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Street Vendors and Legal Advocacy: Reflections
from Ghana, India, Peru, South Africa and Thailand

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WIEGO Resource Documents

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Introduction

Between 2007 and 2014, Women in Informal Employment: Globalizing and Organizing (WIEGO) carried out the Law Project, which aimed to contribute to the development of legal and regulatory environments that support and protect informal workers, especially women. The Law Project's work focused on domestic workers, homeworkers, street vendors and waste pickers in five countries: Ghana, India, Peru, South Africa and Thailand. The Law Project's objectives were as follows:

- To document and analyze laws, regulations and policies that impinge on the work, working conditions and livelihoods of workers representing the four occupational groups of focus;
- To identify useful laws, regulations and judgments (“good practice”), and key legal strategies and struggles of these informal workers that can be widely shared;
- To create a platform of demands and model clauses, laws and agreements that are useful for informal worker organizations in their engagement with authorities or employers;
- To help build the capacity of informal worker organizations, and especially women leaders, to understand and engage with legal issues, through advocacy, negotiation and implementation of favourable legal change;
- To contribute to conceptual change concerning notions of “work,” “worker” and “work organization.”

The overall aim of the Law Project was to transform research results into policy lessons, advocacy efforts and policy influence at the local, national and global levels. The project activities included research, consultations with street vendors, capacity-building workshops for street vendors, sensitization and awareness-raising campaigns, and stakeholder engagement.¹

As a result of these Project activities, this Resource Document aims to highlight the experiences of street vendors in their struggles for decent work within five distinct national regulatory regimes, with the aim of identifying lessons for strategic advocacy to improve their working conditions. While it draws primarily on research and project reports from the five countries under the Law Project, it also draws lessons from research and activities subsequently undertaken by the Law Programme, particularly in Ghana and South Africa from 2016 to date. The lessons learned will be useful for workers, lawyers, researchers and activists working in this sector in other countries.

The remainder of this document is structured as follows. The next section provides a brief overview of the legal frameworks governing street vendors in each country. This is followed by an analysis of the shortcomings of laws that regulate street trading and the ways in which they contribute to workers' challenges. The next section also considers workers' strategies to address the challenges they face and canvasses the role of lawyers in supporting them before turning to a broader discussion of the different approaches to lawyering.

¹ Following the completion of the Law Project, WIEGO established a fully-fledged Law Programme alongside its Organization and Representation, Urban Policies, Statistics and Social Protection Programmes.

Laws and policies regulating street vending

Each of the five countries has national legislation that establishes the broad framework for regulating street vending. Cities also pass local legislation (in the form of by-laws, regulations or ordinances) to regulate street vending. In India and South Africa, state and provincial legislation and policies provide an intermediate layer of regulation between national and local regulation. In addition, national, provincial/state and municipal/local authorities in most of the countries have adopted policies to guide the regulation of street vending. Although these are not legally binding, they express governments' commitment to supporting street vendors and provide a backdrop against which to analyze the laws regulating street vending.

In Ghana, the Ministry of Local Government and Rural Development adopted the National Urban Policy Framework (2012), which outlines the Ministry's urban policy priorities. Under its objective to promote urban economic development, the Ministry commits to, *inter alia*, changing the official attitude towards informal enterprises from neglect to recognition and policy support. It further undertakes to ensure that urban planning addresses the needs of the informal sector and provides them serviced sites with facilities such as water, toilets and storage at competitive locations.

The overarching law regulating street vending in Ghana is the Local Government Act 462 of 1993, which authorizes local assemblies (local authorities) to pass by-laws to fulfill their mandate in terms of the Act. This includes by-laws permitting or prohibiting certain activities within their jurisdiction. The Accra Metropolitan Assembly (AMA) Public Markets By-law and the AMA Control of Hawkers By-law of 2017 regulate street vending. The by-laws prohibit street vending in undesignated public spaces and authorize AMA to publish a notification that street vending is permitted in specific streets. Several other 2017 by-laws regulate various aspects of street vending: these include the Business Operating Permit By-laws, the Temporary Structures By-laws, the Push Trucks By-laws and the Noise By-Laws.

