THE BUSINESS OF SURVIVAL:

Informal Trading in
Inner City Johannesburg

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1. LIST OF ABBREVIATIONS AND ACRONYMS

ACHIB  African Council of Hawkers and Informal Businesses
BID    Business Improvement District
CBD    Central Business District
CID    City Improvement District
CJP    Central Johannesburg Partnership
COJ    City of Johannesburg
COSATU Congress of South African Trade Unions
CTP    Cape Town Partnership
DED    Department of Economic Development
ESSET  Ecumenical Service for Socio-Economic Transformation
FIFA   Fédération Internationale de Football Association
GJTMC  Greater Johannesburg Transitional Metro Council
GDP    Gross Domestic Product
GEAR   Growth, Employment and Redistribution
ICLS   International Conference for Labour Statistics
ICO    Inner City Office
ICRC   Inner City Regeneration Charter
ICRS   Inner City Regeneration Strategy
ILO    International Labour Organisation
JDA    Johannesburg Development Agency
JMPD   Johannesburg Metropolitan Police Department
KUM    Kagiso Urban Management
LRC    Legal Resources Centre
MTC    Metropolitan Trading Company
OVOAHA One Voice of All Hawkers Association
RDP    Reconstruction and Development Programme
SAITF  South African Informal Traders Forum
SANTRA South African National Traders Retail Alliance
SAPS   South African Police Service
SARHA  South African Railway Hawkers Association
SMME   Small, Medium and Micro Enterprise
Stats SA Statistics South Africa
UDZ    Urban Development Zone
WCCA   World Class Cities for All
WIEGO  Women in Informal Employment: Globalising and Organizing
STREET TRADING VS. INFORMAL TRADING:
DEFINITION AND TERMS

Street trading is the act of selling goods or services on the street - on pavements, in the middle of the road or in other public spaces – undertaken by a street trader or street vendor in an activity that forms part of the informal economy. While the formal economy consists of "those who own registered businesses, or those who work for wages, have employment contracts and are protected by labour laws," the informal economy consists of people who operate outside this domain and “may be self-employed or employed by the owners of small, unregistered businesses or under contract to large businesses.” However, while the term street trader describes the physical presence of people selling on the streets, it does not elaborate on the diverse economic interests and employment relationships that exist, and street trading is by no means a homogenous activity nor street traders a homogenous group.

In the inner city of Johannesburg, street traders are increasingly being drawn into more formal trading spaces like malls and linear markets, so are no longer trading on the street (albeit often still exhibiting many characteristics of street traders) and are classified under the more general and all-encompassing label of informal trader. Informal trading is thus an umbrella term for all those who sell goods and services informally, regardless of the location. This is contrasted with formal trading, which would constitute those who own registered businesses or who work for wages and have employment contracts.

Informal traders in South Africa are also sometimes referred to by the terms hawker or micro-retailer. Hawker is a term still widely used, however it is generally no longer preferred as it is somewhat a vestige of the past connoting illegality and informality. Micro-retailer is a more progressive term gaining popularity, and implies the potential legitimacy of informal trading as a viable economic activity.

In this report the more neutral term ‘street trader’ will be used to refer to those selling goods and services on the streets, and they remain the focus of this study. ‘Informal trader’ will be used in its umbrella capacity when referring more broadly to those affected by City policy and management, with specific reference to where the specific trading activity occurs e.g. street, malls or linear markets.

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2. The City of Johannesburg’s Street Trading By-Laws have been recently revised and renamed the Informal Trading By-Laws for this very reason. See sections 3.4 and 3.5 of this report for more on the by-laws.
2. INTRODUCTION

Throughout South Africa, municipalities are grappling with the management and regulation of informal trading, particularly in the large urban metros. There have been clashes in June 2009 between eThekwini Metropolitan municipal officials and over 7000 informal traders at the Early Morning Market in Warwick Junction in Durban CBD, over their attempted eviction to make way for a modern mall to be built on the site. And there have been clashes between traders and City of Cape Town officials in Mitchells Plain town centre over the proposed eviction of traders and the allocation of trading sites, also in June 2009. These occurrences highlight some current tensions, which generally arise when City officials attempt to manage, regulate and formalise trading in urban areas. Such attempts are often at odds with existing traders’ ability to access public space and sustain their livelihoods, and result in many traders ‘falling between the cracks’ of formal developments.

In the inner city of Johannesburg these tensions are palpable, as the City of Johannesburg’s attempts at managing and regularising street trading are at odds with the harsh realities facing traders. After a period of rapid deregulation in the 1990s, precipitated by the Businesses Act 72 of 1991, the City’s current approach is one of re-regulation of informal trading and the removal of street traders from the streets and into formal markets and malls. Estimates of the number of street traders in Johannesburg’s inner city vary considerably, however it is clear that street trading is escalating with greater urbanisation as people enter the city from rural areas to seek a living, and as more foreign migrants enter South Africa from war-ravaged or economically distressed neighbouring countries. Another reality is that unemployment and poverty in South Africa are increasing, and as jobs are shed more and more people turn to informal trading as a means of survival.

According to the former CEO of Metropolitan Trading Company (MTC), in 2006 there were about 18 000 informal traders in Johannesburg, with most of them working as street traders in the inner city. In 2009, the City of Johannesburg estimated the current number of street traders in central Johannesburg as being approximately 8 000, however this is most likely a conservative estimate. There are difficulties quantifying the number of street traders in Johannesburg as they operate in informal and largely undocumented terrain. The nature and informality of street trading, the fact that many street traders are undocumented migrants, as well as the inherent limitations of the statistics gathering process with regard to informal traders, contributes to this figure being probably much higher. In Johannesburg, as in most large metropoles, street trading is a livelihood strategy chosen predominantly as a survivalist strategy.

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3 Skinner estimates that “in terms of city-level statistics … on a very rough calculation … there are between 60 000 and 70 000 traders in both Johannesburg and Durban and 35 000 in Cape Town. See van der Post, T., “No fair trade for SA’s street vendors”, Mail and Guardian (25 April 2007).
6 The livelihoods approach is important to any study of urban poverty. Rakodi defines a livelihood as comprising “the capabilities, assets [including both material and social resources] and activities required for a means of living.” These assets may be financial, human, natural, physical and social and one of the key physical assets identified in the livelihood strategies of the urban poor is that of access to public space. See Skinner, C., “Street trade in Africa: A Review”, Working Paper No 51 (April 2008), pp. 5-6.
7 City of Johannesburg’s inner city, or Region F, covers Yeoville and Braamfontein in the north to Marshalltown and Benrose in the south, and Vrededorp and Fordsburg in the west to Jeppestown, Bertams and Troyeville in the east. See http://www.joburg.org.za/content/view/1671/49/ or map in section 6.2.
8 Abraham, A., “Trading groups meet at upgrading facilities!” City of Joburg (20 April 2006).
tactic in a climate of acute and growing unemployment and poverty, and is a large and vital part of the informal economy.\(^\text{10}\)

In the absence of formal job opportunities or access to credit, skills and infrastructure to start formal business enterprises, people appropriate public space and passers-by to sell goods and services in order to eke out a living and support themselves and their families. Inner city traders provide residents and workers with everything from loose cigarettes to live chickens, hand-made shoes to steaming-hot pap and stew. They sell almost anything imaginable to those willing customers who traverse their turf. However its future is uncertain in a city keenly focused on inner city regeneration and so-called cleaning up of crime and grime\(^\text{11}\), as well as preparing for the hosting of the 2010 Football World Cup. As explained in section 6.2 of this report, inner city regeneration is driven predominantly by private investors and property owners, who see ‘modernisation’ and the cleaning up of public space as key and have powerful voices that arguably count more than poor street traders’ (or residents of dilapidated ‘slum buildings’) in the inner city.

Against this ‘reality’, informal street traders are viewed (if not overtly in official City policies and rhetoric then at least by many other stakeholders whom the City considers key to inner city regeneration) as public nuisances, sites of illegal and criminal activity, obstructions to pedestrians and vehicles, contributing to so-called crime and grime and a general blight on an emerging “world class African city” landscape.\(^\text{12}\) This perspective is often juxtaposed with iterations acknowledging street traders as adding vibrancy and an African flavour to the city and being an essential economic activity for many of the urban poor, to be supported and encouraged. According to a shop-owner in Diagonal Street, in reference to the impact that the City’s pre-2010 clean-up campaign has had on Diagonal Street, a once vibrant trading street near the old Johannesburg Stock Exchange: “they killed it [street trading]…everything is finished now…when they treat people like this they are pushing them to go steal.”\(^\text{13}\)

The City, in developing and implementing its rather fragmented and contradictory informal trading policy and by-laws, outlined in section 4 of this report, has largely failed to take into account the reality that trading within the urban environment sustains livelihoods, however meagre, and is critically important to the socio-economic wellbeing of thousands of South Africans and foreign migrants in inner city Johannesburg, as well as many more living throughout the country and in neighbouring countries who are supported by this activity through remittances.\(^\text{14}\) This ultimately results in the privatisation of public space in the form of city improvement districts (CIDs)\(^\text{15}\), Johannesburg Metropolitan Police Department (JMPD)\(^\text{16}\) officials effectively ‘managing’ street trading through the enforcement of the street trading by-laws in an often unfair, corrupt and harsh manner.

The City’s solution to street trader management is to remove them from the streets through the development of formal malls and markets, and at present it is rolling out its linear market plan and attempting to provide all traders with ‘Smart Cards’\(^\text{17}\) in order to demarcate the entire city into restricted or prohibited areas where traders can only trade with a license or permit issued by the Metropolitan Trading Company (MTC) in a process that has been, on their own admittance, very slow.\(^\text{18}\) The timing and sequencing of City interventions in informal

\(^{10}\) According to Stats SA, 955 000 people, or 45 percent of those working in the informal sector, are involved in wholesale and retail trade in South Africa, and approximately 11 percent of the informal economy comprises people selling goods from a street, public space or with no fixed location. Stats SA, Labour Force Survey March 2007, p. x.

\(^{11}\) See section 7.4.4 for more on the Inner City Regeneration Charter (ICRC).

\(^{12}\) The oft repeated phrase ‘world class African city’ was adopted by Mayor Amos Masando in the run up to the 2000 election to highlight the trajectory of the city and its aspiration to be one of the best run cities in the world. According to Masando, they “added the African element because we didn’t want to be a city alienated from itself.” See Davie, L., “Five years with Mayor Masando” (30 June 2006). http://www.joburg.org.za/content/view/738/9/

\(^{13}\) Byrne, C., “Hawkers claim their right to piece of World Cup pie”, Mail and Guardian (21 November 2007).

\(^{14}\) See section 7 for more on the lived reality of inner city traders.

\(^{15}\) See section 6.2.2 for more on city improvement districts (CIDs).

\(^{16}\) In this report the Johannesburg Metropolitan Police Department (JMPD) will be referred to interchangeably by its abbreviation and by the widespread term ‘Metro police’.

\(^{17}\) See section 4.5.3 for more on the rollout of Smart Cards.

trading management and regulation have not been effective in protecting street traders and providing alternative legal sites to trade or opportunities for formal employment before evicting them from the streets. These evictions lead to immense hardship for people and sometimes, indirectly, to death.\textsuperscript{19} Trader organisations, which have not been particularly effective in the past, are mobilising together with organised labour group, Congress of South African Trade Unions (COSATU), in order to create a unified and powerful voice against the City and its entities responsible for informal trading management and regulation. This mobilisation has most recently coincided with the City’s revision of its informal trading policy and by-laws.

It is within this context that this report attempts to draw together the different agendas, tensions and perspectives of the various stakeholders involved in informal trading in the inner city of Johannesburg, with the view to provide a holistic view on the situation and offer some recommendations on a way forward. The methodology and aims for the research are provided in section 3 of this report.

As background, section 4 of the report begins by providing an introductory overview of the legal and policy framework for informal trading in the City of Johannesburg, including the Constitution of the Republic of South Africa Act 108 of 1996; the Businesses Act 72 of 1991; the City of Johannesburg’s Street Trading By-Laws of May 2004 and its new Informal Trading By-Laws (yet to be gazetted); and the Informal Trading Policy for the City of Johannesburg.

Section 5 broadens the scope and examines some of the international labour debates around the informal economy and the recent concept of ‘decent work’, narrowing down to examine the informal economy and street trading in South Africa.

Section 6 begins with a brief history of informal trading in the inner city of Johannesburg divided into three eras - restriction, repression and prosecution (1886 to mid-1980s); deregulation and rapid expansion (mid-1980s to 1990s); and countering inner city ‘decay’ (1990s to early-2000s). It then goes on to examine inner city regeneration (early 2000s to present), discussing the Inner City Regeneration Strategy (ICRS), City Improvement Districts (CIDs), the Inner City Regeneration Charter (ICRC), the Johannesburg Development Agency (JDA) and the Johannesburg Inner City Business Coalition (JICBC).

The section also provides an overview of the management and regulatory environment in the City of Johannesburg, as well as of the state of trader organisation and mobilisation. Organisations and entities discussed include the Department of Economic Development (DED), Johannesburg Metropolitan Police Department (JMPD), Metropolitan Trading Company (MTC) and Central Johannesburg Partnership (CJP), as well as the South African National Traders Retail Alliance (SANTRA), Ecumenical Service for Socio-Economic Transformation (ESSET), South African Informal Traders Forum (SAITF), One Voice of All Hawkers Association (OVOAHA) and StreetNet International and its World Class Cities for All Campaign (WCCA).

Section 7 presents research conducted by CALS, together with a survey conducted by the Ecumenical Service for Socio-Economic Transformation (ESSET) in 2007, in order to give the lived-reality of informal traders in the inner city of Johannesburg. The section begins with a case study that highlights many of the realities facing traders at present. The section goes on to provide a more general account of the lived-reality of informal traders, as gleaned from one-on-one interviews with traders, which includes information on age, sex and nationality; residential location; level of education and household structures; income and expenditure; nature of selling and location; licenses, permits and rentals; interface with formal employment; attitudes towards by-laws and regulation; attitudes towards trader organisations; access to capital and business management skills; tension between local and foreign traders and confiscation of goods and harassment by Metro police.

\textsuperscript{19} Selepe, C., “The death of two evicted from Joburg’s pavement another sign of anti-poor policy”, WCCA (9 June 2008).  
http://www.streetnet.org.za/wccacampaignpage.htm#WCCA%20Background,%20Platform%20and%20Demands%20to%20Municipalities
Section 8 attempts to draw out two of the key problematic areas raised in the interviews with informal traders, and by trader organisations. These ‘fault lines’ include the confiscation of goods and harassment by Metro police and the demarcation of restricted and prohibited areas, and this section attempts to synthesise the first six sections of background information with the section on the lived-reality of informal traders.

Finally, Section 9 provides less of a conclusion and more of a summary of the key issues highlighted in the report, together with some suggestions/recommendations for interventions to assist in protecting the livelihoods of informal traders in inner city Johannesburg whilst improving management and regulation, and promoting fair and democratic governance in the sector.
3. AIMS AND METHODOLOGY

This report was researched and written up over a fairly long period, between June 2007 and September 2009. The amount of time it took to conduct the research and to write the report reflects the complexity of the issues being researched. One of the complex issues we had to grapple with is the fact that informal trading policy and management in the City of Johannesburg have been moving targets since 2007, and in an effort to capture the full spectrum of shifting developments, the finalising of the report was pushed back.

The aim of the initial research was to gain an understanding of the lived-reality/socio-economic circumstances of informal street traders in inner city Johannesburg; to clarify the attitudes of the City of Johannesburg and other public and private entities towards informal street traders; to examine trader organisations and their representivity and effectiveness; and, finally, to explore how informal street trading fits in with urban regeneration strategies pursued by the City and private actors.

During the period of a week in June 2007, fieldworkers commissioned by CALS conducted over 100 in-depth, qualitative interviews with street traders and informal traders in markets and malls in the inner city of Johannesburg. This process was managed by CALS researcher Alex Wafer and the research team was assisted by the South African National Traders Retail Alliance (SANTRA), a union of informal traders operating across Johannesburg. The interviews were based on a questionnaire with snow-ball sampling used to identify willing respondents. Interviews were conducted in both English and the respondents’ own language. Fifty one-on-one interviews were conducted in and around the Wanderers Street Taxi Rank, with traders holding permits for designated stands as well as traders without permits. Two on-duty Metro police officers were also interviewed. Thirty interviews were conducted with traders inside the Metro Mall at Bree Street, as well as a SANTRA representative. In Yeoville, interviews were conducted with twenty traders inside Yeoville Market on Rockey Street, and with 26 street traders outside the market. The manager of the market was also interviewed.

While this research does not represent a statistically representative sample of informal traders in inner city Johannesburg, nor does the limited scope provide sufficient quantity for statistical finding and extrapolation, the idea was to gain insight into the lived-reality of informal traders, and from their stories to further examine official policy, by-laws and management.

Between August 2007 and 2009, further research and interviews were conducted by CALS researcher Kate Tissington, who authored this report. In the compiling of the report a variety of documents and sources have been consulted including:

- local, provincial and national legislation and policy relevant to informal trading;
- interviews with representatives of informal trader organisations;
- interviews with those involved in informal trader management;
- international and local academic articles and research reports on street trading and the informal economy;
- media and newspaper articles about informal trading in Johannesburg and other South African cities;
- publications by community groups and NGOs involved in informal trader issues;
- City of Johannesburg website, press releases, official reports and publications;
- Statistics South Africa data from the Labour Force Survey (LFS).

Between 2008 and 2009, there was also participant observation at trader organisation meetings and protests as well as City of Johannesburg meetings and workshops, including the Inner City Partnership Forum.

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20 For a full list of those interviewed, see the bibliography in section 10. The names of informal traders interviewed have been omitted to protect their privacy.
Acknowledgments

This research was kindly funded by the Norwegian Centre for Human Rights (NCHR). Our thanks go to Stuart Wilson, former senior researcher at CALS, for his input and Claire Bénit-Gbaffou, senior lecturer in the School of Architecture and Planning at the University of the Witwatersrand, for reviewing the report and providing helpful insight and guidance. The report was edited by CALS senior researcher Jackie Dugard. All photographs in the report were kindly provided by photographer Buyaphi Mdledle.
4. **LEGAL AND POLICY FRAMEWORK FOR INFORMAL TRADING**

In South Africa, street trading is largely governed and regulated by municipal by-laws and policy at the local government level. The Businesses Act 72 of 1991 (Businesses Act) together with the Businesses Amendment Act 186 of 1993, give municipalities the mandate to draw up and implement such by-laws. Municipal by-laws must ultimately be in line with the Constitution of the Republic of South Africa Act 108 of 1996 (Constitution) and legislation which gives effect to it e.g. the Local Government: Municipal Systems Act 32 of 2000 (Municipal Systems Act). Below is a summary of relevant legislation and policy that affects informal trading within the City of Johannesburg.

4.1. **Constitution of the Republic of South Africa Act 108 of 1996**

4.1.1. Bill of Rights

The Bill of Rights in the Constitution sets out a number of rights and protections which apply to all those residing in South Africa, and are relevant to the lived-reality and treatment of street traders. Two over-arching and general principles include the right to **equality** and **dignity**.

According to section 9(1), everyone in South Africa is equal before the law and has the right to equal protection and benefit of the law. Section 10 relates to human dignity and states that everyone has inherent dignity and the right to have their dignity respected and protected.

More specifically, section 22 relates to **freedom of trade** and states that “every citizen has the right to choose their trade, occupation or profession freely”, however this is qualified by the clause that states “the practice of a trade, occupation or profession may be regulated by law.” Therefore, while the freedom of trade is extended to informal trading, it can be regulated. The City of Johannesburg’s Informal Trading Policy notes that section 36(1) provides that rights contained in the Bill of Rights may be limited “...in terms of a law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors.” The Informal Trading Policy further states that the effect of this limitation clause on the right to choose a trade is “simply an acknowledgment that the right to trade is not a right that cannot be limited and must be considered and interpreted taking into account other competing rights and obligations.”

One of the problems that street traders constantly face is the confiscation of their goods by Metro police officials, without the provision of receipts or due process. Section 25(1) relates to **property** and states that “No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.” Further, section 33 relates to **just administrative action** and states that everyone has the right to administrative action that is “lawful, reasonable and procedurally fair”, and that those adversely affected by this have the right to be given written reasons. The right to just administrative action is given effect by the Promotion of Administrative Justice Act 3 of 2000. Section 33 is also relevant to decisions taken by City officials on what areas are demarcated as restricted or prohibited.

4.1.2. Local government

The Constitution sets out the objectives, developmental duties and powers and functions of local government, as well as provides the authority for local government to develop by-laws in order to administer street trading. Section 152(1) of the Constitution sets out that the **objectives of local government**, which include providing democratic and accountable government for local communities, promoting social and economic development and

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21 City of Johannesburg, “Informal Trading Policy for the City of Johannesburg” (2009), section 2.
encouraging the involvement of communities and community organisations in the matters of local government. Section 156 relates to the powers and functions of municipalities and states that a municipality has executive authority in respect of, and the right to administer, certain local government matters including street trading (which is listed in Part B of Schedule 5). Municipalities thus have the mandate to draw up street trading by-laws, which may be enforced only after published in the official gazette of the relevant province, and which must be accessible to the public, as per section 162 of the Constitution. These sections are given effect by the Municipal Systems Act, which expands on, amongst other issues: municipal duties, powers and functions; the municipal drafting of by-laws; and the importance of community participation.

