

A Future for Informal Services?

The Cycle Rickshaw Sector as Case Study

ASHIMA SOOD

A February 2010 judgment of the Delhi High Court called into question several assumptions underlying policy thinking on the cycle rickshaw sector. Examining these assumptions in the light of new research and advocacy efforts, this article considers the prospect of policy and regulatory reform. With the cycle rickshaw sector as a case study, it argues that the punitive regulatory framework governing the sector embodies the dualist or even parasitic models that inform policy on informal services more broadly. Assessing the larger viability and contribution of informal sector activities requires more attention to local and sector-specific micro-processes.

If economic debates were settled in court, then the February 2010 judgment of the Delhi High Court striking down key aspects of the long-standing Delhi Cycle Rickshaw Bye-Laws of 1960 could count as a clincher. The questions it implicitly answered were: Is the cycle rickshaw sector, like other informal services sector activities, doomed to die out as the “Walmart” theory of economic development suggests (La Porta and Shleifer 2008), with policy simply a facilitator of that inevitable outcome? Or do informal services have a role to play in a modern economy, one that policy should actively recognise and encourage?

By decisively affirming the latter policy path, the judgment not only overturned legal precedent, but also called into question a whole series of assumptions underlying policy thinking on the cycle rickshaw sector. Though ostensibly applicable only to Delhi, the judgment allows revaluation of the legal framework governing the cycle rickshaw sector in other cities across India. More broadly, the verdict also offers an alternative lens to examine the informal service sector’s role and fate, one that is more informed by local micro-processes than macroeconomic analyses. The cycle rickshaw sector can be seen as a (legal) test case with the potential to reinvigorate wider discussions about the future of informal services in India’s economy, and the appropriate policy response towards them.

While the February 2010 judgment and subsequent developments also have critical implications for transport policy in urban and metropolitan settings, these issues remain outside the scope of this essay. Using case law, news reports, secondary survey data from Delhi as well as primary field data from Bilaspur, Chhattisgarh, this essay employs the judgment as a lens to examine the policy and regulatory framework for the cycle rickshaw sector as well as the larger viability and contribution of informal sector activities.

The next section lays out the terms of the academic debate on the informal sector. Then I analyse the judgment and what it tells us about the relevance of the policy assumptions underlying the Delhi Cycle Rickshaw Bye-Laws of 1960, with a special focus on the so-called “owner-plier” policy. The following section speculates on the prospects of nationwide policy reform for the sector. The last section offers an assessment of the productive potential of the cycle rickshaw sector and other informal services in the light of recent innovations.

Debating the Cycle Rickshaw

To understand the terms of the larger debate surrounding the informal sector, note that almost from the time of its coinage

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Ashima Sood (ashima@epw.in) is with the *Economic & Political Weekly*.

the term “informal” was understood to characterise a set of economic activities that were and would increasingly become more marginal as economies developed (Bhowmik 2009). A recent and influential exposition of this “dualist” paradigm in mainstream development economics – the “Walmart’ theory of economic development – by economists La Porta and Shleifer (2008: 344-47) argues that “high productivity comes from formal firms and in particular from large formal firms”.¹ They contrast the dualist model to a “romantic” view, ascribed to Hernando De Soto, which posits that the productivity of informal sector firms is constrained primarily by lack of access to secure property rights and finance and by government regulations. The far more jaundiced “parasite” view of the informal sector, which La Porta and Shleifer trace to the McKinsey Global Institute, suggests that “informal firms ... hurt growth both because their small scale makes them unproductive and because they take away market share from bigger, more productive formal competitors” (2008: 277). Using cross-country World Bank data to test these three models, La Porta and Shleifer find most support for the dualist model and conclude that the informal (or “unofficial”) economy “with its millions of entrepreneurs” has little to contribute to modern economies (2008: 347) and can be expected to “disappear” over time. The appropriate policy stance towards the sector is one of benign neglect to help hasten this inevitable demise, with more proactive encouragement and support to formal economic activity.

In India, however, the empirical predictions of the dualist model must be juxtaposed against the startling finding of the National Commission for Enterprises in the Unorganised Sector (NCEUS 2008) that even as late as 2004-05, more than 86% of employment was in the informal sector (30) and no less than 92% of all workers were informal (44). In the services sector alone, informal workers were as high as 80% (NCEUS 2008: 45). Despite its ascendancy in developing economics, the dualist orthodoxy has come under challenge from other paradigms, emerging from both academic and non-academic sources (Bhowmik 2009; Chen 2005). The De Soto legalist (or romantic) view, which emphasises the costs of formality, continues to hold considerable sway among activists and even researchers in the informal sector. Similarly, “structuralist” models developed by Alejandro Portes, Castells and others, which see informal sector growth as an outcome of capitalist growth patterns, have become persuasive as informal employment has grown noticeably in crisis-hit countries in Latin America and elsewhere (Chen 2005).²

With the possible exception of the legalist or romantic paradigm, however, these models tend to draw on macro-economic data and focus on macroeconomic trends. Seeing the informal economy as one category, these models often overlook the vast heterogeneity in institutions, locales, contractual forms, causal mechanisms and outcomes among informal sector activities.

