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Section III Part 1

Dismantling the License Quota Raid Raj for the Informal Sector: Towards a Bottom Up Agenda of Economic Reforms

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The entire discourse on economic freedom and liberalization of the Indian economy has so far remained obsessively focused on the entry of transnational corporations, the concerns of the Indian corporate sector, and the fate of government-run public enterprises, as they prepare to deal with a market open to competition. These are valid issues and concerns. But, we cannot afford to overlook the fact that Indian and foreign corporations, and the PSUs together provide employment to no more than 3 per cent of our population. Another 3 per cent are employed in various government agencies. The vast majority of people in India (over 90 per cent) earn their living in the unorganized sectors of our economy. The half hearted agenda of liberalization initiated in 1991, has enabled segments of India's corporate sector to become globally competitive and generate enormous wealth in less than two decades. However, the government has steadfastly resisted extending the agenda of economic reforms to the unorganized sectors of the economy which provides employment to over 90% of our working population. A large section of self-employed poor and micro entrepreneurs remain trapped in a web of illegality even while they are pursuing perfectly legitimate occupations and providing valuable services to society because of lethal regulations and controls that govern their livelihoods. This makes them vulnerable to extortion, harassment and human rights abuses.

The exploitative and crime-friendly licensing regimes and "regulations" that control the livelihoods of cycle rickshaw owners and pullers provide an apt example of the predatory role of the Indian state and how it artificially depresses incomes and makes it difficult for people to move out of poverty. The plight of rickshaw pullers also exposes the Kafkesque face of India's socialist pretensions whereby - under the guise of protecting the poor rickshaw pullers from the supposed greed and exploitation of rickshaw owners who rent their vehicles to pullers -the police, municipal officials and municipal councilors, with full sanction of courts, had institutionalized a corruption friendly License Quota Raid Raj which allowed huge extortion rackets to flourish. Even though the following account focuses on the cycle rickshaw sector in Delhi, the rules and regulations that MANUSHI is endeavoring to reform are not very different in other cities of India or in other sectors of the informal economy.

Cycle Rickshaw: A Post Modern Vehicle

- ❖ Rickshaws are a user friendly and inexpensive mode of transport for short distance travel. A cycle rickshaw charges Rs. 10-20 for a commute that would cost 4-6 times in a motorized vehicle. They are called a poor man's taxi because they provide doorstep service at affordable prices.
- ❖ Rickshaw-pulling provides an instant means of livelihood for poor rural migrants, especially those who come during certain seasons when there is no work in villages. Within a few hours of

arriving in the city, a rickshaw puller is able to not only earn enough to buy food for the day but also to save something for sending home.

- ❖ Unlike most other jobs available to migrants, rickshaw pulling offers the greatest flexibility. A puller is free to work as many hours a day and as many days a week as he wants to. He can leave for his village at short notice, in case of a family emergency, sickness or for festivals and other family obligations such as work during sowing and harvest season.
- ❖ Savings from rickshaw pulling are sent home and help sustain their families in the village. Farming would be even more crisis ridden and more destitute people will flood the cities without these urban remittances

A citizen friendly policy requires that this humble, low-cost vehicle be encouraged. But city governments in all those towns and cities where rickshaws are a popular mode of transport have passed absurd and draconian laws to curb the number of cycle rickshaws on the ground that cycle rickshaws are an outmoded form of transport that are out of place in a fast “modernizing” India. They are described as a national embarrassment and a nuisance for traffic management. However, the number of cycle rickshaws has kept increasing despite bizarre laws and regulations to curb their numbers.

Rickshaws are Efficient Use of Road Space

The restrictions on the numbers of rickshaws and bans on their entry in several parts of the city are justified on the ground that rickshaws cause traffic congestion and obstruct the smooth flow of traffic. Facts tell the very opposite story: The primary cause of road congestion is the increasing number of cars and other motorized vehicles in the city and the absence of designated separate tracks for non-motorized vehicles and absence of footpaths for pedestrians—both of which have to precariously jostle for road space amidst chaotic motorized traffic. Delhi already has nearly 600,000 motorized vehicles with a thousand vehicles being added every day.

- When a car is made to go slow due to traffic snarls it emits greater amounts of pollution and also damages the engine.
- A rickshaw is intrinsically slow moving and therefore moves more easily in areas of congestion.
- A car takes at least ten times road space as compared to a rickshaw not only because it is bigger in size but also because road safety demands at least 12-15 feet space between one motorized vehicle and another for safe driving.
- Rickshaws can move bumper to bumper without causing deadly accidents.
- A car is an object of convenience for just the person or family that uses the vehicle. On an average a car provides service to no more than two people a day. By contrast a rickshaw carries at least 30 to 40 persons a day and
- When a car is parked it blocks road space and makes it dead for other road users. A rickshaw, on the contrary, is constantly on the move. Therefore, it represents optimum utilization of road space.

Policy Reform Battles in Delhi

The humble cycle rickshaw has carved out a unique space for itself in most towns and cities of India, including the capital city of Delhi, despite the rapid proliferation of hi-tech cars and other modern means of transport, including the Metro. Since most cities and towns in India lack a modern public transport

system, cycle rickshaws have emerged as the primary means of public transport for short distance travel, including by those families that own motorized vehicles.

During my childhood years, one saw rickshaws plying only in the old Walled City area and the outlying lower middle-class colonies in East and West Delhi. Today, one sees them plying even in the university campuses as well as in the elite colonies of South Delhi where each family has at least two cars. This shows a very active consumer demand for their services leading to a steady growth in their numbers despite daily assaults on rickshaw pullers and aggressive confiscation drives of cycle rickshaws by the police and municipal officials ostensibly to check and control their numbers.

