

# How Long Can Delhi Stay Awake?

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When I was a child, I was scared of a boy named Wee Willy Winkie because my mother used to sing a nursery rhyme to me,

Wee Willi Winkie runs through the town  
Upstairs and downstairs in his nightgown.  
Knocking at the window, crying through the lock,  
Are the children all in bed?  
Because it's past 8 o'clock.

I used to go off to sleep at 8 o'clock thinking that otherwise he would take me away and lock me up somewhere.

Little did I know that on growing up I would actually get to meet this Wee Willi Winkie. This Wee Willi Winkie is very much existent among us in the form of the government which seems to regulate each of our activities in our daily lives. Thus, we have the Government of Delhi acting as Wee Willi Winkie and making sure that the city goes off to sleep on time. I mean that the Government of Delhi governs the working hours and hence the closing time of "commercial outlets" in the city. This paper tries to analyse the rationale behind the regulation of closing hours of commercial outlets in Delhi. The term "commercial outlets" is very broad and includes a vast array of bodies. I looked into some of them namely; the hospitality sector, which consists of restaurants, bars, pubs, discotheques, dhabas and pan shops and the commercial sector consisting mainly of the market areas in Delhi.

## Eating Houses

### Laws regarding closing time

Let me begin the analysis with the hospitality sector. The Delhi Police Act, 1978, defines "Eating Houses" as follows:

Eating house means any place to which the public are admitted and where any kind of food or drink is supplied for consumption on the premises by any person owning or having any interest in managing such place and includes-

1. A refreshment room, boarding house, or
2. A shop where any kind of food or drink is supplied to the public for consumption in or near such shop, but does not include a place of public entertainment.

This definition is quite comprehensive and encompasses all kinds of outlets where any kind of eatables are sold. Initially, I went to the Licensing Branch of Delhi Police, as they are in charge of issuing licenses to the eating-houses. There I interviewed Joginder Mann, Sub-Inspector, Licensing Branch, Delhi Police. He gave me the following timings and he was sure about them.

Table 1

Type of Eating House	Closing time
Restaurant	Midnight <sup>1</sup> - during summers
	11 pm – during winters
Discotheque	12:30 pm
Pan shops and Dhabas	11 pm.

Source: Joginder Mann, Sub-Inspector, Licensing Branch, Delhi Police.

Since he did not furnish any document supporting his information, I tried to confirm it. I encountered funny experiences. On calling up the Licensing Branch, I was directed to the Crime and Traffic Branch. They directed me back to the Licensing Branch. This time the Licensing Branch directed me to Public Relation Officer (PRO), Delhi Police. On calling up Mr Pawar, PRO, I got the response: “Ma’am, mujhe to timings ke bare main kuchh pata nahi hai, aap DCP Licensing se baat kar lijiye.” (Madam, I do not know anything about the timings, please speak to DCP Licensing). None of the departments were willing to give me such simple and basic information, especially the Licensing Branch when they are the ones who are in charge of enforcing the law. On interviewing Mr Gupta, Deputy Commissioner of Police (DCP), Delhi Police, I came to know about a slightly different set of rules. According to him, restaurants are to accept their last order at 11 pm. However, the restaurants in the premises of a hotel are allowed to accept their last order until midnight. He also said that usually half an hour grace period is allowed because a customer cannot be asked to leave. Timings differ during summers and winters by half an hour or so. Though he was somewhat vague about it. In addition, a coffee shop in a hotel is allowed to stay open for 24 hours. Discotheques are allowed to stay open until 4 am. Pan shops and dhabas are to close their outlets by 11 pm. Mobile (nomadic) hawkers selling eatables are allowed to enter any area according to the directives of the concerned Resident Welfare Association (RWA). I also visited the Hauz-Khas police station in search of a written circular by a higher authority but in vain. The inspectors were quite vague about the timings in spite of the fact that they receive circulars from the Police Headquarters. They told me that the restaurants are supposed to close by 11 pm irrespective of whether they are within the premises of a hotel or outside it. One of them said that discotheques are supposed to close by 11 pm. On asking them that, why does a Barista outlet in Safdarjung Development Area (SDA) market operate until 1 am, they turned a deaf ear to me!

