

WIEGO 20th Anniversary Research Conference

Session: Street Vendors

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Questions: *What urban paradigms / legal frameworks are currently informing the regulation of street trading? In what ways do they need to be modified to better match street vending realities? What research is needed to inform the rethinking that is needed?*

Urban paradigms & legal frameworks — a global view

This note considers the question of urban paradigms and street vending from a global point of view. My aim is to reflect on the broad contours of research on this topic over the past twenty years, drawing on studies across regions and academic disciplines. While this research has identified multiple sources of regulation — including not only the national and local state but also capital and society — for the purpose of this brief note I will focus on the types of regulation coming from the local state.

To some extent a global view of street vending regulation in 2017 does not look terribly different from Bromley's widely cited global overview in 2000: while street vendors contribute to cities by creating jobs, generating revenue for local governments, and “bring[ing] life to dull streets,” they are subjects of regulation all over the world due to concerns around congestion in public spaces, competition with off-street businesses, and health and sanitation challenges. Beyond regulation, they are also targets of evictions and relocations, as is now well documented through both research and social media.

What's different now is that we have a much more fine-grained understanding of the components of regulation, and the urban policies and politics behind them. Building on Horn's 2017 overview based on StreetNet International's global experience, we may consider what we now know, and what we don't know, about four areas of regulation and the policies and politics driving them: (a) licensing and permitting regimes; (b) spatial regulations; (c) enforcement provisions; and (d) taxation.

Licensing regimes: The main difference between a licensing system and a permitting system is that a licensing system regulates the right to undertake the activity, while a permitting system regulates the space in which the activity takes place. In many cities, by-laws require street vendors to hold a license in order to trade; trading without a license is thus considered illegal. Through this system, authorities often state an intent to control the number of street vendors by limiting the number of licenses issued. With the criminalization of vending without a license built into the legal structure, and the limit on available licenses built into the policy structure, authorities can then selectively enforce the by-law through fines or arrests when it is politically convenient to get rid of vendors, and relax enforcement when it is politically convenient to allow them to work. These practices, and the policies and political coalitions behind them, are now well documented in cities as diverse as Guangzhou (Xue and Huang 2015), Bogotá (Donovan 2008), Mumbai (Anjaria 2006) and Johannesburg (Benit-Gbaffou 2015), among others. Historically, licensing regimes have been used in efforts to control economic activity under centralized planning paradigms (as in colonial-era legislation in India), but under

present-day norms of deregulation, licensing and enforcement practices often are informed not so much by a planning paradigm as by political expediency.

Spatial regulations: Much more centrally linked to prevailing ‘entrepreneurial urban governance’ paradigms are regulations designed to keep vendors out of certain public spaces. How these paradigms manifest themselves in policy and practice ranges from locality-specific permitting regimes that control who can vend in which space, to relocation projects designed to ‘graduate’ street vendors to off-street commercial premises, to outright evictions, sometimes on a mass scale and sometimes violent—the latter of which are now routinely documented via social media.

There is now a well-established research trajectory analyzing these efforts to control public space, particularly in the Historic Centers of Latin American cities (Swanson 2007, Mackie et al. 2014, Crossa 2009) and the Central Business Districts of African cities (Morange 2015, Kamete 2012, Skinner 2008). This research brings insight into the political coalitions behind clearances of public space, as well as the conceptual and theoretical frames that inform those coalitions, drive their discourses, and define their policy choices. In the city I know best (Lima, Peru), street vending regulation evolved from (i) a mixture of licensing, spatial regulation and policies supporting the incorporation of street vendors into social protection regimes under the Import Substitution Industrialization period (pre-1980s), to (ii) a dismantling of the right to work in public space under structural adjustment (1990s and 2000s) in which street vending was framed contradictorily as an entrepreneurial activity that was unlawfully established, leading to mass evictions and relocations, to (iii) a neoliberal emphasis on targeted local economic development policies that mandate relocation to private commercial sites via collective savings of street vendors’ organizations, thus using the rhetoric of formalization as a tool to rid the streets of vendors at the vendors’ own cost (Aliaga Linares 2015). There is also new research on the social regulation of street trade, e.g. in Ho Chi Minh City (Kim 2012).

