



Women in Informal Employment Globalizing and Organizing

WIEGO Resource Document No. 10

October 2018



Street Vendor Licensing and Permits – Reflections from StreetNet International

Pat Horn

WIEGO Resource Documents

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About the Author:

Pat Horn is the International Coordinator of StreetNet International. She is based in Durban, South Africa, and can be contacted on coordinator@streetnet.org.za.

Publication date: October 2018

ISBN: 978-92-95106-45-1

Please cite this publication as: Horn, Pat. 2018. *Street Vendor Licensing and Permits – Reflections from StreetNet International*. WIEGO Resource Document No. 10. Manchester, UK: WIEGO.

Published by Women in Informal Employment: Globalizing and Organizing (WIEGO), a Charitable Company Limited by Guarantee – Company No. 6273538, Registered Charity No. 1143510

Series editor: Caroline Skinner

Copy editor and layout: Megan Macleod

WIEGO Limited

521 Royal Exchange
Manchester, M2 7EN
United Kingdom
www.wiego.org

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Cover photograph: Jonathan Torgovnik/Getty Images Reportage

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1. Introduction

StreetNet International is a federation of organizations of street vendors and informal traders with 50 affiliates in 46 countries in Africa, Asia, the Americas and (Eastern) Europe. StreetNet gathers information about different trading regulation systems from its members. This information is collected from organized street vendors, including StreetNet affiliates, on field visits conducted by StreetNet organizers and in annual questionnaires. The information is compiled into annual reports that detail what work StreetNet affiliates are undertaking to represent their members and advocate or negotiate collectively for the protection of their livelihoods and rights. Together this information provides an overview of the vast range of approaches to street vending regulation and the dynamics that influence these.

Drawing on this knowledge base, this Resource Document starts by considering national contextual factors – legal, political and economic – that shape vendor regulatory regimes and broad trends in local governments’ approaches in Section 2 and 3 respectively. Section 4 concentrates on the core elements of existing licensing and permitting regimes. Rather than identifying “inclusive” or “better” practises, which are context specific and often short lived, the paper focuses on appropriate processes and underlying principles. This is with a view to enhance the knowledge base, but also to guide further work on this issue. The conclusion includes identifying issues that need further research/ documentation.

2. National Context

2.1 Constitutional Rights Versus Street Vendor Legislation and Realities

In many countries with rights-based democratic constitutions, trading is a constitutionally protected activity (e.g. Colombia, India, Mexico, South Africa, among many others), irrespective of where it is done. However, it is common for legislation and bylaws to contradict constitutional provisions — particularly when most of the legislation is more dated than the constitution — and for implementation of laws to nevertheless proceed unconstitutionally, unless authorities are forced through successful litigation or class actions to respect constitutional provisions in their enforcement practices. Where policies and laws are developed to ensure compliance with constitutions, this still does not guarantee the proper implementation of such policies and laws.

In the Global South, many post-colonial or post-independence governments trying to define policies relevant to the “developmental state” find themselves at a loss as to how to regulate street traders and develop appropriate policies. This results in vacillating policy and regulatory regimes characterized by high costs of enforcement. As a result, there is a high global incidence of non-implementation of policies and regulations. There are also other reasons for non-implementation, such as the vicissitudes of electoral strategy and/or lack of political will. For this reason, best practices in this field are hard to identify, as they are invariably short-lived. The only safe way to use more inclusive or better practices as education examples for workers in the informal economy, is to locate them not only geographically, but within a specific time-frame during which that better practice was effectively sustained.

The contradictions between legal and constitutional rights, on one hand, and the implementation of policies and regulation of street trade, on the other, create fertile ground for street vendors and informal traders to turn to litigation as a solution. However, “litigating street vendors” rights may be better represented as a continuous dialogue between hawkers, municipal authorities, and the courts, than a series of decisions that put an end to conflicts” (Meneses-Reyes and Caballero-Juárez 2013:377). Ongoing conflicts, however, often contribute to the vacillation in regulation and management of street trading, rather than leading to policies and regulations being adopted that can provide consistent frameworks to manage the conflicts.

2.2 Street Vending Regulation and Party-Political Processes

The sector of street vendors and informal traders is an important political constituency, either purely because of their vote, in democratic countries, or also because of their strategic importance in poverty-alleviation and job-creation strategies in countries of the Global South. Consequently, regulation of informal trade is never a purely technical policy matter. In fact, permitting and licensing regimes usually reflect the political or socio-economic agendas of the policymakers, either explicitly (as in the case of Nicaragua) or implicitly.

In Guangzhou, China, Xue and Huang (2015:161) describe the revival of long-suspended licensing regulations after 1992 to “support illegalisation of street vending.... despite the fact that there is no licence available for vendors without business premises.” In South Africa, the Businesses Act of 1991 replaced the Apartheid system of licences (for the right to trade) with permits (for the spatial regulation of trade in public space in a liberalized economic system). Despite this, the permit system continues to be used as an approximation of the licences used in the previous Apartheid-era “forced removal” approach to regulating street trade.

In Kenya, in advance of the national elections in late 2017, a Kenyan high court judgment condoning the removal of informal traders from the streets of Nairobi was ignored. In Liberia, the controversial relocation of the Red Light Market in Paynesville, Greater Monrovia, to the Omega Market in a less central location, scheduled for December 2016, was eventually (indefinitely) postponed.

In Zambia, when Michael Sata of the Patriotic Front took power on a pro-poor ticket after elections in 2011, he decreed that street vendors were not to be evicted. That situation is still in place, although shaky, under the current president, Edgar Lungu. In Tanzania, President John Magufuli has taken the country by storm since being elected in 2014, attacking wasteful expenditures and inefficiency in the civil service, and pressuring civil servants to deliver quality public services to the poor. In 2016, he issued a decree against the eviction of street vendors in Dar Es Salaam, even as new infrastructure developments were under way, forcing municipal authorities to allow those street vendors who had to relocate to find alternative sites on the city’s streets.

In Nicaragua, a government decree enacted in June 2009 prohibits the eviction of street vendors and informal traders from their places of work. The decree reminds local governments of their “task of facilitating all forms of work which provide food security and the dignity of a fixed income, without creating legal obstacles or modernisation processes which continue to replicate the extreme poverty created by neo-liberalism in Nicaragua”.¹

¹ Nicaraguan government decree, 1 June 2009 (English translation).

It should be noted that these are all national government decrees and policies which local governments are obliged to follow. They do not necessarily represent political will on the part of local government authorities to take responsibility for guaranteeing the right to work. It is worth researching exactly how the existence of such strong national government imperatives impacts the regulatory regimes put in place by local governments.

Another political factor is an inherent anti-migrant bias (in some cases reinforcing xenophobia against foreigners, in other cases against internal “floating populations”, such as in China and Vietnam). The bias is often reflected in licence/permit ID requirements in many countries. In countries of the Global North, street vendors and informal traders are more commonly documented or undocumented migrants, adding the issues of citizenship and xenophobia into the political mix.

2.3 Street Vending Regulations and Economic Paradigms

Permitting and licensing may be regarded primarily as a technical micro-administrative matter, but broader economic debates also influence permitting and licensing regimes.

Hernando de Soto, regarded by many in the corporate and NGO sectors as an innovative thinker, was hired with his team of researchers by the governments of Egypt, Tanzania and others to advise them on regulation and management of the informal economy. He seeks to de-bunk the idea that because the marginalization of workers in the informal economy has resulted from neo-liberal capitalism, the just regulation of the informal economy is best done by means of an anti-capitalist approach. He advances a political argument that capitalism must be intensified, and property rights given to workers in the informal economy to give them a stake in the capitalist system (de Soto 2000). It is not clear to what extent governments eventually followed his advice with the introduction of such laws. He acknowledged in a personal interview² that he had abandoned the bottom-up approaches of social inclusion favoured by most of his left-wing critics, as he thought they were ineffective, and asserted that more macro-economic progress would be made if governments followed his advice.

In Nicaragua, the Sandinista approach is based on an analysis of the political macro-economy in which own-account workers are recognized as prominent role-players — documented in the First Self-Employed Workers’ Manifesto of the CTCP-FNT (Soto 2011). The section of this Manifesto entitled “The construction and consolidation of a social economy: programme, strategy and tasks” describes “the birth of what today has become a self-employed proletariat which now seeks a place in anti-establishment theory and practice, rather than merely being counted as poor or as an electoral mass when an election year comes around” (Soto 2011: 36-7). It also articulates the importance of organizing this group into:

² The interview took place at de Soto’s home in Lima, Peru, 2001. Carmen Roca (WIEGO) was also present at this interview.

