'Wizards at Making a Virtue of Necessity': Street Vendors in India

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Street vending is ambivalent in India's imagination of law, space, and self. This essay attempts to excavate street vending in India as an interstice: an enquiry directed towards how street vending is entangled with specific theoretical and ideological positions concerning culture, citizenship, commodification, consumption, globalization, legality, modernity, neoliberalism, poverty, politics, public space, and social movements. The focus of my excavation of interstitial street vending in India is twofold. First, a methodological front-staging of the interconnections between law, space and time in India. Second, an acknowledgment of the importance of revisionist accounts of Indian modernity; accounts that note emergent politics of urban space and the city while avoiding seductive binary reductionisms of public/private, inside/outside, formal/informal, legal/illegal, planned/unplanned, liberal/socialist, colonial/post-colonial, and modern/obsolete. While this essay focuses on an admittedly eclectic range of themes and categories of analysis, the hope is that the reader is nonetheless left with a sense of what is at stake and what must be considered in ongoing discussions on market reforms, public space, urbanism, informality and urban street vending in India.

INTRODUCTION

Street vending is ambivalent in India's imagination of law, space, and self. The Tamil epic poem *Cilappatikâram* (estimates of when this was written date back at least 1500 years) includes a detailed description of the vibrant presence of street vendors in Pukâr (the Khaberis of Ptolemy), the then capital of the Chola empire, during the Festival of Indira.[1] More recently, *Satyagraha* (literally translated as truth-force), the non-violent civil resistance perfected by Mohandas Karamchand (Mahatma) Gandhi, had amongst its earliest practitioners, hundreds of '*satyagrahi*' street vendors who peacefully courted arrest in South Africa in response to the discriminatory provisions of the (Transvaal) Asiatic Registration Act, 1907.[2] In 1937, the District Magistrate was advising City Magistrates of Kanpur 'to adopt ruthless measures' to prosecute, fine, displace and dispossess offending hawkers, vendors, transport pliers and carters, artisanal workmen who worked at the roadside.[3] In independent India, the phenomenon of street vending has been the subject of several decisions of the Supreme Court and of numerous state High Courts, apart from also featuring in a number of national policies, state-level and city-level laws, and municipal regulations. Recently, the Street Vendors (Protection of Livelihood and Regulation of Vending) Act, 2014 – a national law – unambiguously recognised urban street trade as a legitimate but regulated activity across India.

This essay attempts to excavate street vending in India as an interstice: an enquiry directed towards how street vending is entangled with specific theoretical and ideological positions concerning culture, citizenship, commodification, consumption, globalization, legality, modernity, neoliberalism, poverty, politics, public space, and social movements. Levesque, in a useful synoptic overview of the relevant conceptual literature, points out that depending on the point of view,

> interstices can be associated, on the one hand, to absence, interruption
> and interpolation (Gallet 2002), breaks, dislocations and disjunctions

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1   Canto 5 of R. Parthasarathy's lovely translation mentions hawkers of paints, scented powders, cool sandalwood paste, flowers, incense, and fragrant perfumes who go round the city streets; pedlars of pastry and *appam*; women hawking wine; fishermen offering fish; vendors of white salt; sellers of betel ... and so on. *See* THE CILAPPATIKÂRAM: THE TALE OF AN ANKLET (R. Parthasarathy trans., 1993).

2   MOHANDAS KARAMCHAND GANDHI, SATYAGRAHA IN SOUTH AFRICA Ch. 20 (1928).

3   NANDINI GOOPTU, THE POLITICS OF THE URBAN POOR IN EARLY TWENTIETH-CENTURY INDIA 105-108 (2001).

(Foucault 1966; Deleuze 1986; Bhabha 1994), gaps (Lefebvre 1974), leaks and escapes (Handke 1987; Massumi 1992; Tonnelat 1999), ruptures and cuts (Deleuze 1985; Tafuri 1987) or, on the other hand, to tissues – drawing on the connective notion of the anatomical interstitial tissues – links and relations (Bourriaud 1998), interactions (Miller 1939), connections and, by extension, hybridity and the meeting of differences (Remy 1986; Bhabha 1994).[4]

My deployment of the term 'interstice' in the context of street vending in India relies primarily on a space-time of under-determined, unknown, and evolving normative-material possibilities. The focus of my excavation of interstitial street vending in India is twofold. First, a methodological front-staging of the interconnections between law, space and time in India.[5] This helps in relating

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[4]   Luc Levesque, *Trajectories of Interstitial Landscapeness: A Conceptual Framework for Territorial Imagination and Action*, *in* Urban Interstices 24 (Andrea Mubi Brighenti ed., 2013); the references made are: Bastien Gallet, Le boucher du Prince Wen-houei (2002); Michel Foucault, Les Mots et les Choses (1966); Gilles Deleuze, Foucault (1986); Homi K. Bhabha, The Location of Culture (1994); Henri Lefebvre, La Production de l'Espace (1974); Peter Handke, Interview with Herbert Gamper in *Espaces intermédiaires* (1992); Brian Massumi, A User's Guide to Capitalism and Schizophrenia: Deviations from Deleuze and Guattari (1992); Stéphane Tonnelat, *Times Square, Superposition*, *in* 85 Les Annales de la Recherche Urbaine 43 (1999); Gilles Deleuze, Cinéma 2: L'image-temps (1985); Manfredo Tafuri, The Sphere and the Labyrinth: Avant-Gardes and Architecture from the Piranesi to the 70s (1987); Nicolas Bourriaud, Esthétique relationnelle (1998); Henry Miller, Tropic of Capricorn (1939); Jean Remy, *La limite et l'interstice: la structuration spatiale comme ressource sociale*, *in* La Théorie de l'Espace Humain: Transformations Globales et Structures Locales (*Pierre Pellegrino ed.,* 1986). Further, Brighenti identifies two general points of view on interstices – the structuralist one and the event-oriented or evental view. While the former regards the interstice 'as a leftover space, what remains after a single, central planning process, or between two heterogeneous and discontinuous plans', the 'second perspective adds, to a realistic – and therefore necessary – consideration of power relations, a genealogical point of view that attends all the minute accidents that eventually constitute the specific atmosphere – understood as both ambience and pressure - of a given place. Adding *movement* to our understanding of the interstice is what shifts us from the first to the second perspective.' *See* Andrea Mubi Brighenti, *Introduction* to Urban Interstices, at xviii (Andrea Mubi Brighenti ed., 2013). *See also*, Desmond Manderson, *Interstices: New work on legal spaces*, 9 Law Text Culture 1 (2005).

[5]   *See generally*, Irus Braverman et al., The Expanding Spaces of Law: A Timely Legal Geography (2014); Nicholas Blomley, Property, law and space (2014); Manderson, *supra* note 4; Henri Lefebvre, The Production of Space (Donald Nicholson-Smith trans., 1991). Braverman, Blomley, Delaney and Kedar, in their introduction to *Expanding Spaces of Law* point out that "[l]egal geography is a stream of scholarship that takes interconnections between law and spatiality, and especially their reciprocal construction, as core objects of inquiry ... Legal geographers note that nearly every aspect of law is located, takes place, is in motion, or has some spatial frame of reference."

'social processes in the city to the spatial form which the city assumes.'[6] Second, an acknowledgment of the importance of revisionist accounts of Indian modernity;[7] accounts that note emergent politics of urban space and the city while avoiding seductive binary reductionisms of public/private, inside/outside, formal/informal, legal/illegal, planned/unplanned, liberal/socialist, colonial/post-colonial, and modern/obsolete.[8] In this essay, I briefly focus on the law relating to street vending in Indian cities to identify what the 'right to the city' discourse,[9] and related notions of spatial justice,[10] might tell us about the unfolding of modernity in contemporary neoliberal India.

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6   *See* David Harvey, Social Justice and the City, 23 (2009). Harvey's seminal work explores this central, overwhelming, and unchanging concern with social process and spatial form through an exploratory analysis of four fundamental interlocking themes: the nature of theory, the nature of space, the nature of social justice, and the nature of urbanism.

7   For example, Gyan Prakash points out that the urban turn "offers an opportunity to revise the history of Indian modernity, to bring into view spaces of power and difference suppressed by the historicist discourse of the nation." *See* Gyan Prakash, *The Urban Turn, in* Sarai Reader 2002: The Cities of Everyday Life 6 (2002).

8   Scholars such as Chatterjee, Kaviraj, Nandy and Chakrabarty, amongst others, have persuasively argued for the importance of carefully studying the shapes, forms, and practices of postcolonial urban politics in India while avoiding the pitfalls of a Western, reductionist, singular, and universalized conceptualization of modernity and its associated political norms for urban sociality. *See* for example, Partha Chatterjee, Lineages of Political Society: studies in postcolonial democracy (2009); Sudipta Kaviraj, *Filth and the Public Sphere: Concepts and Practices about Space in Calcutta*, 10(1) Public Culture 83-113 (1997); Ashis Nandy, *Introduction: Indian Popular Cinema as the Slum's Eye View of Politics, in* The Secret Politics of our Desires: Innocence, Culpability and Indian Popular Cinema (1998); Dipesh Chakrabarty, Rethinking Working-Class History: Bengal 1890-1940 (1989).

9   *See* Henri Lefebvre, *The Right to the City, in* Writings on Cities, 147-159 (Eleonore Kofman & Elizabeth Lebas trans. and eds.,1996); David Harvey, Rebel Cities – From the Right to the City to the Urban Revolution (2012); Marianne Morange & Amandine Spire, *A Right to the City in the Global South?*, Metropolitics (April 17, 2015), http://www.metropolitiques.eu/A-Right-to-the-City-in-the-Global.html ; Locating Right to the City in the Global South (Tony Roshan Samara et al eds., 2013); UNESCO, Urban Policies and the Right to the City in India – Rights, Responsibilities and Citizenship (*Marie–Hélène Zérah* et al eds., 2011).

10   For conceptual explorations of spatial justice, *see* Harvey, *supra* note 6; Andreas Philippopoulos-Mihalopoulos, Spatial Justice: Body, Lawscape, Atmosphere (2014); and the collection of articles in the volumes (2009 – 2015) of 'justice spatiale | spatial justice', available at http://www.jssj.org. Edward Soja, for example, reminds us that critical spatial thinking today hinges around three principles: a) the ontological spatiality of being (we are all spatial as well as social and temporal beings); b) the social production of spatiality (space is socially produced and can therefore be socially changed) and; c) the socio-spatial dialectic (the spatial shapes the social as much as the social shapes the spatial). *See* Edward W. Soja, The City and spatial Justice (Sophie Didier and Frédéric Dufaux trans., September 2009), Spatial Justice, http://www.jssj.org.

While this essay focuses on an admittedly eclectic range of themes and categories of analysis, the hope is that the reader is nonetheless left with a sense of what is at stake and what must be considered in ongoing discussions on market reforms, public space, urbanism, informality and urban street vending in India. I do not attempt to provide explicit answers; the endeavour is focused more on raising questions, reviewing and selectively juxtaposing the relevant literature, and on promoting critical thinking on a set of interlinked discursive arenas.

OCCUPYING URBAN PUBLIC SPACE

In a rare break from conservatism in urban political expression, the Edinburgh City Council on 24th November, 2011 formally voted to recognise the occupation of St. Andrew Square, in the city's historic financial quarter, in a motion put forward by Green candidate Maggie Chapman. The city council recognised "the aims of the 'Occupy' movements throughout the world and [did] understand that they are an attempt to redirect economic decisions to be more orientated toward the poor and disenfranchised which is a sentiment the Council endorses."[11]

Recent spontaneous peoples' protest movements in Athens, Bangkok, Barcelona, Berkeley, Cairo, Hong Kong, Istanbul, Madrid, New Delhi, New York, Rio de Janeiro, Wisconsin etc. (and the "Arab Spring" protests across Tunisia, Egypt, Libya, Yemen, Bahrain, Syria, Algeria, Iraq, Jordan, Kuwait, etc.) often began with, or transformed into, protests on, and occupation of, public squares in cities (some reports suggest that the Arab Spring in Tunisia was sparked by the self-immolation of a street-vendor protesting harassment by governmental officials).[12] The European economic crisis, which over the past few years has seen public protests in streets, parks, universities and parliaments across major European cities, has recently resulted in the partial victory of Spain's *indignados* in municipal and regional elections.[13] Amongst the unfortunate victims of the 7th September 2011

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11   EDINBURGH CITY COUNCIL RECOGNISES OCCUPY EDINBURGH, EDINBURGH GUIDE,
        http://www.edinburghguide.com/news/edinburghcitycouncil/9562edinburghcitycouncil
        recognisesoccupyedinburgh.

12   *See generally*, *Preface* to HARVEY, *supra* note 9; Craig Calhoun, *Occupy Wall Street in Perspective*,
        64(1), THE BRITISH JOURNAL OF SOCIOLOGY, 26-38 (2013).

13   *Spain's Indignados Could Rule Barcelona and Madrid after Local Election Success*, THE GUARDIAN,
        http://www.theguardian.com/world/2015/may/25/spains-indignados-ada-colau-elections-
        mayor- Barcelona.

Delhi High Court bomb blast were street vendors demanding judicial protection of their livelihood rights on the streets. Anna Hazare's anti-corruption crusade in India captured the world's imagination through public protests in public spaces across India's cities – all beamed 24x7 to television sets across India and the world. This anti-corruption movement sparked off a series of events culminating in the recent surprise electoral (repeat) victory of the Aam Aadmi Party (AAP) in the New Delhi regional elections in February 2015; the AAP promises participatory budgeting, localised participatory governance, and permanent spaces for street vendors amongst other things.[14] These seemingly disconnected events, on closer examination, reveal themselves to be the anticipatable consequences of a mode of thinking that the eminent economist E.F. Schumacher has described as one of the most fateful errors of our age – the belief that 'the problem of production' has been solved.[15] Though then largely unnoticed by Western economists, the Indian visionary Mohandas Karamchand Gandhi had stated much the same proposition by pointing out that the question of 'how much should a person consume?' could be correctly answered only by appreciating that the world had enough for everybody's needs but not for anybody's greed.[16]

The centrality of 'mode of production' in humanistic Marxist thought highlights a particularly useful ontological and epistemological framework through which revolutionary and counter-revolutionary urbanisms may be usefully analysed, and possibilities of interstitial spatial justice may be glimpsed.[17] In this broad Marxist

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14 "The issues of governance and public service delivery in Delhi are complex. We believe they can be addressed only through the idea of Swaraj, which means self-governance, not merely good governance. In real terms it means that people would, and must, have a significant say in policies that affect their lives and not limit themselves to casting their votes once every five years." *See, AAP Manifesto–Delhi Assembly Elections 2015*, Aam Aadmi Party, http://www.aamaadmiparty.org/AAP-Manifesto-2015.pdf.

15 E. F. Schumacher, Small is Beautiful: A Study of Economics as if People Mattered 4 (1973).

16 For Gandhi, "[t]he distinguishing characteristic of modern civilization is an indefinite multiplicity of wants," whereas ancient civilizations were marked by an "imperative restriction upon and a strict regulating of those wants." *See, Choice Before Us,* Young India (2 June 1927), *in* 38 The Collected Works of Mahatma Gandhi (Electronic Book) 483 (1999).

17 "The totality of these relationships of production constitutes the economic structure of society, the real foundation, on which arises a legal and political superstructure and to which correspond definite forms of social consciousness. The mode of production of material life conditions the general process of social, political and intellectual life. It is not the consciousness of men that determines existence, but their social existence that determines their consciousness ... Changes in the economic foundation sooner or later lead to the transformation of the whole immense

tradition, the path-breaking work on urbanism and spatial justice initiated by Henri Lefebvre and David Harvey usefully contextualises the politics of urban space in today's contemporary moment.[18] While an elaborate articulation of the intellectual corpus of Lefebvre and Harvey is not possible here, I use below a few brief extracts to convey some of their important views on the nature of the relationship between space, urbanism and capitalist production.

Butler points out that for Lefebvre, the dialectical unity of the three dimensions of space – the mental, the physical, and the lived – is crucial to any explanation of space's production and social use, and that Lefebvre essentially reworks Marx's chronology of historical stages of social development as a history of modes of production of space.[19] For example, Lefebvre, in the *Social Production of Space* reminds us that

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superstructure. In studying such transformations it is always necessary to distinguish between the material transformation of the economic conditions of production, which can be determined with the precision of natural science, and the legal, political, religious, artistic or philosophical – in short, ideological forms in which men become conscious of conflict [in the economic basis] and fight it out". Karl Marx, A Contribution to the Critique of Political Economy (1970), cited from Harvey, *supra* note 6, at 197. Marx and Engels explicitly address the relationship between production, urbanism, and justice when they state: "The antagonism between town and country begins with the transition from barbarism to civilization, from tribe to State, from locality to nation, and runs through the whole history of civilization to the present day ... The existence of the town implies, at the same time, the necessity of administration, police, taxes, etc.; in short, of the municipality, and thus of politics in general. Here first becomes manifest the division of the population into two great classes, which is directly based on the division of labour and on the instruments of production." Karl Marx and Friedrich Engels, The German Ideology (1970), cited from Harvey, *supra* note 6, at 204. For a fantastic detailed exposition of Marxist conceptual frameworks to urbanism and the city (from where these excerpts have been borrowed), *see* David Harvey, *Urbanism and the City – An Interpretive Essay, in* Harvey, *supra* note 6. In *Socialism: Utopian and Scientific*, Engels sums up the Marxist critique of utopianism in the following manner: "The final causes of all social changes and political revolutions are to be sought, not in men's brains, not in man's better insight into eternal truth and justice, but in changes in the modes of production and exchange." Friedrich Engels, Socialism: Utopian and Scientific, (1935) cited from The Political Theory Reader 115 (Paul Schumaker ed., 2010).

18   The third name in the trilogy of Marxist urban studies is that of the Spanish sociologist Manuel Castells. While Castells' views are not included explicitly in the analysis of this essay, the interested reader is directed towards Manuel Castells, The City and the Grassroots: a Cross-Cultural Theory of Urban social Movements (1983). Also, for more on Lefebvre, Harvey and Castells in relation to the urban, *see generally*, Ira Katznelson, Marxism and the City (1993).

19   Chris Butler, *Reading the production of suburbia in post-war Australia, 9 Law Text Culture* (2005). See also, Chris Butler, Henri Lefebvre – Spatial Politics, Everyday Life and the Right to the City (2012); Andy Merrifield, Henri Lefebvre – A Critical Introduction (2006).