4.2. Businesses Act 72 of 1991

The Businesses Act changed the legal framework for street trading and acknowledged it as an important sector which contributes to the economy and incomes and should be supported. Under apartheid, people were driven into the informal economy because they were barred from participation in the formal economy. However, most informal activities were illegal and subjected to repression, persecution and prosecution. The national change of attitude to informal activities culminated in the 1991 Businesses Act, in a climate of deregulation in South Africa. Simply put, deregulation is "to reduce or to eliminate specific government rules and regulations that apply to private businesses." According to Skinner, this legislation was a key measure for deregulating business activities, removing barriers to the operation of informal activities and making it an offence to enforce the move-on laws. Once national legislation restricting street trading was relaxed in the early 1990s there was a dramatic increase in these activities in all South African cities and towns. According to Skinner, "it sought to reduce the powers of local authorities to develop and implement laws that would restrict informal trading. Thus legally there was a complete turnaround from a situation where traders were not being allowed to trade, with few exceptions, to traders being allowed to trade freely, with a few exceptions."

The Businesses Act refers to issues of licensing, particularly with regard to the selling of meals and perishable foodstuffs; the right to have written notice of why a license request was denied or repealed and the reasons for this; the provision for appeal regarding licensing; penal provisions; regulations and the power of local authorities regarding street traders, especially in their mandate to develop local by-laws.

In 1993, the Businesses Act was amended with the Businesses Amendment Act 186 of 1993, and some powers to restrict trading were given back to municipalities. This Act allowed local authorities to formulate street trading by-laws outlining what they would and would not allow in their municipality, and to declare restricted and prohibited trade zones. In effect, the amendments gave local authorities much greater autonomy over how they manage street trading, and different local authorities have adopted very different approaches. In areas where trading was restricted, spaces could be demarcated and hired out. In 1995, the Businesses Act was devolved to the provincial level, meaning that the option to change the Act lies with each province.

Section 6A(1)(a) of the Act states that a local authority may, with the approval of the Administrator, make by-laws regarding (i) the supervision and control of the carrying on of the

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22 Lund et al. Street Trading, p. 46.
24 See section 6.1 for more on this history.
business of street vendor, pedlar or hawker; and provides a list of restrictions in terms of which street traders may be regulated. Furthermore:

6A(1)(b) A by-law made under this subsection, other than a by-law contemplated in paragraph (a)(ii), shall not-

(i) restrict the carrying on of the business of street vendor, pedlar or hawker to-

(aa) specified hours or places; or

(bb) specified goods or services;

(ii) impose a restriction or requirement in relation to a street vendor, pedlar or hawker that is not in terms of any other bylaw or regulation of the local authority concerned imposed in relation to a person carrying on business in the same goods and services on fixed premises: Provided that this subparagraph shall not prevent the making of a by-law which is necessitated by reason of the business concerned being carried on elsewhere than on fixed premises.

(c) No by-law made under this subsection shall-

(i) require a street vendor, pedlar or hawker to hold a licence, permit, authority, certificate or approval in respect of such business: Provided that a by-law may prohibit a person from carrying on such business on any stand or in any area contemplated in subsection (3)(b) if he is not in possession of proof that he has hired such stand or area from the local authority concerned or that it has otherwise been allocated to him;

(ii) prohibit the carrying on of such business

(aa) within a specified distance from any specified place or point;

(bb) at any place for longer than a specified period;

(cc) if the business concerned is not periodically moved from place to place;

(iii) protect any person against trade competition, except to the extent contemplated in paragraph (a)(iii)(ee).

(d) A by-law made under this subsection

(i) may, for any contravention thereof or failure to comply therewith, prescribe a penalty of a fine or imprisonment for a period not exceeding three months;

(ii) may provide for the removal and impoundment by an officer of any goods, receptacle, vehicle or movable structure-

(aa) which he reasonably suspects is being used or intended to be used or has been used in or in connection with the carrying on of the business of street vendor, pedlar or hawker; and

(bb) which he finds at a place wherein terms of a by-law under subsection (1)(a)(ii) or (iii), the carrying on of such business is restricted or prohibited and which, in his opinion, constitutes an infringement of such bylaw, whether or not such goods, receptacle, vehicle or movable structure is in the possession or under the control of any person at the time of such removal or impoundment.

An important clause in the Businesses Act is section 6A(2)(a) which states that “a local authority may ... by resolution declare any place in its area of jurisdiction to be an area in which the carrying on of the business of street vendors, pedlar or hawker may be restricted or prohibited.” However, Section 6A(2)(c) goes on to add that before such a motion is adopted, the local authority shall have regard to the effect of the presence of a large number of street traders in that area and shall consider whether more effective supervision or control in that area, including negotiations with any person carrying on in that area the business of street trading or their representatives, will make a declaration unnecessary. The local authority must also consider whether the intended restriction or prohibition will drive out of business a
substantial number of street traders. If either of these is found to be the case then there is an official procedure that needs to be undertaken as per sections 6A(2)(d) to (k) of the Act.\(^{29}\)

Section 6A(3) deals with the Council’s ability to designate certain areas or stands for trading and likewise to “extend, reduce or disestablish” such areas. Section 6A(3)(b)(i) states that notwithstanding the provisions of any other law, a local authority may by resolution and taking into consideration the abovementioned provisions, set apart and “demarcate stands or areas for the purposes of the carrying on of the business of street vendor, pedlar or hawker on any public road the ownership or management of which is vested in the local authority or on any other property in the occupation and under the control of the local authority”. The local authority may also extend, reduce or disestablish any such stand or area.

4.3. City of Johannesburg Metropolitan Municipality Street Trading By-Laws (21 May 2004)\(^{30}\)

By-laws governing street trading in the City of Johannesburg were promulgated in May 2004 under the Municipal Systems Act and in line with the Businesses Act. According to the street trading by-laws, “a single act of selling or offering of services in a public road or public space shall constitute street trading.”\(^{31}\) In the by-laws there is a focus on the protection of businesses, public buildings and monuments, pedestrians and traffic flow, as well as the maintaining of cleanliness, hygiene, safety, public order and open space within the City. The street trading by-laws are enforced by the Metro police in the inner city of Johannesburg, whose mandate is derived from the South African Police Service Amendment Act No 83 of 1998. Its functions include traffic policing, policing of municipal by-laws and regulations, and the prevention of crime in the City of Johannesburg.\(^{32}\)

The street trading by-laws deal \textit{inter alia} with prohibited conduct, restricted conduct, cleanliness, signs indicating restricted and prohibited areas, removal and impoundment, vicarious responsibility of persons carrying on business, and offences and penalties. Some of the most important and contentious aspects of the by-laws as raised by traders and other stakeholders are outlined in more detail below.

4.3.1. Prohibited and restricted conduct

Section 6 stipulates certain prohibited areas where street trading is not allowed, including where it may obstruct traffic, pedestrians on a sidewalk or residential and commercial property. Section 6(1) states that “no person shall carry on the business of a street trader at a place or in an area declared by the Council in terms of Section 6A(2)(a) of the Businesses Act as a place or area in which street trading is prohibited.” Section 6(1)(h) of the street trading by-laws states that “no person shall carry on the business of a street trader on a stand or in any area demarcated by Council in terms of section 6A(3)(b) of the Act, if he or she is not in possession of a written proof that he or she has hired such a stand or area from the Council, or that such stand has otherwise been allocated to him or her.”

In order to enable compliance if this action is undertaken the Council must, according to section 9(a), prescribe or make signs, markings or other devices indicating - (i) specified hours, places, goods or services in respect of which street trading is restricted or prohibited; (ii) the locations of boundaries of restricted or prohibited areas; (iii) the boundaries of a stand or area set apart for the purposes of the carrying on of the business of street trading; (iv) the fact

\(^{29}\) This is an important qualification; however the extent (if at all) to which this meaningful consultative process with street traders has been undertaken in relation to the creation of central improvement districts (CIDs) which ban street trading or in other prohibited and restricted areas, is questionable.

\(^{30}\) City of Johannesburg Metropolitan Municipality Street Trading By-laws [Published in Provincial Gazette Extraordinary No 179 dated 21 May 2004 under Notice Number 833].

\(^{31}\) Ibid., p. 3.

\(^{32}\) See “Metropolitan Police Department”, City of Johannesburg website.

http://www.joburgnews.co.za/content/view/702/78/
that any such stand or area has been let or otherwise allocated; and (v) any restriction or prohibition against street trading in terms of these by-laws.

Section 7 of the by-laws lists restricted conduct including inter alia that a street trader (e) may not trade on a sidewalk where the width of such sidewalk is less than four metres; (f) may not place or stack his or her property in such a manner that it constitutes a danger to any person or property, or is likely to injure any person or cause damage to any property; (g) may not display his or her goods or other property on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property; (j) may not carry on such business in such a manner as to -(i) create a nuisance (ii) damage or deface the surface of any public road or public place, or any public or private property or (iii) create a traffic and/or health hazard, or health risk, or both.

4.3.2. Removal and impoundment

When a street trader is found to be in contravention of the street trading by-laws, an official is entitled to remove and impound their goods. However, a strict process is meant to be followed. According to section 10:

(1) An authorized official may remove and impound any property of a street trader-
(a) which he or she reasonably suspects is being used or which intended to be used or has been used in or in connection with street trading; and
(b) which he or she finds at a place where street trading is restricted or prohibited and which, constitutes an infringement of any such restriction or prohibition whether or not such property is in possession or under the control of any person at the time of such removal or impoundment.

(2) Any authorized official acting in terms of subsection 1 above must, except where goods have been left or abandoned, issue to the person carrying on the business of a street trader, a receipt for any property so removed and impounded, which receipt must-
(i) itemize the property to be removed and impounded;
(ii) provide the address where the impounded property will be kept, and the period thereof;
(iii) state the conditions for the release of the impounded property;
(iv) state the terms and conditions relating to the sale of unclaimed property by public auction; and
(v) provide the name and address of a council official to whom any representations regarding the impoundment may be made, and the date and time by which this must be done.

4.3.3. Offences and penalties

According to section 12 of the by-laws any person who -

(a) contravenes or fails to comply with any provision of these By-laws;
(b) fails to comply with any notice issued in terms of these By-laws; or
(c) fails to comply with any lawful instruction given in terms of these By-laws; or
(d) who obstructs or hinders any authorized representative of the Council in the execution of his or her duties under these By-laws –

is guilty of an offence and liable on conviction to a fine or in default of payment, to imprisonment for a period not exceeding six months, and in the case of a continuing offence, to a further fine not exceeding R50, or in default of payment, to imprisonment not exceeding one day, for every day during the continuance of such offence, after a written notice has been issued by the Council, and served on the person concerned, requesting the discontinuance of such offence.
4.3.4. Cleanliness

A large section of the street trading by-laws is devoted to how street traders must ensure the cleanliness, hygiene and “aesthetics” around their sites of trade. Section 8(a) states that “a street trader must keep the area or site occupied by him or her for the purposes of such a business in a clean and sanitary condition; keep his or her property in a clean, sanitary and well-maintained condition.” Section 8 also refers to the disposing of litter, the dumping or spilling of cooking waste, as well as the prevention of all forms of pollution.

Clearly, this can only be achieved if the City provides the necessary infrastructure, including access to water, sanitation and refuse removal, litter bins and any other services required to comply with the street trading by-laws.

4.3.5 Publication and awareness of by-laws

Section 9(a) of the street trading by-laws deals with the signs, markings and other devices to be used to indicate restricted and prohibited areas for street trading in the City of Johannesburg. Several traders interviewed stated that they felt there should be a concerted effort at education and support in relation to the by-laws, rather than simply confiscation and harassment. What is required is that education and information regarding street trading by-laws be made accessible to street traders, widely and readily available in languages that they understand and definitely not in legalistic jargon.

Prohibitive signs and markings, supposedly a deterrent to street trading in certain areas, do little if they are not backed up by an understanding of the meaning and purpose of the by-laws and the reasoning behind them. Lund et al suggest that workshops and meetings should be set up where the by-laws are presented and discussed by street traders for street traders, as well as where written information is distributed regarding street trading by-laws. Of great significance for street traders is the obligation that the Constitution places on local government to consult with people – including street traders – in matters of local government. This strengthens the argument for strong, effective and representative street trader organisations, as well as for concerted effort to be made by the City and its entities engage with traders. Further, the need for those enforcing the by-laws – namely the JMPD – to have a proper understanding of them is critical.

4.4. City of Johannesburg Metropolitan Municipality Informal Trading By-Laws (June 2009, pending provincial gazetting)

In June 2009, after a year long review of the Street Trading By-Laws, the City published its revised “City of Johannesburg Metropolitan Municipality Informal Trading By-Laws” which made several amendments to the previous by-laws. The new by-laws were approved by the Mayor in June 2009 and subsequently by Council. However, at a recent by-law feedback session facilitated by the City and attended by various stakeholders, objections were raised by trader organisations about lack of feedback on the process and the incorporation of their inputs, as well as the “constitutionality, legality and suitability of by-law proposals.” The final promulgation and provincial gazetting of the by-laws, therefore, appears to have been stalled.

Some of the most notable changes to the by-laws - besides the change of name which was done to be more inclusive and incorporate all informal traders including those who are selling in formal malls, linear markets and other designated areas - include the following:

33 Lund et al, Street Trading, p. 57.
35 Informal Trading By-Law Feedback Session facilitated by City of Johannesburg (Johannesburg Art Gallery, 9 September 2009).
Section 3(1) lists the different forms of informal trading which include: street trading; selling of goods or services in linear markets, public places, stalls or kiosks; mobile trading; and selling at special events.

Section 5(1) deals with "designated areas", whereby the Council may in terms of section 6A(3)(b) of the Businesses Act demarcate certain stands or areas for informal trading. These stands or areas may in terms of section 5(2) of the by-laws be "extended, reduced or disestablished" by resolution of the Council.

Section 6 deals with the lease and allocation of stands, whereby any trader can apply to the Council to lease or be allocated a stand and if successful will be given a token as proof of their rights to occupy the stand. On written application to the Council, an employee of an informal trader may be issued with a token. Section 6(2) states that the Council may grant subject to conditions or refuse an application.

Section 11 deals with removal and impoundment, and an added clause states in section 11(3)(d) that the impoundment costs to be paid by the informal trader must be stated on the receipt issued when goods are removed and impounded.

Section 13(d) now stipulates that an informal trader is liable to a fine not exceeding R500 if found guilty of an offence, and reduces the imprisonment period to maximum three months (from six months) if in default of payment. The new by-laws also reduce the R50 per day fine to R10 per day, for every day of the continuing offence after the Council has issued and serviced a notice on the trader requesting the discontinuation of such offence.36

Section 14 is a new clause that allows the Council to make regulations around the demarcation of prohibited and restricted areas; disposal of impounded property; liability of persons for reasonable expenses incurred in connection with removal, impoundment and disposal; the prescription of penalties contemplated in section 13; and any other matter which may be prescribed in terms of the by-laws or may facilitate their application.

Section 15 states that "the Council has adopted and implemented an Informal Trading Policy consistent with the [Businesses] Act and the Constitution."

4.5. Informal Trading Policy for the City of Johannesburg (2009)

In 2007, the City published its "Informal Trading Policy for the City of Johannesburg", which aimed to provide the policy outline for the management and regulation of informal trading, as envisioned in the Inner City Regeneration Charter (ICRC).37 In 2009, the Informal Trading Policy was revised, as were the street trading by-laws in order to facilitate the new policy imperatives. The new Informal Trading Policy acknowledges that:

Informal trading is as much a part of the past, present and future of the City of Johannesburg as are other forms of activity. It contributes towards job creation and thereby helps in the absorption of many who would otherwise be economically idle. As with the formal economy, it helps in the alleviation of poverty, the indirect medium to long-term outcome of which includes reduced levels of petty crime and criminality.38

The policy further acknowledges that many challenges face the informal trading sector, including: limited infrastructure and storage; law enforcement difficulties; health and safety

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36 At the abovementioned by-law feedback session, the City explained that some groups had expressed that the R50 per day fine was too lenient on illegal traders and no real deterrent; however they (the City) had decided to reduce the fine to R10 per day for a period and that it was therefore up to traders to pay the R10 fine if illegally trading, or it could be upped at a later stage to R50 or R100.
37 For more on the Inner City Regeneration Charter (ICRC) see section 6.2.3. The 2007 Informal Trading Policy was submitted to the Mayoral Committee but was not approved and minutes of the meeting intimate that the policy would be "continued to be developed." Urban Inc., "Johannesburg Inner City Charter: Independent Review of Inner City Charter Commitment Progress, First Draft Report" (August 2008), p. 6.
38 "Informal Trading Policy for the City of Johannesburg" (2009), section 1.2.
39 The policy defines informal trading as "the sale of legal goods and/or services by individuals and/or groups, in locations designated for informal trading and which requires little more than the actual goods and/or services to
obligations; and diversification and consumer behaviour. The policy states that it is in an attempt to “assist this sector and alleviate some of the challenges impeding the further development of this second economy.”

According to the policy, the City’s mission with regards to informal trading is to create opportunities for the sector to share in the benefits of economic growth through a developmental approach which enables access to job and entrepreneurial opportunities within the sector as well as to “facilitate the migration of informal traders into the formal sector.” Further, the aim is to provide a stable and predictable regulatory and management environment and to build a positive relationship with the formal sector, so that the sectors “operate effectively alongside each other in an environment that fosters sustainable economic growth.”

Indeed, the policy states that an Informal Trading Chamber shall be established as a forum for consultation and resolution of issues and include trader organisations, representatives of market committees, property owners and developers and other interested parties. Further, it states that the DED in collaboration with MTC shall undertake a verification process of all the traders associations and representatives to verify their legitimacy and democratic representation. The policy is extensive and some of the most important aspects are summarised below:

4.5.1. Infrastructure development

Responsibility for infrastructure development in the City of Johannesburg, is shared by the City and relevant municipal-owned entities, with the Metropolitan Trading Company (MTC) to be consulted when infrastructure development is planned, so as to take into consideration the impact on informal traders. The Department of Economic Development (DED) is tasked with categorising trading markets and identifying developmental priorities, and when new informal trading infrastructure development projects are initiated, the policy states that the emphasis should be placed on the “development of the least developed markets so that they may be gradually improved and eliminated.”

The 2007 Informal Trading Policy classified informal trading markets and areas into four grades:

- Grade A: these are permanent, enclosed markets or malls which are equipped with electricity, water and fixed structures and fully serviced. They are usually established where there is heavy pedestrian traffic. An example of this category is the Metro Mall;
- Grade B: these are shelters consisting of concrete slabs with weatherproof shaded cloths and limited services. Open-air or periodic flea markets and craft markets belong to this category;
- Grade C: these include linear markets that have a basic structure and minimal services;
- Grade D: these consist of individual informal traders in an area designated for informal trading, with minimal services.

The City’s aim was to further develop and move street traders into Grade A facilities and to phase out the other forms of street trading, especially Grade D, by 2009. Obviously, this did not occur, and indeed the process of upgrading markets and formalising trading has been slow.
4.5.2. **Demarcation of designated areas**

The stated aim of the 2009 Informal Trading Policy is for the DED to ensure that the entire jurisdictional area of the city has been considered for demarcation as envisaged in the Businesses Act, and a plan should be drawn up to give effect to this taking into consideration economic nodes of the CBD, public open spaces with high levels of pedestrian traffic, high levels of vehicular traffic, and proximity of informal trading to formal trading. Therefore, it is envisioned that informal trading shall only be allowed in areas demarcated by the DED, and when traders have obtained a valid Smart Card or lease from MTC.

Two linear markets were due to have been completed by December 2007 on a pilot basis and a further two markets completed by July 2008. By August 2008, neither of these commitments had been attained, with only the two linear markets in various stages of completion (Hoek Street and Quartz Street). As raised in an independent review of the Inner City Charter commitment progress by Urban Inc. these are “in fact, not new markets but the replacement of existing markets...The new enforcement regime was to be timed to coincide with the completion of these markets but will be dependant on the issue of Smart Cards.” As mentioned in the following section, this process has also been extremely slow.

4.5.3. **Smart Cards**

In 2007 the rolling out of Smart Cards by MTC began and the system was meant to be operationalised by December 2007. By the end of March 2008, however, 399 Smart Cards were issued and by August 2008, only 665. The process has been incredibly slow and the deadline for implementation has recently been shifted from December 2007 to June 2009. The Smart Card and electronic database are seen as important tools for the administration, management and law enforcement of informal trading. The MTC is envisioned as the one-stop shop for registering traders and allocating space in designated areas. The idea is for every informal trader trading in designated areas to apply to MTC for a Smart Card which will provide biographical information, goods or services sold, trading location and rental.

Application forms will be comprehensive and traders will have to provide biographical information, the goods and services that want to trade, present trading location (if any), preferred trading location and proof of permission to be in the country. Thus, foreign traders will have to produce documentation and the validity of their Smart Card will have to correspond with the period they are lawfully allowed to be in South Africa, to be renewed in accordance with any renewal or extension thereof. MTC must decide within sixty days whether or not to grant a permit, and reasons must be provided when an application is declined.

4.5.4. **Allocation of trading space, rental and appeals process**

In line with the above, MTC has to assign informal traders trading space when they are successful in obtaining a license, which will on a “one-trader, one-stall basis.” According to the policy, “the allocation of trading space should be done automatically via an electronic system developed for processing informal trader permit application forms.” Relevant factors in this process should include but are not limited to: the address of applicant, goods and services traded, projected income, preferred trading location and any displacement from previous trading space. Traders who have faced the latter situation will be prioritised, as will those who are already trading and are simply formalising their trade in compliance with the policy and by-laws.