After such a roller coaster ride, I was forced to conclude that either the police in each district implement their own laws and make money or they are actually ignorant of the actual ones. The latter case however, seems quite unlikely. On interviewing different officials, I felt that there is a lot of flexibility in the way in which laws are enforced and that is why the authorities can do away without having complete information.

Any eating house has to acquire a trade license from the Municipal Corporation of Delhi (MCD). These licenses state the working hours according to the zone of operation whether it is conforming or non-conforming. In case of the latter, an eating house cannot open before 8 am and cannot work after 6 pm. Clearly, this is in contradiction with the existing law.

With respect to bars and pubs; restaurants and discotheques where liquor is served. Liquor can be served until 11 pm. However, the bars within the premises of hotels are allowed to serve liquor till midnight. Again one hour extension is allowed on the payment of requisite fees. The fees being 50% of the license fees. In case of bars and restaurants with bars, seating capacity determines the license fees. In case of hotels, the star of the hotel determines the license fees<sup>2</sup>.

<sup>1</sup> Midnight implies 12 am.

<sup>2</sup> Source: State Excise Department

### Legislation of Laws

In Delhi, Commissioner of Police system exists. According to Satyanarayan Gowd, Inspector, Crime and Traffic Branch, Delhi Police, Sec 188 of the Indian Penal Code (IPC) and Sec 144 of the Code of Criminal Procedure (CrPC) Act empowers the Commissioner of Police (CP) to formulate the laws concerning the working hours of eating houses as they are places where people assemble. Sec 188 of IPC is:

#### **Disobedience to order duly promulgated by public servant**

Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sec 144 of the CrPC is:

#### **Power to issue order in urgent cases of nuisance or apprehended danger-**

(1) In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by Section 134, direct any person to abstain from certain act...if such Magistrate considers that such direction is likely to prevent obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.

(2) No order under this section shall remain in force for more than two months from the making thereof:

...an order made by a Magistrate under this section shall remain in force for such further period not exceeding six months...

Evidently, regulations formulated under Sec 144 of CrPC are not permanent. I posed this question to the Licensing Branch and Joginder Mann could not provide me with an adequate explanation. He said that the CP also gets in touch with the MCD, the Traffic Police and the Electricity Department of Delhi while formulating the timings. The timings for pan shops and dhabas are decided by the CP because they are also considered to be public places. Therefore, under Sec 28 of the Delhi Police Act, the CP formulates the timings.

Sec 28 of the Act says:

...registration of eating houses, including granting a certificate of registration in each case, which shall be deemed to be a written permission required and obtained under this Act for keeping the eating house...

As far as mobile hawkers selling eatables are concerned, their entry in any area is decided by the Resident Welfare Associations (RWA). There has not been much variation in these laws for the last several years. If changes were introduced then the timings have varied by an hour or so. The laws have been more or less stagnant.

Laws concerning closing timings of bars and pubs have always been the forte of the State Excise Department. The Police Department or the MCD have no say in this regard.

### Enforcement of Laws

The Licensing Inspectors of Licensing Branch, Delhi Police are supposed to make sure that the restaurants, discotheques, pan shops and dhabas close at the stipulated time. They can ask the district police to inspect and ensure that the outlets close on time. However, according to Mr Mann, the Licensing Inspectors already have too much work on their hands to bother about this particular inspection. The same stands for the district level police inspectors. Generally, they bother about inspections only if there is a complaint. At the same time the Licensing Branch claims that they send inspectors on a regular basis. On asking how many inspectors are sent and where, they fail to give concrete answers or for that matter any answer in this regard.

