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The spatial politics of food hygiene: Regulating small-scale retail in Delhi

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Abstract In May 2007, the Municipal Corporation of Delhi suddenly banned cooking street foods, with Supreme Court endorsement. Public health concerns overrode implications for the livelihoods of food sellers or Delhi's food culture. This article interprets the ban through an analysis of municipal policy against a backdrop of economic reforms, restructuring retail systems, emerging food safety awareness and growing middle-class claims to the city. It argues that the ban's sudden emergence obscures a regulatory history that consistently privileged particular types of retail, through policy design, formulation and differential implementation. Ostensibly addressing public health, the ban's significance hence lies in reflecting a spatial politics between competing claims of the poor and the middle classes to urban public space.

En mai 2007, la municipalité de Delhi interdisait soudainement la préparation et la vente de nourriture dans les rues de la ville, et ceci avec l'approbation de la Court Suprême. La santé publique prenait ainsi le dessus sur un moyen d'existence important des pauvres, ainsi que sur la culture alimentaire traditionnelle de Delhi. Cet article interprète cette interdiction en tenant compte du contexte plus large de réforme et de restructuration économique, des débats émergents concernant la sécurité alimentaire, ainsi que des réclamations croissantes de la part de la classe moyenne urbaine. Il est soutenu que cette soudaine interdiction va à l'encontre de l'histoire de la réglementation urbaine à Delhi, qui a toujours favorisé certains types de ventes et d'activités économiques à travers des politiques particulières, dont l'élaboration et l'exécution s'effectuent en général de manière différenciée. Bien que semblant répondre à des soucis de santé publique, l'interdiction en question est en fait le reflet d'une politique spatiale dont le trait principal est une compétition entre les revendications des pauvres et celles d'une classe moyenne émergente par rapport à l'espace public urbain.

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Introduction

On 17 May 2007 the Supreme Court of India endorsed a new municipal policy to ban the cooking and sale of food on the streets of Delhi (Supreme Court of India, 2007). Although Justice B.P. Singh did not elaborate on the decision to accept the policy, the Municipal Corporation of Delhi¹ (MCD) argued that the ban would address a growing concern about the risks of poor hygiene of street food and reasoned that food vendors must obey the law (Ramesh, 2007). National and international media sources noted the ban's threat to the centuries-old food culture of Delhi, but widely agreed on its benefits for public health (Dhariwal, 2007; Ramesh, 2007; Sanghvi, 2007; Sengupta, 2007). This paper, however, argues that in terms of food hygiene, the ban is a red herring, unlikely to deliver more hygienically cooked foods to Delhi's residents.

A comparative analysis² of the content and implementation of food hygiene regulations for small-scale enterprises, operating in public and private spaces, demonstrates that the ban is much more about urban spatial politics than food hygiene. It specifically reflects the intensifying contestation for urban space between the surging middle classes and the poor, against a backdrop of a restructuring retail sector and a liberalizing economy. The analysis further demonstrates that the central role of the Indian state in the management and the restructuring of urban space (Fernandes, 2004) extends beyond well-documented domains like urban development and city planning to the seemingly unrelated field of food hygiene.

Food Retail in Delhi

Food retail in Delhi is currently undergoing a transformation from a large number of unorganized units to corporate, vertically integrated retail systems. The Government of India is slowly, but steadily liberalizing the retail sector. It permitted 51 per cent foreign ownership of single-brand retail units in 2006 and multiple-brand stores are expected to soon follow suit. Organized retail's share in total retail sales is expected to increase from 3 per cent to 15–20 per cent by 2010 (Kalhan, 2007). Supermarkets are seen as the imminent future of food retail, and multinational corporations like Tesco vie for access to the lucrative Indian retail market (Tesco boss 'eyes Indian market', 2005).³ Unlike many other developing countries, including neighbouring China, the supermarketization of India has taken off slowly, accounting for only about 5 per cent of food sales in India (Reardon *et al*, 2003). Corporate retail is making major investments in supply chain management, particularly for food and groceries (Kalhan, 2007), and its tight control of food safety and quality in the chain (Dolan and Humphrey, 2004) will cater to the growing consumer demand for safe food in India.

The modernization of Indian retail is also predicted to pose an unprecedented challenge to the unorganized small-scale retail sector, threatening its demise. Initial findings of a study in Mumbai suggest that organized retail severely affects the livelihoods of shopkeepers, family stores and the urban poor involved in street vending (Kalhan, 2007), and impacts possibly extend to client groups such as poor consumers and other street workers. The effects of the 'retail revolution' may be particularly harsh for urban street vendors, whose numbers grew significantly during the last 15 years (Bhowmik, 2002), in spite of quick economic growth (Centre for Civil Society, 2005). An estimated 10 million vendors operate on the streets of Indian cities (Government of India, 2004). Their numbers were fuelled by continuous urbanization, whereas economic liberalization policies facilitated layoffs in public sector enterprises and eroded labour laws that resulted in a reduction in permanent and an increase in short-term employment (Singh, 2000; Jhabvala and Sinha, 2002).

