

Spatial Regulation, Politics of Access and Informal economic Policy: The Case of Durban Metro

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Abstract

Analyses of the informal economy and the transition from apartheid have tended to draw attention to the political contestation over space. The city was 'invaded' and 'conquered' by traders who were formerly excluded (Nesvag, 2000, 2001; Tsoeu, 2003). At the same time, attention is drawn to the current attempts by city managers to control and regulate this contested space in an environment of flux. There are points of comparison; street trading has evolved a lot from what it was in the immediate 1990's post-apartheid period. This paper attempts to show that even in the post-transformation period, the regulatory regime is constantly changing as traders and urban managers negotiate, contest and confront images and practices held up by each as the most desirable outcomes of different views and uses of city space. To achieve this, the paper first looks briefly at the context of Durban Unicity, then goes on to consider at length, the regulatory regime(s) that govern the conduct and experience of street trading in Durban.

Keywords: informal economy, regime regulations, informal politics

Sumario

A Justiça Social tem sido largamente aceite como elemento crucial do desenvolvimento. As demandas pelo desenvolvimento, todavia, mesmo que arroladas tanto por indivíduos como por grupos, são muitas vezes expressas em termos universais, mas formuladas num complexo de relações sociais. Este artigo discute os desafios que enfrentam os vendedores ambulantes no acesso e no trato com a Política de Economia Informal do governo Municipal de Ethekwini.. Especificamente, o artigo explora questões relacionadas com o impacto da mudança de regulação e do ambiente institucional no proceder e na vida dos vendedores das ruas. Neste artigo, o conceito de regulação é entendido no sentido de registo, alocação de espaço, reforço e capacidade do sistema. A experiência relacionada com o regime de regulamentação sugere que a implementação ainda é um problema na transformação de uma intenção progressiva de políticas.

Palavras-chave: economia informal, regime regulatório, vendedores de rua, política informal, política de espaço.

The context of Durban Unicity

Durban Unicity or eThekweni¹ is the third largest South African metropole and is home to the country's busiest port. Durban is the economic engine of Kwazulu-Natal which currently boasts the highest rates of poverty and unemployment, notes Lund (2003). According to Durban Unicity's Economic Development Department and Monitor (2000), quoted by Lund and Skinner (2003) only one in three economically active people in Durban (eThekweni) are employed in the formal sector. This means therefore, that the informal sector, especially street trading, is an integral part of the city's local economic development, (Valodia, 2000; Valodia *et al.*, 2005). As early as 1998, eThekweni Municipality commissioned a Street Traders Survey by Data Research Africa (DRA, 1998; quoted in Skinner 1999), which was aimed at assisting the Urban Strategy Department to plan for enterprises trading from public space. Furthermore, the study was aimed at finding out information to plan for infrastructure development, small business growth, membership in trade associations, officials' engagement with street traders, and township development. Overall, statistics were able to provide a picture of street traders' access to markets, their economic sustainability and security (DRA, 1998; quoted in Skinner 1999). Most importantly, the research was able to enumerate that of 19 865 street traders in the sample, the majority, 11 872 (61%) were women. There is nothing strange about this finding, as Cohen, Bhatt and Horn (2000) argue that poor women, in particular, have always had to work in many cities of the world, visibly and invisibly providing labour, the lifeblood of street trading. In fact, Devey *et al* (2003) found that comparatively, informal employment in Kwazulu-Natal appears to be inordinately high.

Durban is viewed as comparatively progressive in responding to the growth of informal work and enterprises, (Grest, 2002; Chen, Jhavala and Lund, 2002; Lund; Nicholson and Skinner, 2000, 2005; Mitullah 2004). Skinner (1999) established that compared to other South African cities, Durban was the only one which had a structural department within its institutional government to consistently engage with matters that have to do with street trading. Most importantly, as Budlender (2000, 2001) notes, Durban had also provided more money and infrastructure development than other cities in South Africa. Lund (2003) opines that valuable time has been spent in a widely consultative process of making and implementing its Informal Economy Policy (2001).

