

23

**STANDING COMMITTEE ON URBAN DEVELOPMENT
(2012-2013)**

FIFTEENTH LOK SABHA

MINISTRY OF HOUSING AND URBAN POVERTY ALLEVIATION

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

TWENTY THIRD REPORT



LOK SABHA SECRETARIAT

NEW DELHI

March, 2013/ Phalgun, 1934 Saka

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REGULATION OF STREET VENDING) BILL, 2012.**

Presented to Lok Sabha on 13.3.2013

Laid in Rajya Sabha on 13.3.2013



**LOK SABHA SECRETARIAT
NEW DELHI**

March, 2013/ Phalguna, 1934(Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON
URBAN DEVELOPMENT (2012-2013)

Shri Sharad Yadav - Chairman

MEMBERS

LOK SABHA

2. Shri Praveen Singh Aron
3. Shri Jayawant Gangaram Awale
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28. Shri Ajay Sancheti
29. Shri Amar Singh
30. Shri Khekiho Zhimomi
- *31. Dr. M.S. Gill

* Dr. M.S. Gill has been nominated w.e.f. 27 December, 2012.

** Dr. Prasanna Kumar Patsani resigned w.e.f. 9 January 2013.

Shri Shashi Bhushan Behera ceased to be Member of the Committee w.e.f. 12th February, 2013.

SECRETARIAT

- | | | | |
|----|-------------------------|---|---------------------|
| 1. | Shri R.K. Jain | - | Joint Secretary |
| 2. | Shri D.S Malha | - | Director |
| 3. | Smt. J.M. Sinha | - | Deputy Secretary |
| 4. | Smt. Rangamani N. | - | Under Secretary |
| 5. | Shri Sumit Kumar Grover | - | Executive Assistant |

INTRODUCTION

I, the Chairman, Standing Committee on Urban Development having been authorized by the Committee to submit the report on their behalf, present this 23rd Report (Fifteenth Lok Sabha) on "The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012" pertaining to the Ministry of Housing and Urban Poverty Alleviation.

2. The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012 introduced in Lok Sabha on 6th September, 2012 was referred to this Committee on 10th September, 2012 for examination and Report thereon, by the Speaker Lok Sabha under Rule 331 E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee obtained written information on various provisions contained in the aforesaid Bill from the Ministry of Housing and Urban Poverty Alleviation. Written Memoranda on the provisions of the Bill were received from various NGOs/Organizations working for street vendors.

4. The Committee had the briefing of the representatives of the Ministry of Housing and Urban Poverty Alleviation on the Bill on 6th November, 2012 and oral evidence on 28th December, 2012.

5. At the sitting held on 17th December, 2012, the Committee heard the views of the representatives of National Association of Street Vendors of India (NASVI), Self Employed Women's Association (SEWA) and Centre for Equity Studies.

6. The Committee considered and adopted the draft Report at their sitting held on 5th March, 2013.

7. The Committee express their thanks to the officials of the Ministry of Housing and Urban Poverty Alleviation for placing before them the material and information desired from time to time in connection with examination of the Bill. The Committee would also thank all the NGOs for their valuable suggestions on the Bill.

8. For facility of reference, the observations/recommendations of the Committee have been printed in bold in the body of the Report.

New Delhi;
5th March, 2013
14 Phalgun, 1934 (Saka)

SHARAD YADAV
Chairman
Standing Committee on Urban Development

Report on 'The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012'

CHAPTER – I

Background

The problem of unemployment continues to persist in the country despite concerted efforts being made by the Government for generating employment through various schemes. The immigration of people from rural to urban areas further adds to this problem in urban areas. Undoubtedly self-employment generated by poor populace in cities and towns provides an opportunity to earn livelihood to those who are unable to get regular jobs in the remunerative formal sectors on account of their low level of education and skills. These street vendors form a very important segment of the unorganized sector in the country besides contributing towards urban poverty alleviation as a source of self-employment without major Government initiative. Street vending also provides affordable as well as convenient services to a majority of the urban population. As per National Commission for Enterprises in the Unorganized Sectors(NCECUS) report based on 55th round of NSSO(1999-2000) the estimated number of street vendors in urban areas was in the range of 17 to 25 lakhs. According to National Policy on Urban Street Vendors, 2009, street vendors are estimated to be about 2 percent of the population in several cities and Women constitute a large segment of these street vendors in almost every city. Given the pace of urbanization and the opportunities presented through the development of urban areas, the growth of street vendors population is likely to have an upward trend. It, therefore, becomes imperative that these vendors are enabled to pursue their livelihood in a congenial and harassment free atmosphere. However, street vendors are subjected to many difficulties which have been enumerated by the Ministry of Urban Development as given below:

- (i) Lack of recognition as part of formal system in town planning and municipal policies;
- (ii) Continuous harassment by police and civic authorities in the absence of legal protection;
- (iii) According to study of NCECUS, the average daily income of street vendors is around Rs. 70 in most cities except in Patna. Women earn considerably less

i.e. Rs.40 per day. The monetary problem is compounded by the fact that the vendors have scarce resources. For their trade they are to obtain credit by borrowing. Most of the street vendors are borrowing from money lenders who charge exorbitant interest rate as there is lack of institutional credit flow.

- (iv) Public authorities often regard street vendors as a nuisance and as encroachers of sidewalks and pavements and do not appreciate the valuable services they render to the common man. However, Hon'ble Supreme Court has ruled in *Sodan Singh & others versus NDMC* in the year 1989, as under:

"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) 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"

1.2 In order to facilitate the street vending without being put to much hardship and harassment by civic bodies and police, Government came out with a National Policy on Urban Street Vending in the year 2004 for regulating the street vending which was revised in the year 2009. This revised policy aims at securing the rights of the citizens to have adequate means of livelihood as enshrined in Articles 14, 19(1)(g), 38(2), 39(a), 39(b) and 41 of the Constitution and fostering a congenial environment for the urban street vendors to carry out their activities without harassment from any quarter. It also aims at providing a mechanism for regulation of street vending activities to avoid congestion on sidewalks and to ensure free flow of traffic on roads by a legislative framework to enable street vendors to pursue an honest living without harassment. Accordingly, a model Street Vendors (Protection of livelihood and Regulation of Street Vending) Bill, 2009 was prepared by the Government of India and the same was also approved by the Union Cabinet on 23rd February, 2009 it was also circulated to all States for eliciting opinion while legislating on the subject.

1.3 The Prime Minister addressed the Chief Ministers of States for effective action to implement the National Policy on Urban Street Vendors and for preparing Model Bill, by

restructuring master plan laws, earmarking 'vending zones', 'restricting vending zones' and 'no vending zones' in Master/Zonal/Local plans and ensuring convergent delivery of schemes for the benefit of urban street vendors. Minister for Housing & Urban Poverty Alleviation also addressed the State Chief Ministers in the matter from time to time – especially for the enactment of law on street vending on the lines of the Model Bill and in the spirit of recent judgment of Hon'ble Supreme Court mentioned in para 1(iv) above.

1.4 So far only 5 States namely Jharkhand, Arunachal Pradesh, Mizoram, Madhya Pradesh and Rajasthan have enacted their State legislations. State of Chhattisgarh has made Bye-laws under Municipal Act. Few other States are stated to be working on the legislation but the progress is slow.

1.5 Despite the wide proliferation of the trades included in street vending, and its increasing acceptability in the social and economic fabric, there are very few proactive policy measures taken by States and Urban Local Bodies to protect the street vendors from the undue harassment from various quarters. Under the National Policy on Urban Street Vendors 2009, States are responsible for creating a conducive framework for street vending through legislation as well as through implementation of the National Policy. However, a Central law on street vending is considered essential for giving a national recognition to the contribution of street vendors and to ensure uniformity in the legal framework for street vending across States.

1.6 At the same time, the Ministry had been receiving continuous representations from the individual street vendors and their organizations and civil society to bring a Central legislation which would be uniformity and mandatorily applicable to all the States and UTs. The Ministry of Housing and Urban Poverty Alleviation took up the matter with the Ministry of Law & Justice for legislative competency of the Government of India for Central legislation on urban street vending and as per their advice, the proposed legislation may be covered under entries 20, 23 to 24 of List III of the Constitution, if the pith and substance of the proposed legislation is such.

1.7 Learned Attorney General had also supported the opinion given by the Ministry of Law & Justice on the legislative competency of the Government of India on the subject.

1.8 Following the opinion of Ministry of Law & Justice and learned Attorney General, the Ministry of Housing and Urban Poverty Alleviation drafted, 'The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012, in consultation with Legislative Department, Ministry of Law & Justice. National and Regional level consultations were also organized on the subject of implementation of the National Policy on urban street vendors and legislative framework for street vending. The draft Bill was circulated to States/UTs for comments. It was also discussed and deliberated during a national consultation of Housing/Urban Development Ministers of States and UTs on 28th April, 2012, which was attended by 22 States, and received wide acceptance and support.

1.9 Based on the opinion/views of Central Ministries/ Departments, States and other stake holders, the draft 'Street Vendors(Protection of Livelihood and Regulation of Street Vending) Bill, 2012 was finalized in consultation with the Legislative Department. The Union Cabinet in its meeting held on 17th August, 2012 approved the proposal of the Ministry for the said enactment. After obtaining the approval of President of India, the Bill was introduced in the Lok Sabha on 6th September, 2012 and referred to the Standing Committee on Urban Development by the Speaker, Lok Sabha on 10th September, 2012 for examination and report under rule 331 E(b) of the Rules of Procedure and Conduct of Business in Lok Sabha.

1.10 The proposed Bill is aimed at protecting the livelihood right and social security of street vendors and regulating of urban street vending in the country and ensuring uniformity in the legal framework for street vending across States and Union Territories and it inter alia seeks to provide for the following:

- (a) compulsory registration of every person intending to carry out street vending activities;
- (b) issue of certificate of vending by the Town Vending Committee(TVC) and identity cards to street vendors;
- (c) Appeal from decision of Town Vending Committee
- (d) rights and obligations of street vendors;
- (e) Procedure for relocation, eviction and confiscation of goods
- (f) redressal of grievances and resolution of disputes of street vendors;

- (g) making of a plan for street vending once in every five years;
- (h) framing of a scheme relating to street vending by the appropriate Government;
- (i) Natural Market to be guiding principle for determining vending zones.
- (j) constitution of Town Vending Committee in each local authority with minimum forty per cent. representation of street vendors, out of which one third shall be women vendors and reasonable representation of the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, minorities and persons with disabilities;
- (k) certain duties of the local authority;
- (l) promotional measures for making available credit, insurance and other welfare schemes of social security for the street vendors;
- (m) penal provisions for street vendors including in vending without certificate of vending or contravening terms of vending
- (n) street vendors not to be prevented by any person or police or any other authority from exercising their right to vend when carrying on street vending in accordance with the terms and conditions of certificate of vending.

1.11 The Committee have solicited comments from various stakeholders viz; Ministry of Housing and Urban Poverty Alleviation, NGOs working in the field of street vending, namely, National Association of Street Vendors of India (NASVI), Self Employed Women's Association (SEWA), Nidan, National Hawker Federation (NHF), Faculty of Planning and Public Policy from CEPT university, Centre for Equity Studies, Centre for Civil Society and also heard the views of some of the NGOs on various provisions of the Bill. The Committee also took oral evidence of the representatives of the Ministry of Housing and Urban Poverty Alleviation and sought clarifications on various issues that were brought to their notice by the various stakeholders.

1.12 The Committee deliberated on the various provisions of the Bill and commend the Bill for enactment with the modifications made by them in the succeeding chapters.

CHAPTER-II
PRELIMINARY

Clause 1 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012 deals with short title, extent, commencement and provisions of Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012 and Clause 2 gives definitions and meanings of certain words and expressions used in various provisions contained in the Bill. The Committee will now deal with some of the provisions contained in these clauses :

Clause 1(4)

2.2 Clause 1(4) reads as under

"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."