[t]he progression of what might be called a 'revolution of space' (subsuming the 'urban revolution') cannot be conceived of other than by analogy with the great peasant (agrarian) and industrial revolutions: sudden uprisings followed by a hiatus, by a slow building of pressure, and finally by a renewed revolutionary outburst at a higher level of consciousness and action – an outburst accompanied, too, by great inventiveness and creativity ... The transformation of society presupposes a collective ownership and management of space founded on the permanent participation of the 'interested parties', with their multiple, varied and even contradictory interests. It thus also presupposes confrontation ... The creation (or production) of a planet-wide space as the social foundation of a transformed everyday life open to myriad possibilities – such is the dawn now beginning to break on the far horizon ... We are concerned with what might be called a 'sense': an organ that perceives, a direction that may be conceived, and a directly lived movement progressing toward the horizon.[20]

For Lefebvre, the inter-relationships between space, urban consciousness, and capitalist production can be glimpsed clearly by tracking the deliberately induced transition from notions of 'to inhabit' (in the Heideggerian sense) to the concept of 'the habitat' in the context of the city. Commenting on the developments in France in the late 19th century, Lefebvre points out that:

[t]he Third Republic will insure its fortune, that is, its realization on the ground. It will conceive the notion of *habitat*. Until then, 'to inhabit' meant to take part in social life, a community, village or city. Urban life had, among other qualities, this attribute. It gave the right to inhabit, it allowed townsmen-citizens to inhabit.[21]

However, with the transition to the concept of habitat:

[s]ociety orients itself ideologically and practically towards other problems than that of production. Little by little social consciousness ceased to refer to production and to focus on everyday life and

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20   Lefebvre, *supra* note 5, at 419-423.

21   *See* Lefebvre, *Industrialization and Urbanization*, *in* Writings on Cities, *supra* note 9, at 76.

consumption. With 'suburbanization' a process is set into motion which decentres the city. Isolated from the city, the proletariat will end its sense of the oeuvre. Isolated from places of production, available from a sector of habitation for scattered firms, the proletariat will allow its creative capacity to diminish in its conscience. Urban consciousness will vanish.[22]

In *Urbanism and the City – An Interpretive Essay,* Harvey, drawing on some of Polanyi's conceptual framework, proposes that:

> [c]ities are built forms created out of the mobilization, extraction and geographic concentration of significant quantities of the socially designated surplus product ... Urbanism is a patterning of individual activity which, when aggregated, forms a mode of economic and social integration capable of mobilizing, extracting and concentrating significant quantities of the socially designated surplus product ... A distinction must be made between an alienated surplus fashioned out of alienated labour and the unalienated form which the surplus can assume in certain societies ... Wherever urbanism is manifest, the only legitimate explanation of it lies in an analysis of the processes which create, mobilize, concentrate and manipulate that social surplus product.[23]

In a classic article published in 1989, Harvey points out that urban governance in advanced capitalistic countries has reoriented and transformed from a 'managerial' approach typical of the 1960s (that primarily focused on the local provision of services, facilities and benefits to urban populations) to an 'entrepreneurial' approach starting in the 1970s (that typically rests on a public-private partnership focussing on investment and economic development).[24] Noting that '[u]rban entrepreneurialism consequently contributes to increasing disparities in wealth

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22   Lefebvre, *Industrialization and Urbanization, in* Writings on Cities, *supra* note 9, at 77.

23   Harvey, *Urbanism and the City – An Interpretive Essay, in* Social Justice and the City, *supra* note 6, at 238-240. *See generally,* Karl Polanyi, Primitive, Archaic and Modern Economies: Essays of Karl Polanyi (G. Dalton ed., 1968).

24   David Harvey, *From Managerialism to Entrepreneurialism: The Transformation in Urban Governance in Late Capitalism,* 71(1) Geografiska Annaler, Series B, Human Geography 3-17 (1989).

and income as well as to the increase in urban impoverishment', Harvey concludes by reiterating that:

> a critical perspective on urban entrepreneurialism indicates not only its negative impacts but its potentiality for transformation into a progressive urban corporatism, armed with a keen geopolitical sense of how to build alliances and linkages across space in such a way as to mitigate if not challenge the hegemonic dynamic of capitalist accumulation to dominate the historical geography of social life.[25]

More recently, in *Rebel Cities*, Harvey, paying homage to Lefebvre, reminds us that "the question of what kind of city we want cannot be divorced from the question of what kind of people we want to be, what kinds of social relations we seek, what relations to nature we cherish, what style of life we desire, what aesthetic values we hold" and that the right to the city is

> ... far more than a right of individual or group access to the resources that the city embodies: it is a right to change and reinvent the city more after our heart's desire ... The freedom to make and remake ourselves and our cities is ... one of the most precious yet most neglected of our human rights.[26]

Finally, and most recently, in *Seventeen Contradictions and the End of Capitalism*, Harvey, drawing on Franz Fanon's revolutionary humanism, reminds us that "what Marx makes so clear in *Capital* is the daily violence constituted in the domination of capital over labour in the marketplace and in the act of production as well as on the terrain of daily life" and

> ... the violent and unpredictable eruptions that are occurring all around the world on an episodic basis (from Turkey and Egypt to Brazil and

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25   *Id.*, at 12, 16.

26   Harvey, *supra* note 9, at 4. Harvey's words evoke urban sociologist Robert Park's description of a city as "man's most imposing creation, the most prodigious of human artifacts ... as the workshops of civilized man." *See,* R.E. Park et al, The City 133 (1925).

Sweden in 2013 alone) look more and more like the prior tremors for a coming earthquake that will make the post-colonial revolutionary struggles of the 1960s look like child's play. If there is an end to capital, then this is surely from where it will come and its immediate consequences are unlikely to prove happy for anyone.[27]

It is evident that our cities have become 'strategically crucial arenas in which neoliberal forms of creative destruction have been unfolding' and where myriad, often interstitial counter-responses have been recently surfacing. A careful analysis of 'the urbanisation of neoliberalism' and of the link between neoliberalisation, urban policy and injustice in the [Indian] city is urgently required.[28] As Peck, Theodore, and Brenner perceptively point out, the

> ...institutional landscape of neoliberal urbanism is consequently a churning, dynamic one, the continued turbulence of which is reflective of neoliberalism's *contradictory creativity* – its capacity to repeatedly respond to endemic failures of policy design and implementation through a range of crisis-displacing strategies, fast-policy adjustments, and experimental reforms ... One of the keys to the transcendence of neoliberalism is, therefore, the construction of new forms of urban solidarism, between as well as within cities.[29]

Identifying a systematic transformation in the pattern of land ownership in cities which has serious implications for equity, democracy and rights, Saskia Sassen points out that the

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27   DAVID HARVEY, SEVENTEEN CONTRADICTIONS AND THE END OF CAPITALISM 166-167 (2014).

28   *See*, Marianne Morange and Sylvie Fol, *City, Neoliberalisation and Justice*, SPATIAL JUSTICE, (June 6, 2014), http://www.jssj.org and sources cited therein. *See also*, Neil Brenner and Nick Theodore, *Cities and the Geographies of 'Actually Existing Neoliberalism'*, 34(3), ANTIPODE 349-379 (2002); SPACES OF NEOLIBERALISM – URBAN RESTRUCTURING IN NORTH AMERICA AND WESTERN EUROPE (Neil Brenner and Nick Theodore eds., 2002); CONTESTING NEOLIBERALISM: URBAN FRONTIERS (Helga Leitner et al eds., 2007). *See also*, Janaki Nair, *Is there an 'Indian' Urbanism, in* ECOLOGIES OF URBANISM IN INDIA: METROPOLITAN CIVILITY AND SUSTAINABILITY (Anne M. Rademacher and K. Sivaramakrishnan eds., 2013); WORLDING CITIES: ASIAN EXPERIMENTS AND THE ART OF BEING GLOBAL (Ananya Roy and Aihwa Ong eds., 2011); INSIDE THE TRANSFORMING URBAN ASIA: PROCESSES, POLICIES AND PUBLIC ACTIONS (Darshini Mahadevia ed., 2008); THE URBAN POOR IN GLOBALISING INDIA: DISPOSSESSION AND MARGINALISATION (Lalit Batra ed., 2007).

29   Jamie Peck et al, *Neoliberal Urbanism: Models, Moments, Mutations*, 29 SAIS REVIEW 49, 64-65 (2009).

> ... trend is to move from small properties embedded in city areas, crisscrossed by streets and small public squares, to projects that absorb much of this tissue of public space ... These cities, whether in the global North or South, have become a strategic frontier zone for global corporate capital ... This emergent frontier-space at the heart of major global cities arises in a context of increasingly hardwired "borderings" inside cities and across cities.[30]

For Sasken, under these interstitial conditions, "the work of *making* the public and the political in urban space becomes even more critical ... These are new hybrid bases from which to act, spaces where the powerless can make history even when they are not empowered."[31] Occupying urban public space goes to the heart of spatial justice insofar as it raises the 'cry and the demand' of the 'right to the city' and 'a transformed and renewed right to urban life'.[32]

Ashis Nandy reminds us that the predicament of the imagined city in postcolonial South Asia is direr:

> [t]his dream of the city usually comes with a cultivated forgetfulness about the violent record of the last hundred years, a record which shows the complicity of the secular city of citizenship, civility, and civic virtues with a particularly ruthless form of self-indulgent, unrestrained, asocial individualism ... The imagined city in South Asia symbolizes the belated attempts of defeated civilizations to break into the hard 'realism' of the world of winners where, to stretch the metaphor of Ivan Illich, specialist skills in hydrology and water

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30 Saskia Sassen, *Who Owns the City, in* Governing Urban Futures 6 – 8 (Ricky Burdett et al. eds., 2014). For a detailed analysis of a similar thrust in land ownership in Bangalore, India with and through state-promoted digitization of land records, *see* Solomon Benjamin, *Inclusive or Contested: Conceptualising a Globalised Bangalore, in* Inside the Transforming Urban Asia: Processes, Policies and Public Actions, *supra* note 28, at 170-193.

31 Sassen*, supra* note 30, at 8.

32 Lefebvre, *Right to the City, in* Writings on Cities, *supra* note 9, at 158. *See also*, Tayyab Mahmud, *"Surplus Humanity" and the Margins of Legality: Slums, Slumdogs, and Accumulation by Dispossession*, 14 Chap. L. Rev. 1-73 (2010-2011); Andy Merrifield, The Politics of the Encounter – Urban Theory and Protest under Planetary Urbanization (2013).

management transform the waters of dream into a scarce commodity called H_2O.[33]

Similarly, Sudipta Kaviraj's analysis of the four stages of evolution of 'public/ *pablik* parks' in Calcutta from colonial to present times (focusing on Deshapriya Park in south Calcutta) demonstrates how the life of parks, squares, streets, etc. in postcolonial cities of India has much more to tell us than the simple binaries of public/private, inside/outside or planned/unplanned would indicate as forthcoming.[34] The late Charles Correa's reminder that we "must improve fundamentally the governance of our cities – for in the final analysis, they will decide the future of this nation" is worth paying heed to.[35]

Writing somewhat optimistically for this very journal ten years ago, Shail Mayaram notes the possibilities of interstitial spatial justice for the subaltern/marginal slum dweller, migrant worker, street vendor, rickshaw puller etc. in the Indian megacity when she points out that:

> [m]egapolises are universes of a certain Dostoyevskian darkness in which alcoholism is rampant, as also domestic violence. But there are also flashes of joyfulness, of life ... A subaltern cosmopolitanism emerges then if only in occasional flashes and in unnoticed and 'surreptitious creativities' ... if this century is going to be an Asian century it is going to be built with the hands and the labour of this

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33   Ashis Nandy, An Ambiguous Journey to the City – The Village and Other Odd Ruins of Self in the Indian Imagination (2001). For attempts to map the urban postcolonial consciousness of cities in India, *see* The Oxford Anthology of the Modern Indian City (Vinay Lal ed., 2013); Sarai Reader 2002: The Cities of Everyday Life, *supra* note 7; Ecologies of Urbanism in India: Metropolitan Civility and Sustainability, *supra* note 28; Rashmi Varma, The Postcolonial City and its Subjects: London, Nairobi, Bombay (2012); Worlding Cities: Asian Experiments and the Art of Being Global, *supra* note 28. *See generally*, Dipesh Chakrabarty, Provincializing Europe: Postcolonial Thought And Historical Difference (2000); Gayatri Chakraborty Spivak, A Critique of Postcolonial Reason: toward a history of the vanishing present (1999).

34   Kaviraj, *supra* note 8.

35   *See*, Charles Correa, *Accountability and Governance*, *in* Governing Urban Futures 41 (Ricky Burdett et al eds., 2014). *See also*, Arvind Panagariya, *Spaces, Services and the State* 39-40; Isher Judge Ahluwalia, *Building Capacity* 40-41; D. Asher Ghertner, *Uncertain State(s)* 46-47, *all in* Governing Urban Futures (Ricky Burdett et al eds., 2014). *See also*, Darshini Mahadevia, *Urban Poverty in India and Post-MDG Framework*, *in* Oxfam India Working Paper Series (2013). *See generally*, *Urbanization*, Centre for Policy Research, http://www.cprindia.org/urban.

presence that cities regard as unaesthetic and prefer to relegate to their margins, this unauthorized migration that veers on the border of legality and illegality ... But this is, in fact, the vital city. A city that is vital to the life of the city; burdened by despair and hopelessness but despite this the sites also of veer and vitality.[36]

Ananya Roy concludes her theorization of postcolonial urbanization with a similarly optimistic acknowledgment of the interstitial, of the current 'moment of interruption that makes possible an imagining of multiple Asian futures.'[37] Partha Chatterjee is somewhat less optimistic, worrying about the capacity of unselfconscious local practice to beat back the formidable challenges posed by the material as well as the imaginative forces of the new regime of globality. In *Are Indian Cities becoming Bourgeois at Last?* he captures the conundrum with characteristic clarity: "If democracy has indeed taken root in India's cities, will political society provide the instruments for negotiating a controlled transition to a new urban regime, or will it explode into anarchic resistance?"[38] Lalit Batra's careful evaluation of urban policy and urban reforms in neoliberal India suggests that David Harvey's 'accumulation by dispossession' – "privatization of public assets, enclosure and privatization of urban commons including land, monetization of not yet formally monetized realms of existence" – is the order of the day for India and its cities.[39]

Postcolonial geographies, as Jane Jacobs reminds us, "have replaced the security of the maps of the past with the uncertainty of touring the unsettled spatialities of power and identity in the present."[40] As Marshall Berman and Mike Davis

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36   Shail Mayaram, *Of Marginality: Poverty, Migration and Memory in the Megacity*, 1 SOCIO-LEGAL REV. 1, 9-10 (2005).

37   Ananya Roy, *Conclusion* to WORLDING CITIES: ASIAN EXPERIMENTS AND THE ART OF BEING GLOBAL, *supra* note 28, at 332.

38   Partha Chatterjee, *Are Indian Cities Becoming Bourgeois At Last?, in* THE POLITICS OF THE GOVERNED 145 (2004). *See generally*, ANDY MERRIFIELD, THE NEW URBAN QUESTION (2014); Solly Benjamin, *Occupancy Urbanism: Radicalizing Politics and Economy beyond Policy and Programs*, 32(3) INTERNATIONAL JOURNAL OF URBAN AND REGIONAL RESEARCH 719-729 (2008).

39   Lalit Batra, *A Review of Urbanisation and Urban Policy in Post-Independent India*, CENTRE FOR THE STUDY OF LAW AND GOVERNANCE, WORKING PAPER NO. CSLG/WP/12 (2009). On this point, *see also* Mahmud, *supra* note 32; Usha Ramanathan, *Illegality and the Urban Poor*, 41 ECONOMIC & POLITICAL WEEKLY 3193-3197 (2006).

40   JANE M. JACOBS, EDGE OF EMPIRE – POSTCOLONIALISM AND THE CITY 163 (2002).

persuasively remind us, the politicisation of the streets has been and will be a key component of our 'experience of modernity' and for 'excavating the future'.[41] Street vending – a phenomenon as ancient as urban settlement itself – represents in many ways the modest (and less belligerently confrontational, less irruptive) forerunner to the 'occupy' movements that grip our cities today: '[v]ending can be seen as a private taking of public space.'[42] As India ushers in an era of foreign investment in retail trade, a critical examination of the context of street vending in India enables an appreciation of other theoretical issues concerning culture, citizenship, commodification, consumption, public space, social movements, and constitutional fairness.[43]

THE STREET

Streets, markets, highways, parks, lakes, public libraries, and other urban common property resources are highly contested spaces for various end uses within particular time-frames. A city's urban plan, built form, collective and individual moral outlook, laws, and norms effectively prioritise some claims while de-legitimating others through complex clusters of adjudication mechanisms and legal iteration/ regulation. Streets affect culture and are affected by cultures. They constitute modernities and are constituted by modernities. Richard Sennett's work persuasively describes how the changing design of our cities (from heterogeneous and disorderly to homogeneous and ordered; from public, democratic and generative spaces to privatised, orchestrated and dead spaces) affects our public

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41 *See,* MARSHALL BERMAN, ALL THAT IS SOLID MELTS INTO AIR: THE EXPERIENCE OF MODERNITY (1988); MIKE DAVIS, CITY OF QUARTZ: EXCAVATING THE FUTURE IN LOS ANGELES (1990).

42 *See, Call for Papers – Contesting the Streets II: Vending and Public Spaces in Global Cities,* UNIVERSITY OF SOUTHERN CALIFORNIA, (October 2-3, 2015), http://slab.today/2015/02/call-for-papers-symposium-october-2-3-2015.

43 "[S]treet vending as a lens through which to explore several theoretical issues: 1) the ways in which culture-power-difference are mutually shaped and reconfigured in the public sphere; 2) how shifting from political-economy analyses to cultural politics analysis within the context of governance yields insights into activism and emerging conceptualizations of public space and citizenship; 3) the questioning of commodified cultural identities that go beyond simple touristic consumption practices; and 4) a clearer understanding how street vendors participate in social movements that are part of larger transnational political and economic forces." *See, Street Economies, Politics, and Social Movements in the Urban Global South,* ADVANCED SEMINAR, (March 13–17, 2011), http://sarweb.org/?advanced_seminar_street_economies.

culture and collective urban life.[44] Levy points out that while "topography sets the stage, dictates of law and cultural influences work together in creating the form of a city ... The experience of a place is dictated by the design of both streets and buildings".[45] Spiro Kostos points out that "[a]ccording to Fascist theory, straight and wide avenues were indispensable. You could not reconcile tortuous, narrow streets with active traffic and sufficient light and air ... The state responded to a principle of public morality of which the state was the interpreter."[46] Anne Vernez Mouldon asserts that streets record and determine the history of city form more than any other element of urban infrastructure, and it is evident that streets and their particular social, political, cultural and economic settings can tell us a lot about the dominant ideas, practices, and life-worlds at a particular time and place.[47] Arjun Appadurai concurs, when he highlights the culture of streets in India: "With the possible exception of the railroad, streets capture more about India than any other setting. On its streets, India eats, works, sleeps, moves, celebrates and worships. The street is a stage that rarely sleeps."[48]

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44   *See,* RICHARD SENNETT, FLESH AND STONE: THE BODY AND THE CITY IN WESTERN CIVILIZATION (1994); RICHARD SENNETT, THE CONSCIENCE OF THE EYE: THE DESIGN AND SOCIAL LIFE OF CITIES (1991); RICHARD SENNETT, THE FALL OF PUBLIC MAN (1977); RICHARD SENNETT, THE USES OF DISORDER: PERSONAL IDENTITY AND CITY LIFE (1970).

45   *See,* Richard M. Levy, *The Visualisation of the Street – Computer Modelling and Urban Design, in* IMAGES OF THE STREET – PLANNING, IDENTITY AND CONTROL IN PUBLIC SPACE, 58, 59 (Nicholas Fyfe ed., 1998). *See also,* KEVIN LYNCH, GOOD CITY FORM (1984).

