

For several years now, MANUSHI has been battling for the rights of street vendors as part of a larger campaign for a bottom up agenda of economic reforms.

Another chapter was added to this battle on March 3, 2006, when the Supreme Court ordered the Municipal Corporation of Delhi (MCD), the New Delhi Municipal Corporation (NDMC) and the Delhi Development Authority (DDA) to remove all “unauthorized” street vendors from Delhi in response to a petition filed by the Chandni Chowk Traders Association which wanted vendors removed from Chandni Chowk, alleging that the hawkers interfered with their business and caused inconvenience to customers.

Through this order, the MCD was given *eight weeks* within which to present a realistic plan to implement the National Policy for Street Vendors (NPSV). However in the meantime the Court ordered the MCD to submit a compliance report on the action taken to evict all unlicensed street hawkers within four weeks. MANUSHI opposed this move of the Court, arguing it amounted to punishing the victims and rewarding the guilty. It makes little sense to first remove all the vendors and then create hawking zones in the city. In addition, MANUSHI and SEWA had submitted an Action Plan to the MCD to institutionalize a far more transparent system for legitimizing the existence of genuine vendors than the one prevailing in Delhi (See issue MANUSHI No. 153).

The municipal authorities all over India have a very consistent record of finding dubious ways to subvert the orders of the Court by misleading it with half-truths and outright lies in order to defeat all attempts at reforming the exploitative licensing system. In order to pre-emptively block this from happening again, MANUSHI filed an intervention petition in the Supreme Court to bring

FOLLOW UP REPORT

Frauds in the Guise of Reform

Municipal Agencies Mislead the Court to Sabotage National Policy for Street Vendors

○ Madhu Purnima Kishwar

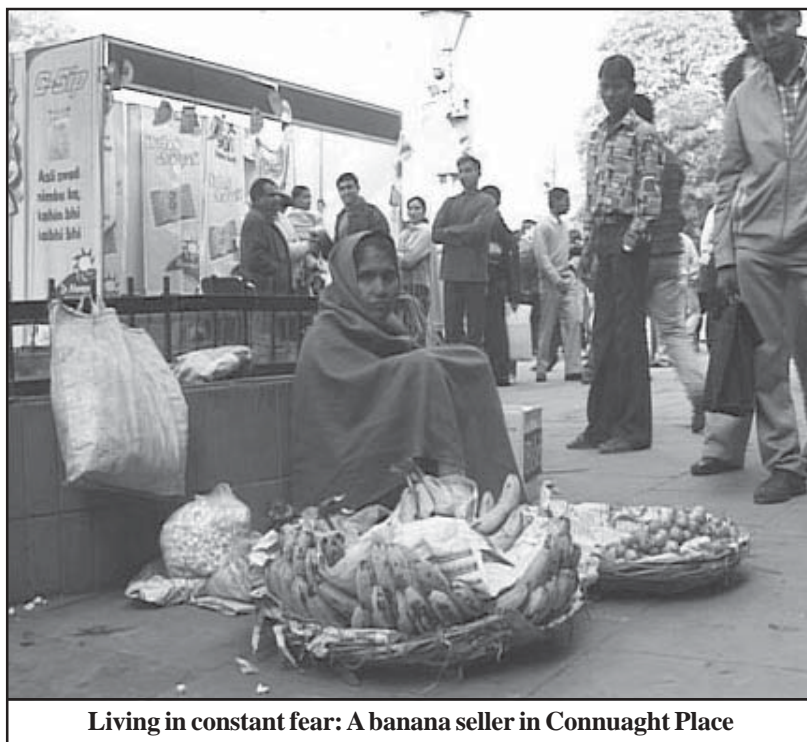
important facts to the notice of the country’s apex Court, as its decisions with regard to Delhi’s vendors will also affect vendors all over India. Through an order dated May 5, 2006, the Supreme Court gave permission to all those people who desired to contribute submissions of relevant facts or suggestions for the consideration of the Court with regard to the implementation of the National Policy for Street Vendors (NPSV) by municipal authorities.