Returning the focus to sectoral and geographical specificities allows for a more context-sensitive assessment of the prospects and challenges facing workers in the informal

economy. A fine-grained view such as this also helps highlight areas and possibilities of dynamism and innovation.³ With the cycle rickshaw sector as a case study, I argue that particular features of the policy and regulatory framework emerge as significant determinants of sector outcomes. The court’s verdict in Delhi serves to underscore the need to pay attention to such micro-processes.

Policy Models in the Cycle Rickshaw Sector

While the 92% figure for informal workers cited by the NCEUS may have entered the realm of the commonplace, the influence of the dualist paradigm among policymakers in India has proved remarkably tenacious. It is not surprising that the dominant policy stance towards informal services sector activities, up to and after the constitution of the NCEUS, has primarily been one of neglect (Bremman 2010).

When it comes to informal services, however, regulation especially at the local level has gone a step further. As in the case of informal retail and street vending, municipal laws and their enforcement have sought to actively discourage growth of the cycle rickshaw, seeing the sector as parasitic in its use of public road space.⁴

The cycle rickshaw sector is the archetypal informal sector, whether judged by Keith Hart’s original four features (see, for example, Bhowmik 2009) or the longer set highlighted by the NCEUS (2008), characterised by low skill and capital requirement, ease of entry and a predominantly migrant workforce, as well as proprietary or partnership modes of ownership of assets. The sector’s underpinnings lie in a *de jure* illegal rental market, embodied in the so-called garages that supply the means of production to 70% or more of all cycle rickshaw drivers.⁵ Although estimates vary widely, up to 6,00,000 cycle rickshaws were said to run in Delhi alone, including those used to ferry goods, as of 2006 (Kishwar 2006). Nationwide, numbers are even less reliable but the sector may employ as many as eight million drivers.⁶

One of the first attempts at regulating this incipient sector, the Cycle Rickshaw Bye-Laws of 1960, and the surrounding municipal law enforcement apparatus in Delhi were formulated long before the term “informal sector” gained academic currency. They embody, however, the assumptions of a dualist, or even parasitic, understanding of the sector. Awkwardly balancing a paternalistic sensibility that purportedly attempts to protect the cycle rickshaw driver from “exploitation” by customers as well as garage owners, they embed a set of measures that can only be described as punitive, as the following sections explain.

While specific features of this regulatory framework, particularly those that came under challenge, are discussed in the following sections, it is worth noting the level of detail at which the legislation seeks to monitor activity in the sector.⁷ Specifications are provided for the width, length and height of the cycle rickshaw as well as for the driver’s conduct. The resulting framework, over the course of several years, amendments and case law has become a marvel of over-regulation, what critics have called a “licence permit quota raj”, drawing

an analogy with the licence raj of the 1991 liberalisation days (Kishwar 2012). It creates a series of nearly insurmountable hurdles for the rickshaw driver and nearly unconstrained rent-seeking opportunities for the enforcing agencies.

On the ground, this punitive regulatory framework and its enforcement have been driven by the prejudices that affect informal sector activities and workers. The cycle rickshaw simply did not fit into postcolonial visions of the city in India (Baviskar 2011). From early on, it was deemed to be an exploitative and anachronistic mode of transport, partly due to identification with the hand-pulled rickshaws of Kolkata.⁸

With the automobile becoming the vehicle for aspirations in a fast-growing economy, cities such as “world-class” Delhi have made strenuous accommodations for it (Baviskar 2011; *Mid-Day* 2009). Cycle rickshaws, on the other hand, get in the way of these supreme symbols of mobility and are held responsible for violating traffic laws and causing congestion and pile-ups (see, for example, Times News Network 2010a). The Delhi Police counsel in the Delhi High Court case hearings encapsulated these attitudes succinctly.⁹

Cycle rickshaws not only add to the congestion on the roads and foot-paths but also occupy space as the rickshaw puller is too poor to own a residence or dwelling... He lives on the pavement, rests in the rickshaw, eats and washes on the pavements which not only causes strain on the civic resources of the city but also encourages them in developing unauthorised colonies/Jhuggies giving rise to social problems in the city (High Court of Delhi 2010: 27).

Against this background, the February 2010 judgment was a concrete verdict on the failure of the punitive approach in Delhi. Versions of the Cycle Rickshaw Bye-Laws of 1960, however, continue to litter municipal laws across the country and have often been frighteningly successful in achieving the goal of choking the sector they putatively regulate.

Before turning to the situation elsewhere, the next section describes in greater detail the specific provisions of the Bye-Laws that came under scrutiny in the February 2010 judgment and why they are no longer relevant in Delhi and elsewhere.

