

License Regime for Street Hawkers and Rickshaw Pullers in Delhi Comments on the Concept Note

*Hazards Centre
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After a study by *Manushi* was publicised through a *Jan Sunwai* with the Central Vigilance Commissioner, and a couple of articles appeared in *India Today* and the *Times of India* on the subject, the Prime Minister wrote to the Lt. Governor of Delhi on August 23, 2001. In his letter, the Prime Minister urged the Delhi Government to reform the present licensing system for hawkers and cycle rickshaws, in order to facilitate their integration into the formal economy. A Concept Note dated August 10, suggesting certain measures was also attached with the letter.

It was decided at the monthly meeting of the *Sajha Manch* on September 8, that a smaller meeting of concerned organisations would be held on September 15 to discuss the Concept Note and to prepare a response on behalf of *Sajha Manch*. Unfortunately, only Bharat Dogra and Dunu Roy turned up for the meeting, and they had a useful, but limited discussion. This note has been prepared as a suggested commentary on the Concept Note, for discussion by other members of *Sajha Manch*. Comments and suggestions are invited so that a detailed proposal may be prepared for the *Manch*.

1. The present policy of restrictive issue of licenses is said to be a “perversion” of a Supreme Court judgement which ruled that hawking was “subject only to reasonable regulations to avoid potential social costs of these activities (e.g. street/pavement obstructions)”. However, it is not clear what is “reasonable”, and whether this regulation would apply to other activities too (such as car parking on pavements and streets).
2. Since, according to the *Manushi* study, Rs.50 crores is collected as rent from 500,000 unlicensed hawkers, it is obvious that this “rent” is not reaching the government treasury. Hence, in order to prevent extortion of “rent” is not reaching the government treasury. Hence, in order to prevent extortion of “rent”, should the reform be to remove licensing completely or to license everybody?
3. The Concept Note acknowledges that “hawkers and rickshaw pullers are also subject to atrocities by these functionaries”, but does not explain why others (e.g. car owners) are not subjected similarly. Would de-licensing mean an end to atrocities, if the violence is rooted in social differentiation rather than in legal identity?
4. The statement, that “the licensing system (should be) reformed so that the hawkers and rickshaw pullers, belonging to the poorest sections of urban society, are enabled to pursue their modest livelihoods without extortion”, is a welcome one. But it should be carefully examined whether the proposed “reforms” would decrease or increase extortion.

5. The Supreme Court has observed: “So far as right of a hawker to transact business while going from place to place is concerned, it has been admittedly recognised for a long period. Of course, that also is subject to proper regulation in the interest of general convenience of the public including health and security considerations”. The point then is that, if hawking is a legitimate activity, should it be ‘regulated’, or should proper ‘provision’ be made for it? Thus the Master Plan of Delhi 2001 states that: “It is proposed to incorporate the informal sector in trade in the planned development of various use zones”. The Plan also makes provision for informal sector units by providing norms for their location. It further states that: “At the time of sanction of the building plans/layout plans, the provision of informal sector trade units should be ensured so that (a) the poor clientele to which informal sector serves are not exploited upon, and (b) informal sector units are developed to cater to the target group”.
6. According to the concept Note, the licensing system imposes a number of restrictive conditions, which do not seem to relate to “*general convenience of the public including health and security considerations*”. The question that also needs to be asked is why similar restrictions are not imposed on other users of the same urban space (such as motorised vehicles, private pandals, and civic constructions)? Why is there a differentiation in planning between the two?
7. The PM’s Concept Note also speaks of the benefit providing by the hawkers and cycle rickshaws. These include low cost and easy transport services, low capital entry requirements, provision of employment and low cost services, reduction in eve-teasing, and reduced pollution. Should not a comparative cost-benefit analysis be made with other providers of such services, such as cars, scooters, and department stores to understand what is more useful and of greater priority for the whole city?
8. “A simple economic analysis of markets for these services shows that the numbers of providers is inherently limited by market demand”. In other words, if there is a demand for the services of hawkers and rickshaws, then the civic authorities should provide for the demand rather than regulating it. But the concept Note still insists on a fee-regulatory system by proposing green, red, and amber areas. The first question, of course, is on what basis will these areas be determined and who will determine them? And the second is, why will the fee system not be subject to extortion by the same “enforcers”? What will eliminate the scope for illegal rent-seeking?
9. In respect of hygiene and law and order, the concept Note says that: “On neither count is the concern categorically different from that due to other service providers”. This should then, logically, lead to an examination of the degree to which other service providers (such as private buses and five-star hotels) impact on the health and security of the city. This could lead to a spelling out of social priorities (what is necessary and good for the city, not for the individual) and provision of measures which encourage hygiene and lawful behaviour (such as publicly visible garbage disposal and safe transportation).

10. There is an assumption that “technology upgrading would help ensure increased labour productivity in these activities”. Such an assumption goes against the earlier arguments made in the Note itself about the social benefits of hawkers and rickshaws – i.e. low capital, low cost, and high employment. In other words, is “labour productivity” an adequate criterion against which to judge civic services?
11. Similarly, the recommendation for access to formal economy institutions for finance and retail marketing ignores the fact that there is a low requirement of capital and retailing services, which will not be attractive to the formal economy. Banking experience itself suggests that it is only when self-help groups are formed that financial institutions become interested because the repayment figures are extremely high (over 95%). Furthermore, if self-help groups are formed, they also become organised enough to resist extortion and, thus, retain their own self-financing capacity. If Rs.50 crores are being extorted per month, and if the extortion is stopped, would that not provide an adequate capital base for the hawker and rickshaw puller?
12. The Alternative Regulatory System proposed by the PMO, therefore, suffers from the following defects:
 - a. It continues to focus on **regulation** rather than on **provision**.
 - b. The division of the city into different zones has no **logical** basis and is **discretionary**.
 - c. The “general convenience of the **public**” does not include the “health and security” of the **hawker** and **puller**.
 - d. There is an implicit **discriminatory** understanding that the hawker/puller is not a “citizen in good standing”.
 - e. Reliable identification is seen as a **regulatory** measure, rather than as a Constitutional guarantee of social **security**.
 - f. The basis for a fee remains discretionary and regulatory of the **individual** rather than a measure to enhance **community** activity.
 - g. While **NGOs** “with a record of working for the welfare of street hawkers and rickshaw pullers” have been recognised as legitimate participants, the **self-help** organisations of hawkers/pullers do not find any place in the system.
 - h. Thus the policy has been made without any **consultation** with those who stand to be **affected** most by the policy, in complete violation of Constitutional provisions.