴ While dealing with forced mass eviction by countries, one cannot ignore the mass evictions of the Operation Murambatsvina in Zimbabwe where one day in 2005 the authorities in Zimbabwe abruptly started bulldozing thousands of road-side markets, shops and homes and officials called it a cleanup campaign.²⁵ The most recent case of country-wide crackdown is the case of Bangkok. Bangkok was known for its street side markets that remained open day and night. But under the country's new military rule the Bangkok Metropolitan Administration (BMA) has evicted thousands of vendors with the motto giving the footpath back to pedestrians.²⁶ Due to these evictions there is a growing solidarity among the vendors and also resistance against the new policies adopted the authorities and this resistance is becoming more and more intense.²⁷

It will be biased if we show that governments around the globe are doing nothing for the street vendors, there are some countries that has recognized the rights of street vendors like Singapore and Malaysia who have taken positive steps towards it. Singapore is the only country where all the vendors are licensed. Under the leadership of former PM Lee Kuan

²⁰ Human Rights Concerns in South Africa during the World Cup, AMNESTY INTERNATIONAL (4 Jun. 2020, 01:00 PM), <https://www.amnesty.org/en/press-releases/2010/06/human-rights-concerns-south-africa-during-world-cup/>.

²¹ Geeta Pandey, Delhi street vendors evicted before Commonwealth Games, BBC NEWS (May 20, 2020 11:12 PM), <https://www.bbc.com/news/world-south-asia-10716139>.

²² Priyanka Dasgupta, APDR requests FIFA to intervene over eviction issue, TOI (Jun 4, 2020, 22:15 PM), <https://timesofindia.indiatimes.com/city/kolkata/apdr-requests-fifa-to-intervene-over-eviction-issue/articleshow/60944274.cms>.

²³ Blantyre vendors clash with Malawi police, city council: Operation Dongosolo, NIYASA TIMES (Jun 6, 2020, 11:12 PM), <https://www.nyasatimes.com/blantyre-vendors-clash-with-malawi-police-city-council-operation-dongosolo/>.

²⁴ William A. Taylor, Contemporary Security Issues in Africa, 116 (2018).

²⁵ Michael Wines, Zimbabwe's 'Cleanup' Takes a Vast Human Toll, NY TIMES (Jun. 11, 2020, 02:11 AM), <https://www.nytimes.com/2005/06/11/world/africa/zimbabwes-cleanup-takes-a-vast-human-toll.html>.

²⁶ Bangkok's street vendors decry evictions as the authorities clean up, STRAITS TIMES (Jun02, 2020, 08:37 PM), <https://www.straitstimes.com/asia/se-asia/bangkoks-street-vendors-decry-evictions-as-the-authorities-clean-up>.

²⁷ Chidchanok Samantrakul & Sarah Orleans Reed, Bangkok's renowned street vendors march against evictions – and rally widespread support, WIEGO (Jun 07, 2020, 02:28 PM), <https://www.wiego.org/blog/bangkok%E2%80%99s-renowned-street-vendors-march-against-evictions-%E2%80%93-and-rally-widespread-support>.

RIGHT TO LIVELIHOOD FOR THE STREET FOOD VENDORS IN INDIA

Yew, Singapore created a Hawkers Department responsible for issuing licenses and making sure there are no unlicensed hawkers on the streets. The government also constructed hawker center, these installation provided for permanent facilities which satisfies the government and vendors.²⁸The hawkers department organized awareness and training campaigns to educate and regulate the hawkers on keeping the environment clean and it also does regular inspection so that the hawkers abide by the Environmental Public Health Act of 1968. These hawkers center are giving out positive results as they are promoting and conserving countries culinary traditions.²⁹

Then Malaysia is among the few countries that recognized the street vendors and formed a National Policy on Hawkers. This policy was made to tackle the socio and economic problems faced by the vendors. In 1986 the Department of Hawkers and Petty Traders (DHPT) was established to control and regulate street hawkers. The DHPT relocated the hawkers to residential and industrial areas where there are opportunities for street hawkers to earn. This allows authorities to give out more licenses and these licensed vendors can avail the benefits of institutional credits and other schemes launched by the government. The DHPT with the objective of making Kuala Lumpur a clean and beautiful city for locals and tourists, started developing and managing the street vendors by providing them with time to time support credit schemes and training courses.³⁰

It is also not that Indian government has not done anything for the street hawkers but there are some practical problems faced by the Indian Government unlike, since Singapore being a small place with controlled influx of migrants whereas Delhi which is opened from all the side makes it impossible for the government to control the migration. Moreover, due to lack of allocation of hawking in planning of Delhi, thousands of people every day in search of jobs join the already starving millions in the city. And Delhi unlike Singapore and Kuala Lumpur is not being redeveloped instead it is expanding into Non-Capital Region (NCR). So, it becomes impossible for the authorities in Delhi and even in other major cities of India to house hawkers and provide them with places and allotting them with hawking zones in the already existing crowded streets. In Delhi like Singapore adopted the system of licensing but

²⁸ Lucy Hooker, Singapore has moved all its hawkers indoors, and other big Asian cities are following suit, BBC NEWS (Mar 19, 2020, 07:10 PM), <https://www.bbc.com/news/business-51763394>.

