

**THE CENTRE FOR CIVIL SOCIETY'S SUGGESTIONS FOR THE
UNORGANISED SECTOR WORKERS' BILL 2004**

Main Suggestions

- 1. Incorporate the concerns of millions of self-employed in the informal sector.**
- 2. Remove all licenses and restrictions on entry-level professions.**
- 3. Respect the property rights of street entrepreneurs to their machinery and merchandise.**
- 4. Decentralize the management of public space by empowering ward committees.**

This Bill does NOT cover the millions of self-employed professionals:

The *Unorganised Sector Workers Bill, 2004* is a broad legislation that covers workers scattered throughout the length and breadth of this country. The Bill focuses more on workers who work under an employer. Sadly, the millions of self-employed workers get sidelined in a Bill that is specifically meant for workers belonging to the unorganised sector and to which the majority of self-employed professionals fall.

Though the Bill specifically provides that “no worker shall be required to work for more than eight hours in a day with half an hour break”, and “every worker shall be paid such wages within such time as may be prescribed but such wages shall in no case be less than the wages fixed under the Minimum Wages Act, 1948” it, in no way, fills the gap as far as ensuring livable incomes and suitable work conditions for self-employed workers (such as hawkers and rickshaw pullers, for example, are concerned). Thus street vendors who work more than eight hours a day, and in very difficult and many a times unfavourable conditions, don't get covered. Similarly, who ensures that these workers get even a minimum wage? This is a serious loophole.

Current Work Conditions of Street Entrepreneurs: Licenses, Harassment, and Extortions...

Even after more than a decade of globalisation in India, self-employed professionals such as street vendors and rickshaw pullers have survived not merely because these are important sources of employment but also because of the services they provide for the urban population. For the urban poor, street vendors provide goods, including food, at low prices and rickshaws provide a cheap and accessible mode of transportation. However, centralised decision-making bodies responsible for urban town planning prefer to overlook these issues and treat vendors and hawkers as ugly, criminal entities that need to be evicted in order to beautify the city.

Hawkers, for example, maintain certain industries by providing markets for their products. They sell many goods that are manufactured in small-scale or home-based industries, which employ a large number of workers and thus help sustain employment in these industries and provide a valuable service. Not only are their products priced at affordable rates but they are also of reasonable quality. The greatest beneficiaries of this

service are the poor who gain from these low cost products sold by the hawkers. Sadly, only 5 % of the more than 600, 000 street hawkers of Delhi have the *tehbazari* (license) to hawk their goods on public space.

Let us not forget the female street entrepreneurs!

It is necessary to specifically accommodate provisions for women street vendors. Studies conducted by the National Alliance for Street Vendors of India (NASVI) show that women vendors form the lowest rungs among street vendors. Poverty and lack of jobs among male members of the family force these women to take up street hawking and vending in most cases.

Though a majority of the hawkers are males, Ahmedabad has a large section of women vendors and Calcutta has few women vendors. Manipur's capital Imphal, on the other hand, has only women vendors. In the other cities more than 60% of the hawkers are males. Not surprisingly, the volume of trade of female hawkers is much lower. In Ahmedabad and in Mumbai, women hawkers usually sell vegetables, flowers and fruits in small quantities. The women are poor and needed to hawk in order to supplement the meagre family earnings. In Imphal too, where hawkers are exclusively women, they are from the poorer section of the population. [Source: <http://www.india-seminar.com/2000/491/491%20s.k.%20bhowmik.htm>]

Rickshaw pullers too provide a vital service for the city. The government, instead of providing encouragement to their entrepreneurship attempts to 'control' the number of rickshaws by fixing a ridiculously low cap of licenses. The truth is that neither the government, nor the organized sector generates enough jobs to absorb the existing workforce in our country.

Moreover, unlicensed street entrepreneurs don't have any right over the means of their livelihood. They are faced with the constant threat of eviction or seizure. Hawkers, for example, are routinely evicted from their spaces, and their wares confiscated, as if they didn't belong to them at all. It is not true that hawkers free ride on public space. They pay substantially to the authorities involved and suffer losses due to frequent evictions. Once caught, their wares are confiscated and returned to them only after payment of a penalty. Similarly, in the case of rickshaw pullers, if caught plying without a license, then the rickshaw is confiscated, broken into pieces and auctioned.

Helping street entrepreneurs:

1. Facilitating registration:

It is important to put in place a mechanism whereby unorganised sector workers can register themselves-this should specifically include not only workers under an employer but also the self-employed. The Workers' Facilitation Centre proposed by the Bill can be used for this purpose.

Registration versus Licensing

If the government desires to know how many people are employed in a profession, it can put in place a registration system. Everyone practicing a trade in the city will fill up a registration form. The registration system is very different from the licensing system – the registration system does not require any prior permission, it simply provides information to the government. Also, if a person is not registered, that does not make him illegal and outside the purview of the law!

2.The Need for *empowered* Ward Committees

Let us DECENTRALISE the management of public space

Conditions are never uniform in any city, and more so for mega cities of India. Centralised decision-making can never accommodate the priorities of all the residents. Any decentralisation in this direction would not only benefit the poor, but also enhance public governance.

It is imperative that the locus of decision-making regarding the use of public space be changed from a single municipal body to multiple wards. This entails transfer of powers, ownership, and management to wards. Ward Committees are a good example of decentralized, local, participatory governance. Comprising of elected members representative of a street entrepreneurs union, RWAs, MTAs, Housing Societies/Cooperatives etc., and citizens of that ward who elect the members of the Ward Committee, they enable people of a specific ward to know its problems, to identify its needs and prioritise them, and take decisions on subjects which can best be handled at that level.