This enabled MANUSHI to bring to the notice of the Court illustrations of municipal and other government agencies doing the opposite of what

the National Policy for Street Vendors mandated them to do. (See box for the key recommendations of the NPSV). We provide below a brief summary of the difference between what the Court had ordered municipal authorities to do and what they actually did or plan to do while still pretending that they were implementing the NPSV.

Nailing Lies and Mischief

In an attempt to force the municipal bodies to implement the new policy for vendors, on May 5, 2006 the Supreme Court had directed the MCD and the NDMC to “permanently display at conspicuous places the list of hawking and non



Living in constant fear: A banana seller in Connaught Place

hawking zones declared by them so that there is no arbitrariness in the matter.” The municipal agencies were also warned that “any non compliance of this Court’s order shall be treated as a breach of this Court’s order and punishable as contempt of court.”

We offered evidence to the Court that hawking zones have not been earmarked or made known anywhere in the City. Instead, many prime shopping areas such as Connaught Place and Nehru Place have been arbitrarily declared as non-hawking zones by the NDMC and DDA respectively.

On the other hand, there has been blatant violation of the Delhi Special Laws Provisions Act of 2006 according to which demolitions and “Clearance Operations” to remove vendors were to be put on hold for one year while the municipal agencies were assigned the job of creating proper hawking zones all over the City. Both the MCD and the DDA readily stopped demolition of homes and commercial establishments of the middle and upper classes because those are owned by influential people. But they have not stopped confiscating the goods and carts of poor street vendors. We have extensive video footage to demonstrate and substantiate such attacks on vendors.

By pretending to the Court that some work is already underway, the MCD has also submitted that Ward Vending Committees and the Zonal Vending Committees have been constituted in all the 12 zones under MCD jurisdiction. However, there is no evidence of these committees being actively engaged in creating hawking zones. I myself happen to be a member of one such Ward Committee in the Central Zone of MCD. So far I have not been given the opportunity to attend even a single meeting of this Committee.

MANUSHI has evidence to prove that known bad characters of the area



Innovative ways of selling clothes on a narrow strip of footpath

have been included as members of the committees. These criminals have been part and parcel of the local bribe-collecting mafia that have continually victimized street vendors and other vulnerable groups. These committees also contain MCD touts and middlemen. For example, Pawan Putra Rehdi Patdi Khomcha Union, which has a very unsavoury track record of blackmailing vendors and collecting *hafta* in the guise of providing “protection,” has managed to get hundreds of its associates included in the ward vending committees of all the 12 zones despite their positions as part of a city wide extortion racket.

Are Vendors a “Problem”?

In the affidavit it submitted to the Court the MCD claims that:

“Almost all the civic agencies have been granting *tehbazaris* and hawking permissions to various vendors for the last so many decades, but the problem of vendors in Delhi has not reduced at all. It is now assuming alarming proportions due to the fact that there is a great influx of population in the Capital city of

Delhi mainly from the neighboring states.”

MANUSHI pointed out to the Court that the “problem of vendors” is not that there are many more vendors than are needed in the city, but that the municipal agencies have for decades stopped giving licenses to them. The refusal of municipal authorities to provide adequate, legitimate space for hawker markets is one of the major cause of chaos and squalor in our cities.

Migration to cities cannot be termed a “problem.” It is the inept and callous way our municipal agencies handle these migration flows that creates problems. Migration from rural areas is the inevitable consequence of our government’s oppression of farmers as well as of industrialization, modernization, and urbanization. During colonial rule India became poor because its industries were destroyed, its urban centres declined, and too many people were forced to work on the land. Our current rulers have continued those policies. Consequently, the rate of growth of India’s urban population has been

slower than in many other poor countries.

