



International
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The Regulatory Framework and the Informal Economy

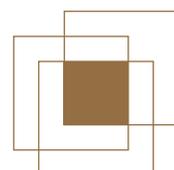


Flower vendor in the street. Ecuador.

Specific Groups

4.b3 **STREET VENDORS: INNOVATIONS IN REGULATORY SUPPORT**

■ This brief looks at street vendors as a category of informal economy actors with specific issues and challenges. Improving the conditions of work of street vendors and their economic, social and legal status is a huge challenge. Street vending is often looked down as an undesirable activity undertaken by criminals which impinges on the use of public space. Street vendors are often persecuted, live in uncertainty, and work in poor conditions with little access to infrastructure. The brief highlights important developments in regulating street vending including the development of policies at municipal and national level. It should be read in conjunction with the brief on local development.



KEY CHALLENGES

- **Street vendors and informality**
- **Difficulties street vendors face**
- **Specific problems to address**
- **Regulating public spaces**
- **Clarification of the law**
- **The need to disseminate information**
- **The need for organization of street vendors**

■ **Street vendors and informality.** Street vendors¹ are part of an extremely visible category of workers that has always existed, despite frequent efforts to repress them.² Some observers argue that the number of street vendors worldwide is increasing, both because of the generalised rural exodus of low skilled workers towards cities, as well as global economic crisis and the lack of employment opportunities.³ Others, however, point out that there is very little data on street vendors, and argue that it is consequently difficult to ascertain if their numbers are growing faster than would be accounted for naturally by urban population growth.⁴

Street vending is closely connected with the availability of urban public space – pavements, roads, parks, beaches, etc. – and many of the difficulties associated to the activity, including the generally negative way it is perceived by wider society, are linked to the ways in which such spaces are managed by the authorities.⁵ As a result, street vendors face a “complex coexistence of persecution, regulation, tolerance and promotion”.⁶

■ **Difficulties that street vendors face.** Street or market vending can be highly regulated, but most of the time, it is informal, operating outside the law, without permit or standardised facilities. Street vendors more often than not face significant difficulties in carrying out their livelihood activities. They suffer from poor access to services and infrastructures such as water, electricity and financial services. Shopkeepers may accuse street vendors of unfair competition, they are often treated as criminals, and are often seen as impeding the city’s development. They are concerned with confrontation with police or municipal authorities, and frequently need to pay bribes in order to be able to continue selling on the streets, as well as to escape evictions and the confiscation or destruction of their property.

What is street vending ?

Street vending varies in term of scale, timing, location, remuneration, workforce and types of goods sold and services provided.⁷ It can be a full-time occupation, a part-time occupation, seasonal, or occasional. It can be carried out by one person but can also be a franchise of a larger street business. It can be a survival strategy or part of a big business. The incomes of street vendors consequently vary widely. At the same time, street vendors often sell home-based manufactured products and agriculture products that would otherwise be difficult to market and are as such an essential to the economy. Moreover, because they sell cheaper products, street vendors often cater for the urban poor.

There are no labour standards at the international level dealing directly with street vendors. The manner in which street vending is approached at the domestic level varies dramatically from one country to another. Many countries specifically regulate this activity, providing a clear legal framework and jurisdictional mandates, while others have overlapping jurisdictional mandates, which creates confusion and conflict, and in others still, street vending is simply considered illegal.⁸

⁷ Ibid

⁸ See Bhowmik, unpublished, p.53.

¹ Also referred to as “street traders” or “hawkers”.

² Cross, 2000, p.41.

³ See Bhowmik, 2005, p.2256. Bhowmik points out that there was a sharp increase in the number of street vendors in Thailand, Singapore, Malaysia, the Philippines and Korea after the 1998 monetary crisis. See also, Cross, 2000, p.29.

⁴ Bromley argues this, based on over 25 years of research in the field (2000, p.10).

⁵ Bromley listed the frequent arguments for and against street vending (2000, pp.4-10).