The same scenario exists in case of bars and pubs. Supposedly, the State Excise Department sends inspectors and makes sure that liquor is not served in any kind of eating house after the stipulated time but I could not elicit information as how many inspectors go for inspecting, where do they go and when. Again, as in case of restaurants, here also the inspectors bother only if there is a complaint.

However, there is no hard and fast rule that only the State Excise Department will ensure that liquor is not served beyond the stipulated time. Recently, R S Gupta, Delhi Police Commissioner was cross with his officers for letting bars in restaurants and five-star hotels remain open till wee hours of the morning.<sup>3</sup> He went on a drive from 21 June 2003 to ensure that bars and pubs shut shop by 11 pm. The move came after concerned citizens complained that pubs, bars and liquor shops remained open till late in the night. I spoke to Archis Mohan, correspondent in Hindustan Times and he enlightened me further. He told me that the police keep on undertaking such drives. Two months back there was a similar drive in North District of Delhi, especially in areas like Sadar Bazaar, Chandni Chowk where all rules are flouted. This clearly reveals that theoretically the police are not concerned with serving of liquor but in reality they end up taking matters into their hands for the maintenance of law and order.

### Penalty

In case of eating houses without bars, if they are found operating beyond the stipulated time, the inspector can impose a challan, which is then submitted in the court of the Metropolitan Magistrate. According to, Mr Mann, the amount of challan varies from Rs 50-250. The actual amount of fine imposed is the discretion of the Magistrate.

### Rationale behind the Laws

The Police regulates the closing hours of eating houses because these are places where public assemble and so there arises the question of public security. They govern the activities to keep a check on the crime rate. The same stands for pan shops and dhabas. Inspector Satyanarayan Gowd opines that civilised people do not venture out late at night. Hence, if eating houses are allowed to stay open for longer time, it will give anti-social elements a chance to plot and plunder. As far as serving the liquor is concerned, the Excise Department has the same principle in mind as the Police. After drinking, it is likely that person may create nuisance and so liquor is not allowed to be served very late in the night. The intention of the authorities is to prevent crime by disciplining people.

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<sup>3</sup> Source: Mohan Archis. 2003. No booze in pubs after 11pm. *Hindustan Times*, 21 June.  
*Centre for Civil Society*

### Actual scenario

I have considered theory so far and now it is time to check out the real picture. Most of the restaurant owners listen to what the local police ask them to do. Again, as I mentioned earlier that district police are so vague about the actual laws that it gives them a chance to fool the owners and extort money. Fast food chains like Pizza Corner or the Mc Donalds close within the stipulated time. However, local restaurants situated in market places stay open for longer period of time. There are many restaurants in Chandni Chowk that stay open much beyond the stipulated time. There is a restaurant in Connaught Place that stays open for 24 hours. There are few dhabas outside All India Institute of Medical Sciences (AIIMS) that sell eatables till 2-2:30 pm. Similarly, there are many discotheques in Greater Kailash, Vasant Vihar and other areas in southern part of Delhi, in Connaught Place, which serve drinks beyond 11 pm. There are bars in several parts of the city that violate the regulations e.g. the pub, No Escape in Connaught Place. On the other hand I also came across eating houses that close before the stipulated time. This is possible in two ways.

First, due to poor enforcement of laws. There are so many different kinds of eating houses all over Delhi. Similarly, there are many eating houses where liquor is served. Given the shortage of inspectors and the workload on them, it is not humanly possible for them to make sure that each and every eating house follows all the rules. In fact they accept the fact that the law is not enforceable and so do not bother much about it. Hence, the violating restaurants especially the nondescript ones can get away with it.

Second, ignorance on part of the eating house owners and vagueness on part of the police. Since most of the eating house owners do not know the actual law and who formulates the law, they follow whatever the district police asks them to do. There is a strong nexus between the owners of the eating houses and the police officers. They allow the officers to have food free of cost; they pay them money on regular basis and keep the uniformed guys happy. An outlet of Barista in SDA market allows the cops to have six cups of cold coffee free of cost during summers and hot coffee during winters. In addition, the cops are allowed to make their own coffee if they want to. As a reward, they get to operate as they want to.