As per the figures provided by the Municipal Corporation of Delhi in its submissions to the High Court, there are over 600,000 cycle rickshaws in Delhi alone, including trolley rickshaws for carrying goods and garbage. This figure may not be accurate because the MCD does not have a reliable count of rickshaws plying in the streets of Delhi, since most of the rickshaws operate illegally and therefore do not show up in the record books. But one thing is clear: the policy of restrictive licensing has failed to keep down the number of rickshaws because of growing public demand for their services.

Controls, Bans and Discriminatory Policies for NMVs

While rickshaw plying is altogether banned in the areas governed by the New Delhi Municipal Council, in the areas under the charge of the Municipal Corporation of Delhi (MCD), the Cycle Rickshaw Bye Laws passed in 1960 (further amended in 1992) state blatantly that their aim is not only to “control” the number of rickshaws plying in the City but to ultimately “eliminate” them altogether. Towards this end the Rickshaw Bye-laws have imposed onerous procedures for acquiring a license, fixed unrealistic quotas for issuing licenses, imposed bizarre restrictions on owning and plying cycle rickshaws arbitrarily declared large parts of the City as “No Entry” zones for rickshaws without as much as putting up sign boards to distinguish entry zones from non entry zones. *The laws are so absurd that virtually every rickshaw—whether licensed or unlicensed, end up being considered “illegal”.* Consequently, thousands of rickshaws are destroyed by the corporation every year and many more are confiscated to be released after paying heavy penalties and bribes.

There are no quotas on the number of cars, trucks and other motorized vehicles plying in urban centers even though they cause deadly air and noise pollution. But cycle rickshaw ownership is subject to severe controls and pitiful quotas. The quota was fixed at 600 during the 1960s; it was raised to 20,000 in 1976; and 50,000 in 1993, when the actual number plying was reported to be 4, 50,000.

In 1997, it was raised to 99,000. The slow and measly increase in the quota did not happen automatically. It was grudgingly sanctioned after rickshaw operators fought long drawn out battles in the High Court of Delhi. The ceiling has always been adjusted in an *ad hoc* and *post facto* manner, but it has never been anywhere near the actual numbers of rickshaws that reflects the growing demand for their services. Up to 2006, the MCD had issued 89,429 rickshaw licenses, nearly 10,000 less than the sanctioned quota. Under the pretext of “scientific management of cycle rickshaw sector, the quota was further cut down to 52,000 in 2007.

Complex Web of Illegality

It is not just the unlicensed rickshaws which are treated as illegal. The web of illegality woven by the municipal bodies in India has made every single rickshaw illegal and liable to severe penalties. Here is a sample of the absurd regulations that govern this trade.

- 1) The Cycle Rickshaw Bye-law"3(1) of 1960 mandates that one needs two kinds of licenses to ply a rickshaw: a) Puller's License; b) Owner's License

These two licenses are not available year-round on demand, as is the case with licenses for motorized vehicles. Applications for these are invited as and when the municipal officials whimsically decide to do so. Applying for a rickshaw owner/ puller license is no guarantee of getting it. For example, since 2007, the Municipal Corporation of Delhi has not issued a single owner or puller license, nor renewed old licenses. **But the offense of one plying a rickshaw without the above mentioned two licenses is punishable with confiscation and destruction of the vehicle!**

- 2) The cycle rickshaw Bye-laws further mandate that "...No person shall keep or ply for hire a cycle rickshaw in Delhi unless he himself is the owner thereof and holds a license granted in that behalf by the Commissioner, on payment of the fee, as may, from time to time, be fixed under sub-section (2) of section 430."

This in effect means that a person cannot own more than one rickshaw which he must ply himself. The absurdity and discrimination inherent in this clause becomes obvious if we consider that a person may own hundreds of trucks, buses and even jet planes but owning more than one cycle rickshaw is illegal. The punishment for owning more than one cycle rickshaw is **confiscation and destruction of the vehicle!**

A person who owns a truck or bus or taxi may hire whoever he/she may like to ply that vehicle. But in the case of cycle rickshaws owner must himself be a puller. The punishment for letting another person, including your own brother, ply your rickshaw is confiscation and destruction of the vehicle!

By enacting a law that prohibits a person from owning more than one rickshaw and by insisting that "owner must also be puller" the government has in fact legislated that:

- A person who begins his life as a puller, must die as a puller;
- The poor must remain manual laborers all their lives;
- The poor are not allowed to become even petty entrepreneurs.

Malafide Defamation

MCD officials have thus far justified their absurd "Owner Must be Puller" policy using socialistic sounding rhetoric that they need to "protect" the poor and vulnerable pullers from the greed and exploitation of rickshaw owners—disparagingly referred to as "rickshaw dons", *thekedars* or rickshaw mafia". As per the propaganda war unleashed by the MCD officials and avidly absorbed by the media and socialist minded activists, rickshaw owners represent a criminal type exploitative class of people, because they live off the rent charged from "poor pullers". They have been able to get the Supreme Court and various High Courts of India to outlaw their existence by projecting them as anti social elements who fleece the poor. Hence the "owner must be puller" policy is justified on high moral ground as being pro-poor. The reality is just the contrary – a case of defaming those who they exploit most.

When the owner of an airline acquires an additional fleet of planes, or a truck owner manages to expand his fleet to several hundred vehicles, he is celebrated as a successful entrepreneur. But when a person comes to acquire a few dozen or a few hundred rickshaws, he is stigmatized as a mafia don. A truck costs no less than Rs 10 lakhs. Thus a person owning 100 trucks or buses owns a capital of no less than 10 crores.

A new rickshaw costs about 7000 Rs. Even if you own 100 rickshaws, it represents a total capital of no more than Rs 700, 000. Calling a person who owns a few dozen rickshaws a mafia don amounts to treating upward mobility and entrepreneurial spirit as a virtual crime for those among the poor who manage to rise higher in life. Why should a man who starts his working life as a puller remain a puller all his life?