⁶ Ibid. p.22.

Street vendors suffer from clear decent work deficits.⁹ They often endure poor working conditions such as irregular income and long hours, lack of social security, and poor health and safety standards, amongst others. Gender balance varies greatly from one country to the other, but in many countries a majority of street vendors are women. It has been pointed out, moreover, that men are often in a better position, being more likely, in some countries, to sell non-perishable goods from push-carts or bicycles, while women are more likely to sell perishable goods from baskets or a cloth spread on the ground.¹⁰ Street vendors often originate from a particular region or foreign country, which may add a xenophobic dimension to their treatment.

● Among the difficulties of regulation is the mobile nature of street vending

■ **Specific problems to address.** Street vending is very difficult to regulate because of its mobile nature: street vendors may move depending on events in a city, the weather, customers' location, the time of day, etc.¹¹ Solutions that involve the creation of off-street markets, for example, may not work because customers do not necessarily follow the vendors, who are then rapidly replaced by new vendors in their previous location.¹² Another difficulty is the fact that street vending is often regulated at the local level: changes in local governments can mean a rapid change of regulation and/or policy, which adds to the uncertainty faced by street vendors. A broad-based national policy to be enacted and implemented at the local level may be a useful step to reduce this uncertainty.

● The use of public space needs to be legally secured in order to facilitate street vendors stability and reduce their uncertainty

■ **Regulating public spaces.** One of the main issues surrounding the regulation of street vending is the regulation of public spaces since these are spaces that are theoretically open for all to use and enjoy indiscriminately. A very difficult balance must therefore be found between the right of access to public spaces and the need to move about in the city, on the one hand, and the right of street vendors to work and earn a living, on the other. There is no "one size fits all" solution, potential policies will vary greatly depending on local context. At the same time, effective information campaigns explaining the reasons behind any chosen solution have been shown to often successfully reduce any tensions created.

There is a need to legally secure street vendors' use of public spaces in order to facilitate their stability and reduce their uncertainty. Support interventions, such as access to credit and training may become irrelevant if the street vendor's right to sell in the streets or at a particular public location has not been secured.¹³ Often, regulation concerning the use of public space is unclear or contradictory. This is accentuated by the fact that municipal governments may experiment with various ways of implementing the conflicting national and metropolitan level laws.¹⁴ Sometimes, there may even be competing claims regarding which authority regulates public spaces (e.g. municipal authority vs. local authority).¹⁵

9 For the example of street vendors in Mumbai, see Saha, 2009.

10 Chen, 2006, p.79.

11 Bromley, 2000, p.18.

12 Bromley, 2000, pp.18-19.

13 Bhowmik, unpublished, p.50

14 Roever, 2006, p.246.

15 This is the case in Caracas, Venezuela where there exists overlapping jurisdiction concerning urban planning (Bhowmik, unpublished, p.58).

■ **Clarification of the law.** There may be uncertainty as to the legal status of street vending: it might be considered illegal in one statute while another might specifically ask street vendors to pay taxes.¹⁶ The law must therefore have clearly defined terms, and all outdated regulations need to be repealed. Laws should not seek to exclude street vendors or make their activities illegal or criminal, but ought to rather establish procedures through which they may obtain licences. Training should also be given to the police on the content of the law.

■ **The need to disseminate information on regulatory changes.** New legislation or regulations need to be publicised in a way that brings them to the attention of street vendors. This can be done by publishing them promptly in newspapers, or in an information sheet that is then distributed to street vendors, communicating via radio stations, or bringing them to the attention of NGOs or trade unions working with street vendors.