The total number of establishments selling and preparing food in Delhi number at least 150 000 (Office of the Comptroller and Auditor General of India, 1999), of which the great majority are 'mom-and-pop' stores (*kiranas*), small restaurants, roadside eateries or street vendors. MCD public health regulations require any establishment selling food to be licensed, whether a pavement teashop, a luxury restaurant, a mom-and-pop store, a supermarket, a five-star hotel, a roadside eatery (*dhaba*), a pushcart (*rehri*) or a coconut seller at a traffic junction. However, this article focuses on MCD policy concerning small-scale food retail establishments, and distinguishes enterprises operating from

(a) privately owned land and (b) public land. By and large, formal sector food enterprises operate from fixed premises on privately owned land. Enterprises on public land are part of the informal economy, and are referred to as street vendors. Some (street) vendors are mobile, moving from neighbourhood to neighbourhood, whereas many have a regular location, where they set up a stall, a pushcart, and so on to conduct their daily business. Although MCD regulations define only mobile vendors as 'hawkers', judicial and MCD policy documents as well as bureaucratic, media and everyday discourses use 'hawker', 'squatter' and 'vendor' interchangeably. Accordingly, this article considers that (street) vending comprises both static and mobile activity, but where it discusses hawkers, it is done with reference to the MCD definition.

Estimates of the total number of street vendors in Delhi fluctuate significantly, as they are not categorized in government population or employment statistics. Current estimations range from approximately 160 000 (School of Planning and Architecture (SPA), 2004), 200 000 (Jhabvala, 2000; Government of India, 2004) to 500 000–600 000 (Manushi, 2001; Shah and Mandava, 2005). Experts suggest that food vendors make up approximately 10 per cent of all vendors (personal communications, M. Kishwar, S. Bhowmik, August/September 2005). If this is so, Delhi harbours between 16 000 and 60 000 food vendors, for whom the restructuring of food retail could have profound implications.

For these people, street foods provide an important source of livelihoods, although characterized by long working hours (up to 15 hours a day) and legal uncertainty. Food vendors are among the least-educated vendors, but are willing to take entrepreneurial risks, as food vending requires a higher investment, but also offers healthier profit margins than other goods (Bhowmik, 2002). In Delhi, most food vendors are men, although family members often help prepare the foods at home. The foods are bought by customers from all walks of life, although typically by lower- and middle-income labourers, commuters and office workers. In Kolkata, hundreds of thousands people consume street food on any day (Chakravarty and Canet, 1996) and around 30 per cent of Mumbai's workforce buys at least one meal a day from vendors (Bhowmik, 2002), who can be said to lubricate the running of cities. Street foods are not only valued for their taste, convenience and low prices but also offer the cheapest means to obtain a nutritionally balanced meal outside the home (Chakravarty and Canet, 1996).

Urban Restructuring, Middle Classes and Food Hygiene

The contemporary politics of the spatial development and restructuring of Indian cities is strongly associated with the emergence of a growing and increasingly vocal middle class (Baviskar, 2003; Chatterjee, 2004; Fernandes, 2004). In a booming economy, enabled by gradual economic liberalization since 1991, middle-class identities are now essentially produced through new consumption practices and lifestyles, reflecting global commodities and preferences (Fernandes, 2004). These identities are manifested in elite-oriented images of the Indian economy that privilege urban over rural activity, services over manufacturing and agriculture (Wyatt, 2005) and an emerging 'national political culture ... centred on a middle-class based culture of consumption' (Fernandes, 2004, p. 2415).

Increasingly exposed to international media and travel, the middle classes envisage Indian cities one day emulating global cities like Tokyo, London, Singapore and Shanghai

(Chatterjee, 2004). The private sector not only actively shapes the desires and identities of the middle classes but also caters to its requirements and buoyant purchasing power, and this is reflected in new retail developments. Shopping malls have mushroomed spectacularly in the last 10 years and have become bastions of contemporary urban leisure. They harbour cineplex halls, supermarkets and food courts, with the latter serving a sanitized version of street foods. However, many such places selectively cater to better-off groups (Wyatt, 2005; Voyce, 2007), rendering groups such as street vendors and slum dwellers 'invisible'. These development patterns therefore imply a segregation (Fernandes, 2004) of the middle classes from the poor and working classes, or what has also been called a 'spatial purification' (Voyce, 2007).

The state plays a central role in these spatial politics, as a locus of contestation and by exercising its power in the development and management of public space (Fernandes, 2004). In a 'relatively exclusive' Indian public sphere, the middle classes have disproportionate access to information, gravitas to define developmental values and influence on policy (Mawdsley, 2004; Williams and Mawdsley, 2006, p. 668). However, this privilege may not be used to advance social equity (Varma, 1998; Williams and Mawdsley, 2006).⁴

State actors and institutions are hence suffused with middle-class values, promoting a middle-class vision of the city (Chatterjee, 2004), conflating their interest with the public interest, actively coproducing middle-class identities and reshaping the city to suit these (Fernandes, 2004). Hence, during the 2000s, the Government of Delhi advocated a partnership approach to urban governance that was focused on middle-class citizens' groups, like Resident Welfare and Trader Associations, but excluded the poor, who tended not to be organized in such organizations (Vidyarthee, 2006).⁵

Moreover, the state reduced the stock of Delhi's public land through sales to the private sector (Baviskar, 2003), and during the last decade, built new and wider roads, parking spaces and a series of flyovers to cater to the expanding fleet of (middle class owned) motorized vehicles. However, urban planning processes, notably the Master Plans of Delhi, consistently failed to cater to the housing needs of the working poor (Baviskar, 2003), and slum demolitions, beautification drives and street vendor removals have substantially increased since the second half of the 1990s (Jha, 2001; Kishwar, 2001).