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47 “Informal Trading Policy” (2009), section 8.
49 Ibid.
51 Ibid., section 9.5.
52 Ibid., section 9.11.
53 Ibid., section 10.4.
54 Ibid., section 10.5.
All informal traders who are successful in obtaining a license will have to pay rental, as determined by MTC while taking into account the services and infrastructure available at the site, amongst other criteria. Traders must be given 30 days notice of an increase in rental, which cannot be increased within a period of one year from the date of determination.\textsuperscript{55}

If a trader is unhappy with the trading space assigned or rental amount payable, they may lodge an appeal and request reconsideration. The DED must ensure that an “effective and legally compliant appeals process is in place”, traders must be made aware of this opportunity to appeal, and the turnaround time for the appeals process should not exceed sixty days.\textsuperscript{56}

4.5.5. Law enforcement

According to the policy, law enforcement in respect of illegal and/or prohibited conduct shall be undertaken by the JMPD, who can remove and impound goods “in line with the street trading by-laws as reflected in the JMPD Operating Procedures for Goods Impoundment”.\textsuperscript{57} Importantly, the policy states that:

the extent of law enforcement action taken against illegal or prohibited activities must be relative to the processes and structures in place at the COJ. The policing and requiring of smart cards cannot be enforced before MTC has the necessary processes and structures in place to ensure the issuing of smart cards.\textsuperscript{58}

Section 16.6 states that the DED shall have an awareness programme and communication strategy which will include educating traders about the policy, which will be also be translated into booklets printed in vernacular languages e.g. Zulu, Sotho, Tsonga etc. There is clearly a prerequisite for concerted trader awareness and education programmes to take place before extensive law enforcement occurs, and this arguably also applies to training and awareness-raising aimed at Metro police and other law enforcement bodies.

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{55} Ibid., sections 11.4 and 11.5.
\item \textsuperscript{56} Ibid., section 13.
\item \textsuperscript{57} Ibid., section 16.3.
\item \textsuperscript{58} Ibid., section 16.4.
\end{itemize}
\end{footnotesize}
5. **OVERVIEW: INFORMAL ECONOMY AND DECENT WORK IN SOUTH AFRICA**

Understanding the broader context of the informal economy is critical to understanding informal street trading. There has been much debate around the distinction between the ‘informal sector’ and the ‘informal economy’, as well as the linkages between the formal and informal economy. Clarifying these debates and distinctions is important as they inevitably shape how one conceptualises economic development and intervention strategies around informal street trading in South Africa, and in City of Johannesburg specifically. Indeed, the City in its policies and programmes clearly draws on language and ideas formulated in international informal economy debates; however its actions are often contrary to the spirit of current international thinking around the informal economy as well as the reality of unemployment and increasing job losses occurring in South Africa.

5.1. **International informal economy debates**

In the 1970s, the term ‘informal sector’ was coined by Keith Hart to refer to all those “small-scale, income-generating activities which took place outside the official regulatory framework.”\(^{59}\) In early debates, the relationship between the informal sector and the formal sector was seen as separate and de-linked. The belief was that as economic growth increased in countries, the informal sector would eventually disappear, and that the distinction between the formal and the informal was a dualistic one. At the 1991 International Labour Conference there was a shift in thinking around the term, as it emerged that the informal sector was actually growing in countries due to urbanisation and that it would not inevitably disappear with economic growth. The dilemma presented was whether to encourage the informal sector so as to potentially absorb the unemployed, or to provide increased regulation and social protection to informal sector workers, which would potentially decrease the employment-creation capacity in the informal sector.\(^{60}\)

The international standard for defining the informal sector, as decided at the 15th International Conference of Labour Statisticians (ICLS) in 1993, relied on the nature of the enterprise, rather than the nature of the worker.\(^{61}\) However, there have been recent shifts in thinking due to the increasing informalisation and casualisation of formal work, and a blurring of the formal-informal economy divide. At the 2002 International Labour Conference there was a call to move towards an employment-based definition based on the employment characteristics of the worker (vs. those of the enterprise), and also to refer to the informal economy rather than the informal sector in order to capture both those self-employed and those employed informally in the formal sector.

The strategy to promote ‘decent work’ across the formal and informal end of the employment spectrum was also adopted at the ILO Conference, with the immediate goal to recognise those who currently work in the informal economy in the law, provide them with legal and social protection and representation and voice; in the short and medium term to enable them to move into more formal work arrangements by ensuring that workers and entrepreneurs have the capacity, flexibility and conductive legal and policy frameworks to do so; and finally in the long term to create formal employment opportunities for all workers and employers.\(^{62}\) According to conclusions in the ILO’s “Resolution concerning decent work and the informal economy”, published after the 2002 ILO Conference:

> To promote decent work, it is necessary to eliminate the negative aspects of informality while at the same time ensuring that opportunities for livelihood and


\(^{60}\) Ibid., p. 14.


\(^{62}\) War on Want, Forces for Change, p. 15.
entrepreneurship are not destroyed, and promoting the protection and incorporation of workers and economic units in the informal economy into the mainstream economy. Continued progress towards recognized, protected decent work will only be possible by identifying and addressing the underlying causes of informality and the barriers to entry into the economic and social mainstream.  

In 2003, the ICLS adopted a broader definition during its 17th Conference. The new definition defines “informal employment as comprising the total number of informal jobs, whether carried out in formal sector enterprises, informal sector enterprises, or households”. Thus, “informality in the new definition refers to the conditions of all workers who are not recognised, recorded, protected or regulated by public authorities”.  

A recent study conducted by the Inclusive Cities Project, which examines the impact of the global economic crisis on informal workers in several countries (including street vendors), found that “informal workers suffer directly and indirectly from shrinking consumption and declining demand crucial to their livelihoods. Informal wage workers are often the first to be laid off – before those with formal contracts. Informal enterprises and informal wage workers face increased competition as more people enter the informal economy and/or as more and more jobs are informalised.” According to the study, street vendors experience a significant drop in local consumer demand, and face an increase in competition, as greater numbers of people who have lost their jobs or had to supplement incomes turned to street trading as a possible source of income. While much has been made about South Africa’s supposed relative insulation from the global economic crisis, these realities are also playing out at present in the country, and local governments’ responses to supporting the informal economy and street traders have not translated from its rhetoric into action.

5.2. Informal economy and street trading in South Africa

South Africa currently uses the narrow, enterprise-based definition of the informal sector, defining it as:

> those businesses that are not registered in any way. They are generally small in nature, and are seldom run from business premises. Instead, they are run from homes, street pavements or other informal arrangements.

It has been argued that the new ICLS definition, which focuses on the nature of the worker as opposed to the nature of the business, is more appropriate to capture informal employment in South Africa, which is extremely high. Furthermore, there has been criticism over former President Mbeki’s conceptualisation of the “first” and “second” economies in South Africa. In 2003, President Mbeki referred to South Africa as having a dualistic economy, split into a “second economy” which is structurally disconnected from the country’s “first economy” as well as from the global economy. This idea of a dualistic economy has subsequently entered

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64 Ibid., p. 16.
65 Inclusive Cities is an international project aimed at “addressing urban poverty by supporting and building the capacity of membership-based organizations (MBOs) of the working poor in the urban informal economy...through organizing, advocacy, and policy analysis, the Inclusive Cities Project ensures that urban informal workers have the tools necessary to make themselves heard within urban planning processes.” See http://www.inclusivecities.org/overview.html
67 According to Pat Horn of WIEGO, in South Africa the phenomenon of local governments evicting informal traders from public space without proper alternatives is more pronounced as “local governments turn a blind eye to the global jobs crisis in their preparations for the 2010 FIFA World Cup.” See “Address to Plenary” at the 98th Session of the International Labour Conference”, Palais de Nations, Geneva (12 June 2009).
policy rhetoric at all levels of government. Mbeki stated that this second economy consists of a large percentage of the population, and is characterised by marginalisation, poverty, under-development, little contribution to GDP, the poorest of the poor, unemployment, incapability of self-generated growth and development etc.

Devey et al have argued that while the conceptualisation of a first and second economy indicates the acceptance of the failure of neoliberal trickle-down approaches of the post-1996 Growth, Employment and Redistribution (GEAR) economic policy, the articulation of a structural split between the two allows the government to argue success in the first economy, and separately indicate its desire to address poverty and unemployment in the second economy. They argue that contrary to this conceptualisation, there is in fact a close relationship and close linkages between the so-called first and second economies, and that government policy for the second economy is often either absent, or ineffective or piecemeal. The distinction between first economy and second economy thus hides the losers of government policies, keeping certain segments invisible and outside the mainstream of social and economic debate.

More recently, research was conducted as part of an initiative of the Presidency – the Second Economy Strategy Project. According to the Second Economy Strategy: Addressing Inequality and Economic Marginalisation strategic framework document published in January 2009, the terms ‘first’ and ‘second’ economy are used to describe the conditions at the two different ends of a spectrum that sees wealth and resources concentrated at one end, and poverty and disadvantage at the other. The legacies of apartheid make this inequality deeply structural, particularly in relation to the centralised, monopoly structure of SA’s core economy - including the labour market legacies of pass laws, the highly skewed distribution of assets such as land and capital; the spatial legacy of bantustans and apartheid cities; and the legacies of deep inequality in the development of human capital. The strategy acknowledges the interdependence of the two economies and the need to challenge the structure of the entire economy (not simply trying to “fix” the second economy). At the same time, the strategy encourages greater recognition and legitimacy to the micro-enterprise sector, to improve conditions and returns in these often marginal economic activities – “for street traders (the largest sub-component of the sector) this includes clear ‘rules of the game’ to reduce their risks and vulnerability to abuse; access to storage and ablution facilities, as well as services such as electricity supply where feasible; and support to forms of co-operation and organisation to reduce their costs and increase their ‘voice’.”

Under Stats SA’s official definition, South Africa had, as of March 2007, an unemployment rate of approximately 25.5 percent. However, if one includes the group referred to as “discouraged work-seekers”, which are unemployed persons who are available to work but who say that they are not actively looking for work, the unemployment rate was 38 percent. This is an extraordinarily high figure. More recently, it has been estimated that 475 000 people lost their jobs in the first six months of 2009. As of August 2009, the (conservative) unemployment rate in South Africa stood at 23.6 percent. However, continued deterioration

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70 Ibid., p. 224.
71 Ibid.
72 Ibid., pp. 225 and 243.
74 Ibid., p. 11.
75 Ibid., p. 9.
76 While the official definition of unemployment is used as it is regarded as international practice, this broader definition is arguably more appropriate for discussing unemployment in South Africa, as it takes into account the fact that our high unemployment figures could suggest the presence of a significant number of discouraged work-seekers. See Stats SA, Labour Force Survey, March 2007, p. ii.
78 Timse, T., “Unemployment forces many to street trading”, Mail and Guardian (2 August 2009).
in the South African labour market and increased job losses saw this figure rise to 24.5 percent in the third quarter of the 2009.\footnote{“SA unemployment rate increases”, Mail and Guardian [29 October 2009]. http://www.mg.co.za/article/2009-10-29-sa-unemployment-rate-increases}

According to the March 2007 Labour Force Survey (LFS) released by Stats SA, 955 000 people (45 percent of those working in the informal sector in South Africa) are involved in wholesale and retail trade.\footnote{Stats SA, Labour Force Survey: March 2007, p. x.} It can be extrapolated from the LFS that approximately 11 percent of the informal economy comprises people selling goods from a street, public space or with no fixed location.\footnote{Ibid., p. 31.} This is a rather conservative estimate and there are many factors - including the nature of informality of street trading, the fact that many street traders are undocumented immigrants, as well as the inherent limitations of the statistics gathering process with regard to informal traders - that contribute to this figure being in fact much higher. According to the City of Johannesburg’s Informal Trading Policy, informal trading contributes as much as 4.5 percent of South Africa’s gross domestic product (GDP), “benefiting millions directly and indirectly.” Another estimate is that street trading contributes between 7 and 8 percent to the country’s economy.\footnote{Andre Ligthelm, University of South Africa researcher quoted in Timse, T., “Unemployment forces many to street trading”, Mail and Guardian [2 August 2009].}

In Johannesburg, ongoing efforts by traders towards unifying the informal trading sector are relying heavily on solidarity among all ‘working class’ people, and there is increasing recognition by organised labour such as the Congress of South African Trade Unions (COSATU) that workers are losing jobs and entering the informal economy, particularly into street trading, and must be protected so as to promote decent work for all more generally.
6. CONTEXT TO INFORMAL TRADING IN INNER CITY JOHANNESBURG

6.1. Brief History

6.1.1. Restriction, repression and prosecution (1886 to mid-1980s)

Since Johannesburg’s founding in 1886, and up till the mid-1980s, local officials in the city, as well as the central government, made it almost impossible for black South Africans to earn a living from commercial activity in the city. The city’s by-laws, particularly the “move-on” regulations which required street traders to move their pitch by 25m every 20 minutes, made legal trading difficult for black people seeking to operate amongst the “high pedestrian flows in the heart of the city.” Despite this, from the City’s early years street traders operated in the city, claiming this income-generating niche. The Urban Areas Act passed in 1923, enforced total residential segregation, the abolition of freehold rights for black South Africans and their non-permanence in urban areas, as well as placing restrictions on the nature and location of commercial activity allowed. Due to these restrictions, many black South Africans turned to informal trading, a loosely defined occupation permitted by the Act. According to Beavon, this was perceived correctly as a legitimate pass to remain and work in the urban area.

At the time of the 1922 miners’ strike, the Johannesburg Council created a restricted area, effectively a defended white space, of 23 street blocks in the CBD, within which were a few fixed stands for black traders (mainly Indian) who were licensed by the Council. This restricted area was expanded in 1947, on the eve of the creation of the apartheid state in 1948, and again in 1953 to 192 blocks, which included most of the downtown area and the residential zone around Joubert Park. This restriction of trading occurred in the context of the concerted and legally enforced project of racial exclusion, which was heightened from 1948 onwards. Those trading within this restricted area were only allowed access before 7am and after 6pm, and those licensed traders operating outside the restricted zone were required to adhere to the move-on regulations. Thus, during the years of segregation and apartheid there were never very many hawkers operating in the CBD, except for those trading on the periphery of the restricted area.

Thus, the apartheid era severely curtailed the freedom of movement of black South Africans into and within urban areas, as well as their freedom of entry and participation in the formal economy. During the height of grand apartheid, from 1948 to 1983, the inner city of Johannesburg was effectively segregated and zoned for white residential and commercial activity. Municipal by-laws controlled street trading, generally under the auspices of the Traffic Department, and made it very difficult for street traders to operate. According to Rogerson and Hart, until the early 1980s hawkers in South Africa were subject to a “well-entrenched tradition of repression, persecution and prosecution.” They argue that South African urban authorities fashioned and refined some of the most sophisticated sets of anti-street trader measures anywhere in the developing world. Yet traders continued to operate and were constantly harassed and sometimes violently removed.

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83 Beavon, K., Johannesburg: The Making and Shaping of the City (Unisa Press, 2004), p. 188.
84 Ibid., p. 187.
85 Ibid., p. 189.
86 Ibid.
Box 1. The coffee-cart traders 88

As the vast majority of black workers operating in the Johannesburg CBD had to travel very early each day from the peripheral south-western townships into the city, enterprising traders in the 1920s established coffee-carts or small mobile stands from which they served tea, coffee and affordable food to passers-by. The alternatives for black workers were white-owned “pejoratively styled ‘kaffir eating-houses’...which were dirty, unattractive, and in many cases unhygienic” and were not conveniently located or did not keep practical opening hours. The coffee-carts were wheeled alongside transport termini, bus stops, railways stations and later to pitches outside factories in industrial areas and by 1943 there were about 200 carts operating in the Johannesburg, many on the edges of the restricted area near the Newtown power station. As time went by, the carts became more permanent structures and a battle with the local authorities, who wanted the carts removed, ensued. The cart operators formed an association, hired lawyers and began legal proceedings defending their livelihood in what became known as the coffee-cart war.

New by-laws were promulgated and in 1962 the Supreme Court handed down a decision against the Coffee-Cart Association, which saw coffee-carts being made legal only if they were licensed as such. Therefore, by simply withholding a licence from a coffee-cart owner, the local authorities could make the operation of a cart illegal, seize and destroy it. In a series of raids in the 1960s about 2000 carts were seized and destroyed and by the end of the decade coffee-carts no longer existed or operated to serve the real needs of black workers. As Beavon points out, “an income-earning niche that had offered some hope for capital accumulation by African entrepreneurs had thus been destroyed.”

By 1979, despite apartheid machinations, there were a number of clusters of hawkers operating in the inner city, mainly on the periphery of the restricted area of the CBD, and a few hawkers trading from fixed stands inside the restricted area (mainly Indian flower-sellers). The main trading nodes were located close to the main exit and entrance point for black people a the Johannesburg station in the vicinity of Noord and Hoek Streets, the African bus terminus in Newtown and at Westgate, the secondary commuter railway station on the south-west of the CBD. Hawkers here sold mainly fruit and vegetables, as well as other foodstuffs like sandwiches, porridge or stews that had been prepared at home or at their site. Those hawkers closest to the boundary of the restricted area faced frequent harassment, carries out by the nine-man hawker squad which could arrest them, confiscate or destroy their goods and fine them for contravening various sections of the by-laws, including not moving on every 20 minutes, operating within a prescribed distance from a formal shop selling the same items or not having access to the necessary storage facilities.89

6.1.2. Deregulation and rapid expansion (mid-1980s to 1990s)

The 1979 Hawker Report, followed by the National Manpower, Wiehahn and Riekert Commissions in the 1980s, paved the way for a more relaxed and lenient approach to informal traders in the city, largely due to the slump in the economy and the government’s decision to encourage the informal sector and small businesses. Beavon argues, however, that “the ‘new tolerant approach’ was designed more to meet the requirements of the hidden agenda of reform, namely that reform be shown to be taking place, rather than actually to help those in dire straits.”90 The government recognised increasing urbanisation and the permanence of informal economic activities. It hoped that deregulation would promote an emerging black entrepreneurial class, which would act as a buffer between the state and the black majority, create socio-economic divisions within black society and dilute the appeal of radical agendas. This new tolerant approach had dramatic consequences for informal traders, including the establishment of the African Council of Hawkers and Informal

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88 This information is taking from Beavon, Johannesburg: The Making and Shaping of the City, p. 190.
89 Ibid.
Businesses (ACHIB) in 1986, which was headquartered in Johannesburg. By 1988, ACHIB was advocating strongly for its members to ignore all controls that hampered trading, as they regarded all restrictions and by-laws as restrictive and unjust.

While in 1979 a survey found that there were 200 to 250 hawkers operating on the margins of the CBD and at fixed stands within it, by mid-1988 there were 7,000 licences issued and by the end of 1980s there were approximately 14,000 legal street traders working in municipal Johannesburg. The following years saw the restrictive move-on regulations abolished and new selling ventures emerging in the city, often involving upmarket food carts staffed by black workers and owned by whites. As influx controls were lifted, more and more people entered the cities to find work, with many resorting to street trading as the formal economy became saturated. However, as the number of licensed and unlicensed traders increased rapidly in the CBD, the ability of the police to manage the new situation decreased and tensions arose between formal businesses and traders. Congestion on the narrow pavements, and an escalation in petty crime on the streets, meant that white residents began to take their custom elsewhere, to the suburbs. Amidst escalating political turmoil and violence, a movement of much of the office-based activity occurring in the CBD (including financial companies, corporations, small businesses, individual professionals and medical practitioners) to the northern suburbs of Johannesburg was witnessed, particularly to areas like Sandton, Rosebank and Midrand.

6.1.3. Countering inner city ‘decay’ (1990s to early-2000s)

By the early 1990s, rental to black people in the inner city was legal and as so-called “white flight” or “capital flight” increased due to desegregation, more and more black people entered the inner city, living in high-rise apartment buildings in Hillbrow, Berea and Joubert Park. The Businesses Act was passed in 1991 and removed many of the legal barriers to informal economy operations, including the restrictive by-laws of the past. Black South Africans were thus able to trade freely in the inner city. By 1991, the inner city of Johannesburg was one of the most racially integrated areas in South Africa, with 54 percent of apartments occupied by whites. However, Beall et al explain that:

underpinning the ubiquitous focus on ‘crime and grime,’ and the degree of hysteria about the public health risks of informal street trade and densely occupied buildings, was the ‘race question’...the desegregation of the inner city from a predominantly white area to one almost entirely inhabited by black Africans has been at the forefront of Johannesburg’s elite public consciousness.

By 1996 this racial mix had changed dramatically and a survey conducted in that year showed that only 5 percent of those living in inner city apartments were white. Quickly, desegregation in the inner city became synonymous with slum living, poverty, crime and urban decay. From the CBD and Braamfontein (predominantly an office node) to the residential areas of Hillbrow, Berea, Joubert Park, Yeoville and Bellevue, Johannesburg’s inner city was labelled by many as a no-go area plagued by general lawlessness. The following description describes the perceived situation: “drug-dealing rackets, street gangs, organised prostitution and large illegal immigrant populations are grist for the mill of modern evocations of the Johannesburg inner city. So is anti-social behaviour such as public drunkenness and dangerous driving.”

92 Ibid., p. 212.
93 Ibid., p. 211.
94 Ibid.
97 Beall et al, Uniting a Divided City, p. 112.
98 Ibid., p. 110.
99 Ibid., p. 112.
Around the same time, in 1995, the first non-racial municipality in Johannesburg’s history, the Greater Johannesburg Transitional Metro Council (GJ TMC), was established.\(^{101}\) In a set of policies known as Developmental Local Government (DLG), local government was conceptualised as being informed by poverty-targeting, growth, sustainability and participation, in line with the Reconstruction and Development Programme (RDP). However, by 1997 there was the realisation that Johannesburg was facing an impending fiscal crisis, as residents in the rich northern suburbs (notably Sandton) had orchestrated a boycott of rates because they were resistant to redistributive policies which meant that wealthy areas would subsidise poorer parts of the city.\(^{102}\) Notwithstanding the Sandton rates boycott, which cost the City R220 million, rates recovery in the richer areas remained significantly above that of previously poor areas.\(^{103}\) In former black areas rates recovery ranged from 5 percent to 27 percent of municipal account holder.\(^{104}\) By October 1997, the GJTMC was experiencing a negative cash flow of R120 million per month, prompting a policy shift in municipal governance towards a more commercial cost-recovery model.