### Shops and Shopping Areas

#### **Laws regarding closing timings**

All shopkeepers and occupiers of establishments carrying on any business or profession or rendering any service are required to be registered under the Delhi Shops and Establishments Act, 1954. Thus, this Act stipulates the closing time of shops.

#### **Section 15 of the Act says that-**

- (1) No shop or commercial establishment on any day, be opened earlier than such hour or closed later than such hour, as may be fixed by the Government by general or special order made in that behalf.

Provided that any customer who was being served or was waiting to be served in any shop or commercial establishment at the closing hour or so fixed may be served during the period of fifteen minutes immediately following such hour.

- (2) Before making an order under sub-section (1), the Government shall hold an inquiry in such manner as may be prescribed.
- (3) The Government may, for the purpose of this section, fix different opening hours and different closing hours for different classes of shops or commercial establishments or for different areas or for different times of the year.

The timings as per Sec 15 are as follows:

Table 2

Nature of Establishment	Opening hour	Closing hour
Shops (during summers)	9:30 am	7:30 pm
Shops (during winters)	9 am	7 pm
Commercial Establishment	8 am	6 pm

“Commercial Establishment” means any premises wherein trade, business or profession or any work in connection with, or incidental or ancillary thereto, is carried on...but does not include a shop or a factory registered under the Factories Act, 1948, or theatres, cinemas, restaurants, eating houses, residential hotels, clubs or other places of public amusement or entertainment.”

**Section 32 of the Act states:**

No person shall carry on any retail trade or business of any class near any shop or commercial establishment at any time before the opening and after the closing hours and on the close day, and if any person carries on any such trade or business in contravention of this section, this Act shall apply as if he were the occupier of the shop or commercial establishment which was being kept open in contravention of this Act.

Many outlets are exempted from Sec 15. The list is exhaustive but a few relevant ones are:

1. Retail shops dealing exclusively in medicines or medical or surgical requisites or appliances
2. Retail shops dealing exclusively in meat, fish, poultry eggs, milk and milk products (excluding *ghee*), ice-cream, cooked food, flowers, bet-leaves, tobacco products like cigarettes, *biri* and cigar, beverages, fruits and vegetables.
3. *Halwai*<sup>4</sup> shops
4. Newspaper offices, news agencies and shops dealing in newspaper or periodicals
5. Automobile service stations (not being repair workshops) and depots and petrol pumps for the retail sale of petrol.
6. All military canteens, canteen stores department (India) installations and regimental shops located in or outside cantonment area.
7. Shops engaged in the supply on hire of gaslight, crockery, *shamianas*, furniture, temporary illumination (by licensed Electric Contractors) bands, orchestra etc., on marriage or other ceremonial occasions.
8. All shops and commercial establishment situated on the route of the *Ram Lila* procession; on Esplanade Road, Dariba Kalan, Chandni Chowk, Egerton Road, Chawri Bazar, Ajmere Gate and Circular. (For the period from *Asauj Sudi Parwa* to *Asauj Sudi Akadeshi* every year.)
9. Establishments dealing in raw skin and raw wool
10. Shops dealing in parched grams or grains etc., commonly known as *bar-buhjas* shops
11. Shops mainly engaged in the supply on hire of *charpies* and beddings to bonafide passengers and shops working as cloakrooms.
12. All shops exclusively dealing in cooking gas
13. Shops located in the Red Fort Market, Delhi

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<sup>4</sup> Halwai stands for Confectionery.