“...a social movement which aims to improve the correlation of forces in their country of residence, struggling to improve their standard of living, not only in terms of their own income, but also by gaining access to national surpluses — specifically to the nation’s budget, as they are the group that proportionally pays the highest taxes. This is so because in their countries indirect taxes are far higher than direct ones, a burden which must be carried by the vast majority of the population, among them the self-employed proletariat. But most important, as mentioned, is to advance toward the individual and as-sociative control of production, transport, local and international trade, distribution and consumption.”

Soto, 2011: 36-9

In Cuba, possibly influenced by the Sandinista policy in Nicaragua, new regulations recognizing own-account work and Cuba’s “self-employment sector” were announced in 2010. These regulated a large part of the informal labour force who had previously been unregulated, by a political decision “to extend the self-employment sector and use it as another option for workers seeking alternative jobs after the necessary reduction of the country’s inflated employment registers in the public sector. Various restrictions will be eliminated to allow the authorisation of new licences and the marketing of certain products ...” (Hernández 2010).

3. Local Government Approaches to Vendor Management and Regulation

In StreetNet’s experience, the predominant approach to the regulation of informal trade is reactive with regulations developed in response to the growth of trading in public spaces and conflicts that have arisen. Municipal bylaws and ordinances are developed to navigate different rights and interests — e.g. middle-class consumers driving cars versus low-income consumers relying on public transport, formal and informal traders, and traders and pedestrians.

Many countries navigate these tensions by allocating land for markets into which street vendors are encouraged to move. Recent examples include Angola, Azerbaijan (where markets are called “bazaars”), Belarus (including open markets), Brazil, Liberia (e.g. Red Light Market in Paynesville, Greater Monrovia), Sierra Leone, and Zambia (e.g. Chisokone Market in Kitwe). A critical factor in the success of this approach is sensitivity to where markets are located.

Pressure brought by many interest groups including informal traders eventually forced many countries, particularly in the Global South, to look beyond the provision of markets to the question of regulating street trade and even mobile traders. Some of the countries where regulation is also specifically done in the streets are India, Kenya, Kyrgyzstan, Liberia, Sierra Leone, South Africa and Venezuela.

In most West African countries, local governments allocate land for markets, but due to high demand for space there are still many street vendors all around the markets. This creates a necessity to regulate both street vendors and informal market vendors.

In most Central Asian countries and Eastern European countries, most of the markets and bazaars are privatized.³ This results in different dynamics, and less pressure on local government authorities for regulation of economic activities in public space. In many of these places there is strict regulation of public space, emulating Western Europe.

The right of informal traders to ply their trade in public spaces in some countries in the Global South is accepted. Some countries merely seek to apply law and order — such as Liberia and Sierra Leone — and/or to collect revenue in the process, such as many countries in West Africa. However, others — such as Azerbaijan, Belarus, Brazil, Kenya, Kyrgyzstan and Moldova — employ elements of social engineering through regulations that specify pre-conditions, such as entrepreneurial registration requirements, or restrictions on the goods or services that may be sold. These kinds of pre-conditions can be difficult to comply with and consequently serve as an obstacle to being able to trade with permission, often creating and reinforcing class hierarchies and marginalized groups in an already socially marginalized sector of the economy.

It would make sense for regulation of street trade to form an integral part of urban planning. In many Latin American countries, it is common for cities to have Departments of Public Space — implying an urban planning approach.

In India, the Street Vendors (Protection of Livelihoods & Regulation of Street Vending) Act of 2014⁴ requires all municipalities to accommodate street vendors in vending zones “subject to a norm conforming to two and half per cent of the population of the ward or zone or town or city, as the case may be, in accordance with the plan for street vending and the holding capacity of the vending zones”. This is used as the starting point for the regulation of street vending, after conducting a survey of “all existing street vendors” (Clause 3). Presumably, this was prescribed in accordance with the prevailing statistics at the time, which estimated that street vendors made up 2.5 per cent of the population of India.⁵ This legislation further introduces “natural markets” as an innovative instrument for urban regulation of street vending in public spaces. The Act also makes the crucial connection between livelihoods, urban planning, and spatial regulation of street vending. While implementation of this law is an ongoing challenge, the law contains important elements of a more progressive approach.

³ This is not the same as privately-run markets (such as “flea markets” and traditional food markets) in many other regions, which are contracted out by local authorities to private entities to manage on certain fixed days or between certain fixed hours.

⁴ Act No. 7 of 2014, in The Gazette of India No. 8, 5 March 2014.

⁵ Information from StreetNet’s Indian affiliates, SEWA (Self-Employed Women’s Association) and NASVI (National Alliance of Street Vendors of India).

4. Specific Characteristics of Licensing and Permitting Regimes

4.1 Licensing versus Permits

The traditional system used in most countries to regulate street trade was to legislate that street trade was illegal for everybody except those who obtained licences to trade. The number of people allowed to trade in the streets was then regulated by the number of licences issued. With the advent of liberalization, there were pressures to de-regulate, thus eliminate licensing requirements for the informal economy, and to replace this with a system of permitting, but regulating, all informal trade.

The regulation of informal trade is now more often done by authorities in charge of certain locations who issue permits to trade in particular areas. Approaches to assigning and distributing vending rights are different in different contexts as is the terminology used. A scan of evidence suggests there are essentially two types of permitting/licensing systems — one that regulates the right to trade and another that regulates trading space. Where the right to trade is regulated, anyone who trades without a permit/licence is committing an illegal act. Where the trading space is regulated, anyone is free to trade in principle, but not in a particular area without a permit/licence to do so.

4.2 Quotas Restricting Numbers of Licences/Permits Issued

In perusing licensing and permitting procedures from various cities, no mention was made of specified quotas. However, in discussions with organized street vendors and informal traders, the issue of trying to limit the number of informal traders by restricting the number of licences or permits to be issued regularly arises. However, often limits on numbers can be negotiated and amended, or even dropped in favour of other ways of managing space. This is probably a practice determined by enforcement agents in the course of implementing spatial policies and regulations and navigating different political and other pressures.

4.3 Restrictions on Products Sold

In principle, informal trade is subject to the same legal restrictions as other businesses regarding trading in cooked foods (mainly due to health issues); or highly-regulated products, such as medicines, cigarettes or alcohol (subject to strict limitations in many countries); and criminal prohibition in illegal products (such as narcotics). In some countries there are strict regulations about the sale of branded goods and the protection of intellectual property rights. In Azerbaijan, vendors are not permitted to sell any drinks, frozen meat or sausage products, but can freely sell any agricultural product; further, street vendors are banned from selling perishable products in the summer months. In Belarus, there is a restriction in certain places against selling goods which have not been produced by the vendor.

4.4 Restrictions on Occupation of Public Space

Many local government ordinances and bylaws specify that trading may not be carried out in certain kinds of public spaces, such as in parks, traffic intersections, in front of fire hydrants, places of worship, or certain government buildings. These restrictions may be due to safety concerns or due to the aspiration of a certain urban aesthetic. Other restrictions on the number of traders will be an upshot of responding to pressure from particular interest groups, for example pedestrians, formal retailers, middle-class motorists or those aspiring to a more “ordered” city. Many South African bylaws specify that street trade in certain goods may not be carried out in front of formal businesses selling the same goods. These measures are clearly a means of regulating (or intervening in) competition between formal and informal traders — and this could be interpreted as government interference in free trade, so a trade or competition policy issue.

4.5 Processes for Allocating Licences and Permits

Implementation systems range from well-specified and efficient to completely erratic, inconsistent and riddled with loopholes and opportunities for bribery and corruption. Rules that privilege citizens at the expense of foreign nationals, while offensive and in many cases unconstitutional, are also often inconsistently implemented, rather forming the basis for collection of bribes.

From the point of view of most StreetNet affiliates, it is hard to find consistency in the processes for allocating licences and permits. Frequent changes in implementing systems make it hard, if not impossible, for street vendors to remain compliant — resulting in insignificant numbers of unregulated street vendors in most cities.

The advent of telephone banking (and its wide use by street vendors and informal traders, particularly in East Africa) has created the opportunity to regulate more efficiently by making it more difficult to collect bribes in cashless payment systems. However, many local government authorities are too bureaucratic to put effective, innovative systems in place.

4.6 Regulation of Vending in Traffic

An unresolved issue in many countries is how to regulate the growing phenomenon of mobile vending in traffic. As mega-cities experience worsening traffic flows (especially in cities in the Global South with underdeveloped public transport systems), drivers sitting in traffic jams for prolonged periods present a new natural market for mobile vendors. Despite all the safety hazards this type of vending presents, it seems to be increasing. At one stage, the Accra Municipal Authority tried to ban mobile vending in traffic but encountered massive popular criticism from the middle classes who had grown accustomed to the convenience of doing their shopping on the way to and from work without having to get out of their vehicles. In Nicaragua, on the other hand, where the *Asociacion de los Vendedores Semaforos* (Traffic-light Vendors’ Association) is the founding association of the CTCP (*Confederacion de Trabajadores por Cuenta Propia*), the Managua Municipality has entrusted regulation of this form of own-account work to CTCP. Mobile vending is clearly an area where municipalities will have to go back to the drawing board for creative solutions.