In Johannesburg this was manifested in iGoli 2002, a strategy for municipal financial recovery that included the fundamental reorganisation of municipal services. Under iGoli 2002, municipal services were ring-fenced and corporatised, although each of the utility companies remained 100 percent publicly owned (with the City as their only shareholder).\(^{105}\) In 1997, then deputy president Thabo Mbeki, announced a new vision for the inner city, dubbed “Johannesburg, the Golden Heartbeat of Africa.” This vision aimed to see the inner city transformed into a dynamic, liveable, people-centred, accessible place which would be the “trading hub of Africa, thriving through participation, partnerships and the spirit of Ubuntu.”\(^{106}\) A number of strategies and frameworks, focusing primarily on economic and spatial development, were subsequently passed and formed the basis of the vision.

It has been argued that the establishment of a “corporate governance” paradigm of local government in Johannesburg entrenched a bureaucratic attitude towards urban governance and has continued to marginalise certain sectors of the urban population.\(^{107}\) Beall et al go so far as to argue that the fiscal crisis of 1997 was ‘talked up’ as a way of justifying metropolitan restructuring to suit market driven demands.\(^{108}\)

By 2000, the degree of inner city decay prompted a response by the City and in its 2001 “Inner City Position Paper”, it proclaimed that it needed to “turn the inner city around” and, therefore, begun to identify the inner city as a priority area for urban renewal.\(^{109}\) This shift is reflected in various policy documents and position papers from 2001 onwards in which the inner city is reiterated as a valuable capital asset that needs to be protected.\(^{110}\) An Inner City Office (ICO) had been established in 1998 to initiate a wide range of interventions and projects aimed at halting and reversing inner city decline. Some of these projects included Constitutional Hill, Newtown, Joubert Park Precinct Pilot Project and the Better Building Programme. The new Mayoral term, which started in December 2000, saw increased importance and urgency given to the regeneration of the inner city, and “Inner City Renewal” was declared as one of six mayoral priorities. In 2001, much of the preliminary work of the ICO was institutionalised in the newly established Johannesburg Development Agency (JDA). In that same year, the Johannesburg Metropolitan Police Department (JMPD) was also established.

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\(^{101}\) Beall et al, Uniting a Divided City, pp. 77-78.
\(^{103}\) Ibid., p. 19.
\(^{104}\) Ibid.
\(^{105}\) During this period, Johannesburg Water (Pty) Ltd became the City’s water services provider; City Power (Pty) Ltd became its electricity service provider and Pikitup (Pty) Ltd became its waste management and refuse service provider. In 1999, the Metropolitan Trading Company (MTC) was established in this same vein.
\(^{106}\) City of Johannesburg, “Draft Inner City Regeneration Charter for Discussion: Inner City Summit” (5 May 2007), p. 3.
\(^{107}\) Bond, P., Elite Transition: From Apartheid to Neoliberalism in South Africa (University of Natal Press/Pluto Press, 2000).
\(^{108}\) Beall et al, Uniting a Divided City, p. 94.
\(^{110}\) Ibid.
In 2002, Joburg 2030 was launched, which was a long-term economic vision for the City of Johannesburg, aimed at boosting investment and raising economic growth in order to turn Johannesburg into a “world-class African city.” The impact of this vision was profound for street traders in the City, and its implications are perhaps best summed up in a recent article by the first executive director of the CJP, Neil Fraser. In his article, he criticises hawkers in the inner city, blaming them for the “excessive office vacancies and depressed rentals” in Johannesburg’s CBD. He writes that “there have been many factors that have led to the city’s deterioration – poor planning decisions, lack of urban management, lack of enforcement, crime and a host of other issues. How does one quantify the earnings capacity of informal trading on the one hand with the cost to the city on the other?” He goes on to quantify the nett loss to the City as a result of informal trading, concluding that “based on my calculations, it would appear that the annual income of R50 to R100 million in the pockets of informal traders in the CBD has been ‘bought’ at a price of anything from R200 to R500 million per annum.”

This simplistic cost-benefit analysis belies the often crass, market-orientated thinking that characterises ideas about economic and social development in the City, and does not take into account neither the socio-economic importance of street trading in the inner city to tens of thousands of people and their immediate and extended families, nor the failure of trickle-down economics. Since 2002, the discourse and rhetoric surrounding street trading has changed to be more inclusive, community-orientated and developmental. However, as the City pushes forward with its plans to rejuvenate the inner city and entice private investment, there is often a disjuncture between these words and the actions of the Johannesburg City Council and its subsidiaries. These will be discussed further in the following section.

6.2. Inner City Regeneration (early-2000s to present)

For urban regeneration to be successful it must run concurrently with economic transformation of the people who live in the specific area and should not be narrowed down to a private-sector “owned” process specifically designed to improve their property values at the expense of the poor...The real challenge of how to successfully integrate urban regeneration with economic development and empowerment of people needs to be faced head on.

In the last few years the City of Johannesburg has made a concerted effort to counter negative perceptions of the inner city by engaging in an urban regeneration strategy that

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111 Neil Fraser quoted in “Johannesburg’s cost of hawking”, eProp Commercial Property website (5 March 2007).
seeks to uplift the inner city and eradicate so-called crime and grime. Several recent developments in the inner city speak to these efforts to establish Johannesburg as a “world class African city”, and the rapidly approaching mega-event, the FIFA Soccer World Cup to be held in South Africa in 2010, has speeded up this process dramatically. Inner city regeneration has gained political prominence within the municipality, however the question remains as to where exactly street trading is conceptualised within this strategy, when it generally comprises desperately poor and vulnerable people who do not necessarily fit neatly into the City’s urban regeneration plans. Indeed, street trading in the inner city is often viewed as being a hindrance to, rather than a socio-economic and developmental end in itself, in the process of inner city regeneration.

6.2.1. Inner City Regeneration Strategy (ICRS)

At the heart of the inner city renewal scheme is the 2003 Inner City Regeneration Strategy (ICRS) which is directly linked to the Joburg 2030 master plan announced in 2002. The ICRS sets out a number of targets to be achieved to ‘rejuvenate’ the inner city and halt its social and economic decline. The explicit aim is to entice businesses and upper to middle-class residents back into the inner city and to “raise and sustain private investment leading to a steady rise in property values.”\(^\text{113}\) The five pillars identified as integral to urban regeneration in the inner city include:

- Pillar 1: Address Sinkholes
- Pillar 2: Intensive Urban Management
- Pillar 3: Maintain and Upgrade Infrastructure
- Pillar 4: Ripple-pond Investments
- Pillar 5: Support Economic Sectors

In residential areas, this means closing down illegal businesses, high street upgrades, creating more open spaces and promoting safety and security. For the CBD, this means maximising return on industrial space, promoting new industries and sectors, promoting safety and security and implementing an informal trading policy. The Inner City Regeneration Strategy Business Plan 2004-2007, developed to put action to the words of the ICRS, has seen a number of high profile projects being implemented in the inner city. These include numerous “success stories” including the ongoing development at Constitutional Hill, the redevelopment of a cultural hub in Newtown, the Fashion District upgrade, the new Nelson Mandela Bridge, the Metro Mall and the establishment of a city improvement district (CID) in Braamfontein.\(^\text{114}\)

Since 2004, the financial climate has been greatly enhanced for private investors, businesses, and property owners to invest in the inner city, with the creation of an inner city renewal Urban Development Zone (UDZ) tax incentive scheme. The UDZ tax incentive provides generous tax breaks to those investing in new commercial, residential and retail developments in the inner city.\(^\text{115}\) The incentive was initially only to be in place for five years, however in early 2008 the Minister of Finance announced that the UDZ incentive would be extended for another five years, till 2014.\(^\text{116}\)

6.2.2. City Improvement Districts (CIDs)

As mentioned above, one of the key areas focused on as contributing to so-called crime and grime and urban decay was that of street trading, which had boomed since restrictions were lifted in the late 1980s. In 1992, the Central Johannesburg Partnership (CJP) had been formed.

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as a partnership between formal business and the local authority. The organisation admits focusing its research into the North American experience of curbing inner city decay, which had a “zero-tolerance” approach to informal street traders. The model it chose was based on business improvement districts (BIDs) promulgated in the mid-1980s by then New York City Mayor Rudy Giuliani. Since then, over a thousand cities in the United States and many cities in Europe have adopted this strategy for local economic development and urban renewal. According to Miraftab, in the developing world, Cape Town and Johannesburg are among the few cities that have adopted the entire CIDs package. Beall et al explain that:

In the case of Johannesburg, where the city had no policing, function zero-tolerance policy could not be mimicked. The council, however, cooperated with business and endorsed an initiative to get the by-laws changed in order to prevent unregulated street-vending and to ensure the removal of street vendors to formalized markets.

The CJP viewed BIDs as vital to cleaning up the streets, aligning the interests of the business sector with the municipality. The CJP assisted the Gauteng provincial department in drafting enabling legislation to facilitate the establishment of further “improvement districts” throughout the province. In December 1997, the Gauteng Provincial Government City Improvement District Act 12 of 1997 was passed. By the end of 1997, the CJP had established several business improvement districts (BIDs) to create business-friendly enclaves and entice investment back into the inner city. Four BIDs were created in the inner city, covering nearly 50 blocks. In 1999, a fifth was established. Around the same time, the CJP was approached by a major property owner who wished to outsource all informal trading management, and in 1999 the CJP absorbed all relevant staff and provided this service for a number of years.

A CID is defined as the following:

A defined geographic area within which property owners agree to pay for certain services to enhance the physical and social environment of the area. The services provided are supplementary to those provided by the local authority and usually include safety and security patrol officers, pavement cleaning, litter collection, maintenance of public space and the removal of illegal posters.

Thus, CIDs are zones that receive privately funded, additional services for security, cleaning and marketing. Once 51 percent or more of the area’s property owners have voted to adopt a CID, all owners there must participate, paying additional fees which are added to their municipal bills and collected by the City. Each CID has its own board of directors elected from the members of the CID Section 21 company, who effectively control the district within the terms of their original improvement district business plan. The board comprises property owners and business-people, with no necessary representation from tenants or those trading on the streets in the area. According to the CJP, although non-voting members of the board may be included, such as councillors, tenants or other stakeholders, property owners must be in the majority, and their voting power is proportional to the levy paid by them. The board normally appoints a specialist urban management company, such as Kagiso Urban Management (KUM) in the case of Johannesburg, to manage the day-to-day operations within the CID.

In greater Johannesburg there are at present eleven legislated central improvement districts, six voluntary improvement districts and three special projects managed by the CJP and KUM, in partnership with the City. In the inner city there are five legislated CIDs, namely the Retail (consisting of the main retail area in the inner city), the Central, South West (characterised by

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117 See section 6.3.4 for more on the CJP.
118 Beall et al, Uniling a Divided City, p. 115.
120 Beall et al, Uniling a Divided City, p. 115.
123 Section 4(3) of the Gauteng City Improvement Districts Act 12 of 1997.
corporate head offices and financial institutions), Benrose and Braamfontein (primarily an office node, including the University of the Witwatersrand) Improvement Districts. Special and voluntary projects include Constitution Hill, Main Street, Ellis Park and the Fashion District. According to Anne Steffny, a director at CJP, “the inner city CIDs are also doing well, having established a wonderful relationship between the City and property owners. The main challenge, however, remains in areas like Joubert Park, where there is still a lot of work to be done.”

A number of problems have been identified with the creation of CIDs, however, particularly in regard to their implications for street traders in the inner city. In a paper examining post-apartheid urban spatiality and CIDs in Cape Town, Miraftab refers to the creation of CIDs as an example of “the larger market-led, neoliberal rationale at national and municipal levels” in South Africa and argues that:

>CIDs promote the uneven social and spatial development characteristic of neoliberal spatiality. Cape Town Partnership is shown to govern such spatiality of post-apartheid, neoliberal cities through its discursive and spatial practices. The CIDs in Cape Town...restructure urban space to serve the ideal of a world class city integrated into the global economy, at the cost of the city’s social and spatial integration. As the CIDs’ contentious neoliberal processes try to marketize public urban spaces, they are challenged both within and outside the CIDs’ management structures.

In a chapter devoted to the impact of CIDs on street trading in Cape Town’s CBD, Miraftab explains how Cape Town Partnership (CTP), the equivalent of Johannesburg’s CJP, and the City Council clearly reveal their bias towards the desires of formal businesses at the expense of street traders. One major flaw of CIDs is that they are created and governed in a highly undemocratic fashion, with property owners deciding when to establish a CID, holding the majority on the board and having voting power. Those who live and work in the defined area but who are not property owners, like tenants and street traders, do not have a say, as only “property owners and major tenants” are supposed to be identified and consulted in the proposed intervention.

Important to note is that in terms of the Businesses Act, prohibiting trading areas, like the CIDs created in the inner city, requires a process of consultation. Lund et al write that:

>some areas in all major towns and cities have been declared restricted or prohibited trading zones. Before this can happen there is a process which a local government has to carry out. It has to show that lots of traders will not be put out of business and that there is no other way of controlling trading. A public meeting has to be called and written objections can be handed in for consideration. The local authority reports to the provincial authority which then finally makes the decision whether the plans can go ahead or not.

In various publications, SANTRA has criticised the creation of CIDs in the inner city of Johannesburg, articulating many of the same concerns raised by Miraftab in relation to the Cape Town CIDs. They claim that the negative impact on the socio-economic development of poor people, particularly informal street traders, has not been adequately evaluated. In the CIDs, particularly in Braamfontein, street trading is strictly prohibited and regulated by private security guards and the Metro police. Creating rich enclaves for formal businesses and restricting the access of informal street traders to potential customers and business opportunities is unfair and discriminatory and often merely forces those trying to make a living

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126 Ibid.
128 Ibid., p. 608.
129 Lund et al, Street Trading, p. 53.
from one illegal area to another.\textsuperscript{130} The push towards the formalisation of street trading and the forcing of traders out of the streets and into less lucrative malls and markets clearly coincides with the creation of these CIDs.

6.2.3. Inner City Regeneration Charter (ICRC)

In May 2007 an Inner City Summit was held in Johannesburg, bringing together over a thousand stakeholders from business, civil society, communities, parastatals and other spheres of government with the aim to brainstorm inner city regeneration and pledge renewed commitment to rejuvenating the inner city through a number of deadlines. Dialogue, input and commitment from all stakeholders regarding the draft of an Inner City Regeneration Charter (the Charter) was encouraged, with Johannesburg Mayor Amos Masondo stating that “we will use the draft charter as a basis for engagement...we want people to really own up to the process.”\textsuperscript{131} However, several groups were not as positive as the Mayor about the Charter. For example, the Inner City Resource Centre (ICRC), which assists the poor and vulnerable in the inner city, expressed its scepticism at how much of their input would be incorporated and how much of what is promised in the Charter will in fact be implemented.\textsuperscript{132} Other worries include the lack of visionary leadership under the current Mayor, the possibility of populist councillors taking advantage of the Charter’s focus on economic and cultural development, and the absence of civic leadership and cohesion.\textsuperscript{133}

SANTRA was particularly critical of the Inner City Summit and the lack of adequate and meaningful consultation and input that the trader community had in the process of drafting and discussing the Charter. It criticised the Charter for its failure to acknowledge the poor track record of formal markets in Yeoville, Hillbrow and Bree Street, as well as admonishing the City Council for its shifting of the blame for the degenerated status quo onto so-called disobedient and illegal street traders. It also criticised the City for its failure to admit that for many years the City had “failed to provide a viable street trader management plan, adequate decent inner city housing and effective anti crime measures to meet the demands of an unprecedented urbanization surge.”\textsuperscript{134}

In July 2007, the comprehensive Charter was finalised and a new programme manager was appointed to act as the driver of the Charter. The Charter addressed a number of key areas in the regeneration of the inner city, including providing a number of deadlines for specific projects pertaining to street trading. “Street trading/Micro-retailing” is the first issue dealt with in section three of the Charter, under the heading of “Economic Development”. The chapter highlights the City’s acknowledgment and prioritising of informal street trading in the inner city.\textsuperscript{135} The City accepts that in the context of high unemployment, street trading plays an important role in providing a livelihood to thousands of people. It makes mention of the crucial trade-offs that are at present occurring in the inner city between economic and social development:

... while the needs of street traders to sustain a livelihood and explore and exploit future economic opportunities is very important, these needs cannot be met at the expense of the needs of commuters, pedestrians, formal businesses, residents and other users of Inner City space for clean, safe and well-organised public environment.  \textsuperscript{136}

The City aimed to address the “disorganised trading” in the inner city ensuring that “there is no more unmanaged trading on the streets of the Inner City beyond 2009.”\textsuperscript{137} The City also aimed to formalise street trading by providing a number of different employment

\textsuperscript{130} Donnelly, L., “A hawker’s hell”, \textit{Mail and Guardian} (12 June 2007).
\textsuperscript{131} Ismail, S., “Jo’burg takes on hurdles to becoming world-class city”, \textit{Mail and Guardian} (7 May 2007).
\textsuperscript{132} Ibid.
\textsuperscript{133} “Regeneration: The final summit?”, \textit{Financial Mail} (10 May 2007).
\textsuperscript{134} SANTRA, “Johannesburg Inner City Summit: a community perspective of urban regeneration”, (May 2007), p. 3.
\textsuperscript{135} “City of Johannesburg Inner City Regeneration Charter” (July 2007), p. 24.
\textsuperscript{136} Ibid., p. 25.
\textsuperscript{137} Ibid.
opportunities for people through “formal market spaces, linear markets, co-operatives, flea markets, mini shops and kiosks, manufacturing hives, car guarding, waste recycling, transport services etc.”

According the Charter, in 2007 the City was in the process of finalising new policies and strategies regarding street trading including:

- Identifying new areas within the inner city which are under-utilised and could provide trading opportunities;
- The implementation of a smart card and database system to identify and register traders (this is to be rolled out in December 2007);
- The further development of existing trader markets near major transport nodes;
- The development of linear markets in defined areas (two linear markets to be developed by December 2007 and two more by July 2008);
- Establishing minimum standards for aesthetically acceptable and non-obstructive trading facilities;
- Developing supplementary services and facilities that will be provided in areas of concentrated micro-retailing and services activity;
- Measures to be introduced to assist and support traders, particularly with regard to expanding their businesses and identifying new opportunities for those who wish to “graduate up the economic ladder”;
- Assessment of aspects of policy and by-laws that are not having the desired result presently;
- Developing partnerships with the private sector to implement the new approach.

With regard to the enforcement of street trading, the Charter states that:

*a new enforcement regime will be fully capacitated by March 2008. Implementation of stricter enforcement will be timed to coincide with the roll-out of new trading spaces. The City will make every effort to avoid what is perceived as arbitrary actions against traders.*

It goes on to assure that when goods are confiscated and impounded, that the correct procedures will be followed “thus avoiding any perceptions of corruption.” Indeed, from what was found during our interviews, there are not merely “perceptions” of corruption and arbitrary action, but rather it is occurring on a regular and intensive basis, without the other goals and objectives mentioned above being achieved sufficiently.

The political will on the part of local government to reinvigorate the inner city, as well as financial incentives and rewards for private sector investors, is undeniable.

In September 2007 the first actions associated with the Charter were witnessed, with a week-long urban management “spring clean” undertaken by City entities and departments in line with the new Charter.

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139 Ibid.
141 Beall et al., Uniting a Divided City, p. 109.
142 Visser, E., “Overseeing inner city charter commitments”, City of Joburg (7 November 2007); “Get ready for changes to inner city”, City of Joburg (6 August 2007).
illegal traders, homeless people and squatting [emphasis added].” There is a disconcerting disjuncture between purportedly addressing the needs of the poor, and the discourse and terms of reference used towards poor people making a living in the inner city. There is no logical or easy step to be made from referring to the “cleaning up” of physical space in the inner city, to depriving someone of their means to a livelihood without the provision of an alternative.

In March 2009 as part of the Inner City Regeneration project, the City employed the Red Ants and the police to knock down illegal structures in Berea “in a drive to uplift the city’s image”. Internet shops, spazas, telephone booths, hair salons and restaurants were demolished. According to the Region F officer for stakeholder management and liaison, the removals were carried out in accordance with a High Court order obtained by the City after it “held numerous public meetings and issued by-laws to the owners but unfortunately they chose to ignore the orders.” The seemingly reassuring official rhetoric towards informal street trading does not fit the often callous and arbitrary practice towards street traders that exists at present in the name of cleaning up the streets.

Box 2. Forced evictions in inner city Johannesburg

The way in which inner city street traders are viewed by the City (as well other stakeholders, including formal business) can be likened to how unlawful occupiers living in “bad buildings” in the inner city have been traditionally viewed. Inner city street trading and unlawful occupation of buildings were both issues extensively addressed in the 2007 Inner City Regeneration Charter, however over two years later the City continues to struggle with both. The latter has been the subject of a number of high profile court cases, which have stressed the need for the City to engage with unlawful occupiers in the event of an eviction and provide alternative accommodation for those who will be rendered homeless by the eviction, or at least provide a housing plan that says what the City is doing to address the shortage of low-income accommodation in the inner city.

