



SOCIO-ECONOMIC EXCLUSION OF VENDORS: AN EMERGING ISSUE OF LIVELIHOOD AND RIGHTS.

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Abstract

It is interesting to know the kind of initiative that has taken by the state Government for the Empowerment of Vendors in Goa. The State Vendors policy, Strategies, Programmes are the political Manifestos during the Municipalities or Corporation election of the political parties which forms the Local Self Governments. It is out of these Strategies that the Political parties the makers of Government boast and claim of having extended basic amenities, financial and a rapid expansion of infrastructural development in the Market area. However, what the political party promises during the entire election period and the propaganda that follows for the entire election year are conveniently and deliberately forgotten once they form the Government. Though there are certain constitutional safeguards Which are provided for protection of vendors right there is in fact no Significant Economic and Social awareness required for the fulfilment and achievement of lofty objective that are enshrined in the various provisions of constitution and even the tiny vibrant state like even Goa is not exception to it. The Present condition of the Vendors in Goa is such that their various developmental policies, Strategies, Programmes are not implemented during the successive five year plans and therefore, it has also had adverse impact on their socio-economic mobility. Their unsecured livelihoods position in terms of lack of legal entitlements & have push them into deep economic vulnerability. This paper therefore, discusses the implications of the new Act's and Protection of livelihood of the Vendors and further attempts to address the issue which will enquire, whether such act will finally lead to the inclusion of these people into the National mainstream. This is based on books, journals, and newspaper. The data collected from Goa Trade Unions Confederation of Goa is also used here.

Keyword: - Livelihood, Good Governance, Policy, Legal status.



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Introduction

The outline of socio-economic problem of local Vegetable vendors including of Tribal women is drawn from those who are practising in panaji Market & at the KTC Bus turnouts, since time immemorial. Besides, this it discusses the problem relating to the deprival of livelihood of vendors created by Municipalities or Corporation of the City of Panaji (CCP) the local self-governing within authorities the state of Goa. The growth capacity of the local vendors has a great potential, and capacity of Sizable contribution towards the development of economy in the state of Goa. The Local vendors are indigenous people and hardworking who contributes to the economy in the state of Goa. There are certain Laws in the state of Goa which governs the economic and legal activity of vendor's hip. The Various legislations including state Municipal Legislations, central as well as the state Police Act which gives the power for the police to arrest vendors, Prevention of Food Adulteration Act, Central as well as the state The Goa, Daman and Diu Shops and Establishments Act 1973 etc, contains provisions against the illegal operation of vendors.

Hygiene, cleanliness and public safety basic standards mentioned in these acts are same as the standards demanded from the big business Enterprises. This will be an obstruction for poor local vendors to have a sustainable livelihood. Recently a National Policy for Street Vendors Act, 2009 is also released by Central Government. Prior to that, the National policy for the Urban street vendors Act, 2004 was not implemented in most of the urban municipal Corporations in the country. As this is a service sector within which the city's economic development as an issue of local Vendors livelihood and their accessibility to the goods are considered. In fact the state cannot achieve the development of urban cities without recognizing the voice of the vendors. In this context the study aims to identify the issues and problems of vegetable and other vendors faced by them in the in Local Markets in Goa. State Government as a role model must play important role of bringing them into integrated process of the Social development. Through the active participation of all vendors along the Municipality council, village panchyats and other various key players of the Town development in Goa.

An Emerging Issue of Livelihood of vendors in Goa.

The Major Problem faced by these Vegetable Vendors of Goa is that they have no fixed to sell their goods & Products in market. All the Municipalities and Corporation of the City of Panaji (CCP) authorities are evicting the large number of

Vendors woman including the Tribal Woman's adjutants to in the place of Shops in a panaji Market.

The Preamble to the Constitution of International Labour organisation (ILO) provides that the Condition of labor exist involving such injustices, hardship , and privation to large number of peoples as to produce unrest so great that the peace and harmony of the world are imperilled.

It also stated under Article 22 of the Universal Declaration of Human Right (UDHR) that everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance of with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

The Scenario of Goa mostly the Local Vegetable Vendors including some Tribal Woman, who are selling their own goods & product in Market for earning their daily bread life and with a claims to give legitimacy to the large number of vegetable vendors are operating in panaji market.