4.7 Taxation Implications of Licence and Permit Systems

In West African countries, where there is a high density of informal trade in markets as well as in other public places, daily, monthly or annual payments are routinely collected from traders. In some cases (e.g. Togo), these payments include local government levies as well as a share that goes as a tax to national government. These payments, as they constitute municipal and/or national government revenue, clearly constitute taxes, whether they are officially called taxes or not. These taxes are normally linked to licences or permits to trade, and approximate a progressive taxation system, as the amounts to be paid are usually determined by what kind of trading space the person occupies (e.g. vegetable stall, fabric vending stall), which are different sizes; this, in turn, broadly reflects the level of the vendors' income — approximating an income tax. This is a separate consideration from payment for facilities; for example, a pavement restaurant has cooking facilities, and a trading kiosk often has storage space included.

In such countries, the accumulated value of the taxes collected from informal traders is significant since the privatization of municipally-owned government properties. StreetNet's Zambian affiliate estimates it to be the second-largest source of local government revenue after municipal rates (personal correspondence).

The taxes paid by informal traders often include payment for a number of different things, such as the services listed above. When informal traders are considering how much they are willing to pay, they often take into consideration what services they receive in return. In Zambia, AZIEA (Alliance for Zambian Informal Economy Associations) initiated a project in this regard called “Levy Tracking” in two markets: Luburma Market in Lusaka and New Site Market in Mansa.⁶ The project involved a survey to track and analyze how financial resources at Luburma Market and New Site Market are raised and utilized. The specific objectives of the survey were to determine the amount of financial resources (revenue base) generated from the market levy at the two markets, to establish how and for what the monies are utilized, and to establish the key players at the two markets and their levels of influence in resource mobilization, allocation and utilization.⁷

In Zambia, it is also common for market levies to be collected, but not necessarily levies from street vendors. The failure to levy rental or tax payments on street vendors is most often a consequence of the failure of local government authorities to establish appropriate administration systems to manage large quantities of relatively small payments. This is the case in some South African municipalities. In turn, this administrative challenge becomes a justification to refuse to issue licences or permits, or to issue them selectively. In such instances, the term “illegal traders”, meaning traders without permits or licences (not traders who are committing illegal acts) is often encountered.

New, more accessible payment technologies have developed over the past 10 years (e.g. the *M-Pesa* system in Kenya, and mobile phone banking in many countries) which make collection of large numbers of small payments more efficient, thereby closing some of the openings for misappropriation of cash payments that previously characterized revenue-collection from street vendors and informal traders.

⁶ Chovani/Trail Tracks Consultancy. 2009. *The Road to Transparency*. A study commissioned by Alliance of Zambian Informal Economy Associations (AZIEA).

⁷ *Ibid.*

In Latin American countries, there has been a concerted effort by organizations of informal traders to get authorities to agree on a simplified combined form of tax — called *Monotributo* — to be paid by informal traders to cover their trading permits and local government services, as well as provide access to social protection benefits. StreetNet affiliates relate that this has been successful to some extent in Argentina and Uruguay; further research is needed to establish the extent to which it is operating effectively in these and other countries.

In Eastern Europe and Central Asia, because all the CEE and CIS countries adopted a “flat tax” system instead of a progressive taxation system, taxes are very low for corporates and the wealthy but rather high for the poorest own-account workers in the informal economy. This resulted in widespread struggles against cash register machines, demanding agreement on a fixed levy to be paid by informal market vendors — often misinterpreted as informal economy workers not being willing to pay taxes. In contrast, there is not the same resistance to paying taxes by workers in the informal economy in countries in other regions where a progressive taxation system exists. In fact, in some highly informal economies (as mentioned above), large revenues are raised from the taxes/levies paid by informal traders who pay taxes in line with their average earned incomes.

4.8 Access to Basic Services

Where markets are not yet privatized, and the provision of markets is still seen as the primary means of regulating informal trade, the markets themselves are a service; they also offer a range of services, such as shelter, storage space, water and sanitation, waste collection, lighting, security, etc. Where informal traders are trading in the streets, they still need these services. Sometimes this results in a series of adjacent blocks allocated to informal trade being officially designated as an open-air market (e.g. Red Light Market in Paynesville, Greater Monrovia, Liberia). There is, therefore, not always a big difference between markets and streets for the traders. The demand for these services often results in the provision of some of them, and an agreement as to how much the traders should pay for these services (see information in Appendix 1 about informal traders’ payments in different cities/regions of Nigeria).

Ancillary services are provided in many instances; these include public transport and child care services, usually depending on popular demand and/or political pressures. For example, a very impressive child care pre-school in Makola Market in Accra was provided by the 1st December Women’s Movement in Ghana, led by the First Lady during the presidency of her husband, Jerry Rawlings.

4.9 The Representation of Vendors in Designing Regulatory Systems

Through the examination of cases to inform this brief, it became evident that regulation of informal trade is starting to be regarded as something that should not be done unilaterally, as was routinely done in the past, but with the participation of organized informal traders. This is most clearly expressed in the Town Vending Committees elaborated in Chapter VII of the Indian Street Vendors (Protection of Livelihoods and Street Vending Regulation) Act of 2014.

Another example can be found in São Paulo, where as early as 1993, municipal legislation established *Comissões Permanentes de Ambulantes* (Permanent Street Vendors' Committees, known as CPAs).⁸ A flaw in this legislation was the naming of specific organizations to participate in the CPAs, so when there were organizational changes, municipal authorities applied this legislation selectively to organizations they favoured, in a “divide-and-rule” practice that discredited the whole system. Through continuing struggles, a new representative structure has emerged, suggesting that where systems of representation replace more unilateral systems, it is more likely they will be reformed than abolished in favour of a return to unilateral systems.

Other countries where the participation of organized street vendors and informal traders has become integral to the regulation of informal trade include Angola, Kenya, Liberia, Sierra Leone, South Africa (to varying extents in different cities), Venezuela and Zambia, as well as Democratic Republic of the Congo, Honduras (Horn 2016c: 15), Lesotho, Nicaragua (Horn 2016d), and Spain.

This could become an area of major escalation as street vendors and informal traders get better organized, becoming a more prominent determining feature of regulation, permitting and licensing. But it has not yet reached that point in established systems.

5. Other Regulations

5.1 Business Registration

A trend that started to emerge in the 1990s, alongside economic liberalization, was to link regulation of informal trade with business registration, rather than urban planning or public space regulation. This often creates confusion between local government departments responsible for spatial regulation, on the one hand, and government departments responsible for fiscal management, on the other. The effect of this approach is to force informal traders to self-identify as entrepreneurs to safeguard their rights to trade. StreetNet's experience has shown that many informal traders, particularly at the survivalist level, do not necessarily have entrepreneurial aspirations, but just want to support their families and educate their children.

This approach has been adopted in many Eastern European countries. Street trade emerged after the change from a full-employment labour market of the centrally-controlled economic systems. Not wanting to identify with the countries of the Global South, many of these countries developed regulations that require informal traders to register as entrepreneurs (e.g. Azerbaijan, Belarus, Kyrgyzstan and Moldova). In the case of Moldova, this takes the form of having to apply for entrepreneurial “patents”.

Some other countries in the Global South have also adopted this approach. For example, both Brazil and Kenya have developed legislation to this effect. In 2007/8 the government of Brazil started to put in place a legislative framework towards the simplification of registration and legalization of businesses. Laws and ordinances were passed to reflect clauses in the Brazilian constitution that provide for “differential and favoured treatment for micro and small businesses”; this includes special or simplified arrangements relating to administrative, tax, social security and credit obligations. Vari-

⁸ See chapter III, *Prefeitura do MUNICÍPIO de SÃO PAULO*, Decree 33.398/1993.

ous laws and ordinances were passed to facilitate this. The Micro and Small Businesses Act passed in Kenya in 2012 to “provide for the promotion, development, and regulation of micro and small enterprise” defines micro enterprises as “a firm, trade, service, industry or a business activity — (a) whose annual turnover does not exceed five hundred thousand shillings; (b) which employs less than ten people”. Here, “enterprise” means an undertaking or a business concern, whether formal or informal, engaged in production of goods or provision of services”. This exclusively entrepreneurial framework is the only legal framework available for street vendors in Kenya. This is interpreted by organized informal traders as reflecting an approach that favours small- and medium-sized enterprises at the expense of the basic right to work. In Brazil, it introduced an ideological schism and created divisions between organized street vendors and informal traders as it resulted in the effective denial of their collective rights in favour of individual benefits.