¹ A note on terminology (as adapted from Lund and Skinner, 2003): Since 1996, Durban (and all local authorities in South Africa) has undergone a two-phased boundary adjustment accompanied by an internal restructuring process. The first phase created the Durban Metropolitan Area, which amalgamated what had been 48 racially-based local authorities. The second phase came into effect in 2000 and entailed a substantial increase in physical area. From then on, Durban was referred to as a Unicity; it is also more frequently referred to by its Zulu name: eThekweni.



“The policy is widely acknowledged as an example of good practice, though its implementation has thus been slow.” (Lund and Skinner 2003).

Khoza and Naidoo (1998) note that despite the fact that most of those who have been directly affected by the relaxation of restrictions are women, they were never the immediate objects of the policy revisions. This means that work done after the initial roll-out of the policy failed to provide justice to the majority involved. Women are seldom beneficiaries of new first-come-first-served plots. At times, the combination of their reproductive roles and productive work disables them in the scramble for new reworked trading sites (Skinner 1999). In fact, the new deregulatory policies have often been to their disadvantage. In relation to this point, Horn (2001) points out that when looking at the regulatory regime, an effort should be made to find out what is being done in situations where traffic is tight and the availability of trading space is in demand. The city managers have the obligation to all urban citizens to make public space usable. Women traders have had to conquer the pavements for their own productive good as Cohen *et al* (2000) note. It has only recently dawned on city managers that pavement space is a development tool and this view is further problematic by interpretations of appropriate consumption of such space and dominant city images, Grest (2002).

In legal and economic literature, there is no fixed definition of the term *regulation*. In this article, regulation will be taken to mean the employment of legal instruments for the implementation of social-economic policy objectives. To complicate matters further, Chen, Jhavalala and Lund (2002) articulate two broad types of regulations. Firstly, there are regulations related to *becoming* legal: notably, registration and licensing. These are the ones referred to in the international definition of the informal sector. Furthermore, there are regulations related to *remaining* legal: notably, taxation and labour obligations, but also health and safety regulations. A characteristic of legal instruments is that individuals or organisations can be compelled by government to comply with prescribed behaviour under penalty of sanctions. Chen, Jhavalala and Lund (2002).

In this paper, regulation is operationalised² in the way that the city processes street traders from entrants to existing legal traders. First, registration is tied to when a person acquires a permit. Spatial allocation entails application of criteria, procedures and other practices that involve acquiring a trading space. What follows affects street traders and officials in terms of their rights and obligations when applying either operational policy or policing the existing law. System capacity in terms of regulation is monitored. This judges the ability of the mandated city unit to carry out the business of developing and regulating the sector effectively.

² Much thanks to useful advice and discussions with Jeremy Grest, Pat Horn, Professor Francie Lund and Caroline Skinner on the issue of regulation of space and street trading.

Data collection for the study included interviews with various representatives of Informal Trade and Small Business Opportunities (ITSBO), which is the key local government department dealing with issues of street traders in Durban Unicity. Informal Traders Management Board (ITMB), is a federation of traders' organisations that encompass various informal sector activities in Durban Unicity. StreetNet is a non-governmental advocacy organisation on street trading issues and the Self-Employed Women's Union (SEWU) is a women's trade union for street traders and home based workers in eThekweni Unicity. Moreover, the study involved intensive literature review and data analysis from policy documents, bylaws, research reports and press clippings.

Regulatory regime governing street trading in Durban

Registration

The Municipality seeks to register all street traders within its boundaries for purposes of generating statistics to formulate support and regulation initiatives, and has mandated ITSBO for this function. Appropriately, licenses which could have been an adequate means to track all traders, irrespective of whether they have spatial permits or not, were abolished by the Business Act (1991). Horn (2001) notes that:

“The main difference between the licence system and the permit system as applied to specific areas is one of legality. In the licence system, everybody who trades without a licence is committing an illegal act – the licence regulates the very *right to trade*. In the permit system, people are free to trade legally in most areas, but in certain proclaimed areas, they may not trade without a permit to trade in that area – the permit regulates *trading space*”.