All Local Vendor have been considered as illegal encroachers by the law, and mercilessly forced them to vacate the jurisdiction of Municipality and Corporation of the City of Panaji (CCP). Therefore, there should be a Neo-Liberal policy framework of the current regime and find out that instead of protecting their livelihood; it is far more likely to spell eviction for a large number of vendors in a State of Goa.

The Vendors' Assertion for their Human Right to livelihood is age old; there has been a strong demand from vegetable vendors to give the legal status to their profession, protection of livelihood, and protection from extortion and exploitation by the local authorities.

There are some Tribal of vegetable vendors mostly women's who are earns their livelihood by vending goods and services in Market and near Kadamba bus stand after their evicting from panaji market. They also constitute a highly unorganised segment of the vast unorganised sector of the Goa working class. It is also called as the 'refuge sector' for the working class and toiling masses rendered unemployed due to government's erroneous policies causing de-industrialisation, economic crisis, etc. hence it has been leading to job losses in the state of Goa.

In the state of Goa, the major problem face by local vendors is due to huge mass of

migrants who through Goa in search of jobs. But whenever they fail to find job they switch on to the vendor ship business in the market. The rising unemployment is further adding to the number of vendors in state.

The vendors including hawkers and paddlers have been playing a very important role of providing services and goods at relatively cheap rates, and that too timeless service at the door-steps in Goa. It is integral part of daily life of thousands of people living in cities. But the elitist and 'official' authorities of urban planning always considered them as an urban nuisance and a blot over the town 'beautification' efforts of the planners.

The Vendor doesn't know what to do when the municipal and police administrations raises obstructions on the way and at the same time becomes instruments of extorting. The municipalities and Corporation of the City of Panaji (CCP) collect 'tax' rent, by employing contractors, thus giving vendors a partial recognition, but this practice is being deliberately undermined on various pretexts. In spite of all odds, the vendors play a significant role in contributing to the informal of the sector economy of the state. Although, their average daily earning amounts to far below the minimum wage, at 100 rupees a day. Finally, the Municipalities and Corporation of the City of Panaji (CCP) must hear the Vendors Voice and Stop doing injustice against to them.

There is large section of vegetable Vendors including Tribal Vendors where there is lack of unawares about the Government Scheme and Policy. On account of this lack of awareness Vendors are unable to know the scheme available for them in State as the major rights of vendors are being violated by the authority in Goa.

The local Vegetable Vendors are demanding Legal Status of unorganized sector to enjoy the legal Benefits. In addition, a number of laws are interpreted or applied in a manner that adversely affects the interests of local Vendors.

Whatever, the benefits and schemes when are available for the Vegetable vendors are not known to them because there is no law to protect the interest of the unorganized sector.

Secondly, the existing laws regulating trade and business, licensing of self-employed, law and order, public nuisance, obstruction etc...applied are detrimental to the vendors and their interest and right to carry on trade and business enjoyed by vendors is not peaceful.

Need effective Governance: the role and responsibilities of State Government.

In the interim, the issue related to Governance, especially matters of Municipalities or Corporation Governance i.e. Local Self Governments which have been grossly neglected in the state of Goa. Both the chief Minister of Goa nor his cabinet Ministers or officials have had the time to engage the Corporation of the City of Panaji (CCP) and other Municipal Corporations on problem of Vendors.

The Corporation of the City of Panaji (CCP) and other Municipal Governance of Goa does not just entail cleaning drains or building Roads. They are indeed to an important clog in the wheel of the Corporation of the City of Panaji (CCP) and other Municipal Corporations responsibilities.

However; there are also matters which related to the livelihood of its local vendors are under jeopardy. The Goa Legislative Assembly have passed various act related to the Corporation of the City of Panaji (CCP) and other Municipal Corporations but it not specified into the certain acts to protection of livelihood of local vendors.

On the other hand the state has not notified any relevant rules for protection of Livelihood and Regulation of local vendors those who are operating in Municipal Market area. But still law are proved ineffective to protect the interest of local vendor in Goa.

Laws and Policies to Protect the Interest of Vendor.

While stressed on right to equality in the spheres of profession and livelihood of Vendors. It further emphasized on the right to life, provided by the constitution of India under Articles 14, 19 and 21 are respectively. The state has not prepared any schemes related to social security to vendors before giving free hand to the law enforcing authorities. So, the attitudes of State agencies like Police, Tax collectors, RTO officer and other local self-government authorities towards the poor vendors are negatively.