46   Spiro Kostof, THE THIRD ROME: 1870-1950: TRAFFIC AND GLORY (1973), *as cited in* David Atkinson, *Totalitarianism and the Street in Fascist Rome, in* IMAGES OF THE STREET – PLANNING, IDENTITY AND CONTROL IN PUBLIC SPACE, *supra* note 45, at 12, 20.

47   *See,* PUBLIC STREETS FOR PUBLIC USE, 13 (Anne Vernez Moudon ed., 1987). On streets and cities, *see generally,* KEVIN LYNCH, THE IMAGE OF THE CITY (1960); JANE JACOBS, THE DEATH AND LIFE OF GREAT AMERICAN CITIES (1961); BERNARD RUDOFSKY, STREETS FOR PEOPLE: A PRIMER FOR AMERICANS (1969); ON STREETS (Stanford Anderson ed., 1978); DONALD APPLEYARD, LIVABLE STREETS (1981); PETER JUKES, A SHOUT IN THE STREET – AN EXCURSION INTO THE MODERN CITY (1990); STREETS: CRITICAL PERSPECTIVES ON PUBLIC SPACE (Zeynep *Çelik,* Diane Favro, & Richard *Ingersoll eds.,* 1994); IMAGES OF THE STREET – PLANNING, IDENTITY AND CONTROL IN PUBLIC SPACE *supra* note 45; MITCHELL DUNEIER, SIDEWALK (1999); MICHAEL SOUTHWORTH & ERAN BEN-JOSEPH, STREETS AND THE SHAPING OF TOWNS AND CITIES (2003); ANASTASIA LOUKAITOU-SIDERIS & RENIA EHRENFEUCHT, SIDEWALKS – CONFLICT AND NEGOTIATION OVER PUBLIC SPACE (2010); VIKAS MEHTA, THE STREET: A QUINTESSENTIAL SOCIAL PUBLIC SPACE (2013); SHARON ZUKIN, PHILIP KASINITZ & XIANGMING CHEN, GLOBAL CITIES, LOCAL STREETS: EVERYDAY DIVERSITY FROM NEW YORK TO SHANGHAI (2015).

48   Arjun Appadurai, *Street Culture,* 8(1) THE INDIA MAGAZINE 12, 12 (1987).

While Roland Barthes reminds us of the eroticism of the city insofar as it is the place of our meeting with the other,[49] David Crouch elaborates that:

> streets are themselves sites of cultural practice, and part of our knowledge of the city because they link sites of activity, of cultural practice, make escape possible and are a step to somewhere else, and someone else. They connect all sorts of sites of everyday cultural life, both spectacular and humble. People meet in the street, and they can avoid engagement in the street.[50]

The linkages between social processes and the spatial form of the street have been explored with exceptional brilliance in the writings of Jane Jacobs,[51] Michel de Certeau,[52] Le Corbusier,[53] and Walter Benjamin.[54] A short but insightful essay by the late Heinz Paetzold usefully indicates how Jacobs (through reclaiming the sidewalks along the streets for urban culture and through urging for mixed uses of urban areas), de Certeau (through a conceptualisation of walking in the city as a post-functionalist signification of the streets), and Benjamin (whose *flânerie*, similar to de Certeau's walking/strolling, destabilizes the functionalist and structuralist discourse of the street and the city) each in their own unique way, provide critiques of the functionalist urban design championed by Le Corbusier, which amongst other things, conceived of streets primarily as 'machines for traffic' and openly applauded the Haussmannisation of everywhere.[55] Joesph D. Lewandowski argues that Benjamin's dialectical urbanism is unique given that it illuminates "how the modern city can be both an administratively

49   Roland Barthes, *Semiology and the Urban*, in Rethinking Architecture: A Reader in Cultural Theory 166-172 (Neil Leach ed., 1997).

50   David Crouch, *The Street in the Making of Popular Geographical Knowledge*, in Images of the Street – Planning, Identity and Control in Public Space, *supra* note 45, at 158.

51   *See*, Jacobs, *supra* note 47.

52   *See*, Michel de Certeau, The Practice of Everyday Life (Steven Rendall trans. 1984).

53   Le Corbusier, *New York is Not a Completed City*, *reprinted in* Metropolis: Centre and Symbol of Our Times 98-110 (Philip Kasinitz ed., 1995); Le Corbusier, The Radiant City (Pamela Knight, Eleanor Levieux, & Derek Coltman trans., 1967); Le Corbusier, The Athens Charter (Anthony Eardley trans., 1973).

54   *See*, Walter Benjamin, *Paris: Capital of the Nineteenth Century,reprinted in* Metropolis: Centre and Symbol of Our Times 46-57 (Philip Kasinitz ed., 1995); Walter Benjamin, The Arcades Project, (Howard Eileen and Kevin McLaughlin trans., 1999).

55   Heinz Paetzold, *The Aesthetics of City Strolling*, 11 Contemporary Aesthetics (2013), http://www.contempaesthetics.org/newvolume/pages/article.php?articleID=666. *See also*, James Holston, The Modernist City: An Anthropological Critique of Brasilia (1989).

structured 'objective' site or force-field of planned relations and a reflexively structured 'subjective' space of collective dwelling, improvising, appropriating, dreaming, innovating, struggling and transforming."[56] Benjamin, for example, quotes Adolf Stahr and points out the Parisians' technique of inhabiting their streets:

> "Returning by the Rue Saint-Honore, we met with an eloquent example of that Parisian street industry which can make use of anything. Men were at work repairing the pavement and laying pipeline, and, as a result in the middle of the street there was an area which was blocked off but which was embanked and covered with stones. On this spot street vendors had immediately installed themselves, and five or six were selling writing implements and notebooks, cutlery, lampshades, garters, embroidered collars, and all sorts of trinkets. Even a dealer in second-hand goods had opened a branch office here and was displaying on the stones his bric-a-brac of old cups, plates, glasses, and so forth, so that business was profiting, instead of suffering, from the brief disturbance. *They are simply wizards at making a virtue of necessity.*" Seventy years later, I had the same experience at the corner of the Boulevard Saint-Germain and the Boulevard Raspail. Parisians make the street an interior.[57]

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56   Lewandowski points out that insofar as Benjamin's dialectical urbanism suggests that the modern city is also the site of the emergence of new and innovative forms of social/city life that have the potential to transform their own structural context, it differs from the dominant quasi-functionalist German sociological discussions of urbanism and urbanisation (for example, the work of Friedrich Engels and Georg Simmels explain urbanism as the liquidation of collective ways of life under the imperatives of industrial capitalism) and the more recent analytic conceptions of the agent as a free-floating, empirically disembedded actor whose rational discourse transcends the location in which it is situated (for example, the work of Jurgen Habermas stresses on context-transcendent norms of validity claims). *See,* Joseph D. Lewandowski, *Street culture – the dialectic of urbanism in Walter Benjamin's Passagen-werk*, 31(3) PHILOSOPHY AND SOCIAL CRITICISM 293-308 (2005).

57   WALTER BENJAMIN, THE ARCADES PROJECT, 421 (Howard Eileen and Kevin McLaughlin trans., 1999). The original source referenced by Benjamin is Adolf Stahr, 1 NACH FÜNF JAHREN: PARISER STUDIEN AUS DEM JAHRE 1855 (1857). The quoted extract highlights how entrepreneurial vision, confidence in improvisational abilities, and the mobile nature of some street vendors created a profitable economic opportunity that the city administrators of Paris had probably not anticipated in their cadastral mapping of the city and their planning of its boulevards, public parks, shopping areas, etc. It also suggests that despite careful spatial planning, context-specific enterprise and necessity will often determine what happens at a particular time in a particular street within a

(*emphasis supplied*)

Ravi Kalia has pointed out how Corbusier's vision directly propelled an ambitious Indian "socio-urban experiment that included, along with an innovative master plan, modernist buildings, new landuse patterns, provisions for education, recreation, medical and social services, the careful and deliberate inclusion of ideas that had their origin in a culture far removed from her own."[58] While this ambitious experiment continues today in every major Indian city, urban interstices on streets in India offer alternative imaginaries. The collection of essays published in *Seminar* magazine in August 2012 as "Streetscapes: a Symposium on the Future of the Street" brings to light numerous developmental contexts (transport, infrastructure development, street vending, waste management, eviction, urban public art, etc.), and contested urban meanings (city beautification, urban improvement, master planning, good street design, street culture, etc.) that any serious discussion of the street in India must be attentive to. Posing the problem of the future of the street, Curt Gambetta and Ritajyoti Bandyopadhyay note that current popular and critical imagination is coloured by a sense of the impending obsolescence of the street as a conduit of social life. The visible effects of recent (neoliberal) urban transformation seem to confirm this, where

> [i]nfrastructure bends to accept an exploding population of single occupancy vehicles: flyovers and thoroughfares provide ground for unceasing circulation, insulating the movement of vehicles from the discontinuous ebb and flow of street congestion. Retail and leisure are drawn in from the street and subject to new forms of ownership,

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modern city. Finally, the above extract suggests that some urban practices are recurrent despite technological, administrative and culture changes. The complex relationship between structure and agency in a modern city - between the arcades (passages) and the dreams/dispositions/ embedded practices of agents who 'interiorize' the arcades of Paris – is prominently highlighted throughout Benjamin's *The Arcades Project*. The dialectic of spatial domination (through administrative planning) and collaborative improvisational 'interiorization' of urban spaces (through practices such as dwelling, suffering, improvising, etc.) is what, in Benjamin's account, results in the emergence of a situated, empirico-structurally embedded, collective street life. These evocative elements of street vending are explicated in greater detail further on in this essay.

58   *See, Nehru, Le Corbusier and the Mapping of Modern (or Urban) India*, (6th August 2014), http:/ /www.nehrumemorial.nic.in/en/news/320-nehru-le-corbusier-and-the-mapping-of-modern-or-urban-india-6th-august-2014.html. *See also*, Ravi Kalia, Chandigarh: The Making of an Indian City (1999).

> locating the social life of economic transaction inside closed interior shops and malls, while street hawkers are organized into highly regulated vending zones....GIS, CCTV and other technologies of mapping and surveillance significantly reshape how the space of the street is inhabited, regulated and contested.[59]

Arguing that street life is anything but a vestige of the past, Gambetta and Bandyopadhyay propose

> a debate about how the physical and social landscape of the street has been transformed in response to new forms of urban management and control ... allowing us to speculate on the present and future of public space in India ... We propose a particular attention to everyday enactments and translations of policies and governance within the space of the street, as well as an appraisal of different ways in which the social and cultural life of the street is transforming.[60]

In an essay titled *Is there a culture of the Indian street?*, Jonathan Shapiro Anjaria reviews and categorises the writing on the Indian street into three discrete categories:

> [t]he first sees the street as a space of difference. These are writings by non-Indians and Indians alike that – whether as emblematic of the 'exotic Orient' (Kidambi 2007: 35), 'premature' (Bose 1965), or underdeveloped – see streets 'seething with miscellaneous humanity' (Low 1907: 23), as deviations from modern ideals. The second group sees streets and urban space as manifestations of power, arenas on which forces of global capital and ideologies of neo-liberalism unfold (Rajagopal 2001, Whitehead and More 2007 and Arabindoo 2010). And finally the third perspective, what might be called a 'culturalist'

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59 Curt Gambetta & Ritajyoti Bandyopadhyay, *The Problem*, in Streetscapes: a Symposium on the Future of the Street, 636 Seminar (August 2012), http://www.india-seminar.com/2012/636/636_the_problem.htm.

60 *Id.*

approach, frames Indian streetscapes in terms of their unique rhythms and logic of practice (Appadurai 1987, Ahuja 1997, Edensor 1998 and Mehta 2009).[61]

While concluding with how fantasies of other cities haunt everyday life in the streets of Mumbai or New Delhi, Anjaria's answer to the question posed in the title of his essay suggests (following Kaviraj's position on public space in India) that the culture of the Indian street lies in its relationship to the project of modernity, "a contested terrain that consists of conflicts over how streets can be used ..., efforts to discipline the public ... and infrastructural interventions (such as skywalks and pedestrian fences) that ebb and flow, that remake streets as much as streets remake them."[62] Anjaria's inspiration for the title – Tim Edensor's fascinating essay '*The Culture of the Indian Street*' – suggests that on the Indian street "the imaginative, improvisational predilections of the pedestrian are stimulated into unexpected flights of fancy, and the passage through the street is rhizomic rather than linear", which supports his general argument that the heterotopic, *flânerie*-accommodating, and sensual-tactical Indian street "can dissolve hegemonic preconceptions and disrupt notions of smooth passage, unhindered gazing, detached self-containment, convenience and antiseptic sterility so entrenched in Western regimes of urban spatialisation."[63] The manner in which

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61   Jonathan Shapiro Anjaria, *Is there a culture of the Indian Street, in* Streetscapes: a symposium on the future of the street, *supra* note 59, http://www.india-seminar.com/2012/636/ 636_jonathan_s_anjaria.htm. The original sources referenced include Prashant Kidambi, The Making of an Indian Metropolis: Colonial Governance and Public Culture in Bombay 1890-1920 (2007); Nirmal Kumar Bose, *Calcutta: A Premature Metropolis*, 213(3) Scientific American 90-102 (1965); Sidney Low, A Vision of India (1907); Arvind Rajagopal, *The Violence of Commodity Aesthetics: Hawkers, Demolition Raids, and a New Regime of Consumption*, 19(3) Social Text 91-113 (2001); Judy Whitehead & Nitin More, *Revanchism in Mumbai? Political Economy of Rent Gaps and Urban Restructuring in a Global City*, 42 Economic and Political Weekly 2428-2434 (23-29 June 2007); Pushpa Arabindoo, *City of Sand: Stately Re-Imagination of Marina Beach in Chennai*, 35(2) International Journal of Urban and Regional Research 379-401 (2010); Appadurai, *supra* note 48; Sarayu Ahuja, Where the Streets Lead (1997); Tim Edensor, *The Culture of the Indian Street, in* Images of the Street – Planning, Identity and Control in Public Space, *supra* note 47, at 201-216; Kaiwan Mehta, Alice in Bhuleshwar: Navigating a Mumbai Neighbourhood (2009).

62   Jonathan Shapiro Anjaria, *Is there a culture of the Indian Street, in* Streetscapes: a Symposium on the Future of the Street, *supra* note 59, http://www.india-seminar.com/2012/636/ 636_jonathan_s_anjaria.htm.

63   Tim Edensor, *The Culture of the Indian Street, in* Images of the Street – Planning, Identity and Control in Public Space, *supra* note 45, at 208, 215.

urban planning norms and law countenance and relate to this spatial, interstitial, rhizomic and disruptive promise of the street in India undoubtedly deserves careful attention.

The probabilistic demand paths of persons on city streets, and the highly variable modes of private free enterprise and welfare state systems in responding to the spatio-temporal variety of such demand, results in a significant amount of planning, mapping and monitoring complexity.[64] This also creates difficulty in iterating and interpreting regulations (including legislations, rules, guidelines, directives, notifications, departmental orders, etc.) and contracts, and introduces a certain amount of uncertainty into adjudication of rival contentions as regards the proposed or actual use of the common property in question.[65] As Massey eloquently puts it:

> All attempts to institute horizons, to establish boundaries, to secure
> the identity of places, can in this sense therefore be seen to be *attempts*
> *to stabilize the meaning of particular envelopes of space-time.*[66]

Resisting such easy stabilization, the informal economy of street trade presents a compelling challenge to standard assumptions implicit in economic decision-making, governmental policy and legal iteration. At the core of the uncertainty is an ambiguous moral decision that involves recognising, as 'legitimate', the satisfaction of certain rights arising from informal legal relations of street trade, including, amongst others, the right to livelihood, the right to use of public commons, the right to affordable essential goods, the right to safety, the right to

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64   For a useful attempt to theorize this issue from a distribution perspective, *see,* David Harvey, *Social Processes and Spatial Form: The Redistribution of Real Income in an Urban System, in* Social Justice and the City, *supra* note 6, at 50-95.

65   *See,* Nicole Stelle Garnett, *Managing the Urban Commons*, 160 U. Pa. L. Rev. 1995-2027 (2011-12) for a recent review of the literature on commons-space management in the context of urban public spaces.

66   Doreen Massey, Space, Place and Gender 5 (2001). *See also*, Doreen Massey, For Space (2005).

67   *See generally*, Ananya Roy, *Urban Informality – Toward an Epistemology of Planning*, 71(2) Journal of the American Planning Association 147-158 (2005).

trade, and the right to dignity.[67]

The moral ambiguity usually arises due to competing claims of macro-level economic efficiency and fairness, health, safety, security, aesthetic preference, city planning, etc. that usually boil down to the question of 'whose city?' and related notions of spatial justice.[68] The uncertainty often results from a sceptical philosophical perspective or an intellectual laziness that posits the impossibility of any city effectively planning for all possible private acts that might manifest on common city resources. Ananya Roy identifies informality as a key feature of the idiom of urban planning in India, which proceeds through systems of deregulation, unmapping and exceptionalism, and therefore concludes that 'India cannot plan its cities.'[69]

Another major source of this uncertainty is deliberate, a consequence of the state and city planner's vision of legibility and simplification that directly affects any attempt at simple text/map-based regulation, adjudication or resolution of non-text/map flesh and blood transactions on city commons. Marco Polo's words from Calvino's *Invisible Cities* express one facet of this social fact particularly well: "*No one, wise Kublai, knows better than you that the city must never be confused with the words that describe it.*"[70] Once again, Massey's assertion that space is a part of 'an ever-shifting social geometry of power and signification' helps clarify what is at play when we critically evaluate the categorisation or legal/illegal or legitimate/illegitimate in the city and on its streets.[71]

Private acts that are socially valuable by direct intention – such as philanthropic initiatives for needy persons or the community as a whole – seldom pose a major moral, utilitarian, regulatory, or adjudicatory complexity. The question of whether

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68   Susan S. Fainstein usefully explicates potentially conflicting values (equality, diversity, democracy) and approaches (communicative model, new urbanism model, the just city model) that animate debates in city planning. *See*, Susan S. Fainstein, *Can We Make the Cities We Want, in* The Urban Moment 249-272 (Sophie Body-Gendrot & Robert Beauregard eds., 1999); Susan S. Fainstein, *New Directions in Planning Theory*, 35(4) Urban Affairs Review 451-478 (2000). *See also*, Leo Saldanha, *Whose Streets, in* Streetscapes: a Symposium on the Future of the Street, *supra* note 59, http://www.india-seminar.com/2012/636/636_leo_f_saldanha.htm.

69   Ananya Roy, *Why India Cannot Plan its Cities: Informality, Insurgence and the Idiom of Urbanization*, 8(1) Planning Theory 76, 86 (2009).