Bye-Laws and Case Law

The February 2010 Delhi High Court ruling came in response to a public interest litigation (PIL) filed by Manushi Sangathan and the Initiative for Transportation and Development Programmes (ITDP)¹⁰ seeking a review of the punitive legal framework faced by the cycle rickshaw sector in the city. The three-judge bench of the Delhi High Court comprised justices Ravindra Bhat, S Muralidhar and then chief justice (since retired) A P Shah (High Court of Delhi 2010: 2).

The judgment considered five broad issues that affect rickshaw driver livelihoods (High Court of Delhi 2010: 28).

(1) Whether the Municipal Corporation of Delhi’s (MCD) restriction or cap on the number of licences for cycle rickshaw “plying” was constitutional and valid.

(2) Whether Article 3(1) of the Cycle Rickshaw Bye-Laws of 1960, which states that subject to minor exceptions, “No person shall keep or ply for hire a cycle rickshaw in Delhi

unless he himself is the owner thereof and holds a licence... on payment of the fee” was valid.

(3) Whether the MCD has a legal right under the 1960 Bye-Laws and a previous 2007 judgment to impose penalties and impound and destroy cycle rickshaws that are in violation of these legal requirements.

(4) Whether the zoning regulations that restrict the operation of cycle rickshaws in certain parts of the city, especially on main, arterial roads, was valid.

(5) Whether it is possible to evolve a policy for assuring parking and dedicated road lanes for cycle rickshaws.

As should be evident, each of these questions has a direct bearing on the ability of cycle rickshaw drivers to earn livelihoods and also on the future of Delhi’s roads. In this article, however, I focus on (1) and (2), given their significance to larger informal sector policy debates. Note, however, that, as argued, the impounding and destruction of confiscated cycle rickshaws under (3) violated the right to property of rickshaw owners. Similar powers would have been near unthinkable for other forms of private corporate capital.

The petitioners appealed to the constitutional rights to life and livelihood under Article 21 and property as well as the Delhi Master Plan 2021, which explicitly recognised and encouraged non-motorised forms of transport. In their judgment, the high court judges quashed the MCD’s claims on (1) and (3), and declared Article 3(1) void, a major revision of previous rulings and one that I examine in detail below. Though the bench did not pass definitive orders on (4) and (5), it called for a thorough review of these questions, partly through a task force set up for the purpose.¹¹

In 2006, a different bench of the same high court had accepted an argument banning cycle rickshaws from certain parts of the city and barring the issue of new cycle rickshaw licences (Sudworth 2006). The 2010 judgment thus represents a reversal of that and several other related rulings, some of which are discussed below. Accepting the petitioner’s argument that circumstances had changed significantly in the 50 years the Bye-Laws had been in operation, the judges noted,

The complete change in ground realities, such as phenomenal growth of Delhi’s population in the last 22 years; the unprecedented rise in motor vehicular population ... the increase in number of new colonies, high rise buildings, growth in employment and livelihood potential in Delhi, ... are all features which were absent ... An added circumstance is the incremental and negative impact of pollution levels in the environment and the city generally. All these were recognised by the Delhi Master Plan, which mandates the promotion of non-motorised traffic or services, like cycle rickshaws (High Court of Delhi 2010: 49-50).

Changing Ground Realities

The history of the licence cap reveals the gap between the law book and the reality on the road. The 1960 Bye-Laws allowed for no more than 750 cycle rickshaw licences (High Court of Delhi 2010: 3). This number was increased to 20,000 in 1975 and to 50,000 nearly 20 years later, in 1993, and finally capped at 99,000 in 1997, a limit that continued till the court struck it down in 2010.

As Table 1 shows, the number of cycle rickshaws in operation is less reliable. Sources suggest that even in 1993, nearly 4,50,000 or nearly nine times the number of licensed cycle rickshaws were thought to run on Delhi roads. In 2006, when the 99,000 cap was upheld by another bench of the Delhi High Court, the city authorities estimated 6,00,000 cycle rickshaws were in operation (Kishwar 2006).

Table 1: Number of Licences and Cycle Rickshaws in Delhi

Year	Licences	Cycle Rickshaws
1960	750	–
1975	20,000	20,000
1993	50,000	4,50,000
1997	99,000	–
2006	89,429	6,00,000-7,00,000*

* Includes trolley or cart rickshaws for carrying goods and garbage.
Source: Delhi High Court (2010) and Kishwar (2006).

What explains this mind-boggling divergence between what the law permits and the reality on the roads? It is arguable that this discrepancy reflects the long-standing policy invisibility of the informal/unorganised economy. The licence cap demonstrates how policy and law has, implicitly and explicitly, been geared towards the ultimate goal of eliminating the rickshaw in all its forms from Indian roads (Mitra 2002).¹²

Yet, paradoxically, the exponential growth of the sector despite this cap could not have occurred without official knowledge and even connivance. Activists have documented in considerable detail how extortion rackets at all levels are a fact of life for rickshaw drivers and owners (Kishwar 2006). Indeed, it has been argued that rent-seeking drives growth and ownership patterns in the sector, with police and municipal officers finding it easier to deal with larger fleet owners than smaller ones (Shah 2001). This applies to even the renewal of driving licences, since under the Bye-Laws licences are valid only for three years (High Court of Delhi 2010: 39).