As explained above, from the late 1980s there was a period of rapid deregulation and informalisation in inner city Johannesburg, followed by a period of attempted re-regulation and formalisation from the late 1990s to the mid-2000s. This plays out in an increasing distaste for informality, which is evidently in both the informal trading and taxi industry sectors. Poor inner city residents being evicted from so-called bad buildings, deemed as a health and safety hazards by the municipality, or by private landlords who want to sell or refurbish their dilapidated properties, have been commonplace in the inner city. A report published in 2005 by the Centre on Housing Rights and Evictions (COHRE), entitled “Any Room for the Poor: Forced Evictions in Johannesburg, South Africa”, examined forced evictions and the social exclusion of the poor occurring in the inner city. The report highlighted the extent to which poor people living and working in the city are being excluded and pushed to the periphery of Johannesburg as a disturbing side-effect of urban regeneration strategies and policies.

A number of recent judgments, most notably in the Constitutional Court case Occupiers of 51 Olivia Road, Berea Township and 197 Main Street, Johannesburg v the City of Johannesburg and Others, and the Johannesburg High Court case Blue Moolight Properties 39 (PTY) Limited v The Occupiers of Saratoga Avenue and The City of Johannesburg, have focussed on the City of Johannesburg’s obligation to ensure those evicted from state and private-owned properties are not rendered homeless, and are provided with affordable alternative accommodation in the event of such an eviction.

Thus, property rights and related common law have to be read in conjunction with the constitutional right to adequate housing and the protection against arbitrary eviction as set

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143 Visser, E., “Spring blitzes air out inner city” City of Joburg (21 September 2007).
144 Mungoshi, R., “Illegal inner city shops torn down”, City of Joburg (12 March 2009).
http://www.joburg.org.za/content/view/3600/266/
145 See COHRE, “Any Room for the Poor” (17 February 2005).
out in section 26 of the Constitution. The need for the City to engage meaningfully with those facing eviction in order to ascertain the socio-economic impact of an eviction on them, has also been stressed by the courts.

Interestingly, a recent call was put forward by Neil Fraser, who stated in a discussion about inner city evictions and the February 2008 Constitutional Court judgment in Olivia Road, that “maybe it’s time to do the same exercise with informal trading.”146 Presumably, this would entail meaningfully engagement with street traders over their lived-reality and livelihood options, and providing them with suitable alternative trading sites in the inner city of Johannesburg.

6.2.4. Johannesburg Development Agency (JDA)

The Johannesburg Development Agency (JDA) is an agency of the City of Johannesburg created in 2001 to “stimulate and support area-based economic development initiatives throughout the Johannesburg metropolitan area in support of Joburg 2030.” It coordinates and manages capital investment and other programmes involving both public and private sector stakeholders.147

The objectives of the JDA are to “promote economic growth through the development or promotion of efficient business environments in defined geographic areas; to regenerate decaying areas of the city so as to enhance their ability to contribute to the economic development of the city and the quality of life of its residents; to promote economic empowerment through the structuring and procurement of JDA developments, their management, etc.; to promote productive partnerships and cooperation between all relevant stakeholders on area-based initiatives; and finally, to develop best practice and organisational expertise in respect of area-based development management.” The JDA, as the City’s economic development agency, has been the force behind many of the major developments in the inner city over the last few years.148

According to the JDA website, it is strategically accountable to the City’s Department of Economic Development (DED) which, in turn, gives direction and leadership in terms of economic development. The JDA interacts closely with the City’s various departments and other utility companies and agencies. It “operates within agreed plans and frameworks, considering and co-ordinating inputs and seeking agreements in respect of development design and ongoing operations. It consults with the relevant departments where roles overlap in any aspect of a development.” 149

In 2006, the JDA commissioned an independent consultant to assess the performance and achievements of the JDA in achieving their vision of urban renewal and development in the inner city, in line with indicators set in 2001. Research was conducted in April 2006 to gain an understanding of formal businesses’ perceptions of the inner city, in an effort to monitor the perceived success of the JDA’s interventions in the area. According to the study, as part of the research, a survey was conducted during April 2006, with trained students sent out to designated areas within the inner city (both within and outside the improvement districts) to administer roughly 150 questionnaires to formal businesses. These were then captured and analysed.

At the top of the business perceptions list for attributes of the inner city that have the most negative effect on their businesses were: crime and grime, unmanaged informal trading and congestion. According to the report, 45 percent of respondents supported the concept of informal trading in principle (which was down on all previous years) with 18.6 percent of

147 See “Overview of the JDA” at http://www.jda.co.za/info/what_we_do.stm
148 See http://www.jda.co.za/dev/dev.stm
149 See http://www.jda.org.za/info/what_we_do_overview.stm#12
respondents leaving the question blank. The report states that “more and more respondents cited hawkers as a big negative in the inner city, with many blaming them for crime and grime problems.” Over 59 percent of businesses felt that the relocation of informal trading to designated areas would have a positive impact on the inner city, leading to cleaner pavements, freer walkways, less crime, more hygienic and cleaner environment, increased visibility and more attractive shop windows.\(^{150}\)

When asked what the most positive development in the past few years had been, “the removal of hawkers from Braamfontein,” Metro Mall and “Metro police more visible” made the top of the list. When asked what the most negative development in the past two years had been, “illegal traders,” “people cutting hair on the pavement,” and “crime and grime” made the top of the list.\(^{151}\) When asked what the JDA needed to address most urgently in the inner city - “create designated areas for informal trading” was at the top of the list.

Clearly, the elimination of unmanaged street trading and its formalisation is a high priority for formal business in the inner city. Given the fact that the main focus of City’s inner city regeneration strategy is to attract business and private investment back into the inner city, it is clear that street trading is one of the City’s most urgent priorities to address. Thus, while not directly involved in informal trading policy or management, the JDA is a powerful voice and player in inner city regeneration and its focus on enticing private investors and business is heavily contingent on ensuring that the issue of informal street trading is addressed timeously. It has recently partnered with the DED and the private sector and is the implementing agent for the Quartz Street linear market.

6.2.5. Johannesburg Inner City Business Coalition (JICBC)

Another driver of inner city regeneration and a major stakeholder in efforts to manage and regulate inner city informal trading, is the Johannesburg Inner City Business Coalition (JICBC), which is managed by the Central Johannesburg Partnership (CJP), and was formed in 1998 with the aim of “ensuring economic growth and the revitalisation of the urban environment so as to deliver an improvement in the quality of life for all city stakeholders and role-players.”\(^{152}\)

According to its website, over the past ten years, the JICBC has been a strong lobby group working on behalf of inner city property owners, developers and corporate bodies, “regularly interfacing with the committees, utilities and agencies of The City of Johannesburg, in order to share information and ideas.” JICBC members are the investors in inner city Johannesburg, and pride themselves on the increasing investment occurring in public space and joint ventures. According to the JICBC, there is the clear indication that “improved management of the public space supports and enables investment by the private sector in property in the Inner City.”\(^{153}\)

The JICBC is a signed member of the Inner City Regeneration Charter and while is not directly involved in informal trading management, is present and vocal at stakeholder meetings regarding informal street trading, and is managed by the CJP. While there is no direct evidence of the level of influence of the JICBC, it is one of the most active private sector lobby groups in the informal trading sector. In the latest review of the street trading by-laws, the JICBC presented a submission to the City. At the March 2009 Inner City Charter Partnership Forum, it voiced its concern over little progress achieved on the Charter deliverables, and requested mediation between itself and the City. The management of informal trading and slow progress and expense of linear markets was raised as a concern.\(^{154}\) At the November 2009 Inner City Charter Partnership Forum, it again raised concern over the

\(^{151}\) Ibid., p. 48.
\(^{152}\) See JICBC website: http://www.joburgcentral.co.za/about.php
\(^{153}\) See JICBC website: http://www.joburgcentral.co.za/index.php
\(^{154}\) City of Johannesburg, “Minutes of the Inner City Charter Partnership Forum” (3 March 2009), pp. 4-5.
non-achievement of the linear market and Smart Card deliverables, and about the fact that no money had been allocated for further linear markets in the coming financial year.\textsuperscript{155}

6.3. Management and Regulation of Informal Trading

Within the City of Johannesburg, informal trading falls under SMME (small, medium and micro enterprise) development in the Department of Economic Development (DED), and there are two different companies, the municipal-owned Metropolitan Trading Company (MTC) and the private Central Johannesburg Partnership (CJP), whose mandate it is to manage street trading in the inner city, and who are each responsible for various trading facilities throughout the City. These entities are directly tasked with the management of informal trading sites and markets, and work together with the JDA and the private sector. The Johannesburg Metropolitan Police Department (JMPD) is tasked with enforcing the street trading by-laws, which regulate trading in the inner city.

6.3.1. City of Johannesburg Department of Economic Development (DED)

In the City of Johannesburg, informal trading falls under the Department of Economic Development (DED) in the SMME Development and Support unit/directorate, and specifically, in the Informal Trading sub-programme/sub-unit.\textsuperscript{156} There is a Deputy Director of Informal Trading, who is also part of the Inner City Charter process which has been mentioned above, and must report to the Mayor and other stakeholders at the Inner City Partnership Forum on deliverables achieved in terms of the Charter.

The DED is responsible for implementing the City’s Informal Trading Policy and drawing up and implementing the informal trading by-laws. According to the City’s website, the informal trading programme aims to develop the sector and its participants into a “commercially viable and dynamic economic sector that contributes to the economic growth of the city and the quality of life of its citizens in a sustainable manner.” The programme is guided by the Informal Trading Policy, adopted by the City of Johannesburg in 2007, and works closely with its municipal-owned entity, MTC, which serves as its implementing agency in managing informal trading markets and taxi ranks.

The programme identifies the training and mentoring of informal traders under the Grow Your Business course (held in conjunction with the University of the Witwatersrand)\textsuperscript{157}, the rolling out of linear markets (trading areas designated for street trading in a pedestrianised environment) in the inner city, and the promulgation of restricted and prohibited trading areas as its core business.\textsuperscript{158}

At the most recent Inner City Partnership Forum meeting held in November 2009, the findings of an independent assessment of the City’s Inner City Charter commitments were presented, and each Charter focus area graded. Economic Development scored 59 percent in 2008/2009, a slight but unsatisfactory increase from the 35 percent scored in 2007/2008. In respect on informal street trading, it was acknowledged that a regulatory framework had been established, however that the Smart Card system remains a delivery challenge “exacerbated by a lack of planning, inadequate technology solutions, time delays, flawed processes and limited innovative management applied.”\textsuperscript{159} In addition, it was stated that the

\textsuperscript{155} Inner City Partnership Forum meeting [held at SciBono, 24 November 2009].

\textsuperscript{156} See http://www.joburg.org.za/content/view/3503/78/.

\textsuperscript{157} The Grow Your Business course started in 2004, with the City contracting with Wits University to train traders and to improve their business skills. Approximately 2 500 people have traders have completed the course. Pabole, M., “Traders boost their business skills”, City of Joburg (5 August 2009), http://www.joburg.org.za/content/view/4163/212/. However, traders who were interviewed expressed dissatisfaction with the practical nature of the course, given lack of trading opportunities and the wider repressive environment they are forced to operate within. SANTRA meeting held at the Springbok Hotel (24 February 2009). See also section 7.2.10 below for more on traders’ perceptions.

\textsuperscript{158} Ibid.

delivery on linear markets “requires urgent and innovative focus recognising that this has been flagged as a critical delivery for stakeholder partners and informal traders alike within a context of shrinking City budgets.”\textsuperscript{160}

6.3.2. Johannesburg Metropolitan Police Department (JMPD)

The street trading by-laws are currently enforced by Region F Urban Management and the JMPD in the inner city. JMPD’s mandate is derived from the South African Police Service Amendment Act 83 of 1998 and its functions include traffic policing, policing of municipal by-laws and regulations, and the prevention of crime in the City of Johannesburg.\textsuperscript{161} Visible policing is viewed as an important prevention strategy for crime in the inner city, in line with the ‘broken-window approach’, which uses the philosophy that the prevention of smaller crimes has a knock-on effect, helping to cut more serious crimes.”\textsuperscript{162} One of the priorities of the City’s long-term economic plan, Joburg 2030,\textsuperscript{163} is dealing with crime in the city and the department is expanding dramatically with efforts to increase its numbers to combat crime and enforce by-laws in the build up to the 2010 Football World Cup.\textsuperscript{164} In addition to crime prevention, by-law enforcement is a core competence of local government and the JMPD is the chief by-law enforcement body mandated to promote awareness and ensure enforcement of these by-laws. JMPD officers undergo a six month training course and then are deployed to various police stations for six months of field training before being assigned within the department.

6.3.3. Metropolitan Trading Company (MTC)

The Metropolitan Trading Company (MTC) is a municipal-owned entity, established in 1999 as a profit-driven company whose mandate is the management, development, marketing and business development and maintenance of informal trading markets. The MTC at present manages various aspects of the informal trading and public transport sectors in the City of Johannesburg, including the various facilities the City has set aside for micro-retailers and taxi operators.\textsuperscript{165} There are about 12 trader markets and taxi ranks under its control, located throughout the City of Johannesburg. These include the City’s various street trading sites in the inner city and markets in Hillbrow, Yeoville, and the Faraday market and Metro Mall. According to the MTC has about 4500 people registered with it, although there are over 15 000 informal traders operating in the inner city.

In January 2003, the R140 million Metro Mall in Newtown was opened, and has been hailed as the MTC’s most successful project. There are about 600 traders who operate in the mall and according to Kgositso Ramokgopa, the MTC’s former CEO, many of the traders who rent space in the Metro Mall have been there since the facility opened. However various street traders interviewed in this research complained about the lack of adequacy of certain facilities in Metro Mall, as well as business being bad in certain areas of the mall. This is much the same at the Yeoville market, which opened in 1999 to much scepticism by street traders.\textsuperscript{166} The Yeoville market has been described as somewhat of a “white elephant” with its lack of ‘passing feet’ making people sceptical as to its success.\textsuperscript{167}

\textsuperscript{160} Ibid.
\textsuperscript{161} See “Metropolitan Police Department”, City of Joburg. http://www.joburgnews.co.za/content/view/702/78/
\textsuperscript{162} For example, according to a 2007 article, “crime sweeps are routinely carried out to show offenders and the public that the metro police are doing their job...For several years now, traders have often been the soft target of by-law enforcement because they are highly visible.” See Gallagher, C., “Remember those things called by-laws?”, Saturday Star (1 September 2007).
\textsuperscript{163} Joburg 2030 sees to “boost investment in the city, raising economic growth in order to provide Johannesburg residents with a sustainable increase in wealth and quality of life, and Council with increased revenues for service and delivery.” http://www.joburg.org.za/joburg_2030/
\textsuperscript{164} The JMPD aims to recruit 500 new officers every year starting from 2007 in preparation for the 2010 World Cup. See Sindane, L., “Metro police seeks new officers”, City of Joburg website (31 January 2007)
\textsuperscript{165} See the Metropolitan Trading Company (MTC) Company Profile at http://www.metrotrading.co.za/Docs/MTC_Company_Profile.pdf
\textsuperscript{166} Abraham, A., “Trading group looks at upgrading facilities” City of Joburg (20 April 2006). In 2002, traders at the Yeoville Market embarked on a rent boycott citing lack of publicity of the market, lack of repairs and maintenance and the ignoring of their demands and requests to meet MTC to discuss issues, as reasons for the boycott. See
In researching for this report, we attempted several times to interview the acting CEO of MTC. This proved unsuccessful, and we eventually sent a list of questions, to which we never received a reply. Over the last two years MTC has gone through a rather turbulent period, and indeed an earlier interview with the MTC project manager confirmed this sentiment. He referred to the recently published City of Johannesburg Informal Trading Policy as “not great” and was rather scathing of the state of affairs at the MTC and within the informal trading sector in the City in general. According to him, some of the problems include:

- Balancing cooperation with the City in its urban regeneration strategy, particularly to clean up the streets and facilitate pedestrian traffic; as well as assisting informal traders with their development and needs;
- Continued fragmentation, short-sightedness and lack of continuity regarding the informal trading policy and implementation in the inner city;
- Too many groups operating (CJP and MTC each manage different facilities in the inner city), with the management being rather disjointed and fragmented;
- The problem of “fronting by kwasi-mafia groups” who have infiltrated the informal trading sector;
- Xenophobia regarding the perceived bias towards foreign traders and their access to trading licenses;
- The continued problem of unregistered, “illegal immigrants” in the inner city and hence their inability to obtain trading permits;
- Subsidies for the MTC are being scaled down by the City, thus more money having to be extracted from informal traders for registration, rental and services;
- Lack of space allocated to informal traders in new developments, like newly-built malls in suburban areas;
- Lack of access for street traders to micro-finance and credit to expand or further their businesses;
- The need for a more developed and progressive industrial policy in South Africa to provide more opportunities for those traders who want to improve their situations and move out of street trading.\(^{168}\)

In April 2008, newly appointed CEO, Alfred Xolani Sam, took over the MTC. He has stated that “the company receives an allocation of money from the City’s budget but this is not enough to run the company. We have to come up with innovative ways to look for funding from other sources.”\(^{169}\) However, trader organisations like SANTRA have heavily criticised the MTC and cited internal political struggles and lack of vision as evidence of its failure.

### 6.3.4. Central Johannesburg Partnership (CJP)

Established in 1992, the Central Johannesburg Partnership (CJP) has developed since 1998 into a private, non-profit company dedicated to urban renewal and the revitalisation of the city. According to their website, the CJP “focuses on serving business – their primary client – with exceptional quality as well as forging a close working relationship with the City.”\(^{170}\) As has been mentioned above in section 6.2.2 on improvement districts, a significant proportion of street trading in Johannesburg’s inner city is in fact not managed by the local authority, but is outsourced to property owners or private sector companies, with two parallel systems operating. The first is the leasing of side-walks by property owners, whereby they can manage street trading outside the buildings they own. The second system is the CID system whereby property owners in a particular area are responsible for the management of an area, including street trading.\(^{171}\) CJP is often contracted to manage these two systems in the inner city.

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170 See “About the CJP: Overview” at http://www.cjp.co.za/aboutcjp.php
According to the general manager of operations at CJP, they have a joint partnership with MTC, with CJP managing the urban environment in the legislated CIDS and MTC deciding on trading areas, rolling out Smart Cards and managing trading malls. CJP is involved in the management of certain trading areas e.g. Kerk Street\footnote{For an in-depth investigation of the Kerk Street market, see Bantubonse, Y., “Bringing Order to the City: Informal Street Trading in the Johannesburg CBD”, research report submitted to the Faculty of Engineering and Built Environment, University of the Witwatersrand, in partial fulfilment of the requirements for the degree of Masters of Science in Development Planning (Johannesburg, 2008).} and new linear markets at Quartz and Hoek Streets. They ensure that areas they are kept clean, that people are selling the right goods and also provide security.\footnote{CALS interview with Russell Thomas (17 March 2008).} Many of the new developments, like the linear markets, are paid for by private businesses like CityProp and AFHCO and managed by CJP.

An interesting if not problematic admission by the CJP is that it “acted as advocates for inner city policy and informal trading by-laws.”\footnote{See http://www.cjp.co.za/aboutcjp.php} Trader organisations have expressed disquiet over a private company that admits to serving the ends of business, being involved in local by-law and policy-making regarding the socio-economic development of the urban poor. Indeed, the CJP has gained prominence and power within the inner city over the past few years, its greatest perceived success being the creation of CIDs in the inner city, to the detriment of street traders operating in these areas.

According to SANTRA, the CJP has effectively usurped power from the council-owned MTC, and “kicked out” hawkers from large parts of the inner city, in efforts to appease its constituents i.e. businesses in protected enclaves within the inner city. SANTRA is disparaging of the CJP, claiming that the development of street trading or micro-retailing as a viable and dynamic work opportunity cannot be managed by corporate-led entities who have “not the slightest interest in correcting past economic imbalances.” According to a SANTRA press release:

> What is certain is that the socio-economic development of people, taking into account the impact of migration and urbanization in areas such as the Johannesburg Inner City, must run concurrently with urban regeneration initiatives.\footnote{SANTRA press release, “Johannesburg City Council Owned Hawker Management Company Kicked Out” (17 September 2007).}

SANTRA believes this is not occurring, and has criticised the creation of CIDs in the inner city, claiming that the negative impact on the socio-economic development of poor people has not been adequately evaluated. According to the organisation, there are many viable and lucrative trading opportunities for people throughout Johannesburg, many in the presently off-limits wealthy residential suburbs and business areas like Braamfontein, Rosebank and Sandton. SANTRA believes that with improved trader leadership and management structures in place, new sites can be identified in the City of Johannesburg to expand and manage informal street trading in a way that benefits not only formal businesses but also stimulates the socio-economic development of the poor.

\section*{6.4. Organisation within the Informal Trading Sector}

Historically, there have been a number of barriers to organising in the informal trading sector, which will be elaborated on in section 6.4.1 below, and which are relevant in inner city Johannesburg. Recent efforts have been made to unify the sector, with various organisations –highlighted below - realising the need to present a strengthened and cohesive front against issues like the new informal trading by-laws, Metro police harassment and the process of linear market allocation. However, the sector is rife with politics, own agendas and power struggles, and while this unification would be a positive development, it is unclear how realistic it is at present. A recent development in 2009 is the emergence of COSATU in the
informal trading sector and it is clear that this national body is keen to unite the sector and incorporate what it terms “own-account workers” under its protection, particularly as more and more people are pushed out of the formal sector. Its focus is on the promotion of decent work, as mentioned earlier in section 5.