South Africa vacillates between considering the adoption of entrepreneurial policies on formalization of informal trade, as characterized by the National Informal Business Upliftment Strategy of the Department of Small Business Development, and policies based on the four pillars of Decent Work (under the Department of Labour).

5.2 Health and Safety Regulations

Certain trades, such as the sale of cooked and uncooked food, are subject to specific health legislation — both in the informal and formal economies. Local government regulations often make certified compliance with health regulations one of the requirements to qualify for a licence or permit. If there is no institutional coordination between departments or different levels of government, this creates multiple, parallel requirements that are onerous for informal traders.

6. Appropriate Processes and Underlying Principles

In policy debates as to whether the approach to economic activity should be regulated or de-regulated in relation to street vendors, regulation has generally meant the removal of street vendors — leaving “clean” streets uncluttered by vendors, who at best are relocated to off-street markets. Deregulation has generally been assumed to mean overtrading and litter- and crime-ridden city centres that chase away foreign investment. As a result, where deregulation was advocated by free marketeers, it was often selectively advocated for small formal businesses, but not for street traders or any other part of the survivalist informal economy. Also, a distinction was not often made, in this polarized regulation/ deregulation juxtapositioning, between different kinds of regulation (i.e. spatial regulation, labour regulation, trade regulation, fiscal regulation, etc.).

From the point of view of street vendors, however, the issue is not to choose between blanket regulation versus de-regulation, but to devise appropriate regulation, based on the following underlying principles:

- Protection of livelihoods and conditions of decent work.
- Urban planning for the equitable use of public space/land use (including natural markets).
- Spatial bylaws or regulations that determine criteria for priority in access to space (such as common-law rights of prior occupation vs. new entrants, or opportunities for survivalist traders versus fronts for syndicates or large business interests).
- Policies and regulations to be developed by collective negotiation with the direct participation of democratically-elected street vendor representatives.
- Enforcement provisions that do not criminalize those in breach of regulations or bylaws, that specify neutral enforcement agents (to avoid the protection of certain interest groups at the expense of others), and that include user-friendly appeal procedures to be invoked in cases of perceived injustice in enforcement.

Appropriate processes for the implementation of street vendor licensing and permits should include the following components:

- Transparent, well-advertised and user-friendly administration systems.
- Consistent application of regulation systems: whether to use a *licensing system* (to regulate trade) or a *permit system* (to regulate space).
- Inclusive, simple and user-friendly registration systems.
- Where possible, cashless systems of payment of fees and levies, with receipts issued.
- An *integrated taxation system* that incorporates licence fees, payments for services and rental of space in an overall revenue system that recognizes the direct and indirect payments made by street vendors as *taxes* which entitle them to social benefits.

7. Conclusion and Areas for Further Work

As this brief has shown, the issues of licensing and permitting of street vendors and informal traders are complex. What may seem like a technical issue is often highly political — and this needs to be understood for effective policy advocacy.

Several areas of further research are needed to inform advocacy and mindset change. These include:

- A comparison between legal and administrative systems of countries of the Global North and the Global South. The mindset of authorities in the Global South continue to inform ideas from the Global North.
- Analysis of the impact of decentralization and devolution of powers and resources to local government on the workplace security of street vendors. StreetNet affiliates' report that street traders often find their workplace security de-stabilized due to conflicts between different levels of government. A factor to consider is revenue streams. For example, in Dantokpa Market in Cotonou, market levies are an important factor in the conflict between national government and the municipality.
- In countries where national government has an obligation to ensure the right to work (e.g. Nicaragua, Zambia, Tanzania, China), how does this translate to local government policies, laws and actions?

- Analysis of different legal and administrative systems — francophone, lusophone and anglophone countries — and their implications for vendor regulation and livelihoods.
- A comparative study of urban spatial approaches to street trader regulation versus business registration approaches, and various hybrids of the two.
- The way in which other issues are integrated into the permitting and licensing of informal trade, most notably trade and competition regulation, and intellectual property rights management and immigration control.

A critical priority is to capture the main elements needed for a just system of public administration that is easy for street vendors to comply with and assures their workplace security. To achieve this, further work is needed to understand the public administration systems for implementation of licences, permits and revenue payment. StreetNet has identified the following factors to be important — the existence of censuses/records about all workers operating in public space (with and without permits/licences), accuracy of such records, availability of information about how systems work, how widely information is distributed and what languages it is available in, consistency of application, methods of payment and technologies used, how accessible these are to all street vendors, how secure these are in relation to misappropriation, how secure vendors' designated workplaces are once they have complied.

With respect to taxation, the *Monotributo* system in Latin America has simplified the registration of self-employed workers and micro-enterprises and includes incentives to register for access to benefits, such as social security.⁹ StreetNet affiliates in Argentina and Uruguay report that this system has been beneficial. The research assessing these systems, however, is largely only available in Spanish¹⁰ and needs to be translated and synthesized. New empirical work interrogating the impact specifically on street vendors in a variety of contexts is important. This is needed to inform advocacy for improving implementation and exploring replication in other contexts.

Finally, a study analyzing the impact of increasing organization and representation of informal traders on regulations systems should be undertaken.

⁹ FORLAC. 2014. "Monotributo en América Latina. Los casos de Argentina, Brasil y Uruguay". Lima: OIT, Oficina Regional para América Latina y el Caribe, Programa de Promoción de la Formalización en América Latina y el Caribe (FORLAC). Available at https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/documents/publication/wcms_357452.pdf

¹⁰ Most of these accessible via ILO website: <https://www.ilo.org/Search5/search.do?searchLanguage=es&searchWhat=monotributo>

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APPENDIX 1

INFORMATION COLLECTED FROM ORGANIZED INFORMAL TRADERS

AZERBAIJAN

Information from Jamaladdin Ismayilov, Xhidmat-ISH, Azerbaijan, March 2017

In Baku and other cities, some indoor or open bazaars are created mainly for street vendors. Here, the vendors regulate their trading relations with (private) owners of the bazaars. But there is also a category of street vendors who, by arrangement or lease, find a place for themselves to trade. They first approach the Department of Trade to get licenses and then arrange themselves as an Individual Entity through a tax department VOIN. A trader in such a situation pays a tax of 4 per cent on sales, but since they are considered self-employed, in due time they will be able to receive pension. In rural areas, the procedure is almost the same but only if the trader sells his/her goods in a municipality-designated place.

Licences are a regulatory lever. The number of issued licences is not limited and there are no quotas.

There are restrictions on products to be sold: vendors can't sell any drinks, frozen meat or sausage products, but can freely sell any agricultural products. Street vendors are also banned from selling perishable products from May 1 to September 1.

Street vending in public places of significance is prohibited. Unsanitary conditions are not allowed. In urban places removed from the city centre, in exceptional cases, street trade is permitted for persons with disabilities, war veterans and families of martyrs.

ANGOLA

Information from João do Nascimento Mateus, FENSTACHS (*Federação Nacional dos Sindicatos dos Trabalhadores da Indústria Alimentar, Comércio, Hotelaria, Turismo e Similares*) Angola, March 2017.

How do cities regulate street vending?

There is provincial government regulation that monitors this matter, depending on the specificity of each province, as there are some technical aspects that apply in some, but are not feasible in others.

Are licences or permits used as a tool for regulation of street vending?

Yes, for each type of vending and economic activity, workers are assigned an occupational category by groups (a), (b), (c), (d), (e) & (f) for micro businesses (for medium businesses, the supervising Ministry has to allocate a commercial category).

Luanda

Manual sobre Normas de Funcionamento dos Mercados, Feiras, Comércio Informal e Comissões Sindicais, developed by Sindicato Provincial dos Trabalhadores dos Mercados, Feiras e Comércio Informal, Luanda — other provinces still to study, analyze and adapt for their use.

Quotas restricting numbers of licences/permits issued:

Licences are issued according to economic activities that are fixed or movable. When the worker intends to conduct the activity (s)he must approach the administration of the market to declare the type of business. Then a daily fee is paid, based on the category of business.

Restrictions on products sold:

Pharmaceuticals (medicines, drugs) and CDs.

Restrictions on occupation of public space:

Vending of non-perishable products on public roads and vending at traffic lights.

Processes for allocating licences and permits:

For the process of obtaining licences and authorization, it is necessary for the vendor to have a photocopy of the identity card, two passport photographs and pay a fee (Kz 1,000, Kz 1,500, Kz 2,000 — depending on the kind of business).

BELOW: Vendor's ID, Municipality of Cazenga, Luanda, Angola



BELARUS

Information from Iryna Yaskevich, Vmeste trade union, Vitebsk, Belarus, March 2017

There are three groups of street vendors:

1. Individual entrepreneurs: They register their activities and their number is limited by the availability of trading places in open markets. To the register for the individual entrepreneur certificate, a fee of 0.5 base unit (around \$7 USD) is paid. The number of certificates depends on the availability of trading places. Street vendors have to pay a monthly tax of \$40 to \$60 USD. In addition, they are obliged to pay for renting commercial places, pay into the social protection fund (\$40 USD) and they must have documents for the goods confirming their purchase and quality. For small traders, this is rather difficult.