Although the present Informal Economy Policy (2001) recommended the registration of street traders, practicalities still need to be addressed. Anyone who wants a vending permit can apply after looking for a trading site in some specific areas, these being Umgeni, Springfield Park and Phoenix, Dalton, Clairwood, Umbilo, Chatsworth, Merebank, Overport, Newlands East and Newlands West. Looking at rentals, the officials said that the Department issues permits, and that charging the trader for the permit depends on the type of business that is carried out and the facilities on site. Traders pay variable rentals per month according to type of goods sold and facilities provided.

There is a lot of confusion as to the ability of the system to efficiently and effectively register traders without losing some traders through jurisdictional gaps. (Lund and Skinner: 2003). ITSBO uses permits issued to track numbers of street traders. The only problem with this is the inability to account for traders who do not have legal space to trade in. City officials have thought about



provision of identity cards for all traders regardless of their legal status. However, ITMB does not endorse this idea because there are other pressing issues to be dealt with (a rental system for all traders). On the other hand, SEWU argued that street traders and hawkers (mobile traders) need a distinguished status (Devenish and Skinner, 2006). This is because these hawkers jostle for trade on rent-paying traders' spaces, heightening the potential for conflict. Moreover, there is a need for statistics for all parties involved in the street trading sector (Informal Economy Policy, 2001). Registration is useful for regulating not only established legal traders, but to formalise the illegal traders because of the subtle conflict between these two groups of traders. Therefore, SEWU endorses registration of all traders to ascertain the statistics and the dynamics of the sector. For SEWU, the idea of identity cards solves many problems. Furthermore, SEWU stated that licences still exist for people trading at the beachfront, for craft workers and food workers, contrary to the existing law. Nevertheless, city officials have emphasised that this relates to food workers who have to be licensed to sell food for public health reasons.

Allocations Policy

The aim of the Allocations Policy is to support growth, and provide opportunities for new entrants in an economically sustainable and socially useful way. For ITSBO, it will be implemented in a way that will create linkages between experienced and inexperienced operators. First preference will be given to women, youngsters (18-35 years) and physically disabled people, as well as to South African Citizens (Durban's Allocations Policy, 2006). Council will use the allocation of sites to address the lack of economic opportunities to previously disadvantaged communities. In allocating sites, women and young people and those who are physically challenged as defined by national legislation, will be given preference. Legal foreigners with work permits will be allowed to trade provided they meet the agreed criteria (Durban's Allocations Policy, 2006). Unfortunately, the officials seem to agree that in the CBD and Warwick Junction, traders are trying to reject these criteria.

StreetNet, a gender advocacy organisation dealing with street trading issues in Durban, argues that in many cases, vendors themselves have extremely good ideas about regulation – common law rights, kinship rights and other values, which officials do not take into consideration when space is allocated. In this matter, StreetNet argues that rights and obligations to a place are determined by having priority of access to it. Interestingly, traders in the city seem to acknowledge that spatial regulation and control means having a maximum number of people for a particular area (Horn, 2001). Confident of the usefulness of the new regulatory regime, vendors did not even have a problem with something that is more of a market discrepancy, that is, dictation as to what they could sell. For example, in the Beachfront area encompassing the lucrative Golden Mile of Durban's coast, traders are allowed to sell only crafts. However, regulatory problems began to appear in instances when, such as the Christmas season, other traders would converge on the

beachfront to compete (Horn, 2001; Durban's Itinerant Policy, 2006).

For StreetNet, the Allocation Policy is at the heart of the regulatory regime and contrary to common views, people are supportive of its progressive elements. However, some very powerful people seem to block its ratification by the Council because of their opinions about the aesthetics of the African city (Lund and Skinner, 2004). Their Eurocentric views of the beautiful city sweep street traders under the old arguments of crime and grime (Chen, 2003a). Durban's regulatory regime has produced good outcomes like usage allocation styles which have been shown to work in pilot projects such as in the Warwick Junction (Lund, 2003; Lund and Skinner, 2003; Lund *et al*, 2000). For StreetNet, different approaches to the same law need to be harmonised (Lund *et al*, 2000). Durban is better than Cape Town or Johannesburg because in times of operational difficulty, it has not shifted the responsibility of managing street traders to non-state agents and thereafter shifting the blame when things do not work out (Horn, 2001).