A Ward Committee can collectively take decisions, among other things, on where and how many hawkers and rickshaw pullers they want in their area. This is a much better option than decisions based on bureaucratic whims that arbitrarily decide which market comprises encroachers who need to be evicted. The Ward Committee would manage all the public space of that ward except for major thoroughfares. Only decentralised Ward Committees have access to the local knowledge, have the incentive to seek solutions for the problems that affect them more directly, and have the kind of accountability necessary to correct errors in decisions.

Other Suggestions:

Are the Workers' Facilitation Centres a step in the right direction?

The Bill's proposal to create Workers Facilitation Centres is a positive step but for the fact that it would have a predominantly bureaucratic set up. The Bill provides that the Workers' Facilitation Centre will consist of an officer not below the rank of Section Officer in the Government of India and such other employees to be *appointed* by the appropriate Government.

However, this set-up does not guarantee any internal democracy. There needs to be representation of unorganised sector workers -NGOs, hawkers' union representatives and other concerned groups need to have a voice here. Such groups not only have the trust of these workers, but they also would be more interested in ensuring that benefits and schemes reach the intended parties.

Moreover, in order to ensure that no category of worker or employer gets excluded from registration, the Workers' Facilitation Centres can take the help of ward committees. Ward Committee members, for example, would have a better idea of the number of hawkers/vendors and rickshaw pullers in their Ward. There is thus a greater probability of these street entrepreneurs not getting excluded.

As of now, it is not clear how many Workers' Facilitation Centres there will be at the State level and what procedure would be followed in registering workers, both self-employed and those employed under someone else, in both urban and rural areas.

This Bill is too wide in scope and is abstract:

The Bill is too wide in scope and breadth. Its national coverage of workers in the informal sector (without being sensitive to self-employed professionals) gives every reason to fear that categories of self-employed and other workers of the vast informal economy, both in big and small cities and towns would get excluded.

Section 4 (i) of the Bill says that the Unorganised Sector Workers Welfare Board will "...advise the Central Government on policy matters relating to employment, social security, safety and welfare of workers".

Such a provision should itself be a cause for worry since there is no specification regarding what aspect of social security/ safety/ welfare of workers would be considered; on what policy areas regarding employment the Board would advise the Central Government; what place would the policy advise of State Welfare Boards on similar matters to their respective State Governments occupy under such a provision etc. Besides, it is important to keep in mind that India's bureaucratic machinery has a notorious track record as far as implementation is concerned.

The Centre for Civil Society demands that the *Unorganised Sector Workers Bill 2004* not overlook the plight of street entrepreneurs and in the spirit of its objective to provide for the safety, social security and welfare of workers in the informal economy, include at least the following provisions-

- 1. Incorporate the concerns of the millions of self-employed in the informal sector.**
- 2. Remove all licenses and restrictions on entry-level professions.**
- 3. Respect the property rights of street entrepreneurs to their machinery and merchandise.**

4. Decentralize the management of public space by empowering ward committees.

Which Sections of the Bill would CCS's suggestions fit into?

The **Preamble** of the Bill provides for the regulation of employment and conditions of service of unorganised sector workers. This in no way guarantees the right to livelihood of the millions of self-employed. Moreover, by providing for regulation of employment and conditions of service, the Bill justifies the burden of licensing and regulations that millions of street entrepreneurs such as hawkers/vendors and rickshaw pullers suffer from everyday. The Preamble should be redrafted to make it explicit that the objective of the Act is to protect the right to livelihood of unorganised sector workers, including the self-employed.

N. B: The entire scheme of the Bill is such that it focuses on 'employers' and 'employees' of the unorganized sector. This dilutes the protection that can be given to the self-employed even through a stretched interpretation. The Act should therefore specifically mention "self-employed" workers wherever there are provisions for "workers". For e.g., S.4 (i) says that the Unorganised Sector Workers' Welfare Board shall "advise the Central Government on policy matters relating to employment, social security, safety and welfare of workers". Such a provision does not offer any guarantee whatsoever for the millions of self-employed workers, which is a serious failing and should be rectified.

Section 23: which deals with application for registration and maintenance of a register of workers. A clause should be included in this section to provide for the participation of Ward-level Committees in urban areas and Gram Sabhas in rural areas in the registration process, since these bodies would have a better knowledge of unorganised sector workers (including the self-employed) in their Ward/Panchayat.

Section 24: which deals with the welfare scheme of workers. A clause should be included in this section to enforce the right of the self-employed to their means of livelihood against the existing Municipal bye-laws that make most street entrepreneurs and their property illegal by fixing a low cap of licenses and then seizing and confiscating the property once caught.

India has seen an increase in the number of street entrepreneurs inspite of its economic development, globalisation and industrialization. Thus our government's attitude towards these workers and their welfare is indeed odd, especially considering that they too contribute substantially to the economy. Civil society groups working for the welfare of workers in the unorganised sector should demand that the government adopt a more humane and considerate approach to these workers instead of being so unreceptive toward them and their needs. This legislation needs to be an enabling one that will

improve livelihood opportunities, provide a decent life to the workers and integrate them with the growing opportunities in the country.

This document was created with Win2PDF available at <http://www.daneprairie.com>.
The unregistered version of Win2PDF is for evaluation or non-commercial use only.