The continuing resilience and expansion of the cycle rickshaw economy in Delhi under these conditions points to the disparity between the vision and the reality of Indian cities. Even as the state has attempted to excise the cycle rickshaw from the road, demand from lower-middle and middle-class passengers and the limitations of other forms of public transport has allowed the cycle rickshaw to emerge as a form of para-transit par excellence, filling gaps in the public transport system. The coming of the Delhi metro has expanded, not diminished, the relevance of this sector (Kishwar 2006) and in the absence of an effective bus-based feeder service, cycle rickshaws have found a new market near metro stations. Interestingly, between 2001 and 2007, cycle rickshaws increased their share in daily trips from 2.4% to 6.4%, according to RTES and The Energy and Resources Institute 2010 data in the study *Traffic and Transport Demand Study for the National Capital Territory of Delhi* (Sahai and Bishop 2010).¹³

To an extent, thus, the judgment reflects an increasing recognition of ground realities, concretised not only in research by transport planners (Tiwari 2002), but also the Delhi Master Plan 2021, which was notified in 2007.

Market Prohibitions

The ruling on Article 3(1) of the Cycle Rickshaw Bye-Laws 1960 – the so-called “owner-plier” policy – was in some ways the more significant part of the decision. The court ruled that

it was an “unreasonable restriction”, accepting the petitioners’ argument that “rickshaw pliers are hostilely discriminated by the owner-plier policy, which condemns them to an impoverished existence” (High Court of Delhi 2010: 45).

Yet, the court’s judgment represents only half the battle won. With minor modifications, similar provisions are included in the Punjab Cycle Rickshaws (Regulation of Rickshaws) Act, 1976,¹⁴ the Bihar Cycle Rickshaw Act, 1979 (Singh 2000) and the Madhya Pradesh Ordinance No 20 (1984).¹⁵ Article 3(1) and its many incarnations in municipal law throughout the country are relaxed only for “disadvantaged sections” such as widows or disabled persons, up to a maximum of five licences.

Essentially tantamount to a legal proscription on the cycle rickshaw rental market, as the high court noted, this provision not only makes ownership by non-drivers illegal, but also criminalises rickshaw driving by non-owners. The spread of this provision across India starkly illustrates the knowledge gaps that have marred regulatory processes in the informal sector setting of the cycle rickshaw.

The logic underlying this provision sees the rental relationship between the driver and the owner of a cycle rickshaw through a wage employment lens and holds it to be fundamentally exploitative. A 1987 ruling on the matter in *All Delhi Cycle Rickshaw Operators Union vs MCD and Others* explains the position thus,

The Punjab Act is beneficial legislation bringing directly home to the rickshaw puller the entire fruit of his daily toil. The enactment is intended as a social welfare measure against the exploitation of the poor and unemployed by rapacious cycle rickshaw owners who by reason of their superior financial resources fatten their wealth from the sweated toil of rickshaw pullers (AIR 1987 SC 648, quoted in High Court of Delhi 2010: 41).

Given this understanding among policymakers and the courts, it was not surprising that the provision resisted or sidestepped several legal challenges. For instance, the Punjab Cycle Rickshaws (Regulation of Rickshaws) Act, 1976 was twice questioned in the Supreme Court. In the first instance, justice Krishna Iyer did not directly address the constitutionality of the provision and instead set up a loan scheme through nationalised banks to help rickshaw drivers buy their own rickshaws. However, when petitioners sought a direct opinion on constitutionality, the Court upheld both the scheme proposed by justice Iyer and the Punjab Act itself.¹⁶

Even as recently as 2001, in a petition seeking identification of additional rickshaw stands by the MCD, the Delhi State Cycle Rickshaw Operators Association was advised by its counsel to drop a related petition against the owner-plier policy, given the Supreme Court’s decision in the All Delhi Cycle Rickshaw Operators Union case, cited above.¹⁷

So what changed over the decade between the 2001 and 2010 rulings? Led by activists and advocacy efforts by organisations such as Lokayan Jan Parivahan Panchayat, Manushi Sangathan and, more recently, the ITDP, among others, a deeper and richer knowledge base has emerged on the sector. Evidence and data gathered by these organisations, as well as academic studies in Delhi and Bilaspur, have forced a

re-examination of older paternalistic assumptions about the sector (Sood 2008; Kurosaki et al 2007).¹⁸ Three broad characteristics of this sector are key to an altered understanding – patterns of petty accumulation, the presence of seasonal and temporary migrants, and the costs of ownership.

Petty Accumulation: While some cycle rickshaw driver unions have raised concerns about so-called rickshaw mafias,¹⁹ activists note that even garage owners with fleets of more than 1,000 rickshaws have a total investment of no more than Rs 4 to 5 lakh (Table 3), which makes them only petty capitalists.