The ITMB sees space as something to fight for and argues that spatial allocation is a difficult process, not as straightforward as some elements make it seem. For them, the idea that the government identifies plots and then allocates them is misleading, if not ambiguous. ITMB acknowledges that a regulatory regime is necessary to ensure that there is no escalation to chaos. People need to be ensured of decent business, especially in the core areas where overtrading is an issue. ITMB suggests that criteria set out in the Allocations Policy are unacceptable because of the disadvantages that are bred. ITMB argues that its members are against criteria and that there is a need for negotiation and partnership in making decisions about matters of who gets space priority. There is a culture of doing things from the top down that impedes negotiation Horn (2004). Criterion setting, especially in the initial stages, is not consultative. Criteria should be more inclusive because families have different capacities in terms of wealth. Some street traders are genuine small-scale street entrepreneurs, but because a criterion excludes them, they are left with no option but to trade illegally. Also, the increasing population and competition among new entrants is compounded by formal sector job losses that exacerbate the situation (see Budlender *et al*, 2001; Carr, Chen and Tate, 2000; Lund and Skinner, 2004).

Perception by entrants that they have to be in the CBD where the business is, compounds spatial allocation issues. Most organisations promise people they will get them trading spaces, and so become like employment/procurement agencies. Thus, these organisations end up practicing selective membership (Lund and Skinner, 1999). Space is limited and organisations cannot promise everyone space. SEWU attempts to discourage traders from making decisions about trading spaces unthinkingly; choice of a stall is a business decision. Traders should not be side-tracked by false perceptions of crowds in the CBD. For example, KwaMashu Station might have a bit more 'space' than the CBD because there are less middlemen extorting money, and the cost



of setting up business is lower. Moreover, there is more competition in the CBD and though there is a bigger market for traders' goods, shares that go around are smaller for individual traders.

Enforcement

Durban Metro Police is mandated by the city to enforce regulations as Skinner (1999) notes. Presently, there is not enough manpower to deal with street traders, and the organisational logic of enforcement makes it difficult for ITSBO to work together with the police. However, ITSBO frequently liaises with Metro Police on issues of enforcement. There seems to be an understanding with units within the police that enforcement trading bylaws and impounding of goods is only a measure of last resort. Enforcement is the second-level lever of the regulation regime and the extent to which traders understand enforcement says a lot about how they get by (Horn, 2004). One ITSBO informant claims that there is a tiny element of truth that the police criminalise street traders, because it is clear that people cannot be moved around like common petty criminals or vehicles Skinner (1999).

On the issue of evictions and impoundments, goods are confiscated if the trader is illegal or selling goods that are not permitted by law. Traders are often removed from trading in certain undemarcated areas, Lund and Skinner (2003). Nevertheless, liaison officers and area managers try to deal with the problem before reporting it to the Metro Police. ITSBO officials liaise with police commanders in issues concerning street trading on the assumption that information will be trickled to the bottom for usage by police officers on the beat. Moreover, ITSBO furnishes the police with the necessary records of legal traders in the area. ITSBO area managers suggest that fines that have been stipulated in the different bylaws, for example, obstruction of traffic (traffic bylaws), defacing fire hydrants (fire regulation), are the main guidelines. Inability to pay fines results in traders being summoned to court. If the trader repeats the same offence, the Department then simply cancels the permit.

According to StreetNet, impoundments seldom occur because Durban has a better thought out policy. This does not mean that there are no enforcement issues³, but they are not as critical as in other cities in South Africa. Impounding goods has always been a contested issue in Durban (Lund and Skinner 2003). Even though regulations have been made more humane, there are impoundment clauses so that a person may have their goods confiscated only under certain circumstances.

In Durban, StreetNet posits that there are no provisions in the regulations to charge fines. This means that fines are illegal, which calls for a need for a test case for litigation. This clearly demonstrates that enforcement is a technical issue and in principle, it has to have a legal base.