The middle classes influence the governance of urban public space through political and judicial processes.⁶ Chatterjee thus argues that the 1990s witnessed an organized middle-class attempt to reclaim public space from the urban poor through judicial rather than political routes (Chatterjee, 2004). This aimed to reverse the outcomes of a process of political mobilization and intricate sets of paralegal arrangements between politicians, officials and the urban poor, which facilitated the latter's access to land during the 1970s and 1980s (Chatterjee, 2004). As the middle classes abandoned the ineffective, and murky municipal politics (evidenced in low electoral turnouts), judicial processes gained prominence (Chatterjee, 2004) and continue to play an important role during the 2000s.

Accordingly, environmental and consumer rights groups pursue public interest litigation (PIL) to reshape Delhi's cityscape by the removal of thousands of polluting industries and the relocation of numerous slum settlements (Baviskar, 2003; Véron, 2006). Although PIL is by no means a 'guaranteed road to relief' and exposed to judicial inefficiency, weak technical competence, limited trust, corruption and uncertain implementation (Dembowski, 2001, p. 62), these cases succeeded, and testified to a gradually revised role for the higher judiciary: from a protector of the poor to a supporter

of middle-class concerns (Chatterjee, 2004; Ramanathan, 2006). This revision was also witnessed in litigation concerning street vending. In 1989, the Supreme Court recognized street vending as a fundamental right, albeit within reasonable restrictions (Supreme Court of India, 1989), following a PIL instigated by street vendor Sodhan Singh. However, by March 2006, the Supreme Court ordered the police and MCD to cleanse street vendors from the highly commercial Chandni Chowk area, following complaints by a local business association, the Chandni Chowk Vyapar Mandal, that municipal authorities had relinquished their duty to remove unlicensed street vendors (Times News Network, 2002). Significantly, the May 2007 ban on cooking street foods in Delhi also emerged from litigation on street vendors' access to public space. Although specified to apply only to Delhi, incorporation in a Supreme Court judgement bestowed the ban with a legitimacy that drives replication in other cities. Whereas the MCD copied its policy from Mumbai, already the municipal corporation of Kolkata is considering a similar ban, albeit on environmental grounds (*The Telegraph*, 2007).

Cities are thus reshaped around middle- and upper-class values that emphasize cleanliness, purity, order (Kaviraj, 1997), aesthetics, leisure, safety and health (Baviskar, 2003). Food safety and hygiene also received growing attention during the last 5 years, typically (but not exclusively) around middle-class consumer goods like bottled water and soft drinks. A Delhi-based environmental NGO made media headlines with reports that pesticide residues in Coca-Cola and bottled water exceeded permissible limits (Centre for Science and Environment, 2003a, b). Other research reported toxic levels of heavy metals like lead in commonly consumed vegetables that were grown in and around Delhi (Marshall *et al*, 2003). The resulting public anxiety played a catalytic role in the development of a new Food Safety and Standards Act (Government of India, 2006b), which puts a legal framework in place facilitating vertically integrated food chains. Moreover, the findings were incorporated into a campaign to lodge PIL in the Supreme Court to establish a 'right to safe food' (personal communication, R. Agarwal, Toxics Link, October 2005).

The ban on cooking food in the streets of Delhi thus addressed the growing concern about food hygiene, but also revealed how the regulation of food hygiene was intricately interwoven with the management and design of urban space. The MCD justified the ban by referring to its importance for public health, but simultaneously argued its benefits for updating the city's image (Ramesh, 2007) and beautifying the city ahead of the Commonwealth Games to be hosted in 2010 (Majumdar, 2007). The MCD proposed food courts as a modern and hygienic substitute for archaic street foods, copying Singapore and Kuala Lumpur by introducing street foods 'at al fresco tables ... in a global avatar' (Gautam, 2007).⁷ However, its sudden resolve to promote cooked, prepackaged foods instead of freshly cooked foods reversed the Health Department's long-established praxis of considering the latter more hygienic (personal communications, senior health officers, MCD, 2006).

Regulating Hygiene in the Small-scale Food Retail Sector

We look at the issue as one of the health of the citizens of Delhi. Cooking in the open is highly unsanitary ... It is not that we are looking to end anyone's right to work or shut down a food culture. [Hawker stalls] can exist within the laws of the land. [However, ed.], they have to be regulated. (MCD counsel Sanjiv Sen justifying the ban on cooking street foods, quoted in Ramesh, 2007)

Multiple jurisdictions

The retail sector⁸ in Delhi is subject to multiple food safety jurisdictions. The state-level Directorate of Prevention of Food Adulteration (PFA) controls food adulteration.⁹ Aimed at detecting the sale of unsafe, substandard foods, with an emphasis on purposive adulteration and contamination, the directorate collects samples of packaged and non-packaged, branded and non-branded foods for chemical and bacterial analysis. Samples are collected from food manufacturers, processors and retailers, but rarely from street vendors (Table 1).

Street foods, despite their popularity, are commonly considered unhygienic (FAO, 1995). Risks relate to vendors' poor personal hygiene, prolonged storage, repeated handling and the use of substandard water and unclean implements (Chakravarty and Canet, 1996). Whereas scientific data on the hygiene of street foods in Delhi are lacking, studies of Kolkata (*ibid.*) and Pune (Gokale, 1992) recorded genuine risks to public and consumer health, notably illegal food additives, colours and microbiological contamination. However, these risks also apply to cooked foods sold at other retail units. The Pune study reported that 'bacterial analysis of 252 samples of food and water taken from all kinds of street food vendors and restaurants found that restaurant food was no better than street food in terms of contamination' (*ibid.*). Accordingly, there is a strong case to improve the safety of freshly prepared foods on sale across the food retail sector.