70   Italo Calvino, Invisible Cities 611 (1974).

71   Massey, Space, Place and Gender, *supra* note 66, at 3.

and to what extent the public commons may be used for commercial or "purely private" transactions is more nuanced – and clarity on this aspect becomes critical to creating and interpreting city laws, in shaping the normative attitudes of officials and individual legal subjects, and in conditioning the use of discretion in balancing competing interests for the "greater good" of the community. One of the primary insights to be gained from Ellickson's erudite albeit problematic 1996 article *'Controlling Chronic Misconduct in City Spaces: Of Panhandlers, Skid Rows, and Public-Space Zoning'* is that the management of public spaces in cities is never a simplistic issue of just supporting or opposing the interests of the poor.[72] While espousing a normative approach that 'a city's codes of conduct should be allowed to vary spatially – from street to street, from park to park, from sidewalk to sidewalk' and that 'destitute street users have not only rights, but also responsibilities to behave themselves', Ellickson points out that most of the legal scholars who have written on street misconduct have approached the topic from one of three (overly narrow) angles: hyper-egalitarianism,[73] free-speech libertarianism,[74] and criminal defence.[75] Ellickson himself approaches the issue of street order as a problem of land management (and not, predominantly, one of livelihood rights or free speech or crime), argues for a system of zoning (informal or formal as appropriate to the context) for public lands, and concludes with a lament about the excessive federal constitutionalization of street law, which has inhibited US cities from devising localized solutions to the management of downtown spaces.[76] Ellickson's account is problematic not least because it simply pays insufficient attention to

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72 Robert C. Ellickson, *Controlling Chronic Misconduct in City Spaces: Of Panhandlers, Skid Rows, and Public-Space Zoning,* 105 YALE L. J. 1165-1248 (1996).

73 *Id.,* at 1171, 1172. On hyper-egalitarianism, for example, Ellickson refers to Allan C. Hutchison, *Les Misérables Redux: Law and the Poor,* 2 S. CAL. INTERDISCIPLINARY L.J. 199-244 (1993).

74 Here, for example, Ellickson points out the analytical weaknesses of Helen Hershkoff and Adam S. Cohen, *Begging to Differ: The First Amendment and the Right to Beg,* 104 HARV. L. REV. 896-916 (1991).

75 Ellickson cites, amongst others, Caleb Foote, *Vagrancy-Type Law and Its Administration,* 104 U. PA. L. REV. 603-650 (1956); William O. Douglas, *Vagrancy and Arrest on Suspicion,* 70 YALE L.J. 1-14 (1960).

76 "A constitutional doctrine that compels a monolithic law of public spaces is as silly as one that would compel a monolithic speed limit for all streets." *See,* Robert C. Ellickson, *supra* note 75, at 1247.

77 For a trenchant and persuasive critique of Ellickson's arguments, *see,* DON MITCHELL, RIGHT TO THE CITY: SOCIAL JUSTICE AND THE FIGHT FOR PUBLIC SPACE (2003).

the underlying causes of street destitution and the attendant problems of distributive and spatial justice that these raise.[77]

The street is where the state that seeks legibility of all its citizens and each of their transactions meets persistent resistance and insurmountable practical challenges in realising its vision. James Scott's classic '*Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*' analyses diverse failures in high-modern, authoritarian state planning – collectivisation in Russia, the building of Brasilia (in accordance with Le Corbusier's vision), compulsory *ujamaa* villages in Tanzania, Lenin's Russia, etc. – and concludes that '[c]ollectivized command economies virtually everywhere have limped along thanks to the often desperate improvisation of an informal economy wholly outside its schemata.'[78]

In all modern cities, the nonconforming informal practice is an indispensable condition for formal order. In all modern nation states, the economy is 'a subsystem of a finite and nongrowing eco-system,' whose carrying capacity and interactions it must respect as a condition of its own persistence.[79] This fragile, often invisibilised, relationship between the street economy and the street (and city) eco-system suffers when state activities and state officials insist on treating people on the streets according to inadequately nuanced, high-modernism influenced schemata. The economic plan, city plan, development plan, city map, survey map, zonal map, record of ownership, kiosk license, market vending license, fixed cart license, zone management plan, classification of religion or caste or ethnicity, arrest record, map of political boundaries, etc. constitute the synoptic data that the state uses for its miniaturised legibility and simplification schemata of the city streets. In accord with Scott's critique of the governmental modernist gaze, Mayaram concludes that '[r]egimes of urban planning in India have been influenced, more often than not, by the Le Corbusier approach.'[80] Relatedly, Prasad Shetty's

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78   JAMES SCOTT, SEEING LIKE A STATE: HOW CERTAIN SCHEMES TO IMPROVE THE HUMAN CONDITION HAVE FAILED 351 (1998).

79   Herman E Daly, *Policies for Sustainable Development*, PAPER PRESENTED AT THE PROGRAM IN AGRARIAN STUDIES, YALE UNIVERSITY, NEW HAVEN 4 (February 9, 1996), *as cited in* SCOTT, *id.*

80   Mayaram, *supra* note 36, at 8. *See also*, Le Corbusier, *Towards a New Architecture*, *excerpted in* FROM MODERNISM TO POSTMODERNISM: AN ANTHOLOGY 200-211 (Lawrence E. Cahoone ed., 1996).

delightful essay points out how even as cartographic and orthogonal logics shape the official validation of urban form in Mumbai, the city's actual enterprise, property relationships and urban life nonetheless resiliently get worked out in blurry claims of multiple tenancies, sub-tenancy, squatting, customary rights, temporary vending, and *flânerie*.[81]

While it does seem that urban planning in many Indian cities has been gripped by a modernist 'seeing like the state' mania,[82] and this undoubtedly does raise some serious concerns for spatial justice, socio-legal scholar Mariana Valverde's exemplary work on the history of urban governance cautions us to three inter-related possibilities that might apply depending on the particular context under analysis: 1) technologies of governance – say, zoning ordinances – are not "married" to specific rationalities of governance or default politics, and therefore, legal inventions such as zoning remain malleable rather than being 'hard-wired to social exclusion agendas'; 2) 'seeing like a city' rather than Scott's 'seeing like a state' may be the more appropriate label to describe a pragmatic urban governance that is capable of flexibly using a variety of legal and regulatory tools of quite contradictory provenances and logics (for example, modern 'zoning'-based regulation and pre-modern 'nuisance'-based regulation), and; 3) in some contexts, community-level decision making, rather than centralized planning, will lead to further inequality within an urban space.[83] Valverde's cautionary and sometime counter-intuitive notes should be kept in mind when analysing urban governance in any particular spatial context within India.

The Indian street is part of a 'spatial complex' that includes the bazaar and the

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81 Prasad Shetty, *Of Blurry Claims and Forms*, *in* STREETSCAPES: A SYMPOSIUM ON THE FUTURE OF THE STREET, *supra* note 62, http://www.india-seminar.com/2012/636/636_prasad_shetty.htm.

82 *See*, Michael Goldman, *Speculating on the Next World City*, at 229-258; Ananya Roy, *The Blockade of the World-Class City: Dialectical Images of Indian Urbanism*, at 259-278; and D. Asher Ghertner, *Rule by Aesthetics: World-Class City Making in Delhi*, at 279-306, *all in*, WORLDING CITIES: ASIAN EXPERIMENTS AND THE ART OF BEING GLOBAL, *supra* note 28. *See also*, Shruti Ravindran, *Is India's 100 smart cities project a recipe for social apartheid*, THE GUARDIAN, http://www.theguardian.com/cities/2015/may/07/india-100-smart-cities-project-social-apartheid.

83 Mariana Valverde, *Seeing like a City: The Dialectic of Modern and Premodern Ways of Seeing in Urban Governance*, 45 LAW & SOCIETY REVIEW 277-312, (2011); MARIANA VALVERDE, EVERYDAY LAW ON THE STREET: CITY GOVERNANCE IN AN AGE OF DIVERSITY (2012).

84 Dipesh Chakrabarty, *Open space/public space: garbage, modernity and India*, 16 SOUTH ASIA 63-73 (1991), *cited from* Tim Edensor, *The Culture of the Indian Street*, *in* IMAGES OF THE STREET – PLANNING, IDENTITY AND CONTROL IN PUBLIC SPACE, *supra* note 45, at 201, 208.

fair, which together constitute an unenclosed realm that provides 'a meeting point of several communities' in recent times, however, 'the thrills of the bazaar are traded in for the conveniences of the sterile supermarket.'[84] The street in India is where a marriage procession spontaneously celebrates a union. The street is where the unlicensed street food vendor meets extreme police brutality as she returns home after a long day's work. The street is where public demonstrations, traffic breakdowns, cycling critical mass demonstrations, carnivals, dinner-time shopping, snack urges, traffic offences, festival celebrations,crimes, prostitution, religious celebrations, tree-killing, public nationalisms, gang-rapes, and a whole host of other infinitely varying activities create the component parts of the city street ethos. Lamenting Bangalore city's plan to widen Avenue Road, Lata Mani points out that:

> [s]treets are life worlds. People in action, cultures in play. The street is a theatre of contiguity, chance, conflict and conviviality. A delicate, imprecise equilibrium ... Cold anonymity has not been a feature of our urbanism ... It is people who have dynamised our streets ... Social hierarchy and spatial proximity have accordingly been intrinsic features of urban life ... Any conception of 'the global city' that is at odds with the prevailing nature of Indian urbanism is equally at odds with its cultural substructure ... surely equivalent to destabilising the ground beneath our feet.[85]

Sartre's assertion that ideas cannot digest reality seems particularly true of the city planners' simplification of the street in most cities. This disjunction between ideas and reality asserts its salient mischief through the violence that is enacted on bodies, livelihoods and lives connected to the informal street economy or ecosystem. Kropotkin's conviction that we cannot legislate for the future notwithstanding, it is possible to make a convincing case that planning for our streets in our cities should espouse institutions that are powerfully shaped by practical spatial knowledge and local customs, what James Scott describes as *metis*. Such *metis* friendly institutions would be multi-functional, plastic, diverse, and adaptable – these institutions would embrace rather than ignore or fear the urban interstice. Second, planning for our streets in our cities should recognise the

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85   Lata Mani, *Urban triptych*, *in* STREETSCAPES: A SYMPOSIUM ON THE FUTURE OF THE STREET, *supra* note 59, http://www.india-seminar.com/2012/636/636_lata_mani.htm.

vocabulary, the grammar, the idiom, the logic, and the formulation of spatial justice and the right to the city. Third, planning for our streets in our cities should unabashedly celebrate the singular uniqueness of our postcolonial moment and its attendant political forms, practices, and norms. Massey's concluding comments from '*For Space*' remind us of the infinite possibilities of the interstitial here-and-now:

> Space is as much a challenge as is time. Neither space nor place can provide a haven from the world. If time presents us with the opportunities of change and (as some would see it) the terror of death, then space presents us with the social in the widest sense: the challenge of our constitutive interrelatedness – and thus our collective implication in the outcomes of that interrelatedness; the radical contemporaneity of an ongoing multiplicity of others, human and non-human; and the ongoing and ever-specific project of the practices through which that sociability is to be configured.[86]

STREET VENDING

Street vendors – and the mode of production and consumption that their livelihood constitutes and represents - are ubiquitous in every city across the world today precisely because the problem of production has not truly been solved. In Mesoamerica, 'street commerce played a central role in the Aztec civilization' and 'Tenochtitlan's central markets depended on complex networks that extended throughout Mesoamerica'.[87] The celebrated French historian Fernand Braudel was one of the first scholars to explicitly focus on the history of street vendors. In his seminal work *Civilization and Capitalism, 15th-18th Century,* Braudel points out that the sheer number of peddlers and the areas they covered meant that they 'stimulated and maintained trade, and spread it over a distance' in early modern Europe.[88] While pointing out that peddlers had a crucial influence on the distribution of certain goods (for example, Bohemian glassware, almanacs and

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86   MASSEY, FOR SPACE, *supra* note 66, at 105.

87   Veronica Crossa, *Resisting the Entrepreneurial City: Street Vendors' Struggle in Mexico City's Historic Center*, 33(1) INTERNATIONAL JOURNAL OF URBAN AND REGIONAL RESEARCH 43, 51 (2009).

88   FERNAND BRAUDEL, 2 WHEELS OF COMMERCE: CIVILIZATION AND CAPITALISM, 15TH-18TH CENTURY 76 (2002).

89   *Id.,* at 78-79.

popular literature) to rural areas, Braudel highlights that many peddlers were seasonal migrants.[89] As correctly identified by Danielle van den Heuvel, Braudel also highlights that early modern itinerant traders occupied a 'marginal position in society, expressed both in their income levels and in their activities, which were often on the fringes of legality.'[90] Heuvel's scholarly chapter also points out that it was the work of Olwen Hufton and Laurence Fontaine that first seriously questioned the supposedly marginal position of itinerant traders,[91] and additionally, Fontaine had made the point that 'those sources that contain most information about peddlers, such as legal and police records, only revealed the exceptional and marginal' and therefore 'thorough and imaginative methods' were required to reveal the true character of ambulant trading.[92]

While a proper history of street vending in ancient, early modern, and colonial India is yet to be written, considerable scholarly references to early street vending in India do exist. Amalendu Guha in the *Cambridge Economic History of India*, for example, points out that "there was only a small daily bazaar on a narrow street in the Ahom capital of Garhgaon in the 1660s; and the only sellers who sat there...were betel-leaf sellers...women vendors, amongst others, brought head-loads of various provisions for sale to Nazirahat, located outside the city gates."[93] A fascinating chapter by Dirk H.A. Kolff on the market for mobile labour in early modern North India concludes that mobile labour was characterised, "above all, by its many fluidities: occupational or vocational fluidities, fluidities of

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90   Danielle van den Heuvel, *Selling in the Shadows: Peddlers and Hawkers in Early Modern Europe*, *in* Working on Labor – Essays in Honor of Jan Lucassen 125, 129 (Marcel van der Linden and Leo Lucassen eds., 2012). Heuvel also identifies book history, migration history, and women's history as three strands of history that did devote substantial attention to peddlers and other itinerant traders in early modern Europe. Works cited include Margaret Spufford, Small Books and Pleasant Histories: Popular Fiction and its Readership in Seventeenth-century England (1981); Margaret Spufford, The Great Reclothing of Rural England: Petty Chapmen and their Wares in the Seventeenth Century (1984); Leo Lucassen, *A Blind Spot: Migratory and Travelling Groups in Western European Historiography*, 38 International Review of Social History 209-235 (1993); Alice Clark, Working Life of Women in the Seventeenth Century (1919); Merry Wiesner Wood, *Paltry Peddlers or Essential Merchants? Women in the Distributive Trades in Early Modern Germany*, 12 Sixteenth Century Journal, 3-14 (1981).

91   Olwen Hufton, The Poor of Eighteenth-century France (1974); Laurence Fontaine, History of Pedlars in Europe (1996).

92   Heuvel, *supra* note 90, at 129, 130.

negotiated or renegotiated employment relationships, fluid multiple identities and disguises, fluidities of state formation and of the agencies of brokers on the (military) labour markets. To what extent these fluidities were preserved and perhaps transformed when modernity and globalisation, both colonial and post-colonial, turned India's circulatory energies into external diasporas, is an intriguing question."[94]

Focusing on more recent times (1850-1925), Patricia Acerbi's excellent dissertation thesis describes and analyses the transition from enslaved vendors to free vendors, from *ganhadores* to *ambulantes*, in Rio de Janeiro, Brazil and concludes: "the process of Brazilian democratization – always ongoing and never a finished product – must incorporate the logic of informality and understand the dialogic conditions that create formality and informality, since it is how the majority of urban Brazilians have come to understand justice and citizenship."[95] In a more recent piece, invoking both Lefebvre and Michel de Certeau, Acerbi states that '[b]y walking the city, street vendors adapted to new conditions and provided urban inhabitants with basic needs, facilitating the circulation of goods in a city where most people did not have easy access to stores, markets, and public transportation', and concludes that in Rio de Janeiro today, 'street commerce continues to occupy a contested liminal space between convenient necessity, inadequacy, and nuisance.'[96]

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93 Amalendu Guha, *Appendix: The Medieval Economy of Assam*, in Cambridge Economic History of India, Volume 1, c.1200 – c.1750, at 478, 489 (Tapan Raychaudhuri & Irfan Habib eds., 2004 reprint edition).

94 Dirk H.A. Kolff, *The Market for Labour in Early Modern North India*, in Routledge Handbook of the South Asian Diaspora 23, 30 (Joya Chatterji and David Washbrook eds., 2013).

95 Patricia Acerbi, Slave Legacies, Ambivalent Modernity: Street Commerce and the Transition to Free Labor in Rio de Janeiro, 1850-1925, at 306-307 (2010) (unpublished dissertation, University of Maryland), http://drum.lib.umd.edu/bitstream/1903/10899/1/Acerbi_umd_0117E_11557.pdf.

96 Patricia Acerbi, *A Long Poem of Walking : Flâneurs, Vendors, and Chronicles of Post-abolition Rio de Janeiro*, 40(1) Journal of Urban History 97, 111 (2014).

97 Keith Hart, *Informal Income Opportunities and Urban Employment in Ghana*, 11(1) Journal of Modern African Studies 61-89 (1973), which was initially presented at the "Urban Unemployment in Africa" conference held at the Institute of Development Studies of the University of Sussex in September 1971.

In contrast to historical studies, street vending in contemporary contexts has been widely studied ever since the presentation and publication of Keith Hart's much-cited study on informal employment opportunities in Ghana.[97] Street vending is currently most prevalent in sub-Saharan Africa, where in several cities, street vending ranges between 12 per cent and 24 per cent of the total urban informal

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98   ILO-WIEGO, WOMEN AND MEN IN THE INFORMAL ECONOMY 2013: A STATISTICAL PICTURE (2013), cited from SALLY ROEVER, INFORMAL ECONOMY MONITORING STUDY SECTOR REPORT: STREET VENDORS 5 (2014).