The Law enforcement agencies threatened to local vendor women to remove the goods and product from shops. Their dignity is undermined so much so to the extent that the vendors especially the poor local finds it virtually impossible to earn their daily bread and butter.

Against this backdrop, saving from their daily earning for the purpose of arranging shelter and clothing to maintain dignity as a become difficult. It is liabilities of state to frame the inclusive policy for welfare of local vendor and catered to support of appropriate legislation.

The fundamental of human rights of the vendors must be protected those who form the cross section of the society. It means that to protect the rights of vendors. While respecting the basic and natural rights of vendors including with others and behaving with human dignity and equality is the only means by which the human rights of vendors can be protected.

The vendors may be hawkers or paddlers have to work hard in order to earn their daily bread and butter. So also they operate their petty business of vegetable, fish or fruit selling business with the intention of having shelter and clothing.

The government which is unable to give them food, clothing & shelter have in fact no right whether moral or even legal to restrict or ban traditional and conventional methods of vendors like going door to door or selling in open market and places.

At the most what Government can do is to legalize the vendor ship by means of regulating those conventional methods of business by evolving various schemes especially tailored for the indigenous vendors which includes permitting them to sell in public subject the certain norms. Recognizing public places of significance wherein needy buyers or customers and vendors meet conveniently and recognize each other's needs.

Further that since the hawkers, paddlers and vendors in general come under the unorganized sector, the Government of Goa must adopt and implement the unorganized sector social Security Act 2008 switching to directive principle of the constitution.

All Vendors are dark about their own Rights.

(a)Under the Constitution

Article 14 of the Constitution stated that the State shall not deny to any person equality before the law or equal protection of the laws within the territory of India. Article 19(1) (g) gives the Indian citizen a fundamental right to practice any profession, or to carry on any occupation, trade or business.

This right is limited only by the right of the Indian Government, to prescribe professional or technical qualifications for certain trades or professions and right of the State to create monopolies in certain trade, business or industry in the interest of the general public.

Otherwise a citizen's right to carry on a trade or profession of his choice is absolute. These fundamental rights granted in Article 14 and 19 are enforceable against the State by invoking the "writ jurisdiction" of the High Courts or Supreme

Court of India under Articles 226 or 32 of the Constitution respectively.

(b) Directive Principles of State Policy

Several Directive Principles of State Policy enunciated under Part IV of the Indian Constitution though not enforceable in the Courts, are fundamental in the governance of the country. The Supreme Court while interpreting these Directive Principles and their enforceability has held that the Government must keep these principles in mind while formulating new socioeconomic legislation and must continuously strive to make these principles a reality.

(c) State Municipal Law.

The Goa Municipalities Cooperation Act 1968 is civil laws that directly affect the street-vendors in the region. Under the Goa, City of Panaji Cooperation Act 2002, (CCP) all public streets vest in the Municipal Corporation. The Municipal Commissioner, who is the Chief Executive Officer under this Act, has wide powers to regulate streets, remove encroachments and public nuisances as also to grant or refuse licenses.

On a public place or causing any obstruction, without the written permission of the Commissioner (Sec. 281) The Commissioner has the power to forcibly remove any nuisance, obstruction or encroachment from a street or any public place, to the concerned person without giving any notice (Sec. 282).

The sale of virtually any commodity by hawking or street vending, whether food, fish, fowl, vegetable, fruits etc. requires a license under the GCPC Act (See Section 322, 385, Chapter XXXI and others). There is arbitrary refusal of licenses; lack of proper and definite guidelines for issuing licenses and at times non-issuance of licenses for years together!

(d) Under Criminal Laws

The Criminal Procedure Code 1908, it contain provisions for removal of obstruction on a street, or committing a nuisance or obstruction in general. There are penalties provided like a simple fine or even arrest and imprisonment for non-appearance before the Court, (See section 133 of the Code).

(e) Ground Realities and operationalization of these Laws

In reality of Vegetable vendor including hawkers and street vendors move from crisis to crisis in their daily lives as they face multifarious problems. The Municipalities or Corporation authorities and police, alternatively harass the Vegetable vendor including hawkers/street vendors by forcible removal, demands

of illegal gratification or bribes, destruction of their goods and wares, demands to be given free goods, verbal abuse and physical manhandling or beating. Due to illiteracy the Vegetable vendor including hawkers and vendors unable to avail the legal services.

(f) Judiciary to the rescue

Over a period of time, some judges at the High Court and the Supreme Court have realized the socio-economic problems of street vendors and hawkers, and consequently given some relief in cases relating to them.