The MCD Health Department targets hygiene (not adulteration), but it neither conducts any studies and nor does it have the skills or laboratory infrastructure to analyse food samples.¹⁰ Coordination with the PFA Directorate is scant and few educational efforts are made to promote good handling, storage or sales practices among Delhi's food purveyors. Educational materials concerning food hygiene chiefly aim to inform citizens about remedies for food- or water-borne diseases, like cholera and diarrhoea. Moreover, the MCD does not provide water or sanitation infrastructure to improve hygiene at vending locations, and fears that this may encourage encroachment (personal communications, senior health officers, MCD, September 2005/June 2006).

The design and exercise of municipal licensing powers

Licensing and inspection is the chief municipal approach to manage food hygiene risks; however, the design and exercise of these powers is substantially biased against street food vendors.

Table 1: Analysis of food samples by PFA Directorate, Delhi 1994–1998

<i>Year</i>	<i>(a) Total no. of samples collected</i>	<i>(b) No. of samples collected from street vendors</i>	<i>(c) % of (b) found adulterated</i>
1994	1264	0	—
1995	396	0	—
1996	693	44	30
1997	509	26	58
1998	4485	NA	—

Source: Office of the Comptroller and Auditor General of India (1999). NA: not available.

The Delhi Municipal Corporation Act, 1957 (hereafter, DMC Act), mandates the regulation of 'health trades': trades with potential to affect public health. Auxiliary sets of technical and administrative instructions outline licensing conditions.¹¹ Most of these rules and regulations have been in place for many decades and remain unaffected by economic liberalization. For instance, the current MCD licensing manual for health trades dates back to 1979.

To be legally in business, food establishments require a health trade license under Section 421 of the DMC Act, if operating from fixed premises, or under Section 420 for mobile vending.¹² Fixed premises include, among others, restaurants, hotels, roadside eateries (*dhabas*), sugarcane juice crushers and tea-stalls. Licensing conditions assume private land ownership and emphasize infrastructural aspects (for example lime-washed walls, drainage, ventilation, water and electricity connection and so on) and food processing, storage or exposure conditions (for example separation of waste and toilets, covering storage vessels and so on). Moreover, food handlers have to be vaccinated against cholera, typhoid and smallpox (Health Department (MCD), 1979).

Section 420 empowers the Health Department to issue 'hawking licenses' to mobile food vendors operating water and ice-cream trolleys, pushcarts, catering vans and three-wheeled scooters. Food has to be protected from dust and flies, through the use of glass cases and clean vessels. Vendors have to wear clean dress and headgear, have a certificate of medical fitness and carry their license. Moreover, licensees can only sell edibles prepared in a licensed premise (Health Department (MCD), 1979). Health trade licenses are also required for vendors who obtained *tehbazari* licenses (under Section 321, DMC Act) issued by the MCD Licensing Department, to allow vending at a specific location on public land for a 1-year period.

Having to cover at least 150 000 establishments, Delhi's food regulatory authorities are severely overloaded. The Prevention of Food Adulteration Directorate suffers from a 'woefully inadequate' infrastructure and work force (Office of the Comptroller and Auditor General of India, 1999, p. 66). Each of the 12 zonal branches of the MCD Health Department typically employs only one food hygiene inspector, occasionally supported by six or seven public health inspectors, with increasing workloads over time (personal communication, senior health officer, MCD, September 2005).

Health Department officials are suspicious of food vendors, whose living conditions (in poverty) and working spaces (on the roadside) are deemed to irretrievably result in poor hygiene (personal communication, senior health officer, MCD, September 2005). Such attitudes are sometimes ingrained in policy. The MCD, for instance, encouraged water trolleys to sell refrigerated water at Delhi's roadsides, especially during the summer months, because:

In the absence of reasonably safe drinking water at low price, the people ... are bound to be exploited by the unscrupulous traders and roadside vendors dealing in cheap brand of aerated waters and syrups.
(Health Department (MCD), 1979, p. 29)

Licensing rules privilege a limited number of large-scale enterprises, as concentrated ownership facilitates food hygiene control. The Health Department, for instance, links the issue of licenses for water trolleys with the cooling capacity of and parking space available at the water plant. This concentrates the business of water trolleys firmly in the hands of the plant owners, to the detriment of independent, small entrepreneurs. Similarly, licenses for ice-cream trolleys are only issued to ice-cream factories (Health Department (MCD), 1979).

Table 2: Regulatory coverage of hygiene in small-scale food retail, Delhi

Food retail unit	Vendor			Fixed premise		Total
	Tehbazari License	Hawking license	Unlicensed	Licensed	Unlicensed	
Number	< 500	< 500	15 000– 59 000	24.000– 30 000 ^a	55 000– 105 000 ^b	150 000

^aThis figure extrapolates the number of 2000 in South Zone (personal communication, senior health officer, MCD, August 2005) to the 11 other MCD zones.

^bTotal minus number of estimated food vendors and licensed food establishments, with a further deduction of 5000 food establishments for the (geographically small and not densely built up) New Delhi Municipal Council area.

Other health trade licensing rules inhibit food vending. For instance, the rule that only edibles prepared in a licensed premise can be sold prohibited vendors from cooking food on site, selling foods prepared at home or receiving supplies from unlicensed cottage industries. Furthermore, in 1989, the MCD decided that ‘No *rehri* (that is hawking, *ed*) license for sale of food articles is granted by the Health Department’ (MCD, 1989b). This policy decision to restrict mobile food vendors’ access to public space remains firmly in place ever since (personal communications, senior health officers, MCD, September/October 2005).