2.3 Regarding this sub clause, the representatives of National Association of Street Vendors of India(NASVI) during their deposition before the Committee submitted that:

"Railway vendors have been excluded from the purview of the Bill. Near railway stations or in the small-distance trains, vendors provide facilities to the passengers. But their security finds no mention in the Bill. Wherever possible such vendors should also be included in the purview of the Bill."

2.4 The representatives of NASVI, further suggested that:

"The clause about non- applicability of the provisions of the Bill on Railway vendors should be deleted" as such an exclusion would mean that the rights of many of the street vendors, who work in and around railway stations and trains, would not be protected under this Act."

2.5 In their written memorandum, NASVI also suggested as under:

"A large number of urban poor are dependent on vending, be it near the railway stations or on the platforms or in the train. Due to lack of regulation, they remain exploited by (a) Municipal and Police authorities in front of the stations, (b) Stall License owners at the railway station who get stall allotted, but actually use the vendors to sell on very exploitative terms, (c) Railway commercial staff and Railway Police who harass and exploit the vendors providing very crucial service to the customers in passenger trains without pantry car. Since railways provide a good opportunity to the urban poor, the proposed Act must remove the Clause 4 Section 1 of Chapter 1. The Railways should have control over their land, but it also needs to be allowed to provide dignified livelihood to urban poor through vending on their premises."

2.6 On being enquired about the desirability of this clause, the Ministry of Housing and Urban Poverty Alleviation(HUPA), submitted as under:

"The Ministry of Railways had during the consultation stage on the draft Bill stated that 'railways have a well established policy of granting licenses for vendors on the platforms/ trains for the benefit of the rail users'. Railway premises are regulated under the Railways Act, 1989, and thus as requested, Railway premises/ trains have been exempted from the purview of the Bill."

2.7 The Committee note that Clause 1(4) proposes that the provisions of this Bill shall not apply to any land, premises and trains owned and controlled by the Railways under the Railway Act, 1989. While acknowledging that the railways have a well established policy of granting licenses for vendors on the platforms/trains for the benefit of the rail users, the Committee feel that there is lack of adequate regulation for vendors operating on Railway land and outside the stations and exclusion of such vendors from the provisions of this Bill duly expose them to harassment and exploitation by Railway authorities and Police. The interest of these vendors who provide essential services to the passengers and the people residing near railway stations are required to be secured in terms of provisions of the Bill. The Committee, therefore, recommend that the issue of inclusion of street vendors on the Railway land outside the stations for the purpose of applicability of the provisions of this Bill should be positively revisited by the Ministry before finalizing the Bill. Further, the Committee also feel that the vendors who provide essential services near bus stand, taxi stand, metro stations and inside the public and private transport are equally need to be secured in terms of the provisions of the Bill. They desire that necessary provisions should be incorporated in the Bill.

Clause 2(1)(d)

2.8 Clause 2(1)(d) states that

"'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."

2.9 The Committee feel that mobile vendors are most susceptible amongst the vendors. Therefore, they should be issued such a certificate/licence that categorically allow them to carry on their business freely. For this the Committee want if necessary they may be given more than one certificate of vending.

Clause 2(1)(e)

2.10 Clause 2(1)(e) defines natural market as:

""Natural market" means a market where sellers and buyers have traditionally congregated for more than a specified period for the sale and purchase of specific products or services and has been determined as such by the local authority."

2.11 During deposition before the Committee, the representative of SEWA, stated as under:

"SEWA feels that the Bill should have the thrust on natural market, because the natural market come into existence after a great effort. Like the near a temple a natural market develops where vendors sell the things like flowers, incense sticks and garland etc. In a new residential area slowly the number of vendors increases and leads to the formation of natural market over the years. Thus there is a complete process of formation of natural market. If the natural markets are demolished it has a very negative impact. If I talk about Ahmedabad city, a large number of infrastructure development program are being done there. Under- passes and over-bridges are being constructed, there. But it never happens that vendors are asked about their probable site of relocation, where the natural market can be shifted. Whenever, the natural market is demolished the income of vendor decreases drastically, say from rupees 100 it comes down to rupees 30 or 20 or even lower than that. The haats that existed in ancient India were nothing but the natural markets. I want to emphasis about natural markets that these should be preserved, protected and regularized. But the Bill is not having any such clause. It is easier to create a no-vending zone, but how to preserve natural markets has not been talked about in the Bill. Our sincere suggestion is that clause pertaining to preservation of 'natural market' should be included in the Bill. Second thing is that relocation of 'natural market' should also have a systematic plan. At times, the street vendors are present here and there in the street. They should be made to sit in one line, this is what we call as natural market. Moreover, the relocation of natural market should be done within 15 metres of natural market. Also, the shifting/ relocation of the natural market should be done in one go, instead of doing it in parts."

2.12 Following Suggestion has been made by the stakeholders on the issue of natural market:

“Natural markets will be central to determining vending zones, weekly markets, and holding capacity, and that the determination of natural markets should be done by Town Vending Committees, which are multi-stakeholder in their membership, and should be established by a transparent process which allows the participation and objections of street vendors. The demarcation of vending zones shall be based on the principles of natural markets, and the total area to be demarcated as vending zones shall be sufficient to accommodate all existing street vendors, and their natural growth in proportion to growth of urban populations.”

The above suggestion was also endorsed by the representatives of NASVI, SEWA and Centre for Equity Studies during their briefing before the Committee.

2.13 When enquired about the possibility of inclusion of Town Vending Committee while deciding the natural market and vending areas in such markets, the Ministry of Housing and Poverty Alleviation in their written replies submitted as under:

"The Town Vending Committee is an integral part of the Bill, with responsibility towards implementation, as provided, and has a central role. The determination of natural markets by the local authority is expected to be in consultation with the TVC, and the Bill should not cover all administrative and implementation issues".

2.14 The Committee observe that the term 'natural market' is used in the Bill for such market where sellers and buyers have traditionally congregated for more than a specified period for the sale and purchase of specific products and services and determined as such solely by the local authority. According to the Ministry of Housing and Urban Poverty Alleviation determination of natural markets by the local authority is expected to be in consultation with Town Vending Committee which is an integral part of the Bill and has a central role. Further, the Ministry has also expressed that the Bill should not cover all administrative and implementation issues. However, the Committee feel that this issue is important which should not be left at the mercy of the executive and find place in the Bill itself.

Clause 2(1)(J)

2.15 Clause 2(1)(J) states as under:

"Scheme means a scheme framed by the Government under section 40. A suggestion has been received to add in consultation with representatives of street vendors."

2.16 When asked to furnish comments, the Ministry of Housing and Urban Poverty Alleviation has stated as under:

"The scheme under the Bill is provided to be framed by the Appropriate Government under section 40. However, it further states that the same shall be published in two local newspapers in such manner as provided by Rules. The Government while framing the scheme is expected to consult the stakeholders, prior to finalization, and such administrative and implementation aspects need not be covered in the Bill."

2.17 In the Bill everything has been left to the scheme. The stakeholders viz., NASVI, SEWA and Centre for Equity Studies, have expressed their concern. The NASVI in their written memorandum, submitted to the Committee that:

"The current bill leaves a lot with delegated legislation and it defeats the purpose of a Central law. Most of the issued are left to the Scheme that is to be framed by the local authorities beginning with the manner of registration to the entire thing. Knowing the power relations at the City level, it is important that the Bill provides provisions ensuring that the Act shall 'protect the rights of urban street vendors and regulate street vending rather than prohibit and curb street vending."

2.18 Further on the issue, the representative of Centre for Equity Studies, during their deposition before the Committee, stated as follows:

"In a way the entire Bill is a kind of delegated legislation. Many of the powers have been delegated to the Local Authorities and State Governments. In this regard, our submission is to consult the representatives of the street vendors while finalizing the scheme."

2.19 On being asked why specific provisions cannot be incorporated in the Bill, the Ministry of Housing and Urban Poverty Alleviation in its written submission to the Committee states as under:

"The Bill aims to provide for flexibility in operation and implementation, as different States have different local conditions, and it would not be prudent to centralize all provisions, which may lead to implementation difficulties. Also, the Bill is aimed to provide only for the non-negotiable aspects, and details are to be provided through delegated legislation, taking into account local conditions."

2.20 The Committee note that in the Bill lots of powers have been left to the scheme to be framed by the appropriate Government under section 40 such as final authority on issues like identification, registration and licensing of street vendors, identification of natural markets and allocation of space based on the idea of natural market etc. The Committee appreciate the fact that the Government while framing the scheme is expected to consult the stakeholders prior to finalization of the scheme. However, they strongly disapprove the intention of the Ministry that in the name of flexibility in operation and implementation, the Ministry leaves a lot with delegated legislation which defeat the very purpose of the Central law. The Committee are of the strong view that if specific provisions are not incorporated in the Bill, the Government may or may not consult the stakeholders. This will lead to confusion at various levels of the Government as a result the Street Vendors will suffer a lot. Moreover, the Committee feel that the 'scheme' is subjected to Parliament's scrutiny only after it has been laid but the provisions of the Bill could be scrutinized at the time of consideration of the Bill by the Committee. Therefore, the Committee want the Government to provide specific provisions in the Bill itself and use 'scheme' where its use is absolute necessary.

Clause 2(1)(O)

2.21 Clause 2(1)(O) states that:

" Vending zone means an area or a place or a location designated as such by the local authority 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."

2.22 Suggestions from CEPT have been received to include the following words in clause 2(1)(O):

"vending zones means an area or a place or a location designated as such by the local authority, in consultation with Town Vending Committee by local Committee, for the specific use by street vendors for street vending and includes footpath, side walk, pavement, embankment, portions of a street, waiting area of public or any such place considered suitable for vending activities and providing services to the general public".

2.23 On being inquired about this inclusion of the above suggestion in the Act, the Ministry of Housing and Urban Poverty Alleviation, submitted in writing as under:

"The TVC is an integral part of the Bill, with responsibility towards implementation, as provided. The determination of vending zone by the local authority is expected to be in consultation with the TVC, which has a central role, and the Bill should not cover all administrative and implementation issues. The definition of survey is not required as it has been adequately detailed in the functions of the local authority, as provided in the Second Schedule, which is aimed at creating a database and preparation of a suitable plan for further vending activities."

2.24 On being asked about extending civic facilities to the vendors, near the vending zone, the Secretary Ministry of HUPA during the briefing session stated:

"As I had mentioned earlier, wherever we declare State Vending Zone, there municipal services are to be provided automatically. In return of that street vendors can be nominally charged for those facilities. If there is any shop/stallage is being done, they should be provided with the facilities like lavatory, electricity and sanitation. The vendors can be charged for that on monthly basis."

2.25 The Committee note the provision in this clause empowers the local authority to determine vending zone. The Committee note the reply of the Ministry on inclusion of Town Vending Committee that local authority is expected to consult Town Vending Committee in such cases. The Committee find that the reply is not free from ambiguity as the local authority may or may not consult the Town Vending Committee. They see no reason why this specific provision should not be reflected in the Bill and want the Ministry to act accordingly.

CHAPTER-III REGISTRATION OF STREET VENDORS

Chapter II of the Bill deals with registration of street vendors and contains clauses 3 to 11. The Committee will now give their comments and observations on provisions contained in some of clauses of Chapter-II of the Bill. The Committee will now give their comments and observations on provisions contained in some of the clauses of Chapter II of the Bill.

Clause 3(2)

3.2 The clause 3(2) states that:

"Every application under sub-section (1) shall be made in such form and manner, accompanied by such documents and one time fees, as may be specified in the scheme."