²⁹ Claudia Squarzon, Taking the Street Out of Street Food: the Singapore Case, ETHNORERA, 37(2014).

³⁰Sharit K Bhowmik, Street Vendors in Asia: A Review, WIEGO, 2259 (2005).

instead for facilitating the hawkers it subjected the hawkers and vendors to more harassment in the hands of authorities. Licenses remain pending for years and even when government launches a scheme, it is not followed up.³¹ If those street vendors try to take benefits of those schemes that are just for authorized vendors, leaving the unauthorized vendors to suffer. Like government launched the Pradhan Mantri Street Vendor's Atmanirbhar Nidhi (SVANIDHI) Scheme to address the plight of street vendors that have faced difficulties during lockdown due to coronavirus pandemic in India by providing them with credit facility.³² This scheme is for those street vendors that are registered under the municipalities or who are authorized vendors. So, the issue of pending licenses in the municipalities will create problems for those vendors who had applied for licenses but due to delay in issuing of licenses they will be barred from availing the benefits provided by the government for the street vendors. This also suggests that those vendors who are unauthorized and forced to shut their shops during lockdown and subsequently lost their livelihood are migrating back to their native villages in huge numbers in order to survive where again they will continue to suffer but still nothing is done to address their issues. This lack of interest and attention towards the issue of unauthorized street vendors by the Indian authorities has made their living deplorable. Lessons should be learnt from the cases of Singapore and Kuala Lumpur then only the problems related to street hawkers and vendors persisting in India could be mitigated. Singapore achieved its objective of clean and green Singapore by creating awareness among the hawkers and leaving no loopholes for illegal activities.

ANALYSIS OF POLICIES AND LAWS RELATING TO STREET VENDORS IN INDIA

Article 39 (a) of the Indian Constitution directs the State to frame policies for securing the Right to adequate means of livelihood to every citizen whether men or women. Lack of such schemes, is forcing evictions of street vendors and is prohibiting them from opening their shops just because they are unauthorized, violating their rights guaranteed under the

³¹ Dr. Dendukuri Indira, A Study of Street Vending Across the Globe, IJARCSSE, 517(2014).

³² Centre's Rs 10,000 easy loan coverage to aid street vendors, TOI (Jun 2, 2020, 02:56 AM), <https://timesofindia.indiatimes.com/india/centres-rs-10000-easy-loan-coverage-to-aid-street-vendors/articleshow/76145616.cms>.

RIGHT TO LIVELIHOOD FOR THE STREET FOOD VENDORS IN INDIA

Constitution. If the authorities fail to provide unauthorized hawkers with authorization then it does not give authorities the power to stop them from opening their shops on the reasoning that they are unauthorized. The Supreme Court in Maharashtra Ekta Hawkers Union case³³ said that hawkers cannot be unreasonably restricted from their right to hawk and proper regulation should be framed to monitor and regulate street trading.

If we look into the legal provisions from where the authorities derive their power to confiscate or arrest or evict the unauthorized street hawkers, we will have to refer to Section 283 IPC that provides that if an individual causes danger or obstruction to the public then they could be punished with fine extending up to two hundred rupees. Similarly, Section 431 of Indian Penal Code provides that, if an individual does an act of mischief with the knowledge that the act could render damage to public roads, bridges and could make it impassable, then the individual can be punished with imprisonment up to five year or fine or both. Further, Section 34 (4) of the Police Act deals with those people who on any open place or street causes obstruction, put any goods for sales, inconvenience or risk shall be fined with fifty rupees or imprisonment up to eight days. These powers given in the hands of the authorities subject the unauthorized street vendors to constant abuse and harassment. Some police man daily collect money from the street hawkers and buy goods free of cost from them. If any street vendor who opposes or does not abide by the rules set by police officer, then the vendor is not allowed to operate and even in some cases put behind the bars.³⁴

After pressure from various NGOs, Civil rights groups and Supreme Court and High Courts judgments, the governments formed a task force which in 2004 formulated the National Policy on Street Vendors in Urban areas. This policy showed the intent of the government towards providing a safe and protective environment for the street vendors to exercise their right to livelihood. Along with securing the rights of street vendors this policy aimed to keep the streets and public places clean and congestion free.³⁵ This policy became the framework of the Street Vendor Act³⁶ of 2014. This Act tends to recognize the street vending activities and to plan for proper relocation of street hawkers instead of random relocations. The period

³³*Supra* note 8.