14. Shops mainly dealing in education books for schools and colleges (relaxed up to one hour before and one hour after the prescribed opening and closing time).
15. Shops of barbers and hairdressers

It has to be noted that registration was mandatory under the Act prior to 23 November 1989, since then the same has been kept in abeyance. I spoke to Rajendra Dhar, Deputy Labour Commissioner, Office of Labour Commissioner, Government of National Capital Territory of Delhi about this. He explained to me that this law was passed for administrative convenience of the Labour Department. According to him, registration is still mandatory but it cannot be enforced if a shop does not register itself by the order of Lieutenant Governor. This did not make any sense to me and when I told him the same, I was told, "it is a political issue." If we go by the law then the shops not registered under the Act need not follow the regulations regarding closing timings.

MCD gives trade licenses as per Sec 417 of The Delhi Municipal Corporation Act, 1957 for opening up of shops and the licenses also mention the permissible working hours. In case of Ad-Hoc License issued for a shop in non-conforming zone, the shop is supposed to close by 6 pm. Shops with commercial license are supposed to close by 7 pm. Thus, we have a contradiction. Timings mentioned in the MCD license do not conform totally to the Delhi Shops and Establishment Act. This is ironical.

### Legislation of Laws

The Delhi Government passed the Delhi Shops and Establishment Act in 1954. From time to time various changes keep on taking place in different clauses of the Act but there has been no change in Sec 15 of the Act. There are times when the government passes a special order and asks all the shopping areas to stop working after a certain time on the ground of security. For instance, when BJP was in power in 1998, it had stipulated that shops should close at 7 pm. However, such things happen only if there has been any major incident of crime or there are fears of terrorist activities.

### Enforcement of Laws

The Delhi Shops and Establishment Act is enforced through the Chief Inspector of Shops (CIS) and various Inspectors under the Act, who are posted in nine districts of the capital who function under the supervision and control of Deputy/ Assistant Labour Commissioners of the concerned district. Chief Inspector functions under the supervision of Deputy Labour Commissioners who in turn functions under the supervision of Labour Commissioner of Delhi. According to Delhi Shops and Establishments Rules, the Chief inspector and other inspectors under him have to inspect that the provisions of the Act relating to the opening and closing hours are duly observed.

As I mentioned earlier that the MCD licenses also stipulate some conditions regarding working hours and so the Licensing Inspectors of MCD are supposed to inspect whether the shops are closing on time.

### Penalty

If any shop violates the clause concerning closing time then the Labour Inspector can impose a challan. The challan is then submitted in the court of the Metropolitan Magistrate. The amount of challan varies from minimum of Rs 50 to a maximum of Rs 250. The amount of a challan cannot exceed Rs 250. According to Rajendra Dhar, Deputy Labour Commissioner, the exact amount to be levied from the guilty party is the discretion of the Magistrate. The Inspectors do not have any say in it. However, it so happens that small shopkeepers are penalised less severely than large shopkeepers are.

### Rationale behind the Laws

Various clauses under the Delhi Shops and Establishments Act have been formulated keeping labour welfare in mind. I was enlightened by N R Ahluwalia, Assistant Labour Commissioner, Office of Labour Commissioner, Government of Delhi, on this particular aspect. According to him there is excess supply of labour relative to demand and so it gives the employers an incentive to exploit them. For instance, the employers keep their shops open for 12 hours or more but they employ only one shift of labour. He also claims that most of the times the employers do not pay over-time wages to the workers. The workers are exploited in every possible way. Closing time of shops is regulated in order to make sure that the employees do not have to work over-time, they reach home in time and get to spend some quality time with their family. In case of women, the question of their security assumes greater importance. So, it is mentioned in the Act that no women shall be put to work after 9 pm during the summer season and after 8 pm during the winter season. If the shops are allowed to close late then some of the workers might have problems in reaching home especially if they live far off. Most of the times the employers do not arrange for transport if they want the workers to stay back for long.

Licenses are granted by the MCD as per the provisions of Master Plan of Delhi (MPD) 2001 and hence timings differ from area to area unlike the provisions of Delhi Shops and Establishments Act. In other words, timings in MCD licenses are influenced by the zoning of Delhi according to the MPD.