2. Craftsmen/artisans: they manufacture and sell goods, perform work that provides services using manual labour and tools (including electrical) independently, without involving other individuals.

Handicraft activities are carried out on a declarative principle, without state registration. They are allowed to sell their manufactured goods in the trading places and places designated for trade by the executive bodies. They can also conclude contracts with legal entities and individual entrepreneurs.

According to the resolution of the Council of Ministers of the Republic of Belarus, from 28 November 2016, No. 974, starting from 1 January 2017, the fee for this type of activity amounts to 23 rubles (about \$12 USD). For violation of the law, a fine of 5 basic units (about \$50 USD) is applied.

The craftsman can only sell what she/he produced or made herself/himself.

3. Places allotted for trade with products grown on traders' own land: traders pay a fee for a trading space. There are no restrictions on issuing certificates, as such. But the working conditions are such that for most people they are simply not feasible, as they are very expensive.

The best conditions are for craftsmen/artisans. While they are only permitted to trade what they themselves produced, they also often put imported goods on their shelves, and are punished for this.

There are around 50,000-70,000 people selling on the streets. The majority of traders (artisans and individual entrepreneurs) sell what they themselves have grown. It is difficult to determine the exact number of traders working without documents. They distribute their goods at their place of residence, or near other formal enterprises, or organize small markets near big stores and in underground passages.

BRAZIL

Information from Centro Gaspar Garcia de Direitos Humanos (2013) “Ambulantes e Direito à Cidade: Trajetórias de Vida, Organização e Políticas Públicas”, (English version) São Paulo, 28 February 2014

São Paulo

Statutory forums known as *Comissões Permanentes dos Ambulantes* (CPAs – Permanent Street Vendors’ Committees) were established in 1993 by Decree 33.398/1993 after Municipal Law 11.039/1991 referred to street commerce and set guidelines for the exercise of commercial activities and services in the public streets and pathways of São Paulo. However, “despite the legislation that regulates street commerce having originated in 1991, the persecution, discrimination, violations of street vendors’ rights and, especially, their exclusion from public spaces, have continued throughout the years” as well as through different political *regimes*, and the “São Paulo municipal government, under the justification of solving urban issues, tried to cause the exclusion of street workers” (2013: 36; 2014: 76).

The years of struggles between the organizations of street vendors and the São Paulo municipality finally led to the creation of the Street Vendors Forum of the City of São Paulo in 2011:

“a municipal network composed of associations, trade unions, collectives and entities that represent the sector, with the participation of workers from several regions of the city, among them: Butantã, Brás, Centro (City Centre), Conceição, Jabaquara, Lapa, Santana, Armênia, Santo Amaro and São Miguel. Its goal is the recognition, planning and organization of street commerce in the city of São Paulo, as well as the development of strategies and collective actions that focus on public policies to improve living and working conditions for street vendors”
(2014: 38).

The Street Vendors’ Forum has utilized litigation as well as collective negotiations to promote its goals, often with the support of the *Centro Gaspar Garcia de Direitos Humanos*.

INDIA

Information from StreetNet affiliates SEWA (Self-Employed Women’s Union) and NASVI (National Alliance of Street Vendors of India) between 2012 and 2016

The Indian Street Vendors (Protection of Livelihoods and Regulation of Street Vending) Act, No. 7 of 2014,¹ is an innovative piece of legislation which was passed after years of bottom-up pressure from organized street vendor members of SEWA and NASVI (National Alliance of Street Vendors of India).

¹ The Gazette of India No. 8, 5th March 2014.

It is notable as, unlike most prior street vending legislation and regulation, it is rights-based, links the concerns of urban planning with the livelihood concerns of street vendors, and, importantly, establishes statutory negotiations forums at the city level — namely Town Vending Committees — as the participatory governance structure for street vending regulation.

Regulation of street vending under this law is done through “certificates of vending” — sometimes called licences — which is dealt with in detail in Chapter II (Regulation of Street Vending). The system of registration for vendors/hawkers to obtain is described in greater detail below:

- **Photo Census of Vendors:** The Municipal Authority, in consultation with the Town Vending Committee (TVC) should undertake a comprehensive, digitalized photo census/survey/GIS mapping of existing stationary vendors with the assistance of professional organizations/experts for the purpose of granting them lease to vend from specific places within the holding capacity of the vending zones concerned.
- **Registration of Vendors:** The power to register vendors is vested with the TVC. Only those who give an undertaking that they will personally run the vending stall/spot and have no other means of livelihood will be entitled for registration. A person will be entitled to receive a registration document for only one vending spot for him/her (and family). He/she will not have the right to either rent or lease out or sell that spot to another person.
- **New Entrants:** Those left out of the photo census or wishing to take up street vending for the first time will also have the right to apply for registration as vendors, provided they give a statement on oath that they do not have any other means of livelihood and will personally be operating from the vending spot, with help from family members.
- **Identity Cards:** Upon registration, the concerned Municipal Authority would issue an Identity Card with vendor code number, vendor name, category of vendor, etc., in writing to the street vendor, through the TVC concerned and which contains the following information:
 - o Vendor code no.
 - o Name, address and photograph of the vendor.
 - o Name of any one nominee from the family or a family helper.
 - o Nature of business.
 - o Category (stationary/mobile).
 - o If stationary, the vending location.

Children below 14 years are not included in the Identity Card for conducting business.

- **Registration Fee:** All vendors in each city/town should be registered at a nominal fee to be decided on by the municipal authority concerned, based on the photo census or any other reliable means of identification, such as the use of biometric techniques.
- **Registration Process:** The registration process must be simple and expeditious. All declarations, oaths, etc. may be on the basis of self-declaration.
 - o There should preferably be no numerical restriction or quotas for registration, or prior residential status requirements of any kind.

- o Registration should be renewed after every three years. However, a vendor who has rented out or sold his/her spot to another person will not be entitled to seek re-registration.
- o There may be an “on the spot” temporary registration process on renewable basis, in order to allow the street vendors to immediately start their earnings as the registration process and issue of I-card, etc., may take time.

KENYA

Information from StreetNet affiliate KENASVIT (Kenya National Alliance of Street Vendors & Informal Traders) between 2011-2015

The Kenyan Micro and Small Enterprises Act, 2012² was also passed after months of bottom-up pressure from organized street vendors in KENASVIT (Kenya National Alliance of Street Vendors & Informal Traders) and is based on registration of informal traders as small or micro enterprises and recognition of their representative organizations as their legitimate representative in exercising their rights as informal entrepreneurs.

In mid-November 2016, a negative litigation precedent was set with a high court judgement ordering street vendors and informal traders off the streets of Nairobi. KENASVIT Chairperson Anthony Kwache informed StreetNet International that he and KENASVIT's Nairobi urban ally, NISCOF, were well aware of the court judgment and were closely monitoring developments. However, street vendors and informal traders did not react with panic, as would be expected, because there was no political will to implement the judgment in the pre-election climate ahead of national elections in 2017. Instead, it seems that KENASVIT leaders in Nairobi saw it as an opportunity to make the Jubilee and NASA alliance politicians aware of the number of votes they would lose if they initiated the removal of street vendors and informal traders in accordance with the judgment.

KYRGYZSTAN

Information from Dalmira Dolatalieva, Kyrgyz Commerce Workers' Union, Dordoi Market, Bishkek, Kyrgyzstan, March 2017

The notion of “street trade” in the country is not officially recognized; instead the term individual entrepreneurial activity is used. The activities of individual entrepreneurs are regulated by the national statistical committee, tax inspection and social fund.

Individual entrepreneurs engaged in the implementation of consumer goods do not fall under the licensed type of activity. They work under a simplified taxation system.

Markets are privatized. Restrictive quotas apply to places in the markets, regulated by the administration and the trade-union committee of the market. Spontaneous street trade is regulated by the municipality and the district administration of the city.

² Special Issue, Kenya Gazettes Supplement No. 219 (Acts No. 55) Nairobi, 4 January 2013.

LIBERIA

Information from Weeks, M.A. 2012. “Collective Bargaining Negotiations Between Street Vendors and City Government in Monrovia, Liberia”. WIEGO Case Study. <http://www.wiego.org/sites/default/files/resources/files/Weeks-Collective-Bargaining-Liberia.pdf> and NAPETUL (National Petty Traders’ Union of Liberia) Executive Committee between 2016-2017

After a long civil war (1989 to 2003), Liberia was the first African country to have a woman President: Eleanor Johnson Sirleaf, who showed a strong interest in engaging with women market vendors from the outset of her term in office, had markets built, and established the powerful LMA (Liberian Markets Association). The President appointed mayors whose personal approaches have often dominated the regulation of “petty trading” as street trading is known in Liberia. The President has appointed many women mayors. However, legislation and policy has not necessarily kept up with political developments.

