

**RECLAIMING URBAN SPACES: CONSTITUTIONAL PROTECTIONS, LEGAL
FRAMEWORKS, AND THE LIVED REALITIES OF WOMEN STREET VENDORS IN
INDIA**

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Abstract

The purpose of this study is to examine the changing nature of the legal and Constitutional frameworks that govern not just street vending but also women street vendors within India through a feminist lens, specifically by determining whether the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 adequately protects the rights and livelihoods of women street vendors. In addition to this, it seeks to analyse how Constitutional rights create the means by which women street vendors have access to their livelihood; within the Indian informal economy, women street vendors face multiple intersecting/overlapping vulnerabilities.

To conduct this analysis, a doctrinal legal approach has been utilised which includes a review of the Constitution of India, particularly Articles 14, 15, 19(1)(g), and 21, and an examination of the leading case in this area, *Olga Tellis v. Bombay Municipal Corporation*. In addition to an analysis of the 2014 Street Vendors Act, other governmental regulations and initiatives designed to assist street vendors are reviewed (such as PM SVANidhi), paying particular attention to items related to gendered access to benefits. Additionally, to implement a doctrinal legal analysis, a social-legal approach is taken to provide a more comprehensive examination of the existing legal gaps related to women street vendor access to the SVP Act and the significant barriers that women street vendors face when trying to obtain Certificates of Vending and become members of Town

Vending Committees. In relation to obstacles caused by pre-existing municipal laws regarding street vendors and displacement, the authors provide recommendations for gender-responsive planning and applied strategies to increase municipal accountability to secure dignified livelihoods for women street vendors (Cosgrove 2018, Ramakrishnan 2023).

Keywords: Women Street Vendors, Right to Livelihood, Gender Justice, Constitutional Rights, India.

1. Introduction

Street vended goods represent an important part of India's urban informal economy, providing income to millions of people in India, with a large percentage of street vendors being female. Female street vendors provide low-cost products and services used by urban consumers, while also managing household responsibilities, and involved in local supply chains. Female street vendors navigate complex market networks utilizing limited resources, access to finance, and social protection. Even with their importance in terms of economic contributions, female street vendors also experience structural forms of socio-economic exclusion, including ongoing harassment, unstable employment (or lack of) status, exclusion from decision-making processes, due to historic urban planning practices, and the legacies of urban legal systems.

A significant step taken by India to mitigate a long-standing tension between regulation and opportunity for livelihood has been the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. In this law, the right to earn a living is protected with proper urban governance procedures through the use of surveys, Certificates of Vending (CoVs), and Town Vending Committees (TVCs). As such, it represents a significant legal development in providing procedural protections against arbitrary removal from their businesses for vendors working on the streets. However, even after a decade of being passed, many cities have made progress in officially recognizing street vendors and allowing them to operate legally, while still there are some cities that continue to use older regulations and to do irregular (adverse) removals of street vendors. The question being asked in this research paper is: Has the new law since 2014 truly provided a change for women street vendors from being considered as marginal "encroachers" on to the streets to

being recognized as legitimate businesses with enforceable rights, and what type of institutional changes can be made to help support gender equity in urban vending in general?

2. Literature Review

Street vendors have been part of India's informal economy for many years. Many women enter vending for a variety of reasons, one of them being limited opportunities for traditional jobs (Bhowmik, 2005). Research indicates that female vendors receive lower earnings than male vendors, experience a higher risk of being harassed, and have limited access to secure vending locations and financial services (Chen, 2016; NASVI, 2022).

Several legal scholars have analyzed how the right to livelihood is protected under the Indian Constitution and through subsequent court cases, especially following the case of *Olga Tellis v. Bombay Municipal Corporation* (1985). However, while there are several articles in the Constitution expressly protecting the right to livelihood for citizens, and while the intent of the Street Vendors Act (2014) was to provide for rights-based recognition for street vendors, there are still significant gaps in implementing these protections. Research indicates many of the Provisions of the Street Vendors Act (2014) are incomplete, TVCs (Town Vending Committees) have not yet been set up, surveys have not yet been conducted, and municipal authorities continue to evict vendors (Sharma & Kiran, 2019).