The pertinent question relates to the possible monopoly power associated with concentrated ownership. Here, evidence from Bilaspur suggests that under conditions where there is relatively little interference from city authorities, the overwhelming majority of “garages” are tiny operations, operating in highly competitive conditions (Table 2). It also appears that there are possible diseconomies of scale at larger sizes (Sood 2008). These conditions ensure that most cycle rickshaw drivers have enough choice of garages to be able to avoid “exploitation” in the classic sense.

Further, according to the Jan Parivahan Panchayat’s 2003 survey in Delhi and the National Capital Region (NCR), as many as 39% of their sample of more than 300 rickshaw owners had previously been pullers themselves (p 78). Of these, nearly a quarter had driven a cycle rickshaw for more than five years before they graduated to ownership. Prohibiting the rental market blocks the way to even this petty accumulation (Shah 2001).

As the judgments on the Punjab Cycle Rickshaws (Regulation of Rickshaws) Act, 1976 show, till recently, the assumption remained that minus credit constraints, all cycle rickshaw drivers would choose to purchase their vehicle. However, this assumption has been complicated by evidence on the costs of ownership, especially for particular classes of cycle rickshaw drivers.

Seasonal and Temporary Migrants: In its judgment, the Delhi High Court judges acknowledged the presence of large numbers of migrant drivers in the sector who “cannot or do not wish to own rickshaws due to compulsions of temporary or seasonal residence in Delhi” (High Court of Delhi 2010: 49). Such temporary migrants may retain substantial ties to their place of origin and face prohibitive storage costs. In some cases at least, they may be unwilling to make the investment to switch to cycle rickshaw driving full-time and year-round.

The numbers of temporary migrants are notoriously difficult to estimate (Deshingkar and Farrington 2009). Deshingkar and Farrington (2009) attribute the entire workforce of the sector,

of eight to 10 million nationwide, to temporary migration. Evidence from a study in Bilaspur that used a multidimensional measure of migrant status shows that at least 5% of drivers were commuters who travelled to the city daily to rent and drive cycle rickshaws (Jain and Sood 2012). Further renter drivers were less likely (36% versus 49%) than owner drivers to describe the city as their place of origin; they also made substantially larger numbers of visits to their place of origin. Qualitative interviews also suggested that temporary migrants flooded the rental market in particular times of the year. Another study from Delhi (Nandhi 2011) also suggests that only about 18% of sampled rickshaw drivers stayed in the city throughout the year.

Costs of Ownership: Though the low purchase price of a cycle rickshaw is expected to allow for quick recovery of investment, maybe in even as little as 10 months (Sood 2008), the cycle rickshaw as a vehicle is also prone to non-negligible repair and maintenance costs. Interview data from Bilaspur suggests that the effective life of a cycle rickshaw may range from five to 10 years for the best-maintained vehicles. Garage owners with multiple cycle rickshaws can afford to employ mechanics and allay some of the depreciation costs by switching components between vehicles. The sample costs in Bilaspur are described in Table 3.

Table 3: Reported Fixed and Variable Costs for Garage Owners, Bilaspur, Chhattisgarh (2003-04)

	Lowest (Rs)	Highest (Rs)
Monthly variable costs	150	300
Purchase price for new rickshaw	4,000	5,500
Purchase price for second-hand rickshaw	1,500	4,000
Rental rate for 24-hour period	15	20

(1) Monthly variable costs include spare part maintenance and replacement costs but do not include mechanic’s salary or labour charges. The monthly salary for mechanics hired by garage owners ranged from Rs 1,500 to Rs 3,000. (2) Garages did not report the implicit cost of storage since most of them operate on encroached land owned by the government.

(3) In the absence of accounts, garage owners reported rounded numbers in all cases.

Source: Data from Bilaspur (Jain and Sood 2012).

It is also worth noting that the vast majority of garage owners provide repair and maintenance services as part of the rental contract. (Nearly 87% of cycle rickshaw renter drivers surveyed by the Jan Parivahan Panchayat said that the cost of maintenance was borne by the owner.)²⁰

Interestingly, one of the earliest institutional models for supply of cycle rickshaws in Delhi took the form of a cooperative providing storage and maintenance services.²¹ The most interesting recent institutional innovations in the sector, such as the Rickshaw Bank introduced by the Guwahati-based Centre for Rural Development, approach the issue by attempting to remove credit barriers to ownership.²² Indeed, as has been argued (Kishwar 2012), a thriving cycle rickshaw economy like the one in Delhi has space for a rental market as well as for owner-drivers.

Finally, when it comes to costs of ownership, in cities where enforcement is especially dire, regulatory costs and explicit fines comprise another major expense. Reports from cities like Nasik (Mitra 2003) and Nagpur (TNN 2010) also attribute low rates of ownership to the difficulty of procuring a licence.

As this discussion shows, a provision ostensibly meant to protect the poor from predatory capital owners can have the effect of shutting out large sections of the working poor from relatively easy access to capital. The bottom line would seem to be that even well-intentioned policies can lead to poor outcomes if local and institutional specificities are ignored.