India's Constitution guarantees the right to practice any profession, or to carry on any occupation, trade or business, subject to any law that imposes reasonable restrictions on the exercise of the right in the public interest. Various national statutes regulate street vending, including the Penal Code and the Police Act. These statutes criminalize street vendors who ostensibly cause obstructions in streets and public spaces. Street vending is also subject to state and municipal regulation.

In 2004, India adopted the National Policy for Urban Street Vendors, which established key goals and principles for the sector. Clauses 1 and 2 of the Policy recognize street vending for its contribution to society and urban poverty alleviation and aims to promote a supportive environment for street vendors. Ten years later, India's Parliament enacted the Street Vendors' (Protection of Livelihood and Regulation of Street Vending) Act of 2014, making India the first country in the world to pass national legislation to regulate street vending.² This legislation is the result of the struggles and campaigns of the National Association of Street Vendors' of India (NASVI). The Act provides for local-level stakeholder dialogue on street vending and authorizes local authorities to pass by-laws to regulate issues such as zoning, monthly maintenance charges, and the collection of fees and taxes associated with street vending. Box 1 below summarizes some of the key provisions in this Act.

² Article 19(I) of the Constitution of India.

Box 1: India's Street Vendors (Protection of Livelihoods and Regulation of Street Vending) Act No. 7 of 2014

The Street Vendors Act is the first national law that regulates street vending. The Act provides for the following:

- The right of certified vendors to carry on the business of vending without harassment by police and local authorities, provided they comply with the terms and conditions of their certificate of vending.
- The establishment of town vending committees comprising representatives of government, resident associations street vendors' associations; which shall be responsible for issues such as street vending plans, the allocation of space.
- Local authorities must follow quantitative norms when allocating space for trading.
- Local authorities must give street vendors at least 30 days' notice of relocation.
- Appeals against the decisions of Town Vending Committees and a grievance procedure for addressing disputes with local authorities.
- A local authority may only confiscate goods if it has issued a street vendor at least 30 days' notice of eviction or relocation and the period of notice must have lapsed. The authority must also provide the vendor with a receipt listing the goods that it confiscates.
- The appropriate government may organize training programmes to enable street vendors to exercise their rights in terms of the Act.

In Peru, the Constitution regulates street vending at the national level. It provides that any person has the right to work freely in compliance with the law. It also provides that the State should promote conditions for social and economic progress, especially through policies that promote productive employment and vocational training. Municipal and district ordinances regulate street vending in greater detail at the local level. These ordinances regulate the designation and allocation of trading spaces, licensing of vendors, the sale of certain goods, engagement with local authorities, and sanctions for non-compliance.

In South Africa, the Constitution enshrines the right of everyone to choose their trade, occupation or profession freely.³ It further gives local authorities the exclusive power to legislate on street trading and markets within their localities.⁴ In addition, the Businesses Act of 1991 authorizes local authorities to pass by-laws to govern the designation of spaces for informal trading, the registration of informal traders, and the rules governing informal trade.⁵ Each local authority has passed by-laws to regulate street vending.

In recent years, provincial and local authorities in South Africa have adopted informal trading policies. These policies outline the provincial and local authorities' strategic objectives for the regulation and development of the sector and outline the roles of the different stakeholders regarding the sector. The aim of these policies is to outline the government's objectives in relation to street vending and to outline the principles that should guide the development of informal trading by-laws. The Cape Town Informal Trading Policy, for example, aims to "improve conditions for informal trading, assisting it

³ Section 22 of the Constitution of the Republic of South Africa Act 108 of 1996.

⁴ Section 156 read with Part B of Schedule 4 and Part B of Schedule 5 of the Constitution of the Republic of South Africa Act 108 of 1996.