Research focused on issues effecting women vendors indicates that they are underrepresented in the governance structures that exist around street vending, are at a greater risk of being affected by unsafe public spaces, and have been unable to benefit from other government schemes (like PM SVANidhi) due to barriers associated with documentation and digital literacy that are more prevalent among women (SEWA, 2020; NITI Aayog, 2021). Holistically, the literature has revealed that there is a large gap between what has been promised in Government policies and the actual experience of female vendors, highlighting the importance of creating gender-sensitive policies and planning for Urban Development.

3. Objectives

1. The first objective of this research is to evaluate the constitutional and legal framework pertaining to street vending in India, with a focus on women vendors operating in this sector.
2. The second objective will evaluate the extent to which the rights of women street vendors are recognised and protected under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014.
3. The third objective aims to compare the rights guaranteed under the legislation with the challenges and barriers faced by women vendors in the implementation of these rights at the grassroots level.
4. The fourth objective seeks to determine how successful PM SVANidhi and similar policies are in achieving, or falling short of achieving, financial inclusion and socio-economic security for women street vendors.
5. The fifth objective focuses on identifying the socio-economic vulnerabilities of women vendors operating in the informal economy and examining the ways in which these vulnerabilities are linked to urban infrastructure and planning, policing, and municipal governance.
6. The sixth objective is to critically examine selected judicial decisions, particularly the Olga Tellis case and subsequent cases, through a gendered lens in order to analyse their impact on female vendors' rights to earn a living.
7. The seventh objective will create a model of urban governance that incorporates a gendered perspective on the interplay of regulation, public order, and constitutional rights.
8. The eighth objective will establish empirical and socio-legal bases for advocating for reform to enhance the dignity, safety, and economic stability of women vendors operating in the informal economy.

4. Research Methodology

In this research, a socio-legal methodology will be utilized that uses a combination of methods:

1. Doctrinal Legal Analysis: Conduct a review of Constitutional provisions and key Supreme Court decisions related to right of livelihood and street vending.

2. Policy Review: Review of the Street Vendors Act (2014), PM SVANidhi, and government implementation dashboards in order to determine the level of financial inclusion.

3. Literature Review from Multiple Disciplines: Use of findings from SEWA, WIEGO, Centre for Urban Equity, and other socio-legal sources to identify barriers facing female street vendors.

4. Triangulation: Compare statutory texts, policy outcomes, and documentary literature to find gaps in implementation and specific issues confronting women as street vendors.

5. Research Problem

1. Street Vendors Act of 2014 is Weakly Implemented

Women vendors are often denied Vending Certificates and do not receive eviction protections.

2. Gender Inequality in Urban Governance

Women do not have adequate representation in Town Vending Committees and have limited input on issues that impact their livelihoods.

3. High Incidence of Harassment and Unsafe Workplaces

Police and Municipal authorities frequently interfere with women vendors, putting their safety at risk in public spaces.

4. Restricted Access to Credit and Welfare Programs

Women have limited access to credit or welfare programs due to poor documentation, poor digital literacy, and lack of access to finance, such as PM SVANidhi.

5. Persistent Municipal Practices that Treat Vendors as Encroachers

Municipalities continue to enforce outdated by-laws and evictions, undermining the constitutional rights and statutes of vendors, which disproportionately affects women.

6. The Legal and Constitutional Framework

6.1 Constitutional Protections

The core legal framework for safeguarding the rights of livelihoods in India is derived from its constitutional framework. Article 21 provides for the right to live with dignity and has been instrumental in recognising the full range of socio-economic rights; Article 19(1)(g) guarantees the right to engage in a profession/trade/business (with reasonable limitations) and Articles 14 and 15 ensure equality/discrimination guarantees for individuals. Collectively, these constitutional protections create a legal basis upon which Indian courts have been able to intervene on behalf of informal workers from the arbitrary exercise of state power.