Contrary to the official version that the rickshaw trade is controlled by mafia dons, my investigations have shown that most rickshaw owners started their lives as pullers or mechanics. (See “When Victims are Defamed” for profiles of a cross section of rickshaw owners in MANUSHI issue No. 137.) However, a small group of rickshaw owners have acquired some of the characteristics of mafia dons because the municipal officials use them as their touts. All licenses are routed through them. Small fleet owners have to seek their patronage and protection or else their vehicles are specially targeted for confiscation. This group is most unhappy at the prospect of a liberalized licensing policy because that would eliminate their monopoly. They would rather work illegally through pay-offs than allow easy entry to newcomers and small fleet owners.

Why Pullers Prefer not to Become Owners

MCD policy mandates that “Owner must be Puller” and vice versa, but 99 % of all cycle rickshaws are owned by entrepreneurs who own small or big fleets ranging from 5 to 500 rickshaws. However, the percent of owner pullers is relatively higher for trolley rickshaws that are used for carrying goods than for passenger rickshaws which are at present rented out at Rs 40 to 50 per day. In the last 15 years of working with the rickshaw trade, I have personally come across only a handful of pullers who own their own passenger rickshaws. Getting a rickshaw license is almost impossible for a poor man because:

- Unlike registration for cars, trucks and buses rickshaw registration is not open all year round. It is open and shut arbitrarily every couple of years for 4-6 weeks as and when the MCD pleases. Licenses don’t come without heavy bribes and cumbersome legal procedures. The vehicle is liable to confiscation and destruction if the puller does not succeed in getting a license. Impoverished pullers can neither afford the time required in getting a license nor the risks involved in owning a rickshaw. The vehicle can be confiscated for any flimsy reason, even if it is licensed.
- Most rickshaw pullers are seasonal migrants. They leave their families in the village and come for few months at a time. They have to go back for marriages, festivals etc. Many also have small land holdings. Therefore, they have to be in the village during sowing and harvest operations. During family illnesses and other emergencies they have to leave for their villages at short notice. In such a situation they have no way of ensuring safety of the vehicle if they were to own it, especially since the municipal laws do not allow them to loan their vehicle even to a

close relative, leave alone rent it to a fellow villager. Even when they are in the city, most sleep on pavements or share small *jhuggis* with fellow migrants. They have no place to park their vehicle safely at night. To avoid the risk of losing the vehicle, pullers therefore find it convenient to rent from fleet owners who have relatively greater staying power on account of the multiple vehicles they own and the contacts they cultivate with the MCD staff and police.

- Most pullers are too poor to buy a vehicle of their own. Even if they were to manage to raise the required funds to buy a new or second hand vehicle, getting the two required licenses for owning and plying a rickshaw is made impossible for a genuine puller. Since plying an unlicensed rickshaw invites confiscation, most pullers cannot afford to take the risk of buying a rickshaw. Thus the “Owner Must be Puller” policy actually acts against self ownership.
- Both licensed and unlicensed rickshaws are confiscated under the guise of checking licenses. Rickshaw owners then run after municipal officials and try to strike a bargain so that they can get the vehicle released before it is entered in the record book. Even if it turns out that the man pulling the rickshaw is indeed the owner of the vehicle, he cannot get the vehicle released without paying a minimum penalty of Rs 325, that too if he manages to get the vehicle released the same day. Each day it stays in municipal yard, the owner pays a store charge of Rs. 100 per day plus expenses on paper work all of which amount to no less than Rs 500-600. After 7 days the vehicle cannot be released. It is meant to be crushed and sold as junk.
- In addition to the routine confiscation drives by municipal inspectors, both licensed and unlicensed rickshaws are routinely confiscated by the police on the ground that they are causing road congestion. By contrast, cars or buses are never impounded simply because there is a traffic jam on the road. This too makes rickshaw ownership a very high risk venture.

Real Reason for Denying Licenses to Pullers

Despite the pro puller rhetoric of the rickshaw policy, pullers are actively prevented by the MCD staff from owning rickshaws by various devious means. They are not given owner licenses even if they are willing to pay the demanded bribes. From the point of view of the MCD staff there is sound economic reason for it. Rickshaw pullers are constantly on the move. Therefore, it is very difficult for municipal staff and the police to collect daily bribes from lakhs of floating population of pullers in the city. It is far easier for them to collect bribes from rickshaw fleet owners who have set places and workshops where their vehicles are parked at night and repaired during the day. It is also easy for them to keep a count of the vehicles owned by each fleet operator. In addition, they get wined and dined by the fleet owner.

The modus operandi for bribe collection is simple. Each rickshaw body carries a code word or the name of the fleet owner who has a “setting” with the MCD officials and local police for paying the agreed upon bribe. The MCD officials find it convenient to collect lump sum monthly bribes from such fleet owners because they can keep an eye on the yards where the owner parks his rickshaws and keep a count on the number of vehicles each one owns. In addition to the monthly bribes they also get wined and dined by the fleet owner to keep them in good humor. Some of the enterprising fleet owners also start a patronage racket of their own whereby they allow the smaller fleet owners to use their code word plates in return for a monthly fee. This brings them into conflict with MCD

officials who feel cheated that the fleet owner is evading paying his dues by under reporting the number of vehicles plying using his code word plate.

No Legal Parking, Arbitrary “No Entry” Zones

Huge amounts of public space is provided for authorized car parks, including provision of multi layered underground parking lots built at huge cost. By contrast, there are no authorized parking spaces for cycle rickshaws. Therefore, their presence is illegal everywhere. The owners have to pay regular bribes to the police and municipal official for using public space for parking rickshaws. Rickshaw Owners’ Unions have fought prolonged battles in the High Court and Supreme Court for allocation of parking spaces. As a result of interventions by the Delhi High Court, 406 rickshaw stands were sanctioned for parking rickshaws way back in 1990’s. However, the sanctioned parking stands exist mostly on paper.