³⁴Pariroo Rattan, Street Vendors Act 2014: A Forgotten Promise?, CCS, 11(2014).

³⁵ Shalini Sinha & Sally Roeber, India's National Policy on Urban Street Vendors, WIEGO Policy Brief (Urban Policies), 1(2011).

³⁶ Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, No. 7 of 2014, Acts of Parliament (India).

between the coming of the Act and after the policy came into force i.e., 2004-2014 saw different policies by various municipal authorities and local bodies like- New Delhi Municipal Corporation (NDMC) and Bombay Municipal Corporation. These policies came after Court cases and tried to address the issue of street trading but they lacked to secure vender's property rights over their goods.

The Street Vendor Act contains many anomalies but it became a tool for vendors and many civil and legal rights organization to assert the street vendors rights. The property rights of the street vendors are always being questioned and the present legislation focus minimally on the property right issue. The legislation instead creates a minimum base for street vendors in a certain areas.³⁷ Section 4 (3) of the Act recognizes the right to relocation and right to vending spot of the vendors that if a certificate of vending is issued to a vendor then the vendor is entitled to a vending spot and if number of people are more than the spots available then they should be accommodated in the adjoining zone. Section 13 is the most important Section as it gives strength and recognizes property rights of vendors. It gives the very important right to relocation to the street vendor if they possess a vending certificate. They can assert their right to vend at any area or site provided by the local authority. Earlier several cases were observed where authorities without prior notice or warrant seized goods of the street vendors.³⁸ This issue was addressed in the present Act and Section 18 bars any eviction drives or relocation of vendors to any other places abruptly. The authorities has to give a prior notice and after the lapse of notice period Section 19 gives power to the authorities to seize the goods but due process needs to followed and seized good needs to be recorded, so that later they could be released after payment of the fine prescribed. Although scope of the property rights under the Act is minimal and it is to the extent that it protects the street vendor from any illegal eviction or confiscation of the goods of street hawkers violating their right to vend. The major positives in the Act are the right to hearing and notice given to the street vendors and it will check the unrestricted power given to the local authorities and police.

This will provide a sense of security to the street vendors from the local bodies and authorities. The Act provides for constitution of the Town Vending Committee (TVC) under Section 22, where a person who wants to sell its goods on the street and is above 14 years of

³⁷ Amit Chandra & Rajul Jain, Property Rights of Street Vendors, CCS, 20(2015).

³⁸ Sidharth Ravi, Street vendors demand stay on evictions, THE HINDU (Jun03, 2020, 01:29 AM), <https://www.thehindu.com/news/cities/Delhi/street-vendors-demand-stay-on-evictions/article29957288.ece>.

RIGHT TO LIVELIHOOD FOR THE STREET FOOD VENDORS IN INDIA

age can register themselves with the TVC. The TVC has 10% representation of members of NGOs, civil societies and community groups and most importantly 40% of the TVC constitutes of street vendors. Now this 40% requires voting to be held but the issue is who votes for the representation as there is no official record of the street vendors.³⁹ This is a major constitutional anomaly in the Act.

This Act passed by the parliament gave a ray of hope to the street vendors but many States and UTs never adopted the Act in its original form. The reason cited for not adopting the Act was that under item 5 of the State list the local governments and municipal corporations coming under the jurisdiction of Parliaments is highly questionable. While Article 249, Article 250 and Article 252 of the Indian Constitution empower the Parliament to make laws on the issues mentioned in the state list or when two or more States request the Parliament to make laws for them or if Parliament feels that the particular matter in hand is important for implementing international treaty. It clearly suggests that to make laws on the issue of State lists a legislative intent is required.

One of the main reasons for the Street Vendor Act not being able to fulfill its objectives is that most of the street vendors are unaware about the Act. The only grievance redressal mechanism they knew about is the Pradhan or market head. The street vendors are unaware about the rights given to them under the law and this leads to their rights being violated by the authorities.⁴⁰ Organization like National Association of Street Vendors of India (NASVI), Self-Employment Women's Association (SEWA) and WIEGO are constantly working towards spreading awareness about the plight of the poor workers involved in the informal sectors. So, the government needs to pay more attention to the issues of the unauthorized street vendors so that they are able to exercise their right to hawk.

