



Policy Brief



REGULATORY FRAMEWORK AND BEHAVIORAL ISSUES OF THE INFORMAL *KHOKHAS*' MARKETS IN PAKISTAN

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INTRODUCTION

This research analyses regulatory framework of informal khokhas market in Pakistan and examines whether such framework facilitate or bar entry into Khokhas' markets. In addition, we examine the behavioral issues one has to face in khokhas' markets. In particular, we want to know, whether legal framework of informal khokhas' market is more deterring than the behavioural issues one has to face here. We assume that the level of both types of issues has implications for making informal khokha's markets competitive and efficient.

METHODOLOGY

This is a qualitative study. We first reviewed legal framework of khokhas markets in Pakistan. For this, we studied documents of legal framework, if any. We also met people in various departments related to khokhas such as food authorities Development Authorities, municipal authorities, local administration, police departments, lawyers, local bodies representatives, political representative of khokha organizations etc. For understanding behavioural issues, we collect primary data from individuals currently running khokhas or who took exit from such business. The survey was conducted in 5 cities of Pakistan including Islamabad, Rawalpindi, Peshawar, Lahore and Mingora Swat.

KEY FINDINGS

There is no legislation at federal or provincial level for khokahs market, due to which there exists no mechanism for issuing and trading of licenses of khokhas. This makes the whole informal street economy unorganized leading to various issues for the local and city administration like congestions,



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traffic jams, obstruction of roads sides and pathways etc. In contrast, there exist a detailed and well defined legal framework in India, Philiphane, Thailand and other South and North American countries. We need to learn from the framework of such countries and come up with legislation at federal and provincial level.

Due to the absence of legal framework, all entrepreneurs, who desire to establish khokhas, enter to the street economy at the risk of losses in the form of confiscation, bribes, threats etc. Islamabad is the only city in Pakistan that framed some policy for khokha owners, however, instead of making such policy a role model for the rest of the country, Capital Development Authority (CDA) put a ban on issuing new licenses since 2011 and even all old licenses have been canceled. Due to the absence of proper rules for obtaining permit for establishing a khokha, new entrepreneurs enter this market at own risk. Therefore, they face, constantly, the fear of demolition, fines, confiscations, and arrest. The absence of proper rules provides a room of regular harassment of current vendors by public authorities. And sometime the carts of vendors are confiscated. We find that confiscation of goods and carts is considered a relatively major issue than the cash bribery by khokha owners in all cities. On average, 10 percent of the revenue generated by vendors is consumed on recovery of confiscation losses, payment of fines and bribery per month.

POLICY RECOMMENDATIONS

Based on the review of laws related to street vending in India, Philippines and Thailand, and selected South and North American countries, the following set of policy recommendations are suggested for designing a comprehensive legal framework of khokhas markets in Pakistan.

Vending Site Selection Authority: Before setting up a khokha, the foremost issue is the selection of vending site. A few countries such as Peru, India and Philippines have established authorities at market, ward or zone level for identifying such sites. In Peru, they have legally defined vending-encouraged, vending-permissible, and no-vending sites. In some countries, the allocation committee include members from vending association to ensure inclusivity in decisions making. Per documents, CDA believes that khokhas are damaging the natural beauty of Islamabad in some places. The solution is to preserve such places by earmarking them as non-vending zones.

Identity Verification and Background Check: Almost every country with a legal framework for khokhas require the applicant to be at least 18 years of age. In Philippines, it is 21 years. In South



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Africa, licensing authorities are authorized to obtain record of any conviction of applicants for vending licenses¹. In Pakistan, we can also introduce such checks in the eligibility criteria for those who desires to set up a khokha in any city. This is to be noted that one of the major reasons behind demolition of Khokhas in Islamabad was the claim that criminals had entered in to the khokha business.

Fixed vs Mobile Vending: The concept of mobile food trucks is very common in New York, Singapore, Bangkok and other cities of the world. In Buenos Aires, separate permits are issued for mobile and fixed vendors.² The same can be done in Pakistan by introducing both types of permits. Mobile vendors will cater the needs of customers of different areas while fixed vendors would benefit consumers as they can find their favorite vendor daily in the same area.