Since there are hardly any authorized stands for rickshaws the traffic policemen routinely inflict the *danda* treatment on the pullers on the ground that they have no right to park their vehicles on the roadside. Again, the main purpose of these beatings is to keep them in a state of terror so that they do not resist paying bribes.

The MCD and police arbitrarily declare No Entry Zones for rickshaws, without as much as notice board declaring that rickshaws are barred from entering a particular area. However, since the public demand for rickshaws continues to be high, even in “No Entry Zones”, rickshaws continue to ply in these areas. All it means is that pullers are subjected to routine beatings by the police and have to pay bribes to operate there. For instance, the minimum amount charged by policemen for letting a cycle rickshaw reach the New Delhi Railway Station from the Ajmeri Gate side is Rs 10 per trip. It is a common sight to see the policemen puncture the tyres of rickshaws with sharp metal objects as punishment for plying in crowded areas or entering supposedly forbidden zones. The rickshaw puller has to pay for these multiple punctures from his own pocket, thus depressing his daily income. If he is plying a trolley rickshaw loaded with heavy goods, it means loss of the day’s income plus the additional strain of pulling a flat tyred vehicle to a nearby repair shop. In addition, the traffic police and MCD officials routinely confiscate rickshaws to “decongest” roads in areas where they are not banned. Some of these are released after on the spot pay offs. Many of these get dumped in municipal yards and are released after hefty penalties involving a great deal of running around to complete legal formalities. For any real or imagined traffic violation, the police are allowed to charge a minimum of Rs 100 as fine from the pullers or simply confiscate the vehicle.

In to the Status Report filed by the MCD before the High Court in the “Hemraj & Others Versus Commissioner” Delhi Police and Others, it had stated that “from 1st April, 2005 to 30th June 2006, about 60,000 rickshaws were impounded by the MCD”. This is indicative of the number of rickshaws confiscated and destroyed every year. In addition more thousands are confiscated and released after payoffs without being entered into municipal records.

Colossal Income Losses

The illegal status of cycle rickshaws makes their owners and pullers vulnerable to extortion on a variety of pretexts. In addition to regular monthly bribes, there is regular loss of income due to confiscation, fines and destruction of vehicles. An unlicensed rickshaw once shown in official records as confiscated

cannot be released even after paying fines. It has to be destroyed. Therefore, owners have to produce bogus documents in the name of their pullers to get the vehicle released. For every rickshaw that is entered into municipal records as a confiscated rickshaw, at least 10 are released through pay offs demanded from rickshaw owners. If we add to it the bribes extorted by the municipal officials and the Traffic Police from each owner and puller on account of arbitrary entry bans on rickshaws in most parts of the City, based on information collected through interviews with pullers and owners, in Delhi alone the terror unleashed by the License-Quota-Raid-Raj on rickshaw owners and pullers leads to loss of income through bribes and confiscation of rickshaws worth a minimum of Rs 360 cores per year. This figure is based on information gathered in 2001. Things got much worse between 2001 and 2010 when Manushi managed to convince the High Court to strike down the existing policy as unconstitutional and ban the destruction of NMVs.

Prime Minister's Historic Intervention in 2001

In response to a series of Public Hearings of rickshaw pullers and owners, and street vendors organized by MANUSHI, Prime Minister Vajpayee announced a new policy for cycle rickshaws and street vendors in Delhi in August 2001. The covering letter accompanying the New Policy Concept Note sent to the Lt Governor of Delhi endorsed MANUSHI's charges regarding extortion rackets resulting from the existing policy and underlined the urgency of reform in the following words:

- (i) The policy of restrictive issue of licenses for hawkers and rickshaw pullers is a perversion of the SC judgement in *Saudam Singh vs. NDMC and others*, 1987, which ruled that hawking, etc. represented a fundamental right to livelihood, and was subject only to reasonable regulations to avoid potential social costs of these activities (e.g. street/pavement obstruction).
- (ii) The restrictive licensing system enables rents to be collected by the officials who process, issue, and enforce licenses. These rents are estimated in the Manushi study to be approx. Rs 50 crores a month. (While the study followed a rather informal methodology/approach, the figure is not beyond credibility, coming to c. Rs 1000 per month per hawker. The number of unlicensed hawkers is estimated at 500,000, while those licensed are just 20,000).
- (iii) Hawkers and rickshaw pullers are also subject to atrocities by these functionaries, e.g. destruction or misappropriation of the hawkers wares or impounding/destruction of rickshaws, by these functionaries.
- (iv) It is time that the licensing system is reformed so that the hawkers and rickshaw pullers, belonging to the poorest sections of urban society, are enabled to pursue their modest livelihoods without extortion. *This would convey the message that policy reforms benefit the poor, and not only the middle class or well-to-do.*

(Extract from "A Concept Note" sent by the Prime Minister's Office to Lt Governor of Delhi, August 23rd, 2001)

Key features of this policy are as follows:

- The **laws of market** demand and supply should determine the number of vendors and rickshaws in the city rather than bureaucratic quotas.