“A 1979 city ordinance (Ordinance No. 3) entitled “An Ordinance Making it a Misdemeanor for Hawkers or Peddlers and Petty Traders to do Business Within the City Limits of Monrovia Without Securing Business Permits from the Monrovia City Corporation” was also applied by the Monrovia City Corporation in its dealing with the street vendors.”

Section 2 of Ordinance No. 3 states:

“That from and immediately after the passage of this Ordinance: (a) It shall be an unlawful business practice for hawkers or peddlers and petty traders to do business within the City limits of Monrovia without securing permits at \$20.00 each from the Monrovia City Corporation. (b) Any hawkers or peddlers and petty traders found engaging or attempting to engage in the offering of their goods or wares for sale to the public without permits shall be guilty of a misdemeanour. (c) Any hawkers or peddlers and petty traders found liable of the offense shall be subject to a fine of not more than \$50.00.”

Section 3 states:

“The Monrovia City Corporation reserves the right to approve or to deny the locations hawkers or peddlers and petty traders shall offer their goods or wares for sale to the public.”

(2012: 5)

The Liberian Revenue Authority (LRA), which is part of the national Ministry of Industry & Commerce (MOIC), is responsible for registration and tax-collection from market traders and petty traders. LRA works in parallel with MCC (Monrovia City Corporation) and PCC (Paynesville City Corporation), each of which has a separate Mayor. Enforcement of petty trader regulation is the responsibility of both the Monrovia/Paynesville City Police (who take their instructions from the Mayor) and National Police (who take their instructions from the President).

After a very hostile phase in the management of petty trading in Monrovia CBD from 2010-2014, a new Mayor, Clara Mvogo, took office, and extended an olive branch to StreetNet's affiliate NAPETUL (National Petty Traders' Union of Liberia) and initiated the negotiation of a two-year MoU between MCC, MOIC and NAPETUL on management of petty trade — which saw a period of consensual management of petty trade from late 2014-2015; this started to unravel early in 2016. A joint WIEGO-Cities Alliance project entitled *Strengthened organization and participation of street and market vendors in city governance and inclusive planning in Greater Monrovia* started in 2016 with StreetNet as the implementing agent for WIEGO, strengthening the negotiations skills of NAPETUL to the point where MCC, PCC and other municipalities in Greater Monrovia have shown an interest in some sort of negotiated systems of regulation of petty trade. This process has now led to a suggestion that a negotiating forum be established and a street vendors' policy be developed.

The MoU between the MCC, MOIC and NAPETUL expired in October 2016, after a nine-month period of disuse as a result of the deterioration of the relationship between the Mayor and NAPETUL. NAPETUL — who changed their organizational structure and name to the Federation of Petty Traders and Informal Workers Unions of Liberia (FEPTIWUL) in February 2016 — then initiated meetings with officials from different departments of the MCC and the LRA (Liberian Revenue Authority) to manage and seek agreement on ongoing operational matters. This resulted in a practice of monthly meetings which continued beyond the expiry of the MoU with remarkable efficacy — demonstrating the value of direct negotiations between authorities, their enforcement agents, and street vendors' representatives on the regulation of street trade (or petty trade, as it is known in Liberia) and markets.

After the 2017 national elections resulting in the inauguration of the new President, George Weah, in early 2018, new mayors were appointed. A revised and much improved MoU was concluded between FEPTIWUL and the MCC on 28 September 2018, in which the monthly meetings between the parties for discussion of operational matters has been incorporated, this time for a three-year term.

FEPTIWUL leaders in Paynesville have drafted a similar MoU for negotiation with the PCC, and are preparing to commence negotiations for its adoption. Their draft specifies that the MoU is undertaken in accordance with provisions of ILO Recommendation 204 on transitions from the informal to the formal economy, emphasizing the R204 provision of “ensuring the preservation and improvement of existing livelihoods during the transition”.

MOLDOVA

Information from Tamara Bolnari, Moldova Business Sind, March 2017

Any activity of a citizen of Moldova aimed at extracting a certain income is regulated by Law.

The Law No. 93-XIY of 15 July 1998 on the entrepreneurial patent adopted by the Parliament of Moldova regulates the implementation of certain types of entrepreneurial activity with a simplified system of registration, taxation, accounting and reporting based on the use of an entrepreneurial *patent*.

A patent is a personal state certificate that certifies the right to engage in the type of entrepreneurial activity indicated in it for a certain period of time.

Any competent citizen of the Republic of Moldova, foreign citizen or stateless person who permanently resides in the Republic of Moldova who has the right to engage in entrepreneurial activities, who have declared their intention to acquire a patent and who meet the qualification requirements necessary for this type of activity, can be a *patent holder*. The patent is issued only for one particular type of activity, is valid only with respect to the patent owner, and cannot be transferred to another person.

The implementation of entrepreneurial activity on the basis of a patent does not require the patent holder to have state registration and to obtain a license. Potential owners are not subject to the requirements for the provision of financial and statistical reporting, financial accounting, cash transactions, and settlements.

The patent is issued by the territorial tax inspection at the place of residence or at the place of the economic activity of the applicant within three days from the date of filing the application, properly executed documents and after making the appropriate payment. The patent is issued for one month, or at the request of the applicant, for a longer period (6 or 12 months).

The taxation of the patent holder is made in the form of a patent fee, including income tax, fees for natural resources, a fee for trade objects and/or social services facilities, a collection for landscaping.

Other taxes/duty fees are paid by the patent owner on general grounds. Monthly payment for a patent is collected in the amount established for a settlement in which it is proposed to carry out entrepreneurial activities and amounts to between \$2-\$15 USD, depending on the type of activity.

Certain categories of persons (disabled people of Groups 1 and 2, students and pensioners) have privileges — their patent fee is reduced by 20 per cent.

The patent holder personally pays state social insurance contributions to the territorial social insurance fund.

Payment of state social insurance contributions provides the patent holder the right to receive a minimum pension (about \$35 USD) and a funeral allowance (about \$50 USD).

The term of activities carried out on the basis of a patent is included in the work experience of the patent holder, under the condition of making payments to the state social insurance contributions.

In most cases, patent holders operate in the markets and bazaars. For the provision of shopping places and for the provision of paid services (the rental of weighing instruments, commercial equipment, storage in refrigerators, etc.), merchants pay market fees through the cashier of the market.

According to the census of population made in 2014, the population of the Republic of Moldova was 3.553 million people. Thirty-one point five per cent of the total population is economically active. One third of the population works outside of Moldova.

As of 1 January 2017, self-employed patent holders numbered more than 200,000.

NIGERIA

Info from Gbenga Komolafe, FIWON (Federation of Informal Workers of Nigeria), March 2017

Lagos

Trade Permit: #3600

Personal Income Tax: #5000

Lock-up Shops, special rate: #5000

Shop Extensions (often done with big umbrellas and tarpaulins): #1500

Ground Rent (limited to those occupying production hubs like 'mechanic villages'): #30,000

Garbage Clearance: #6000

Security: #1200

Toilet Use: #50 per use

Owerri, Imo State (Southeast Nigeria)

Licences: #2500 for market vendors, #3000-#5000 for street vendors

Osun State (Southwest Nigeria)

Market Rate: #5000

Development Levy: #500

Personal Income Tax: #1000

Kaduna State (Northern Nigeria)

Trade Permit: #3000

Typically, there is no restriction whatsoever in accessing market space, type of wares or services to be sold, etc. But traders are guided by the traditions and special niche of the market. For instance, if building materials are sold in a particular area of a market, a trader would not be expected to sell children's toys there because the buyers would prefer to go to a particular area of the market for a specific type of ware.

Also, space allocation is usually determined by availability and the traders' access to information.

SIERRA LEONE

Information from Terms of Reference for the Municipal Trade Committee – TASKFORCE (2012) supplied by SLeTU (Sierra Leone Traders' Union) in 2013

Freetown: a Task Force to regulate street trade was introduced:

“taking into consideration that the existing market structures are inadequate to accommodate the increasing number of petty traders and street vendors in the municipality — compelling the Freetown City Council to cautiously agree that some streets nearest the market

could be used for trading purposes on the clear understanding that the free flow of vehicular and pedestrian traffic is not impeded so as to enhance the beautification of Freetown and whereas, the council through the Municipal Trade Committee has been experiencing difficulties to get the total co-operation of the S/L Traders Union to transact business within the prescribed and approved limits in the market places, and also whereas the Sierra Leone Police Force has been very much proactive in maintaining Law and Order in the City by the demolition of kiosks, baffas etc, that have at times attracted concerns from the traders; therefore to address this situation, the Municipal Trade Committee deems it necessary to establish a Taskforce with membership from the relevant stakeholders in the trade sector in orders to maintain order and regularity of petty trading issues in the CITY in conformity to existing Bye-laws.”