In the 1970s and 1980s, the MCD regularly issued *ad hoc* daily permissions to street vendors, but the formalization of *tehbazari* policy in the 1990s put a stop to this practice. In March 1990, a first municipal *tehbazari* policy was announced. It considered that only vendors who could show proof of vending before 1982 would be issued a *tehbazari*.¹³ Vendors challenged the policy, but the Supreme Court of India crucially accepted the eligibility criteria. It subsequently appointed the Chopra Committee, which scrutinized 84 624 applications and decided that only 4128 vendors were eligible (SPA, 2004). The number was grossly insufficient to cater to the existing, let alone a rapidly growing vendor population.

Moreover, few *tehbazaris* were reallocated, as a lucrative illegal trade in these sought-after licenses blossomed (Supreme Court of India, 1992), which was sustained by the MCD’s repeated adoption of policies that regularized licenses that had been transferred (MCD, 1983, 1994). However, even if a vendor manages to obtain a *tehbazari* license, mutually exclusive licensing conditions pose a virtually unscalable barrier to obtain an additional health trade license. *Tehbazari* does not allow vendors to build permanent structures on site, whereas health trade license conditions specify minimum structural requirements, including stone walls, water and electricity connections. Consequently, municipal licensing rules and policy decisions regarding *tehbazari* and hawking licenses heavily restrict legal access to public space, rendering most food vendors illegal.

The MCD Health Department, however, also has serious difficulty in ensuring that fixed premise establishments operating on privately owned land are licensed and run in accordance with the rules. In 2000, an MCD survey of restaurants, eating houses, roadside eateries and hotels found a large number running without a license (MCD, 2000). Besides compliance with health trade requirements, issue of licenses to such establishments was also subject to observance of land use regulations set out in the Master Plan of Delhi and municipal building by-laws (Health Department (MCD), 1979). However, such regula-

tions are endemically violated in commercial and residential buildings. Nearly 60–70 per cent of residential buildings do not comply with land use or building regulations (Government of India, 2006). Therefore, not only the great majority of food vendors but also the bulk of food retail establishments operating on private land lack a health trade license, precluding potential positive interventions towards food hygiene. Table 2 presents an estimation of the number of licensed and unlicensed food establishments in Delhi, in the absence of published MCD data.

Enforcement and Regulatory Lenience

The entire responsibility of complying with the technical instructions lies squarely on the health staff to inspect the shops/establishments concerned and put up recommendations for issue/renewal of such trade license. (Health Department (MCD), 1979, p. 1)

Fixed premise food retail

The MCD Health Department enforces food hygiene regulations through routine inspections. The chief hygienic concern regards dust and flies, which are associated with typhoid, hepatitis, cholera, gastroenteritis and enteric fever. Compliance with the criteria for hygiene is subjectively determined, as inspectors do not have access to scientific means of analysis. Typically, 60–70 fixed premise establishments are prosecuted every week in a municipal zone (personal communication, senior health officers, MCD, August/September 2005).

In March 1999, the MCD heavily hiked the fines for selling foodstuffs without a health trade license (under Section 421) from Rs 500 to 5000 (MCD, 1999). However, the infrequency of inspections (due to the enormous workload) and ability to bribe officials mean that enforcement does not pose a real deterrent. Even when strictly enforced, deterrence is limited:

We do prosecutions for the shops which don't have a license ... to close them down. But they pay a penalty and continue with the business. (Personal communication, MCD inspector, June 2006)

Fixed premise food retailers also grew accustomed to regulatory lenience, particularly regarding their violation of land use and building regulations. The Health Department recurrently faced the dilemma of whether or not to overlook such violations, in order to be able to control food hygiene in such establishments. From 1977 to 1998, it discreetly issued licenses to food retailers in 'non-conforming areas',¹⁴ albeit against doubled fees (Table 3).

Table 3: License rates for selected health trades (Rs per annum)

Trade	1977–1998		From 1998	From 2003
	Conforming area	Non-conforming area	General rate	Additional renewal charge
Eating house (<50 seats)	30	60	240	250
Tea shop	20	40	240	250
Hawker	16	32	100	250

Source: Municipal Corporation of Delhi (1998c, 2003a).

Moreover, the MCD granted post-hoc amnesties to fixed premise establishments that operated without a license in 1988, 1994, 2000 and 2003 (MCD, 1994, 2000, 2003b).¹⁵ Amnesties were officially justified as a source of municipal revenue and to ensure hygiene and safeguard public health by enhanced regulatory coverage (MCD, 1988). Regularization thus involves paying a license fee, and sometimes an additional penalty or registration charge. For instance, a one-off registration fee of Rs 100–5000 (depending on the trade) was levied in October 2000 (MCD, 2000). Nevertheless, the repeated need for amnesties suggests a failure to achieve any structural improvement in compliance by the food traders. Moreover, repeated amnesties created an expectation that violation of health trade licensing rules is no serious matter and became convenient benchmarks for future reference. The 2003 regularization was, for instance, justified as:

Whereas, Municipal Corporation of Delhi from time to time has come out with policy for granting trade licenses on *ad hoc* basis. But large number of shopkeepers have been deprived of availing this facility due to not getting information on time or many more reasons and even after the previous policy, number of new shops and dhabas, restaurants etc. have come up. Whereas, on one hand, democle (sic) sword keeps hanging on heads of the shopkeepers for want of trade licenses and besides this, there has been revenue loss to the Corporation too. (MCD, 2003b)

