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2014
Wits University Press
https://hdl.handle.net/10539/38443
Makhetha, P. and Rubin, M. 2014. Inner-city street traders: Legality and spatial practice, in Harrison, P., Gotz, G., Todes, A. and Wray, C. (Eds.). Changing Space, Changing City. Wits University Press.

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Chapter Title: Inner-city street traders: Legality and spatial practice

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Book Title: Changing Space, Changing City

Book Subtitle: Johannesburg after apartheid - Open Access selection

Book Editor(s): PHILIP HARRISON, GRAEME GOTZ, ALISON TODES and CHRIS WRAY

Published by: Wits University Press

Stable URL: https://www.jstor.org/stable/10.18772/22014107656.35

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31 Inner-city street traders: Legality and spatial practice

PULENG MAKHETHA AND MARGOT RUBIN

The City of Johannesburg has invested heavily in the formalisation of street trading within the inner city. They have supplied traders with stalls from which to work and, through rental and permit schemes, have secured their tenure, thus largely freeing them from police harassment. Counter to the formalised street traders, who are mostly South African women, are 'illegal' traders, the majority of whom are young, male and foreign, who operate within the same areas but without secure tenure or permanent stands, and as a result, face constant police harassment. This study builds on reports by Mitullah (2003) and Tissington (2009), which described clear distinctions between legal and illegal street traders in the ways that they operate and use space, and also identified tensions between the two groups. We highlight some of the same themes but then look at how legal status affects traders' profitability and the tactics that some use to compensate for their lack of legality and to generate profit. We present a brief description of the evolution of street trading policy in order to provide a context for informal traders in contemporary Johannesburg. We then refer to the findings of an exploratory study conducted in 2010 on street traders selling vegetables and fruits along Noord Street in inner-city Johannesburg, to demonstrate the intersections between legality, spatial and social practice as well as the tensions that have risen as a result of the current policy and by-laws.

A brief background on street trading

The history of informal-sector policy in South Africa reflects a profound ambivalence towards informality, alternating between reformist notions of street trading that view this

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sector as a viable alternative for people to make a living, and modernist planning that regards street trading as unacceptable within 'modern' cities (Bantubonse 2008). The apartheid state initially took a zero tolerance approach to street trading but by the 1970s it was apparent that management and control were more realistic options. Under the Licensing and Business Hours Ordinance 11 of 1973, traders were allowed to operate in certain areas and at certain times provided that they paid a levy to the city council (Karumbidza 2011). During the 1980s many of the regulations of the apartheid state fell away, either intentionally or through a loss of control, resulting in a massive growth of the informal sector. This growth was helped in 1991 by the Business Act, which fundamentally changed the face of informal trade legislation through removing a range of rules and regulations, including the 'move-on' laws, which had hampered and harassed informal traders (Skinner 1999). Subsequent amendments to the Act (in 1993 and 1995) provided municipalities with the mandate and authority to define their own street trading by-laws and to issue traders with licences.

The new constitution and the change of government led to a further turnaround in the status, perception and regulation of informal traders. In 1995 the national government put out the White Paper on Small Business, which set out South Africa's new thinking about small, medium and micro enterprises. The White Paper intended to promote the principles of support and inclusion for the informal sector in the larger economy in order to ensure its growth (Rogerson 2000) and this trajectory continued in later years. In 2009 the Presidency explicitly engaged with the sector as a means of lifting people out of poverty, aiming to increase the ability of people living in poverty to acquire and secure assets through the second-economy strategy. The strategy was underpinned by a programme of 'patient support' for street traders, which was meant to 'reduce their risks and vulnerability to abuse; [provide] access to storage and ablution facilities, as well as services such as electricity supply where feasible; and … reduce their costs and increase their "voice"' (Office of the Presidency 2009: 8).

Johannesburg's policy and practice generally mirrored the national case, and prior to 1991 traders were allocated licences for specific sites. Trading on the pavements was strictly forbidden, with or without a licence, and no provisions were made for traders around storage, ablution facilities or waste removal. Street traders lived a very insecure existence, constantly 'moved on', harassed or arrested and often forced to bribe officials to be able to make some kind of livelihood (Thulare 2004). Rogerson and Hart (1989) argue that the apartheid mechanisms for controlling street traders in Johannesburg were some of the most advanced and intricate in the world. The end of the 1980s and beginning of the 1990s saw the relaxation of this control and legislation in Johannesburg as well as the intensification of 'white flight' to northern Johannesburg (Beavon 2004). As a result, by the early 1990s the inner city and its surrounding suburbs had become home to a range of black-owned and -run businesses, including a large number of informal enterprises.

Thulare (2004) maintains that the City of Johannesburg has not been supportive of informal activities has, since 1996, tried to drive informal traders into controlled and zoned spaces. Thulare (2004: 6) argues that, 'The council's markets … were not designed

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to improve traders' conditions but were seen by the council as a quick solution to the "nuisance" of street trading and a way to clean up the streets.' During the same period, the City of Johannesburg embarked on a string of strategic interventions for Johannesburg, namely the Golden Heartbeat of Africa in 1997; iGoli and Joburg 2030 in 2002; and an Inner City Position Paper. These various strategies were intended to address the city's fiscal crisis through corporatisation, cost recovery and inner-city regeneration, which included responses to street trading (Tissington 2009). Overall, these strategies have had a largely 'modernist' bent, which has sought to formalise, legalise and control the spaces in which informal traders operate. To date, the city has devised a set of informal trading by-laws and informal trade is controlled and managed by the Metropolitan Trading Company (MTC) and the private Central Johannesburg Partnership (Tissington 2009). The Johannesburg Metropolitan Police Department (JMPD) is responsible for ensuring that the by-laws are implemented and that those who do not adhere to them are punished accordingly (Tissington 2009).

