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The Notice

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30 The notice

CAROLINE WANJIKU KIHATO

'Your name?'

'Hannah'

'How do you spell it?'

'H-a-n-n-a-h'

H|A|N|N|A|H, the policeman wrote painstakingly.

'Your ID number?'

'I don't have a South African ID … but my passport number is A470 …'

'When were you born?' interrupted the officer, glaring at Hannah.

'I was born on twenty three March, nineteen eighty six.'

|1|9|8|6|0|9|2|3| | | | | There were blank spaces left in the form, but this would have to do, the policeman thought to himself. His boss would have to understand – few migrant women had local identity documents. In any case, we all knew that they provided false information to hide their identities.

'Nationality?' he asked brusquely.

M|A|LA|W|IAN he wrote, squeezing the extra letters together. The form only provides six spaces for this entry. [5 spaces given above]

'Address?'

'Flat 103, Fatis Mansion, Jeppe; corner Harrison Street, Johannesburg.'

F|L|A|T| |1|0|3| |F|A|T|I|S| |M|A|N|S| | … continued officer Molokomme. His left hand moved slowly, making jerky movements with the strokes of his pen. Each letter was carefully written in the spaces and no matter what he felt, whether he believed in what he

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was writing or not, I could see he did take some pride in his written work. Knowing this was going to take a while, I resigned myself to watching the goings-on on Klein Street, right there where we stood, on the pedestrian path between Plein and De Villiers. I cast my eye at the scene in front of me and understood immediately why the superintendent and I were there – why we had to be there.

It was a late summer morning on the last day of March 2008. Although we were still 15 minutes away from midday, when the heat of the sun was inescapable, I was hot from the scorching sun on the police car's dashboard. The area is close to the Noord Street taxi rank, one of the busiest transport nodes in the city. It was easy to understand why the traders set up their illicit trade here – the number of people passing through daily guaranteed them a ready market. Moreover, business at the end of the month is always good. As hoards of commuters with their monthly earnings in their pockets go home, they may buy a few extra tomatoes, the pair of sunglasses they have been eyeing all month, or some imitation jewellery for a loved one. 'Month-end', pronounced 'maanzy-end', is a good time for traders and their customers alike.

Our arrival had disrupted the rhythms of street banter, negotiations and trade, causing the illegal traders to take what goods they could and run. It looked like a tornado had come through this part of Johannesburg's CBD, leaving destruction in its wake. On the pavements were abandoned cardboard boxes. Alongside them were bright orange crates – one filled with maize was lying on its side, and a few of the green cobs spilled over into the street. Strewn across the pavement were newspapers, plastic bags, sweets, oranges, beads, cigarettes and cooked mielie pap, which the wind and people's feet were helping distribute across other parts of the city. Even though it was the last day of the month, the street was eerily quiet. On this day, Superintendent Molokomme was issuing notices to appear in court, while other colleagues confiscated the goods of those traders who had not been quick enough to make a getaway. I could hear a woman crying foul, wailing that the police have mercy on her; she was pregnant and needed the money to buy food for her children. The pregnant woman whose name I did not know, Hannah who was talking to Molokomme, and a few others were the unlucky ones – caught before they could escape 'the metro'. That is what the traders call the Johannesburg Metropolitan Police Department – 'the metro'.

The written 'Notice to Appear in Court' (issued in terms of section 56 of the Criminal Procedure Act, No. 51 of 1977) is one of the legislative mechanisms that allows the city to regulate what can or cannot be done in a given space in the municipal area. The Act from whence this section is derived provides guidelines to those who work in the policing, justice and correctional services on the variety of procedures available to them in criminal proceedings. Section 56 presents an officer of the law with the option to hand an accused a written notice to appear in a magistrate's court. The words, written in black and white in this auspicious legal document, say that the notice should:

a. Specify the name, the residential address and the occupation or status of the accused;
b. Call upon the accused to appear at a place and on a date and at a time specified in the written notice to answer a charge of having committed the offence in question;

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c. Contain an endorsement in terms of section 57 that the accused may admit his guilt in respect of the offence in question and that he may pay a stipulated fine in respect thereof without appearing in court; and
d. Contain a certificate under the hand of the peace officer that he has handed the original of such written notice to the accused and that he has explained to the accused the import thereof.

I turned my attention back to Hannah and the officer. As I continued to listen in on the conversation, I began to have doubts about the bureaucratic ritual taking place in front of me. Now, I am no expert on the city's geography, but I was beginning to wonder whether F|L|A|T| |1|0|3| |F|A|T|I|S| |M|A|N|S|I|O|N| really did exist and whether Hannah in fact lived there. I noticed that 'Hannah' did not give us a surname and had an incomplete identity number. The notice provides 13 spaces for the identity number – officer Molokomme only inserted eight digits. This made little sense to me. South African identity documents typically have 13 digits. The first six digits are the individual's birthday – comprising the last two digits of the year of birth, month and day, written in that order. |1|9|8|6|0|9|2|3| | | | | was not only incorrect, but also incomplete. As I pondered these issues, I wondered whether officer Molokomme shared my concerns, and if he did, why he continued this charade of filling the notice with phoney information. Surely this was ineffective in bringing to book those who participated in illegal trade in the city? We may have fulfilled section 56 b, c and d of the Criminal Procedure Act, but what good was that if critical information – the name and residential address – of the offender was missing? I wished I could point out these concerns to the officer, but I was powerless, a mere pawn, in this habitual practice.