The justification abandons references to public health, but instead (unconvincingly) emphasizes the plight of traders ('not getting information on time or many more reasons') and revenue gains for the MCD. Amnesties thus serve as a political instrument to placate food traders, who are well-organized and have traditionally supported the BJP party, which ran municipal (1997–2002 and 2007–ongoing), national (1998–2004) and Delhi State governments (1993–1998). Food and other traders are thus able to influence new policy, but also insulate themselves from strict enforcement action. In 2000, the MCD Health Department abandoned a concerted effort between the 12 municipal zones to seal all unlicensed food businesses:

No tangible achievement could be made ... and the trades continued to operate. Even the prosecution action taken against these trades did not have the desired deterrent effect. (MCD, 2000)

Similarly, MCD sealing drives against thousands of shops that violated land use regulations, instructed by the Supreme Court of India, prompted protests by all political parties, and led to the trouncing of the ruling Congress Party in the May 2007 municipal elections.

Food vendors

Health Department inspectors have powers to remove (Section 322) and dispose (Section 326 DMC Act) of goods and wares put on sale on the streets. Whereas such powers are rarely invoked to confiscate goods from fixed premise retailers, whose wares are commonly displayed using public space in front of their stores, they play an essential role in the regulation of vendors.

The Health Department workers carry out daily raids affecting 10–15 street food vendors (per zone) and occasional removal drives evicting 50–60 vendors for months at a time. Raiding teams comprising a food inspector and six to eight strong workers halt, catch and chase fleeing vendors. Vendors' property rights are routinely violated or suspended, as food commodities, vending carts and/or cooking equipment of 10–15 vendors per zone per day are destroyed or confiscated. Confiscated goods can be retrieved

Table 4: Food hygiene enforcement, MCD Health Department

<i>Indicator</i>	<i>1988</i>	<i>January – June 1989</i>
Unwholesome food destroyed (kg)	389 287	213 773
Substandard ice destroyed (kg)	493 667	NA
Pushcarts seized	3126	5120
Unlicensed water trolleys seized	711	NA
Unlicensed ice-cream trolleys seized	1293	600
Sugarcane crushers seized	527	513
Prosecutions launched	8857	NA
Composition fee realized	Rs 773 867	NA

Sources: Municipal Corporation of Delhi (1989a, b). NA: not available.

against a penalty and a daily accumulating ‘composition fee’, but vendors do not retrieve perishable foods. Table 4 provides a quantitative overview of food hygiene enforcement activity in 1988–1989.

The municipal commissioner also exercises emergency powers under Sections 376 and 383 of the DMC Act, to immediately restrict or prohibit the sale of (licensed and unlicensed) food and drinks on the street, in order to prevent the spread or the outbreak of contagious diseases. Section 376 carries a penalty of up to 6 months’ imprisonment under the Indian Penal Code and is invoked only in exceptional cases, for instance, to control a cholera outbreak in July – August 1998 (MCD, 1998a). In contrast, Section 383 is invoked nearly annually to notify seasonal bans on the open sale of cut fruits, sugarcane juice and other precooked foods during the summer and monsoon. Such seasonal bans involve increased allocation of inspectors for raids but superfluously target already illegal vendors.

The regulatory climate for street vendors distinctly worsened during the 1990s. New policy measures addressed and constructed vendors as a threat to society (Bhowmik, 2002). The central Minister of Urban Development, Mr. Jagmohan¹⁶ (BJP), had a vision of creating a ‘world-class’, clean and beautiful capital through ‘beautification drives’ that entailed widespread demolition of unauthorized constructions and slums and the forceful removal of many street vendors encroaching public land (Jha, 2001).¹⁷

The Indian state has displayed a pro-business rather than a pro-market orientation during the period of economic liberalization (Kohli, 2007). In Delhi, traders successfully leveraged political channels to affect MCD policymaking. Unlike their peers in Mumbai (personal communication, R. Jhabvala, SEWA, September 2005) or Kolkata (Singh, 2000), Delhi’s street (food) vendors were poorly organized and had no significant collective political influence on councillors to change municipal policy. An emboldened MCD accordingly initiated a raft of policy changes, justified by a desire to generate revenue and to re-establish law and order. On the 3 March 1999, a proposal of the MCD commissioner imparted a sense of general crisis in the city, by noting that despite preventive measures,

violation of the provisions of the DMC Act (civic laws) has increased many times ... threatening to make the statute itself ... completely ineffective’. (Hence, ed.) ‘In order to re-establish the sanctity of civic law and to make the penalties deterrent in the real sense, it has become imperative to upgrade the rates of penalties’. (MCD, 1999)

Table 5: MCD penalty rates regarding street vending, March 1999 (Rs)

<i>Section DMC Act, 1957</i>	<i>Subject</i>	<i>Up to 1999</i>	<i>From 1999</i>
321	Vending without tehbazari	100	500
383	Power to restrict sale of any food/drink in case of disease outbreak	50	2000
420	Hawking without license	100	500

Source: Municipal Corporation of Delhi (1999).

Accordingly, the Corporation significantly raised financial penalties for an extensive list of violations of municipal regulations, including the fines for vending without a license and a draconian 40-fold increase for vending during seasonal bans (Table 5).¹⁸ Moreover, composition fees for confiscated goods and costs of retrieval increased substantially. For instance, retrieval fees for a confiscated pushcart shot up from Rs 100 to 1400.