99   While a detailed overview of the literature on the informal economy/sector/worker is not possible here, the interested reader is guided to THE INFORMAL ECONOMY: STUDIES IN ADVANCED AND LESS DEVELOPED COUNTRIES (Alejandro Portes, Manuel Castells, & Lauren Benton eds., 1989); HERNANDO DE SOTO, THE OTHER PATH: THE INVISIBLE REVOLUTION IN THE THIRD WORLD (1989); PHILIP HARDING AND RICHARD JENKINS, THE MYTH OF THE HIDDEN ECONOMY: TOWARDS A NEW UNDERSTANDING OF INFORMAL ECONOMIC ACTIVITY (1989); JAN BREMAN, FOOTLOOSE LABOUR: WORKING IN INDIA'S INFORMAL ECONOMY (1996); THE UNORGANISED SECTOR: WORK SECURITY AND SOCIAL PROTECTION (Renana Jhabvala & RKA Subrahmanya eds., 2001); ILO, WOMEN AND MEN IN THE INFORMAL ECONOMY: A STATISTICAL PICTURE (2002); ILO, DECENT WORK AND THE INFORMAL ECONOMY (2002); INFORMAL ECONOMY CENTRESTAGE: NEW STRUCTURES FOR EMPLOYMENT (Renana Jhabvala, Ratna M. Sudarshan, & Jeemol Unni eds., 2003); RETHINKING INFORMALIZATION: POVERTY, PRECARIOUS JOBS AND SOCIAL PROTECTION (Neema Kudva & Lourdes Beneria eds., 2005); LINKING THE FORMAL AND INFORMAL ECONOMY – CONCEPTS AND PRACTICES (Basudeb Guha-Khasnobis, Ravi Kanbur and Elinor Ostrom eds., 2006); NATIONAL COMMISSION FOR ENTERPRISES IN THE UNORGANISED SECTOR, REPORT ON CONDITIONS OF WORK AND PROMOTION OF LIVELIHOODS IN THE UNORGANISED SECTOR (2007); TRADE LIBERALIZATION AND INDIA'S INFORMAL ECONOMY (Barbara Harriss-White and Anushree Sinha eds., 2007); Áureo De Paula & José J. Scheinkman, *The Informal Sector*, NBER WORKING PAPER (2007); NATIONAL COMMISSION FOR ENTERPRISES IN THE UNORGANISED SECTOR, REPORT ON DEFINITIONAL AND STATISTICAL ISSUES RELATING TO INFORMAL ECONOMY (2008); Rafael La Porta and Andrei Shleifer, *The Unofficial Economy and Economic Development*, BROOKINGS PAPERS ON ECONOMIC ACTIVITY (2008); MARC BACCHETTA, EKKEHARD ERNST & JUANA P BUSTAMANTE, GLOBALIZATION AND INFORMAL JOBS IN DEVELOPING COUNTRIES (2009); NATIONAL COMMISSION FOR ENTERPRISES IN THE UNORGANISED SECTOR, THE CHALLENGE OF EMPLOYMENT IN INDIA – AN INFORMAL ECONOMY PERSPECTIVE (2009); IS INFORMAL NORMAL? TOWARDS MORE AND BETTER JOBS IN DEVELOPING COUNTRIES (Johannes P. Jutting & Juan R. de Laiglesia eds., 2009); SUGATA MARJIT & SAIBAL KAR, THE OUTSIDERS: ECONOMIC REFORMS AND INFORMAL LABOUR IN A DEVELOPING ECONOMY (2011); Martha Alter Chen, *The Informal Economy: Definitions, Theories and Policies*, WIEGO WORKING PAPER NO. 1 (August 2012); Jacques Charmes, *The Informal Economy Worldwide: Trends and Characteristics*, 6(2) THE JOURNAL OF APPLIED ECONOMIC RESEARCH 103-132 (2012); Ejaz Ghani, William R. Kerr, & Stephen D. O'Connell, *The Exceptional Persistence of India's Unorganized Sector*, WORLD BANK POLICY RESEARCH WORKING PAPER NO. 6454 (2013); Ravi Kanbur, *Informality: Causes, Consequences and Policy Responses*, PAPER PREPARED FOR RESERVE BANK OF INDIA (2014). For recent work on the (successful) politics of informal workers, *see* RINA AGARWALA, INFORMAL LABOR, FORMAL POLITICS, AND DIGNIFIED DISCONTENT IN INDIA (2013).

employment.[98] While the literature on the informal economy offers no ready answers with regard to realising interstitial spatial justice or with regard to fashioning urban modernity,[99] a newer interdisciplinary literature, which Ryan Thomas Devlin amongst others labels as informal urbanism, does approach these spatial issues in a more direct and useful fashion.[100] A survey of three edited collections - the forthcoming *Street Vending in the Neoliberal City: A Global Perspective on the Practices and Policies of a Marginalized Economy* (2015), *Street Vendors in the Global Urban Economy* (2009) and *Street Entrepreneurs: People, place and politics in local and global perspective* (2007) – makes it

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100 *See*, for example, Janice Perlman, The Myth of Marginality: Urban Poverty and Politics in Rio de Janeiro (1976); Michel Laguerre, The Informal City (1994); Asef Bayat, Street Politics: Poor People's Movements in Iran (1997); Cities and Citizenship (James Holston ed., 1999); Asef Bayat, *From Dangerous Classes to Quiet Rebels: Politics of the Urban Subaltern in the Global South*, 15(3) International Sociology 533-557 (2000); Urban Informality – Transnational Perspectives from the Middle East, Latin America, and South Asia (Ananya Roy & Nezar Al Sayyad eds., 2003); Ananya Roy, *Urban Informality – Toward an Epistemology of Planning*, *supra* note 67; Judith E. Innes, Sarah Connick & David Booher, *Informality as Planning Strategy: Collaborative Water Management in the CALFED Bay-Delta Program*, 73(2) Journal of the American Planning Association 195-210 (2007), all of which have been cited from Ryan Thomas Devlin, Informal Urbanism: Legal Ambiguity, Uncertainty, and the Management of Street Vending in New York City (2010) (unpublished Ph.D. dissertation, University of California, Berkeley). For more recent writing from this approach, *see* Ash Amin, *Telescopic Urbanism*, 17(4) City 476-492 (2013), and the collection of papers in *Informal Urbanism*, 37(1) Built Environment (2014).

101 *See* Street Vending in the Neoliberal City: A Global Perspective on the Practices and Policies of a Marginalized Economy (Kristina Graaf & Noa Ha eds., forthcoming Sept. 2015); Street Vendors in the Global Urban Economy (Sharit Bhowmik ed., 2009); Street Entrepreneurs: People, place and politics in local and global perspective (John Cross and Alfonso Morales eds., 2007).

102 "Over the centuries and across the world, street vending has been practiced in many different ways. Most vendors sell goods, but some sell services, and some sell a mixture of the two. Some vendors are fixed in one location, using a kiosk or a heavy stall which remains in the same location for months or even years and is locked up and left under the supervision of a watchman when not in use. Others use heavy mobile stalls which are pushed from a storehouse into the sales position at the beginning of the working day, and pushed back at the end. Still others are fixed in location, but simply lay their merchandise out on the ground or on a sheet of cloth or plastic. Truly mobile vendors may push stalls on wheels, carry their merchandise on their persons, or operate a stall off a cart, a tricycle, or a motor vehicle. Some mobile vendors sell to passers-by, some do door-to-door delivery, and still others hawk from building to building.... Street vending may be practiced full-time, part-time, seasonally or occasionally. It can be fixed, occasionally mobile, or almost continuously mobile, and it can go on at any or all times of the day and night. The firms involved can range from one-person micro-enterprises, through numerous forms of partnership and family business, up to franchisees, pieceworkers and wageworkers of larger off-street businesses. Some street vendors are branch operations of off-street stores,

evident that urban street vending is a highly contested global phenomenon with no easy one-size-fits-all answers.[101] Street vending varies greatly in scale, timing, location, remuneration; it varies in terms of workforce, and types of goods and services.[102]

The historian Danielle van den Heuvel usefully surveys the relevant literature (on contemporary street vending) and highlights central propositions on the characteristics of street vending, its origins and determinant causes, and finally, its effects on participants and the economy.[103] On street vending and the actors involved in the contemporary contexts of developing economies: 1) most scholars identify street vendors as relatively poor urban dwellers who are often, but not always, new to the cities they live in, and in many cases the majority of the street traders are women (though for most Indian cities, male vendors far outnumber women vendors);[104] 2) the enterprises of street vendors are often small family-based operations and;[105] 3) most street vendors operate in the shadows of the official economy, are unlicensed and pay no, or very little, taxes.[106] Further, Heuvel points out that the rise and persistence of informal street selling have been explained by social scientists on the basis of a number of different factors including rapid

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sometimes right outside the store, at other times some distance away. Other street vendors create their own branch operations, dividing their merchandise and sending some of it with a relative, partner or employee to sell at another location......... Most street operations are much smaller in scale than fixed stores or supermarkets in off-street locations, but a few are quite substantial, ranging from truck-borne mobile stores, to big fixed stalls and kiosks in strategic high-demand locations. The income distribution of street vendors is highly skewed, with a few making quite high incomes, comparable to those of successful storekeepers and career professionals, and most making relatively low incomes, comparable to those of unskilled manual laborers." *See* Ray Bromley, *Street Vending and Public Policy: A Global Review*, 20 (1/2) International Journal of Sociology and Social Policy 1, 2-3 (2000).

103   Heuvel, *supra* note 90, at 134-137.

104   Sources cited include Terence Gary McGee & Yue-man Yeung, Hawkers in Southeast Asian Cities: Planning for the Bazaar Economy (1977); Narumol Nirathron, Fighting Poverty from the Street – A Survey of Street Food Vendors in Bangkok (2006); Sally Christine Roever, Negotiating Formality: Informal Sector, Market and State in Peru (2005) (unpublished Ph.D. dissertation, University of California at Berkeley); Jacques Charmes, Gender and Informal Sector in The World's Women 2000: Trends and Statistics (1999).

105   Sources cited include Terence Gary McGee & Yue-man Yeung, *id.* and Sally Christine Roever, *id.*

106   Sources cited include De Soto, *supra* note 99; Martha Alter Chen, *Rethinking the Informal Economy: Linkages with the Formal Economy and the Formal Regulatory Environment*, *in* Linking the Formal and Informal Economy – Concepts and Practices, *supra* note 99, at 75-92; Bromley, *supra* note 102.

urbanization, large waves of internal migration, processes of modernization, industrialization and bureaucratization, the role of micro-economic factors such as increased demand for prepared food to be readily available on the streets or the attraction of the flexibilities of street vending as an occupation, particularly for female vendors, etc.[107] Finally, Heuvel points out that the question 'what effect informal street vending has on the people involved and on the wider economy' has proved even more difficult to answer than why street selling is such an important feature in the cities of many developing economies, and views on the issue range "from very positive (regarding it as a way for marginal groups to make a living and eventually to enter the formal sector) to very negative (seeing it as a dead end, jobs with no protection, very little income and opportunities)".[108] Sally Roever synoptically surveys the literature documenting this ambivalence to street vending and states:

> displacements have been documented from Mexico City to Delhi, Harare to Istanbul, Maseru to Hanoi (Crossa 2009; Dupont 2011; Skinner 2010; Öz *and Eder* 2012; Setsabi 2006; Turner and Schoenberger 2011).....alternative models that consider vendors in natural markets as an essential component of local economies and

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107 Sources referenced here include DE SOTO, *supra* note 99; Lourdes Beneria & Maria Floro, *Distribution, Gender, and Labour Market Informalization: A Conceptual Framework with a Focus on Homeworkers*, *in* RETHINKING INFORMALIZATION: POVERTY, PRECARIOUS JOBS AND SOCIAL PROTECTION, *supra* note 99, at 9-27; Chen, *id.*; John C. Cross, *Street Vendors, Modernity and Postmodernity: Conflict and Compromise in the Global Economy*, 20(1/2) INTERNATIONAL JOURNAL OF SOCIOLOGY AND SOCIAL POLICY, *supra* note 102, at 29-51; Leo Lucassen, To Move or Not to Move - A Global Review of Migration to the City Since the 18th Century, unpublished paper; Timothy Thim-Fook, *Food for the City: The Role of the Informal Sector*, 4 GEOJOURNAL, 49-59 (1982); NARUMOL NIRATHRON, *supra* note 104; Zoe Elena Horn, *No Cushion to Fall Back On – the Global Economic Crisis and Informal Workers*, INCLUSIVE CITIES STUDY (August 2009); MONIQUE COHEN, WOMEN STREET VENDORS: THE ROAD TO RECOGNITION (2000).

108 Heuvel, *supra* note 90, at 136-137.

109 Roever, *supra* note 98, at 5-6. The original sources referenced include Crossa, *supra* note 87; Véronique D.N. Dupont, *The Dream of Delhi as a Global City*, 35(3) INTERNATIONAL JOURNAL OF URBAN AND REGIONAL RESEARCH 533-554 (May 2011); Caroline Skinner, *Street Trading Trends in Africa: A Critical Review, in* STREET VENDORS IN THE GLOBAL URBAN ECONOMY, *supra* note 101; Özlem Öz & Mine Eder, *Rendering Istanbul's Periodic Bazaars Invisible: Reflections on Urban Transformation and Contested Space*, 36(2) INTERNATIONAL JOURNAL OF URBAN AND REGIONAL RESEARCH 297-314 (March 2012); Setšabi Setšabi, *Contest and Conflict: Governance and Street Livelihoods in Maseru, Lesotho, in* CONTESTED SPACE: STREET TRADING, PUBLIC SPACE, AND LIVELIHOODS IN DEVELOPING CITIES (Alison Brown, ed. 2006); Sarah Turner & Laura Schoenberger, *Street Vendor Livelihoods and Everyday Politics in Hanoi, Vietnam: The Seeds of a Diverse Economy?*, 49(5) URBAN STUDIES 1027-1044 (April 2011); Alison Brown, Michal Lyons

legitimate participants in urban policy processes (Brown et al. 2010; Çelik 2009; Crossa 2009; Dobson and Skinner 2009; Lindell 2010; Kumar 2012).[109]

Bromley's global review of street vending provides a useful summary of the major arguments that are frequently used to justify and to oppose the continuation and proliferation of street vending, and are worth reiterating here in brief. The eleven major arguments in support of street vending include: 1) Street vendors contribute directly to the overall level of economic activity, and to the provision of goods and services; 2) Citizens have constitutional rights to choose their occupations and to engage in entrepreneurial activities; 3) Street vending is an actual or potential source of government tax revenues; 4) Street vending serves as a social safety-net; 5) Street vending is a laboratory for entrepreneurship, family business and social interaction; 6) Street vending provides entrepreneurial opportunities to people who cannot afford to buy or rent fixed premises; 7) Street vendors greatly expand the range of places and times where goods and services can be provided, and sometimes they also offer goods and services which are not available in off-street locations; 8) Street vendors bring life to dull streets; 9) Because of its low capital requirements and its potential mobility, street vending is a very effective way to cater for seasonal, sporadic and special demands; 10) Street vending offers its workers considerable flexibility in hours and levels of activity and; 11) Street vending is a remarkable example of self-help and grass-roots initiative.[110]

Bromley articulates the sixteen major arguments commonly used against street vending as: 1) Street vendors are not evenly spread across the city. They concentrate very heavily in a few locations, and those locations are typically the points with the highest levels of pedestrian and vehicular congestion; 2) By contributing to vehicular and pedestrian congestion, street vendors may cause traffic accidents, increase the levels of vehicle-generated air pollution, and impede the flow of police,

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& Ibrahima Dankoco, *Street Traders and the Emerging Spaces for Urban Voice and Citizenship in African Cities*, 47(3) Urban Studies 666-683 (January 2010); Ercüment Çelik, Street Traders: A Bridge between Trade Unions and Social Movements in Contemporary South Africa (2009); Richard Dobson & Caroline Skinner with Jillian Nicholson, Working in Warwick: Including Street Traders in Urban Plans (2009); Africa's Informal Workers: Collective Agency, Alliances and Transnational Organizing in Urban Africa (Ilda Lindell ed., 2010); Randhir Kumar, *The Regularization of Street Vending in Bhubaneswar, India: A Policy Model*, WIEGO Policy Brief (Urban Policies) No. 7 (2012).

110   Bromley, *supra* note 102, at 5-6.

fire, ambulance and other emergency vehicles; 3) Street vending reduces the number of routes available to motor vehicles, it impedes door-to-door deliveries and collections, and it may create access problems for emergency vehicles; 4) Street vendors may block the routes of egress from crowded buildings like theatres, stadiums and department stores, increasing the scale of the tragedy in the event of a major fire, explosion, toxic gas escape or mass hysteria; 5) Street vendors can and often do "forestall" off-street businesses, attracting potential purchasers as they walk into a concentration of on- and off-street business activity; 6) Street vendors often fail to give receipts and keep accounts, to pay taxes on their earnings, and to charge sales or value added taxes to their customers; 7) Because they can leave or relocate their businesses more easily, street vendors have greater opportunity to swindle their customers and avoid official regulation than vendors in fixed retail establishments; 8) Street vendors of food and drink pose major public health problems; 9) Street vendors may be less professional, committed, and responsible than off-street vendors; 10) Street vendors often include substantial numbers of minors; 11) A small minority of street vendors engage in such highly disreputable and often illegal trades as ticket-touting, pimping, prostitution, and the retailing of narcotics; 12) Street vendors contribute to the underground economy of undocumented cash transactions, not only through their sales, but also through the bribes they are often required to pay to police and municipal inspectors; 13) Through the activity and congestion that they generate, street vendors provide opportunities for pick-pocketing, snatch thefts and armed assaults; 14) Some pedestrians and many motorists are disturbed, irritated and even frightened by street vendors' solicitations; 15) Street vendors are often considered unsightly, they may generate a lot of noise with their announcements, and they and their customers often leave garbage on the streets; 16) In orthodox Marxist visions, street vendors are viewed as the epitome of surplus labour and underemployment, inserting additional middlemen into marketing chains, promoting superfluous consumption, and supporting a petty capitalist, competitive ethic.[111] The significance of the different arguments varies considerably from country to country, from city to city, and in accordance with the specific characteristics of the vendor, merchandise and the neighbourhood under analysis. Significantly, the most heated debates on street vending concern 'conflict-zones' of agglomeration or hyper-agglomeration (usually less than five percent of the urban area and including the central business district, various neighbourhood and suburban commercial centres, the major sports and entertainment centres, tourist attractions, religious sites, monuments, etc.).[112] Consequently, each argument (whether for or against street vending) deserves careful empirical study within the context of its

applicability.

While a detailed global overview of urban street vending is beyond the scope of this speculative review essay, Roever's *Informal Economy Monitoring Study (IEMS) Sector Report on Street Vendors* demonstrates the possibility and value of multi-city research on street vending and usefully details some clear patterns that emerge (across the five cities studied) with regard to status in employment, enterprise structure, gender, and working conditions.[113] The IEMS study focuses on the way in which three sets of driving forces – macroeconomic, city/government, and value chain – play out among different segments of the street vending sector across

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111 Bromley, *supra* note 102, at 9-10.

112 Bromley, *supra* note 102, at 15-16.

113 "Street vending is not a temporary occupation for most vendors in the sample: on average, women have been working as street vendors for 14.2 years and men for 12.8 years......For vendors without a fixed post – those who walk along streets, sidewalks, and transport routes, selling only what they can carry – the profit margin depends on their ability to sell in areas with a large enough customer base and small enough number of competitors........ Data from the focus groups indicate a strong reliance among vendors on having a regular workplace where returning customers can easily find them; in the survey, 90 per cent reported that they work at the same place every day..... Among the few who do not work at the same place every day, 40 per cent are mobile hawkers who carry their goods and sell on foot, and 60 per cent have some sort of cart, stand, table, or ground cover...... More than two thirds of vendors live in households for which street vending provides the main source of household income....... In no city does formal wage employment provide more than 9 per cent of households with their primary source of income..... Among street vendors in the five cities, men have significantly higher levels of education than women..... Overall, women are nearly twice as likely as men to sell produce, and men are nearly twice as likely as women to sell durables. The latter includes, most commonly, garments, electronics, and DVDs...... vendors in the IEMS sample described unstable patterns of earnings and expenditures and unpredictable work environments. They tend to face frequent disruptions in earnings and savings – not only from being unable to work when they are ill, but also from costs imposed through systemic factors – that undermine their ability to save over time. .... Recovering from these disruptions while keeping up with household expenses was a common challenge, particularly for the most vulnerable vendors." *See* Roever, *supra* note 98, at 8-13.