³ Enforcement issues include evictions, impounding goods, fines and arrests.

Old habits tend to govern and determine practices. Legal challenges of this nature show us, for example, that in principle, a person who does not pay rent must be duly evicted. This evokes questions of who has the right of enforcement. Some municipalities have tried to outsource their law enforcement responsibilities for street trading to traders' organisations (Horn, 2001; Skinner 1999). However, these organisations have no law enforcement powers and therefore cannot vindicate their methods. Enforcement is constituted by legal technicalities and empowered by them. There is understandable logic as to why management of policing issues has been dumped in traffic departments for those cities that have no metropolitan police. Though this is inappropriate, it is not surprising (Skinner, 1999; Horn, 2001). The reason is that people have not thought through enforcement and policing in practice and this illustrates the legal illiteracy of the population they police. When street traders become aware of their rights, they have a greater consciousness concerning the method of policing.

Most often, street traders contravene spatial regulations but not criminal law. A vehicle that is parked in an inappropriate space gets its owner a ticket. That does not mean the owner is a criminal. There seems to be a disjuncture between Metro Police and ITSBO concerning the informal economy policy. For example, the car guards were being threatened with removal as a subtle attempt to weed out foreigners, as Hunter and Skinner (2003) also observe. StreetNet argued that these events demonstrated that ITSBO and Metro Police do not communicate in line with the new policy. ITSBO and ITMB sometimes collude together and you find that the police only act on instruction. The case of removal of mainly women muti street traders in Charles Webster Street⁴, before the Joseph Nduli⁵ Market was built, illustrates this. The Department must collaborate with the police and set out the ultimate enforcement structure. SAPS and Metro Police have to determine the type of police who can deal with street traders on the ground every day. Overall, StreetNet posits that the Municipality has not invested enough in equipping staff for humane enforcement. All this is ironic given the fact that Metro Police contributed to the Technical Task Team that was well constituted in drawing up the new policy (Grest, 2002; Lund, 2003).

Traders' representatives suggest that there are problems with police dealing with street traders. ITMB observes that the police are not trained to deal with traders without either treating them as vehicles to move around or as petty criminals. Police (Indian and White police officers) are not trained to negotiate with street traders who are mainly Zulu and do not really communicate in English (Skinner, 1999). ITMB claims that traders are not involved with the police on these issues, yet the police deal with traders. The city administration, especially ITSBO, communicates to the

⁴ Formerly known as Leopold Street.

⁵ Formally known as Russell Street.



police separately. The situation is compounded by the fact that the police seem to have nothing in writing to guide their actions. ITMB suggests that the police need to be made aware that street traders are business people (Lund and Skinner, 1999).

There seems to be a bit of confusion between Durban Metropolitan Police (DMP) and the SAPS (South African Police Service) in the matter of enforcement in the enforcement of city bylaws. SAPS are meant to deal with crime, not street traders. DMP is mandated by the city to do so, while the SAPS deal with serious crimes. This has meant that if SAPS came and confiscated trader's goods and DMP came to serve the same trader with summons, then one does not know where to complain. ITMB also maintains that its structures have been responsible for self-enforcement, without which the streets would be chaotic. ITMB does this through Street Committees. For example, members talk to individual traders and they make sure that if somebody dies communication with families is carried out to see who in the family can occupy the deceased trader's space.

Regulation system capacity

Traders are a new sector and until recently, nobody has had to define what informal traders have to have to qualify as such. As a result, definitions of what capacities the person managing the same traders has to have are problematic. Officials concede that there is a need for more training. Street trading management needs progressive team players to deal with multi-level issues that confront them daily. Most city officials are saddled with huge areas to manage. For example, there are two liaison officers who assist the area manager in the CBD operational area. There are specific areas designated for street trading that need specific regulation. Other areas need different regulation altogether. More personnel are needed to manage diverse areas and their numbers must be determined by a degree of restriction of street traders on a certain space. For example, in the CBD operational area, particularly Durban station, traders operate in a less commercially busy area, which means it is relatively uncontested. In Springfield, traders are not clustered in the same area, selling the same things. All this suggests that the specific character of an area determines the challenges. Liaison officers are present only in an area that has been previously restricted, that is certain numbers of traders are needed there. In restricted areas, ITSBO, street trading committees and other stakeholders determine how many traders may be present at a specific place by looking at the impact and sustainability issues on the environment. Officials maintain that they always persuade and encourage traders to come to them before they start trading in a certain area to get appropriate advice and check if the conditions are suitable for trade.