Open vs Restricted Licensing: A major question that evolves in any street vending framework is the upper limit on the issuance of licenses. Should there be an unlimited number of vending licenses, or should it be restricted? Even if restricted, should the restriction be at city level or at neighborhood level? For instance, in New York, the City Administrative Code restricted the total number of food vendor licenses to 2900.³ This resulted in a waiting list of thousands and chances of obtaining a license for a new entrant remains bleak. An unlimited number of licenses can create overcrowding in the cities, occupying the public space and leaving little for pedestrians. Therefore, the legal framework in Pakistan should come up with a reasonable cap on khokha licenses at the start, however, it should be revised at least once in three years as per the market needs and the number of applicants. In addition, trading of permit in open markets be initiated so that permit lands in the hand of efficient in case it did not reach initially to efficient vendors.

Registration with Health and Tax Departments: Many jurisdictions in Europe and North America require multiple licenses before authorization of work to street vendors. In New York, a vendor requires two licenses from the Department of Health, a food vendor license and a mobile cart license⁴. Further, all vendors in New York are required to be registered with the sales tax registration authority. This ensures that the health and safety practices are being followed as well as the government is not deprived from the warranted revenue. Federal Board of Revenue (FBR) Pakistan

¹ Businesses Act, *supra* note 53, at (2) (5) (a)-(b).

² Buenos Aires Ley 1166, *supra* note 94, 11.1.9

³ Street Vending, available at

http://www.nyc.gov/html/sbs/nycbiz/downloads/pdf/educational/sector_guides/street_vending.pdf

⁴ *Sidewalk Standoff: Street Vendor Regulations are Costly, Confusing, and Leave Many Disgruntled*, (2010), p. 2.



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has also launched a drive to register small businesses with sales tax. The registration of street vendors can also become a beneficial step in this regard. However, government should devise a discounted sales tax for the street vendors because of the nature of their customers, who are mostly from lower segments of society.

Transparency and Accountability: There should be minimum discretion at the hands of licensing authority to grant the licenses. As seen in CDA 1986 policy, a 20 percent quota was set under discretion of CDA board. Discretion is against the rules of transparency and fairness. In South Africa, the business laws states that a license must be granted to the applicant unless he fails to fulfill the requirement⁵. However, the authority can deny licenses by changing the requirements from time to time. In some cases, higher discretion allow flexibility in rules but may result the issuance of large number of licenses. In addition, to safeguards the rights of vendors, the applicants and license holders should be given the right to challenge the verdict of the authority as is the case in South Africa.

Subletting: In most of the reviewed laws such as that of Philippines, India, Thailand, subletting of licenses is strictly prohibited. This prohibition stems from the concept of fairness. Vending space is a scarce resource and should be distributed based on equity. In Islamabad, we found that few licensed khokha's owners have subleased the khokha at very high rents, while they paid to CDA very less. This led to rent seeking and the exploitation of poor people.

Prevention of Monopolization: Sometimes suppliers use the vending license to extend their sales. For this purpose, the applicant may not be employed by his supplier or should not be a registered small business. In Peru, the law prohibits individuals employed by suppliers or small businesses to apply for street vending license⁶. In New York, the 1995 city council voted for 'one person-one permit'⁷. Such rules ensure that corporations do not exploit the vending licenses by operating hundreds of stalls across major locations and paying very minimal to their employees. One-person one-license rule can be practiced in Pakistan as well, to cater the most deserving individuals.

Provision of Services: The vendors require various services such as (i) solid waste disposal, (ii) toilets for maintaining cleanliness, (iii) electricity, (iv) warehouse and storage, (v) drinking water and (iv) signages and other facilities as required by the vendors and local community. In the Indian

⁵ Businesses Act, *supra* note 53, at (2)(4) and (2)(6)(a).

⁶ Lima Ordenanza 002; Reglamento de Quito, *supra* note 65, art. 12

⁷ Urban Justice, *Street Vendors Unite!*

Recommendations for Improving the Regulations on Street Vending in New York City, at 4, available at <http://www.urbanjustice.org/pdf/publications/VendorsUnite.pdf>.



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Street Vendor Act, all these services are supposed to be provided by the Town Vending Committee. It is important to note that if such services are self-financed from the fees paid by the vendors, vendors would have to pay higher percentage of their income in fees and taxes. Moreover, it is also essential to understand that provision of services by a national authority may bring uniformity across all areas but services by local authority can cater to the local needs. However, availability of funds with local authorities have remained a major bottleneck in Pakistan. Further, decision to use the fees collected from vendors for the provision of services is with a Municipal Board that has members from vendor's associations. This way, the voice of local vendors is also heard in provision of services and use of funds.