In almost all developed economies, the percentage of people in agriculture ranges between 2 to 10 percent. The poverty of India is in large part due to the fact that more than two thirds of our population is still trapped in the unremunerative rural farm sector. This means two people are working to produce food for one additional person due to bad government policies, incompetence, and corruption. For example, the population of Delhi has grown to more than 1.5 crores, creating a consequent increase in the number of street vendors required to provide services to the growing urban population. However the MCD and NDMC together have issued no more than a total of 3,000 licenses for all of Delhi. By their own admission before this Court, there are at least 3,00,000 vendors in the city. Unofficial estimates put the figure at 5,00,000. That means that they have restricted the number of licenses to the point where there is, at the most, only one licensed vendor for every 100 actual vendors.

Even the issuance of this token number of licenses had to be forced upon the MCD. Only after several vendors fought long drawn out battles through the Courts and the highest Court in the land declared street vending as a legitimate occupation covered by the Constitutional provision guaranteeing the right to earn a livelihood as a fundamental right, were these pitifully few licenses issued. Even after getting clear-cut instructions to create hawking zones in all urban centers and work out a proper system of licensing, our municipal bodies have resisted doing so by using every delaying tactic and trick at their disposal.

The policy of denying or artificially restricting the number of vending

licenses goes against the natural laws of supply and demand. It is a common experience the world over that whenever governments enact and impose laws and policies that go against the legitimate needs of its citizens, either as consumers, producers or distributors, the consequences are corruption, crime, exploitation and human rights abuses.

Reneging Commitments

As part of a comprehensive Action Plan to implement the National Policy, MANUSHI had proposed that a comprehensive photographic digitalized census of all the present street vendors be carried out through an independent and credible organization so that we have an accurate idea of the numbers of vendors who need to be accommodated in the city. In its Affidavit, the MCD told the Court that they propose “to carry out a systematic survey of urban street vendors in Delhi” by the professional organizations suggested by MANUSHI and SEWA such as the Centre for the Study of Developing Societies, Institute of Economic Growth, Delhi University and Tata Institute of Social Sciences, Mumbai.

For the record, MCD sent letters to all three institutions to check out their readiness to undertake such a survey. These organisations have given a positive response. The digitalized photographic survey census will not take more than three months if adequate resources and manpower are engaged. However, the MCD has taken no further action in this matter after getting consent letters from these institutions. Instead of proceeding with the promised census that would indicate the results of market forces of supply and demand for street vendors, they announced through the press that applications would be invited for the grant of vending licenses and only those vendors who are able to meet with

their bureaucratic qualifying criteria could apply.

“Inviting Applications”

The whole idea of inviting applications from vendors for grant of *tehbazari* while MCD inspectors maintain the authority to screen and select those entitled to get licenses according to the devious criteria they have proposed will lead to a massive fraud on the vendor community because MCD employees have a strong vested interest in keeping genuine vendors insecure by keeping their status illegal so that they can collect protection money from terrorised vendors.

To begin with, the MCD employees will collect huge bribes by selling application forms. Moreover, since most vendors are either illiterate or barely literate, they will not be able to fill out their own application forms. They will instead go through the usual touts. They are not likely to get correct information on time about the correct procedures to apply successfully, which invariably happens with regard to schemes that are supposed to be for the poor. The MCD touts will make a fortune by “helping” people fill the application forms and acquire the required documentary proof to qualify for applying. Large numbers of bogus people, including touts, will consequently be enabled by the MCD to apply, in turn crowding out the genuine vendors, as had happened the last time such applications were invited.

Thereafter, MCD officials will be able to make still more money by using their clout to sanction or reject *tehbazari* licenses depending on whether they are suitably bribed or not. In the process, most genuine vendors are likely to be left unauthorized and therefore unprotected while those with money and/or political patronage will corner licenses. If left in charge of the whole

screening and sanctioning operation, the MCD employees are likely to favour their own relatives and associates and corner prime vending locations.