When looking at the systemic capacity to diffuse information, a number of issues arise. Officials feel that there is awareness among traders of an informal economy policy, copies of which are widely disseminated at trading places. Liaison officers are available to explain the contents of

the policy if needed. Many things are changing and implementing policy is a learning curve for all involved. Traders come to understand the importance of the policy in an issue-based way. When they have a dispute about allocation, then all parties involved go back to the policy document to find a resolution. Co-ordination between different departments has improved with area-based programmes, spearheaded by dedicated multi-disciplinary teams and it includes representation from the Metro Police, Durban Solid Waste, and ITSBO with its area managers and liaison officers, Architecture, Planning and other field agents. This helps officials to understand the work of others in order to gauge the impact on traders, and to engineer this change in accordance with ITSBO's mission, (Odendaal *et al*, 2003).

However, officials feel that Street Committees must be properly constituted, elected and trained and function appropriately so as to allow more meaningful interaction, information feedback and report back. Contradictions remain in the system about which officials feel there is not much they can do. For example, law prohibits cool drink vendors in traffic intersections (Informal Economy Policy, 2001). Yet at the same time, controversy is raging as to how the newspaper vendors get authority to sell in the same traffic intersections while other vendors who use the same method are disallowed. Another example is that trailers are regarded as part traffic, but are found on pavements and officials constantly have to look at how to deal with these as part of street trading.

The field staff work very hard even beyond their normal scope of action, sacrificing time that they could be with their families. In Warwick Junction for example, before the area-based management initiative, the place looked like a squatter settlement (Grest, 2001). Traders used to build permanent structures on the pavements. Valuable time was spent in negotiating the cessation of these activities. Even when moving people from their old trading places, clear reasons for doing so are communicated to the traders. Enough time is invested in these processes in such a way that the traders can give assurances to their customers, and the spaces that traders are being relocated to have enough passing feet.

Looking at infrastructure capacity, officials feel traders complain unjustifiably about many things. Traders complain of shelters, that they are too high and do not protect them from the elements. Officials felt that traders should appreciate that trading shelters are not residential rooms. Moreover, directives such as those in town planning have to be followed and that many of these places are pavements that fall under the jurisdiction of traffic regulation. Traders complain about infrastructure yet the rate of non-payment on the part of traders for rentals is alarmingly high. Traders do not seem to understand that the contribution of their rentals goes towards maintenance of existing facilities and even formation of new developments.

Concerning the capacity to oversee new infrastructural developments, suggestions have been made but the relevant committee, whose decision will be ratified by the Council Executive (EXCO),



has not approved them. Officials, even with their powers of discretion, cannot transcend proper channels and argue that just because there are people trading in a particular area, it is a trading site. ITSBO reports that it is the Sustainable Development Committee (SDC) that can declare an area suitable for trading. There are a series of standing committees that ITSBO belongs to but the SDC is the one that will take the decisions made about space in the street trading sector to the EXCO. Overall, officials feel people need to change their minds, that besides a more obvious need for control and order, the present regulation regime tries to assimilate equity and democracy issues in practice. Officials also note that most of the traders' representatives' resistance stems from the contradiction between representing both legal and illegal traders and the pressure of promises made, and worse, of monies taken from some aspiring traders in improper ways, (Lund and Skinner, 1999). Moreover, the officials feel that ITSBO has been a breeding ground for negative opinions about street trading, and that other problems such as vagrants and street kids end up being dumped on them.