The increase in penalties was accompanied by stricter enforcement. Whereas municipal statistics recorded 3126 pushcart confiscations in 1988, by 2006, the South Delhi zonal office alone confiscated 2000–2500 pushcarts per annum (personal communication, senior health officer, MCD, August 2006). Extrapolation of this figure to 11 other MCD zones implies an annual total of 24 000–30 000 pushcart confiscations. Municipal enforcement staff attribute the harsher enforcement to the desire by municipal councillors to reduce the number of vendors for a ‘clean Delhi’ (personal communication, municipal workers, June 2006). Minutes of the Corporation’s Medical Relief and Public Health Committee testify that councillors issued instructions to the municipal commissioner to take strict enforcement action, sometimes specifying target locations.¹⁹ For example:

action against hotel Sahara and 21 Mile Stone and number of dhabas which are running unauthorisedly in Ward no. 56 be taken. (MCD, 1998b)

Stricter enforcement, however, increases tensions between the vendors and the officials. Raids are conducted without police support, unlike removal drives, and enforcement teams consider their work increasingly dangerous:

No officer understands what a risky work we are doing for food hygiene ... If [a] mob collects then we cannot do our work. They start questioning why we are doing this ... [they] say we are not letting the poor earn ... we take their livelihood ... They fight at places like Old Delhi ... They have broken our truck’s panes, they put acid ... throw hot oil ... and threaten us with broken bottles ... As there is too much crowd at these places, it becomes even difficult to run out. (Personal communications, municipal workers, June 2006)

Such occupational hazards distinctly shape the working practices of the raiding officials. Teams avoid densely built-up locations, such as slums, lanes and alleyways. Another essential means of eluding difficulties is to shorten their presence at the enforcement site. Raids take place in a dash, lasting only a few minutes. Speed prevents the build up of hostile crowds, but also precludes a balanced approach towards the vendors. Officials indiscriminately confiscate any foods sold on the roadside by a pushcart, whether branded, bottled or sold in the open.²⁰ Vendors are neither asked to present their license, as enforcement teams know that very few licenses are in circulation, nor are assessments made of the hygienic conditions under which food is vended. Enforcement thus hardly

addresses food hygiene issues and predominantly achieves the temporary removal of vendors from public land, as vendors typically return to business several hours after a raid. One disillusioned senior health officer summed up the regulatory approach, with implications for the May 2007 ban, as:

Here we declare all of them illegal and then try to remove all of them ... we don't succeed ... If you think you are able to stop food vending [in this way, ed.], you must be living in a fool's paradise. (Personal communication, MCD senior health officer, June 2006)

Conclusion

Middle-class values, aspirations and identities are rapidly reshaping the physical structure of Indian cities, not least through pivotal state interventions in urban development. As the middle classes have a strong presence in the policymaking and judicial arenas of the state, the state increasingly adopts and propagates a middle-class vision of a global, clean and orderly city. During the last 5 years, awareness of and demand for safe and hygienic food has increased strongly and has now firmly become part of this developmental agenda, as shown in the May 2007 municipal ban on cooking street foods.

The ban, however, selectively emphasizes the lack of hygiene in street foods while displaying amnesia about similar hazards in another large group: unlicensed food retail units. It reverses existing enforcement routines that consider freshly cooked food more hygienic than preprepared foods. Moreover, the ban superfluously targets food vendors, the great majority of whom are already illegal due to the parsimonious issue of licenses. Hence, while ostensibly addressing food hygiene concerns, the ban's significance lies elsewhere.

The ban forms the latest episode in a regulatory history that has consistently privileged retail operating on private space through the design, formulation and differential implementation of food hygiene policy and health trade licensing rules. Accordingly, food hygiene interventions reflect and incorporate a spatial politics between competing claims by the poor and the middle classes to urban public space.

Convoluting licensing rules result in many unlicensed retail units, and licenses have not been issued to mobile food vendors since 1989. The MCD has repeatedly bent licensing rules and issued amnesties for large numbers of fixed premise food establishments operating at privately owned sites. In contrast, vendors operating in public spaces have been confronted with policies that render them illegal and expose them to increased penalties. Vendors' property rights are uniquely suspended or derogated through routine confiscation of goods and vehicles, disincentivizing vendors from investing in hygiene. Moreover, enforcement practices emphasize speed rather than thoroughness, and are neither conducive to nor aimed at improved street food hygiene. The nature of enforcement is hence predicated on whether violations take place on private or public land, rather than according to the nature of the food hygiene threat.

The May 2007 ban will hence fail to improve food hygiene, but will continue to safeguard public spaces from permanent encroachment by the urban poor. However, it is also unlikely to contribute to what some have referred to as 'spatial purification' (Voyce, 2007). Historically, food vendors have remained visibly present, despite being unlicensed or banned, due to a continued demand for their cheap, nutritious and convenient foods by the urban poor. Moreover, intricate mechanisms informally control vendors' access to

public space. The large majority of street (food) vendors in Delhi bribe officials of the local authorities (police, MCD and so on) when they start operating and to prevent being raided. The sums involved are substantial, according to one estimate approaching 400 million rupees a month, and their illicit benefits reach politicians, senior police officers and bureaucrats (Kishwar, 2001). Their entrenched interest provides a strong buffer against the complete and permanent removal of vendors from Delhi's public space.