### Actual scenario

It has always been noticed that theory differs from practice and so is the case over here. Inspectors from the Labour Commissioner's office are supposed to go for inspection on a regular basis, however, that does not happen. There is a shortage of inspectors and excess workload on them. The official strength of inspectors is 78. However, normally only 38-40 inspectors are on duty at a time.<sup>5</sup> Thus, it is humanly not possible to inspect all the shops of Delhi. So, the inspectors usually check out specific shops only when there is a complaint.

On the other hand, ideally MCD Inspectors are also supposed to go for inspection given the fact that MCD licenses mention closing timings. I posed this question to Mr Chauhan, the License Enforce Inspector, MCD (south zone). He gave me a very interesting answer. According to him, there is no reason for them to go for inspection because their working hours end at 5:30 pm. They have no incentive to go out and check the shops after 5:30 pm.

I surveyed different markets located in different areas of Delhi in order to learn the other side of the story and found out interesting things. I visited the Safdarjang Development Area (SDA) market, which is located in a residential colony. Quite a few shops in this market stay open till 10 pm. There is an Archies Gallery, which opens at 10 am and closes around 9 pm, undoubtedly violating the regulations. The shop owner claims that it is completely his choice as to when he wants to close his shop. He prefers closing it late because the frequency of customers is higher during evenings especially in summers. So, he definitely makes money by keeping his shop open for longer period of time. Similarly, there is a music shop in the same market, which closes at 10 pm. There is a grocery store operating till 10:30 pm. Thus in a small market like SDA market I found people violating the regulations and functioning according to the market demand. The demand for the services of the shops invariably determines their closing time. There are two ways in which they allow the "illegal market forces" to operate, either by bribing the Labour Inspectors to allow them to operate according to their will or by being indifferent to the Inspectors and paying challans whenever they are caught.

I surveyed Aurobindo Market, which is a small market beside the residential area of Hauz-Khas. I interviewed the President of Aurobindo Market Association and found out that they have no say in determining the closing time of the shops. This particular market is a small one and the

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<sup>5</sup> These figures have been provided by Rajendra Dhar, Deputy Labour Commissioner.

shopkeepers generally follow the rules and regulations. Moreover according to them they are comfortable with the timings because the customers have become used to those timings. Thus, the shop owners are not even inclined towards trying to get extension in closing time. Again since it is a small market the Inspectors from Labour Department do not frequent that market. Thus, there are generally no cases of violations of rules or of bribery.

Surveying Green Park Market revealed a different story. According to sources this market is normally supposed to remain open till 9 pm. Again, interviewing different shop owners I came to know that the Inspectors make Rs 15,000-25,000 per month in the form of bribe from that market. The Inspectors take bribe for not issuing a challan. However, there are some shop owners, who do not mind paying the challan and keep their shops open beyond the stipulated time. Generally, the street vendors follow the same pattern as the other regular shops. They operate as long as other shops are open. Another noticeable thing is that small shopkeepers generally are not cognisant of all the rules and regulations. They do what others do. They do not know under which Act's jurisdiction do their shops come. They are even under the impression that the President of the Market Association has a say in stipulating the closing time.

On visiting Connaught Place, I came to know some more facts as to how the bureaucrats make it difficult for the market forces to work. First, the authorities decide weekly close day of the shopping area. Connaught Place is supposed to remain closed on Sundays. There are many eating houses and discotheques in the area. Hence, it would definitely benefit if the shops stay open on Sundays. In 1999-2000, New Delhi Municipal Corporation did try to bring about a change. However, there was division of opinion among the shop owners and the idea could not materialise. I met the President of New Delhi Traders Association (NDTA), Manoj Agarwal. He told me that the shops lose approximately four days worth revenue a week by remaining closed on Sundays. This market is relatively more disciplined - it closes by 8 pm. Hence, again they lose revenue. The reason is simple. There are lot of restaurants and a few discotheques in Connaught Place. Thus, there are people visiting Connaught Place after 8 pm. It would definitely benefit if the shops were allowed to stay open beyond 7:30 pm. According to Mr Agarwal, some shops stay open beyond the stipulated time by paying money to the Inspectors. Also, the Labour Inspectors collect Rs 500-1,000 per Sunday from those shops that want to open their shops on a Sunday. He also claims that when a shop owner tries to follow legal procedures and acquire permission from the Office of Labour Commissioner (Government of Delhi), the Office creates all sorts of hassle. They do not give permission on the grounds of excess consumption of electricity. This should not be their concern. The Labour Inspectors unnecessarily bother shop owners on the ground of troubling their employees.