It will be unfair even not to include States governments and their success stories in addressing the issues of street vendor. The most unique example is that of Bhubaneswar (Odisha) which in collaboration with community, public and private organization created vending zones or markets. Vending zones were created in markets as well as in the prime locations too. These new vending markets improved the business of the street vendors and

³⁹ Mohammad Ali, Street vendors find shortcomings in Bill, THE HINDU (Jun 02, 2020, 12:36 AM), <https://www.thehindu.com/news/cities/Delhi/street-vendors-find-shortcomings-in-bill/article4066639.ece>.

⁴⁰ Shivkrit Rai & Deepanshu Mohan, Gaps in Implementation of Street Vendors Act Are Making Delhi's Merchants Invisible, THE WIRE (Jun 01, 2020, 10:54 AM), <https://thewire.in/economy/street-vendors-act-implementation-gaps>.

due to legality there was no fear of irrational eviction and the money earned by the vendors no longer went into bribing the authorities.⁴¹ This exemplary case of Bhubaneswar attracted attention of the other municipal bodies like Kolkata Municipal Corporation (KMC), Patna and Guwahati and they have now following the footsteps of Bhubaneswar and identifying vending zones in their areas.

CONCLUSION AND SUGGESTIONS

Street vending is an integral part of informal economy. As there will be rapid increase in population in India, rate of unemployment will rise rapidly forcing more and more individuals to come into informal sector to earn their living. The street vending is no longer a temporary phenomenon instead it has a growing share in the economy of the developing as well as developed countries.⁴² Street vendors or hawkers be it in New Delhi, Mumbai, Singapore, New York, London or Johannesburg, their numbers are rising constantly. In the developing countries people depend upon these street shops for basic goods because they are economical, cheap and easily available. This sector has a significant job and income generating potential and as more and more people are opting for it, authorities around the globe including India, need to address their issues.

The Street Vendor Act, 2014 in India came as a ray of hope but it has its fair share of flaws. The TVC constituted under this Act, as observed in most of the cases, is taking a lot of time in issuing the certificates which leads to more harassment of street vendors or hawkers under the hands of authorities. Further, the Covid-19 Pandemic lockdown has recently forced them to re-migrate back to their native places.⁴³ Since India has started lifting lockdown all over the country this is perhaps the perfect time to pay attention to the issue of street trading because coronavirus is still present and there is a lack of social distancing and hygiene in these street side markets due to lack of space. The Covid-19 as alleged originated from the unauthorized food markets in one of the provinces of China and Ebola was also alleged to

⁴¹ S T Beuria, Vending turns a green and beautiful affair, DECCAN HERALD (Jun 03, 2020, 12:36 PM), <https://www.deccanherald.com/content/231859/vending-turns-green-affair.html>.

⁴² Ashima Sood, Street Vendors in the Global Urban Economy, Eco & Pol Weekly, 70(2011).

⁴³ PTI, Lockdown 2.0: Money and jobs gone, stranded migrants desperate to return home, ECO TIMES (May 15, 2020, 03:58 PM), <https://economictimes.indiatimes.com/news/politics-and-nation/lockdown-2-0-money-and-jobs-gone-stranded-migrants-desperate-to-return-home/articleshow/75158272.cms?from=mdr>.

RIGHT TO LIVELIHOOD FOR THE STREET FOOD VENDORS IN INDIA

have originated from unauthorized food markets of Congo.⁴⁴ These instances show that why efficient regulation of Street vendors is so necessary especially when India has reached the phase of community spreading of corona virus in most of the major cities.

Thus, after learning the issues and the legal mechanisms related to street vendors, it is essential to have a better organization of such street vendors across the country. Further, its poverty and lack of empowerment that results in the increase of such instances. So, it is required that the economic policies are framed considering the needs and demands of the street vendors. India, is moving towards building 100 smart cities, for which it can be expected that a large section of the unauthorized street vendors might have to lose their livelihood opportunities in the name of maintaining the smartness of the cities. But such smartness will be proved not by evicting the street vendors for cleaning the cities rather it will be highlighted with the efforts to be made for addressing their concerns. Licensing 10 million street vendors will not be that easily possible especially when most of such vendors are illiterate. It is therefore essential to provide special zones with initial awareness campaigns for regulating such huge amount of daily increasing unauthorized street vendors. Further, looking at the current situation, it is even expected that Covid-19 might take the human society to a separate dimension where continuous reformations will become the order of the day. But such reformations will also have to take into consideration the right of the street vendors to have a decent livelihood.

⁴⁴ Ebola (Ebola Virus Disease), CDCP (Jun05, 2020, 01:12 AM), <https://www.cdc.gov/vhf/ebola/about.html>.