114 In the section 'Key Findings', the study states: "Overall, the one most consistently and highly ranked driver in every city was abuse of authority, including police harassment, demands for bribes, arbitrary confiscations of merchandise, and physical abuse. Street vendors also ranked the lack of a fixed and secure workplace and evictions from (or demolitions of) existing workplaces among the most significant negative drivers. Regulatory restrictions and government practices relating to licensing and fees were also significant. Notably, where vendors did have a secure workplace or an effective license to work, they ranked it among the most positive forces...Urban infrastructure and services were also identified as significant drivers in all five cities. Vendors identified lack of shelter, inadequate storage facilities, and insufficient supply of water, electricity, toilets, and waste removal services as systemic factors that undermine productivity and limit their ability to accumulate over time...... Again, where access to or quality of urban infrastructure was good, vendors identified it as a significant positive driver." *See* Roever, *supra* note 98, at 59.

five cities (Accra, Ghana; Ahmedabad, India; Durban, South Africa; Lima, Peru; and Nakuru, Kenya), and finds that drivers related to the city/government are the most significant for street vendors.[114] Roever points out that the IEMS data contributes to our understanding on three theoretical issues of importance: 1) certain components of the external environment (these include 'include abuse of authority on the part of local governments; restrictive and non-transparent regulations; poor quality of infrastructure and services for which vendors pay; and unfair value chain practices') constrain street vending and informal enterprise as they are linked to a lack of effective legal rights and bargaining power; 2) street vendors and informal economic actors engage or are forced to engage with the state regulatory system in unique and distinctly disadvantaged ways rather than operating outside of regulatory systems, and; 3) some street vending organisations position themselves as 'worker organizations and/or affiliated with the trade union movement, while others position themselves as business or entrepreneurs' organizations', and the relative merits of both positions requires further empirical research.[115]

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115 *See* Roever, *supra* note 98, at 59-61.

116 *See*, for example, Appadurai, *supra* note 49; ARJUN APPADURAI, MODERNITY AT LARGE: CULTURAL DIMENSIONS OF GLOBALIZATION (1996); Arjun Appadurai, *Spectral Housing and Urban Cleansing: Notes on Millenial Mumbai*, 12(3) PUBLIC CULTURE 627-651 (2000); Arjun Appadurai, *Deep Democracy: Urban Governmentality and the Horizon of Politics*, 13(2) ENVIRONMENT AND URBANISM 23-44 (2001).

117 *See*, for example, PARTHA CHATTERJEE, *supra* note 38; PARTHA CHATTERJEE, *supra* note 8.

118 *See*, for example, Madhu Purnima Kishwar, *The Making and Unmaking of a Model Market for Street Vendors, Part I and Part II,* http://www.manushi.in/articles.php?articleId= 1586&ptype=campaigns#.VbJIRfmFHBw; Madhu Purnima Kishwar, *Urban Informal Sector: The Need for a Bottom-up Agenda of Economic Reforms – Case Studies of Cycle Rickshaws and Street Vendors in Delhi, in* MINISTRY OF HOUSING AND URBAN POVERTY ALLEVIATION, INDIA: URBAN POVERTY REPORT (2009), MADHU PURNIMA KISHWAR, DEEPENING DEMOCRACY – CHALLENGES OF GOVERNANCE AND GLOBALIZATION IN INDIA (2005), and relevant articles in the Manushi journal.

119 *See*, for example, SHARIT K. BHOWMIK & DEBDULAL SAHA, STREET VENDING IN TEN CITIES IN INDIA (June 2012); Debdulal Saha, Street Vendors in Mumbai: An Exploration within the Framework of Decent Work, (2012) (unpublished Ph.D. dissertation, Tata Institute of Social Sciences, Mumbai); SHARIT K. BHOWMIK & DEBDULAL SAHA, FINANCIAL ACCESSIBILITY OF THE STREET VENDORS IN INDIA: CASES OF INCLUSION AND EXCLUSION (2011); STREET VENDORS IN THE GLOBAL URBAN ECONOMY, *supra* note 101; Sharit K Bhowmik, *Street Vendors in Asia: A Review*, 40 ECONOMIC & POLITICAL WEEKLY 2256-2264 (May-June 2005).

120 *See*, for example, ANANYA ROY, CITY REQUIEM, CALCUTTA: GENDER AND THE POLITICS OF POVERTY (2003); Roy, *supra* note 67.

121 *See*, for example, Rityajyoti Bandyopadhyay, *The Street Vendors Act and Pedestrianism in India: A Reading of the Archival Politics of the Calcutta Hawker Sangram Committee, in,* STREET

The context of street vending in Indian cities has been seriously explored in the work(s) of only a handful of scholars, most notably, Arjun Appadurai,[116] Partha Chatterjee,[117] Madhu Purnima Kishwar,[118] Sharit K. Bhowmik and Debdulal Saha,[119] Ananya Roy,[120] Ritajyoti Bandyopadhyay,[121] Jonathan Shapiro Anjaria,[122] and Amlanjyoti Goswami.[123] Despite a couple of multi-city surveys over the past few decades,[124] reliable national level empirical data on street vending in India has not been easily accessible in the academic and policy literature. Most estimates (including the 2013 parliamentary Standing Committee Report on the Street Vending Bill of 2012) refer back to a National Commission for Enterprises

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VENDING IN THE NEOLIBERAL CITY: A GLOBAL PERSPECTIVE ON THE PRACTICES AND POLICIES OF A MARGINALIZED ECONOMY, *supra* note 101; Rityajyoti Bandyopadhyay, The Hawkers' Question in Postcolonial Calcutta: Histories and Possibilities (2014) (unpublished manuscript); Ritajyoti Bandyopadhyay, TV Prathamesh & Puja Guha, *Zoning crossroads: a critique, in* STREETSCAPES: A SYMPOSIUM ON THE FUTURE OF THE STREET, *supra* note 62, http://www.india-seminar.com/2012/636/636_ritajyoti_et_all.htm; Ritajyoti Bandyopadhyay, *Politics of archiving: hawkers and pavement dwellers in Calcutta*, 35(3) DIALECTICAL ANTHROPOLOGY 295-316 (September 2011); Ritajyoti Bandyopadhyay, *Hawkers' Movement in Kolkata, 1975-2007*, 44 ECONOMIC & POLITICAL WEEKLY 116-119 (April 25, 2009).

122 *See*, for example, Jonathan Shapiro Anjaria, *How we define the street*, INDIAN EXPRESS, 10 March, 2014; Jonathan Shapiro Anjaria & Alka Anjaria, *The fractured spaces of entrepreneurialism in post-liberalization India, in* ENTERPRISE CULTURE IN NEOLIBERAL INDIA: STUDIES IN YOUTH, CLASS, WORK AND MEDIA 190-205 (Nandini Gooptu ed., 2013); Jonathan Shapiro Anjaria, *Is there a culture of the Indian Street, in* STREETSCAPES: A SYMPOSIUM ON THE FUTURE OF THE STREET, *supra* note 59, http://www.india-seminar.com/2012/636/636_jonathan_s_anjaria.htm; URBAN NAVIGATIONS: POLITICS, SPACE AND THE CITY IN SOUTH ASIA (Jonathan Shapiro Anjaria & Colin McFarlane eds., 2011); Jonathan Shapiro Anjaria, *Guardians of the Bourgeois City: Citizenship, Public Space, and Middle-Class Activism in Mumbai*, 8(4) CITY & COMMUNITY 391-406 (2009); Jonathan Shapiro Anjaria, *Street Hawkers and Public Space in Mumbai*, 41 ECONOMIC & POLITICAL WEEKLY 2140-2146 (May 27, 2006).

123 *See* Amlanjyoti Goswami, *Where the Street Has No Name: Reflections on the Legality and Spatiality of Vending, in* THE CITY IN URBAN POVERTY 183-204 (Charlotte Lemanski and Colin Marx eds., 2015).

124 *See*, for example, BHOWMIK & SAHA, STREET VENDING IN TEN CITIES IN INDIA, *supra* note 119; SHARIT K. BHOWMIK, HAWKERS IN THE URBAN INFORMAL SECTOR: A STUDY OF STREET VENDING IN SEVEN CITIES OF INDIA (2000). A useful repository of survey resources, articles and papers on street vending in India can be accessed at the *Strengthen and Harmonize Research and Action on Migration (SHRAM)* website, http://www.shram.org/SearchPage.php?search_field=street+vendor&x=0&y=0.

125 NATIONAL COMMISSION FOR ENTERPRISES IN THE UNORGANIZED SECTOR, NATIONAL POLICY ON URBAN STREET VENDORS: REPORT AND RECOMMENDATIONS 2 (May 2006); *See also* LOK SABHA SECRETARIAT-STANDING COMMITTEE ON URBAN DEVELOPMENT (2012-13), TWENTY THIRD REPORT ON THE STREET VENDORS (PROTECTION OF LIVELIHOOD AND REGULATION OF STREET VENDING) BILL, 2012 (MARCH 2013).

in the Unorganised Sector (NCEUS) 2006 Report according to which "the total number of street vendors (1999-2000) would range from 30 to 43 lakh both in rural and urban areas. For urban areas alone, it would range between 17 to 25 lakh."[125]

While methodologies for statistical estimates of the informal sector are far from universally agreed upon,[126] the relevant findings of two recent studies (analysing statistical data on informality in India) bear mentioning. Martha Chen and G. Raveendran point out that in 2011-12 street vending in India represented 4 per cent of the total urban employment and 5 per cent of the informal urban employment with the percentage of men who were street vendors (5%) being 1.7 times higher than that of the women (3%).[127] Further, Chen and Raveendran point out that while there was an increase in domestic work, home-based work, and waste picking among all male and female workers (both total urban and informal urban) from 1999-2000 to 2011-12, there was a decrease in street vending among all categories during the same period (for example, the total share of street vendors as a percentage of the total urban workers declined from 6 per cent in 1999-2000 to 4 per cent in 2011-12).[128] Analysing unit level data from the National Sample Survey Office (NSSO) 66th round on employment and unemployment (2009-10), Sobin George, lists the total number of street vendors and related workers in India as 10747755 (1.05% of the total population, 0.69% of the rural population, and 2.01% of the urban population) and points out that 53 per cent of these vendors are in urban areas.[129] Further, looking at worker population ratios (by religion and by caste/ethnicity social groups) in selected major cities, Sobin concludes that "[i]n most of the major cities, except Chennai, Kolkata and Ludhiana, it is Muslims who are mostly engaged in street vending activities....Social group composition of street vendors in major Indian cities shows that it is mostly SCs and OBCs who are engaged in such occupations."[130] The inferences (about street

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125 *See generally*, Joann Vanek et al, *Statistics on the Informal Economy: Definitions, Regional Estimates and Challenges*, WIEGO WORKING PAPER (STATISTICS) NO. 2 (April 2014).

127 *See* Martha Alter Chen and G. Raveendran, *Urban Employment in India: Recent Trends and Patterns*, WIEGO WORKING PAPER NO. 7, at 11 (November 2011, updated 2014).

128 *Id.*, at 11-12.

129 Sobin George, *New Forms of Retail Trade and the Trajectories of Urban Exclusion in India: A Review*, Working PAPER 313, INSTITUTE FOR SOCIAL AND ECONOMIC CHANGE 13, 15 (2014).

130 *Id.*

vending, spatial justice, urban modernity, etc. in India and in cities in India) that may be drawn from these numbers certainly deserve careful future attention.

While every city, and in fact every street, in India, has its own spatiality, its own temporality, its own possibilities of interstitial justice, it is worthwhile here to briefly (and impressionistically) attempt to sketch the world of urban street vending and the urban street vendor in India. Goswami, for example, points out that the "every vendor possesses a keen awareness of the various uses and users of the street. The vendor depends on the bus traveller, the pedestrian, the office goer, the lounger."[131] As regards the built form of the street, Geetam Tiwari has pointed out that the road environment design and nature of road traffic in Indian cities (including pedestrians, bicycles, animal-driven carts, non-motorised rickshaws, etc.) imply both that street vendors are inevitable and that such street trade serves a very real and otherwise largely un-fulfilled demand.[132] The survey (coordinated by Sharit K. Bhowmik and Debdulal Saha) conducted in ten cities across India (Bhubaneswar, Bengaluru, Delhi, Hyderabad, Imphal, Indore, Jaipur, Lucknow, Mumbai and Patna) provides some useful details about the working and living conditions of street vendors, the views of consumers, and the spatio-temporality of urban street vending in India.[133] Summarizing their findings across the 10 cities, Bhowmik and Saha point out that: street vendors are overwhelmingly male with

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131 Amlanjyoti Goswami, *Where the Street Has No Name: Reflections on the Legality and Spatiality of Vending, supra* note 123.

132 Geetam Tiwari, *Encroachers or service providers?, in* Street Vendors: a Symposium on Reconciling People's Livelihood and Urban Governance, 491 Seminar (July 2000), http://www.india-seminar.com/2000/491/491%20geetam%20tiwari.htm.

133 *See* Bhowmik & Saha, Street Vending in Ten Cities in India, *supra* note 119. *See also,* Jonathan Shapiro Anjaria, *Street Hawkers and Public Space in Mumbai,* 41 Economic & Political Weekly 2140-2146 (May 27, 2006); Rityajyoti Bandyopadhyay, The Hawkers' Question in Postcolonial Calcutta: Histories and Possibilities (2014) (unpublished manuscript); Environment Support Group, A Brief Study of Street Vendors in the city of Bengaluru (October 2010); C.N. Ray & Assem Mishra, *Vendors and Informal Sector – A Case-Study of Street Vendors of Surat City,* (November 2011); Darshini Mahadevia, Suchita Vyas & Aseem Mishra, Informal Economy Monitoring Study: Street Vendors in Ahmedabad, India (2014); Saha, *supra* note 119; Joseph Kweku Assan & Thomas Chambers, *India's street vendors and the struggle to sustain their livelihoods and informal enterprises: Unionization, political action and sustainable development,* 3(11) International Journal of Development and Sustainability 2140-2161 (2014); *Strengthen and Harmonize Research and Action on Migration (SHRAM)* website, *supra* note 127. For earlier surveys, *see* Bhowmik, *supra* note 124; SNDT Women's University and ILO, Study of Street Vendors in Mumbai (1999); RN Sharma et al, Census of Hawkers on BMC Lands (1998).

the sole exception of Imphal where an overwhelming majority (88.5%) of street vendors are female; a majority of street vendors are married; the bulk of the street vendors in all the ten cities were in the productive age group of 25-55 years; a large number of vendors (especially in cities such as Delhi, Patna, Hyderabad and Imphal) are illiterate; Other Backward Classes (OBCs) are the single largest caste-linked group though some cities such as Jaipur, Indore and Hyderabad have a high proportion of Scheduled Caste (SC) vendors; an overwhelming majority of vendors (over 80%) belong to the Hindu religion; while stationary vendors who occupy a patch on the pavement may have lower sales than mobile vendors with push carts, they are better off than mobile women vendors who carry their wares on baskets on their heads; in most cities (Jaipur being an exception), stationary vendors outnumber the mobile vendors; non-perishable items sold by vendors include clothes, metal utensils, plastic goods, leather goods, electronics, etc. whereas the perishable goods sold include vegetables, fruits, flowers, fish, and cooked food; many vendors prefer selling perishable food items because the prices of these items are less compared to non-perishable items such as household and electronic goods; some cities (for example, Bangalore, Delhi, Imphal, Indore) have more vendors selling perishable items whereas other cities (Bhubaneshwar, Hyderabad, Jaipur, Lucknow, Mumbai, and Patna) have a greater proportion of non-perishable items; vegetables are largely sold by female vendors and female vendors in general have lower capital for investing in their trade; fruit vendors are in a better position than vegetable vendors due to the cost and profit-margins involved with fruits; a majority of vendors stay within five kilometres of their workplace; while most vendors walk to their place of work in most cities, in Bhubaneshwar a majority of vendors (48%) bicycle to their place of work and in Imphal a majority of (women) vendors take a bus (42%) or auto-rickshaw (32%) to their place of work; storage facilities are a major problem in most cities, and unsold or new goods are stored at home, at the workplace, or at a shop/godown where rent is paid, with Bhubaneshwar being the only exception where 93.5% of the vendors store their goods at the workplace; a majority of vendors dip into their own savings to finance their business; rates charged by money lenders in all the cities varied between 300% to 1000% per annum and in most cases the money lender expected to be repaid every month; most vendors work between eight to twelve hours a day; a large section of vendors live in one room tenements and in

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134   *See* Bhowmik & Saha, Street Vending in Ten Cities in India, *supra* note 119, at 12-24.

several cities (Bengaluru, Delhi, Hyderabad, Jaipur, Lucknow, and Patna) a majority of vendors live in temporary structures (usually slums/shanties built on public land); a majority of vendors in all the cities paid bribes to the authorities on a regular basis, and bribes usually ranged from Rs. 2 to Rs. 100 per day.[134] In general, street vendors earn very meagre wages (some earlier estimates relying on the NCEUS street vending report of 2006 were as low as Rs. 40 to Rs. 80 per day) – therefore, it would be accurate to generalise that most street vendors are desperately poor relative to their counterparts in the formal segment of the economy.[135] Estimates suggest that women constitute 30% of the total population of vendors in India and that they earn significantly lower incomes than their male counterparts.[136] Most studies indicate that a majority of street vendors in Indian cities are unlicensed and therefore officially treated as illegal.[137] Correspondingly, most studies note that a significant proportion of street vendor earnings (estimates suggest between 20% - 30%) are taken as bribes by the authorities. While national-level data is not available, one recent report suggests that "the extortion racket must be worth at least Rs. 1,000 crore in Mumbai and Rs. 600 crore in Delhi."[138] Despite some positive efforts in cities like Bhubaneshwar and Imphal, street vendors continue to face often insurmountable difficulties in procuring a license from corrupt, defunct or insensitive state authorities. Street vendors also face a constant threat of over-enthusiastically enforced, outdated regulations that threaten their livelihood, dignity, profitability, etc. or position them away from the natural markets where they would otherwise tend to be positioned.[139]

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135   *See* Lok Sabha Secretariat, *supra* note 125, at 1-2.

136   Bhowmik, *supra* note 101, at 27; Lok Sabha Secretariat, *supra* note 125, at 1, 2.

137   In Mumbai, the municipality had not issued a new street vending license from 1978 to 2000, as a result of which nearly all of the then 200,000 to 300,000 street vendors in Mumbai were illegal. *See* Sharit K Bhowmik, *A Raw Deal?*, *in* Street Vendors: a Symposium on Reconciling People's Livelihood and Urban Governance, *supra* note 132, http://www.india-seminar.com/2000/491/491%20s.k.%20bhowmik.htm.

138   *See* G. Sampath, *Living on the City's sidelines*, The Hindu, (June 18, 2015), http://www.thehindu.com/opinion/op-ed/living-on-the-citys-sidelines/article7326413.ece. Reporting the findings of fieldwork in different parts of Ahmedabad in 2011-2012, one study by Mahadevia et al. found that most vendors in Ahmedabad were losing a significant amount of their earnings in bribes. *See* Darshini Mahadevia et al, *Street Vendors in Ahmedabad: Status, Contributions and Challenges*, Working Paper No. 20, Center for Urban Equity, CEPT University 35, 36 (2013).

139   *See* AS Abhigna, *Different Ideas for Licensing Street Vendors – Especially in Old Indian Cities*, CCS Working Paper No. 235, (2010); Shalini Sinha & Sally Roever, *India's National Policy on Urban Street Vendors*, Urban Policies Briefing Note. 4, WIEGO (April 2011).