The courts have unanimously held that Articles 19(1) (g) of the Constitution guarantees a fundamental right to hawk or vend, subject to reasonable restrictions imposed by the State (Articles 19(6)). Equally the Courts have been unanimous in holding that public streets are meant for pedestrians, and hawking or street vending is a public nuisance and an encroachment so such must be removed.

In Earlier the court had in some cases held that tight to life included right to livelihood, but the Supreme Court later on held that Articles 19 (1) (g) and Art. 21 are quite independent of each other at least in the 'street vendor's cases. But the courts have also, particularly in class actions held that alternative accommodation or pitches must be provided to the hawkers if they have been there for a sufficiently long period so as to establish their right to hawking.

In the Case of K Sundarshan vs. Commissioner Corporation of Madras (AIR 1984 Mad 292), the High Court said that, "hawkers do not have a fundamental right to trade on public streets creating a nuisance by obstruction and encroachment on public streets. Municipal authorities are directed to provide alternative accommodation to hawkers, but public nuisance shall no longer be tolerated on the pretext that hawkers belong to the weaker class and fight for bare subsistence".

A similar view was taken regarding public nuisance and encroachments and forcible eviction to free the streets in Francis Coralie Mullin (AIR 1981 SC 746) and Olga Tellis Vs. Bombay Municipal Corporation (AIR1986 BC 180). In these cases decided by the Supreme Court were being challenged. However these cases concerned pavement or street dwellers and not hawkers or vendors, though the issue of encroachment, public nuisance and procedure for removal were identical.

In subsequent cases like Sodhan Singh Vs. Delhi Municipal Corporation (AIR 1992 SC 1153) Gulamali Gulamnabi Shaikh vs. Municipal Commissioner (1986 GLH 616) the courts have directed the municipal authorities to frame schemes for

vendors/hawkers, issue pitch licences to them and clearly earmark sites and places where they can carry on their business.

In *Dalvadi Gatorbhai Vs. State* (1995 (2) GLR 974), the Gujarat High Court very innovatively side-stepped the decisions of the Supreme Court in *Olga Tellis, Francis Coralie and Sodhan Singh* on the point of requirement of notice and opportunity of hearing to the hawkers before their forcible removal.

In future the State need to frame the welfare Policy to protect the Right of Livelihood of all Vendors, because the vendors' right to livelihood shall not enshrined in the Constitution.

However, though the National Policy mentions, it does not unequivocally and robustly protect the constitutional rights of the vendors; hedging the 'right' with a host of restrictions.

The Municipality evicting the Vegetable vendor including street vendors will not allow this space to entry it is encouraging in the retail sector. If the state Policy or central policy to be truly effective in protecting the livelihood of every vendor.

Rather, police and local administrative authorities, on finding any vendor without a licence, will be required to encourage him or her to apply for registration, and licence must be mandatorily issued. Eviction must not remain an option - at most and can allot an alternate space for vending.

Suggestion and conclusion

The state should take an initiative for drafting the welfare policy in order to create schemes for inclusive growth of marginalized vendors.

(a) Social Security For the unorganized Sector:

The Social security essentially means protection from socially acknowledged detrimental conditions such as old age, poverty, unemployment, etc. It can be termed as 'basic security', ensuring access to the basic necessities such as food, clothing, shelter, education and medical care.

It is both, a concept and a system. The Social security was first officially recognized in 1989 by the International Labor Organization (ILO) which stressed on the need and protection of workers against sickness, disease and injury arising out of their employment, pension for old age, and protection of the interests of the workers who were employed in countries other than their own.

It was consequently accepted by the General Assembly of the United Nations while adopting the Universal Declaration of Human Rights (UDHR) which states that every member of the society has a right to social security.

(b) Social Security in India:

Although social security is not a fundamental right in India, the laws incorporating it draw strength from the Directive Principles enumerated in our Constitution, which seek to achieve social, economic and political justice in all institutions of national life.

Article 41 of the Constitution requires the State to secure the right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement.

Article 42 requires the State to secure just and humane conditions of work and for maternity relief.

Article 47 requires the State to raise the level of nutrition and the standard of living of its people and improvement of public health.

The obligations cast on the State in the above Articles constitute Social Security. The Concurrent List in the Seventh Schedule of the Constitution also lays down social security issues in two of its items:

Articles 23 -Social Security and insurance, employment and unemployment.