National Scenario?

The February 2010 ruling was made possible by a coalition of activist and advocacy groups that has been successful in altering media and policy understanding of the sector. However, the fight in Delhi is far from over, though the Supreme Court rejected the MCD's appeal against the high court ruling.²³ The high court-appointed task force to address road congestion and transport policy issues in the city has also come out with a report (Kishwar 2012). In addition to recommending pilot research to investigate integration of non-motorised traffic with vehicular traffic, the task force has strongly advocated a revised legal framework for the cycle rickshaw sector, and a final draft of the Delhi Non-Motorised Vehicles Bill, 2011 has been prepared.²⁴

Both research and activism on the sector has largely focused on Delhi – over the decade and a half since the earliest advocacy efforts started on behalf of cycle rickshaw sector in Delhi,²⁵ the campaign has remained largely local. Despite the substantial progress in Delhi, sector-relevant laws are formulated at the state level and enforced at the local municipal level. Questions remain on why enforcement is so much stricter in Nasik compared to Bilaspur? Might the disappearance of cycle rickshaws from Hyderabad's roads (Alam 2008) be at least partially attributable to a hostile regulatory environment? Given these knowledge and advocacy gaps, what are the prospects of legal and regulatory reform in the cycle rickshaw sector in cities beyond Delhi?

Relatively little initiative has been made to use the Delhi High Court judgment to challenge punitive regulations elsewhere, though this is changing (High Court of Delhi 2010). For instance, a petition to the Allahabad High Court to strike down a partial ban on cycle rickshaws in Noida was successful (*Hindustan Times* 2010). An energetic advocacy effort is also under way in Punjab, through an ongoing case in the Punjab and Haryana High Court.²⁶ However, attempts at building cross-city networks and coalitions, such as the so-called Federation of Rickshaw Pullers of India (FORPI), remain largely untested.¹⁹ Under these circumstances, outcomes as well as the knowledge base vary tremendously across different cities.

A comparison with the National Street Vendor Policy (NSVP) may be instructive here (Te Lintelo 2009). The process of policy formulation for street vendors in the informal retail sector began with mobilisation and advocacy in the international and national arenas, with the Bellagio Declaration. The initiative was led from early on by strong unions such as the Self-Employed Women's Association (SEWA), which worked to build not just international but also national networks and coalitions.

At the same time, the experience of the NSVP, as also the range of enforcement regimes in the cycle rickshaw sector,

underline the importance of local actors and coalitions on how policy is implemented on the road. In Bilaspur, for instance, a savvy garage owners' association was at least partially responsible for encouraging the authorities to look the other way when it came to regulatory enforcement. The result was a burgeoning of garages in the city and cycle rickshaw drivers benefited through a relative abundance of alternatives (Sood 2008).

The absence of a strong union counterpart to SEWA among cycle rickshaw drivers is a handicap. Although there are rickshaw driver unions such as the FORPI or the Delhi Pradesh Cycle-Rickshaw Thela-Chaalak Union affiliated to the Centre of Indian Trade Unions (CITU), few of these appear to have the same reach, vision or stamina as street-vendor organisations (Bhowmik 2009).

As in other unorganised sector activities, a highly mobile labour force creates hurdles to collective action. At a deeper level, the cycle rickshaw sector also faces divisions among its various actors – drivers and owners, temporary migrants and residents. Evidence from discussions with rickshaw drivers in Bilaspur showed that migrant and resident rickshaw drivers rarely trusted each other (Sood 2005, 2008). Resident drivers, for instance, blamed migrants for taking over the supply of rental rickshaws during festive seasons and other periods of high demand, driving down fares by increasing cycle rickshaw services, and for engaging in theft and other inappropriate behaviour that reflected badly on the driver community as a whole. In turn, seasonal and temporary migrants had little incentive or, more importantly, opportunity to engage in collective action to advance their cause. The result was a fragmented union scene, with new unions emerging and disintegrating at near equal rates.

Thus, even if a national policy for the sector is mooted,²⁷ its potential for reform will be tested on streets across India. In the medium term, the promise of the Delhi High Court judgment will be realised if sector mobilisation overcomes internal divisions, as in Delhi.

Revisiting the Debate: A Research Agenda

To return to the question posed at the outset: Is the cycle rickshaw sector destined for the relic heap of creative destruction as India "develops"? Or could it continue to grow and generate sustainable above-subsistence livelihoods for the urban poor? And how can policy and law encourage the latter outcome both for the cycle rickshaw sector and for informal services more widely?

The emergence of the pedicab in the iconic metropolises of the west – from London to New York – provides at least a symbolic answer to the first question (Dunlap 2009; Grynbaum 2009; Clark 2004). Even as these cities debate an appropriate regulatory response to the success of the rickshaw, they remain unburdened by postcolonial prejudices.