As street foods are here to stay, the question is how hygiene can genuinely be improved. Whereas corporate retail, catering to middle-class requirements, is trusted to self-regulate safety and quality in its food supply chains, the state is likely to retain a central regulatory role for the small-scale food retail sector. Hence, to protect the livelihoods of food vendors and sustain poor customers' access to affordable street food, and to avoid a growing chasm between hygiene standards in retail segments and resulting health inequities, the state must abandon its current regulatory approach to develop alternative incentives for small-scale food retailers to improve hygiene. Delhi, as India's capital, performs a flagship function and its example strongly influences other cities, either for good or for bad.

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Notes

1. Delhi is the seat of the national government, a state government (the Government of the National Capital Territory of Delhi) and three local authorities. The MCD is a democratically elected body responsible for provision of basic services to most of Delhi, whereas the New Delhi Municipal Council and the military Cantonment Board administer the remaining parts.
2. This research is based on seven months of fieldwork in Delhi in 2005 and 2006, and uses a combination of research methods. Analysis of the policy process drew on Supreme Court judgements, letters of MCD Commissioners introducing and justifying policy change and subsequent Council resolutions (transcripts of political debates in the MCD Council are practically inaccessible). The qualitative interpretation of such data was triangulated through 27 semistructured interviews with MCD bureaucrats, academics and representatives of civil society organizations; individual and group discussions with MCD street-level bureaucrats; and participant observation during regulatory enforcement drives. The research further benefited from insights obtained through a questionnaire survey of 55 food vendors.
3. Wal-Mart started a joint venture with Bharti Enterprises in November 2006 to operate a 'cash and carry' wholesale model.
4. Some provocatively argue that Indian civil society works for the middle classes rather than the poor (Harriss, 2006), but this overlooks civil society's diversity in form and direction. In the case of street vending, organizations like the National Association of Street Vendors India (NASVI), the Self Employed Women's Association (SEWA) and Manushi, while led by middle-class individuals, fight strongly with and on behalf of vendors at local and national policy levels, to achieve remarkable policy change: for example the National Urban Street Vending Policy (2004).
5. Even for participating middle-class groups, the effectiveness of the *Bhagidari* programme has been ambiguous (Gaurav and Singhal, 2003).

6. Policy advocacy should be considered another potentially potent avenue. Although this study links municipal policy change with the political organization of middle-class interests, advocacy analyses require a more micro-level analytical approach. These could, for instance, clarify how advocacy efforts target senior civil servants like the MCD Commissioner, who have key roles in initiating and shaping municipal policy. For examples of advocacy coalition analyses of the National Urban Street Vending Policy and the Food Safety and Standards Act, see te Lintelo (2008).
7. In another contemporary case, the Delhi High Court ordered the MCD to remove stray cattle from the roads, arguing that: 'the capital city of Delhi should be a show window for the world. Stray cattle on the roads give a wrong signal' (British Council India, 2007).
8. In line with Delhi's municipal regulations, retail includes establishments with on-the-premise consumption, like restaurants, eateries, tea-stalls, and so on.
9. However, this administrative arrangement is likely to be revised once the Food Safety and Standards Act (Government of India, 2006b) (which repeals the PFA Act) is implemented.
10. The MCD, however, occasionally had water samples analysed in hospital laboratories.
11. Although the Prevention of Food Adulteration Act (1954) empowers the directorate to issue licenses, it delegated this task to municipal authorities (Office of the Comptroller and Auditor General of India, 1999).
12. Other relevant sections concern butchers, fish-mongers and poultry businesses (Section 415), whereas Section 417 generically prohibits using (non-factory) premises for food processing activities dangerous to life, health or property, but also applies to mom-and-pop (*kirana*) grocery stores. Supermarkets or food courts are not specifically mentioned, but fall under Section 421, DMC Act.
13. The seniority principle was grounded in a unique and unprecedented notion of evidence, constructed primarily in the form of *tehbazari* fee receipts, police or MCD tickets for confiscated goods, or receipts of paying composition fees. Secondary requirements concerned evidence of residence in Delhi, of Indian nationality in the form of a ration card and of entry in the voters' list (Municipal Corporation of Delhi, 1990).
14. 'Non-conforming' refers to the land use regulations of the Master Plan of Delhi.
15. In October 2000, an MCD Expert Committee recommended to permanently de-link the issue of health trade licenses from applicants' compliance with building and land use regulations (Municipal Corporation of Delhi, 2000).
16. Jagmohan headed the Delhi Development Authority during the 'Emergency' (when Indira Gandhi suspended democracy from June 1975 to January 1977), had been in charge of slum clearance and resettlement of 700 000 people in Delhi and mass-scale forced sterilization of the affected (Tarlo, 2001).
17. Rather than the application of global city templates, successful urban governance requires Delhi's policymakers' 'creative imagining of the distinctiveness of this city, rather than simply the application of ideas ready-made from another context' (Robinson, 2006, p. 255).
18. This measure should probably be understood against the backdrop of a recurring, but unusually widespread cholera outbreak in Delhi during the summer of 1998 (Dasgupta, 2006).
19. Councillors also demanded inaction and supported vendors in demonstrations against enforcement drives in front of the municipal offices (personal communication, MCD senior health officer, August 2005). Some vendors were able to cultivate personal links with politicians to shield them from enforcement action.
20. However, roadside trolleys recognizably owned by larger companies (for instance, distributors of Pepsi or Coca-Cola) were left alone, because inspectors knew that such companies were likely to be licensed. Thus, branding not only attracted customers but also repelled enforcement teams. However, some officers instructed their staff not to raid fruit and vegetable vendors, who were not considered as posing a threat to public health (personal communication, senior health officer, MCD, September 2005).

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