



Documenting Practices of Small Stalls in malls

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TABLE OF CONTENTS

1. ABSTRACT	3
2. INTRODUCTION	3
3. METHODOLOGY.....	6
4.HISTORY	6
5. THE STREET VENDORS ACT OF 2014.....	8
6. STREET VENDORS- PRIMARY RESEARCH	9
7. VENDING ZONES.....	10
7. 1 Definition	10
7.2 Bhubneshwar Case Study.....	10
8. THE MALL MODEL.....	11
8.1 Why the mall model	11
8.2 Overview.....	11
8.3 Contract Length	12
8.4 Renewal and Termination Procedure	12
8.5 Spatial Agreements.....	12
8.6 Rent	12
9. Recommended Model.....	13
9.1 The model	13
9.2 The problems that it addresses	13
10. Conclusion	13
REFERENCES.....	14
APPENDIX.....	15

1. ABSTRACT

This paper recommends a new model to replace the existing model of street vending using that of the small stalls/ kiosks in malls as an inspiration. It attempts to identify the aspects of the mall model that can be used to improve the implementation of the Street Vendors Act 2014 (referred to as SVA 2014 from here on). We started off by reading literature pertaining to the SVA 2014 with an emphasis on finding the problems that the vendors faced before the introduction of the act and how the act tries to address them. We read the Act in order to find potential problems and loopholes in it. The next step involved interviewing street vendors about whether the Act has been effective, which aspects they feel need to be improved and what introductions they would like to the act. We then read up about the mall model. We interviewed kiosk owners and mall management about the different aspects of the relationship that are regulated by the contract agreements between the two. Based on this the paper makes a recommendation that involves privatisation of the vending zones.

2. INTRODUCTION

2 % (According to Twenty Third Report, Standing Committee on Urban Development 2012-13) of India's population depends on street vending as a source of livelihood. As defined by the SVA 2014 a street vendor is "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." (The Gazette of India 2014)

Considered a part of the informal sector, street vendors have got minimal policy protection from concerned authorities in the cities. On a national level there have been policies in 2004, 2009 and then most recently the 2014 Street Vendors Act but these are on the concurrent list and are left up to local authorities to implement.

Unfortunately, the street vendors are thought of as a nuisance by the urban planners. They feel there is no place for them in the modern day cities and that they ruin its beauty. As a result of this condescending thinking vendors suffer from a lot of harassment ranging from eviction on the basis of health , traffic violations or public inconvenience to confiscation of carts. The Street Vendors Act attempts to fix that. It's aim as stated in the act is- "to protect the rights of urban street vendors and to regulate street vending activities and for matters connected therewith or incidental thereto." (Nita Mathur, 2014) The act attempts to regulate the working of the vendors. It calls for their licensing and the onus of this is on the local authorities specifically the Town Vending Committees (TVCs). The TVCs are supposed to conduct surveys and licence every vendor in their jurisdiction. The bill is very progressive and delivers on most of its promises in principle.

But the ground reality is very different. As usual government policies look great on paper but take a beating when it comes to the implementation phase. The table (Shalini Sinha and Sally Roeber 2011) above shows how even the policy passed in 2004 - The National Policy on Urban Street Vendors - has still not been implemented in its entirety.

Only Madhya Pradesh is close to complete in its implementation and a major reason for it is the major presence of National Association of Street Vendors in India (hereafter NASVI). So with this in mind it could be a long time before the act of 2014 is implemented.

The existing papers and literature tend to recommend ways by which to improve the model within the current framework, they tend to recommend more models and policies that the government should try. This paper looks to break the mould and recommend a system completely away from the current model in order to- (i) promote efficiency; (ii) have a clean system; (iii) ensure better treatment of vendors. The paper explores the possibility of private outsourcing of the vending zones, whose creation is recommended in the SVA 2014, with the mall-kiosk model as an inspiration. The paper therefore attempts to answer the question- What aspects of the mall/ non-traditional retail model can be used to better implement the SVA 2014.