Clearly this was a matter of necessity, after unilateral actions were proving counter-productive.

At a negotiation skills workshop in May 2018 with SLeTU leaders from around the country, it was agreed that the Municipal Trade Committees need to be revived for more regular and structured negotiations with the authorities and their enforcement agents on regulation of street vending (or petty trade, as it is also known in Sierra Leone).

SOUTH AFRICA

Extract from Horn, P. Collective Bargaining in the Informal Economy: Street Vendors (3rd ed.) WIEGO, 2016

In South Africa, with the advent of economic liberalization in the 1980s, the Licensing Act was replaced by the Businesses Act in 1991, which eliminated the need for licences for informal economy operators. However, Clause 6A of the Act (Powers of local authority) allowed municipalities to pass bylaws to regulate street trade. These provisions were designed to ensure that street trade bylaws were enacted to regulate, *not to prohibit*, street trade. Guidelines were provided for municipalities to follow in their drafting and adoption of street trade bylaws. Allowance was made for certain densely-traded areas to be declared limited trading areas after following a procedure where all stakeholders would be given fair opportunity to challenge such a proclamation along the way, and there is an obligation to consult with all interested parties, including the street traders themselves. In such areas, after proclaiming a limited trading area, the municipality would then have to engage in a procedure to allocate the limited spaces among those traders wishing to trade there. This necessitated the allocation of permits to trade in such specific areas.

However, the South African experience has shown that it is remarkably easy for authorities to turn the permit system back into the old licensing system, by proclaiming entire towns or cities as restricted trading areas and then operating a universal permit system like a licence system. This of course usually happens when the authorities themselves take shortcuts and proclaim restricted trading areas

without having followed the proper channels of consultation with all stakeholders. But by the time it is done, street vendors struggling to be legal and recognized are faced with a similar reality to those who are required to have the licences, which are difficult to attain. Even though they have the legal right to trade, because of the inability to secure a viable trading space, such traders find themselves in breach of regulations.

Even in a permit system limited to certain areas, the more limited the number of permits in any particular trading area, the more the costs of obtaining such permits usually escalate out of normal proportions due to greater hidden costs for intermediaries and bribes. This results in the poorer traders becoming excluded from prime trading areas, even where this is not specifically stated in laws or regulations governing street trade.

Cape Town

Information from City of Cape Town Informal Trading Policy 12664, 2013, and WTITC (Western Cape Informal Traders' Coalition), 2016

The regulation of informal trade is managed directly by the city's Department of Economic Development (EcoD). This is unusual as most South African municipalities rely on informal business units to develop regulations, and City Police or Traffic Police to enforce them, while LED (Local Economic Development) officials usually have a more holistic perspective, but no powers to implement. The broader perspective and planning responsibilities of EcoD means that implementation is closely linked to a more comprehensive vision for regulation of informal trade.

The Informal Trading Policy, 2013 (Policy no.12664) repealed the previous policy known as the Informal Trading Policy and Management Framework. This policy adopts a developmental approach to regulation of informal trade, and Clause 9.5.4 specifies the following criteria for the allocation of "trading bays":

- *Applicants must be:*
 - o *existing informal traders, or*
 - o *desire to become informal traders (provided they comply with the requirements below, and may be for example, informal employees, seeking to establish their own business)*
- *The nature of the goods and services should not conflict with or unduly compete with:*
 - o *the type of goods/services sold by formal businesses in the trading area/or close to the bay*
 - o *the type of goods/services, sold informally, in the same trading area;*
- *Unemployed people will get preference d) Where bays are available, traders operating more frequently will get preference over occasional/casual traders within the trading area*
- *The applicants ability to meet the trading hours set for the trading area*
- *Preference will be given to Historically Disadvantaged Individuals*
- *Consideration shall be given to new traders to the City database*
- *Only one bay will be allocated per trader*
- *Preference will be given to traders who do not trade in any other trading area*

- Preference will be given to those who do not share the same household with an existing permit holder, provided that
 - o There are more trading bays than applicants
 - o The applicant is not economically dependent on the existing permit holder
- Preference will be given to applicants who reside in, or close to, the trading area for which the permit is applied.
- The trader must be in possession of a valid South African identity document or relevant documents allowing the individual to working permit.
- In the case of foodstuffs being processed and traded, the trader must be in possession of the required Business License (and Certificate of Acceptability).

The EcoD has invited WCITC (Western Cape Informal Traders' Coalition) to engage with them on possible self-management of markets by informal traders, after acknowledging limited success with the management of markets — and WCITC agreed to do so on a pilot basis, starting with the open market in the Bishop Lavis area.

Durban

From “Towards a model framework for a local level collective bargaining system for street traders — Durban (eThekweni) Case Study”, in Horn, P. 2016. Collective Bargaining in the Informal Economy: Street Vendors (3rd ed.). WIEGO

“The policy goal is that all people working in public places will register as small businesses. This is a decisive move away from the existing situation where one procedure gives access to a site in a public space, and another gives permission to operate in a particular sector. Registration (as well as sustained payment of rentals) is the action which gives permission to operate, and which provides access to services and support.”³

The policy stipulated that a database of all people working in public spaces should be developed. An allocations policy stipulated the criteria by which they would be allocated trading sites for which agreed rentals would be paid and permits would be issued to trade in those sites. An Implementation Working Group was established to implement this.

While this policy is still officially in place, the practice of street trade regulation started to move in a different direction from April 2005. The collection of data for the database was abandoned along with the Implementation Working Group (2016c: 52-53). So the regulation of street trade is now done in the dark with no attempt to reconcile the actual numbers of informal traders with those who are issued with permits. The numbers of permits issued were not officially restricted to a particular number, but started with less than 1,000 permits, then increased to about 6,000, and later to about 12,000 – of the estimated 45,000 street traders in the entire EThekweni Metro.

³ Durban's Informal Economy Policy, adopted in 2001.

In 2005, the requirements for applying for a permit included a green bar-coded ID, which meant a South African citizenship. This meant foreign nationals would be completely excluded, forcing them to continue to trade without permission. Later, the spotlight on illegal discrimination and xenophobia by authorities forced a change to accept other forms of identification, such as red bar-coded refugee ID documents and asylum-seekers' permits.

The permit system allows only one permit per direct vendor, an attempt to regulate “fronting” and exploitative rental or employment practices by intermediaries.

Johannesburg

From Horn, P., Towards a model framework for a local level collective bargaining system for street traders – Johannesburg Case Study, unpublished paper, 2016

The Johannesburg municipality developed a number of policy documents for the regulation of informal trade on the streets from 1990-2010. The municipality formed a wholly-owned municipal company, MTC (Metro Trading Company), to manage urban planning and infrastructure development of street markets. As the municipality struggled with the challenges of their constitutional responsibility for managing public space, instead of developing effective administrative structures for doing this, they effectively passed this responsibility on to the MTC, a technical structure entirely unsuited to this task. Jointly, the MTC and the municipality proceeded to manage the street vendors and informal traders by exploiting the already existing divisions between factions and organizations of street vendors and entrenching an elaborate system of divide-and-rule. Chairing of meetings of the Informal Traders' Forum (ITF) was taken over by a municipal official working for MTC. Minutes from ITF meetings in 2012 reflect unresolved discussions about human rights abuses in the management of street trade, particularly regarding the confiscation of their goods, and allegations of corruption on the part of MTC. Minutes from an ITF meeting in February 2013 reflect a discussion about “integration” of MTC into a new structure — namely, JPC (Johannesburg Property Company).

In October 2013, Johannesburg street vendors and informal traders were unceremoniously evicted in an operation of the Mayoral Committee (MMC) named Operation Clean Sweep. This operation was undertaken in terms of a strategy developed by the Mayoral Committee, bypassing the Johannesburg Department of Economic Development, the MTC and the JPC. Although the Operation Clean Sweep strategy appeared to be directed at many different groups of Johannesburg citizens, those who bore the brunt of the attacks were street vendors and informal traders, including foreign nationals.⁴ The matter was referred to the Constitutional Court by street vendors' organizations, where the evictions were ruled unconstitutional and street vendors were allowed to return to their trading sites.

This court victory forced the Johannesburg municipality to the negotiating table.

⁴ <http://www.urbanjoburg.com/tanya-zacks-open-letter-to-the-city-of-johannesburg/>, <http://www.ann7.com/videos/national/operation-clean-sweep-remove-hawkers-from-johannesburg-streets-233/>.