It appears that while some trader organisations, particularly SANTRA, are supportive of this intervention as they view COSATU’s involvement as lending national political weight to their cause, others are more sceptical of COSATU’s forceful entry into the sector. It is clear that trader organisation is dominated by personalities, and that internal political struggles and perceived individual agendas have often played a divisive role in the sector. The City is in the process of establishing an Informal Trader Forum consisting of City officials and informal trader representatives. However, the terms under which this body will function have not yet been finalised or approved.\textsuperscript{176}

6.4.1. Barriers to street trader organisation and mobilisation

Historically, a number of barriers to organising street traders have been highlighted, including the precariousness of their activities and their lack of financial resources, capabilities and skills, as well as time as an added constraint. According to Motala, street traders, especially women with families, are often reluctant to devote time and effort to organisational activities, perceiving the opportunity costs of participation as considerable and the returns uncertain.\textsuperscript{177} Often there is a lack of trust between traders and the leadership structures in place (due in part to past disappointments and failures), and indeed the nature of street trading is often an individualistic, each to their own mentality that has historically not been particularly conducive to strong and sustainable trader organisation.\textsuperscript{178}

Indeed, traders tend to be wary of organisations, as the increased criminalisation of trading has left many fearful and sceptical of any outside interference that may render their businesses defunct. This point was raised by a trader interviewed by CALS, who stated that since the Metro police escalated their harassment towards traders, trader organisations have died. This causality, which was echoed by other traders, is important to note. Many traders interviewed stated that they had never heard of any organisations which serve the interests of street traders, and referred to “self-organisation on the streets” or the practice of traders within a particular area looking out for each other.\textsuperscript{179} Those who had heard of an organisation or who were members were generally male traders who had been around trading in the inner city for a longer period, and whose businesses were more established.\textsuperscript{180} Furthermore, the tension between foreign and local street traders is palpable, with violent clashes occurring between these groups particularly as the Metro police and City officials crack down on street traders and trading sites become scarce.\textsuperscript{181} A cause for concern is the lack of foreign traders on representative bodies and in trader organisations, who can articulate concerns and negotiate on behalf of foreign traders.

Skinner writes that “the processes of incorporation or exclusion of street traders is part of everyday political struggle. The ways in which street traders are organised, articulate their concerns and wield power, is therefore critical.”\textsuperscript{182} Social exclusion is a concept defined by de Haan as “a rupture of social bonds...a process through which individuals or groups are wholly or partly excluded from full participation in the society in which they live.”\textsuperscript{183} Du Toit and Hickey combine the analysis of social exclusion with a focus on the terms of inclusion or “adverse incorporation” into society.\textsuperscript{184} In Johannesburg, there are tensions between the City and its management and development entities (who have their own agendas which include

\textsuperscript{176} SANTRA press release, “THE INFORMAL ECONOMY - open debate needed” (25 September 2009).
\textsuperscript{177} Motala, “Organizing in the Informal Economy”, p. 15.
\textsuperscript{178} CALS interview at Wanderers Street (8 June 2007). For more on informal traders’ attitudes towards trader organisations see section 7.2.9.
\textsuperscript{179} CALS interview in Yeoville (12 June 2007).
\textsuperscript{180} CALS interview at Wanderers Street (9 June 2007).
\textsuperscript{181} Motala, “Organizing in the Informal Economy”, p. 3.
\textsuperscript{182} Ibid., p. 1.
\textsuperscript{183} Ibid.
\textsuperscript{184} Ibid., p. 7.
those of private investors and formal businesses), trader representatives and organisations who are proxies attempting to negotiate power in a highly unbalanced arena; and traders themselves, who are often too marginalised, fragmented and disempowered to resist the might of the Metro police and the power of the by-laws.

At present, while there is rhetoric of inclusion of street traders coming from the City and some attempts at incorporation, these attempts are often as a result of tick-box/rubber-stamping necessity, and are largely tokenistic and unsustainable. Traders on the ground continue to suffer persecution and harassment, while their representatives negotiate in a manner that is often simply not taken seriously, despite rhetoric to the contrary.

6.4.2. South African National Traders Retail Alliance (SANTRA)

One of the most established organisations representing street traders’ interests in the inner city is SANTRA. According to Edmund Elias, SANTRA spokesperson, the organisation used to have over 5000 members, but since 2005 has been in decline because of the crackdown on traders and membership only sits at about 1000 traders. Indeed, only a handful of traders we interviewed had heard of SANTRA and most had nothing to do with the organisation or any other organisation. Those traders operating inside formal markets like Metro Mall had more knowledge of the organisation, and said that they were aware that it had helped to prevent evictions and represented traders in court cases involving the confiscation of goods.

According to a 2007 SANTRA document entitled “Analysis of Johannesburg Micro Retailing and Servicing Status Quo,” workshops facilitated by the City’s department of economic development have contributed positively towards a more coordinated approach amongst trader leadership and that an initiative to unite civil society is also in progress. SANTRA has been critical of the shifting of responsibility for street trading management to a private company like the CJP, and has stated that the “development of micro retailing and servicing should fall under the authority of the Johannesburg Department of Economic Development with the Metropolitan Trading Company as its operational arm.” SANTRA acknowledges that there is a serious lack of democratically constituted, transparent and accountable trader leadership in the inner city, however that “time is needed to formulate a suitable leadership accreditation process and an appropriately structured mechanism between such leadership and all other stakeholders.”

SANTRA maintains that the City is acting in bad faith and that the confrontational use of force and dialogue cannot run concurrently - “old oppressive policies cannot continue to be implemented whilst new ‘developmental’ policies are advocated.” The organisation believes that a national trading charter is necessary and that all formal retailing developments should be compelled by law to have a certain percentage of micro-retailing and servicing in the mix. It highlights the fact that continued and increased urbanisation into Johannesburg is occurring, particularly unskilled and semi-skilled migrants from both rural areas in South Africa and from neighbouring countries, and that a practical and sustainable solution needs to be clearly outlined other than intensified police action. SANTRA views street trading as a “fundamental component of African economic activity” that needs to be recognised and developed in innovative and creative ways, as opposed to legislated and criminalised into effective annihilation. According to the organisation, formal job creation without a parallel process that recognises trading by ordinary people as decent work will never come near to achieving unemployment eradication targets. In this context, trading from both public and private space needs to be encouraged and a national trading charter that facilitates the rapid growth of micro-enterprises is important.

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185 CALS interview with Edmund Elias (2 November 2007).
186 CALS interview in Metro Mall (12 June 2007).
188 Ibid., p. 3.
189 Ibid.
190 Ibid.
191 Ibid., p. 4.
SANTRA is opposed to the retracting of legal trading sites and the City’s policy of prohibited and restricted demarcated areas, calling for a more "shared approach" in dealing with potentially lucrative trading turf, which it believes has not yet being saturated in the city and which could create thousands of extra job opportunities. Recently, SANTRA has been vocal in its support for the involvement of COSTATU in the informal trading sector, as they have more political clout and can assist in unifying the sector. This move, however, has not been as enthusiastically received by the next organisation which will be discussed below, the Ecumenical Service for Socio-Economic Transformation (ESSET).

6.4.3. Ecumenical Service for Socio-Economic Transformation (ESSET)

ESSET is a Johannesburg-based “independent ecumenical service agency founded in 1996 with a mandate of building the capacity of the churches to work for socio-economic justice.” It consists of churches working together to transform society “promoting a just economic system that prioritises the needs of the poor.” ESSET became involved in street trader issues under its “accompaniment programme” and according to their policy document they are “at present providing a support system for the establishment of a Johannesburg, democratically-constituted city structure for street traders.” ESSET’s involvement in street trader issues arises from their being approached by traders and asked “to walk with them in the struggles they encounter in their sector.” In September 2007 they held a mass meeting for traders and published a draft document entitled “A Working Sheet Analysis of Policy and Legislation Affecting Street Traders” in October 2007. What apparently emerged from the meeting of traders was the need for an accreditation process of representatives by the City Council, the creation of a Johannesburg micro-business forum and a ten-point plan for the City which advocated the:

1. Creation of a database of traders;
2. Identification of mutually agreed upon (between all stakeholders), adequate and viable trading sites;
3. Registration of all in need who qualify for sites;
4. Visible identification of traders;
5. Provision of adequate and aesthetically acceptable trading facilities;
6. Payment of affordable rental;
7. Determination of items to be sold;
8. Sustainable monitoring;
9. Access to banking and social services; and
10. Business skills and leadership training.

In November 2007, ESSET published the results of its Street Traders Survey, which aimed to gain insight into the different aspects of traders’ welfare; explore what are the most pressing problems facing traders; explore relationships local and foreign traders; and gain insight into the relationship with authorities, traders organisations and other stakeholders. At its Fourth Annual Conference in October 2008, constraints impeding informal trade in Johannesburg were highlighted. They included: continuing harassment by authorities, especially the Metro police; traders’ exclusion from policy formulation processes; poor infrastructure lacking adequate health amenities and security; lack of access to capital; unjust and contradictory City by-laws; and endemic corruption in the sector.

ESSET has links with trader organisations throughout Johannesburg through the South African Informal Traders Forum (SAITF), discussed further below. On 5 August 2009, they organised a protest march in inner city Johannesburg to present a memorandum to the Premier of Gauteng Province. Their immediate concerns are with Metro police harassment of traders.

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192 Ibid.
and unfair confiscation of goods, as well as problems with the newly developed linear markets and the flawed allocation process. ESSET has been critical of SANTRA and its perceived lack of accountability and representivity, and also appears sceptical of COSATU’s involvement in the sector. At the recent by-law feedback session facilitated by the City, a representative from COSATU acknowledged that the organisation, ESSET and the South African Informal Traders Forum “do not yet know each other” but that they should meet and overcome the divisive nature of the sector and work towards a united front, which would include the promotion of self-management of the sector.\textsuperscript{197}

6.4.4. South African Informal Traders Forum (SAITF)

The SAITF or is a group of various trader organisations who have mobilised to challenge various problems regarding traders in Johannesburg, including traders selling in the inner city, Pretoria CBD, Orange Farm, Kliptown, Jabulani Mall, Alexandra as well as the South Africa Railway Hawkers Association (SAHRA). It is an umbrella organisation that works together with ESSET, and on 5 August 2009 a protest march in inner city Johannesburg was held to present a memorandum to the Premier of Gauteng.

The memorandum demanded an independent commission of enquiry into the conduct of trader management entities including MTC and CJP; investigation as to whether the allocation of spaces in malls, linear markets and other demarcated spaces is fair; an investigation of the continued harassment of traders by Metro police and the impoundment of goods; investigation into documents presented to MTC in acquiring trading spaces, with the involvement of the Department of Home Affairs; the immediate dissolution of MTC management structure; inclusion of the sector in policy formulation, implementation, monitoring and evaluation; the suspension of the confiscation of goods by Metro police while the commission conducts its enquiry; and the investigation of MTC, JDA, LED and Metro police for corruption.\textsuperscript{198}

6.4.5. One Voice of All Hawkers Association (OVOAHA)

One Voice of All Hawkers Association (OVOAHA) is a registered Section 21 company that claims to represent the interests of over 1 000 traders in Johannesburg.\textsuperscript{199} The organisation emerged most notably in April 2008 when it marched on, and presented a memorandum of demands to, the City of Johannesburg Executive Mayor, Amos Masondo and the MTC, using what The Star termed “emotional blackmail” to express their grievances, stating that “whether you are a minister, premier, mayor, manager or councillor, the truth is that some of you became educated because of your mothers braving the cold weather to sell in the streets.”\textsuperscript{200} The memorandum demanded that demarcation must be accelerated by the MTC and hawkers must be included in the process; that hawkers must be allowed to sell in the interim; that the economic development unit of the City must reduce areas of restriction and allocate more stalls to traders; that the municipal by-laws be reviewed; and that the Metro police stop harassing traders and confiscating their goods.\textsuperscript{201}

Its plight was supported by the social movement, the Anti-Privatisation Forum (APF), who stated in a press release that “The Gauteng Hawkers Association was a part of the early beginnings of the APF when it was participating in the Anti-iGoli Forum.\textsuperscript{202} The renewed voice of hawkers in the shape of the OVOHA is welcomed by the APF. The Forum supports the  

\textsuperscript{197} Informal Trading By-Law Feedback Session facilitated by City of Johannesburg (Johannesburg Art Gallery, 9 September 2009).  
\textsuperscript{198} South African Informal Traders Forum, “Memorandum to the Honourable Premier” (5 August 2009).  
\textsuperscript{199} An organisation that is not-for-profit can be set up as a Section 21 company under the Companies Act 61 of 1973.  
\textsuperscript{200} “Irate hawkers want response to grievances”, The Star (25 April 2008).  
http://www.thestar.co.za/?ArticleId=4372752  
\textsuperscript{201} OVOAHA, “Memorandum of Grievances to the Metro Trading Company and to the City of Johannesburg Mayor Amos Masondo” (24 April 2008).  
\textsuperscript{202} See section 6.1.3 above for more on iGoli 2002.
The organisation provides members (after they have paid a R30 registration fee) with a membership card which announces the OVOAHA as the “Regulatory Authority of Hawkers and Informal Traders.” According to Ramutula, OVOAHA has emerged because trader organisations were being used simply as a “rubber stamp” for the City and were not at all involved in decisions regarding their livelihoods and future in the City. According to him, the MTC is a corrupt organisation and has no desire to work with trader organisations or manage trading in a democratic, participative and transparent fashion. So too are the Metro police, who confiscate goods when they do not receive bribes and steal goods once they have been impounded.

Box 3. StreetNet International and World Class Cities for All Campaign (WCCA)

StreetNet International is an international alliance of street vendors launched in Durban, South Africa in November 2002. Membership-based organisations throughout the world (unions, cooperatives or associations) directly organising street vendors, market vendors and hawkers among their members, are entitled to affiliate to StreetNet International. In Johannesburg, StreetNet does not play a direct role in trader organisation and mobilisation, serving more as an umbrella body lending support and broader campaign advice to affiliated local street trader organisations and those sympathetic to informal trader concerns.

The aim of StreetNet is to promote the exchange of information and ideas on critical issues facing street vendors, market vendors and hawkers (i.e. mobile vendors) and on practical organising and advocacy strategies. StreetNet is supported by the action research of Women in Informal Employment: Globalising and Organising (WIEGO) - primarily its Urban Policies Programme. A focal point of action has been the Bellagio International Declaration of Street Vendors which was drafted by the initial founders of StreetNet in 1995 (see Annexure 1). This declaration sets forth a plan to create national policies to promote and protect the rights of street vendors. The Declaration also calls for action at four other levels: by individual traders, by traders’ associations, by city governments, and by international organisations including the United Nations, the International Labour Organisation (ILO) and the World Bank.

On 28 November 2007, StreetNet launched its World Class Cities for All (WCCA) campaign in Johannesburg to challenge this traditional approach to building ‘World Class Cities’ and create a new, more inclusive concept of “World Class Cities for All” with the participation of street vendors and other groups of the urban poor. The campaign focusses on women and other vulnerable street vendors who are the first to lose their livelihoods and are the most invisible in most plans for “World Class Cities”.

203 Anti-Privatisation Forum (APF) press release, “Statement by the APF in supports of the memorandum of demands by the One Voice Of All Hawkers Association” (23 April 2008).

At the WCCA’s recent National Campaign Meeting held in Johannesburg, 54 participants from 31 organisations (5 being street vendors’ organisations based in Gauteng, KwaZulu-Natal, the Western Cape and the Eastern Cape), as well as the StreetNet facilitators, attended. According to a report prepared after the meeting, some of the key points raised in the discussions were: that an alliance between COSATU and street vendors is important because the municipalities do not take informal traders seriously; that public spaces for women are being threatened and they do not have the financial prowess to compete with cooperatives who can buy together at wholesale prices; that foreign traders are not taken seriously and their existence is threatened; that CBDs are being rearranged and planned for tourists not for local residents; that there is the need to lobby for legislation that is favourable to street traders; and that traders must reclaim spaces that have been lost.

According to a report, “overall the delegates expressed a strong need for all the campaign partners to work together, as well as a desire to build a stronger alliance among street vendors.”205

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205 Ibid., p. 7.
7. LIVED-REALITY OF INFORMAL TRADERS IN INNER CITY JOHANNESBURG

The previous sections have outlined and analysed the context in which inner city informal trading occurs in inner city Johannesburg. This section provides insight into the lived-reality of informal traders based on qualitative interviews conducted with informal traders by CALS in June/July 2007, described in section 3 above, as well as from a street traders' survey commissioned by ESSET in November 2007. The latter survey involved face-to-face interviews conducted with 258 street traders on the streets and in malls within the City of Johannesburg.

What emerges clearly from both surveys is that on the whole, traders are engaged in informal trading for lack of formal employment. As such, informal trading is overwhelmingly a survival strategy in the face of poverty. A few traders did refer to themselves as businesspeople, took pride in their business enterprises and stated that they enjoyed trading and that they were hoping to expand their business over time. However, these were a minority. Many traders referred to the fact that they are trying to make an honest living and are not criminals, hence they should be treated with dignity rather than harassed and brutalised constantly by the Metro police. Indeed, many traders mentioned that they had chosen to eschew crime and should be encouraged, rather than harassed, for attempting to earn an honest living.

This section provides a case study of a street trader working in the inner city based on the experience of Ntombifuthi, as well as general information on the demographics of informal traders; residential location; level of education and household structures; income and expenditure; nature of selling and location; licenses, permits and rentals; attitudes to formal employment; attitudes towards by-laws and regulation; attitudes towards trader organisations; access to capital and business management skills; tensions between local and foreign traders; and confiscation of goods and harassment by Metro police.

7.1. Case Study: Ntombifuthi

Ntombifuthi is a 38 year old woman from Dundee in KwaZulu-Natal. She came to Johannesburg in 2005 after unsuccessfully attempting her Grade 11, and currently stays in Bellevue East, Johannesburg with her young daughter. She started selling on the streets in May 2006 after her employer’s restaurant closed down. After she lost her restaurant job she tried to look for another formal job but was unsuccessful. She started selling on the streets because she could not find another job and because she needed the money to sustain her daughter and her family back home, who depend largely on her for their livelihood. Ntombifuthi has been at her present site in Yeoville for just over a year. Her stand is unsecured and she does not pay any rent. For protection and safety she depends on other sellers who know her and she admits that this sometimes results in clashes and brawls. She states that “you have to be a bull to survive on the streets nowadays” and believes it would be better if there were some kind of a committee or people elected by traders themselves to resolve such disputes and to act on behalf of traders on the streets, but there is none of which she is aware.

Ntombifuthi sells winter hats, gloves and socks. Her choice to sell this type of merchandise is determined by the time of year (it was winter when Ntombifuthi was interviewed), as well as the relative ease of carrying these goods if chased by Metro police or security guards. Ntombifuthi says she buys her goods at China City in Johannesburg because they are cheaper than elsewhere. She carries her stock wherever she goes because there are no storage facilities available to her. She said this is also one of the reasons why she prefers selling smaller items such as hats and gloves. She has to pay rent of about R400 a month and after

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Footnotes:
207 CALS interview at Wanderers Street (10 June 2007).
208 Interview with Ntombifuthi, Yeoville (12 June 2007).
all these expenses she says there is hardly enough money for food, let alone for savings or contributions to a burial society.

She would like to grow her business on the streets and does not necessarily want to move out of street trading as she feels she has entrepreneurial skills. In a good month she makes on average around R800, provided the business is not “interrupted” by Metro police or security guards. She feels that her income is not sufficient to support both her daughter and her family back home.

Ntombifuthi has also been intimidated and harassed by Metro police while trading, and occasionally South African Police Service (SAPS) officers. She says that traders are being harassed because “they make lot of filth in the streets.” As traders they have come up with means of dealing with Metro police such pleading with them and also giving bribes to ensure their stock is not confiscated. Ntombifuthi says she would like the Mayor to provide more stands where they can sell their goods lawfully, to “stop abusing black people in particular since they voted for the present government,” and for the Metro police to be more understanding.

7.2. General Information

7.2.1. Age, sex and nationality

From CALS’ research, it appears that street traders in Johannesburg are predominantly between the ages of 20 and 45 years, with many being young men from neighbouring African countries or young women from rural areas in South Africa or from neighbouring countries. According to the sample of interviews conducted, a large percentage of traders in the inner city of Johannesburg come from neighbouring African countries, predominantly Zimbabwe, but also from Mozambique, Malawi, Lesotho, Nigeria and Tanzania. South African street traders are typically drawn from rural areas in the North West, Limpopo, Mpumalanga and KwaZulu-Natal. It is often the case that elderly female traders are South African and have been trading on the same site for a number of years. According to the ESSET survey, 43 percent of street traders interviewed fall in the 25-34 age category, 22 percent in the 35-44 age category and 18 percent in the 16-24 years age category. The survey found that most elderly street traders are of local origin (81 percent in 45 -54 age category and 59 percent over 55 years). The majority of younger traders interviewed were foreigners (60 percent in 16-24 years age category). However, the survey found that Zimbabwean street traders are spread evenly across all the age groups.

7.2.2. Residential location

Many of the traders CALS interviewed stated that they live with their relatives or families in the inner city, in areas like Bellevue East, Joubert Park, Berea, Hillbrow, Jeppestown, Yeoville or Rosettenville, and walk to their trading sites each day to avoid the hefty transport costs. Average rent in the inner city appears to be about R300 to R800 a month, and therefore traders live often with family members and/or their spouses and children in rooms in the inner city. Some traders CALS interviewed stated they live in townships or informal settlements like Soweto, Tembisa East and Diepsloot and spend between R20 and R40 a day on transport into the inner city, a considerable percentage of their monthly income.