3.3 The provision of the Bill has not clearly spelt out the documents needed and the amount of one-time fee while applying for street vending. When asked to furnish the comments on the this aspect, the Ministry stated :

"This aspect has been left for the appropriate Government to determine, keeping in mind the local conditions."

3.4 The Centre for Equity Studies has raised the concern about the non- availability of domicile certificate and other documents with the street vendors in their written submission as well as during their oral evidence before the Committee. In this regard, the Secretary Ministry of HUPA, stated as under:

"The issue of supporting documents for registration has been left to the Local Governments. It is upto them to decide upon the document needed during registration. It can be Domicile certificate, Electricity Bill or Aadhar Card."

3.5 The Committee note that certain documents are required to be submitted with the application for registration of street vendors. Keeping in view the fact that most of the applicants are not literate, the Committee want they must not be asked to undergo cumbersome procedure and only one of the easily accessible documents such as voter ID Card/PAN Card/ Driving License/Aadhar Card/Ration Card/Electricity bill/Telephone bill etc., should be required. The Committee want the Ministry to take this into account while framing rules in this regard.

Clause 4 (1)

3.6 The clause 4(1) of the Bill states that:

"The registration of all street vendors who make application under section 3 shall be made by the Town Vending Committee within such period, and in such manner, as may be specified in the scheme."

3.7 The NGOs viz; NASVI and SEWA have suggested that initial registration and licensing process of the street vendors should be done on the basis of survey conducted by the local authorities. Also, the suggestion has been received that biometric data should be the pre-requisite for the registration.

3.8 In this regard the National Policy on Urban Street Vendors 2009 states as under:

"A system of registration of vendors/hawkers and non-discretionary regulation of their access to public spaces in accordance with the standards of planning and nature of trade/service should be adopted. The system as enumerated below:

- (a) Photo census of vendors: The Municipal Authority, in consultation with the Town Vending Committee (TVC) should undertake a comprehensive, digitalized photo census/survey/GIS Mapping of the existing stationary vendors with the assistance of professional organisations/experts for the purpose of granting them lease to vend from specific places within the holding capacity of the vending zones concerned.
- (b) Registration of Vendors: The power to register vendors would be vested with the TVC. Only those who give an undertaking that they will personally run the vending stall/spot and have no other means of livelihood will be entitled for registration. A person will be entitled to receive a registration document for only one vending spot for him/her(and family). He/she will not have the right to either rent or lease out or sell that spot to another person.

3.9 When asked by the Committee about the survey based registration and licensing in the beginning of the implementation of the Act, and maintenance of biometric data at later stages, the Ministry submitted as under:

"The Bill in Second Schedule provides for 'Duties of Local Authority' which apart from other things provides for 'undertaking in consultation with the Town Vending committee, comprehensive digitalized photo census and survey of the existing number of street vendors with the assistance of such experts and in such manner as may be specified in the scheme, for the purpose of accommodating street vendors within the holding the capacity of the vending

zones.' Thus survey is aimed at creating a database and preparation of suitable plan for further vending activities. Mandatory bio-survey though advisable, initially may lead to administrative and financial problems, for the ULBs. Moreover where Aadhar cards have been given, the same may be linked towards identification of street vendors."

3.10 During briefing of the Ministry of Housing and Urban Poverty Alleviation, the Secretary have submitted as under:

"2 percentage of area to be allocated for street vendors will be reviewed every 5 years period. The area so identified by Municipality and planning committee will be notified by concerned State Government so as to avoid any arbitrary change identified in the location for vending by anybody."

3.11 Regarding registration of all street vendors, the Committee are in agreement with the Ministry that bio-survey though advisable, initially may lead to administrative and financial problems for the ULBs. The Aadhar card may be linked towards identification of street vendors. However, the Committee desire that at the later stage the Municipal Authority in consultation with the TVC should undertake a comprehensive digitalized photo census/survey/GIS mapping of the existing vendors at the earliest. Moreover, the Committee are of the view that all the existing vendors should be invariably registered. However, if the number of applications are more and difficult to accommodate in a particular place, then the local body in consultation with the TVC, may go for a lottery system. Further, the Committee desire that in order to prevent unwanted rush for street vending a provision should be incorporated in the bill that only those who give an undertaking that they will personally run the vending stall/spot and have no other means of livelihood shall be entitled for registration. A person will be entitled to receive a registration document for vending spot for him/her (and family).He /she will not have the right to either allow or rent or lease or sell that spot to any other person.

Clause 6(1)

3.12 The clause 6 (1) states that:

"Subject to the provisions of section 5, the Town Vending Committee or any officer authorized by the Town Vending Committee may, subject to such

conditions and restrictions as may be specified in the scheme, issue a certificate of vending to every street vendor who has been registered under Section 4"

3.13 In terms of Clause 6(1)(a) certificate of vending would be issued by Town Vending Committee or its authorized Officer to the street vendors on their applications for the same. However, no time frame has been prescribed for issuing such certificate after the submission of application. The Committee apprehend that in the absence of such provision, the Town Vending Committee may delay in issuing certificate of vending to the street vendors. The Committee recommend that a clear time period of one month should be mentioned in the Bill within which the certificate of vending will have to be issued by the Town Vending Committee.

Clause 8

3.14 Clause 8 states that:

"Every Street vendor who has been issued certificate of vending shall pay such vending fee as may be specified in the scheme."

3.15 Many stakeholders in their written submissions, wanted that the vending fee should be done away.

3.16 In this regard the Ministry of HUPA in their written reply stated as under:

"Vending is a business activity and ULB's are entitled to charge a fee for the facilities being provided. The determination of vending fees has been left to be determined by the scheme as per local conditions, which may vary from State to State."

3.17 The Committee while agreeing with the views of the Ministry are of the opinion that the vending fee should be determined on the basis of type of street vending such as stationary vending, mobile vending and any other category and on the basis of types of city. They feel that this will ensure reasonableness to such vending fee being charged depending upon the nature and location of the market.

Clause 9

3.18 Clause 9 states as under:

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

9(2) Every certificate of vending shall be renewable for such period in such manner and payment of such fees as may be specified in the scheme."

3.19 According to the Ministry of Housing and Urban Poverty Alleviation the time period within which renewal of certificate of vending is to be carried out is required to be specified in the scheme. The implementation aspects have been appropriately left to the States.

3.20 On this issue the National Policy on Street Vendor 2009 states that,

"Registration should be renewed after every three years. However, a vendor who has rented out or sold his/her spot to another person will not be entitled to seek re-registration."

3.21 The Committee are surprised to find the time-line for renewal of the certificate of vending was provided in the National Policy on Street Vendors 2009 but completely left to the scheme under the present Bill. The Committee strongly feel that in the absence of a specific provision, the local bodies may renew the certificate of vending as per their whims, which may lead to harassment of street vendors. The Committee, therefore, recommend that the certificate of vending should be renewed every three years and a provision to this effect should be made in the Bill.

CHAPTER- IV
RIGHTS AND OBLIGATIONS OF STREET VENDORS

Chapter III contains Clauses 12 to 17 the Committee have dealt with some of these succeeding paragraphs.

Clause 12

4.2 Clause 12(1) states that:

"Every street vendor shall have right to carry on the business of street vending activities in the vending zones allotted to him in accordance with the terms and conditions mentioned in the certificate of vending and the scheme framed by the appropriate Government. 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."

4.3 This clause deals with the rights of the street vendor. Suggestion has been received from NASVI, by the Committee to include a new clause stating as under:

"In case a registered vendor dies his legal heirs/nominee will have the right to continue the vending activity in allotted vending space."

4.4 On being inquired by the Committee about their opinion the Ministry of Housing and Urban Poverty Alleviation, submitted as under:

"These matters of detail should be appropriately left to the scheme to be made by the appropriate Government."

4.5 The Committee observe that clause 12(1) and (2) of the Bill gives right of vending by street vendors in the vending zone allotted to him/her as per specified terms and conditions. It is, however, completely silent about the right of inheritance in case of death of original vendor. According to the Ministry these matters have been appropriately left to the scheme to be made by the appropriate Government. The Committee feel that this is an important issue to be addressed in order to ensure that legal heir of the deceased vendor gets the vending rights if he /she applies in this regard. Further, in case of serious illness or permanent disabilities of the vendors one

of his/her legal heirs after obtaining the family consensus should get the vending rights and want the Ministry to provide this provision in the Bill.

Clause 13

4.6 Clause 13 states that:

"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."

4.7 In case of relocation, the street vendors are generally relocated where their goods are not in demand in the new market. Therefore, the Committee and stakeholders were concerned about the hampering of business. Suggestions from NASVI, SEWA, CEPT, National Hawkers Federation and Centre for Equity Studies have been received that:

"In case of relocation, attempts should be made to relocate vendors in natural market only which facilitate the carrying out their old businesses."

4.8 When the Committee raised the issue of loss of business as a result of relocation of street vendor, the Secretary Ministry of Housing and Urban Poverty Alleviation submitted, during briefing meeting, as under:

"Hon'ble Chairman Sir, all of the respected members have raised their concern about relocation of the street vendors from the places at which they have been vending since years. Members have also suggested that all the vendors should be permitted to continue at the same place. The provision of space or area of street vending is reasonable and consistent with the existing natural markets. Then we have defined the natural market. According to the definition, natural market means a market where sellers and buyers have traditionally congregated for more than specified period of time for the sale and purchase of specific product. This point has been incorporated in the Act in such a manner that it provides stability to the vendors by means of natural market"

Comment [B1]: (Sh.Arun Kr.Mishra cd.)

4.9 The Committee observe as per clause 13 a street vendor, on relocation is entitled for a new site or area for carrying out his/her vending activities which may be determined by the local authority. During the briefing session of the Ministry the Secretary has clarified the fact that the provision of space or area of street vending is reasonable and consistent with the natural market and this will provide stability to the vendors. The Committee desire that during the relocation of street vendors attempts should be made to ensure that the street vendors carry on their own old business.

CHAPTER –V

RELOCATION OF STREET VENDORS, THEIR EVICTION AND PROCEDURE FOR CONFISCATION OF GOODS

Chapter IV of the Street Vendors (Protection of Livelihood) Bill, 2012 contains clause 18 and 19. Clause 18 deals with relocation of eviction of Street vendors and Clause 19 deals with confiscation and reclaiming of goods.

Clause 18(1)

5.2 Clause 18(1) states as under:

"The local authority shall, having regard to public nuisance or obstruction of movement of general public caused by the street vendors, or for any other public purpose, relocate such street vendors in such manner as may be specified in the scheme."

5.3 It is suggested by Centre for Equity Studies to replace the entire clause with the following:

"Street vendors in vending zones shall not be evicted or relocated, except in situations where (a) there are serious law and order concerns, or (b) vending by the concerned street vendors has caused significant environmental damage or is an environmental hazard, or (c) vending by the concerned street vendors has resulted in aggravated public nuisance: Provided that the local authority shall invoke aggravated public nuisance only in consultation with the Town Vending Committee: Provided further that no provision of this law shall be understood to authorize the police or any other authority to confiscate the goods of any street vendor".

5.4 When asked to furnish comments on the above suggestions the Ministry of Housing and Urban Poverty Alleviation stated as under:

"The suggestion cannot be incorporated, as obstruction of movement of general public, public nuisance and consistent failure to comply with duties and obligations are important grounds for relocation or eviction as the case may be, for the overall benefit of all the street vendors."

Clause 18(2)

5.5 Clause 18(2) states as under:

"Where the local authority is satisfied that a street vendor has consistently failed to comply with his duties and obligations under the Act or the rules and the scheme made thereunder, evict such street vendor in such manner as may be specified in the scheme."