	Policy Adopted at the State Level	State Level Vendors Survey	City Level Vending Zones Defined	Membership-based Organizations' (MBOs) Activities	State Level Vendor Federation/ Alliances
Madhya Pradesh	2005	Complete in almost all cities	1400 vending zones defined in major cities; 90,000 street vendors with identity cards	Strong but confined to a few cities	Strong vendors' organizations in some cities; a strong NASVI presence at the state level
Andhra Pradesh	2007	Complete in some cities, but policy excludes stationary vendors	Defined in very few cities	Several activities since 2005: post-card campaigns, city-wise mobilization, petitions	Strong but fragmented organizing by vendors
Uttar Pradesh	2007	Complete in some cities	Registration and identity cards issued in several cities; vending zones defined	Very active: yearly state-level meetings; letters and petitions to government; litigation	Not a registered federation but a strong state network, under the umbrella of NASVI
Rajasthan	2008	Very weak implementation, complete in a few cities	Pending	State level meetings since 2007; protest marches and campaigns, but less active now	No alliance at the state level, but strong NASVI presence
Maharashtra	2009	Complete in some cities	Defined in very few cities	Very active: multiple demonstrations and petitioning at highest level; judicial action	Strong vendors' federation advocating for policy
West Bengal	2010	Survey started	Pending	Active at the city (Calcutta) level: protest marches, drawing media attention to the plight of vendors	Strong organizing at the city level
Kerala	2011	Pending	Pending	Strong, but confined to a few cities	Strong NASVI linkages with the trade union wings of the left political parties

My hypothesis is that the rent structure, the safety standards, health and hygiene standards

as well as space allocation methods can be the aspects of the mall model that can be used to better implement SVA 2014. Though the exact nature of these terms will be need to be modified in order to match the smaller nature of the setup, the basic principles are still applicable.

3. METHODOLOGY

The first step involved reading literature pertaining to the situation of street vendors in India. Through this We intended to find the problems that they faced before the introduction of the Street Vendors Act. We also wanted to then put the Act in context and see what problems it was trying to address. A further analysis is done to see whether or not the terms of the act address the problems in principle. Based on this We found ineffective parts and potential additions to the act.

We chose to do primary research because We needed to know the ground realities. For information on the situation of the vendors, their opinions on the bill and their expectations from the government We went out to Sarojini Nagar and Connaught Place to interview vendors. These two locations gave me a wide variety of vendors- from food vendors to clothes vendors to handicrafts. This gave me a varied perspective and showed me the differing needs of different vendors. We asked the vendors about problems they face regularly, whether the act has been able to change the situation, the problem with licensing and more. (Questionnaire in the Appendix)

The next step was a literature review of the limited articles on the mall kiosk models. We found a few international contracts and regulations which have helped me narrow down on a few aspects that can be replicated in the recommended model.

Next, We visited a few malls in Delhi-NCR- Select Citywalk, Saket and DLF Promenade, Vasant Kunj and spoke to kiosk owners and mall management to get some more qualitative data. The two malls cater to different shoppers and We were able to get different perspectives as there were more reputable and expensive brands in one compared to the other. The intention was to understand the system, its merits and demerits as well as the various mechanisms in place to ensure that it works efficiently and the setup of the system. (Questionnaire in the Appendix)

Based on this We were able to ascertain whether or not certain aspects of the mall model are able to address the problems that street vendors face and if it was a suitable model to use as an inspiration.

4. HISTORY

In the early eighties the Bombay Hawkers Union filed a case against the Bombay Municipal Corporation due to the demolitions that had taken place at the time. The Supreme Court ruled that as long as it abided by the laws street vendors should be constitutionally protected. It directed the BMC to form regulations that fulfilled the above.

The Citizens' Forum for the Protection of Public Spaces (now Citispace) then took the BMC to court for its failure to do what it was told to in 1980. The High Court ruled in favour of Citispace in 2003. The act from the court mentioned specifics for vending such as- no cooking on the street and no vending within 150 metres of train stations, schools and hospitals. The act mandated the creation of a three member committee that would intern decide vending and non vending zones.

Following this the BMC collected fines from vendors for unauthorised vending and gave them receipts for it which the vendors considered as claims to the space they occupied. This was a result of their inability to get licenses.

This practice was then banned by the High Court. Meanwhile the Tata Institute of Social Sciences and Youth for Unity and Voluntary Action revealed the harsh realities through a survey where it was found that rupees 400 crores was earned annually by the authorities through bribes from vendors and hawkers.