6.2 Judicial Landmarks: From Evictions to Recognition

The Supreme Court's ruling in *Olga Tellis v Bombay Municipal Corporation* (1985) was one of the first landmark cases that recognized the right to earn a living as part of the right to life under Article 21 of the Constitution. The court determined that if the authorities evict slum dwellers and pavement dwellers and did not provide them with a place to stay, they would be denying them access to their livelihoods and, therefore, violating Article 21 of the Constitution. Additionally, the court determined that no one may be deprived of his or her life or liberty without following due process; therefore, summary eviction was unconstitutional.

Following the *Olga Tellis* case, the Supreme Court decided in *Sodan Singh v NDMC* and the *Bombay Hawkers' Union* cases that while municipalities have the authority to regulate public spaces for traffic, sanitation and urban order, they must do so in a fair and proportional manner and protect the rights of street vendors to earn a living.

More recently, in *Maharashtra Ekta Hawkers Union v MCGM* (2017), the Supreme Court upheld the principle that all municipalities must conduct surveys, hold consultations and comply with similar statutory requirements before evicting any street vendors.[23]

These cases support the determination that street vending is a legitimate occupation and that vendors are protected by Article 19(1)(g) of the Constitution. While municipalities have the right to regulate public spaces, they must do so fairly, proportionately and in a manner that respects the rights of street vendors.

The cumulative effect of these decisions reflects the changing perception of street vendors from being viewed as encroachers to being seen as legitimate workers entitled to justice, dignity and equality under the Constitution.

6.3 Statutory Framework: The Street Vendors Act, 2014

A need for a uniform statutory framework (i.e., rules and regulations) to protect and regulate street vending was recognised after the Constitution and judicial courts had set up the infrastructure to support regulation and protection of street vendors.

The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 was enacted on 4 March 2014 and various states implemented since.

Key Provisions:

Survey of all vendors: Local authorities assisted by Town Vending Committees (TVC's) are responsible for the survey of all existing vendors and to register them. The mandatory survey is to be completed before issuing Certificates of Vending (COV).

Issuing Certificate of Vending (COV): A street vendor must be at least 14 years old to apply for a COV, as long as they meet the criteria established by the Scheme, whether selling themselves or supporting family members, must be non-transferable, and must not have any substantial livelihood sources.

Demolition/Vending Zone & Natural Hubs: Local authorities (in consultation with Town Vending Committees) must survey existing vendors and determine the Size/Capacity of the zones

they can serve and then establish Vending Zones only, and all existing vendors must be allowed to occupy such areas.

Town Vending Committees (TVC): Each city/ward should establish Town Vending Committees, at least 40% of the members should be street vendors (including women) and such committees will be responsible for completing surveys, issuing COV's, developing Vending Zones, adjudicating disputes and keeping records of vendors.

Grievance redressal and anti-harassment: The Act prohibits harassment from municipal authorities or law enforcement, creates a means of addressing grievances, and provides for the ability to appeal or resolve disputes.

Relocation and Eviction Protocols: Only after providing adequate notice, offering alternate locations for vendors, and including vendors in the process, can an individual be evicted or relocated from their vending location. Seizures may not be made without due process.

Through this section, the Act overrides any local or State laws that conflict with this statute. This helps to prevent exercise of arbitrary administrative authority.

The law establishes appropriate framework for street vendors to provide a rights-based, participatory and regulated form of urban regulation, thereby eliminating the long standing conflict over urban regulations which have impacted street vendor's ability to make a living.

7. Women Street Vendors: Socioeconomic Profile and Gendered Vulnerabilities

In most major Indian cities, female street vendors account for a significant number of vendors. Notably, women's organisations like the Self-Employed Women's Association (SEWA) in Ahmedabad, offer opportunities for women to be actively involved in their interest representation through gender responsive advocacy and legal awareness. The research indicates that street vendors who are women share many common disadvantages due to their sex (Interconnected Disadvantages), including less asset ownership, limited access to formal documentation, lower literacy levels and information technology skills, the responsibility of caring for children, and

higher instances of harassment when dealing with eviction and municipal officials. Even though both SEWA and Women in Informal Employment: Globalizing and Organizing (WIEGO) provide services for building strong organisations and providing legal rights to women vendors (e.g. networking), the services of these organisations may still be limited throughout India.