Bolstered by the sobering reality of such survey data, G. Sampath (the Social Affairs editor of the Hindu newspaper) recently forcefully argued for a recognition of the enormous contribution that street vendors make to the economy while pushing for inclusive vendor-friendly cities in India:

> On the one hand, they subsidise the urban poor, who cannot afford to shop from malls or supermarkets for their necessities. On the other, they are a cheap distribution network for small and micro-enterprises in the informal sector that make toys, clothes, utensils, and other household goods from moulded plastic at a low cost. These small industries cannot afford to sell their goods via conventional retail outlets. But they employ a large number of workers. If we take the number of people employed in these micro-industries, and add them to the total number of street vendors, it becomes clear that hawking sustains a great deal of employment...... Do we want a city of income-based ghettos where the lower income groups carry on their economic activity out of sight of the higher income groups? Or do we want our neighbourhoods to be spaces for social and communal life, where people from different socio-economic classes get to interact, transact, form social bonds, and together create a rich tapestry of urban living?[140]

A rich tapestry of urban living in India's contested, complicated and rhizomic urban centres is easier said than done however – just as one ought to carefully avoid being a guardian of the bourgeois city who undermines the radically heterogeneous forms of democratic political participation the city offers, one also ought to carefully avoid being hyper-egalitarian or overly romantic about street life and the background possibilities of urban street order in India.[141] A sensible approach to street order and to street vending will require the considered spatialized articulation of the right to the city (for all concerned) in each and every street under consideration. A more realistic appraisal of the background possibilities of urban street order in India will require a careful appreciation of the fuller context

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140 Sampath, *supra* note 138.
141 *See* Jonathan Shapiro Anjaria, *Guardians of the Bourgeois City: Citizenship, Public Space, and Middle-Class Activism in Mumbai*, 8(4) CITY & COMMUNITY 391-406 (2009), and Robert C. Ellickson, *supra* note 72.

of spatial justice implicated within the regulation of urban street vending. For example, Arjun Appadurai and Partha Chatterjee, in two classic texts that look at distinct discursive spaces, give us an inkling of what is at stake in imagining a genuine street order that can generate the sufficient and necessary conditions for a rich tapestry of urban living in modern India.[142]

Can we hope that promoting street vending in Indian cities will resolve the problems of a homeless beggar child who begs automobile travellers to buy stickers or ball-point pens or cheap toys at the many traffic signals across India's cities? Can we hope that promoting street vending in India will ameliorate or liberate the transgendered beggar/entertainer/sex-vendor on Indian streets? Will the promotion of street vending increase or decrease slums and other illegal and/or informal urban settlements in India? Will the promotion of urban street vending promote unmanageable migration to cities by former farmingcommunities? Will the promotion of street vending truly empower poor urban entrepreneurs or will it serve the interests of well-organised urban mafias that exploit street vendors and beggars in India? Will street vending make our cities more plural and more liveable or will it result in a large number of people withdrawing from public spaces to private gated communities? Is a particular street vendor a member of a marginalized community desperately in need of protection or is she a calculating entrepreneur unfairly cashing in on state largesse or is she a criminal body and encroacher on a spatio-normativised street? Does justice with regard to street vending involve the politics of recognition or redistribution or redemption or some combination thereof? These questions do not have easy answers, and I will not belabour the point here, except to say that urban street vending in India can be fully encouraged and be legitimately entrepreneurial only when issues of beggary, of homelessness, or rural dispossession, of urban criminality, of induced and involuntary migration, of social exclusion, of gender and sexuality inequality, of neoliberal reterritorialization, and of fetishized consumption, are also embraced within the same frame of analysis.[143]

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142 *See* Partha Chatterjee, *Democracy and Economic Transformation in India*, 43 Economic & Political Weekly 53-62 (April 19, 2008); Appadurai, *Spectral Housing and Urban Cleansing: Notes on Millenial Mumbai*, *supra* note 116.

143 For one study that attempts to see the urban issue in a multi-dimensional perspective, *see* Mahmud, *supra* note 32. *See also*, Usha Ramanathan, *supra* note 39; Usha Ramanathan, *Ostensible Poverty, Beggary and the Law*, 43 Economic & Political Weekly 33-44 (November 1, 2008).

Appadurai's description of street life in spectral millennial Mumbai disabuses us of any easy or immediate solution to the issue of urban street vending in modern India:

> Much could be said about Indian street life and the life of Bombay's streets in respect to housing......Some actually live on pavements, and others sleep in the gray spaces between buildings and streets. Yet others live on roofs and on parapets, above garages, and in a variety of interstitial spaces that are not fully controlled by either landlords or the state........ At the same time, small commercial enterprises sprout on every possible spot in every possible street, attached to buildings, to telephone poles, to electricity switching houses, or to anything else that does not move. These petty enterprises are by nature shelters, so many commercial stalls are, de facto, homes on the street for one or more people. The same is true of the kitchens of restaurants, parts of office buildings—indeed, any structure where a poor person has the smallest legitimate right to stay in or near a habitable structure, especially one that has water or a roof. Electricity and heat are rare luxuries, of course....... From the point of view of street life, consumption is fuelled by the explosive growth in small-scale hucksters, vendors, and retailers that have flooded Mumbai's pavements, rendering them almost impassable. Many of these vendor dominated streets peddle items having to do with the fantasy of a global, middleclass consumer, with the truly smuggled, the imitated pirates, and the homegrown simulacrum all joyously mixed with each other: bras and juicers, lamps and window shades, underwear and cutting knives, sandwich makers and clothespins, decorative kitsch and T-shirts, women's dressing gowns and men's Levis. There seems to be no real annoyance with these vendors, despite the fact that they put pedestrians in the awkward position of either walking on the road (nudged by cars that could kill them), falling into the sewage grates just next to the curb (which are sometimes open), or picking their way through carpets of T-shirts, sneakers, and drinking glasses....... These public dramas of consumption revolving around the accoutrements of domesticity constitute an investment in the equipping of houses that may be small and overcrowded, where

individual space and rights may be highly restricted, and where much in the way of modern amenities may be limited or absent. These humble objects of domestic life are thus proleptic tools of a domesticity without houses, houseless domesticity. In the purchase and assemblage of these objects, which imply a domestic plenitude that is surely exaggerated, Bombay's working poor and nonprofessional service classes produce their own spectral domesticity, which in its sensuous, cash-based, pleasurable social reality recognizes the shrinking horizon of the actual houses in which these objects might have a predictable life. Of course, all modern shopping (in Mumbai and beyond) has the anticipatory, the imagined, the auratic, and the possessive about its ethos. But street shopping in Mumbai, like public sleeping, is a form of claim to housing that no one can contest or subvert in the city of cash. This is where the specters of eviction meet the agencies of consumption.[144]

In the concluding part of this essay, I offer a brief account of the context and sources of street vending law in India while noting its possibilities for interstitial spatial justice in the context of India's unique modernity. Conceptualising street vending in India [for development planning, public law, and regulatory enforcement] is a truly formidable challenge. For starters, the foundational parameters implicated in Indian law and governance 'getting it right' include a messy federal constitutional order, a post-colonial society not fully clear on how to interpret its own historical narrative and place in modernity, fuzzy property law regimes, a history of notoriously corrupt and inefficient state functionaries, and a political consciousness that resists easy identification with rights-centric liberal European vocabularies. Second, street trade involves deeply contested and highly contextual considerations of health, novelty value, variety of goods, aesthetic impact, economic impact, affordability, convenience, locational value, religious strictures, caste norms, traditional appropriateness, positive and negative externalities including impact on public order, street congestion and crime, impact on migration and population, transport complementarity, impact on tourism, enterprise capacity, employment generation, relevant spatial preferences and

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144 Appadurai, *Spectral Housing and Urban Cleansing: Notes on Millenial Mumbai*, *supra* note 116, at 636-643.

limitations, heritage conservation, sustainability, etc. Third, while reliable statistics are particularly hard to come by as indicated earlier in this essay, street vendors are estimated at around 2% to 2.5% of the population of several major Indian cities; estimates suggest a staggeringly large 10 million or more street vendors in India. Policy prescriptions and laws (in the context of their application in urban India) need to effectively respond to the reality of a large urban street vending sector, in rapidly-expanding, high-population, economically heterogeneous, urban centres with site-specific spatial organisation, transport networks and cultural/ aesthetic geographies, and where street vending has been long prevalent and is only likely to increase in frequency, distribution and scale of operation. Fourth, any nuanced outlook also needs to take note of the rural, local, national and international assemblages that city street trades in India are implicated within.

In the limited writing available on street vending law in India, Amlanjyoti Goswami's recent book-chapter *Where the Street Has No Name: Reflections on the Legality and Spatiality of Vending* is a rare exception that focuses on a spatial and thoroughly interstitial analysis. Invoking Deleuze and Guattari, Goswami analyses street vending in Dakshinapuri, New Delhi and street vending law in India, and nicely draws out the linkages between street vending law, space, and time:

> Street vending may be a smooth space, mobile, itinerant, irregular. It may be easier for the state to striate that space, if vendors represent a marginalised political constituency, only eventually reliant on a distant Judiciary. Boundary marking is the tool law uses to regulate space. If street vending is perceived as smooth space, tactile and haptic, the state striates the space with its rules. At the same time, transformation of that smooth space into striated space is never complete. The state uses legality to regulate vending through various instruments (judicial rulings, laws, licensing, police and municipal demarcations of territory), while vending, being 'nomadic' in orientation, would continue to negotiate around space in between. These spaces would be grey areas in the laws; between vending and non-vending zones; interpretations regarding 'natural markets'; periods before and

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145   Amlanjyoti Goswami, *supra* note 123.

between licenses; spaces where a temporal restriction is fulfilled if not a spatial one; changing, visible and invisible boundaries; the mobile vendor weaving in and out of zones and meanings around similar navigations.[145]

Street vending law represents an archive, a register, a frontier, and an unfinished manuscript for spatial justice in India. The history of the evolution of street vending law in India and the larger political histories that animated this evolution require sustained study. The final form that urban street vending law takes will alert us to the revolutionary possibilities or lack thereof of the right to the city discourse. The story of street vending law in India tells us about the stories of the urban subaltern in Indian cities - the story of the rural migrant, the laid-off mill hand, the homeless and the illiterate and the abandoned, the entrepreneurial, the organized street gangs, the flâneurs, the ramblers, the street walkers, and so on. It also tells us about the significance of spatial justice in India's constitutional post-colonial order – how fundamental rights, development plans, municipal land use regulations, and government schemes (could) come together to promote or suppress the flourishing of the good life for all. In the following paragraphs I offer a brief overview of the sources and development of street vending law in India before concluding with a synoptic characterisation of the interstice and the new 2014 national street vending law.

The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2014 was passed by the Rajya Sabha on 19th February 2014, received presidential assent on 4th March 2014, and came into force as the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 on 1st May, 2014. The first version of a model Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill was prepared by the Government of India and approved by the Union Cabinet on 23rd February, 2009 and was circulated to all the State Governments.[146] Prior to the national law enacted in 2014, the applicable law relating to street vending in India had to be cobbled together from a disparate array of sources: some state-level laws and policies directly dealing with street vending; the national urban street vending policy of 2009 and the older national street vending policy of 2004; a large number of municipal regulations, state-level laws, and national-level laws that limited or indirectly regulated street vending;

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146   Lok Sabha Secretariat, *supra* note 125, at 2.

relevant international obligations that promoted the practice of street vending or supported the rights of street vendors; and a long list of decisions on street vending from India's Supreme Court and from various High Courts. National schemes including the Jawaharlal Nehru National Urban Renewal Mission (JNNURM), the Rajiv Awas Yojana (RAY), the Rajiv Rinn Yojana (RRN), the National Urban Livelihoods Mission (NULM), and the recently launched Housing for All (Urban) Mission, all have a bearing on how urban governance addresses street vending. The NULM Mission Document, for example, explicitly focuses on urban street vending 'as a measure of urban poverty alleviation.'[147] Each State in India also has a wide array of State-level schemes, which along with a few city-level schemes, adds to the bewildering interlegality and jurisdictional overlaps that characterize the governmentalization of street vending in India.

With regard to state-level laws and policies, as of March 2013, five states – Jharkhand, Arunachal Pradesh, Mizoram, Madhya Pradesh and Rajasthan - had already enacted State level legislation on street vending whereas one other state – Chhattisgarh – had street vending specific Bye-laws under the relevant municipal Act.[148] As of June 2013, at least one other state (Orissa) had a specific urban street vendors policy document, and at least one other state (Andhra Pradesh) had a publicly available draft bill on street vending.[149] With regard to national policies,

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147 "Street vendors constitute an important segment of the urban population at the bottom of the pyramid. Street vending provides a source of self-employment, and thus acts as a measure of urban poverty alleviation without major Government intervention. They have a prominent place in the urban supply chain and are an integral part of the economic growth process within urban areas. NULM would aim at facilitating access to suitable spaces, institutional credit, social security and skills to the urban street vendors for accessing emerging market opportunities.......This component aims at skilling of street vendors, support micro-enterprise development, credit enablement and pro-vending urban planning along with supporting social security options for vulnerable groups such as women, SCs/STs and minorities. Up to 5 percent of the total NULM budget will be spent on this component." *See* Government of India: Ministry of Housing and Urban Poverty Alleviation, National Urban Livelihoods Mission: Mission Document 7, 8-20 (2013).

148 Lok Sabha Secretariat, *supra* note 125, at 3.

149 *Legislative Brief – The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2012*, PRS Legislative Research, 6 (2013), which provides summary details (in appendix) about the Odisha Urban Street Vendors Policy 2012 and the Draft Andhra Pradesh Street Vendors' (Protection of Livelihood and Regulation of Street Vending) Bill 2011.

150 *See* Ministry of Housing and Urban Poverty Alleviation, National Policy on Urban Street Vendors 2009 (2009); Ministry of Housing and Urban Poverty Alleviation, National Policy on Urban Street Vendors 2004 (2004).

the National Policy on Urban Street Vendors, 2009 revised and updated the older 2004 National Policy on Urban Street Vendors.[150] While both policy documents recognised the importance of natural markets, and explicitly stated that street vending provided meaningful employment and valuable products and services to a wide range of persons, the 2009 policy documents marked several advancements over the older 2004 policy. While the 2004 policy considered spatial planning norms strictly in terms of vending zones and non-vending zones, the 2009 policy advocated free-vending zones, restricted-vending zones, and no-vending zones. Second, the 2009 policy clarified the three different types of street vendors (stationary, peripatetic, and mobile), and provided detail and clarity as regards policy imperatives pertaining to peripatetic and mobile vendors. Third, the 2009 policy introduced clarity on the principles for determining quantitative norms for street vendors through the introduction of "holding capacity" terminology. Fourth, while the 2004 policy was unclear on licensing and its relation to vendor registration, the 2009 policy clarified that licensing pertains to site/space allotment for stationary vendors whereas registration applies to all kinds of vendors. Fifth, the 2009 policy clarified the provisions in the 2004 policy as regards the composition, duties and functions of the Town Vending Committees. Finally, the 2009 policy clarified the uncertainty relating to 'planning authority' terminology in the 2004 policy through the use of the defined term 'local authorities'. Apart from these changes, the 2009 policy improved upon the 2004 policy on a number of related other areas: provision of civic facilities, registration procedures, registration fees, collection of revenue, eviction, relocation, confiscation, organisation of vendors, participative processes, public health and hygiene, self-regulation, credit and insurance, rehabilitation of child vendors, education and skill development, housing, social security, monitoring and review, dispute settlement, and capacity building. Despite these detailed provisions, the policy pertaining to urban street vending was rarely followed in spirit and many governmental authorities remained unaware of their basic obligations as required by these policy prescriptions.[151]

Legal restrictions on the right to street vending are to be found in a wide variety

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151 For useful overviews, *see* Sinha & Roever, *supra* note 139; Cheryl Deutsch, *Implementing the National Policy on Urban Street Vendors: A State-by-State Status Report*, YUVA (May 2009); *Final Report of the National Workshop on Debating the National Policy on Urban Street Vendors: A Trans-City Interrogation*, URBAN RESEARCH AND POLICY PROGRAMME, NATIONAL INSTITUTE OF ADVANCED STUDIES, BANGALORE, (August 13, 2012).

of municipal, state and national laws and schemes (including police laws, health laws, food safety laws, public order laws, town planning laws, traffic laws, etc.) – the legal positions varies from municipality to municipality, city to city, and state to state.[152] Anjaria, for example, points out how sections 312, 313, and 314, in particular, of the Mumbai Municipal Corporation Act, 1888 were relied upon by Mumbai's municipal corporation in response to public interest litigations challenging the eviction of hawkers and pavement dwellers in Mumbai in the early 1980s.[153] Section 312 of the Mumbai Municipal Corporation Act, 1888 prohibits structures or fixtures which cause obstruction in the streets, Section 313 prohibits (except with written permission of the municipal Commissioner) the placing or depositing on any street of any 'stall, chair, bench, box, ladder, bale or other thing so as to form an obstruction thereto or an encroachment thereon', and Section 313A and Section 313B prohibit the sale of any article or service in any public place or in any public street without a license granted by the Commissioner. Further Section 314 of the Act enables the Commissioner to remove without notice anything erected, deposited, or hawked in contravention of Sections 312 and 313, and Section 471 enables the Commissioner to fine anyone who contravenes these sections. Many states and cities across India have laws that are similar to the Mumbai municipal legislation – see, for example, Sections 287, 288A, 288B, 288C, and 288D of the Karnataka Municipal Corporation Act, 1976. Further, police laws in most cities and states (see for example, Sections 102 and 117 of the Bombay Police Act, 1951 or Section 92 of the Karnataka Police Act, 1963) empower the police to fine unlicensed street vendors. Finally, Section 283 of the national-level Indian Penal Code, 1860 criminalizes 'danger, obstruction or injury to any person in any public way or public line of navigation' and Section 201 of the national-level Motor Vehicles Act, 1988 provides for a penalty for anyone who 'keeps a disabled vehicle on any public place, in such a manner, so as to cause impediment to the free flow of traffic'. While many of these laws continue

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152 For an overview of some of the municipal, city and state level laws applicable to street vending, *see* NASVI, Street Vendors: Handbook on Law, Policy and Judgments (2012); Darshini Mahadevia, Suchita Vyas, Alison Brown & Michal Lyons, *Law, Rights and Regulation for Street Vending in Globalising Ahmedabad,* Working Paper 1: Law, Rights and Regulation in the Informal Economy ESRC-DFID Research Project (July 2012); Bhowmik, *supra* note 124; *See also,* Sinha & Roever, *supra* note 139.

153 Jonathan Shapiro Anjaria, *Street Hawkers and Public Space in Mumbai,* 41 Economic & Political Weekly 2140-2146 (May 27, 2006), at 2140.

to exist even after the passage of the national street vending legislation in 2014, the exact scope of their continued operation remains unclear and therefore requires careful analysis and elaboration.