- The metropolis may be divided into “green”, “amber” and “red” zones, representing respectively free access, fee based access and prohibited access.
 - There must be an **absolute prohibition** on municipal and police authorities from impounding, destruction, or seizure of goods and equipment, except when permitted under other laws.
 - Any person who wishes to be a rickshaw puller/owner or street vendor may do so by a **simple act of registration** involving two steps: (a) reliable identification by any means and (b) payment of a nominal fee to cover costs for issue of a photo identification card.
 - **Purpose of the registration** is to provide reliable identification for the purposes noted above. It is not a permit to ply the trade. No such permit is needed.
 - A registered rickshaw puller/ street hawker who wishes to operate in “amber” zone, may do so by **paying a fee**, upon which a sticker to the effect may be affixed on the registration id.
 - Numbers of street hawkers/cycle rickshaws in the “amber” zones may be regulated by adjustment of the amount of fee periodically. **Penalties for plying** in an “amber” zone without payment of fee may involve a financial penalty, in addition to the fee, but there must be, in any case, an absolute prohibition on municipal and police authorities from impounding, destruction, or seizure of goods and equipment.
 - **Non-government organizations** with a record of working for the welfare of these groups may be authorized to interface between them and the concerned authorities.
- (The full text of the Prime Minister’s historic Policy is available at www.manushi.in)

Operation Sabotage and the Farce of “Scientific Management”

Even though the Prime Minister wrote a strong letter requiring the then Lt Governor of Delhi to implement the new rickshaw policy with urgency, what Delhi witnessed was brazen sabotage of the PM’s new policy by the office of the Lt Governor, municipal officials and Delhi Police. All three joined hands to impose many more repressive regulations to the existing regime of fleecing rickshaw owners and pullers. Confiscation drives became far more frequent and regular.

In addition, the MCD and Delhi Police deftly manipulated an innocuous petition by a person named Hemraj who demanded that the MCD be held to account for illegal encroachments in the old walled City, to project cycle rickshaws as one of the main causes of road congestion before the Court. (Hemraj vs C.P. Delhi CWP 3419/99) With misleading information supplied by the MCD and Delhi Police, the Delhi High Court ordered a complete ban of cycle rickshaws in the Chandni Chowk area ostensibly to avoid traffic congestion and ensure its smooth flow. In the same order, cycle rickshaws were prohibited on all arterial roads of Delhi. The reason provided by the High Court was that these roads are meant for motorized transport and the plying of rickshaws in these areas would slow down the traffic, resulting in congestion. However, it is well known that much of road congestion is due to poor observance of traffic rules and non-implementation of lane-driving, and because no separate lanes have been provided for slow moving non-motorized traffic such as cycle rickshaws, handcarts and cycles.

After the Court’s ruling in the Hemraj case, the MCD imposed many new and onerous restrictions on cycle rickshaw plying that were not only unrealistic, but amounted to a virtual war on this trade. In 2007, Mr Vijay Singh, the MCD’s Nodal Officer for Rickshaws, who was till recently also the Deputy Commissioner of MCD City Zone, introduced what he called a scheme for “Scientific Management” of cycle rickshaws in Delhi. As a start, in the Resolution passed by the MCD adopting Mr Singh’s new policy, the very existence of cycle rickshaws was described as a “problem” and the road map was its ultimate elimination. The rest of distortions in the mandates issued by the MCD flow from this mindset.

The 2007 policy starts on an ominous note: “The management and enforcement of Cycle rickshaws, cycle rickshaw trolleys and handcarts have deteriorated substantially in Delhi giving rise to a large number of unlicensed rickshaws causing enormous problems to vehicular traffic, pedestrian movement and encroachment on public land. *In order to take immediate corrective action it is proposed that each zone is provided with 50 Home Guards, ex-servicemen from Delhi Soldier Board or security guards from professional agencies for capturing the unlicensed rickshaws and removal of encroachment on public land caused by them and one jeep for ferrying the seized rickshaws to designated stores in the zones.*”(Emphasis mine)

It is precisely the fear of frequent confiscation, heavy amounts needed to get the vehicle released, and the possibility that the vehicle may be scrapped any day, that act as a disincentive for rickshaw owners to improve technology. In the 1950’s rickshaws of Delhi used to be very colorful. They have deteriorated because of daily war against them by the police and municipal officers MCD. Instead of removing this fear, the Nodal Officer unleashed daily confiscation drives.

The pilot project was meant to pave the way for implementation of Vijay Singh’s new policy/scheme in all the zones of Delhi involving the following measures:

- 1) **Quota for licensed rickshaws further reduced to 52,000 for all of Delhi:** Despite repeated queries, we failed to get an answer as to what “scientific” calculation was undertaken to arrive at this absurd figure. At a time when the number of rickshaws is increasing despite stringent quota and licensing procedures, there was absolutely no justification for reducing the numbers further rather than dismantling the dysfunctional quota system altogether.
- 2) **A private agency named Indevelop was made responsible for managing the affairs of the cycle rickshaw trade:** Its job includes imposing penalties, identifying illegal rickshaws, confiscating the vehicles and destroying the supposedly illegal ones. For this they were assured the services of Home Guards and ex-servicemen. Thus, in addition to the confiscation drives by the police, a new set of parasites were supposed to be unleashed on cycle rickshaw owners.
- 3) **Censor Chip to be installed in each licensed rickshaw:** Indevelop was assigned the job of installing censor chips in each licensed rickshaw in order to make it easy to distinguish between licensed and unlicensed ones. The justification given for installing these “scientific” gizmos is “security reasons.” Rickshaws are open vehicles and pose the least security risk because as a non-motorized vehicle, it is impossible for a rickshaw puller to commit a crime and disappear fast.

The real reason for the insistence on sensor chips is as follows: Rickshaw owners are expected to pay a certain monthly bribe for each rickshaw they own. Some of these vehicles have *benami* licenses while others are altogether unlicensed. Despite the hawk-like watch kept by the MCD inspectors and traffic police personnel, rickshaw owners manage to hood wink them regarding the number of vehicles they own and hence the bribe amount due to be paid by them. For example, an owner who has 100 *benami* licenses will duplicate the license plate issued by the MCD or the code word agreed upon for unlicensed rickshaws and put it on an additional 100 rickshaws. The bribe collectors have no way of checking whether the figures of ownership revealed are correct. However, with censor chips, it would be harder for fleet owners to hood

wink the MCD inspectors. Thus it is “security of bribes” they are worried about even though the excuse offered is “national security”.