7.1 Socio-economic profile:

Women vendors, who predominantly come from low-income backgrounds in rural to urban migration, depend on vending for their main source of income to provide for their families. Many women are the only source of income in their households and care for children and/or elderly family members. Most Women's businesses are run with very little capital, use informal lending sources, and are developed using flexible working hours to allow women to also support caregiving responsibilities along with vending.

7.2 Gendered challenges & vulnerabilities:

Limitations on women's mobility restrict their access to Certificates of Vending (CoVs) and programs like PM-SVANidhi, due to the absence of identity documents and proof of residence. Such limitations are further exacerbated by socio-cultural constraints imposed on women's mobility.

In addition, women are more likely than men to encounter harassment while vending (extortion, bribery, sexual harassment) by local government and police authorities (especially during eviction campaigns). While Town Vending Committees (TVCs) are mandated to include women, because of a general lack of awareness and knowledge surrounding TVCs as well as structural biases within governance systems, there is minimal actual participation by women. Low savings, minimal capital, no insurance, and poor access to formal credit leave women economically vulnerable.

Women generally have informal and/or high risk vending locations that are subject to frequent evictions, resulting in the loss of income and the interruption of caregiving duties for families. Women street vendors face a dual vulnerability because of being part of the informal sector and having gender-based disadvantages. Legal recognition alone will not be sufficient to address either issue, unless there is a gender-sensitive approach to implementation in both cases.

8. Findings: Legal Recognition vs. Ground Realities

8.1 Legal Recognition: From Rights to Statute

The Act and judicial precedent have reshaped the perception of vending from a jurisprudential nuisance to a legally protected occupational right that mandates due process prior to eviction. The establishment of PM SVANidhi, among other policy tools, reinforces that the government has begun to view street vendors as micro-entrepreneurs and thus is creating pathways for their access to microcredit and digital financial services. The PM SVANidhi dashboard, as reported by the technology development corporation operating the programme, indicates millions of beneficiaries are associated with PM SVANidhi.

8.2 Persistent Implementation Gaps

While the Act creates a framework for recognition of rights, and therefore has some positive effects, many systemic barriers exist that have continued to prevent women vendors from benefiting from the Act's provisions.

8.2.1 Survey Limitations: Empirical data has shown that almost all surveys of vendors are skewed against female-operated businesses, seasonality affected vendors, and/or mobile vendors. In many instances, female-operated businesses were excluded from the surveys entirely and, therefore, did not meet criteria to receive recognition via CoVs, otherwise known as Certificate of Validity, which is the primary method of legal protection.

8.2.2 Poor Functioning of Town Vending Committees: Town Vending Committees (TVCs) are intended to contain at least 40% representation of vendors, of which reports show that a large percentage of the TVCs are not functioning and do not have transparency, thereby lacking gender representation. Without sufficient representation, meaningful participation in decision-making cannot take place.

8.2.3 Barriers to Documentation and Accessing Financial Opportunities: Women vendors generally do not have a formalised identity or address proof and, as a result, are less likely to

qualify for PM SVANidhi or achieve financial inclusion opportunities. Women vendors also have generally low levels of digital literacy, which hampers their ability to access Financial Inclusion.

8.2.4 "Legacy" Bylaws and Evictions: Unequal application of the nuisance statutes or other colonial law (e.g., powers given to municipalities to take Immediate action) to disregard the Act. Courts continue to declare such actions to be unlawful; unlawful evictions continue to occur in practice.

8.2.5 Gendered Harassment and Insecurity: Incidence of Sexual Harassment is particularly high amongst all Women, making women particularly prone to extortion and coercion. They also lack access to grievance redressal or legal literacy; both contribute to increasing such vulnerability.

9. Why Gender Matters in Implementation

If gender-sensitive implementation does not occur alongside legal recognition, one achieves only formal equality or substantive justice. Women's exclusion as vendors from the Certificate of Vending (CoV) and Town Vending Committee (TVC) processes leads to a cascading set of disadvantages; including the lack of legal protections and micro-loan access, as well as continued vulnerability to harassment and eviction. Additionally, bureaucratic delays, barriers caused by inaccurate documentation, and male-dominated bureaucracies play a role in preventing women who are vendors from accessing the rights granted to them under the Street Vendors Act of 2014.