5.6 In connection with relocation and rehabilitation of street vendors, the National Policy on Urban Street Vendors 2004 states as under:

"Street vendors are most vulnerable to forced eviction and denial of basic right to livelihood. It causes severe long-term hardship, impoverishment and other damage including loss of dignity. Therefore, no street vendor should be forcefully evicted. They would be relocated with adequate rehabilitation only where the land is needed for a public purpose of urgent need. Therefore:

- a. Eviction should be avoided wherever feasible unless there is clear and urgent public need in the land in question.
- b. Where relocation is absolutely necessary, notice of minimum 30 days should be served to the concerned vendors.
- c. Affected vendors/ representative' involvement in planning and implementation of the rehabilitation project.
- d. Affected vendors should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms to pre-evicted levels.
- e. Loss of assets should be avoided and if possible compensated.
- f. State machinery must take comprehensive measures to check and control the practice of forced eviction.

No hawker/street vendor should be arbitrarily evicted in the name of 'beautification' of the city-space. The beautification and clean up programmes undertaken by the states or towns should actively involve street vendors in a positive way as a part of the beautification programme. "

5.7 In this connection the Ministry were asked to give their opinion on a suggestion that this clause be deleted since there is a provision under Sections 14 and 15 of the Bill. In this regard the Ministry replied that relocation of street vendors has been envisaged as an exception only in cases of public nuisance or obstruction of movement of general public etc., or for other purpose.

5.8 The committee note that Clause 18(1) proposes that apart from the relocation of street vendors on the ground of public nuisance or obstruction of movement of general public, the local authority can also relocate them for any other public purpose as specified in the scheme. The Committee also observe that if a street vendor consistently fails to comply with his duties and obligations under the Act or the rules, the local authority is empowered as per clause 18(2) to evict him in accordance with the manner specified in the Scheme.

The Committee feel that the decision of the local body for relocation/eviction of street vendors in both these cases appear to be arbitrary. The Committee, therefore, desire that the ULBs should be made to take decisions in such matters only after consultation with the Town Vending Committee by inserting requisite modifications in sub clauses (1) and (2) of Clause 18 of the Bill.

Clause 18(3)

5.9 Clause 18(3) states as under:

"No street vendor shall be relocated or evicted by the local authority from the site allotted to him unless he has been given seven days notice for the same in such manner as may be specified in the scheme."

5.10 Suggestions have been received from SEWA, to increase the days of serving notice from 7 days to 30 days for relocation or eviction of street vendors by the local authority.

5.11 In this regard National Policy on Street Vendors 2004 provides as under:

XXX XXX XXX XXX

"Where relocation is absolutely necessary, notice of minimum 30 days should be served to the concerned vendors."

XXX XXX XXX XXX

5.12 The Ministry in their written reply, submitted as under:

"Notice period of 7 days is sufficient, as the cause for eviction and relocation cannot be allowed to be continued for 30 days. Also, the manner of relocation has to be detailed under the Scheme. Earlier goods used to be impounded by the Police/ Municipal Authority and release of goods was a cumbersome process, which is now proposed to be made street vendor friendly, providing a safety net for reclaiming of goods, and prevention of harassment."

5.13 The Committee observe that a period of 7 days' notice provided under clause 18(3) for eviction and relocation of a street vendor is too short a time and it should be increased to 30 days as was proposed in National Policy on Urban Street Vendors-2004.

Clause 19

5.14 Clause 19 states as under:

"(1) The local authority, in addition to evicting the street vendor under section 18, may, if deems necessary, confiscate the goods of such street vendor in such manner as may be specified in the scheme.

(2) The street vendor whose goods have been confiscated under subsection (1) may, reclaim his goods in such manner, and after paying such fees, as may be specified in the scheme."

5.15 On this issue suggestions have been received from Tata Institute of Social Sciences (TISS), NASVI and SEWA that details of the confiscated goods of the vendors should be mentioned in a 'panchnama', a copy of which should be handed over to the vendors also.

5.16 In this regard the Ministry, when asked to comment has stated that the details of confiscation including panchnama are to be provided through the scheme to be made by the appropriate Government.

5.17 On being asked about the time frame for releasing the confiscated goods of the vendor, the Secretary, Ministry of Housing and Urban Poverty Alleviation, during the deposition before the Committee stated:

"Regarding releasing of confiscated property we have not incorporated specific provision in the Bill. For confiscation we have provided 7 days notice. After that the procedure have been left to the scheme. Municipal body may expedite the matter."

5.18 Further when asked for incorporating the specific provision for fixing the time frame for releasing the confiscated goods, in the Act, the Secretary, Ministry of Housing and Urban Poverty Alleviation stated:

"We are noting one of the important point for fixing the time frame for releasing the confiscated property of the vendors. We will incorporate your suggestion."

5.19 On the issue of provision of penalty on the street vendor, the Secretary, further stated that:

"We have left it to the State Governments and Municipalities. It is a very good point that penalty should not be more than confiscated property."

5.20 The Committee observe that under the provisions of the Bill confiscation of goods of street vendors in addition to evicting the street vendors shall be made in such manner as may be specified in the scheme. The Committee desire that such confiscation must be accompanied by a 'Panchanama' detailing the goods confiscated and signed by an official as decided by the appropriate authority.

5.21 The Committee also note that no specific time frame has been prescribed in the Bill for releasing of confiscated goods of the street vendors. They are happy that the Secretary, Ministry of Housing and Urban Poverty Alleviation has agreed with the view of the Committee that specific time period of 15 days be fixed in the Bill for releasing the confiscated property. The Committee expect that necessary amendment will be carried out in the Bill.

5.22 The Committee also recommend that the penalty to be imposed on the street vendors on confiscation should not be more than the value of confiscated goods as agreed to by the Secretary, Ministry of Housing and Urban Poverty Alleviation and want that a suitable modification in this regard should be incorporated in the Bill. However, it should not exceed Rs. 2000 /- in any case.

CHAPTER –VI
DISPUTE REDRESSAL MECHANISM

Chapter V of the Street Vendors(Protection of Livelihood)Bill, 2012 deals with Dispute Redressal Mechanism, Clause 20 and its sub-sections deal with redressal of grievances and resolution of disputes of street vendors.

6.2 The Clause 20 of the Bill states as under:

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

(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 subsection (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."

6.3 A suggestion has been received from Centre for Equity Studies that:

" In place of leaving this to local authority to constitute a permanent Committee, Central Government, for Union Territories, and in the State governments for their respective States, shall, in consultation with Town Vending Committee, should constitute the permanent committee, having persons having such experience in natural market and street vending activities as may be prescribed."

6.4 In clause 20(1), there is no mention about the number of dispute redressal committee on the basis of population density in metropolitan cities. Further, in this clause there is no mention about the maximum time limit by which the dispute redressal committee gives its decision in a case. In this regard, the suggestion from NASVI has been received that:

"The Bill should mention a time frame of three months in this connection."

6.5 The stakeholders like NASVI and Nidan have also suggested that:

"Executive magistrate should not be the part of this Dispute Redressal Committee."

6.6 On the issue of inclusion of members in dispute redressal committee, Centre for Equity Studies have suggested that:

"The Central Government, for Union Territories, and the State Government, for their respective states, shall, in consultation with the Town Vending Committee, for the purpose of disposing of an application received under sub-section, constitute a permanent committee, or committees, consisting of a person who has been a sub-judge or a judicial magistrate or an executive magistrate and one other person having such experience in natural market and street vending activities as may be prescribed."

6.7 On being enquired about the comments, the Ministry of Housing and Urban Poverty Alleviation, in this regard, submitted in their written reply as under:

"Section 20 provides that the time within which the grievance is to be redressed by the Grievance Redressal Committee is to be specified by rules. The same has been provided to be determined by the State Government based on local conditions, number of application etc."

6.8 In order to create an accountable, expeditious and transparent grievance redressal system, the Committee are of the view that single grievance redressal mechanism may not be sufficient to address large number of cases in metropolitan/big cities. They, therefore, feel that a mechanism may be considered to constitute zonal grievance redressal system besides incorporating statutory time limit by which the dispute redressal committees should give their decision. The Committee also feel that the Dispute Redressal Committee should be manned by Judicial Officers only and they want to omit the reference of 'Executive Magistrate' from clause 20 of the Bill. The Committee recommend the Ministry to act accordingly.

CHAPTER –VII
PLAN FOR STREET VENDING

CHAPTER –VI of the Bill deals with preparation of Street vending Plan. It contains only one clause i.e. Clause 21 which reads as under:

"Every Local Authority shall, in consultation with the Planning Authority, once in every five years, make out a plan to promote a supportive environment for the vast mass of urban street vendors to carry out their vocation, which shall provide for matters contained in the First Schedule. (2) The street vending plans prepared by the local authority shall be submitted to the appropriate Government and the appropriate Government shall determine the planning norms for street vendors and notify the street vending plan so submitted."

7.2 In this regard, NASVI in their written memorandum to the Committee, has stated as under:

"According to clause 21(1), every Local Authority shall, in consultation with the Planning Authority, once in every five years, make out a plan to promote a supportive environment for the vast mass of urban street vendors to carry out their vocation. Whenever, the plan is made for one locality, it creates insecurity in the minds of vendors, as the planning is done only for very busy and congested areas of the city or on or two markets. Thus the planning should take into account the whole of the city rather than one or two markets and planning should also take into consideration the expanding boundaries of the city."

7.3 In connection with Planning for Street Vendors, CEPT in their written memorandum has submitted as under:

" There is no role of the Town Vending Committee or the Street Vendors Association in making of the plan. There should be a specific mention of public hearing/ consultation on the plan/ scheme of the street vendors to take the concerns of these stakeholders on board."

7.4 On being asked to comment on the above issue the Ministry in their written submission replied as under:

"The provisions in the Bill regarding planning are in fact to address what has been highlighted in the question. The First Schedule to the Bill provides that the (1) The Plan shall- (b) ensure that the provision of space or area for street vending is reasonable and consistent with existing natural markets. Also it states that (2) The plan shall contain all of the following matters, namely- (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."

7.5 In connection with section 21(1) and 21(2) when asked about the consultative role for Town Vending Committee the Ministry in their written reply submitted as under:

"The TVC is an integral part of the Bill with implementation responsibilities, and has been given a central role. Thus, it is expected that the TVC would be consulted in the process of formulation of the plan."

7.6 According to clause 21(1), every Local Authority shall, in consultation with the Planning Authority, once in every five years, make out a plan to promote a supportive environment for the vast mass of urban street vendors to carry out their vocations. The Committee are convinced that it is essential that consultations and public hearings are held before formulating and finalizing any street vending plan. The Committee are not inclined to accept the optimism expressed by the Ministry that it is expected that the TVC would be consulted in the process of such plans and they, therefore, desire that suitable modification be made in the Bill to involve the TVC and the stakeholders in the consultation process before formulations of any street vending plan.

CHAPTER VIII
TOWN VENDING COMMITTEE

The chapter VII of the Bill deals with Town Vending Committee and contains clauses from 22 to 27.

Clause 22(2)(b)

8.2 The clause states as follows:

Each Town Vending Committee shall consist of:-

- (a) XXX XXX XXX XXX
- (b) "such number of other members as may be prescribed, to be nominated by the appropriate Government, representing the local authority, the planning authority, traffic police, local police, association of street vendors, market associations, traders associations, resident welfare associations, banks and such other interests as it deems proper:

Provided that the number of members nominated to represent the street vendors shall not be less than forty percent:

Provided further that one-third of such members shall be from amongst women vendors:

Provided also that representation shall be given to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, minorities and persons with disabilities"

8.3 In this regard, the National Policy on Street Vendors, 2009 states that:

" A TVC should consist of the Municipal Commissioner/Chief Executive Officer of the Urban Local Body as chairman and such number of members as may be prescribed by the appropriate Government, representing firstly, local authority, Planning authority and police and such other interest as it deems proper; secondly association of street vendors; thirdly resident welfare associations and Community Based organisation(CBUs) and fourthly, other civil society organisations such as NGOs, representatives of professional groups such as lawyers, doctors, town planners, etc., representatives of trade and commerce, representatives of scheduled banks and eminent citizens."