There would be no need for rickshaw owners to under report or cheat about the number of rickshaws they own if the entire regime of controlled licenses is dismantled and people are free to own as many rickshaws as they want, and a puller or new entrant can also get a license on demand.

- 4) **Owner must be Puller” policy to be enforced more stringently:** (Resolution No. 563 of the Standing Committee dated 7.2.2007.) To “eliminate” the existence of rickshaw owners who rent out rickshaws, it was resolved that impounded rickshaws would not be released even after paying penalties and would be destroyed within 7 days if the owner was not himself pulling the rickshaw. Earlier an owner was given 15 days to prove his credentials and pay penalties to get the vehicle released. Given that there are hardly any owner-pullers in the rickshaw trade this made every single rickshaw a candidate for more stringent confiscation drives.

5) **Qualifying criteria for issue of licenses made even more absurd:**

- a) **Rickshaw puller must own private parking space:** One of the new conditions introduced for the grant of cycle rickshaw license was that “the owner-cum-puller must have sufficient private space for parking. In case of non availability of private space, the vehicle will be parked at night at the designated parking place with a fee of Rs 10/- per rickshaw per night. No owner-cum-puller rickshaws/cycle rickshaw will be allowed to park his cycle rickshaws, cycle rickshaw trolley or handcart unauthorisedly on public land. Monthly parking charges will be Rs 250 per month with 50% sharing with MCD.”

The absurdity of this requirement becomes apparent if we consider the following:

- As seasonal migrants most pullers cannot even afford to rent a miserable shanty in a slum which costs no less than Rs 1000 per month. They need to save every rupee they can for their village based families. Therefore, many sleep on pavements, in parks, and most of them sleep in the rickshaw yard from where they hire the vehicle. Many actually sleep on the cycle rickshaw itself because they are afraid the vehicle will be stolen if they go to sleep on a nearby pavement.
- Even if three or four of them manage to rent a jhuggi jointly, are they expected to park their respective vehicles inside the tiny shacks and sleep outside braving the elements? Most jhuggies are also in unauthorized slums liable to frequent removal. Therefore, this provision was only meant to tighten the noose of illegality and make rickshaw pullers even more vulnerable to extortion and human rights abuses by the police and MCD officials.
- Car owners, truck owners, bus owners are not required to own a private parking space. They all use public spaces for parking their vehicles. At least 90% of private cars are also parked in public spaces because very few even among the upper middle classes in Delhi have houses big enough for private parking space. Why then this special requirement for impoverished rickshaw pullers? The least they deserve is equal treatment before law!

- b) **Medical fitness to be certified:** “Every year, at the time of renewal of license, the owner-cum puller will be required to undergo a medical checkup at a Govt/Municipal Hospital or by a MBBS doctor.” The message is clear that if a man fails the medical test, he will be denied a puller license.

It is well known that the poorest of the poor come to pull rickshaws. Most of them are undernourished and underweight. Many have poverty related diseases like TB. Considering that the government does not have any year-round employment for such people and their families, does it have the right to prevent them from earning their livelihood through whatever legal means available to them? In any case, in India even medical degrees are available on sale, leave alone medical certificates. Therefore, this provisions was meant to provide yet another avenue for extortion with touts appointed by MCD officials running a whole industry of bogus medical certificates for a fee.

- c) **Residence proof required for Delhi:** Under the new regime, “License will be granted only to a person who has a valid ration card or voter ID card of Delhi and has been residing in Delhi for at least one year. This condition...will help those who are genuine persons and prevent the unwanted social elements from obtaining a cycle rickshaw license. This condition is necessary to discourage the people from obtaining rickshaw license who come to Delhi for a short time and are not at all familiar with traffic rules of Delhi causing lot of inconvenience and hindrance to the smooth traffic flow.”

How does a person who has not stayed in Delhi for over a year and failed to obtain a voter ID of Delhi become a potential “unwanted social element?” If anything, fresh rural migrants are less prone to crime. It is only when they have been exposed to our crime infested cities that some of them get sucked into the underworld. Given that most rickshaw pullers are seasonal migrants, this insistence on limiting the issue of puller licenses to those who have acquired a permanent address and voter ID card for Delhi is going against genuine needs of rural migrants for instant livelihood when they reach the City. How will they survive in the City and acquire a legal address during this one year? Why is the voter card of the person’s native village not good enough?

- 6) **The plying of Cycle Rickshaws, Cycle Rickshaw Trolleys selling goods and Handcarts to be restricted to their respective Zones.** No rickshaw, rickshaw trolley or handcart of one zone will be allowed to ply in other zone. However, the Cycle Rickshaw Trolleys transporting goods will be allowed to ply from one zone to other subject to traffic notifications.

The utter absurdity of this clause becomes obvious if one considers the fact that **there are no visible** borders demarcating one municipal zone from another. Nobody knows where one municipal zone ends and where the next one begins. Even in case of inter-country movements, a passenger shows his/her passport (and visa if required) and takes the vehicle across national boundaries. No one is expected to leave their vehicles behind and get into another vehicle when crossing national borders—whether between US and Canada, within nations of the European Union or even between hostile neighbors such as India and Pakistan.

It would be ridiculous to expect a passenger who hires the services of a rickshaw puller at point A in Zone 1 of MCD which is 500 yards from a neighboring zone to get off the rickshaw at an invisible and border hire another rickshaw to commute to point B of Zone 2.

Its only purpose was to provide yet another tool of harassment and bribery at the hands of MCD inspectors who can extract endless amounts of money from pullers on charges of violating inter-zonal restrictions.

7) **Mandatory Driving Tests for Pullers:** Every owner-cum-puller was expected to clear a cycle rickshaw driving and traffic rule test to be conducted by the agency before being granted a license. The reality is that MCD has never put any system in place for carrying out such tests. Nor are they likely to do so in the foreseeable future. These certificates would also be available on sale through touts.