PM SVANidhi is an example of a government policy that helps to financially include individuals, but women continue to face structural barriers because there are no gender-specific provisions; such as documentation support, literacy programs, grievance procedures, or child-care assistance. The work of SEWA demonstrates how collective organisation with a focus on gender results in improved rights and economic security for women, illustrating the need to partner with State and Civil Society through a gender lens.

The Street Vendors Act (2014), while gender-neutral in its provisions, nonetheless creates barriers to equal access for women vendors due to structural issues, including low literacy/economic status, lack of documentation, caregiving responsibilities, and restrictive social norms. The absence of

women from Town Vending Committees limits their capacity to participate in important decisions related to safety, harassment, childcare and other issues related to vending. Consequently, women vendors experience higher levels of livelihood insecurity because their working conditions are often unstable, they are subject to frequent eviction, and their access to credit and/or insurance is very limited. This indicates an urgent need for gender-responsive social protection mechanisms. Women's exclusion from urban planning processes weakens their right to the city. Gender-inclusive governance would enhance women's ability to access and use public spaces, build urban resilience, and promote constitutional protection of their dignity and livelihood under Article 21.

10. Policy Recommendations

The following are gender-responsive measures based on the legal analysis and literature reviewed through field research:

1. **Gender-Disaggregated Vendor Surveys:** Create and publish surveys that collect vendor data disaggregating by gender, mobility (fixed/mobile) and migrant status, making sure that all CoV allocation takes place accurately based on the population targeted. Surveys conducted under Section 3 of the Statutory Framework should also be accompanied by a Gender Checklist.
2. **Quota and Capacity Building for Women Vendors in Television Venture Centers:** Make certain that vendor representation for women in TVC's meets both letter and spirit of the law as well as includes at least an equal number of women in leadership roles. Women Vendors should be trained and supported with stipends to continue to develop sustainable growth as a Vendor.
3. **Documentation Drives and Flexible Identification Norms:** Municipalities should develop health and wellness documentation drives to proactively provide documentation (including acceptance of alternative proof/documents) to provide access to CoV and PM SVANidhi benefits to all women Vendors.
4. **Gender-Sensitive Grievance Redressal:** Establish women-only grievance cells, mobile help desks, and link to legal aid services. Include Rapid Injunction Mechanisms to provide immediate assistance with preventing or stopping summary eviction.

5. **Vendor Friendly Urban Design:** When designing Master Plans for Cities and/or Smart City Projects, include clearly defined public Vending Zones that provide a safe environment for vendors, including lighting, toilet facilities, childcare services, etc. When urban design meets public demand for these services, there is greater opportunity for long-term success.
6. **Financial Inclusion & Capacity Building:** Combine access to PM SVANidhi loans and face-to-face support to help women applicants with digital literacy training, and create pathways for micro-insurance and pension products, to help strengthen the long-term resilience of the vendor community.
7. **Monitoring & Transparency:** Provide access to CoV issues, meeting minutes for the TVC's and statistics regarding eviction options through a National and State dashboard, with gender disaggregated data to assist civil society in monitoring and holding the judiciary accountable.

11. Conclusion

The Street Vendors Act, 2014 and subsequent judicial decisions create a strong framework to protect the Livelihood Rights of Street Vendors. But the promise of statutory protection for Women Vendors does not yet fully exist, because of exclusionary surveys, weak participation mechanisms, lack of documentation support, and city-specific traditional ways of administering street vending. The reclamation of Urban Space for women street vendors requires a sustained Gender Responsive implementation effort and scaling up legislation so that it is effectively operationalised through monitoring, capacity-building and design tools geared toward the Women's experience.

It is essential to translate legal recognition into the physical protections of the Women Vendors' right to participate equally in street vending (i.e. secure vending tenure), to participate equally in governance, to work in safe environments, and to have real access to Financial and Social Security. When we accomplish this, we honour the constitutional commitments of Articles 14, 15, and 21, and we realise substantial socio-economic benefits from Women Vendors; as they are entrepreneurs creating inclusive urban markets and building the resilience of their households.

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