The three member committee couldn't agree on the hawking and non hawking zones as a result of hawking unions and citizen group clashes. Signs of no hawking zones started coming up before a list was made and the hawkers couldn't do much about it. (Anjaria 2014)

The main problem throughout history has been a disparity between the rulings and acts and the actions of local authorities. For instance, in the 1989 judgement of Sodhan Singh vs NDMC, made it clear that "if properly regulated according to the exigency of the circumstances, the small traders on the sidewalks can considerably add to the comfort and convenience of the general public, by making available ordinary articles of everyday use for a comparatively lesser price. An ordinary person, not very affluent, while hurrying towards his home after a day's work can pick up these articles without going out of his way to find a regular market. The right to carry on trade or business mentioned in Article 19(1)g of the Constitution, on street pavements, if properly regulated cannot be denied on the ground that the streets are meant exclusively for passing or re-passing and no other use." (Sodhan Singh versus NDMC, 1989).

Contrarily in 2008 the Supreme Court ruled that 'unauthorised' vendors be driven out of the street because they violated the "fundamental rights of the citizens" by squatting on footpaths and roads meant for the benefit of ordinary people living in those localities. (Abhigna)

5. THE STREET VENDORS ACT OF 2014

The aim of the SVA 2014 is stated in the Act is ‘to protect the rights of urban street vendors and to regulate street vending activities and for matters connected therewith or incidental thereto.’

The main provisions of the Act are listed below-

- A Town Vending Committee (TVC) will be set up in each zone or ward of the local authority.
- Town Vending Committees will have to survey and license all vendors in its jurisdiction every five years.
- No street vendor will be evicted until such survey has been made and a certificate of vending has been issued.
- The certificate may be cancelled or a fine can be charged if the vendor breaches the conditions of the certificate.
- A vendor who vends without a certificate may be penalised with a fine which may extend up to two thousand rupees.

- All street vendors above fourteen years of age will be granted a certificate of vending. However, such certificates will be granted only if the person gives an undertaking that
 - A. he will carry out his business by himself or through the help of his family members,
 - B. that he has no other means of livelihood
 - C. and that he will not transfer the certificate other than in a circumstance where the vendor dies or suffers a permanent disability in which case he can transfer it to a family member

- All street vendors will be accommodated in a designated vending zone.
- In case, all the vendors cannot be accommodated in the same vending zone, allocation of space will be made by drawing of lots.
- Those who fail to get space in the same vending zone, will be accommodated in adjoining vending zones.

- No vendor will be allowed to carry out vending activities in no-vending zones.
- In case of declaration of a specified area as a no-vending zone, the vendors will be relocated to another area. However, such street vendors must be given a notice of at least 30 days for relocation.
- Vendors who fail to vacate such space after a notice has been given, will have to pay a penalty which may extend up to two hundred fifty rupees per day.
- The local authority may physically remove the vendor and make seizure of goods of such vendors who have not relocated to the vending zones.
- There shall be a dispute resolution body consisting of a Chairperson who has been a civil judge or a judicial magistrate and two other professionals as prescribed by the appropriate government. (The Gazette of India, 2014)

6. STREET VENDORS- PRIMARY RESEARCH

Street vending is usually correlated with low and insecure income. A lot of people assume that it is illegal encroachment of public property and consider it a chaos and a nuisance. They are often evicted with the excuse of traffic jams, health hazards, public inconvenience and encroachment. Often a street vendor's income is limited by the natural forces, seizure of goods and insecurity of losing the space for vending (Kumar and Singh 2009).

One of the main problems faced by the vendors is rent seeking. In 1998 it was recorded that hawkers and rickshaw pullers in Delhi payed 50 crores of bribe annually (Bhomvik and Saha 2012). They are extorted by all the local authorities and more. They have to pay daily bribes to the cops to have a constant place in the markets. These bribes range from 50-1000 rupees per day. If they do not pay they are harassed. They are chased away from their location, their carts are confiscated and they are charged 5-6 times the monetary value of the cart and its products to get it back, those with certificates are also harassed, the cops find some or the other mistake in the certificate and get a bribe.

They are harassed by the MCD. When they go to get a certificate they are made to take rounds of various government offices as a result of which they miss out on the days pay. They have to bribe various officials before they can get a certificate. They are subject to MCD raids every once in while which again leads to their products getting confiscated.

The ones without the certificate also have to pay rent to the shopkeepers across whom they set up shop because the shopkeepers threaten them by saying that they will report to the police. (Interview with Manoj Kumar, Sarojini Nagar)

Another problem that they face is that urban developers, who hold the vendors fate in their hands, look at them as a nuisance. They feel they are the cause of traffic, health hazards, public inconveniences etc. The vendors are not a part of their vision of a modern city. As a result they take a very condescending view of street vendors and take every opportunity at hand to eliminate them.