Enforcement provisions: Many researchers have noted the considerable gap between the pervasiveness of street vending regulations around the world and their enforcement in practice. This gap has been connected to the considerable monetary and human resources required to enforce a hopelessly complex regulatory structure, e.g. in New York City (New York City Independent Budget Office 2010); the electoral costs of enforcement (Holland 2015); and the regulatory spaces that enable local officials to use their positions of relative power over vendors to undertake selective enforcement (Roever 2016). Enforcement via low-level harassment is now well documented in many cities; there is even a map of ‘bribes per square meter’ among street vendors for downtown São Paulo (Itikawa 2006). Within the regulations themselves, enforcement provisions commonly allow for fines and merchandise confiscations, as well as license revocations and even arrests. Interestingly, legal challenges to merchandise confiscations have begun to emerge; for example, a street vendor in Durban, with the support of the Legal Resources Centre, won a 2014 court case challenging the city’s power to impound merchandise and seeking compensation.

Taxation: Some regulatory schemes incorporate taxes, levies and fees, and there is increasing interest in how to “tax the informal sector” alongside decentralization and increasing pressures on municipal budgets. As Horn (2017) notes, in West African cities where there is a high density of market trade, there is a correspondingly high rate of taxies, levies and fees in markets collected on daily, weekly, monthly and/or yearly basis. Many street vendors pay local levies and fees; many market traders pay both local and national taxes; and many food vendors pay extra fees related to health and sanitation requirements. In recent years street vending organizations have gained further knowledge about how those revenues are spent through the Informal Economy Budget Analysis methodology (Budlender 2009) and policy dialogues engaging local authorities on the matter.

Street Vending Realities & Future Research

The efforts of street vendors’ organizations to engage with different government entities around the regulation of street trade represent a key frontier in research. Over the past two decades the global street vending movement has grown considerably, and along with it the capacity of street vending organizations to engage in negotiation and collective bargaining (Horn 2015). However, these engagements do not take place in neatly bound forums or easily defined spaces. Rather, they evolve slowly in a variety of different modalities, with as many canceled meetings as meetings held, as many unanswered invitations as accepted ones, as many false starts and setbacks as agreements made—all in the context of changing political currents and a constant rotation of government authorities with whom to engage. While evictions and relocations—as well as resistance strategies against them—are far better documented now than they were two decades ago, the spaces in between those headlining moments are less well understood.

A second important area for further research is around emerging models for own-account workers to access social protection. A vast majority of street vendors are own-account workers with unstable earnings, and many have poor access to health services and high exposure to occupational health and safety risks. One new model (from Brazil) allows individual microenterprise operators with low earnings to register for social security at subsidized rates, facilitating a type of formalization—but critics suggest this model undermines organizing and collective action. Of particular concern is that we better understand those own-account workers who earn more than the vulnerable poor, on the one hand (e.g. elderly and disabled who may be targeted in social programs or granted privileged access to vending licenses), but less than the entrepreneurial middle class (e.g. who can pay to access micro enterprise programmes). These ‘strugglers’ are the majority but get little attention in research and policy.

Finally, and more broadly, it is important for future research on street trade to find middle ground in research design between in-depth case studies of a single location and quantitative analyses of large datasets that fold street vendors in with all informal sector enterprises. The past twenty years have brought significant advances in official labour force statistics, conceptual models, and thoughtful analyses of the politics of street vending all over the world. In WIEGO, we learned a great deal about street vendors and

market traders through the Informal Economy Monitoring Study by taking a consistent sampling approach across five cities, producing comparable qualitative and quantitative data sets. Comparing results among street vendors across those five cities — and having the in-depth knowledge of local partners to help interpret those results — enabled us to see in a way we hadn't before. We need more comparative work to better understand the linkages between urban dynamics, regulations and the day-to-day realities that street vendors face.

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