8.4 The clause 22(2)(b) of the bill has mentioned about the nomination of different categories of members to be nominated to the Town Vending Committee. The Committee find the categories of persons to be nominated to the TVC is more exhaustive in the National Policy of Street Vendors 2009 than provided in clause 22(2)(b) of the present Bill. They want the Ministry to replace the composition of TVC provisions with that provided in National Policy of 2009. The Committee also desire that the elected representatives should also be the members of TVC. The Committee further find that neither the present provision in the Bill nor the National Policy of 2009 provides for the tenure of nominated Members. The Committee are of the view that absence of a specific provision in this regard may lead to a situation where members of Town Vending Committee may not act freely. The Committee accordingly recommend that a fixed tenure of five years for all the TVC Members should be prescribed in the Bill.

8.5 The Clause 22(2)(b) further states that:

"Provided also that representation shall be given to the Scheduled Castes, the Scheduled Tribes, Other Backward Castes, Minorities and persons with disabilities"

8.6 The Committee desire that the words "adequate and reasonable" should be added before the word "representation" to give due weightage to the Scheduled Castes, Scheduled Tribes, Other Backward Castes, Minorities and persons with disabilities in the TVC.

8.7 Clause 27(1) of the Bill provides as under :

"Every Town Vending Committee shall publish the street vendor's charter specifying therein the time within which the certificate of registration and 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."

8.8 Self Employed Women Association(SEWA) in their memorandum to the Committee has submitted for inclusion of the following:

"Every decision of the Town Vending Committee shall publicly set out the reasons for making the decision".

8.9 In this Connection, the Ministry of Housing and Urban Poverty Alleviation, submitted in their written reply, as under:

"This suggestion is not required to be incorporated as the same are to be determined by the scheme, based on local conditions, giving flexibility to the appropriate Government in regard to implementation aspects."

8.10 The Committee are of strong view that incorporation of this suggestion will in no way hamper the flexibility of the appropriate Government in regard to implementation aspects. On the other hand, insertion of such a provision, will infuse transparency in the working of Town Vending Committee. The Committee, therefore, recommend that a new sub clause should be incorporated in the Bill to provide that every decision of the Town Vending Committee shall publicly spell out the reasons for taking such decisions.

CHAPTER –IX
DUTIES OF LOCAL AUTHORITY

The chapter VIII contains clause 28 that deals with duties of Local Authority in connection with the provisions of this Act.

Clause 28

9.2 The clause 28 states that:

"Notwithstanding anything contained in any other law for the time being in force, the local authority shall carry out such duties under the provisions of this Act as are provided in the Second Schedule."

9.3 The second schedule enumerates the following functions of the local authority:

- (a) overall supervision and monitoring of the scheme for street vendors;
- (b) monitoring effective functioning of the Town Vending Committee;
- (c) deciding appeals in respect of the registration, or issue of certificate of vending or the cancellation or suspension of certificate of vending, of street vendors in the manner specified in the scheme;
- (d) providing, in consultation with the Town Vending Committee civic services;
- (e) determining in consultation with the Town Vending Committee, the manner of collecting, through banks, counters of local authority and counters of Town Vending Committee, fees for registration, use of parking space for mobile stalls and availing of civic services;
- (f) undertake in consultation with the Town Vending Committee, comprehensive digitalized photo census and survey of the existing number of street vendors with the assistance of such experts and in such manner as may be specified in the scheme, for the purpose of accommodating street vendors within the holding capacity of the vending zones;
- (g) ensure that no street vending activities is carried out in no-vending zone.

9.4 The Centre for Equity Studies had rendered a suggestion for applying the provision of section 28 to the entire Act and not just to second schedule only.

9.5 When the Committee asked the Ministry of Housing and Urban Poverty Alleviation about their views in this regard, they submitted as under:

"The suggestion is not clear. However, the second schedule provides for specific responsibilities of the local authority to strengthen the main functions, which are in addition to those provided under the Bill."

9.6 The Committee feel that the clause 28 gives an impression that the duties of local authority are confined to those functions which are explicitly enumerated in the second schedule only whereas the duties of the local authority have also been given in several provisions of the Bill. The Committee, therefore, desire that an explanation to this clause may be inserted to remove any ambiguity with regard to duties of local authority.

CHAPTER – X
PENAL PROVISION

CHAPTER –X of the Bill contains penal provision i.e. Clause 30 which reads as under :

If any street vendor—

- (a) indulges in vending activities without a certificate of vending;
- (b) vends beyond the designated vending zones or specified timings;
- (c) Contravenes the terms of certificate of vending; or
- (d) contravenes any other terms and conditions specified for the purpose of regulating street vending under this Act or any rules or schemes made there under, 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.

10.2 It is suggested by NASVI that:

"These are too high. Hawkers may violate some conditions regarding public space but they are not criminals who should be fined so heavily. These fines are common to all cities including the smaller ones where this may amount to a week or fortnight earnings. We would propose the fine to be equal of one day of minimum wages of unskilled workers prevalent in the area."

10.3 When asked to the Ministry of Housing and Urban Poverty Alleviation comments as under:

"Section 30 provides for a fine for contravention upto Rs. 2000. The matter was discussed at great length with both the State Governments and the Ministry of Law & Justice, and based on their inputs, the same has been provided for."

10.4. The Committee note that clause 30 of the Bill provides for penalty to the street vendors in case of violation of terms and conditions of vending. While the Committee are in agreement with this provision, they are of the view that the maximum amount of fine of Rs. 2000 is too high and is applicable to all types of vendors. Therefore, the Committee suggest that the fine to be imposed on the street vendors should be reasonable in the first instance, which can be enhanced to Rs. 2000, if he/she is found indulging in such activities on the subsequent occasions. The Committee desire that such a provision should be incorporated in the Bill.

CHAPTER-XI

MISCELLANEOUS

Chapter XI of the Bill, has been named as 'Miscellaneous' and contains clause from 31 to 41 dealing with Provisions of this Act, not to be construed as conferring ownership rights, etc., returns, promotional measures, research training and awareness, act to have overriding effect, powers to delegate, power to amend schedules, power to make rules, power to make bye-laws, scheme for street vendors, and power to street vendors.

Clause 33&34

11.2 The clause 33 deals with various promotional measures to be taken in connection with the implementation of this Act, and states that, "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."

11.3 The clause 34 deals with the Research, Training and Awareness to be inducted amongst street vendors. It states as under:

"The appropriate Government may, to the extent of availability of financial and other resources,(a) develop and organise capacity building programmes for street vendors and on how 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."

11.4 Clarifying on this issue during briefing by the representatives of the Ministry of Housing and Urban Poverty Alleviation, the Secretary stated as under:

"The appropriate Government will undertake promotional measures for making available credit, insurance and other welfare schemes of social security. We have kept the word appropriate Government intentionally so that State and Central Governments will work together to implement these schemes. So far as insurance is concerned, I will to speak that we are covering this in our National Health Insurance Scheme. We have extended it to Street Vendors. With regard to credit is concerned, we have kept this provision in the self employment provision under NULM. The Street Vendors will be provided 33 per cent subsidy."

11.5 On going through the national policy on Urban Street Vendors, 2009, the Committee find that there are elaborate promotional measures on Public Health & Hygiene, Health of Street Vendors, Educational & Skills Training, Credit & Insurance, Social Security, Allotment of Space/ Stationary Stalls, Rehabilitation of Child Vendors and Promoting Vendor's Organisations and other promotional measures.

11.6 The Committee note that the proposed Bill is aimed at protecting the livelihood rights and social security of street vendors. The proposed bill seeks to provide promotional measures for making available credit, insurance, and other welfare schemes of social security for the street vendors. The Committee are of the strong view that the above measures are the most important factors for the successful implementation of the Act. However, the Committee are distressed to note that the Ministry has not clearly spelt out the ways and means which find a clear mention in the National Policy on Urban Street Vendors 2009. In order to give special impetus to the promotional measures, the Committee strongly feel that there should be elaborate provisions on public health & hygiene, health of street vendors, education & skills training, credit & insurance, social security, rehabilitation of child vendors, as brought out in National Policy on Urban Street Vendors, 2009 and its implementation by State Governments and Local Bodies should be made mandatory.

Clause 38(1)

11.7 The clause 38(1) deals with power to make rules and states that, 'The appropriate Government may, by notification, make rules for carrying out the provisions of this Act.'

11.8 The Committee are of the view that this legislation is going to have a great impact on employment in urban areas and in the urban infrastructure planning and development. The Committee, however, fail to understand why the Ministry has not laid down any time frame for State Governments and Local Bodies to make rules and

implementation of provisions of this Bill after its enactment. The Committee, therefore, recommend that the Ministry should clearly mention a cut off date not later than six months for making the rules and implementation of its provisions by the State Governments and Local Bodies.

New Delhi;
5th March, 2013
14 Phalgun, 1934 (Saka)

SHARAD YADAV
Chairman
Standing Committee on Urban Development

AS INTRODUCED IN LOK SABHA

Bill No. 104 of 2012

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

A
BILL

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-third 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, 2012. Short title, Extent and Commencement.
(2) It extends to the whole of India except the State of Jammu and Kashmir.

(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,-

(i) in relation to the lands owned or controlled by the Central Government, the Central Government;

(ii) in relation to the lands owned or controlled by the State Government, the State Government;

(iii) in relation to lands owned or controlled by the Union Territory Administration, the Union Territory Administration;

(iv) in relation to any other land, the authority empowered to make law with respect to such land under any law for the time being in force;

(b) "holding capacity" means the maximum number of street vendors who can be accommodated in any vending zone;

(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;

(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 more than a specified period for the sale and purchase of specific products or services and has been determined as such by the local authority;

(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;

(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 40;

(k) “State Nodal Officer” means an officer designated by the State Government to co-ordinate all matters relating to urban street vending in the State;

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

(m) “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 or 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;

(n) "Town Vending Committee" means the body constituted by the appropriate Government under section 22;

(o) "vending zone" means an area or a place or a location designated as such by the local authority 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

REGISTRATION OF STREET VENDORS

Application for registration. 3. (1) Every person who has completed the age of fourteen years, or as the case may be, the age prescribed by the appropriate Government and intends to do street vending, may make an application to the Town Vending Committee for registration as a street vendor.

(2) Every application under sub-section (1) shall be made in such form and manner, accompanied by such documents and one time fees, as may be specified in the scheme.

Registration of Street Vendors and issue of certificate of registration. 4. (1) The registration of all street vendors who make application under section 3 shall be made by the Town Vending Committee within such period, and in such manner, as may be specified in the scheme.

(2) The Town Vending Committee shall not summarily reject any application without giving the applicant an opportunity to rectify deficiencies, if any, and affording him an opportunity of hearing.

(3) Where, on the completion of the period specified under sub-section (1), if the applicant does not receive any response about the deficiencies in his application or the rejection of his application, he shall be deemed to have been registered.

(4) If the Town Vending Committee, or any officer authorised by the Town Vending Committee, is satisfied that the application made under Section 3 is in accordance with the provisions of this Act and the rules or schemes made thereunder, he shall issue a certificate of registration to the applicant with a serial number assigned to it.

Persons not to engage in street vending without obtaining certificate of vending. 5. No person shall carry on or commence the business of street vending unless he holds a certificate of vending issued under this Act:

Provided that a person who has been issued a certificate of vending before the commencement of this Act (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.

Issue of certificate of vending. 6. (1) Subject to the provisions of section 5, the Town Vending Committee or any officer authorized by the Town Vending Committee may, subject to such conditions and restrictions as may be specified in the scheme, issue a certificate of vending to every street vendor who has been registered under section 4.