Port Elizabeth

Info from Nelson Mandela Bay Metropolitan Municipality — Informal Trading Policy (final draft)

Allocations Policy:

“An allocations policy in respect of trading (bays, markets, permits, etc.) is central to the entire policy for the informal economy as it is the lever through which local government can manage and support it. The aim of the allocations policy is to support growth and provide opportunities for new entrants, in an economically sustainable and socially useful way. It can feed directly into the tourism industry, through achieving the appropriate tenant mix at tourist-related areas. The criteria for allocations will be negotiated locally with stakeholders. The allocation of sites will then be done by officials. The policy could be used as a tool to develop partnerships between established traders and new entrants.”

Rentals Policy:

“Local government is increasingly viewing informal traders as business people and it is therefore important to place value on different informal trading sites, such as pavements. Value is placed on sites through a system of differentiated rentals. Rentals will be linked to site size, desirability of location and the level of services provided. Levels will be determined by considering the cost to local government of providing the facility, bearing in mind the need to subsidise new opportunities in some areas. The tariff structure will allow for transparent subsidies in order to ensure cross-subsidisation and equity.”

This policy was an attempt to move away from the system of relying on a wholly-owned municipal company — namely the Mandela Bay Development Agency (MBDA) — to manage and regulate informal trade, as this was heading for litigation about local government shirking its responsibilities when managing public space. The specific permit regulations devised to implement this system were as follows:

“Central to equitable allocation of trading bays, is the compilation by the municipality of a database of all street traders and employers of street traders in a particular area, which will include for each trader or employer of such trader: ID number or any recognized form of identification, address, goods being sold, trading location and any other relevant information. The allocation of trading bays will be based on the following criteria:

- *Only bona fide informal traders will be eligible, not businesses that operate from a brick and mortar premises.*

- *Once bays are allocated informal traders will be encouraged to join an Association in the area, in order to facilitate the provision of sector specific support and business services.*
- *Traders operating four days per week for at least 45 weeks of the year will get preference over occasional/casual traders.*
- *Only one bay will be allocated per trader.*
- *Traders who do not operate in other informal markets within the Metro will get preference.*
- *Unemployed people will get first preference.*
- *Where possible, trading bays will be allocated in such a manner to prevent those formal/informal traders selling similar items from being in close proximity to one another.*
- *Council will reserve the right to withdraw summarily the allocation of a bay in the event of evidence proving that (i) a trader has wilfully supplied incorrect information related to permit conditions; (ii) a trader has failed to update the information annually; (iii) a trader, who is allocated a bay, has sublet or sold such a bay to a third party without the approval of Council; (iv) a trader does not comply with the Informal Trading by-law.*

“Criteria to allocate permits

“When issuing permits the following criteria should inform the allocation decisions:

- *Previous experience as a trader, in particular where there is a history of trading in a specific geographical area.*
- *Preference will be given to Historically Disadvantaged Individuals defined as those who, although of legal age to vote, did not have the right to vote before 1994 in the South African elections.⁵*

⁵ Historically Disadvantaged Individual (HDI) means a South African citizen:

(1) who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No. 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No 200 of 1993)(“the Interim Constitution”); and/or

(2) who is a female; and/or

(3) who has a disability: provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution is deemed not to be an HDI.

[Disability means: in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or in the range, considered normal for a human being. Woman: a female person who is a South African citizen and a female at birth].

- *Preference will be given to individuals whose primary income is derived from street trading.*
- *The trader must be in possession of a valid South African identity document or working permit.*
- *The trader must be able to trade at least four (4) days per week for at least 45 weeks of the year.*
- *There must be sufficient product diversity in an area to ensure the needs of consumers are appropriately met as well as ensuring sufficient market share for traders for them to operate profitably.*
- *Only one permit will be issued per trader.*
- *Only one permit will be issued per household.⁶*
- *Permits will not be transferable.*
- *In the case of foodstuffs, the trader must be in possession of the required Business License and Certificate of Acceptability.”*

TANZANIA

Information from The East African, 17-23 December 2016

Dar Es Salaam (market vendors vs *machingas*)

Presidential elections in Tanzania in October 2015 brought into power a new President, John Magufuli, who has shaken up Tanzania by prioritizing the fight against corruption, strengthening the economy through revenue collection and austerity measures, and investment in infrastructure development (2016: 8-10). He has famously sent home a number of civil servants and shaken up the whole public service, including local government. This approach is accompanied with a strong pro-poor focus — and, in late 2016, President Magufuli decreed that *machingas* (street traders) were not to be removed from their trading sites.

Prior to this, regulation of informal trade was mainly done through the allocation of spaces in markets — although, like in West Africa, this was insufficient for the growing numbers of *machingas* who needed public space for carrying out their economic activities.

⁶ Household — Any persons living together as life partners and their dependants.

UGANDA

Information from *The East African*, 10-16 December 2016

Kampala

Six years ago, the government of Uganda placed Kampala city under the central government by enacting the Kampala City Act of 2010 (2016: 8). This Act created a Minister of Kampala, and according to the ruling National Resistance Movement, “gave the authority special status and the work that KCCA has done cannot in any way be compared with what the old Kampala City Council was able to do ... such as unleash resources like a special allocation in the national budget unlike in the past when funding was appropriated from the local government ministry budget”. It is acknowledged by the ruling party that this situation has also created two centres of power between the popular elected Mayor of Kampala and the technical officials appointed under the Ministry — however, they insist that the elevation of Kampala to city status has made it possible to undertake planning and infrastructure development.

VENEZUELA

Information from Blanca Llerena, FUTRAND (Federación Unica de Trabajadores No Dependientes), March 2017

Distrito Capital (Caracas)

Dirección de Control Urbano y la Superintendencia Municipal de Administración Tributaria SUMAT.

Constitutional rights:

Right to work (responsibility of state to provide employment)

Ley Organico del Trabajo Art.40 covers “Trabajadores no dependientes” (right to organize collectively, access to social protection).

Quotas restricting numbers of licences/permits issued:

- Permit licence fees are issued in accordance with space.
- One worker trading in each item is placed per block.
- In the case of itinerant markets, large spaces can be taken once or twice a week or on weekends.

Restrictions on products sold:

There are restrictions on illicit or illegal sales — otherwise, on the street, products are sold just like in any commercial establishment.

Restrictions on occupation of public space:

Vending is not allowed in front of churches, squares, commercial banks, public institutions, shopping centres, subway exits, etc.

Processes for allocating licences and permits:

Files containing documents containing identity documents of the holder of every stall are created, each stall is located on a sketch, with health certificate, sanitary permit (fast food sales), tax payments, among others.

Draft ordinance (micro-detail) submitted by FUTRAND:

Requirements for licence (Art. 10):

1. Photocopy of identity card
2. Completed Application Form
3. Letter from the Community Council
4. Constitutive Act and Articles of Association of the trade union organization or individual request
5. Letter of Guarantee of the trade union organization to which the worker belongs
6. Certificate of course of food handling (in the required fields)
7. Health Certificate
8. Location sketch
9. Pay tax form for space to use
10. Photography of structure, kiosk and area to be installed

Art. 13 — time-bound licences (hours of operation specified)

Art. 37 — fixed areas for crafts (*artisanía venezolana*) and other special regulations (e.g. handicapped)

Art. 43 — policing artists' copyrights, turn over to copyright legislation

Art. 53 — creation of “Comisión Permanente para la Organización de los Trabajadores No Dependientes”

ZAMBIA

Info from AZIEA (Association of Zambian Informal Economy Associations) between 2003-2016

Informal market vendors have been regulated for many years by the Market & Bus Station Act, 2007. However, there was no equivalent legislation for regulation of street vendors.

When President Michael Sata of the Patriotic Front took power on a pro-poor ticket after elections in 2011, he decreed that street vendors were not to be evicted. This immediately resulted in street vendors flooding into the towns to trade in public spaces and has forced the Zambian government to start looking for ways to regulate street trade. The emergence of a strong organization of street vendors and marketers, AVEMA (Association of Vendors and Marketeers), and the existence of a well-connected organization of workers in the informal economy, AZIEA (Alliance of Informal Economy Associations), has meant that the government of Zambia has engaged them in this process.

About WIEGO: Women in Informal Employment: Globalizing and Organizing is a global research-policy-action network that seeks to improve the status of the working poor, especially women, in the informal economy. WIEGO builds alliances with, and draws its membership from, three constituencies: membership-based organizations of informal workers, researchers and statisticians working on the informal economy, and professionals from development agencies interested in the informal economy. WIEGO pursues its objectives by helping to build and strengthen networks of informal worker organizations; undertaking policy analysis, statistical research and data analysis on the informal economy; providing policy advice and convening policy dialogues on the informal economy; and documenting and disseminating good practice in support of the informal workforce. For more information visit: www.wiego.org.



Women in Informal Employment
Globalizing and Organizing