### **Thus, what do we see? There are three categories of shops:**

First, some shop owners follow the rules because they are indifferent to it. In other words, the law suits their needs. They close their shops before or on stipulated time irrespective of what the law stipulates. Such shops form a small proportion and generally consist of company outlets, franchise outlets.

Second, consist of the shops where the shop owners bribe the concerned officials. Law forbids the shops to operate beyond a certain time. However, the shops find it profitable to stay open for longer time. They find it profitable because customers come to the shops. In other words, public wants the shops to stay open beyond 7:30 pm. Big company outlets generally manage to get legal permission for operating for longer hours or for opening on a close day as they have resources at their disposal. Small shop owners with not very high turnover bribe the concerned officials and get to open the shops as long as they want.

Third, consist of those shop owners who are indifferent to challans and work the way they want to. If they do not pay the Inspectors then a challan is issued against them. The shop owners plead guilty in the court, pay the challan and continue breaking the law. They are able to do this because the Act says nothing about revoking of license. All that a Magistrate can do is to raise the amount of fine and nothing else. No wonder the old walled city of Delhi, i.e. Chandni Chowk, Jama

Masjid and the adjoining areas continue to work as they used to since independence. In fact, Rajendra Dhar, says that Sec 15 of the Act is violated the most. Markets like Karol Bagh, Lajpat Nagar, Yusuf Sarai stay open till late. Approximately, 200-250 challans are issued every month under the violation of Delhi Shops and Establishments Act. He suggested that the amount of fine should be raised to Rs 5,000, which will act as a deterrent. However, such issues are politically very sensitive.

The following table reveals the number of inspections undertaken in the nine districts of the capital.

Monthly statement in respect of Inspectorate staff of various districts for the month of April 2003.

Table 3

Name of the district	No of Inspectors	Total no of inspections undertaken
North-East	1	35
East	4	120
North-West	4	264
North	4	239
South	5	0
New Delhi	2	0
South-West	3	0
West	8	311
Central	2	90

Source: Office of Labour Commissioner, Government of Delhi.

One can see very clearly from the table that there were no inspections in South District, South-West District and New Delhi district of Delhi. The markets in these areas are quite disciplined and also the shop owners keep the officials happy. Lot of inspection was conducted in northern part of the city where rate of violation is high.

### Master Plan of Delhi and Regulation of working hours

One might wonder if there exists a link between the MPD and governance of closing time. One can clearly notice that rationale behind different laws do not mention anything about the MPD and different zones of Delhi. However, the MPD does have an effect. The MPD ensures an appropriate balance between the spatial allocations for the distribution of housing, employment, social infrastructure, shopping centres, public and individual transport and so on and adequate arrangements and reservations to accommodate different kinds of physical infrastructure and public utility systems. It has nine categories of land uses namely Residential, Commercial, Manufacturing, Recreational, Transportation, Utility, Government, Public and Semi-Public and Agriculture and Water Body.