My concerns were not new, and are shared by city planners and service providers alike. Urban development is predicated upon knowledge of urban populations. Without an understanding of who lives in the city and where they live, it is near impossible to direct urban development and plan for the city's future. Which areas in the city are growing? Are people young or aging? Are communities stable or transient? All these questions have a bearing on the kinds of urban services needed by urban dwellers, and the nature of public investment required in the city. While a good deal of planning is about supplying urban services, another aspect is ensuring that the city government regulates what happens in streets, parks, commercial and residential areas. The raid on illegal trade on Klein and Plein streets was an attempt by the city to enforce municipal by-laws. Illegal street trading presents urban governments with numerous problems. Trading on sidewalks interrupts the through-flow of pedestrian traffic, creating overcrowded streets which can potentially harbour criminals. Shop owners and potential investors shy away from areas that are unregulated as this not only affects their business, but also signals that the city government is unable to control the spaces in its jurisdiction. Businesses want predictability and the assurance that the government can protect their interests. Public health is another concern. Unplanned markets have no ablutions or cleaning areas, presenting a potential health hazard not only for the traders but also their customers.

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Although the enforcement of rules is an important part of urban life, it depends on the ability of the state to 'see' its populations. Local authorities need to know who lives in their jurisdictions, and where to find them. At an administrative level, population registers allow governments to plan for services such as health, education, electricity, water and sanitation. It also makes taxation and finding criminals or law-breakers possible. Having a visible population in the city is therefore a critical aspect to good governance. Hannah's illegibility, the lack of state capacity to track her down, makes good governance – tax collection, effective regulation and urban investment – difficult if not impossible to achieve. Officer Molokomme had clearly not 'captured' Hannah's details in a manner that would allow the city's bureaucracy to follow up the charge, which he was now writing up.

The officer continued to write that Hannah had the option to pay a fine of R500, or appear in Courtroom 35 at the Johannesburg magistrate's court on 8 May 2008.

When he was finished, the officer handed me over to Hannah, and I wondered where I would end up. Perhaps in a bin in a backstreet alley? Maybe she would crumple me up and throw me on the pavement where, no doubt, I would find others like me who shared the similar fate of being ignored. I doubted that Hannah would pay the fine of R500, or bring me to court to challenge the police officer. I may not have been utilised in the manner expected, but I am surprised that I continue to endure in a context where few seem to take me seriously. The performance that I had just witnessed between Superintendent Molokomme and Hannah was not an isolated event, but an interaction that occurs often in the city. She mindlessly shoved me into her purse as she watched policemen load her goods into the back of the police van. Making a quick calculation of her day's losses, she looked around for her friends and approached them two blocks away where they were putting what they had managed to save in the ubiquitous plastic 'Ghana must go' bags.

'Eish, today they caught me … I couldn't run fast enough.'

'Ag, shame! How much is your ticket for?'

'About five hundred rands … my stuff is not even up to five hundred. That fine is just too much!'

'Just leave your stuff with them and start again my sister.'

'Eish, now where shall I get money for new stock to sell tomorrow?'

It came as no surprise to me that Hannah did not intend to go to court or pay the fine. She even planned to be back at her trading spot on the corner of Plein and Klein streets the next day. In fact, few traders pay the fine. Fewer still try to retrieve their confiscated goods from police warehouses. The traders are aware that the police officers do not always declare all the goods they confiscate. Either they sell what they can or take what they want for themselves. Police 'siphoning', as it is sometimes known, is seen as part of a street tax that traders must pay to trade. You see, there is an informal system of exchange at work. The police tolerate some level of illegal street trading because it gives them an added source of income, through bribes and the theft of confiscated goods. Informal traders are aware that they are breaking the law by trading illegally and therefore see the exchange as part of a business expense. It is true that they complain about the unfairness of police harassment and the amounts they

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have to pay. But they recognise that the police, who possess the authority to execute official regulations, also have the power to turn a blind eye to their illicit trade.

I reflected on what I had become in this fragile system of exchange, where formal rules met informal ones. Without the backing of the state's laws and regulations, I was powerless to enforce urban order. But because of it, I facilitated an illicit sub-economy that allowed illegal traders in the city. It is precisely because I occupy a position of power in state officialdom that I am a powerful actor in the informal economy. As James Scott points out, part of the power of the official over the subaltern 'is the strategic use of "the rules"' (2005: 399). I represent the threat of the enforcement of the law, yet at the same time I am complicit in its undoing. In this zone, the boundaries between legal and illegal are blurred and it is possible to see the extent to which extra-legal practices run through the institutions of the state (Das and Poole 2004).

Legal instruments like me symbolise the complex nature of urban relationships in cities like Johannesburg. Indeed, if we look carefully we can no longer speak of a city in which the formal sector is separate from the informal sector. Similarly, the boundaries that separate official regulation and enforcement from unofficial and extra-legal practices collapse when we scrutinise the relationships between the state and urban actors. As I reflected on my role in configuring urban spaces, I realised that I participate in the production of a hybrid spatial logic created not just by the formalism of state rules and regulations, but by the intersection of these rules with alternative logics of non-state actors. Traders and officers alike may not pay much attention to the contents of The Notice, but I nevertheless remain a powerful symbolic figure in shaping the nature of urban spaces.

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