8) **Rickshaw Owners to pay Indevelop yearly fee and also pay for ads to be pasted on rickshaws:** The contract signed with the private company entitled it to raise revenue for its services by charging a fee of Rs 300 per year per rickshaw. It also entitled the company to paste commercial advertisements on each rickshaw bestowed with a license. In case the rickshaw owner refused to carry the commercial ad decided upon by Indevelop, he had to pay Rs 800 per year to the company.

The audacity of this measure speaks volumes for the spirit behind the “scientific management” scheme. It is a common practice for advertisers to pay the owner of the space at which they advertise their goods. In this case, the owners would have to pay a penalty if they refuse to carry ads while there is no provision for sharing revenue if they agree to carry the assigned ads.

9) **New licenses to be issued according to an imagined “rickshaw carrying capacity of roads and lanes”:** After arbitrarily reducing the quota for rickshaws to 52,000, the MCD added yet another restrictive clause enabling the Deputy Commissioner of each zone to deny licenses at will on the ground that his zone did not have the carrying capacity for any rickshaws. No such limitations are imposed on cars and other motorized vehicles. In any case, the MCD has not institutionalized any rational mechanism for determining the carrying capacity of any road.

10) **During implementation of the new policy, plying of existing rickshaws to be stopped altogether:** “All the unlicensed cycle rickshaws/cycle rickshaw trolleys/handcarts plied by unlicensed pullers are to be scrapped within 7 days after their impounding.”

With this one stroke in 2007 every single rickshaw including the 89,429 odd previously licensed vehicles became illegal because, not a single new license was issued nor any of the old licenses renewed under the “scientific management” scheme between 2007 when the High Court struck down the cycle rickshaw policy as unconstitutional. However, a special drive was launched vide order dated 07/04/08 to seize unlicensed cycle rickshaws, cycle rickshaw trolleys and handcarts.

Rickshaw owners claim that 750 applications had been submitted by “owner pullers” under this scheme. They admit that all the applications were actually filled by their own men to get *benami* licenses since no rickshaw puller came forward to apply. However, despite incurring substantial

costs for procuring necessary documents, not a single person got either a puller's license or the owner's license. *And yet a puller who plied a rickshaw without a license was fined Rs 300 for each violation and after being caught 7 times, the rickshaw was impounded and destroyed.*

Against the claim of rickshaw owners that they filed about 750 applications, MCD submitted in the High Court that "Under the pilot project in City Zone, till today only 77 applications for cycle rickshaws without advertisement and 53 applications for cycle rickshaw trolleys have been received." If we were to take MCD's claim at face value, it only proves that those for whose benefit the MCD launched this scheme had rejected it as worthless. In any case, even these 160 odd applications had not been processed till 2010 when it was struck down by the court.

- 11) **Every rickshaw owner who does not conform to the new system to be penalized at Rs 100 per day till a month, followed by impounding and destruction of the rickshaw.** It is noteworthy that no other vehicle is subjected to such a draconian penalty such as destruction of the vehicle.
- 12) **Penalties for other violations:** For any other violation except being unlicensed or driven by unlicensed puller, a fine of Rs 300 was to be imposed by the MCD. In case of seven violations in three months, the rickshaw license was to be cancelled and rickshaw was to be impounded and scrapped. These violations relate to traffic rules, parking, design, fitness or any other condition prescribed in Cycle Rickshaw bye laws under the DMC Act.

Considering that the average daily earning of a puller is about Rs 150, a fine of Rs 300 for plying a rickshaw a puller does not own is simply outrageous. No one in MCD faced any penalties for their failure to implement their pet scheme but it has been punishing rickshaw owners and pullers for its failure to do so by more frequent confiscation drives.

Given that there are no legal parking sites as of date, given that even licensed rickshaws are confiscated, given that MCD has no expertise on appropriate rickshaw designs, a draconian penalty of this kind was gross misuse of bureaucratic power.

- 13) **All of City's main roads were declared, "No Entry Zones" i.e. out of bounds for cycle rickshaws.** The new scheme provided for **instant forcible seizure of rickshaws plying on arterial roads** in MCD areas and mandatory scrapping and dismantling of the same within 7 days of being impounded:

Earlier the mandatory fine was Rs 100 plus 25 per day as storage charges. This was increased to a minimum fine of Rs 300 plus Rs 100 per day as storage charges. This was done despite the fact that the Cycle Rickshaw Byelaws of 1960 lay down a maximum fine of 50 Rs only.

The absurdity of this can be gauged from the fact that without using arterial roads and other entering these "No Entry Zones" rickshaws cannot ply even in many of the "permitted" zones. Delhi's arterial zones cut through dense residential areas, often dividing each colony into two. For example, Mathura Road, an arterial road, divides Nizamuddin East from Nizamuddin West, Jungpura Extension and Jungpura A, Friends Colony East & West. Similarly the Ring Road divides South Extension Part I & Part II, Punjabi Bagh East and West and so on. The ban on entering arterial roads virtually means one cannot use rickshaws even for intra-colony commutes, leave alone commuting to neighbouring localities. This made their existence virtually illegal

everywhere. Rickshaws were also banned in the walled city -- Chandni Chowk, Sadar Bazar, Khari Baoli, and Station Road, where these vehicles are the primary means of transport. Their entry was also banned in *gallis* of the walled City which are not 4.5 meters wide. Their entry is banned in numerous other busy commercial centres, such as Lajpat Nagar Central Market.

On the one hand rickshaws were banned on wide arterial roads so that motor cars can run fast. On the other hand they were banned from narrow gullies of the Walled city on grounds that gullies are very narrow, even though only cycle rickshaws can reach those narrow lanes!