Studies conducted by Delhi Development Authority (DDA) show that on a single premise or in an area, mixed residential and non-residential activities have its positive and negative environmental and socio-economic impact. It seems to be suiting to the present socio-economic needs of major section of the society, it reduces the transportation need considerably, however, and in certain condition it may have quite an adverse effect on the environment. The older part of Delhi, especially north Delhi has mixed land use- residential and non-residential activity on the same residential premises but New Delhi has sharper division of residential and commercial areas. As mentioned earlier it has its pros and cons. Thus, DDA recommended that non-residential activity on residential premises should be permitted selectively, carefully taking into consideration its community need, provision for traffic and parking which would be generated and also the environmental impact. Thus, it not surprising that MCD grants licenses according to the provisions of the MPD 2001. In other words, the Master plan does not have a direct impact on the closing time of

commercial outlets. It has an indirect impact through regulating the establishment of eating houses and shops in different zones of Delhi. The MCD grants commercial license or ad-hoc license depending on the zone of operation. However, once the outlet is established then there is no demarcation in the closing time. The closing time is the same for all the outlets all over Delhi. The MCD licenses mention different timings but they are not followed. I spoke to A K Manna, Joint Director Master Plan in DDA. He said that the MPD has no influence on the governance of closing timings of commercial outlets. It does not even mention anything about it. However, as I mentioned earlier there exists an indirect link. Identical was the response of Mr Harshad, Research Officer in Institute of Town Planners India. I asked him that Master Plan has proper zonings, then how is it possible that areas like Chandni Chowk operate till 10-11 pm whereas area like Connaught place closes by 8 pm. He told me that first, the MPD does not have a direct influence. Second, he also suggested other reasons for this difference in working. According to him, Chandni Chowk has a strong community bonding and so the area is relatively safer. However, areas Connaught Place, South Extension are more vulnerable. Also there is difference in the activities. The former market is a wholesale market and the transportation and offloading of stock takes place at night. This results in eating houses staying open for longer time as well. The latter markets are retail markets. In short, the MPD never influenced the closing timings of commercial outlets.

### Conclusion

While doing research on this project, I had to interact with lot of government officials and those people who are there in the market providing services to the customers. One thing emerged very clearly as far regulation of closing hours is concerned- there is a lack of awareness among majority of the concerned entities who are being affected directly by these laws. I spoke to quite a few eating house owners and shop owners and realised that they are not aware of the proper rules. They are not clear of the fact that who actually comes for inspection. Some believe that MCD decides closing time. Some think that shops are inspected by Police Inspectors. There are some who think that closing time of shops is decided by the market associations. In short there is a lot of vagueness prevalent much to the advantage of the officials. The officials are able to fool the owners and extort money from them. Most of the small owners fear government officials and do not prefer to go against them, whether the concerned official has the right to inspect or not.

Invariably, I found that market forces determine the closing time. Whether it is eating house or a shop, the owner closes the outlet at the time that suits him. His closing time is determined by the demand for the services, by his turnover and by the amount of time he wants to spend with his family. It is not surprising that markets in and around residential areas stay open till late. They generally close around 9-9:30 pm. In other words 'Law' has no role to play in reality- those who close their outlets early, do it because that is what they want. Those who keep their outlets open beyond the legal time, do it because it is profitable for them. All that these laws manage to do is to create an avenue for the officials to earn black money. In other words market forces are deciding the working hours irrespective of what the law says and when there is clash between the two, people are forced to break laws.

I would suggest that these laws should be done away with, not only it gives rise to corruption but also they are difficult to enforce. One might argue that the governing authorities have certain objectives to fulfil. As far as objectives are concerned, if we look at eating houses, the laws have remained more or less stagnant and so any change in crime rate cannot be attributed wholly to fact that eating houses work till late. If we look at laws governing shops, their main objective is to prevent exploitation of labour in any form. Exploitation of labour is a very subjective issue and due to existence of laws many labourers are involuntarily unemployed. As a result, there emerges an informal sector where the employers break law because they get cheap labour who are willing to work on any terms and conditions of the employers. Thus, eventually the market decides the level of employment and exploitation. The laws are rendered redundant. They are used by the authorities to

extort money on which they have no right. In this particular, case I would suggest that laws should be done away with and market forces should be allowed to decide the closing time.

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