The Noord Street market

The MTC manages a number of markets in the inner city, including the Noord Street market where our study was conducted. This area has been used as a site for street trading since the late 1970s due to its proximity to a number of transportation termini, such as the Wanderers taxi rank, which is relatively small in size and accommodates taxis only, as well as Park Station, which is bigger and accommodates both taxis and buses. According to the Westgate Station Precinct plan (CoJ 2010), the Noord Street market has one of the highest concentrations of informal traders in the inner city, most of whom sell vegetables and fruits to passers-by. A great deal of pedestrian traffic passes through this area as commuters walk through the market to and from the transport termini, as well as to the inner city and back again (JDA 2010). These commuters serve as potential customers for the traders.

Legal and illegal traders: some background

We identified two distinct sets of traders in the Noord Street market: legal permit holders who were generally South African women aged between 20 and 40, and 'illegal' traders who were young, in their early twenties, mostly foreign and male. In total, 15 in-depth qualitative interviews were conducted, comprising traders from both groups. Prior to this, we spent time observing the traders and the market in which they work and informally interacted with them and their customers. We set out to get an indication of the livelihood strategies employed by the Noord Street traders, and used an asset-based approach to analyse the results. This provided insight into the various types of resources that the traders access and mobilise. These include capital assets in the form of savings, and social assets such as social networks. These assets were then analysed to see how they directed the traders' livelihood strategies. What became clear is that traders use different spatial strategies linked to their legal status to try to increase their profits.

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FIGURE 31.1: Legal street traders in the Noord Street market, 2010



FIGURE 31.2: Illegal traders operating from temporary stalls on Noord Street in the Johannesburg CBD, 2010

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Legal traders operate under licences granted to them by the MTC. These licences permit traders access to a permanent wooden stall, with a roof and the right to trade from the stall on certain days and during certain hours (see Figure 31.1). These traders cannot be harassed, moved on or have their goods confiscated by the JMPD. The stalls in which they operate protect them from the elements and help to limit filching. Illegal traders, by comparison, have no permits to trade and the spaces in which they trade are not guaranteed or protected. They make use of temporary structures, often constructed out of the boxes in which their stock is delivered, or pieces of wood, racks and mats, or other waste materials (see Figure 31.2).

Legality, spatial practice and strategies: comparing legal and illegal traders

Legal tenure gives traders a space from which to trade but has consequences for their spatial practices and thus their incomes. The size of stalls is designated by the MTC and is not allowed to impinge more than a certain distance onto the pavement. Traders have to comply with these regulations in order to remain legal but this restricts how much they can display and where. The stalls are enclosed and away from the pavement, making these traders less visible and restricting their access to customers. Legal traders tend to have very loose associations with their colleagues and showed little evidence of mutual support or interdependence.

Illegal traders face fewer constraints in that they are able to locate themselves wherever they choose, and often right in the middle of pavements, thus forcing pedestrians to engage with them as they walk through these spaces. Illegal traders are often harassed by the JMPD – their goods are confiscated and they are issued with fines. Thus their use of temporary and inexpensive materials is a calculated strategy reflecting the insecurity in which they operate. They are harassed because they are breaking the law. Many are also 'soft' targets, as they have entered South Africa illegally (Mngoma 2010).

As a result, illegal traders have cultivated strategies to cope with their insecure tenure and illegal status. They rely on well-developed social networks along Noord Street and at the first sign of the JMPD they signal to each other, generally whistling in a particular key and pattern, to warn the others to pack up and run. They then run in a variety of directions as a way of making it more difficult for the JMPD to catch them. The packaging or waste materials used for their displays can be easily discarded without undue cost to the traders, or can be used to pack up their goods quickly, thus helping traders to get away fast.

Both legal and illegal traders store their goods in lockers at Park Station and most purchase their stock from the same suppliers in and around Johannesburg, but illegal traders charge lower prices for their goods than legal traders. The higher prices of legal traders can be attributed to the fact that legal traders pay for permits, and this pushes up their prices, whereas insecure conditions and the lack of operational costs encourage illegal traders to charge lower prices so that they can rapidly sell their goods. This creates tension on both sides – the formal traders feel that they are penalised by their formalisation in that they are

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forced to charge higher prices, are restricted in how much space they have, and are limited as to the manner in which they can use their space. Thus while their permits protect legal traders from police harassment and eviction, and their stalls protect their produce from the elements and filching, they work in direct competition with the 'illegal' street traders, who do not have permits or stalls to trade from, but are able to charge lower prices, work more flexibly with the spaces in which they operate, and engage more directly with customers.

Conclusion

The legal status of street traders in inner-city Johannesburg affects their access to space and the manner in which they can use space. Legal traders are safe and protected in some ways but constrained in other, whereas illegal traders face harassment but are more flexible and better able to engage with their spaces and customers. Legal status in turn impacts on the social relations between the different traders, creating much closer relationships between illegal foreign traders than among legal traders, who are lesss interdependent. Essentially, legality seems to raise prices and constrain how space is used while providing a more secure income and place to work, whereas the enforcement of by-laws and lack of permits force illegal traders to use space more innovatively and to lower their prices but makes their lives and livelihoods less secure.

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