Another sort of response comes from the scattered but steady stream of commercial, institutional and technological innovations around the cycle rickshaw. In addition to the Rickshaw Bank and its improved *Deebahan*, these include

projects to use the cycle rickshaw as an advertising medium,²⁸ as well as the electric (Elecsha)²⁹ and solar-powered rickshaw (Solekshaw) (Ministry of Science and Technology 2008) and the dial-a-cab Ecocabs service in Punjab.³⁰ There have been numerous more mundane design improvements, including some by cycle rickshaw drivers.

The suite of design improvements could raise productivity and thereby earnings, but regulatory and policy reform is an essential prerequisite for the sector to realise its potential. Hope for the sector may yet lie in its demonstrated value as non-motorised transport on automobile-choked Indian roads.

Nor is this innovative potential restricted to the cycle rickshaw sector alone. It applies far more widely to the gamut of informal services, from street vending to informal repair activities, hitherto dismissed for their low productivity. Yet the absence of a strong knowledge base on informal services, combined with hostile or indifferent policy environments, creates a vicious cycle such that the livelihood and social potential of these activities are overlooked. And the oversight justifies further neglect. The little-understood impact of policies encouraging formal retail on informal retail services is a case in point. Understanding the productivity potential of informal services requires research insight into supply chains, market conditions and institutional contexts so that technological and institutional innovations can be optimally applied. Equally, a social security net for workers in these sectors can help enhance risk-bearing capacities in the face of change.³¹

The case of the Indian cycle rickshaw sector might appear to support a legalist understanding of the informal sector a la De Soto, where the high costs imposed by regulation stifle the enterprise of drivers and garage owners alike. However, the cycle rickshaw case also demonstrates that separating the dynamics of inherent growth or stagnation from the effects of regulation is near impossible when there are punitive regulatory paradigms in the informal services sector. At the same time, in a scenario of jobless growth of the kind witnessed in the Eleventh Plan period (2007-12), the prognostications about productivity offered by the dualist paradigm seem almost beside the point.

The cycle rickshaw sector case study shows that ground-level regulatory regimes mirror, if imperfectly, aspects of macro-level policy stances. Also, the variety of urban experience suggests that configurations of local actors and forces have a make-or-break role in determining not only local enforcement of these regimes, but also, by extension, the long-term viability of the sector. The challenge then is to let policy at the macro scale learn from the local.

I have tried to contend that instead of macroeconomic determinations, understanding of the informal sector should rely on location-specific sectoral accounts. Attention to micro-processes in specific informal services sectors and cities can help inform larger academic and policy debates about the role and future of the informal sector. One hopes that the resurgence of the cycle rickshaw on Delhi roads is the harbinger of just such a new research and policy agenda.

NOTES

- 1 While there is a large literature evaluating the productivity and potential of the informal sector, I focus on La Porta and Shleifer because they provide a particularly elegant summarisation of the key issues in this literature. A review of the larger literature is outside the scope of this essay, though it is on the agenda for future work.
- 2 Bhattacharya and Sanyal (2011), among others, offer an incisive exposition of the relationship between formal and informal in the Indian context.
- 3 Chen (2005), among other scholars, also advocates recognising the range of informal economy segments and adjusting policy response accordingly, although she bases it on a somewhat broader framework for classification of informal activities.
- 4 It is interesting to note that the Delhi traffic police view of cycle rickshaws very closely matches the "parasite" view. La Porta and Shleifer (2008) advocate benign neglect, rather than active deterrence.
- 5 I consistently use the term rickshaw "driver" in preference to rickshaw "puller" partly to reinforce the distinction with the old-style hand-rickshaw pullers of Kolkata, and partly to underline the dignity and skill required in the work of rickshaw driving.
- 6 See numbers cited in Deshingkar and Akter (2009) from the Centre for Rural Development. Accessed on 31 March 2012, <http://www.crdev.org/rb.asp>
- 7 See Livelihood Freedom Campaign, "Rules and Regulations Governing the City Permits for Cycle Rickshaw in Delhi", accessed on 26 May 2012: <http://www.livelihoodfreedom.in/L%203%20FOR%20SITE/Delhi/CYCLE%20RICKSHAW.pdf>
- 8 The repeated and failed attempts to phase out the hand rickshaw and its pullers offer instructive insight into the resilience of informal services. Most recently, in 2006, Kolkata banned these rickshaws but they continued a marginal existence on the city's narrow alleys and by-lanes, which they are fitted to navigate better than almost all other modes of transport (Magnier 2010). In end-December 2011, the Kolkata Municipal Corporation (KMC) under Trinamool Congress leadership decided to issue photo identity cards to the remaining 6,000 pullers, effectively legalising the occupation. Ironically, the number of rickshaw pullers is said to be nearly two and a half times this number (Ray 2011).
- 9 This argument earned the court's reprimand.
- 10 This ITDP should not be confused with the New York-headquartered Institute for Transportation and Development Policy.
- 11 Though these two questions affect rickshaw driver productivity, they lie outside the scope of this essay.
- 12 Delhi Chief Minister Sheila Dixit even spoke of phasing out the iconic autorickshaw, according to news reports in March 2010 (Express News Service 2010).
- 13 Advocates of a multi-modal approach to meeting transportation needs see a key role for the cycle rickshaw (for instance, Sahai and Bishop 2010) but a more detailed discussion of the related transportation policy issues is beyond the scope of this essay.
- 14 The Punjab law was later challenged in the Supreme Court in *Azad Rickshaw Pullers' Union (Regd) Ch Town Hall, Amritsar and Ors vs State of Punjab and Anr*, MANU/SC/0061/1980, AIR1981SC14a,1980Supp(1)SCC601, [1981]1SCR 366, 1980(12)UJ807(SC).
- 15 Note that the Madhya Pradesh Ordinance No 20 applied in Chhattisgarh through the early 2000s. For more information on the regulations governing the cycle rickshaw sector in various cities across India, see city studies from the Law, Liberty and Livelihood Project at http://www.livelihoodfreedom.in/advance_search.php?q=cycle+rickshaw&button=Go
- 16 Supreme Court, *Man Singh and Ors vs State of Punjab and Ors*, MANU/SC/0036/1985, AIR-1985SC1737, 1985(2)SCALE367, (1985)4SCC146, [1985]Supp2SCR662, 1986(1)UJ335(SC).
- 17 Delhi High Court, *Rajdhani Cycle Rickshaw vs Municipal Corporation Of Delhi & Others*, 2001 IVAD Delhi 190, 91 (2001) DLT 412, 2001 (59) DRJ 72.
- 18 Other academic studies of the sector include Mitra (2002) who offers an early policy analysis of sector regulation, and Nandhi (2011) who collected data on the financial behaviour of "cycle rickshaw pullers". (Kurosaki et al also appear to have an updated 2012 version of their study.)
- 19 The Federation of Rickshaw Pullers of India (FORPI) literature downloaded from scribd.com, possibly 2009. Also see FORPI website, accessed on 1 April 2012, <http://forpi.org/about-us.html>
- 20 However, Nandhi (2011) reports that only 47% of rickshaw drivers said that "owners sometimes pay minor repairs, or generally spend on them," though distance from the owner when repairs are needed makes a difference.
- 21 Personal communication, Rajendra Ravi, January 2004. See Sood (2005).
- 22 The Rickshaw Bank model allows drivers to make daily payments over the course of a year to purchase their own "Deebahan", which incorporates design improvements to reduce