When looking at systemic capacity for information feedback, ITMB suggests that reporting back to the mass of street traders has not been done. ITMB alleges that there is no commitment to a culture of agreements made because if so, the city administrators would have no problem in telling the people what the policy is about and how it is changing the way street trading is run. In terms of capacity, ITMB alleges that the frontline staff in Winder Street and those field staff at trading places are not enough in terms of numbers. Moreover, there is a need to train the ones already there to deal with a rapidly changing, dynamic and diverse sector. Traders' representatives argue that it is a daily struggle to work with ITSBO. Traders' representatives allege that the city administration officials do not know the statistics of traders, yet every month they get salaries. Traders' representatives allege that city officials and councillors still do not know what is happening in the sector. The issue of rapid staff turnover in city administration makes long-term partnerships difficult and agreements are often broken. Communication between traders' representatives and officials need to be intensified and should not be formalised. This causes unnecessary distance between representatives and officials, hampering genuine negotiation and problem-solving processes. This means that bureaucratic protocol should be lessened to deal with things in a speedy manner (Valodia, Devey and Skinner, 2005).

For StreetNet, municipal capacity is very low. The negotiating skills of staff need to be increased so that there is mutual understanding and honouring of agreements instead of negotiating ways out of crises. Municipal staff should respect obligations to reach agreements and to monitor progress. Value is enhanced between officials and non-officials because there is understanding of consultation versus negotiation. Democratic agreements should be put in writing and popularised, not just spoken about (verbal agreements). ITSBO needs to be capacitated in terms of having

more programmes on conflict resolution and negotiation for its frontline staff and its financial resources (capital funds) need to be increased. Also, there should be a culture of reporting back; care should be taken to trickle information down. Things are not so bad despite capacity flaws. StreetNet posits that when looking at the regulatory regime, implementation is much more of a problem than the laws themselves.

In terms of resources, especially infrastructure, there has been a genuine attempt made, for example, the Warwick Junction project. Traders' feelings in regard to regulation have been that there is something in place as a guideline but concerns still crop up in terms of implementation. ITMB posits that issues of literacy and comprehension of the new policy need to be taken care of. ITMB warns that policy might be useless as long as its implementation tries to impose regulation.

ITMB suggests on the subject of new bylaws, they cannot submit their suggestions if not called upon by the city. Bylaws should be developmental in every sense and should define clearly the distinction between hawkers and vendors. The fact that there is silence concerning these means a redraft is necessary and that it needs traders' input. And in setting up stakeholders who are going to contribute, questions remain as to the place of bodies such as the Chamber of Commerce. For ITMB, traders' input about how they want to be regulated is important. The system needs to be constantly renegotiated and area management initiatives should be encouraged, but their effects should not be overestimated. Most of all, for the ITMB, there is a need to see solid products/results as proof that the city is doing something.

SEWU points out that on the operations of mobile traders, the city is perceived as not doing enough. Infrastructure is inadequate, especially storage. Overnight accommodation remains a pressing issue. Plans that were made to find overnight accommodation for street traders in Alice Street went cold. SEWU feels that ITSBO needs a bigger capital budget. Overall, SEWU feels that the law/regulations are now appropriate for women, (Gallin and Horn, 2005). Laws are good for women for they are progressive, but implementation is flawed. On empowering traders' organisations, SEWU is of the view that street traders' assistants find it hard to organise. Some women lose their jobs if they are unionised, especially those with Indian employers. SEWU concludes that traders understand that some good things are in the pipeline, but an effort should be made to find solutions.

Conclusion

This paper looks at the responses of street traders and reactions of officials to regulation of space. The impact of regulations is important for it points out the vagaries of implementation. One can argue that despite the flurry of activity to make consultations and policy-making representative and inclusive, Allocations Policy and its implementation, is the central bone of contention. Consolidation of street traders' rights to earn a living in public space is important but the primary issue



still remains one's own plot to trade at. The key informants have revealed a number of versions of regulatory regimes that operate on the conduct of the business of street trading. In this paper, regulation is operationalised as the interrelated continuum from registration, spatial allocation, system capacity and enforcement. A number of implementation vagaries are revealed.