7. VENDING ZONES

7.1 Definition

Vending zones are specific areas in the city that are earmarked for street vendors and hawkers. This provision gives them the opportunity to create a natural market of their own. The vending zones should be created keeping traffic, footfall, environment, space available etc.

7.2 Bhubneshwar Case Study

Advantages of Vending zones

In totality all the vendors seemed happy with the creation of vending zones and various indicators were judged to see whether they were justified.

1. The number of customers that visited. Around 67% of the respondent reported an increase in customer after the implementation of vending zone. While 20% reported no change and remaining 13% admitted of having lost the consumer base. The reasons for the above observation were vivid. After upcoming of the vending zone the markets have become more organised and beautiful. More and more people prefer to buy from the vendors due to its easy location and accessibility. The faiths of customers have been reinforced as there is no fear of eloping of vendors after duping them. Those vendors who reported to have lost the consumer base were the dislocated ones or were recently sanctioned. These are some specific cases where due to rehabilitation in new places the customer's number has dwindled. For e.g. flower shops at Ram Mandir Vending zone reports loss of customer. Earlier they were squatting right in front of the temple, but now it's around 500 meter away. Although the vendors were optimist about regaining the customers as the flower vendors are in plenty here and customer will have good options to buy from.
2. The change in sales and profitability. Nearly 61% of the vendors have reported to have increased the sales. 27% admitted of having no change while 12% have seen a decline in the sales.
3. Change in stocks kept. The stock of the goods kept by vendors presented an interesting phenomenon. Almost 84% of the vendors admitted to have increased the quantity of goods for sales. Around 6% have reported of keeping the same quantities of goods as before and remaining 10% of the vendors keep goods worth lesser than they use to keep before the upcoming of vending zone. The women vendors are perhaps the best beneficiary of this trend. Earlier transportation and storage was a major problem. It was like coming early in the morning with the goods and leaving late in evening with all the unsold items. Keeping smaller quantity goods at peak seasons of sales limited the profitability of the

vendors. Also the fear of seizure by B.M.C was a major factor which deters them to keep high quality goods in enough amounts. Now having a permanent iron structure with proper locking facility, natural forces disturbing their business is a story of past. The issue of carrying back and forth or seizure of goods is no more a cause of concern. Those who reported to have decreased the stocks had problem of space in new model shops. As different sizes of the shops were constructed depending on the space availability some of the vending zones have somewhat smaller space. Nonetheless many of the vendors who reported to keep lower stocks admitted of increase in sales. (Kumar and Singh 2009)

Problems in Creation

But there are problems that have been found in the creation of vending zones.

1. The availability of land. The land disbursed for vending zone belongs to G.A Department. It took several rounds of negotiations and advocacy for getting the land sanctioned from G.A Department for vending zone. On several occasions it would be declared that there is no land available for street vending.
2. The existence of political and vested interests. Once the vending zones were sanctioned then a few Councillors of B.M.C desired to give away the shops to non vendors. When it was opposed by vendors, they blocked the construction of vending zone even after allotment of the space. The vendor's organisation tackled this issue and at the end councillors had to oblige for giving a green signal for construction. The bribe and ransom money generated was a substantial amount so it met an opposition of the local thugs and some officials too. (Kumar and Singh 2009)

8. THE MALL MODEL

8.1 Why the mall model

The mall and kiosk system is very similar to the local authorities and vendor relationship but on a larger scale. The model has been extremely successful in malls across New Delhi, so it may make sense to look into this model to see what makes it so successful and why both parties are able to function so smoothly.

8.2 Overview

The mall model works on licenses, the mall management gives licenses to those kiosks that they'd like to have in their malls. The kiosks are usually promotional or seasonal. The intention behind introducing to kiosks is to give a different experience, provide some quirky products, give people a chance to test the waters and owners with a small inventory to showcase their goods in an affordable manner all while earning a quick buck. The mall expects health and hygiene certification for the kiosk from bodies authorised by the malls themselves. All kiosks are meant to have lighting for security purposes and the mall maintains the surrounding areas.

8.3 Contract Length

Since kiosks are mostly promotional i.e. promoting an upcoming store or event, or seasonal i.e. selling goods used at a specific time of the year for e.g. candles during diwali, contracts are usual short term. They range from anywhere between a month and seven-eight months.

8.4 Renewal and Termination Procedure

The mall managements usually prefer not to renew contracts as they like to maintain a freshness about the place. But those that do renew do so only on the basis of how profitable the kiosk has been for them.