History of Frauds

MANUSHI has collected a lot of documentary evidence to show how MCD employees have for years subverted the licensing process mandated by the Supreme Court. For example, while giving instructions for inviting *tehbazari* applications in the Gainda Ram case, the Supreme Court had directed the municipal authorities to take special measures to inform the people concerned of the criteria and the schemes under which they could apply. No such information campaign was launched. Even to procure application forms, vendors had to pay bribes. The overwhelming dissatisfaction with the process followed by municipal authorities was so acute that the vendors came to challenge it in Court. As a result, the Supreme Court, vide orders dated May 13, 1994, directed that two judicial officers of the rank of Additional District and Sessions Judge be appointed to look into the question as to whether the implementation of the scheme by the MCD and NDMC had been made consistent with the norms and procedures indicated by the Court. Even so, municipal agencies managed to manipulate documents and information and made sure the extortionist system stayed in place.

Justice Thareja was made in-charge of reviewing the NDMC allotment of *tehbazari* claims and Justice Chopra performed a similar job for MCD areas. The reports prepared by both of them are scathing in their criticism of the functioning of the two municipal bodies with respect to *tehbazari* licenses and the corruption and mismanagement built into the system. To quote Justice Thareja:



In less than three square feet space this vendor sells a nutritious snack for a mere 5 rupees per plate

I thank the Almighty who gave me the strength, courage and patience to complete the sensitive and arduous task... against all internal and external forces of dishonesty, threats, temptation, attempts to change the course of justice, lack of punctuality of staff which resulted in consuming five and a half years in completing the task. (p.II).

Additional Judge Chopra also indicted the functioning of MCD in the following words:

In quite a large number of cases the Applicants who should have been held eligible in terms of the scheme approved by Hon'ble Supreme Court of India have been held ineligible and denied allotment of squatting sites in violation of the norms and the scheme approved by Hon'ble Supreme Court of India.

Devious Eligibility Criteria

Despite such strong strictures, the MCD is brazen enough to continue with the same devious techniques that enable it to tighten its extortionist grip

on the livelihoods of street vendors instead of creating a liberalized licensing regime for them. This is evident from the criteria for eligibility they propose to introduce:

a) Rejection Record: "Persons, who are already engaged in *tehbazari*/vending activities but were not considered due to one reason or the other, shall be considered." Proposing that MCD accept *tehbazari* applications from those whose claims were previously rejected is an indirect admission by the MCD that they refused those applications on faulty grounds. The fact that despite refusal of *tehbazari*, these vendors kept operating in the same area with the full knowledge of MCD staff strongly suggests that the MCD officials allowed them to do so for a consideration.

b) Vending and Residence Proof: By way of proof of previous record of vending at a particular spot, a vendor "will have to furnish: festival receipt/token, *challan*, traffic police *challan* or any receipt of fine or fees, certificate of a registered RWA or market

association, membership of an NGO engaged in the welfare of like-wise people.” Furthermore, “the person should be a resident of area under the jurisdiction of MCD for the last five years on the date of application, having proof, ration card, election ID card or any other Government document”.

Recent migrants to the city are most in need of finding a source of livelihood because they have no experience of the city and have left behind families in distress. By requiring that applicants provide proof of having been a resident of an area under MCD jurisdiction for five years on the date of application is to refuse a measure of protection to those who are most vulnerable. Many stay in unauthorized *jhuggis* (hutments) and many of them sleep on the footpaths because they lack the resources to even rent a *jhuggi*. Street vending and rickshaw pulling are among the very few entry points for poor people in the world of entrepreneurship. By blocking the entry of recent migrants, the municipal authorities would be forcing them into the clutches of mafia elements that will siphon away a good part of their meagre income by way of ‘protection’ money.