It should also be noted that India is a party to several international agreements relevant to the regulation of street vending including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), the International Convention on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and over forty two International Labour Organisation (ILO) Conventions that (should) influence executive and judicial interpretation and have an enforceable effect when there is a lacuna in the domestic law on the point.[154]

The enactment of the national legislation in 2014 followed a long series of judicial pronouncements. The heightened momentum behind a national street vendor legislation in recent times traces back to October 2010 when a Division bench of the Supreme Court of India (Justice G.S. Singhvi and Justice A.K. Ganguly) in *Gainda Ram* v. *MCD* reiterated that the right to street vending was a fundamental right protected under Article 19(1)(g) of the Constitution of India.[155] Significantly, the Supreme Court in *Gainda Ram* v. *MCD* also held that this right could be reasonably restricted only through a law (and not through governmental/municipal schemes), and therefore mandated that legislation be enacted by the appropriate Government by 30th June, 2011.[156] While a legislation was not enacted by 30th June, 2011, a Division Bench of the Supreme Court (Justice G.S. Singhvi and

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154   For greater detail on international human rights norms relevant to protection of street vendors in India, *see Working Paper – Developing National Street Vendor Legislation in India: A Comparative Study of Street Vending Regulation*, Transnational Development Clinic – Jerome N. Frank Legal Services Organization -Yale Law School, 11, 12 (January 2011).

155   Gainda Ram v. MCD, (2010) 10 SCC 175, at paragraph 77. The fundamental right of street vendors to carry on business on public streets under Article 19(1)(g) of the Constitution of India had been articulated by the Supreme Court in earlier decisions including Saudan Singh v. NDMC, (1992) 2 SCC 458; Sodan Singh v. New Delhi Municipal Committee, (1989) 4 SCC 155; Bombay Hawkers Union v. Bombay Municipal Corporation, (1985) 3 SCC 545; Olga Tellis v. Bombay Municipal Corporation, (1985) 3 SCC 545.

156   Gainda Ram v. MCD, (2010) 10 SCC 175, at paragraphs 77, 78.

Justice V. Gopala Gowda) in 2013 once again considered the matter of street vending in India in *Maharashtra Ekta Hawkers Union* v. *Municipal Corporation, Greater Mumbai*, and directed that the National Policy on Urban Street Vendors, 2009 should be implemented throughout the country. This 2013 judgment excerpts the salient provisions from the 2009 policy, issues a series of remarkable directions for the time-bound implementation of the policy (including a request to the Chief Justices of the High Courts 'to nominate a Bench to deal with the cases filed for implementation of the 2009 Policy and disputes arising out of its implementation'), and clarifies that the 2009 policy and the directions contained in the judgment shall apply to all the municipal areas in the country and 'shall remain operative till an appropriate legislation is enacted by Parliament or any other competent legislature and is brought into force'.[157] In so doing, the Supreme Court also vacated the somewhat oppressive 15 conditions and restrictions on stationary street vendors in Mumbai that had been articulated in the 2003 *Maharashtra Ekta Hawkers Union* judgment (many of these conditions trace back to Mumbai Municipal Corporation's scheme for the licensing of hawkers initially proposed on 6 May, 1983).[158] These 15 conditions and restrictions that had been reiterated by the Supreme Court in 2003 included: 1) spatial restrictions on foothpath vending (non-obstruction of an area of at least 1metre x 1metre on all foothpaths where hawking exists, hawking permitted only on one side of the road); 2) prohibition on stalls, tables, stands, handcarts, and any other such things and structures; 3) prohibition on hawking within 100 metres from any place of worship, holy shrine, educational institutions and hospitals, or within 150 metres from any municipal or other markets or from any railway station, or on footbridges and overbridges; 4) prohibition on hawkers creating any noise or playing any instrument or music for attracting the public or the customers; 5) prohibition on the cooking of food; 6) limitation of hawking to between 7.00 a.m. and 10.00 p.m.; 7) reiteration that hawking was to be on the basis of a fixed fee to be prescribed

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157 Maharashtra Ekta Hawkers Union v. Municipal Corporation, Greater Mumbai, (2014) 1 SCC 490, at paragraphs 16, 17.

158 This scheme was initially drafted during the pendency of the hawkers' first unsuccessful challenge to the constitutionality of the provisions of §§ 313, 313-A, 314(3) and 497 of the Mumbai Municipal Corporation Act, 1888. *See* Bombay Hawkers Union v. Bombay Municipal Corporation, (1985) 3 SCC 545.

by the municipal corporation; 8) requirement that hawkers would extend full cooperation to the municipal conservancy staff for cleaning the streets and footpaths and also to the other municipal staff for carrying on any municipal work; 9) prohibition of hawking on streets less than 8 metres in width; 10) requirement that the municipal corporation would grant photo-licenses which are to be displayed by hawkers at all times; 11) stipulation that no more than 1 person in a family would be given a license to hawk; 12) prohibition on the vending of costly items (example, electrical appliances, video and audio tapes and cassettes, cameras, phones etc.) and the added stipulation that any hawker found selling such items must have her/his license cancelled; 13) stipulation that hawking licenses would be issued for 1 year and the requirement that the discretion to not grant a license in the hawking zone would be exercised reasonably and in public interest; 14) the requirement of placing any proposed alterations in the scheme regulating hawking before a court-constituted Committee who would decide taking into consideration the views of all concerned including the hawkers, the Commissioner of Police and members of the public or an association representing the public, and; 15) the expectation that citizens and shopkeepers would assist ward officers and the police in keeping non-hawking zones/areas free from hawkers.[159] The court further clarified that even mobile hawkers "shall require to obtain a licence on payment of prescribed fees and display that licence on their shirt/coat at all times. Such hawkers will be allowed even in residential areas and areas where there are no shopping lines. They shall not sell costly items and will only vend articles of immediate requirement i.e. articles of convenience shopping. They shall not hawk within 100 meters of any place of worship, holy shrine, educational institutions or hospital or within 150 meters of any municipal or other markets or from any railway station."[160] Following the 2013 decision of the Supreme Court in *Maharashtra Ekta Hawkers Union* v. *Municipal Corporation, Greater Mumbai*, all of these conditions were replaced by the more nuanced provisions of the 2009 policy on urban street vending.

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159   Maharashtra Ekta Hawkers Union v. Municipal Corporation, Greater Mumbai, AIR 2004 SC 416, at paragraph 14.

160   *Id.*, at paragraph 18.

The 2013 decision of the Supreme Court was the latest major development in a long series of judicial pronouncements spanning over five decades where the Supreme Court had considered the legal status of street vending and the precise contours of the rights implicated in the phenomenon of street vending and its governmental regulation.[161] As long back as 1954, the Supreme Court of India had held that though all public streets and roads in India vest with the State, the State holds them as trustees on behalf of the public.[162] The decision of the Madras High Court in *M. A. Pal Mohammed* v. *R. K. Sadarangani* represents a singularly sophisticated judicial treatment of the rights of street vendors in cities when balanced with the rights of other citizens and users of public streets.[163] Curiously enough, in this case, the former Union Minister for Finance, P. Chidambaram (then a rising lawyer at the Madras High Court) represented the shop-keepers of

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161 *See* Pyare Lal v. New Delhi Municipal Committee, AIR 1968 SC 133; Olga Tellis v. Bombay Municipal Corporation, (1985) 3 SCC 545; Bombay Hawkers Union v. Bombay Municipal Corporation, (1985) 3 SCC 545; MCD v. Gurnam Kaur, (1989) 1 SCC 101; Sodan Singh v. New Delhi Municipal Committee, (1989) 4 SCC 155; Saudan Singh v. NDMC, (1992) 2 SCC 458; Ahmedabad Municipal Corporation v. Nawab Khan, (1996) 11 SCC 123; Gainda Ram v. MCD, (1998) 1 SCC 188; Romesh Chander v. Imtiaz Khan, (1998) 4 SCC 760; Sarojini Nagar Market Shopkeepers Association v. NDMC, (2000) 10 SCC 341; Navi Mumbai Municipal Corporation v. Navi Mumbai Hawkers and Workers Union, (2002) 10 SCC 369; Maharashtra Ekta Hawkers Union v. Municipal Corporation, Greater Mumbai, AIR 2004 SC 416; Sudhir Madan v. MCD, (2007) 7 SCR 1; Patri Vyapar Mandal Delhi v. MCD Town Hall, (2009) 12 SCC 475; Maharashtra Ekta Hawkers Union v. Municipal Corporation, Greater Mumbai, (2009) 17 SCC 151; Maharashtra Ekta Hawkers Union v. Municipal Corporation, Greater Mumbai, (2009) 17 SCC 231; Gainda Ram v. MCD, (2010) 10 SCC 175. Apart from these leading decisions, several other Supreme Court decisions and a large number of High Court judgments have also considered the normativity, legality, history, aesthetic impact, and desirability of street vending in specific contexts in urban India – this essay has not been attempted to trace all these decisions and their cumulative impact, and hopefully, this will be carried out in future work on this topic.

162 Saghir Ahmad v. State of UP, AIR 1954 SC 728, which referred to and approved the law on this point as contained in an earlier decision of the Madras High Court in G. S. S. Motor Service v. State of Madras, 1952 2 M. L. J. 894. The law on this point as recognized in Saghir Ahmad v. State of UP was subsequently relied upon by Justice Sharma of the Supreme Court in Sodan Singh v. New Delhi Municipal Committee, (1989) 4 SCC 155.

163 AIR 1984 Mad. 32. Paragraph 30 of Justice Sathidev's judgment states: "It is claimed by shop-owners that this trade is a public nuisance. Hawker trade, so long as it is regulated in a proper manner by concerned public authorities, could never be a public nuisance. Rather, general public by and large, are not only attracted by this type of trade, but look forward to it for more than one reason. Shorn of mounting overheads which assume alarming proportions when goods are sold in sophisticated shops, the same type of goods are sold for reasonable prices with less percentage of profit. Even traders and manufacturers look to hawker trade to dispose of their accumulated

Netaji Subhash Chandra Bose Road and Rattan Bazaar in Chennai in their (eventually unsuccessful) case against the street vendors. The constitutional position in India, briefly summarised, seems to be that street vending is an enforceable fundamental right under Article 19(1)(g); this right is however subject to existing or new laws that impose '*in the interests of the general public, reasonable restrictions on the exercise of the right*' in accordance with Article 19(6) of the Constitution of India.[164] The major difference in the thrust of the 2010 *Gainda Ram* judgment and the 2013 *Maharashtra Ekta Hawkers Union* judgment on the one hand and

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stocks, which they cannot sell, because either the design is not in vogue or the demand for such type of goods no longer exists, or due to rejection of goods by foreign buyers they could not be exported but still of good quality etc. Furthermore, when vegetables, fruits, flowers are required, general public invariably look forward to a hawker rather than go in for such stuff in shops, which are unreasonably expensive. The economic condition of people is such that they look forward to hawkers, who alone could sell for lesser price, the type of goods carrying a quality which would suffice their needs and aspirations. Quite often the shop owner, before whose shop the hawker is trading, depends on him for clearance of his accumulated stock, for a small margin he may earn. Even a shop owner who complains about the existence of hawkers, as he returns home buys his other household requirements from these hawkers. In many leading cities in the world on certain days in a week, the vehicular traffic in the earmarked street is prohibited, and hawkers congregate, and public in large numbers gather to buy their requirements. Hence it is not as if this type of trade is found only in India. It could never be characterised as an illegal or unethical trade. Mainly because public authorities have failed to regulate their locations, it has resulted in a grievance being made by shop-owners, as if it is a trade that should be excluded. If regulatory measures are introduced, bearing in mind the requirements of the public of free access, public hygiene, public safety and the like, they can also prosper and the general public thereby be benefited. If specific plots are allotted and they are confined to those portions, there could be no conceivable objection for such a lawful trade to be carried out, particularly when it would provide an honest livelihood for those who have meagre capital but have a keen desire to carry on a trade. Once regulatory measures are introduced, it could never be a public nuisance." This insightful decision has been referred to in the Sodan Singh case where V.M. Tarkunde (amongst others) argued for the petitioners and Justice Sharma's judgment states that "if properly regulated according to the exigency of the circumstances, the small traders on the side-walks can considerably add to the comfort and convenience of the general public, by making available ordinary articles of everyday use for a comparatively lesser price. An ordinary person, not very affluent, while hurrying towards his home after a day's work can pick up these articles without going out of his way to find a regular market. The right to carry on trade or business mentioned in Article 19(1)g of the Constitution, on street pavements, if properly regulated cannot be denied on the ground that the streets are meant exclusively for passing or re-passing and no other use." *See* Sodan Singh v. New Delhi Municipal Committee, (1989) 4 SCC 155, at paragraph 16.

164   While a detailed analysis is not possible here, further constitutional guidance relevant to informality, street vending, urban governance and the operation of the economic system may be sourced in provisions including the Preamble, Articles 14, 19, 21, 38, 39, 39-A, 41, 42, 43, 43-A, 47, 48-A, 243-P to 243-ZG (read with the 12th Schedule), 265, 276, 301, 302; entries 1,2, 5, 6, 8, 26, 27, 28, 49, 52, 56, 60 of List-II (State List); and entries 2, 3, 15, 18, 20, 21, 22, 23, 24, 26, 33, 33-A, 34, and 43 of List-III (Concurrent List) of the Constitution of India.

earlier decisions on street vending in India on the other seems to be with regard to how these "reasonable restrictions" on the right to street vending are to be interpreted. In the language of the 2010 and the 2013 judgments, we see, for the first time, a recognition of the exclusionary tendencies of the neoliberal city, an acknowledgment of the interstitial nature of street vending, and a genuine effort towards the transformative possibilities of a realisable street vendor's right to the city. Unstated in the texts of the judgments and in the national laws, but critical for any understanding of the imminent street vendors' rights revolution in India, is the story of how civil society organisations and sympathetic individuals provided an unrelenting national and local support structure for legal mobilization and legislative lobbying. It remains to be seen how the national legislation of 2014 will be interpreted, and how, when implemented, it will contribute to or take away from the possibilities of spatial justice in the context of urban India.[165]

One of the major challenges that the new national legislation on street vending will face is in ensuring that fundamental rights are adequately and equally protected across the country even as context-specific, citizen-driven and democratic urban functionality proliferates in shaping our cities. In this context, Jane Jacobs' now classic 1961 work urges us to understand streets and sidewalks by how they actually function rather than for their intended use.[166] Her identification of street vendors (amongst others) as the 'eyes on the street' - who due to their long and continuous presence on the streets are capable of preventing harm, detecting wrongs, and providing immediate help when needed – has most recently found support in the JS Verma committee's recommendations relating to how the Indian state should

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165 For a recent overview of some of the problems in implementing the new legislation, *see* Sampath, *supra* note 138. For critiques of the 2012 Bill and 2013 Bill, *see* Ayani Srivastava et al, *Formalising the Informal Streets: A Legislative Review of the Street Vendors (Protection of Livelihood and Regulation of Street Vending Bill, 2012*, 4 JOURNAL OF INDIAN LAW AND SOCIETY 247-274 (2014); Rohan J. Alva, *The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2013: Is the Cure Worse than the Disease*, 35(2) STATUTE LAW REVIEW 181-202 (2014).

166 JACOBS, *supra* note 47.

167 Recommendation 17 states: "Street vending should be encouraged to make the bus stops and footpaths safe for communities and pedestrians, in addition to providing street food for the common man." *See* GOVERNMENT OF INDIA, REPORT OF THE COMMITTEE ON AMENDMENTS TO CRIMINAL LAW 421 (2013), http://www.prsindia.org/uploads/media/Justice%20verma% 20committee/js%20verma%20committe%20report.pdf.

counter the menace of rape.[167] Another major challenge for the national street vending legislation will be to ensure that formalising street vending does not simply result in greater surveillance, greater harassment, and increased bribe-seeking – all of which would simply encourage street vendors to transgress, evade and undermine the applicable (legal and spatial) regulatory frameworks.[168] Other challenges will involve the fair rationing and allocation of limited 'high-value' space, appropriately incentivising street vendors to genuinely formalise their livelihood practices, the norms for identification and *de facto* maintenance of no-vending and restricted-vending zones, the competence and integrity of decentralised administrative mechanisms for implementation, and finally, the difficult task or harmonising street vending laws with other laws (relating to crime, public order, transport, city planning, etc.).[169] Sufficient municipality level information on the ongoing implementation of the new street vending law is simply not yet available to enable a prediction on whether the law will effectively promote or suppress spatial justice; the devil, so to speak, lies in the details of the plans, schemes, rules, orders, circulars, guidelines etc. formulated by urban officials (and possibly, city dwellers) in response to the requirements of the new law and the demands of potential beneficiaries and other interested political participants.

Five discrete areas within the 2014 Act that immediately require greater clarity are: 1) Conceptual clarity on the importance of "scheme", "rules", "plan" and "bye-laws" within the Act and the relationship between these legal terms with

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168   On this point, *see* Paul Stoller, Money Has No Smell: The Africanization of New York City (2002); Arvind Rajagopal, *The Violence of Commodity Aesthetics: Hawkers, Demolition Raids, and a New Regime of Consumption*, 19(3) Social Text, 91-113 (2001); Jonathan Shapiro Anjaria, *The Politics of Illegality: Mumbai Hawkers, Public Space and the Everyday Life of the Law*, *in* Street Vendors in the Global Urban Economy, *supra* note 101, at 69-86.

169   *See also* Amlanjyoti Goswami, *supra* note 123, for a useful critique of the current street vending law. For a useful comparative survey and a clear identification of areas of tensions and complexity within street vending law in India, *see Working Paper – Developing National Street Vendor Legislation in India: A Comparative Study of Street Vending Regulation*, *supra* note 154.

170   *See* in particular §§ 21, 36, 37, 38, and the First Schedule and the Second Schedule of the 2014 Act.

171   §29(1) states: "Nothing contained in this Act shall be construed as conferring upon a street vendor any temporary, permanent or perpetual right of carrying out vending activities in the vending zones allotted to him or in respect of any place on which he carries on such vending activity."

regard to realising spatial justice and the right to the city in particular contexts;[170] b) the potential conflict between Sections 12 – 17 (chapter titled 'rights and obligations of street vendors') on the one hand and Section 29 on the other;[171] c) the impact of Section 27 and Section 33 on other municipal laws, police laws and crime laws in terms of the right to street vending;[172] d) the interpretation of 'public purpose' in Section 18(1) of the Act;[173] and e) the different roles of the State Government, the Planning Authority, the Local Authority, the Town Vending Committee, the Dispute Redressal Committee, and the relationship between these entities in terms of regulating street vending activities and realising spatial justice.

The 2014 legislation marks an important interstitial moment for urban street vending in India insofar as hitherto fixed meanings and regimes are once again in flux and the right to the city finds space for its iteration, manifestation, contestation, and multiple realisations. A sensitive notion of urbanism, a heightened sense of spatial justice, a democratic engagement with urban governance, and an institutional adoption of the right to the city, might well lead us to Lefebvre's revolution of space on the horizon. Critical engagement with state and non-state efforts to creatively and meaningfully translate the national law into municipal-level implementation will be key to realising spatial justice and a transformative Indian modernity.

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172 §27 states: "Notwithstanding anything contained in any other law for the time being in force, no street vendor who carries on the street vending activities in accordance with the terms and conditions of his certificate of vending shall be prevented from exercising such rights by any person or police or any other authority exercising powers under any other law for the time being in force" and Section 33 states: "The provisions of this Act shall have effect notwithstanding anything inconsistent therein contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act."

173 §18(1) states: "The local authority may, on the recommendations of the Town Vending Committee, declare a zone or part of it to be a no-vending zone for any public purpose and relocate the street vendors vending in that area, in such manner as may be specified in the scheme."