First, registration is still a piecemeal affair that needs to appropriately account not only for numbers and diverse activities that operators deal with, but also the phenomenon of itinerant traders. This is not only a problem for legal traders but also for the ability of city officials to manage trading sites. Moreover, all seem to agree that some sort of identification system needs to be in place to include those traders who are still in the process of acquiring permits – mobile hawkers included.

Allocations Policy, which respondents seem to agree, is the heart of the regulation regime, has illuminated a number of concerns. Allocations criteria that favour women, youth and the disabled on account of providing opportunities for the most vulnerable entrants, are being rejected by some parties at street level. Reasons vary from the apparent inequities it breeds and its non-inclusiveness. Spatial allocation itself is still plagued by intense competition for the same desirable central locations. These not only have long waiting lists but are difficult to police. The new provisions of prohibiting or restricting areas have made prime business locations costly. This exclusion is not specifically stated in laws or regulations governing street trade but succeeds in squeezing out poorer, mainly women survivalist traders. The regulations of the former metro sub-structures still confuse a lot of traders in the streets. The issue of overtrading and fronts remains a controversial reality for both city officials and genuine traders. Overtrading spawns situations of conflict that make it difficult for all involved to earn a decent living from the sector. Also, issues of spatial allocation that happens in an environment of competition spawn particular clientele/patronage relationships that discriminate against the less resourced, yet deserving recipients of municipal help. Spatial allocation and its pressures for viable trading space illuminate the need for the city to see space not only as a development tool, but also as an arena within which people struggle to fulfil their practical and strategic needs.

Enforcement, which constitutes an important part of the regulation regime, also revealed a set of concerns from all fronts. On the agency that is legally mandated to enforce city bylaws, traders seemed to be confused about the jurisdictional territories of both the SAPS and Durban Metropolitan Police. The poor information circulation and high staff turnover causes police on the beat to either treat street traders as criminals or vehicles that need to be moved – not people breaching spatial laws and regulations in their attempt to eke out an honest living by selling on the streets. Impoundments and relocations do not happen on a large scale in the city, yet these still count for an insurmountable setback for some traders.

The most interesting revelation is the assertion by traders' advocates that fining, already seen as a too costly penalty, is illegal. This brings in questions of law versus habit, technicalities and the legalities of an enforcement agency. Moreover, the issue of paucity of negotiation channels between traders' representatives and the police itself show the contradictions that create so many glitches in the smooth running of the system. The issue of appeals for aggrieved traders also crops up as a concern and also a necessary braking mechanism to ensure less lengthy court time for all involved. A good way to be both effective and fair at the same time, is to go ahead vigorously with enforcement according to agreed procedures, and to have an easy and accessible appeal procedure for anybody who feels aggrieved with the way in which laws or regulations are enforced.

System capacity is the running engine of the regulation regime. It reveals a lot of the capabilities of the ITSBO and of organisational muscle of traders' representatives. Issues of the capacity of municipal officials and field operatives to creatively and timeously deal with the dynamic and volatile sector are noted. There seems a consensus that ITSBO needs capacitation, not only in diversifying and harmonising officials' skills, but also in capital budgets to fastrack infrastructure development and better management of existing sites. The policy has made recommendations that require a lot of implementation. Less political interference and the coordination of field agents will determine the health of the systemic capacity to respond quickly to demands and supply factors in the field. Most importantly, the issue of making and sticking to agreements has been cited as crucial to the credibility of the system. Crisis negotiation is not only *ad hoc* but hardly makes logical, let alone sustainable, regulation practice.

Traders' representatives are also in need of capacitation if they are to constitute strong and influential partners for the city managers in running the regulation regime. The terrain lends itself to a high level of opportunism and individual self-interest. Not only do shady characters try to extort hard-earned funds out of street traders on the promise of getting them services, but also they get confused in effectively representing both legal and illegal traders. The organisational constitution of some of these organisations hardly qualifies as democratic or representative. At the same time, a paradigm change is needed. Spatial control does not leave room for invasions and conquering territories. A new era has dawned for all involved to perform their rights and obligations before claiming entitlements.

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