■ **The need for the organisation of street vendors.** Finally, efforts need to be made to promote the organisation of street vendors. As street vending employers are rare, strong street vendor organisations are needed in order to engage in negotiations with municipalities. This is the first step for the elaboration of good regulation adapted to the needs of street vendors.¹⁷ In some instances, area-based management may also be advisable in order to facilitate communication between street vendors and the local authorities.¹⁸

● Street vendors' legal status may be uncertain or poorly understood

● The organization of street vendors is essential to increase their bargaining power

¹⁶ Kusakabe, K., 2006, p.17.a

¹⁷ In Bogotá, the fragmentation of unions, combined with declining membership and a lack of external support facilitated, in part, the removal of thousands of street vendors to enclosed markets. This resulted in lower wages for street vendors which in turn meant that they found it difficult to pay the rent for their stall, even if some benefitted from better working conditions (Donovan, 2008, p.38, and pp.41-42). Ultimately, the drop in income resulted in vendors deserting the stalls (Hunt, 2009, p.342).

¹⁸ See, Skinner, 2008, p.239.



Newspaper seller, Havana, Cuba.



Street vendor selling watches. Khan El-Khalili District. Cairo, Egypt.

- **Integrated approaches to support street vendors**
- **Licensing and infrastructural support**
- **Addressing the expulsion of street vendors**
- **Development of National Policies**

It should be kept in mind that a change in government or local power structure can transform a good practice into a failure. However, examples of good practices show that a situation can be improved through the collective efforts of street vendors.¹⁹ Many countries or cities have taken steps in view of regulating street trading and protecting street vendors.

■ **Integrated approaches to support street vendors.** Durban municipality in South Africa is often portrayed as an example of good practice but is more an example, according to some, of the on-going struggle that street vendors face. The Self-employed Women's Union (SEWU), launched in 1994, and the Informal Trade Management Board, established in 1995, lobbied and negotiated with the Durban local authorities to obtain infrastructures for street vendors. Their activities ensured the incorporation of vendors in city planning.²⁰ In 2001, an acclaimed policy on Durban's informal economy, inspired by several pilot projects, was adopted. It made a number of suggestions for improving street vending with regards to, for example, registration (simplification of the registration process and reduction of its cost), site allocation (criteria for allocation should be negotiated with stakeholders and the allocation of sites should then be done by officials), and operating charges (different transparent fees should be set according to location, size and services provided; payment should be simplified). It established as well framework principles for by-laws.

Durban's 2001 informal economy policy - Bylaws

Guiding principles in the future formulation for bylaws for all workers should be:

- As far as possible, they should be applicable to the whole local government area, and not just the central city area;
- They should be translated into Zulu (as the present ones are);
- They should be written in gender-sensitive language;
- They should be widely disseminated, in an easy-to-read format;
- They should be presented in both popular radio and print media.

Source: Durban's Informal Economy Policy, December 2001, p.42.
http://www.durban.gov.za/Resource_Centre/Policies/Documents/INFORMAL%20ECONOMIC%20POLICY%20FINAL%20DOCUMENT.pdf

¹⁹ Bhowmik, unpublished p.4.

²⁰ Skinner, 2008, p.233.

The 2001 policy was only partially implemented, however. Moreover, Durban's approach shifted and in 2004, the police started removing street vendors merchandise at several locations in the city and the Council approved a plan to stop "illegal, unlicensed street trading". Since it had only issued 872 permits, most of street vendors were considered illegal.²¹

■ **Licensing and infrastructural support.** In Dar es Salaam, Tanzania street vendors have been issued licenses and are allowed to operate since the early 1990s. Shelves and tables have been standardised and guidelines have been adopted setting up a framework for managing street vending. The city council has been persuaded to adopt a consultative approach which greatly helped in the implementation of the plan and resolved many issues such as crime and street cleanliness.²²

■ **Addressing the expulsion of street vendors.** In Bogotá, Colombia the Constitutional Court stated that it was necessary to reconcile the two conflicting constitutional rights to public space and to work when dealing with the expulsion of street vendors. Expulsions are therefore permitted only when they have been ordered through a proper judicial process, and when there are guarantees that the evicted traders will not be neglected. According to the Court, training for vendors and improved access to credit are permissible alternatives to relocation.²³