- maintenance costs and improve driver and passenger comfort and safety (also see note 2 above). Reports suggest that in response to default and maintenance issues, the project has had to introduce dedicated garages and referral and surety mechanisms similar to those of garage owners (Sarma 2011).
- 23 A Supreme Court bench headed by justice G S Sanghavi rejected the MCD's plea against the high court ruling on 2 April 2012. See Kishwar (2012) for details and further developments.
- 24 For the task force report, see Kishwar (2012). The Manushi version of the draft amendment is available at "Draft of Proposed Amendments to Delhi Municipal Corporation Cycle-Rickshaw Bye-Laws, 1960: On Behalf of Manushi Sangathan", accessed on 2 April 2012, <http://www.manushi.in/articles.php?articleId=721>
- 25 Accessed on 2 April 2012, <http://manushi-india.blogspot.in/search/label/Policy%20Reform%20for%20Rickshaw%20Pullers>
- 26 The Graduates' Welfare Association, Fazilka represented by Navdeep Asija, founder of Ecocabs, submitted proposed amendments to the Punjab Rickshaws (Regulation of Licence) Act, 1976 and related municipal/urban transport laws to the Punjab and Haryana High Court in September 2011. See "The Punjab Cycle Rickshaw Act Amendments Suggestions for Punjab and Haryana High Court by GWAF", accessed on 8 August 2011, <http://ecocabs.org/resources.php?pagenum=2>. For the latest on this court case, see *Hindustan Times* (2012), "UT Admn to Apprise HC of Revival of Rickshaw Stands", 7 July, accessed on 8 August 2011, <http://ecocabs.org/news.php?ID=105>
- 27 Personal communication, Nalin Sinha, ITDP, March 2012. The cycle rickshaw also finds mention in the "Recommendations of Working Group on Urban Transport for 12th Five-Year Plan", as "an integral part of the last mile connectivity for city wide public transport network" (2012: 6). The Report of the Subcommittee on Urban Transport, National Mission on Sustainable Habitat, similarly recommends policy attention for the cycle rickshaw sector.
- 28 "Pedal Power", accessed on 2 April 2012, http://www.indiafutureofchange.com/indiastory_BusinessSammaan.htm
- 29 Accessed on 2 April 2012, http://www.innovationsofindia.com/list_of_innovations/elecsha.htm
- 30 Accessed on 9 August 2012, <http://ecocabs.org/news.php?ID=104>
- 31 The Unorganised Workers Social Security Act of 2008 is a step in this direction but an analysis of its impact of risk and productivity is beyond the scope of this paper. See Kannan et al (2006) for the proposal and Dutta and Pal (2012) for an assessment.

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