By requiring vendors to furnish “festival receipt/token, *challan*, traffic police *challan* or any receipt of fine (following confiscation of their goods) or fees, certificate of a registered RWA or market association, membership of an NGO engaged in the welfare of like-wise people” as proof of their eligibility to apply, amounts to building in provisions which are inherently prone to misuse. Such a criterion is, both legally and morally, absurd. It amounts to rewarding those who have violated municipal laws more frequently and for longer periods with

Challans rarely, if ever, mention the location from which the goods were seized

permission to vend while excluding others. This absurd procedure has been applied previously with disastrous effects as the following account shows:

History of Racketeering

Under the Gainda Ram judgement, to qualify for a “covered *tehbazari*” (allowing people to set up a covered vending kiosk) people had to prove that they had been continuously squatting and carrying on business



Thousands of such files of bogus challans were submitted to the MCD by touts on behalf of vendors in May 2001 when the MCD “invited applications” for mobile vending, while hawkers were misled to believe they would get fixed vending sites. The fate of these applications remains undecided till date.

in a fixed spot between 1970 and 1982. In order to be eligible for “open-to-sky *tehbazari*” people had to produce evidence that they had been continuously squatting and hawking at that particular location from 1983 onwards. In both cases they were also to furnish proof of nationality and residence from 1970 or 1983 onwards respectively.

The absurdity of expecting police and municipal *challans* and receipts of punitive fines to serve as proof of eligibility becomes even more obvious if one considers the fact that more often than not, municipal inspectors confiscate goods without issuing official receipts. At other times, they make an on-the-spot settlement and let the vendor save his goods in return for a bribe. Many vendors run away as soon as they see the municipal or police authorities swoop down on a market. Therefore, not every incident of confiscation can be proved. Even evidence of a person being present as a hawker on the day there was a raid is impossible to obtain if the person happens to save his/her goods by running away.

It is altogether unrealistic to expect illiterate or barely literate street vendors to have such proof of each municipal or police assault on them. A person who began hawking in 1982 was not informed then and had no way of knowing that the *challan* papers would acquire such high value a decade later and that the documents showing economic assaults and violence inflicted on him/her by state agencies would be treated as the only qualifying criteria of his/her existence as a vendor and his/her right to earn a modest living.

Industry of Bogus Challans

This devious criteria enabled the MCD officials to start a whole ingenious industry of selling bogus backdated *challans* and other documents, which were sold

to vendors who could pay to meet the eligibility criteria.

Many legitimate vendors were forced to buy forged documents just as many who did not really qualify but had the money to pay up ended up getting *tehbazari* files prepared through MCD and NDMC touts. 85,000 people managed to apply in the MCD area and 10,000 applied in the NDMC area despite the above-described absurd and stringent criteria. We have collected testimonies from numerous vendors alleging that MCD officials and their touts took a fee ranging from Rs 20,000 to 40,000 per person to prepare forged backdated documents and for accepting false application forms.

For most applicants who paid these bribes, that money went down the drain because fewer than 3,000 *tehbazaris* have been so far granted in all of Delhi though nearly 95,000 persons managed to prepare the required documents and apply for licenses in the MCD and NDMC areas. MCD has admitted, in its affidavit, that even today there are approximately 578 cases waiting for allotment, which were found eligible under the Gainda Ram scheme way back in the early 1990s. By deliberately delaying the entire process of granting vending sites to even those who qualified after meeting with the absurd and stringent criteria, municipal officials have ensured that the level of insecurity remains very high.

Even the provision that a street vendor proves membership of an NGO to qualify for a license has created the incentive for all kinds of touts to float their own NGOs in order to get vending sites allotted to their own men.

Adding More Absurdities

While pretending to improve the system, MCD proposes the following new restrictive criteria for accepting applications for licensing:

Income Criteria: The income of the incumbent should not exceed Rs

45,000 per annum from all known sources in support of which an affidavit shall have to be sworn before an Sub Divisional Magistrate (SDM) or Metropolitan Magistrate.