(2) The certificate of vending referred to in sub-section (1) 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 prescribed.

(3) The certificate of vending issued under 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 time limit for carrying on such vending activities and the conditions and restrictions subject to which he shall carry on such vending activities.

(4) 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 prescribed.

Vending fee. 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 certificated vending. 10. Where any 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 thinks 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.

Appeal from decision of Town Vending Committee. 11. (1) Any person who is aggrieved by any decision of the Town Vending Committee with respect to registration under section 4 or 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 specified in the scheme.

(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

Rights of street vendor.

12.(1) Every street vendor shall have right to carry on the business of street vending activities in the vending zones allotted to him in accordance with the terms and conditions mentioned in the certificate of vending and the scheme framed by the appropriate Government.

(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.

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

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

Duty of street vendors.

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.

Maintenance of cleanliness and public hygiene.

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

Maintenance of civic amenities in vending zone in good condition.

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.

Payment of maintenance charges.

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.

CHAPTER IV

RELOCATION OF STREET VENDORS, THEIR EVICTION AND PROCEDURE FOR CONFISCATION OF GOODS

Relocation or
eviction of street
vendors.

18. (1) The local authority shall, having regard to public nuisance or obstruction of movement of general public caused by the street vendors, or for any other public purpose, relocate such street vendors in such manner as may be specified in the scheme.

(2) Where the local authority is satisfied that a street vendor has consistently failed to comply with his duties and obligations under the Act or the rules and the scheme made thereunder, evict such street vendor 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 site allotted to him unless he has been given seven 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 site after the expiry of said period of notice under sub-section (3).

(5) Every street vendor who fails to relocate or vacate the site allotted to him after the expiry of said period of notice shall also be liable to pay, for every day of such default, a penalty which may extend upto rupees five hundred as may be determined by the local authority.

Confiscation and
reclaiming of
goods.

19(1) The local authority, in addition to evicting the street vendor under section 18, may, if deems necessary, confiscate the goods of such street vendor in such manner as may be specified in the scheme

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

CHAPTER V

DISPUTE REDRESSAL MECHANISM

Redressal
grievances
resolution
disputes
of
or
of
of

20. (1) The local authority shall, for the purpose of disposing of application received under sub-section (2), constitute a permanent committee consisting of a person who has been a sub-judge or a judicial magistrate or an executive magistrate and such other persons

street vendors. having such experience in natural market and street vending activities as may be prescribed.

(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 subsection (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

Preparation of street vending plan.

21. (1) Every Local Authority shall, in consultation with the Planning Authority, once in every five years, make out a plan to promote a supportive environment for the vast mass of urban street vendors to carry out their vocation, which shall provide for matters contained in the First Schedule.

(2) The street vending plans prepared by the local authority shall be submitted to the appropriate Government and the appropriate Government shall determine the planning norms for street vendors and notify the street vending plan so submitted.

CHAPTER VII

TOWN VENDING COMMITTEE

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:

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, the planning authority, traffic police, local police, association of street vendors, market associations, traders associations, resident welfare associations, banks and such other interests as it deems proper:

Provided that the number of members nominated to represent the street vendors shall not be less than forty percent:

Provided further that one-third of such members shall be from amongst women vendors:

Provided also that representation shall be given to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, minorities and persons with disabilities.

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

Meetings of
Town Vending
Committee.

23. 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.

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

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.

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

Office space and other employees for Town Vending Committee.

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

Constitution of ward vending committees.

26. The Town Vending Committee may, in such manner and for such purposes, constitute such number of zonal vending committees and ward vending committees as may be prescribed.

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

27. (1) Every Town Vending Committee shall publish the street vendor's charter specifying therein the time within which the certificate of registration and 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 an upto 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

DUTIES OF LOCAL AUTHORITY

Duties of local authority.

28. Notwithstanding anything contained in any other law for the time being in force, the local authority shall carry out such duties under the provisions of this Act as are provided in the Second Schedule.

CHAPTER IX

PREVENTION OF HARASSMENT OF STREET VENDORS

Prevention of harassment by police and other authorities.

29. 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 X

PENAL PROVISIONS

Penalty for contraventions.

30. If any street vendor -

- (a) indulges in vending activities without a certificate of vending;
- (b) vends beyond the designated vending zones or specified timings;
- (c) contravenes the terms of certificate of vending; or
- (d) 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 upto rupees two thousand as may be determined by the local authority.

CHAPTER XI

MISCELLANEOUS

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

31. (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 under any law for time being in force for carrying out such vending activity.

Returns. **32.** 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. **33.** 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.

Research, Training and Awareness. **34.** The appropriate Government may, to the extent of availability of financial and other resources,
(a) develop and organise capacity building programmes for street vendors and on how 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.

Act to have overriding effect. **35.** 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:

Provided that where a State has enacted a law for protecting the livelihood of street vendors and regulation of street vending, and such State law is not inconsistent with this Act, then, the State Government may apply all or any of the provisions of this Act in the State.

Powers to Delegate. **36.** 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 40 and power to make rules under section 38), 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.

Power to amend Schedules. **37.** (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 or the Third Schedule, as the case may be, shall be deemed to have been amended

accordingly.

(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.

Power to make Rules.

38. (1) The appropriate Government may, by notification, make rules for carrying out the provisions of this Act.

(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;
- (b) any other categories of street vendors under of sub-section (2) of section 6;
- (c) other categories of persons under section 7;
- (d) the persons and the experience such person shall have under sub-section (1) of section 20;
- (e) the form and the manner of making application under sub-section (2) of section 20;
- (f) 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;
- (g) the form, the time within which and the manner in which an appeal may be filed under sub-section (4) of section 20;
- (h) the time within which and the manner in which an appeal shall be disposed of under sub-section (5) of section 20;
- (i) The term of, and the manner of constituting, the Town Vending Committee under sub-section (1) of section 22;
- (j) The number of other members of the Town Vending Committee under clause (b) 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, and the purposes for, constituting a zonal vending committee or ward vending committee and the number of zonal vending committees and ward vending committees to be constituted under section 26;

(q) the manner of maintaining upto date record of all street vendors under sub-section(2) of section 27;

(r) the returns to be furnished under section 32;

(s) the manner of publishing summary of scheme under sub-section (2) of section 40.

(3) Every rule, and scheme made under this Act shall be laid, as soon as may be after it is made, before the House of Parliament/State Legislature, as the case may be, while it is in session, for 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.

Power to make
bye-laws.

39. Subject to the provisions of this Act or any rules or scheme made there under, 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 30;

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

(e) 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.

40. (1) For the purposes of this Act, the appropriate Government shall frame, by notification, a scheme, which may specify all or any of the matters provided in the Third 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 newspapers in such manner as may be prescribed.

Power to
remove
difficulties.

41. (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:

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.

First Schedule

[See section 21]

Street Vending Plan

(1) The plan shall,-

(a) ensure that urban street vending activities do not lead to overcrowding and unsanitary conditions of public spaces, areas and streets and not impede the movement of the general public;

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

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

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

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

(2) The plan 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.

Second Schedule

[See section 28]

Duties of Local Authority

- (a) overall supervision and monitoring of the scheme for street vendors;
- (b) monitoring effective functioning of the Town Vending Committee;
- (c) deciding appeals in respect of the registration, or issue of certificate of vending or the cancellation or suspension of certificate of vending, of street vendors in the manner specified in the scheme;
- (d) providing, in consultation with the Town Vending Committee civic services;
- (e) determining in consultation with the Town Vending Committee, the manner of collecting, through banks, counters of local authority and counters of Town Vending Committee, fees for registration, use of parking space for mobile stalls and availing of civic services;
- (f) undertake in consultation with the Town Vending Committee, comprehensive digitalized photo census and survey of the existing number of street vendors with the assistance of such experts and in such manner as may be specified in the scheme, for the purpose of accommodating street vendors within the holding capacity of the vending zones;
- (g) ensure that no street vending activities is carried out in no-vending zone.

Third Schedule

[See section 40]

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

- (a) the form and the manner of making application for registration and the one time fees and the documents that may accompany such application;
- (b) the period within which and the manner in which registration of street vendors may be made;
- (c) the conditions and restrictions subject to which certificate of vending may be issued to a street vendor;
- (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;
- (h) the period of validity of certificate of vending;
- (i) the period for which and the manner in which a certificate of vending may be renewed and the fees for such renewal;
- (j) the manner in which the certificate of vending may be suspended or cancelled;
- (k) the form and the manner of filing appeal, the period within which an appeal may be filed;
- (l) the public purpose for which a street vendor may be relocated and the manner of relocating street vendor;
- (m) the manner of evicting a street vendor;
- (n) the manner of giving notice for eviction of a street vendor;
- (o) the manner of evicting a street vendor physically on failure to evict;
- (p) the manner of confiscation of goods by the local authority;
- (q) the manner of reclaiming confiscated goods by the street vendor and the fees for the same;

(r) the form and the manner for carrying out social audit of the activities of Town Vending Committee;

(s) the principles for determination of vending zones as restriction-free-vending zones, restricted-vending zones and no-vending zones;

(t) the conditions under which private places may be designated as restriction-free-vending zones, restricted-vending zones and no-vending zones;

(u) the principles for determining holding capacity of vending zones and manner of undertaking comprehensive census and survey;

(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) any other matter which may be included in the scheme for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Street vendors constitute an important segment of the urban population. Street vendors are those who are unable to get regular jobs in the remunerative formal sector on account of their low level of education and skills. They earn their livelihood through their own meagre financial resources and sweat equity.

2. Street vending provides a source of self-employment, and thus acts as a measure of urban poverty alleviation without major Government intervention. Street vending also acts as an instrument to provide affordable as well as convenient services to a majority of urban population and has a prominent place in the urban supply chain and are an integral part of the economic growth process within urban areas.

3. Given the pace of urbanisation and the opportunities presented through the development of urban areas, the growth of street vendors is likely to have an upward trend. It is vital that these vendors are enabled to pursue their livelihoods in a congenial and harassment free atmosphere.

4. Considering the significant contribution made by street vendors to the urban society as a whole, more specifically to the comparatively poorer sections, and to enable them to earn a livelihood through creation of good working conditions, without causing obstruction to the public, the Government of India brought out revised National Policy on

Urban Street Vendors, 2009 which aims at securing right of the citizens to have adequate means of livelihood as enshrined in articles 14, 19(1)(g), 38(2), 39(a), 39(b) and 41 of the Constitution and fostering a congenial environment for the urban street vendors to carry out their activities, without harassment from any quarter. It also aims at providing a mechanism for regulation of street vending activities to avoid congestion on sidewalks and to

ensure free flow of traffic on roads by a legislative framework to enable street vendors to pursue a honest living without harassment.

5. Thus, the proposed Bill is aimed at protecting the livelihood rights and social security of street vendors and regulation of urban street vending in the country and ensuring uniformity in the legal framework for street vending across States and Union territories. The proposed Street Vendors

(Protection of Livelihood and Regulation of Street Vending) Bill, 2012, *inter alia*, seeks to provide for the following, namely:—

- (a) compulsory registration of every person intending to carry out street vending activities;
- (b) issue of a certificate of vending and identity cards to street vendors;
- (c) certain rights of street vendors;
- (d) certain duties of the street vendors;
- (e) constitution of Town Vending Committee in each local authority with minimum forty per cent. representation of street vendors, out of which one-third shall be women vendors and reasonable representation of the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, minorities and persons with disabilities;
- (f) making of a plan for street vending once in every five years;
- (g) framing of a scheme relating to street vending by the appropriate Government;
- (h) redressal of grievances and resolution of disputes of street vendors;
- (i) promotional measures for making available credit, insurance and other welfare schemes of social security for the street vendors;
- (j) street vendors not to be prevented by any person or police or any other authority from exercising their right to vend when carrying on street vending in accordance with the terms and conditions of certificate of vending.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;

The 31st August, 2012.