Articles 24 - Welfare of Labor including the conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pension and maternity benefits.

(c) The Chief Social Security Legislation enacted in line with these Provisions Include

1. The Employees state Insurance Act 1948, which provides for Comprehensive Medical care and Monetary Compensation in case of Sickness, maternity, death or disablement.
2. The Minimum Wages Act1948, which fixes a minimum amount of wages to be paid to Employees.
3. The Employees Provident Funds and Miscellaneous Provisions Act 1952, which provide provident fund, Superannuation pension, and family pension in cases of death during Service.

4. The Workmen's Compensation Act 1923, which requires payment of compensation to the workman or his family in cases of employment related injuries, resulting death or disability.

5. The Maternity Benefits Act 1961, which provides for 12 weeks wages during maternity as well as paid leave in certain other related contingencies.

6. The payment of Gratuity Act 1972, which provides 15 days wages for each year of services to employees who have worked for five years or more in establishments having a minimum of 10 workers

(D) Need for Social Security for the Unorganized Sector

In Goa has large section of workforce is engaged in the organized and Unorganized Sector. This sector consists of workers who have a direct employer-employee relationship within an organization. Thus workforce is engaged in the unorganized sectors.

Within this unorganized sector like wages-workers i.e. those employed by others, constituted only some per cent of the workers and the remaining certain some per cent were self-employed. The above-mentioned Social Security Legislations cover workers only in the organized Sector.

In case of Unorganized Sectors workers contributed to around more than 70% of the country's national Economic output, and same as more than 60% of the state Economic output.

In Goa all the unorganized sector of workers are low levels of skills, usually coupled with illiteracy and this reduces their bargaining power and adversely affects their quality of life.

The Nature of their employment is mostly seasonal. It is in this context and as a welfare state that our approach should be to ensure maximum coverage of the workers in the unorganized sector.

(d) Current Social Security Measures for the Unorganized Sector

The unorganized sector can be broadly categorized into our groups as under: - (1) Occupation wise-small and marginal farmers, landless labourers, those engaged in animal husbandry etc.,

(2) Nature of Employment-Migrant workers, contract and casual labour etc..

(3) Specially distressed categories-Toddy tappers, Scavengers, loaders and unloaders etc...

(4) Service Category-Midwives, domestic workers, barbers, Vegetable Vendors etc.

(E) The current social security measures available for these workers are

1. Centrally funded social assistance programs, such as

(i) National Social Assistance Program, which currently comprises of Indira Gandhi National Old Age Pension Scheme, Indira Gandhi National Widow Pension Scheme, Indira Gandhi National Disability Pension Scheme, National Family Benefit Scheme and Annapurna.

(ii) Employment Assurance Scheme, which seeks to create additional wage employment opportunities through manual work undertaken to create infrastructure by those living below poverty line (BPL);

2. Social insurance schemes, such as the Social Security Group Insurance Scheme which is operated through the Life Insurance Corporation and is available for 24 approved occupation groups.

3. Social assistance through welfare funds of Central and State Governments, which are utilized to provide various kinds of amenities such as housing, health care, supply of clean drinking water, etc. There are five such welfare funds, which are constituted from the tax or levy to collect from the employers and manufacturers/producers of the particular commodity/industry concerned. The welfare services provided under these funds are delivered irrespective of the individual worker's contribution.

4. Public initiatives, such as

(i). Self Employed Women's Association (SEWA), which is an organization of poor and self-employed women workers from the unorganized sector of the economy. Its main goal is to organize women workers for full employment and self reliance.

Conclusion

In spite of these measures, the unorganized sector factors like vendors etc has not wholly benefited from them due to shoddy implementation and lack of awareness.

The present situation to mechanism for social security must be re-structured for greater efficiency. This restructuring must be done on the basis of need and skill requirements of different categories of unorganized workers, after taking into account the various recommendations made by the commissions and task forces set up for this purpose.

It is necessary to create awareness at the grass root level is of utmost importance. Many of these workers are unaware of the benefits provided to them. This may be done by conducting workshops, holding awareness camps, printing leaflets in the

local language, etc.

A comprehensive and universal legal framework is desired to ensure maximum coverage of workers in this sector. Therefore, the State Governments need to play a more active role in shaping social security systems on the lines of centrally enacted legislations to enhance their effectiveness. Only then will this workforce be able to reach its full productive potential, thereby achieving higher economic and social progress.

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