Age Restrictions: Applicant's age should not be less than 18 years and should not exceed 60 years on the date of application.

Restrictions on whole family: The applicant or his dependent family member should not be employed, have

per month is to forever condemn people in this sector to grinding poverty.

Government should be happy if people can earn more from street vending and climb up the economic ladder rather than insist on their remaining poor. For a city like Delhi, it is impossible for a family of five to six people to survive in dignity with such a small income considering that the rent of a *jhuggi* is no less than



This young boy carries plastic bags he sells on his back because fear of raids and confiscation forces vendors to opt for modes of vending which enable them to flee fast at the sight of a municipal raiding team.

any other *tehbazari*, or any other business premises in Delhi.

It is absurd to limit the grant of vending sites on the basis of a declaration regarding one's income. How can an SDM know or verify the genuine income of a vendor? It will only encourage false declarations and bribes to get those declarations attested. To expect or insist that a person who wishes to vend on the streets should be allowed to do so only and only if the total income of the entire family does not exceed Rs 45,000 a year or be more than Rs 3,750

Rs 1,000 per month in most parts of Delhi; a small tenement in a *pucca* colony costs nothing less than Rs. 1,500 to 2,000 per month. Transport expense of one earning person come to no less than Rs. 600. Such an income leaves no room for children's education, clothes, and other daily necessities.

Similarly, to disqualify a person from applying for *tehbazari* simply because the person is above 60 years old is to inflict great cruelty on old people. It is well known that among low-income group families, children

are often not in a position to take care of aged parents. In India we do not have any social security system worth its name for the poor. Therefore, most old people have no choice but to fend for themselves for as long as they can. Those who have children capable of supporting them withdraw from work when they find they cannot manage any more. But those who have no support cannot be barred in this manner. Street vending is a relatively sedentary form of occupation, especially if people have secure licenses and do not have to run at the sight of a municipal inspector or police constable, who come mainly either to collect *hafta*, or confiscate their goods. Therefore, it is one of the few occupations suitable for the old and infirm who cannot possibly take on jobs involving hard manual labour.

To mindlessly apply the retirement age criteria of Government employment that has Provident Fund, pension and many other benefits, for the self-employed poor who have no safety net is both absurd and cruel. It is yet another proof that either our government officials are hopelessly out of touch with social reality or they want a system that preys on old people even more viciously.

Similarly, to debar someone from vending on the ground that he/she is below the age of 18 also makes little sense because young people from impoverished rural families throb to cities in large numbers since their families do not have enough to feed them. Their earning is often the lifeline for their entire family, including education of younger siblings. By disqualifying them for *tehbazari*, we cannot ensure that they do no work. All this does is force young people to operate illegally or work as low paid helpers of other vendors, thus reducing their chance of earning a decent income which makes their existence more vulnerable.

Footpath Space Criteria: The Affidavit states that the vending sites “shall be leaving 5 feet space on footpath from the edge of the road as an undisturbed passage for the free movement of pedestrians along the walls of offices, medical and educational institutions, courts, police stations, parks, bus stands and bus queue shelters”.

On the surface, it all sounds very reasonable. However, when one considers the fact that, except for the VIP areas of Lutyens Delhi, there are no proper footpaths in most parts of

footpaths all over the City and when secondly, the responsible agencies are scrupulous in maintaining civic discipline and establish efficient monitoring mechanisms.

Devious Controls Yield Bribes

The municipal staff and the police personnel have developed a vested interest in citizens violating government’s rules and regulations in that it enables them to collect bribes for overlooking violation of civic laws and rules. That is why our government agencies have developed a special knack for framing rules, policies and



Optimum utilization of space: On this 5ft. x 3ft sized rehdi this vendor is able to stock tens of kilos of spices in a colourful manner

Delhi, one realizes the true intent behind this proposal. If the municipal agencies fail to provide footpaths, how can vendors be expected to leave 5 feet of open space for pedestrians? Thus this clause will enable the MCD to punish and tyrannise vendors for the MCD’s own failure to provide basic civic amenities in the City.