SELJA

KUMARI

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

**[Copy of letter No. E-14015/1/2011-USD/FTS-2764, dated 31st August, 2012 from Kumari Selja,
Minister of Housing and Urban Poverty Alleviation to the Secretary-General, Lok Sabha]**

The President, having been informed of the subject matter of the proposed Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012, recommends the introduction of the Bill in the House under article 117(1) and the consideration of the Bill under article 117(3) of the Constitution.

Notes on clauses

Clause 1 of the Bill seeks to provide the short title, extent and commencement of the proposed legislation.

Clause 2 of the Bill seeks to provide the definitions of the various expressions used in the proposed legislation.

Clause 3 of the Bill provides that every person who has completed the age of fourteen years or such other age as may be prescribed by rules by the appropriate authority, and intends to do street vending, may make an application to the Town Vending Committee for registration as a street vendor. It further provides that every such application shall be made in such form and manner, accompanied by such documents and one time fees, as may be specified in the scheme.

Clause 4 of the Bill provides for registration of all street vendors, who make application, by the Town Vending Committee within such period, and in such manner, as may be specified in the scheme.

Sub-clause (2) of the said clause 4 provides that the Town Vending Committee shall not summarily reject any application without giving the applicant an opportunity to rectify deficiencies, if any, and affording him an opportunity of hearing.

Sub-clause (3) thereof provides that if, on the completion of the specified period, the applicant does not receive any response about the deficiencies in his application or the rejection of his application, then, he shall be deemed to have been registered.

Sub-clause (4) thereof provides that if the Town Vending Committee, or any officer authorised by the Town Vending Committee, is satisfied that the application so made is in accordance with the provisions of the Act and the rules or schemes made thereunder, he shall issue a certificate of registration to the applicant with a serial number assigned to it.

Clause 5 of the Bill provides that no person shall carry on or commence the business of street vending unless he holds a certificate of vending issued under this Act. However, a person who has been issued a certificate of vending before the commencement of this Act (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.

Clause 6 of the Bill provides that the Town Vending Committee or any officer authorized by it may, subject to such conditions and restrictions as may be specified in the scheme, issue a certificate of vending to every street vendor who has been registered under clause 4.

Sub-clause (2) of said clause 6 provides that the certificate of vending shall be issued under any of these categories, namely, (a) stationary vendor; (b) mobile vendor; or (c) any other category as may be prescribed.

Sub-clause (3) thereof provides that the certificate of vending shall be in such form, and issued in such manner, as may be specified in the scheme and shall specify the vending zone where the street vendor shall carry on his vending activities, the time limit for carrying on such vending activities and the conditions and restrictions subject to which he shall carry on such vending activities.

Sub-clause (4) thereof provides that 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.

Clause 7 of the Bill provides that 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 provided by rules.

Clause 8 of the Bill provides that every street vendor who has been issued certificate of vending shall pay such vending fees as may be specified in the scheme.

Clause 9 of the Bill provides that every certificate of vending shall be valid for such period as may be specified in the scheme.

Sub-clause (2) of said clause 9 provides that 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.

Clause 10 of the Bill provides that if a registered street vendor commits breach of any conditions mentioned in the certificate of vending or of any other terms and conditions specified under

the Act or any rules or schemes made thereunder, or if the Town Vending Committee is satisfied that such certificate of vending has been secured through misrepresentation or fraud, the Town Vending Committee may 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 thinks fit. However, such cancellation or suspension shall be made by the Town Vending Committee only after giving an opportunity of hearing to the street vendor.

Clause 11 of the Bill provides that any person who is aggrieved by any decision of the Town Vending Committee with respect to registration or issue of certificate of vending or cancellation or suspension of certificate of vending may prefer an appeal to the local authority in such form, within such period, and in such manner, as may be specified in the scheme.

Sub-clause (2) of said clause 11 provides that no appeal shall be disposed of by the local authority unless the appellant has been given an opportunity of hearing.

Clause 12 of the Bill provides that every street vendor shall have right to carry on the business of street vending activities in the vending zones allotted to him in accordance with the terms and conditions mentioned in the certificate of vending and the scheme framed by the appropriate Government.

Sub-clause (2) of said clause 12 provides that where any area or space has been earmarked as no-vending zone, no street vendor shall carry out any vending activities in that zone.

Clause 13 of the Bill provides that every street vendor who possesses a certificate of vending shall, in case of his relocation, be entitled for new site or area as may be determined by the local authority, for carrying out his vending activities.

Clause 14 of the Bill provides that where a street vendor occupies space on a time sharing basis, he shall remove his goods and wares every day at the end of the time-sharing period allowed to him.

Clause 15 of the Bill provides that every street vendor shall maintain cleanliness and public hygiene in the vending zones and the adjoining areas.

Clause 16 of the Bill provides that 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.

Clause 17 of the Bill provides that 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.

Clause 18 of the Bill provides that the local authority shall, having regard to public nuisance or obstruction of movement of general public caused by the street vendors, or for any other public purpose, relocate such street vendors in such manner as may be specified in the scheme.

Sub-clause (2) of said clause 18 provides that where the local authority is satisfied that a street vendor has consistently failed to comply with his duties and obligations under the Act or the rules and the scheme made thereunder, it may evict such street vendor in such manner as may be specified in the scheme.

Sub-clause (3) of said clause 18 provides that no street vendor shall be relocated or evicted by the local authority from the site allotted to him unless he has been given seven days notice for the same in such manner as may be specified in the scheme.

Sub-clause (4) of said clause 18 provides that 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 site after the expiry of said specified period of notice.

Sub-clause (5) of said clause 18 provides that every street vendor who fails to relocate or vacate the site allotted to him after the expiry of said period of notice shall also be liable to pay, for every day of such default, a penalty which may extend up to rupees five hundred as may be determined by the local authority.

Clause 19 of the Bill provides that the local authority may, in addition to evicting of the street vendor, if deems necessary, confiscate his goods in such manner as may be specified in the scheme.

Sub-clause (2) of said clause 19 provides that the street vendor, whose goods have been so confiscated, may reclaim his goods in such manner, and after paying such fees, as may be specified in the scheme.

Clause 20 of the Bill provides for redressal of grievances or resolution of disputes of street vendors. It provides that the local authority shall, for the purpose of disposing of application received for redressal of grievances or resolution of disputes of street vendors, constitute a permanent committee consisting of a person who has been a sub-judge or a judicial magistrate or an executive magistrate and such other persons having such experience

in natural market and street vending activities as may be prescribed.

Sub-clause (2) of said clause 20 provides that every street vendor who has a grievance or dispute may make an application in writing to the committee in such form and manner as may be provided by rules.

Sub-clause (3) thereof provides that on receipt of any grievance or dispute, the committee shall, after verification and enquiry in such manner, as may be provided by rules, take steps for redressal of such grievance or resolution of such dispute, within such time and in such manner as may be provided by rules.

Sub-clause (4) thereof provides that 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 provided by rules.

Sub-clause (5) thereof provides that the local authority shall dispose of the appeal within such time and in such manner as may be provided by rules. However, the local authority shall, before disposing of the appeal, give an opportunity of being heard to the aggrieved person.

Clause 21 of the Bill provides that every local authority shall, in consultation with the Planning Authority, once in every five years, make out a plan to promote a supportive environment for the vast mass of urban street vendors to carry out their vocation, which shall provide for matters contained in the First Schedule.

Sub-clause (2) of said clause 21 provides that the street vending plans prepared by the local authority shall be submitted to the appropriate Government and the appropriate Government shall determine the planning norms for street vendors and notify the street vending plan so submitted.

Clause 22 of the Bill provides that 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. However, 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.

Sub-clause (2) of said clause 22 provides that 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 provided by rules, to be nominated by the appropriate Government, representing the local authority, the planning authority, traffic police, local police, association of street vendors, market associations, traders associations, resident welfare associations, banks and such other interests as it deems proper. However, the number of members nominated to represent the street vendors shall not be less than forty per cent., out of which one-third shall be from amongst women vendors, and reasonable representation shall also be given to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, minorities and persons with disabilities.

Sub-clause (3) of said clause 22 provides that the Chairperson and the members so nominated shall receive such allowances as may be provided by rules by the appropriate Government.

Clause 23 of the Bill provides that 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 provided by rules.

Clause 24 of the Bill provides that the Town Vending Committee may associate with itself in such manner and for such purposes, as may be provided by rules, any person whose assistance or advice it may desire, in carrying out any of the provisions of this Act.

Sub-clause (2) of said clause 24 provides that a person associated under sub-section (1) shall be paid such allowances as may be provided by rules.

Clause 25 of the Bill provides that the local authority shall provide the Town Vending Committee with appropriate office space and such employees as may be provided by rules.

Clause 26 of the Bill provides that the Town Vending Committee may, in such manner and for such purposes, constitute such number of zonal vending committees and ward vending committees as may be provided by rules.

Clause 27 of the Bill provides that every Town Vending Committee shall publish the street vendor's charter specifying therein the time within which the certificate of registration and 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.

Sub-clause (2) of said clause 27 provides that every Town Vending Committee shall maintain an 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 provided by rules.

Sub-clause (3) of said clause 27 provides that 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.

Clause 28 of the Bill provides that notwithstanding anything contained in any other law for the time being in force, the local authority shall carry out such duties under the provisions of this Act as are provided in the Second Schedule.

Clause 29 of the Bill provides that 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.

Clause 30 of the Bill provides penalty for contraventions. It provides that if any street vendor indulges in vending activities without a certificate of vending or vends beyond the designated vending zones or specified timings or contravenes the terms of certificate of vending or 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.

Clause 31 of the Bill provides that 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.

Sub-clause (2) of said clause 31 provides that nothing contained in sub-clause (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 under any law

for the time being in force for carrying out such vending activity.

Clause 32 of the Bill provides that every Town Vending Committee shall furnish, from time to time, to the appropriate Government and the local authority such returns as may be provided by rules.

Clause 33 of the Bill provides that 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.

Clause 34 of the Bill provides that the appropriate Government may, to the extent of availability of financial and other resources, develop and organise capacity building programmes for street vendors and on how to exercise the rights contemplated under this Act and 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.

Clause 35 of the Bill provides that 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. However, where a State has enacted a law for protecting the livelihood of street vendors and regulation of street vending, and such State law is not inconsistent with this Act, then, the State Government may apply all or any of the provisions of this Act in the State.

Clause 36 of the Bill provides that 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 40 and power to make rules under section 38), 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.

Clause 37 of the Bill provides that 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 or the Third Schedule, as the case may be, shall be deemed to have been amended accordingly.

Sub-clause (2) of said clause 37 provides that 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.

Clause 38 of the Bill seeks to empower the appropriate Government to make rules for carrying out the provisions of the proposed legislation.

Sub-clause (3) thereof, provides that every rule, and scheme made under this Act shall be laid, as soon as may be after it is made, before the House of Parliament or State Legislature, as the case may be.

Clause 39 of the Bill seeks to empower the local authority to make bye-laws for carrying out the provisions of the proposed legislation.

Clause 40 of the Bill provides that for the purposes of the Act, the appropriate Government shall frame, by notification, a scheme which may specify all or any of the matters provided in the Third Schedule, which shall be published by the local authority in at least two local news papers in such manner as may be prescribed by rules.

Clause 41 of the Bill seeks to provide for power to remove difficulties.

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 20 of the Bill provides for the constitution of a permanent committee for redressal of grievances or resolution of disputes of street vendors by the local authority.

2. *Sub-clause (1)* of clause 21 of the Bill provides for making out a plan for street vending, once in every five years, by the local authority in consultation with the planning authority.