■ **Development of National Policies.** In India the Supreme Court confirmed in 1989 that street vendors had the right to vend and that streets were not only "meant exclusively for passing and re-passing and no other use".²⁴ In 2004, a National Policy on Urban Street Vendors was adopted, reflecting a change from prohibition to regulation of street vending. It seeks to legalise street vending by providing for legal vending zones, establishing fee-based regulation rather than limited number of licenses, promoting the organisation of street vendors and implementing participatory mechanisms, amongst other initiatives.²⁵ Implementation of the policy at state level has proved challenging, however, with only a few draft State-level laws based on this policy currently under discussion. A new National Policy was adopted in 2009, revising the 2004 Policy. The revised policy insists on the need for a legislative framework and includes a Model Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill.

In Dar es Salaam the city council has instituted consultative mechanisms as well as infrastructural and regulatory support

In India a national policy on urban street vending was adopted in 2004, reflecting a change from prohibition to regulation. In 2009 the policy was revised and called for legislative support

21 Ibid. pp.236-237.

22 Bhowmik, unpublished, p.41 and 44.

23 Ibid. pp.55-56.

24 Sodan Singh and Others versus New Delhi Municipal Council, 1989, cited in, Ministry of Housing and Poverty Alleviation, 2009, National Policy for Urban Street Vendors, 2009, para.1.3.

25 For more details see: <http://mhupa.gov.in/policies/natpol.htm>.

Good practices in Thailand

One of the key to success is dialogue between the managers and street vendors. Managers need to accommodate street vendors, as these two examples of good practices shows:

- In the first case, an individual won a concession from the ministry who owned the area to manage a private market. The market is well-organized and managed, resulting in a win-win situation for all parties involved. The owner goes around the market everyday and is responsive to the vendors' problems.
- In the second case, the market is in a private company's housing estate. The private company organised and managed the market. A high rent is charged and high standards of hygiene, orderliness, and security are maintained. At first, the vendors were not happy to relocate, but gradually, as business at the market picked up and the managers tried to persuade the vendors, relocation was completed and the market flourished. Through renovation by the company, the market has good infrastructure, including restrooms and a car park, and this has contributed to the increase in customers and consequently, an increase in income for vendors. Hence, vendors are also willing to pay higher rent.

Source: Kusakabe, K., 2006, Policy Issues on Street Vending: An Overview of Studies in Thailand, Cambodia and Mongolia (Bangkok: ILO). p.16. http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_bk_pb_119_en.pdf

This section provides a list of resources which can enable the reader to delve deeper into the issue. Details of the good practices cited above can be accessed here. The section comprises relevant publications and training tools. A bibliography of references in the text is further below. There may be some overlap between the two.

Relevant publications

Bhowmik, S. K. 2005. "Street Vendors in Asia", in *Economic and Political Weekly*, Vol. XL, Nos. 22-23, pp.2256-2264.

Bromley, R. 2000. "Street Vending and Public Policy: A Global Review", in *International Journal of Sociology and Social Policy*, Vol. 20, No. 1-2, pp. 1-28
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<http://www.ilo.org/legacy/english/protection/travail/pdf/rdwpaper27c.pdf>

Skinner, C. 2008. "The Struggle for the Streets: Processes of Exclusion and Inclusion of Street Traders in Durban, South Africa", in *Development Southern Africa*, Vol. 25, No. 2, pp.227-242.

Tools

Durban's Informal Economy Policy, December 2001
http://www.durban.gov.za/Resource_Centre/Policies/Documents/INFORMAL%20ECONOMIC%20POLICY%20FINAL%20DOCUMENT.pdf

Sankaran, K.; S. Sinha ; M. Roopa. *WIEGO Law Pilot Project on the Informal Economy: Street Vendors in India* (WIEGO).
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http://www.durban.gov.za/Resource_Centre/Policies/Documents/INFORMAL%20ECONOMIC%20POLICY%20FINAL%20DOCUMENT.pdf
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- Tokman, V. E. 2007. *Modernizing the Informal Sector*, DESA Working Paper No. 42.

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