The experience of the Sewa Nagar Pilot Project executed by MANUSHI SANGATHAN after entering into a Memorandum of Understanding with the MCD clearly demonstrates that such discipline can be observed only when, firstly, there are neat and wide

laws which citizens find senseless, impractical and harassment-oriented. Ordinary people therefore have no choice but to sabotage them covertly or violate them openly through bribes.

Given this track record, we apprehend that this totally inappropriate requirement of leaving five feet of space in front of vending stalls on non-existent footpaths will be used against the vendors rather than to create proper footpaths.

Attempt to control what vendors sell: The MCD Affidavit further states that “the nature of goods/items of daily needs/service will only be

allowed which are as per the needs and requirements of that particular area.” It is altogether absurd and unjust for the MCD officials to pretend to be the expert on what are the requirements of the area. It opens up another area for corrupt and highly discretionary enforcement, since the officials have no realistic ways of gauging consumers’ needs. It is well established that vendors have a better sense of market requirements since their livelihood depends on an intelligent grasp of consumer demand. For instance, we find many more readymade food stalls near office complexes, and far more vegetable and fruit vendors in residential areas and household goods sellers near established markets. Other than restricting the sale of liquor, pornography and harmful drugs, there is no justification for municipal agencies to decide what vendors should sell in a particular area.

Unreasonable controls on timings: As per the Affidavit by MCD, it proposes to regulate the timings of *tehbazaris* and vending sites by limiting the vending period from 8 a.m. to 9 p.m. for those in regular markets and from 7 a.m. to 8 p.m. in residential areas. While it is reasonable to let Residents Welfare Associations fix timings of vendors in residential colonies, it is altogether absurd for the MCD to arbitrarily limit vending timings elsewhere in the city.

Vendors operate their business only as long as there is demand for their services. Most of them work with low profit margins; they have to maximize their income by operating for long hours, especially if the area is such where people are out on work or for leisure till late hours. For instance, near office complexes, vendors automatically shut their business after office hours because there are no customers around. But in places like Chandni Chowk and India Gate vendors stick around till past midnight



Can shops sell things so cheap? The average price of children’s frocks and T. shirts sold by such street hawkers is a mere 30 rupees

because people are still around in large numbers.

Let market demand determine market timings rather than bureaucratic regulations that are rife with arbitrary provisions. In middle and lower class residential areas people find it convenient that vegetable, fruit and snack vendors are available till late hours. These days a large number of women of all classes have taken to professions and occupations requiring long and late working hours, and consequently they do not often get the time to do necessary marketing during the day. Therefore, the availability of vendors at night has become a greater necessity.

In fact, there is good evidence that the presence of street vendors bring greater security and safety in residential and other areas. Areas where streets are alive and busy till late, such as Jama Masjid and Chandni Chowk, are far safer than deserted colonies like Vasant Kunj or Defence Colony which have driven out vendors and are deserted at night. In the latter type of colonies, residents

have to organize elaborate private security arrangements to keep criminals at bay whereas people in areas where shops and vending stalls stay open till late have no such requirement or fear.

K.P.S. Gill, the super cop who is credited with having effectively combated terrorism in Punjab has publicly stated that the street vendors and rickshaw pullers of Punjab gave vital support to the police and intelligence agencies in identifying suspicious elements and activities. These street-smart people are the first to notice suspicious movements and behaviour. Since their livelihood depends on peace and normalcy, vendors have a strong personal interest in keeping streets safe. Therefore, it makes more sense to encourage night bazaars and *haats* than to insist on a deserted city after dark, which only gives more opportunities for anti social activities. □

Part II of Madhu Kishwar’s article “Diagnosing and Remediating Backwardness: English Education Defines the New Brahmins and the New Dalits of India” will be published in the next issue of MANUSHI. □