7.2.3. Level of education and household structures

Most traders CALS interviewed did not have a Matric certificate and had completed Grade 10 or less, with many of the older traders often having completed only Grade 5. ESSET found that 32 percent of South African traders they interviewed have a Matric education or higher, which they suggest indicates a failure to secure formal employment. Foreign traders tend

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210 Ibid., p. 9.
to be more highly educated and skilled. Many of the traders CALS interviewed were young Zimbabweans and Mozambicans who had had done some previous higher education diploma and who had recently come to South Africa to find work in order to remit money back to families in their home countries.

Whether from rural areas in South Africa or from neighbouring African countries, almost everyone who was interviewed stated that they support family “back home,” both immediate and extended. Many have children and spouses who they have left in their home countries or in rural areas of South Africa, and who they support from the meagre savings they are able to accrue by trading in the inner city. Many street traders CALS interviewed had family members already trading in the inner city when they first arrived, and who assisted with accommodation, start-up costs and explaining the logistics and difficulties of street trading in Johannesburg.

7.2.4. Income and expenditure

Estimates of street traders’ incomes vary considerably, with certain traders preferring to state how much they at best could earn on a day, and others giving an often inflated monthly income. From the interviews it can be gauged that many street traders make on average between R800 and R1600 a month depending, according to them, on the weather and the frequency of visits from Metro police officers confiscating their stock or eliciting bribes. This is supported by ESSET’s findings that “the personal monthly income for the majority of traders (90 percent) falls below R2500”.211 The fact is that while most earn in this region, there are a number who clearly earn much less and others who earn much more. However, R1000 a month was also mentioned frequently as average monthly income. Generally, those who sell higher-return items like cooked food, clothing or illegal items like DVDs are able to make over R2000 a month or more, while those who sell cheap items like cigarettes and sweets earn far less. ESSET also found that elderly traders have generally been in business for longer, a significant number above 45 years having been trading for more than 10 years, earning over R1400.212

Many street traders are the only source of income for both their immediate and extended families, and often several people survive on their trading in the inner city. ESSET found that across all age groups the major expenditure was looking after immediate and extended families, and CALS found that most traders were remitting money back to their home countries or to rural parts of South Africa. A large proportion of traders’ income is spent on rent and school fees, as well as on transport (if they live outside of the inner city).213 Most traders interviewed did not have any form of saving scheme, living from hand to mouth and spending all that they earned, sending what they could back to their families. Some did mention that they were members of a stokvel or a burial scheme and only a handful had bank accounts. No one CALS interviewed had ever taken out a loan or had access to formal capital to start or expand their businesses, relying generally on family members already working in the inner city for this purpose.

7.2.5. Nature of selling and location

Typical goods and services sold by street traders include: fruits and vegetables (e.g. potatoes, onions and tomatoes); clothing, pillows and shoes; sweets, chips and cigarettes; miscellaneous household items like toilet paper, headache pills and toiletries; cooked food like pap and meat; cellphone accessories and airtime; public phone and hair braiding services etc. More experienced traders who have been trading in the inner city for a while generally sell more expensive items or cooked food like pap and meat, and hold permits which they received a few years ago from the City. They have more secure businesses, earn more per month and are able to save a certain amount each month. According to the ESSET survey, 92 percent of traders stated that they have been selling the same type of product

211 Ibid.
212 Ibid., p. 11.
213 Ibid., p. 24.
since they began their business, and those who had switched products cited competition, lack of customers, diversification and seasonal trends as reasons.\textsuperscript{214}

Street traders typically buy their stock from what they refer to as the Chinese, Indian, Somali and Pakistani wholesalers and other shops in the inner city, as well as very often from the Johannesburg Fresh Produce Market at City Deep.\textsuperscript{215} ESSET found that 34 percent of traders interviewed source their goods from factories, 29 percent from ‘cash and carry’ wholesalers, 26 percent from the Johannesburg Fresh Produce Market, 22 percent from supermarkets and 8 percent from various other places.\textsuperscript{216} Indeed it is clear that, while difficult to show empirically, there are strong forward linkages into the formal economy as most traders buy their goods from medium to large enterprises in and around the inner city.\textsuperscript{217}

It was raised often in CALS interviews with traders that they sell what they sell because it is easy to carry and they have no storage facilities. Many have to carry their stock to and from home everyday, and this limits what and how much stock they are able to purchase and carry at a time. Those who have access to storage pay about R40 and R50 per month for the facilities, with many storing their goods at facilities at Johannesburg Park Station or at the formal markets where they trade. A few traders mentioned that they occasionally pool money and hire a car to deliver their goods from City Deep to their places of residence or storage facilities. Theft was cited as a problem, and traders repeatedly expressed the desire for the provision of safe and secure storage facilities near their trading sites.

Startlingly, many traders said that the main reasoning behind their choice of goods to sell was to be able to run or hide quickly if the Metro police came to harass them. As one trader put it “I sell what I sell in order to run”, and there is the sense that many traders have to limit the amount and value of their stock in order to be able to move quickly when Metro police arrive. Lack of access to capital was also repeatedly cited by traders as a barrier to growing and improving their businesses.

The customer base of street traders consists predominantly of general passers-by, as well as schoolchildren and taxi drivers.\textsuperscript{218} Location is thus clearly an extremely important element in street trading. Generally, traders choose sites on the basis of potential customer base and frequency of passers-by, proximity to where they live, and affordability of rentals. According to the ESSET survey, 85 percent of traders stated that they were not planning to move location, however many also stated that they were unhappy with the “appalling” condition of their current location.\textsuperscript{219}

Traders expressed the desire for bigger yet affordable shelters with storage facilities and a functioning security system, as well as electricity, water and access to ablution facilities near their trading sites.\textsuperscript{220} Most traders do not have access to the latter and have to pay in order to use toilets. The desire for enclosed trading sites was also expressed repeatedly, as rain is a factor that prevents the ability to trade, and thus often to put food on the table.

### 7.2.6. Licenses, permits and rentals

According the ESSET survey, 84 percent of traders interviewed stated that they do not have licenses, with a significant number stating that they need licenses.\textsuperscript{221} Many of the street traders CALS interviewed were trading ‘illegally’ on the streets and had no access to services, having to pay to use nearby toilets. Many traders have no way of securing their sites and rely on fellow traders who know them for security and support, often alerting each other when the police are arriving in the area.

\textsuperscript{214} Ibid., p. 17.
\textsuperscript{215} For more information on the Johannesburg Fresh Produce Market see http://www.jfpm.co.za/index.stm
\textsuperscript{216} ESSET, “Street Traders Survey”, p. 18.
\textsuperscript{218} ESSET, “Street Traders Survey”, p. 20.
\textsuperscript{219} Ibid., p. 26.
\textsuperscript{220} Ibid., p. 33.
\textsuperscript{221} Ibid., p. 14.
For those who have licenses, it is common for them to be renewed on a monthly basis, and the majority of those who have been in the business for one to two years claim that they renew their licenses in this way. However renewal depends on the location of the business and some traders stated they made a once-off payment, others renew on a yearly basis or every six months.\(^{222}\)

Approximately 60 percent of street traders interviewed in the ESSET survey stated that they were not expected to pay rental for the current site. Those that do pay rental mostly pay on a monthly basis and range between R50 and R500. The majority appear to pay between R100 and R249 or between R50 and R99.\(^{223}\) Some of the street traders CALS interviewed were situated in formal markets like Metro Mall and Yeoville market. Here they have access to services like water, electricity, refuse removal, security and ablution facilities for which they have to pay. At the taxi rank at Wanderers Street those who were trading legally had been granted permits from MTC, paying rental of approximately R100 a month.

Unaffordable rentals were cited as a challenge, and many traders who had been allocated formal trading space in malls or markets which required a rental payment, stated that they are worse off than when they were trading on the streets because not only do they have to pay rental but they have lost out on business because of their location and are having to compete with others paying less or no rentals.\(^{224}\)

In both the ESSET and CALS surveys it emerged that many traders work for an employer who rented the stand from another person who owns a permit. These people generally get paid less than R250 per month by their employers.\(^{225}\) According to ESSET, about 66 percent of traders are “business owners”, as opposed to employees or children trading on behalf of their employers or parents. Many of these traders employ other traders with 90 percent employing one to two people, five percent employing three to four people and another five percent employing more than ten people.\(^{226}\) According to some traders interviewed by CALS, this is how many “illegal foreigners” trade at the formal markets, by subletting from South African permit holders. According to one of the managers at Metro Mall, it is open to both South Africans and foreign traders, as long as they have a legal right to work in the country.\(^{227}\)

At Metro Mall and Yeoville Market there are various block leaders whose job is to liaise between the traders and the MTC, however many traders said they were ineffective representatives. There are also security personnel hired by the MTC operating at Metro Mall who patrol inside as well as making sure that traders are not trading illegally in the streets outside of the designated market areas. They also apparently patrol and administer the municipal stalls that are erected on some streets in the area.\(^{228}\) Some traders in Metro Mall complained of blocked toilets, leaks and extreme cold during rainy weather, lack of sunlight, insufficient ventilation and inadequate security gates on the stalls.\(^{229}\) These grievances were supported by statements by the block manager.

With regards to securing permits, some traders CALS interviewed stated that they had approached the managers of the formal markets to enquire about permits but were either told there was no space or did not hear back even after several months. Some stated that they wanted a “legal stand” but were unsure of the correct process, or had applied and heard nothing back regarding their application.

\(^{222}\) Ibid., p. 15.  
\(^{223}\) Ibid., pp. 26-27.  
\(^{224}\) Ibid., p. 22.  
\(^{225}\) Ibid., p. 13.  
\(^{226}\) Ibid.  
\(^{227}\) CALS interview with a block manager at Metro Mall (9 July 2007).  
\(^{228}\) Ibid.  
\(^{229}\) CALS interview at Metro Mall (11 June 2007).
7.2.7. Interface with formal employment

Many street traders CALS interviewed stated that they had been formally employed prior to their resorting to informal trading, some as domestic or construction workers, petrol attendants or in other low-paid work. However, they had been retrenched or lost their jobs and could not find any other employment. As Thabo, a 30 year old woman originally from Newcastle in KwaZulu-Natal confirms (and as is the typical attitude of most traders), she started trading because she had no job, was poor and needed to support her family.\(^{230}\) Most traders seemed hopeless and discouraged at the prospect of ever finding employment in the formal sector or elsewhere, however a few said they were actively seeking work and others said that they occasionally found part-time work in construction or handing out flyers when they were fortunate.

According to the ESSET survey, 85 percent of street traders interviewed would rather be in formal full-time employment. 90 percent of moderately educated street traders with Matric certificate or the equivalent stated they would rather have “more permanent and more respectable jobs.”\(^{231}\) Only 3 percent stated that they wanted part-time employment to raise money to boost their business, and only 12 percent stated they would prefer to continue in a different kind of business.

For foreigners, informal trading is one of the few economic opportunities available to them as it is extremely difficult to find employment in the formal sector, particularly if their papers are not in order. For those entering Johannesburg, informal trading is the easiest, and often the only, way to earn money to survive and to ensure some money can be remitted to family back home, this despite the fact that many foreign traders are educated and skilled.

7.2.8. Attitudes towards by-laws and regulation

According to the ESSET survey, 57 percent of street traders interviewed believe it is important for their trade to be regulated by policies and by-laws. Most traders aged over 55 years do not think it important at all, while 72 of Zimbabwean traders also do not think it is important.\(^{232}\) Some traders made mention to the effect that those who “came up with the bylaws are not aware of the implication they have on ordinary families.”\(^{233}\) There is clearly very little awareness and education around the by-laws among traders. According to ESSET, street traders believe that policies and regulation should be the responsibility of themselves, traders associations and local government. Only 15 percent stated that MTC should be involved in regulation, with 10 percent stating that the police should be responsible for regulation. The majority of women traders and those 45 years and older stated that they believed it was the responsibility of traders themselves to regulate informal trading.\(^{234}\) Indeed, in CALS’ interviews the practice of ‘self-regulation’ was often raised, and the reality is that traders are organised on a micro-level and themselves regulate streets and spaces where there is a common understanding as to the de facto ‘ownership’ of sites.

Many traders referred to the fact that they are merely trying to make an honest living and are not criminals, hence they should be treated with dignity rather than harassed and brutalised constantly by the police.\(^{235}\) Many acknowledged the illegality of their trading in terms of the City’s by-laws, however said that unless more formal markets and legal sites were allocated, they had no choice but to continue trading in breach of the by-laws. According to one respondent in the ESSET survey, “street trading brings bread to families so the government must ensure a fair process of regulation.”\(^{236}\) In lieu of alternative employment, traders state

\(^{230}\) CALS interview in Yeoville (12 June 2007).
\(^{231}\) ESSET, “Street Traders Survey”, p. 11.
\(^{232}\) Ibid., p. 30.
\(^{233}\) CALS interview at Wanderers Street (9 June 2007).
\(^{234}\) ESSET, “Street Traders Survey”, p. 31.
\(^{235}\) CALS interview at Wanderers Street (10 June 2007).
\(^{236}\) ESSET, “Street Traders Survey”, p. 34.
they have no choice but to continue trading, and returning to their sites even after their stock is confiscated and fines are issued (both which simply get ignored by most traders).237

7.2.9. Attitudes towards trader organisations

CALS found that very few informal traders had heard of trader organisations, like SANTRA, and of those who had heard of organisations most stated they have nothing to do with them. Those traders operating inside formal markets like Metro Mall had more knowledge of trader organisations, and said that they were aware that it had helped to prevent evictions and represented traders in court cases involving the confiscation of goods.238 According to the ESSET survey, only 45 percent of traders interviewed were aware of the existence or whereabouts of trader organisations that supposedly represent them. Of this number, only 40 percent stated that they actually belong to any trader organisation and it appears that traders largely regard associations as dysfunctional and "mere talk shows".239 One trader mentioned that since the Metro police intensified their crackdown on traders, this has disrupted the effectiveness or popularity of trader organisations.

Some of the grievances against trader associations include a lack of transparency and accountability, which many traders raised as being vital. They accused leaders of corruption and having no real regard for the welfare of traders, claiming to represent them when they have not actually consulted traders and heard their issues. The question of how democratic these organisations are and how leaders are elected was also raised.240 According to the ESSET survey, more educated traders read newspapers, listen to the radio and/or watch television, while less literate traders prefer general meetings as a means to gain information about relevant issues.241

7.2.10. Access to capital and business management skills

Lack of access to capital and business management skills were raised by some traders as challenges, with the lack of access to capital being more of a problem than the lack of formal business training. No traders that CALS interviewed had ever received a bank loan, and some traders stated that they were not allowed to access bank loans or that they needed access to finance but did not have the documents that the banks require.242

According to the ESSET survey, business skills training is also not a major priority for street traders, however the more educated traders stated they wanted help with franchises and other sophisticated business opportunities.243 Approximately 10 percent of traders in this survey stated that they had received some formal business training; however traders had misgivings about some of the institutions that provide this kind of training. Traders felt that they were not consulted on their specific training needs and requirements, and that what they were offered was too theoretical for the reality of trading on the streets and did not speak to their practical needs. For example, they would be taught about bulk buying, however most of them do not have any or adequate storage facilities to sustain this.244

7.2.11. Tension between local and foreign traders

Tension between foreign and South African traders was raised by street traders as a problem, and indeed there was a definite xenophobic undercurrent that ran through many of the interviews conducted with local traders. According to some, there are clashes over the fact that local traders are housed in formal malls, and the foreigners trading on the streets outside "hijack the business before it can reach them".245 Many local traders who were interviewed

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237 CALS interview in de Villiers Street (9 June 2007).
238 CALS interview at Metro Mall (12 June 2007).
239 Ibid., "Street Traders Survey", p. 28.
240 Ibid.
241 Ibid., p. 29.
242 Ibid., p. 34.
243 Ibid., p. 16.
244 Ibid., pp. 15-16.
245 Ibid., p. 22.
by CALS blamed foreigners for taking their jobs and stealing scarce trading sites, as well as being the cause of “crime and grime” on the streets. Many of these traders blamed the government for not having strict enough border controls and allowing the influx of foreigners into the city. Indeed, it appears that xenophobic tensions arise as street trading is increasingly formalised and legal sites in overcrowded markets and malls become sought after, resulting in perceptions and accusations of bribery and corruption among local and foreigner traders heightening.

Many of the foreign street traders expressed their desire to be formally registered, however their lack of official paperwork meant they were helpless and hence traded illegally. They referred to the practice of South African traders getting preference for legal trading sites, however admitted that many times these sites were allocated to wealthier foreign traders ostensibly through bribes and internal corruption. Most of the foreign traders are “illegal immigrants” in South Africa and this leaves them particularly vulnerable to police harassment, bribery and exploitation. According to Phillip, a 36 year old trader from Zimbabwe, the Metro police frequently treat the traders brutally and “mess up their goods,” and that as a foreigner there is nothing he can do to protest or appeal. He believes that the approach adopted by Metro police should be reviewed and that fines should be reduced as they are out of touch with the reality of what the hefty sums actually mean to street traders.

The type of higher end goods that foreigners sell mean that they are often in a better position to bribe Metro police and maintain their lucrative trading locations. However, despite xenophobic undercurrents on the streets, many South African traders stated that they believed the Metro police acted harshly against foreign traders, and should be more understanding of their plight.

7.2.12. Confiscation of goods and harassment by Metro police

Widespread and ongoing harassment by Metro police and unfair confiscation of goods, were cited as perpetual problems by most street traders interviewed. According to both the ESSET and CALS surveys, almost all street traders have had their business disrupted by authorities, with the ESSET survey revealing that 82 percent of traders have had their stock confiscated, most of them at least twice, thrice or more times. Some traders stated they are harassed daily by police officials with others saying at least three times a week. According to ESSET, after confiscation of stock by Metro police, about 60 percent of traders stated they received receipts for their goods, however most were unable to claim their stock back due to “unreasonable” fines which make it financially untenable to recover confiscated goods.

Many traders CALS interviewed mentioned that Metro police confiscate goods without following an official process or issuing proper receipts.

Traders whose stock is worth more stated that they would make the effort to go to the Metro pound and pay the fines of generally between R350 (for perishable items like fruit and vegetables) and R850 (for other goods) and reclaim their stock. Most traders, however, prefer to cut their losses and are forced to repeatedly start over with new stock. As one trader explained, she knows that the police are just enforcing the law and that its illegal to trade on the streets, however, traders are poor and have no alternatives so they will continue to sell no matter what the police do. There is an air of tragedy as street traders are constantly have their goods confiscated and are forced to start over and repurchase stock, only for its to be confiscated again in what is a vicious circle. Further, constant Metro police harassment and confiscation has now determined what and how much people sell, and impedes rather than supports entrepreneurism and business growth.

246 CALS interview in Yeoville (12 June 2007).
249 CALS interview in Yeoville (12 June 2007).
According to traders interviewed in both the CALS and ESSET surveys, Metro police corruption is rife and “protection fees” are paid regularly to them. Many traders spoke of the practice of Metro police coming when they are off-duty and ask for bribes or “cooldrinks” (as they are euphemistically called). Also, a few traders mentioned that the SAPS sometimes come on Fridays to elicit bribes, as they know people do not want to spend the weekend in jail. A few traders mentioned that the Metro police say they are “cleaning up the streets for 2010” when they come on their confiscation rounds.

While almost every street trader made mention of harassment and confiscation of goods by the Metro police, those who did not were former street traders now trading in formal markets e.g. Metro Mall. According to these traders, it was due to the escalation of harassment and confiscation of goods by Metro police that forced them to seek stalls inside the often already saturated formal markets. Many traders referred to more lucrative trading spots where they had previously traded, however they were forced to move due to continued Metro police or security guard harassment. Traders working in the formal markets complained that while they were no longer harassed by the Metro police, business is not as lucrative as on the streets and they also have to pay rental for their stands. This was definitely a recurring theme in the interviews, the fact that traders wanted to have the protection, legality and services of formal markets and trading sites; however, there was more money to be made on the streets and they could save much more trading there than they could in the markets or malls.

251 CALS interviews at Wanderers Street (8 June 2007).
252 CALS interview at Wanderers Street (9 June 2007).
253 CALS interview in Yeoville (12 June 2007); CALS interview at Wanderers Street (9 June 2007).
254 CALS interview in Metro Mall (11 June 2007).
8. FAULT LINES AROUND INFORMAL TRADING IN INNER CITY JOHANNESBURG

This section aims to integrate what has been raised in the first six sections, with the lived-reality of informal traders as described in the preceding section. What emerges are two main fault lines which highlight the disjuncture and disconnect between official responses to informal trading, and the realities of informal traders and the broader importance of the informal economy in Johannesburg. The first fault line is around the current system that criminalises informal street trading and leads to the confiscation of goods and harassment by the Metro police and other law enforcement bodies. The second fault line is around the demarcation of restricted and prohibited zones. While these two fault lines are interconnected, they will be treated separately below.

8.1. Harassment of street traders and confiscation of goods

As has been discussed in the previous sections, street trading in the inner city is, in effect, regulated by Metro police officials through the enforcement of the City’s by-laws. Inner city regeneration efforts and the run-up to the 2010 World Cup have seen the JMPD crack down on street trading activities, and their often schizophrenic approach to trading is highlighted by the following remark by a JMPD spokesperson: “hawking in the city centre is an ongoing problem and controlling it is part of the drive to turn Johannesburg into a world-class city…We don’t stop people trading in Johannesburg, but it must be done so people do not contravene the bylaws…Trading is a part of South Africa, which is why we allow it.” This attitude of ‘allowing’ street trading in the inner city even though it is an ‘ongoing problem’ is a flawed and paternalistic one that belies the often restrictive, prohibitive and decidedly un-developmental stance City officials have towards street traders, not to mention encouraging the antagonistic and extortionist attitude that some JMPD officers have towards street traders in the inner city.