3. *Sub-clause (1)* of clause 22 of the Bill provides for the constitution of town vending committee in each local authority or where necessary more than one or two town vending committee in each local authority or zone or ward. *Sub-clause (3)* of the said clause provides for payment of allowances to the members of town vending committee.

4. Clause 25 of the Bill provides for office space and other employees to be provided to the town vending committee by the local authority.

5. Clause 26 of the Bill provides for constitution of zonal vending committees or ward vending committee by the town vending committee.

6. Clause 28 of the Bill provides for comprehensive digitalized photo census and survey of the existing number of street vendors to be carried out by the local authority, in consultation with the town vending committee.

7. Clause 33 of the Bill provides for promotional measures to be undertaken by the appropriate Government, in consultation with the town vending committee, local authority, planning authority and street vendor association or unions for making available credit, insurance and other welfare schemes of social security to street vendors.

8. Clause 34 of the Bill provides for developing and organising capacity building

programmes for street vendors and to undertake research, training and awareness programmes for street vendors by the appropriate Government through the town vending committee.

9. Clause 40 of the Bill provides for framing of a scheme in respect of matters specified in the Third Schedule by appropriate Government.

10. The total financial implication in terms of recurring and non-recurring expenditure involved in carrying out the various functions under the Bill would be borne respectively by the local authority, the State Governments and the Central Government. However, it is not possible to estimate the exact recurring and non-recurring expenditure from the Consolidated Fund of India at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 38 of the Bill seeks to empower the appropriate Government to make rules to provide for (a) the age for street vending; (b) any other categories of street vendors under sub-section (2) of section 6; (c) other categories of persons under section 7; (d) the persons and the experience such person shall have under sub-section (1) of section 20; (e) the form and the manner of making application under sub-section (2) of section 20; (f) 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; (g) the form, the time within which and the manner in which an appeal may be filed under sub-section (4) of section 20; (h) the time within which and the manner in which an appeal shall be disposed of under sub-section (5) of section 20; (i) the term of, and the manner of constituting, the Town Vending Committee under subsection (1) of section 22; (j) the number of other members of the Town Vending Committee under clause (b) 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, and the purposes for, constituting a zonal vending committee or ward vending committee and the number of zonal vending committees and ward vending committees to be constituted under section 26; (q) the manner of maintaining up-to-date record of all street vendors under sub-section (2) of section 27; (r) the returns to be furnished under section 32; and (s) the manner of publishing summary of scheme under sub-section (2) of section 40.

2. Clause 39 of the Bill empowers the local authority to make bye-laws to provide for (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 30; (c) the regulation of the

collection of taxes and fees in the vending zones; (d) regulation of traffic in the vending zones; (e) 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; (f) the regulation of civic services in the vending zones; and (g) the regulation of such other matters in the vending zones as may be necessary.

3. Clause 40 of the Bill empowers the appropriate Government to frame, by notification, a scheme which may specify all or any of the matters provided in the Third Schedule.

4. The matters in respect of which said rules, bye-laws and scheme may be made are matters of procedure and administrative detail, and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

LOK SABHA

A

BILL

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

(Kumari Selja, Minister of Housing and Urban Poverty Alleviation)

MGIPMRND—2756LS(S3)—04.09.2012.

MINUTES OF THE SECOND SITTING OF THE STANDING COMMITTEE ON URBAN DEVELOPMENT (2012-2013)

The Committee sat on Tuesday, the 6th November, 2012 from 1100 hrs. to 1430 hrs. in Room No 074, Parliament Library Building, New Delhi.

PRESENT

Shri Sharad Yadav - Chairman

MEMBERS

LOK SABHA

2. Shri Ambica Banerjee
3. Shri Kailash Joshi
4. Shri Mohinder Singh Kaypee
5. Shri Ramesh Kumar
6. Dr. Sanjeev Ganesh Naik
7. Shri Ratan Singh

RAJYA SABHA

8. Shri Anil Desai
9. Shri Parvez Hashmi
10. Shri Faggan Singh Kulaste
11. Shri Avinash Pande
12. Shri Ajay Sancheti

queries of the Members to the Lok Sabha Secretariat on which they could not respond during the meeting.

The witnesses then withdrew.

**Part III
(1330 hrs. to 1430 hrs.)**

6. **** ***** **** ****

7. **** **** **** ****

The Committee then adjourned.

**** These portions are not related to the Report

STANDING COMMITTEE ON URBAN DEVELOPMENT (2012-2013)

MINUTES OF THE THIRD SITTING OF THE COMMITTEE HELD ON MONDAY, 17 DECEMBER, 2012

The Committee sat from 1500 hrs. to 1640 hrs. in Room No. 62, Parliament House, New Delhi.

PRESENT

Shri Sharad Yadav - **Chairman**

MEMBERS

LOK SABHA

2. Shri Jayawant Gangaram Awale
3. Shri Ambica Banerjee
4. Shri Kailash Joshi
5. Shri Bapi Raju Kanumuru
6. Shri Mohinder Singh Kaypee
7. Shri Ramesh Kumar
8. Shri Sanjeev Ganesh Naik
9. Dr. Prasanna Kumar Patasani

RAJYA SABHA

10. Md. Nadimul Haque
11. Shri Faggan Singh Kulaste
12. Shri Avinash Pande
13. Shri Ajay Sancheti

SECRETARIAT

1. Shri R.K. Jain - Joint Secretary
2. Shri D.S. Malha - Director
3. Smt. J. M. Sinha - Deputy Secretary

WITNESSES

1. Mr. Arbind Singh, Coordinator, National Association of Street Vendors of India(NASVI).
2. Ms. Gurvinder Kaur, National Association of Street Vendors of India(NASVI).
3. Mr. Baskar, National Association of Street Vendors of India(NASVI).
4. Mr. Ashok Kumar, National Association of Street Vendors of India(NASVI).
5. Mr. Vinod Simon, National Association of Street Vendors of India(NASVI).
6. Shri Harsh Mander, Director, Centre for Equity Studies.
7. Ms. Warisha Farasat, Centre for Equity Studies.
8. Dr Anup Surendranath, Centre for Equity Studies.
9. Dr Mathew John, Centre for Equity Studies.
10. Mr Amod Shah, Centre for Equity Studies.
11. Ms. Renana Jhabvala, National Coordinator, Self Employed Women Association(SEWA).
12. Ms. Manali Shah, Self Employed Women Association(SEWA).
13. Mrs. Leela Tappu, Self Employed Women Association(SEWA).
14. Mr. Uday Khare, Self Employed Women Association(SEWA).
15. Ms. Champa Patani, Self Employed Women Association(SEWA).

2. At the outset, Hon'ble Chairman welcomed Shri Arbind Singh, his colleagues from National Association of Street Vendors of India; Shri Harsh Mander, his colleagues from Centre for Equity Studies and Ms. Renana Jhabvala and her colleagues from Self Employed Women's Association and

drew their attention towards Direction 59(1) of the Directions by the Speaker. Thereafter, the Committee invited them to present their views in the matter. The representatives expressed their concern over deficiencies in certain clauses of the Bill and suggested corrective measures. Some of their suggestions covered various aspects of the Bill viz., application of the provisions of the Bill to the vendors in and around railway premises; mandatory registration of all vendors doing business at the time of commencement of the Act; declaration of vending zones sufficient enough to accommodate existing vendors before declaring the non-vending zones; making provision for rehabilitation and resettlement of street vendors in case of relocation or displacement; facilitating zone-wise dispute redressal mechanism; all major decisions to be taken by Town Vending Committee and not by officials of Municipal Bodies; Town Vending Committee to constitute 50% of street vendors of which 33% should be women among vendors; imposition of penalty on vendors equivalent to his one day's earning; declaration of all natural markets as heritage markets etc. The Members then put forth certain questions on which the representatives of the NGOs gave their view points. The committee directed the representatives to furnish written replies to Member's queries which were not replied by them during the proceedings.

3. A verbatim record of the proceedings of the sitting has been kept.

The Committee then adjourned.

MINUTES OF THE FOURTH SITTING OF THE STANDING COMMITTEE ON URBAN
DEVELOPMENT (2012-2013).

The Committee sat on Friday, the 28th December, 2012 from 1100 hrs. to 1200 hrs. in Room No
53, Parliament House, New Delhi.

PRESENT

Shri Sharad Yadav - Chairman

MEMBERS

LOK SABHA

2. Shri Ambica Banerjee
3. Shri Kailash Joshi
4. Shri Mohinder Singh Kaypee
5. Shri Ramesh Kumar
6. Shri M. Anjan Kumar Yadav
7. Dr.(Prof.) Prasanna Kumar Patasani
8. Dr. Ramshankar

RAJYA SABHA

9. Shri Anil Desai
10. Shri Md. Nadimul Haque
11. Shri Parvez Hashmi
12. Shri Avinash Pande
13. Shri Ajay Sancheti

SECRETARIAT

1. Shri D.S. Malha - Director
2. Smt. J.M. Sinha - Deputy Secretary
3. Smt. K. Rangamani N. - Under Secretary

WITNESSES

1. Dr. P.K. Mohanty - Addl. Secretary,
2. Shri Brij Kumar Aggrawal - Joint Secretary(UPA)
3. Shri Avinash Kumar Mishra - Dy. Secretary(UPA)
4. Shri Nagendra Goel - Legal Counsel, HUPA

2. The Hon'ble Chairman welcomed the representatives of the Ministry of Housing and Urban Poverty Alleviation and drew their attention towards Direction 59(1) of the Directions by the Speaker.

3. Thereafter, Members of the Committee expressed their views on the components/issues concerning "The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012" and raised queries regarding age limit prescribed for doing the business of street vending, prescribing uniform policy for all street vendors throughout the country, identifying plans for resettlement before relocating the street vendors, fair and transparent system to be followed in selection of street vendors, specifying rules for vending in and around railway station etc. The representative of the Ministry of Housing and Urban Poverty Alleviation responded to the same. The Hon'ble Chairman emphasized upon the Ministry that copies of National policy on Street Vendors, 2004 be made available to Hon'ble members of the Committee for their information and use. The Committee directed the representatives of the Ministry to furnish written replies to the queries of the Members to the Lok Sabha Secretariat on which they could not respond during the meeting.

A verbatim record of the proceedings of the sitting has been kept.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE SEVENTH SITTING OF THE STANDING COMMITTEE ON URBAN DEVELOPMENT (2012-2013).

The Committee sat on Tuesday, the 5th March, 2013 from 1000 hrs. to 1100 hrs. in Committee Room 'A', Parliament House Annexe, New Delhi.

PRESENT

Shri Sharad Yadav - **Chairman**

MEMBERS

LOK SABHA

2. Shri Jayawant Gangaram Awale
3. Shri Anant Gangaram Geete
4. Shri Mohinder Singh Kaypee
5. Shri Ramesh Kumar
6. Shri P.C. Mohan
7. Dr. Ramshankar
8. Shri Ratan Singh

RAJYA SABHA

9. Md. Nadimul Haque
10. Shri Parvez Hashmi
11. Shri Fagan Singh Kulaste
12. Shri Avinash Pande
13. Shri Khekiho Zhimomi

SECRETARIAT

- | | | | |
|----|----------------------|---|------------------|
| 1. | Shri R.K. Jain | - | Joint Secretary |
| 2. | Shri D.S. Malha | - | Director |
| 3. | Smt. J.M. Sinha | - | Deputy Secretary |
| 4. | Smt. K. Rangamani N. | - | Under Secretary |

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee. The Committee then took up for consideration the draft Report on "The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012". After deliberations the Committee adopted the draft Report with slight modifications.

3. The Committee then authorized the Chairman to finalize and present the Report to Parliament.

The Committee then adjourned.