The ban on arterial roads and arbitrary declaration of No Entry Zones was in blatant violation of the Master Plan of Delhi 2021 which has the force of law since it is passed by Parliament. The Master Plan mandates that cycle rickshaw tracks be created on most arterial roads. It also recommends that crowded commercial areas be pedestrianized and that rickshaw use be encouraged in these areas and entry of motorized vehicles should be restricted.

The reality is that rickshaws continue to ply on these roads by paying bribes because the zonal and arterial restrictions imposed are totally unrealistic. In any case, since not a single license has been issued to pullers since 2007, none of them have been assigned any specific zone to ply in. Therefore, they are illegal no matter where they operate.

Rental Charges and Commutes become More Expensive

Since the bribe rates escalated sharply with more rigorous confiscations drives, the owners compensated themselves by a sharp increase in the daily rental of rickshaws. In 1996, when we first got involved with this issue, the daily rental for the rickshaw was Rs 12 -15 per day. By 2000, it had risen to Rs 20 per day. The rentals started increasing sharply after the PM's policy announcement in 2001 because MCD and Traffic Police launched an unprecedented aggressive drive of confiscation and destruction as though in revenge against the Prime Minister Vajpayee's intervention. It rose to Rs 25 per day in 2002. The steepest rise came after the new policy of 2007. Today, the daily rent has increased to Rs 50 day in most parts of the city. The monthly rent thus comes to nearly 1/6 of the cost of the new vehicle. This may appear exorbitant for a vehicle that costs about Rs 7000 per month. But given the costs of maintenance, loss of income due to bribes, penalties and destruction of vehicles and the high risk and stress involved in dealing with the police and MCD, most pullers find it economical to rent it than to dare own the vehicle.

The increased rental have led to doubling of charges for rickshaw commutes in most areas. Today a rickshaw puller in Delhi earns Rs 150 to 250 per day depending on the number of hours and distances he pulls the rickshaw as well as the area in which he plies. Thus a rickshaw puller earns at least 4 to 7 times of what he pays by way of rent. By contrast, a man who hires a three-wheeler auto rickshaw pays Rs 350 per day towards the rental for the vehicle and earns on an average Rs 300 per day. Thus despite the extortion rackets, this sector provides relatively high returns on modest investment for both pullers and owners.

MANUSHI Petitions the High Court

In June 2007 MANUSHI filed a second writ petition in the Delhi High Court against the unconstitutional and exploitative provisions of the Cycle Rickshaw Policy of the MCD. We argued that the arbitrary ceiling on licenses violates Article 14 of the Constitution of India. It also goes against, and is in contempt of, earlier Supreme Court Orders both in letter and spirit as given, for example, in *All Delhi Cycle Rickshaw Operators Union v. Delhi Municipal Corpn.* AIR 1987 SC 648 (Para 4) and *Nanhu & Ors. Vs Delhi Administration & Ors.* 1981 (1) SCR 373) which give aggrieved parties the right to challenge arbitrary ceilings and quotas, and directs the Delhi Administration to adopt reasonable and relevant criteria in setting ceilings on the number of licenses to be issued for Delhi. Also, it goes against the spirit of the Supreme Court Order which directs that there is need for positive measures to protect the rights of rickshaw pullers rather than a negative ban on licensing. We also pointed out that banning rickshaws from all arterial roads was a clear violation of the Delhi Master Plan 2021 which has the force of law.

We demanded that cycle rickshaws sector be:

- Treated as an integral part of the public transport system and recognize it as a legitimate trade
- Provided year round open registration as opposed to restrictive licensing.
- Freed from discriminatory laws such as the “Owner must be Puller” requirement.
- Freed from arbitrary quotas on the number of rickshaws that can ply in the city.
- Freed from the threat of confiscation and destruction of the vehicle under the guise of decongesting the City.
- Provided separate tracks, as part of giving due space to all forms of non motorized vehicles;
- Brought under fee based regulation of numbers rather than arbitrary bureaucratic quotas.
- Provided affordable space for repair yards, night parking lots and stands for halts between commutes.
- Provided assistance to upgrade rickshaw technology.

The full bench of the High Court presided over by the Chief Justice AP Shah gave us a very favorable hearing after years of battling court’s hostility. On 10th February 2010, the High Court delivered a historic judgment declaring the existing rickshaw policy and regulations unconstitutional and ordered the Delhi Government to draft a new legislation to treat cycle rickshaws as an integral part of road traffic in the city and provide dedicated tracks for them. It directed the Government to constitute a Special Task Force for this purpose. The new law drafted by this Task Force forbids the confiscation and destruction of NMVs, and requires year-round registration on demand for NMVs. Failure of municipal officials to provide registration for rickshaw pullers and owners within a specified timeframe will be treated as “Deemed Registration”, thus dismantling the entire edifice of the License-Quota Raid Raj afflicting the rickshaw sector. It also mandates the creation of an empowered NMV Use Promotion Authority (NUPA) to create a harassment-free environment for this trade. This new law drafted by Manushi provides a concrete example of the direction we need to follow to evolve a Bottom up Agenda of Economic Reforms.

However, the Municipal Corporation and the Delhi Police have challenged the High Court’s judgement in the Supreme Court. Their prime argument is that the city cannot afford to provide road space for NMV license if the heavy load of motorized traffics on city roads. This, in effect, amounts to declaring that cities have to cater only to the well off and the wealthy who own motorized vehicles. The poor should simply disappear since the government does not recognize their claims over the urban infrastructure,

Even if the Supreme Court were to deliver a favourable verdict upholding the high Court order, the real battle will be in getting the new law actually implemented in Delhi, and other towns and cities of India.

To Conclude

The poor in India need no subsidies, no special concessions to move out of the poverty trap. All they need is freedom from perverse bureaucratic controls and a safe environment that keeps at bay the sarkari mafias that prevent them from earning a dignified living through their entrepreneurial skills and siphon off a large part of their hard-earned incomes through bribes.