Termination can occur in case of a health or safety violation or if there is a contractual dispute between management and kiosk owners

8.5 Spatial Agreements

The spatial agreements are usually dictate by the party with more bargaining power. A mall that is doing well will just assign the space they feel is best for the kiosk. It will take into account the popularity or potential popularity of the kiosk and accordingly assign an area with a low or high footfall. The management will look at the inventory of the kiosk and either assign a small or large space.

Alternatively if the kiosk owner has more bargaining power than the management he or she will choose the location and size of the kiosk based on what allows him to maximise profits.

8.6 Rent

There are various practices that are followed for rent. One of them is that a fixed rent is set in the contract based on the type of good being sold, the amount of space being used, electricity and water consumption etc.

Second is when there is a fixed rent as well as a set percentage of the remuneration that is payed to the mall. Some malls prefer just to have a percentage of the remuneration and do not charge rent.

9. Recommended Model

9.1 The model

Based on the knowledge collected, this paper recommends a model where the TVCs privately outsource the vending zones and their running.

The vending zones should be created by the TVCs and then auctioned to private parties. The zones left over can be run by the TVC themselves.

The private parties in charge can take responsibility of surveying and providing information to the TVCs for licensing. The owners of the zones can have their own policies governing the zones and try to attract vendors using pension schemes, attractive spatial allocations and rents. Rent can be either fixed or dynamic or a percentage of the remunerations. The TVCs will make policies that will govern all the zones that they run and also act as a grievance redressal mechanism with the model committee as the higher authority.

The private owners can set health, security and hygiene standards which can be certified by an independent body chosen by the private owners.

9.2 The problems that it addresses

The problems in terms of creation of vending zones will be taken care of. Political vested interests will be overpowered by the private sectors profit drive as well as the increased competition. Over and above this there is a grievance redressal mechanism which i.e. the TVC which ensures that the zones are not driven by vested interests. The availability of land though is a pressing concern and one possible solution could be to incorporate street vendors without a vending zone into local markets.

The fact the private sector has entered the market will make it more efficient because they have profit as an incentive. So the more efficient the system the more profit they can make. They will cut out the exploitation of the local authorities and police by taking complete control of the running of the vending zones.

The vendors will now have the power of choice rather than the local authorities. They will be able to choose the vending zone that is the most attractive for them in terms of the policies. This will make it necessary for the private parties to cater to the vendors and make their zones as vendor friendly as possible. If the TVCs continue to exploit the vendors in the unsold zones the vendors will at least have the option to move to another zone. So competition from the private sector will force the TVCs to perform or perish.

Through a system like this the vendors will be able to have a sustained and consistent livelihood.

10. Conclusion

The recommended model seems feasible but it is not possible to predict accurately. But it ensures competition for the TVCs which should ensure them becoming more efficient. The model will also empower the vendors more and give them the choice of vending zones. There are certain areas though that will need to be looked into further such as the effective creation of vending zones, the allocation of space within the vending zones, the ways to attract the private sector as they are often reluctant to deal with the government and how vendors will be convinced about the system.

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APPENDIX

Questionnaire for Street Vendors

- What problems do you face on a daily basis?
- Do you have problems dealing with the MCD and police?
- Has the situation changed over the last few months?
- Have you had to get new licenses recently?
 - Yes
 - Was it difficult to get the licenses
 - No
 - Why haven't you gone to get the licenses?
- Do you feel the government is receptive to your needs?
- What improvements and changes would you like?

Questionnaire for mall management and kiosk owners

Mall management

- *What was the intention behind introducing these stalls?*
- *do you think people visit specifically for the kiosks?*
- *What is the duration of the contracts? What is the procedure of contract renewal and on what basis?*
- *what are the spatial agreements*
 - *what size kiosks are available*
 - *do the stalls have permission to move about or do you have special locations for them.*
 - *on what basis do you decide the location*
- *What regulations govern the operation of these kiosks?*
- *Rent structure- fixed or dynamic*
- *What hygiene standards and expectations do you have for the stalls and kiosks that deal in food products?*

Mall kiosk owners

- *Why have you set up your store here?*
- *do you also have a retail outlet?*
- *is it better than the retail outlet in any way*
- *rental agreements*
- *regulations*
 - *any regulations that they find oppressive*
 - *Which of them are easier to comply with and which are difficult to comply with?*
- *customer response*
- *interaction with mall management*
 - *approach and accessibility*
 - *grievance redressal*
 - *contract termination and extension*