Street trading in inner city Johannesburg is a means of survival for many, and provides an income for people who would otherwise be destitute in a climate of gross unemployment and poverty. The dire economic situation for many living in South Africa has been highlighted above. For those engaged in street trading, their livelihood depends on the ability to sell their goods and services. Entrepreneurial activities conducted by poor people should be respected and encouraged, not punished in line with ill-conceived and technocratic by-laws that restrict rather than enable.

While the by-laws serve to regulate street trading in the inner city, they effectively criminalise many aspects of it and the mandate of a law enforcement body such as the JMPD to regulate livelihood enterprises is highly problematic. The evidence of illegal and unethical practices conducted by JMPD officers in the inner city is cause for concern. According to Edmund Elias of SANTRA, the JMPD are stealing unlawfully confiscated goods while the “city authorities turn a blind eye.” He blames unconstitutional by-laws which allow poorly paid Metro police officers to grab private possessions without a warrant or court order, resulting in a “chaotic state of affairs.” Reports of JMPD officers harassing street traders, often when out of uniform and off-duty, and requesting bribes which are often euphemistically referred to as ‘cooldrinks,’ are widespread, emerging in most of the interviews with traders. The visibility and vulnerability of street traders, often seen as the lowest of the low in the inner city, makes them easy prey for police officers out to make some quick money, often at the end of the month or on a Friday afternoon before the weekend commences.

The street trading by-laws contain a number of flawed and problematic clauses, including those which deal with the process (or lack thereof) of confiscation of street traders’ stock,
which will be examined below. The frequency, arbitrariness and unprofessionalism of the confiscating and impounding of street traders’ goods by the JMPD emerged almost unanimously in interviews with street traders in the inner city of Johannesburg. The problem of harassment of street traders by the JMPD in both the Johannesburg and eThekwini municipalities, and the harshness of the confiscation provision in the by-laws, is widespread and has a devastating effect on traders. In eThekwini there has been an attempt at litigation in this regard; however the provision remains in the City of Johannesburg street trading by-laws and causes much distress for many street traders in the inner city.\textsuperscript{257}

Box 4. The case of Phoenix Plaza Street Traders Association and Others v eThekwini Municipality and Others

In 2005 a notice of motion was set down by the Legal Resources Centre (LRC) before the Durban High Court on behalf of Mr Perumal Naidoo and the Phoenix Plaza Street Traders’ Association, dealing with the validity and constitutionality of the eThekwini Municipality by-laws that allow the confiscation and impoundment of street traders’ goods.\textsuperscript{258} According to JP Purshotam, an attorney with the LRC, “this is causing a huge problem, because there is huge demand by the poor to engage in economic activity.”\textsuperscript{259} He explains that people are forced to trade without permits and this has led to “brutal enforcement” by authorities who regularly confiscate their goods, and that “for many, street trade is often the only viable alternative other than crime.”\textsuperscript{260} Section 34 of the Constitution provides for legal disputes to be heard in court and the LRC argues that disputes about confiscated goods are dealt with by the Metro police, who act as both judge and jury. The LRC claims that, while the courts are not closed to street traders, the enormous cost of litigation makes it impossible for the poor to challenge the police in court. The LRC further argues that the impounding of street traders’ goods flouts section 25(1) of the Constitution, which states that no person may be arbitrarily deprived of his or her property. The notion of motion declares that:

- eThekwini Municipality is under a legal duty to return impounded goods on request; that Section 6A(1)(d)(ii) of the Businesses Act does not authorise the eThekwini Municipality to make bylaws providing for the permanent confiscation of the goods of street traders and is hereby declared to be inconsistent with the Constitution and invalid;

- that Sections 6(5)(a)(i) and (ii) of the Act are inconsistent with the Constitution and invalid;

- that the practice of the eThekwini Municipality to issue notices to appear in court in terms of Section 56 of the Criminal Procedure Act 51 of 1977 and making the retrieval of impounded goods conditional on the admission of guilt and payment of a fine, is declared to be irregular and not authorised by the Businesses Act or the Street Trading Bylaws and;

- that to the extent that the above practice desribed is authorised by the Businesses Act or the Street Trading Bylaws, it is declared that the Businesses Act and the Street Trading Bylaws are to that extent inconsistent with the Constitution and invalid; and finally,

- that insofar as declarations of invalidity have been made in respect of provisions of the Businesses Act, they are referred to the Constitutional Court for confirmation.

Tragically, Mr Naidoo, the main applicant in the case, committed suicide recently after his stock was confiscated for the umpteenth time. The case was postponed as a result.\textsuperscript{261}

\textsuperscript{257} Donnelly, L., “A hawker’s hell”, Mail and Guardian (12 June 2007)

\textsuperscript{258} See the notice of motion in Phoenix Plaza Street Traders Association and Others vs. eThekwini Municipality and Others [Case No. 16407/2005] at http://www.streetnet.org.za/english/sttradingbylawnoticemotion.htm

\textsuperscript{259} See the founding affidavit in the above case at http://www.streetnet.org.za/English/Phoenixfoundingaffidavit.htm

\textsuperscript{260} Donnelly, L., “A hawker’s hell”, Mail and Guardian (12 June 2007).

\textsuperscript{261} Telephone conversation with JP Purshotam (5 December 2007).
Section 10(1) of the City of Johannesburg street trading by-laws states that an “authorized official may remove and impound an property of a street trader (a) which he or she reasonably suspects is being used or which intended to be used or has been used in or connection with street trading; and (b) which he or she finds at a place where street trading is restricted or prohibited and which, constitutes an infringement of any such restriction or prohibition whether or not such property is in possession or under the control of any person at the time of such removal or impoundment.” As outlined in section 4.3.2 above, there is a detailed process that must take place with regard to confiscation of property. However, many street traders interviewed stated that they had no knowledge of the by-laws, and that when the police confiscated their stock they gave no reasons for their actions, merely taking away the goods and handing out a fine. In the inner city, confiscated goods are taken to the JMPD pound in Loveday Street, where they are stored until traders come to claim them.

The JMPD claims that it is not possible that police are stealing goods from traders, claiming that every item impounded is recorded, that there are records of every item placed in storage and that perishable items are stored for only three days and that the police donate other goods to charity if they are not claimed after three months. Street traders’ goods are confiscated for transgressions such as trading that obstructs the pavement, trading next to an ATM and trading beside a government building or a place of worship. However, many traders claim that JMPD officers are inclined to accept bribes and that this is often the preferred method of getting rid of the police as a bribe is often only about R50. The average amount stated by traders to reclaim their confiscated stocks is between R300 and R1000, plus about R10 a day for storage costs. This is much more than most traders earn in a month and vastly exceeds what most of their stock is worth, so very few actually bother to pay the fine and reclaim their goods, preferring to cut their losses and buy new stock.

This has the pernicious effect that many traders deliberately downsize their trading operations and only stock small, easily transportable and cheap items with which they can run away easily, or which will not incur too much loss if they are confiscated. One street trader explained how he had been at the same site for over two years and that when he started he had had a much bigger business making a lot of money; however, because Metro police started frequently chasing him he decided to switch to a smaller business. Another street trader describes how he has never had his stock taken by Metro police, which he attributes to his “good athletic skills.”

Receipts are often never issued to street traders and if they do venture to the JMPD pound to reclaim their stock once it has been confiscated, traders tell of goods going missing and incomplete stock being handed back to them. The JMPD has denied claims about the issuing of receipts, stating that traders often abandon their goods when they see the police and the JMPD is forced to confiscate them without issuing receipts. The fact is that street traders have very little power when confronted by JMPD officers, as most are trading without permits or licenses and the stock they carry is (while of considerable value to them) not worth as much as the fine they would be forced to pay in order to reclaim it. There is no real recourse for them to appeal decisions or actions undertaken by city officials, and while de jure access to courts and the legal process may exist for them in this regard, they are de facto out of reach to most street traders due to various educational, time, financial and informational constraints. As Lund et al write:

> if a street trader feels that the local government has acted unfairly against her or him, there should be a procedure for appealing against the decision. Most by-laws do not contain such a procedure. This means that the only alternative for the trader is to take the matter to court. Most traders do not know how to do this, nor do they have the time or money to take legal action.

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263 CALS Interview at Wanderers Street (8 June 2007).
264 Lund et al, Street Trading, p. 56.
The City of Johannesburg’s Street Trading By-laws, revised Informal Trading By-Laws and Informal Trading Policy contain no effective procedures for appealing against unfair decisions, despite accepting that this is necessary. Recently, JMPD officials have been issuing traders with summonses to appear in court as a result of their alleged illegal trading, particularly in Yeoville. While this may be a more procedurally fair mechanism, as opposed to immediately confiscating stock, it appears pointless as most traders simply do not have the time, resources or money to challenge such summonses and will continue to trade regardless. As one trader pointed out, it is a waste of ink and paper for the JMPD to write out fines and summonses, and they should save themselves the effort. Regulation of trading by the police in such a climate thus contributes to low-level corruption, administrative burden on the City, and is largely a technocratic solution to a much larger social and developmental issue that requires a different kind of intervention. Unfortunately, the City’s “twin intervention”, together with stricter Metro police enforcement, is to demarcate the inner city in two zones – restricted and prohibited areas – and roll back space for traders unless in its formal markets and malls. As discussed below, this approach is problematic for a number of reasons.

8.2. Demarcation of restricted and prohibited areas

In June 2009 the new Informal Trading By-Laws and Policy were approved by the Mayor and Council, envisioned to be rolled out by August 2009. The main thrust of the City’s recent efforts are to eliminate unmanaged street trading in the inner city and relocate all traders to linear markets and other designated spaces. The plan is to designate the city into two categories by April 2010:

- Restricted areas where trading only allowed in demarcated areas e.g. linear markets, street stalls and marking on ground; and
- Prohibited areas where no street trading allowed as per informal trading by-laws.

This clinical approach to the issue of street trading ignores the socio-economic implications of rolling back public space that can be used for economic purposes by the poor and shows a disconnect and insensitivity on the part of local government to the realities on the ground. An issue that arose repeatedly in the research is that, over and above the fact that not enough legal trading spaces are being created, the few ‘legal’ spaces that are being created are often economically unviable for street traders, who rely on footfall and passing trade, and inevitably result in more traders being evicted than are given space to trade.

Competition was described by street traders as a major challenge to their business, and according to findings of the ESSET survey, the source of this problem is a proliferation of traders in one place selling identical goods e.g. fast food outlets at Metro Mall in Bree Street. Primarily, street traders offer convenience to their customers as they go about their daily business in the city, and markets and malls detract from this advantage. Indeed, what emerged clearly from the interviews is a catch-22 situation in which many street traders find themselves. On the one hand newly established malls and markets offer a legal and serviced environment free from the harassment of the JMPD and the constant threat of confiscation of goods. On the other hand, they are often not well-placed or well-suited to the needs of street traders and business is generally much slower. Thus, there is an unacceptable trade-off emerging for street traders in the inner city of Johannesburg between a successful business and economic viability on the streets, and the safety from harassment and criminalisation of their activities by the police.

Linear markets have been touted by the DED as the solution to the ‘problem’ of street trading, with a Linear Market Master Business Plan drawn up in November 2008 which defines the minimum standards for trading facilities that are “non-obstructive and aesthetically

266 Ibid., p. 22.
pleasing.” According to the DED, the aim is for linear markets to become “part of the tapestry of the city” and a tourist attraction for visitors. Revised ICRC timeframes for linear markets were approved in May 2009, when a proposal for the amendment of the Charter’s commitment deliverables due to “unforeseen circumstances, poor forward planning, and the lack of resources” was approved. There has been slow progress in linear market rollout and deadlines set for in December 2007 have now been shifted to June 2010. Only two linear markets have been built so far, in Hoek Street and Quartz Street, in collaborations between MTC, JDA and the private sector. Further, the rollout of the Smart Card system which was meant to have been completed by December 2007 has been pushed to June 2010, and the DED has stated that they hoped that by the end of June 2009 approximately 3600 Smart Cards would have been issued. There appears to be little to no money budgeted from the City for further linear markets rollout, and the Smart Card system remains dogged by problems, as mentioned in section 6.3.1

The City admits that linear markets have proved extremely expensive and there have been problems with infrastructure provision, particularly ablution facilities. Furthermore, it is acknowledged that linear markets and formal designated spaces demarcated by the City cannot accommodate the over 8000 traders in inner city. In the language of the City, they want to develop an ‘exit strategy’ to assist traders to take up opportunities elsewhere in security, cleaning and waste management in linear and formal markets. According to the DED, “surplus traders (outside of markets) are being negotiated to exit the informal economy completely.” Indeed, “negotiation to exit” sounds worryingly like forced eviction from sites and already problems with allocation and corruption are unfolding at new formal market developments and could cause serious problems in the future i.e. xenophobic violence. Trader organisations like OVOAHA have voiced anger over the lack of a fair and democratic allocation process in linear markets and other designated spaces, lack of clear criteria in allocating sites, corruption in allocating trading spaces to “illegal foreigners”, as well as the failure of MTC to choose block leaders in a democratic fashion.

The process of obtaining a permit or license to trade in so-called demarcated areas is by no means an easy, transparent or consistent process. Also, the cost of these permits and rental for stands is disproportional to what street traders earn and are often not adequately serviced. Desperate for an opportunity to engage in some form of economic activity and obtain a legal trading space, street traders are prepared to pay very high rates for licenses and stands. There is very high competition amongst street traders in the inner city with regard to legal trading spaces, and despite the heavy-handed enforcement of the by-laws, frequent harassment and threat of confiscation of goods by the JMPD, people are forced to trade without licenses in areas which may contravene the by-laws. People would like to become ‘legal’, obtain licensed stands benefit from servicing and infrastructure developments, however, until such time, their income and livelihood depends on their continued trading and they will thus understandably return to viable sites or find new sites to trade. As long as people are making money and there are opportunities to trade and customers willing to buy, they will trade. Police intervention thus only contributes to corruption and low-level tension among traders, and evicting people from sites when there are no viable alternatives provided has extremely pernicious consequences on poor people, and is a drain on state resources and police personnel who could be tackling real crime in the city.

267 Ibid., p. 3.
268 Meeting of the Inner City Charter Partnership Forum (2 June 2009).
270 Ibid., pp. 1-5.
271 Meeting of the Inner City Charter Partnership Forum (2 June 2009).
272 COJ, “A proposal for the amendment of some of the Inner City Charter commitments deliverables”, p. 3.
273 Meeting of the Inner City Charter Partnership Forum (2 June 2009).
9. CONCLUSION AND RECOMMENDATIONS

The aim of this report is to gain an understanding into the lived-reality/socio-economic circumstances of informal street traders in inner city Johannesburg; to clarify the attitudes of the City of Johannesburg and other public and private entities towards informal street traders; to examine trader organisations and their representivity and effectiveness; and to explore how informal street trading fits in with urban regeneration strategies pursued by the City and other stakeholders. Interlinking fault lines around the confiscation of goods and harassment of traders by the Metro police, as well as the City’s current policy of demarcating the entire inner city into restricted and prohibited areas, were identified as critical.

As has been mentioned above, informal trading policy, management and organisation in the City of Johannesburg are moving targets, and new developments and challenges unfold on a daily basis, making the compiling a report of this nature difficult. However, this also implies that space exists at present for all stakeholders to come together to address the issue of informal trading in the city in a creative, innovative and engaged manner.

This opportunity emerges within a broader context in South Africa. Debates abound regarding the ‘modernisation’ of South African cities and what are often perceived as ‘non-modern’ phenomena like street trading and informal settlements, as well as the role of the informal economy in the face of increasing unemployment, poverty and inequality. There is a widely held view that informal street trading is a manifestation of both poverty and underdevelopment - street traders are often seen as the ‘front line’ of poverty and institutional failure - and thus its disappearance is viewed as progress, in much the same way informal settlements are viewed. In Johannesburg’s inner city, a fast-tracked urban regeneration strategy as well as preparations for the city’s hosting of the 2010 Football World Cup, are fuelling ‘modernisation’ attempts, which have profound consequences for street traders. Traders rely on passing trade in order to sell their goods and services and their livelihoods, and often those of immediate and extended families, depend on their ability to trade freely. The punitive enforcement of street trading by-laws by the JMPD, and the associated problems with graft and unfair procedure and process, mean that entrepreneurial spirit and ability to engage in economic activity are severely restricted for street traders. The failure of the City to engage constructively with trader organisations over the regulatory framework for informal trading and the failure to roll out new trading sites, coupled with heightened JMPD presence and its ‘broken window’ philosophy to crime, have potentially disastrous consequences, as has been outlined above.

Further, the creation of city improvement districts (CIDs) has meant that in certain areas it is formal business that effectively manages public space and contributes to its upkeep. In these areas, street trading is generally banned, other than in designated markets or malls, and as this model spreads throughout the inner city more and more public space is effectively ‘privatised.’ The City appears only too willing to relinquish what are potential livelihood opportunities for many of the urban poor, in order to appease private investors and formal businesses in its inner city regeneration campaign, however, without providing viable alternatives for traders. On the other hand, formal business views the informal trading issue as extremely important to its bottom line, and it is high up on the agenda for the City to address timeously. Therefore, a situation exists where both formal business and private sector stakeholders, and trader organisations and traders themselves, are all equally frustrated with the status quo and the City’s lack of progress in dealing effectively with the informal trading issue.

This report thus attempts to provide a number of recommendations to the various stakeholders involved in, and affected by, informal trading in the inner city:

- The JMPD should immediately halt its practice of confiscating street traders’ goods and fining them, as well as issuing summonses, until the regulatory framework for

informal trading has been agreed upon by trader organisations and other stakeholder organisations. An independent investigation into the situation at the JMPD pound is needed;

- The current street trading by-laws as well as the proposed informal trading by-laws are problematic in that they maintain the status quo and in fact roll back space for trading and prevent this important form of economic activity for the poor. In line with the spirit of the Businesses Act, there should be a proper process of evaluation when any area is earmarked for restriction or prohibition of trading, with the first premise being that trading should be allowed. If CIDs are involved, there should be engagement over the provision of trading opportunities, which should be mandatory in any area where there is footfall and potential customers;

- In the current economic climate the state should be encouraging people to be productive until formal employment opportunities are created for them, and until the state has a viable industrial policy, and decent work for all is available, people should be allowed to earn a living any way they can and respected for their efforts, as opposed to being punished or exhorted;

- A multi-stakeholder forum needs to be formed at the highest level within the City and should draw in trader organisations, private sector actors, architects, urban planners, academics, organised labour and relevant national government representatives in order to deal with the burning issues at hand;

- The roles of MTC and CJP in the informal trading sector need to be re-evaluated, particularly the former in relation to its failure to roll out the two purported solutions to trader management and regulation in 2007 – the Smart Card system and linear markets;

- Trader organisations operating in the inner city, and throughout Johannesburg, need to put aside personal and political differences and unite behind a common agenda in order to engage with the City and other stakeholders over developments in the sector;

- The role of COSATU in the informal trading sector needs to be clarified;

- There needs to be a concerted effort to engage both foreign and local traders in order to prevent tensions blowing up into xenophobic violence, particularly as trading spaces become scarce and bribery becomes a means to secure site allocation in markets. However, the latter should not be allowed to happen in the first place and there should be a policy that no trader may be evicted unless provided with a viable alternative trading site, in line with the emerging policy and practice around evictions from inner city buildings and informal settlements in Johannesburg;

- Allocation of trading sites is susceptible to the same problems experienced in the allocation of subsidised housing, and a fundamental lesson seems to be to engage with those traders already trading in an area and ensure that no one is left out of any new (or refurbished) developments;

- The DED must meaningfully engage with and listen to traders, and any representative organisations that exist, over their proposed alternatives to trader management within the inner city, particularly innovative, non-burdensome and non-restrictive forms of self-management;

- A national-level colloquium should be held to address the challenges facing local government – particularly the metros of Johannesburg, Durban and Cape Town – around informal trading, and national guidance in line with anti-poverty strategy and development planning initiatives should be forthcoming.
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11. ANNEXURE A: THE BELLAGIO INTERNATIONAL DECLARATION OF STREET VENDORS 275

The Bellagio International Declaration of Street Vendors was established in 1995 by StreetNet International and provides an international standard regarding street trading.

Having regard to the fact:

- that in the fast growing urban sector there is a proliferation of poor hawkers and vendors including those who are children;
- that because of poverty, unemployment and forced migration and immigration, despite the useful service they render to society, they are looked upon as a hindrance to the planned development of cities both by the elite urbanites and the town planners alike;
- that hawkers and vendors are subjected to constant mental and physical torture by the local officials and are harassed in many other ways which at times leads to riotous situations, loss of property rights, or monetary loss;
- that there is hardly any publicity consistent with the needs of street vendors throughout the world.

We urge governments to form a National Policy for hawkers and vendors by making them a part of the broader structural policies aimed at improving their standards of living, by having regard to the following:

- give vendors legal status by issuing licenses, enacting laws and providing appropriate hawking zones in urban plans,
- provide legal access to the use of appropriate and available space in urban areas,
- protect and expand vendors’ existing livelihood,
- make street vendors a special component of the plans for urban development by treating them as an integral part of the urban distribution system,
- issue guidelines for supportive services at local levels,
- enforce regulations and promote self-governance,
- set up appropriate, participatory, non-formal mechanisms with representation by street vendors and hawkers, NGOs, local authorities, the police and others,
- provide street vendors with relief measures in situations of disasters and natural calamities.

275 “The Bellagio International Declaration of Street Vendors” [November 1995].