⁵ Section 6A of the Businesses Act No.71 of 1991.

to thrive by focusing on planning and development, policy issues, and institutional arrangements”.⁶ Similarly, the Policy for the Informal Economy in KwaZulu Natal Province aims to develop support mechanisms and create an enabling environment for informal traders.⁷

Thailand’s Constitution of 2017 guarantees the liberty to engage in an occupation,⁸ which arguably encompasses street vending. This right may only be restricted in terms of a legal provision whose purpose is, among others, to protect consumers, regulate the engagement of the occupation only to the extent necessary.

Street vending in Thailand is subject to national and city level legislation. The Act on Maintaining Public Cleanliness and Public Order B.E. 2535 (1992) and the Public Health Act B.E. 2535 (1992) regulate street vending at the national level. Thailand’s national legal and policy framework does not appear to recognize street vendors. At city level, street vending is subject to an ordinance and a directive that regulate several aspects of street vending in detail. The Regulation of Bangkok Metropolitan on Hawkers B.E. 2519 (1976) regulates the issuing, renewal and transfer of vendor licenses. The Rules of Trade in the Bangkok Area Waiver Act July 18 B.E. 2548 (2005) prohibit street vendors from operating on Mondays, when they must assist in cleaning the street.

Analysis of the local governance of street vending

The reality of challenges faced by street vendors face in relation to access to space, infrastructure and services, evictions and confiscations contradicts the language of rights espoused in the national constitutions and the developmental or promotional approach that underpins the national laws and local policies in Ghana, India, Peru and South Africa. Arguably, the disjuncture between the ideal and street vendors’ reality suggests that local authorities have not translated the constitutional rights and policy principles into binding laws and tangible practices at the local level.

This section, discusses the shortcomings of the local governance of street vending in the five countries. These relate to non-recognition of street vending and criminalization of the contravention of street vending laws. In addition, the laws are complex and inaccessible to street vendors, and local authorities often do not consult street vendors before making decisions affecting their livelihoods.

Non-recognition of street vending as a legitimate economic activity

Local by-laws, regulations and ordinances in Ghana, South Africa, Peru and Thailand do not expressly recognize the right to vend, but makes permission to vend subject to detailed regulations and restrictions on timing and place of trade, and the types of goods that street vendors can sell (Social Law Policy 2014). Some restrictions are so unreasonable that it is impossible to comply with them⁹ and non-compliance is a criminal offence that attracts a penalty of imprisonment. Another issue relates to the local authority’s powers to confiscate goods: local laws often give local authorities extensive pow-

⁶ Clause 5 of the City of Cape Town Informal Trading Policy, 2013 (Policy No. 12664).

⁷ Clause 1.6.3 of the Policy on the Informal Economy of KZN (undated).

⁸ Section 40 of Thailand’s Constitution of 2017.

⁹ For example, the requirement that vendors leave at least one metre for pedestrians to walk along footpaths ignores the fact that countless stretches of footpaths in Bangkok are less than two metres wide, making it virtually impossible for street vendors to comply with the law.

ers to confiscate goods for contraventions of the laws without allowing traders to oppose or defend allegations made against them (*Makwicana v Ethekwini Municipality*, 2015; Social Law Project, 2014).

Local laws frame street vending as a nuisance and a threat to cleanliness, orderliness, public health and traffic fluidity (Sankaran *et al.* undated). The tone of these local laws resonates with the political and public discourse that blame street vendors for the dirt, disease, crime and congestion in urban spaces (Social Law Project 2014b, Roever and Skinner 2016, Kusakabe undated). This discourse ignores the structural challenges that workers face largely as a result of local authorities' failure to allocate adequate space and provide the necessary infrastructure and services and the costs that street vendors incur to address these shortcomings (Alfers and Aban 2011).

Colonial-era policies were instrumental in establishing this strict regulatory approach in jurisdictions like South Africa, Ghana and India (Roever 2016). These policies were oriented towards strict planning and the promotion of orderliness in cities (Skinner 2008, Steel *et al.* 2014). In southern African colonies like South Africa, this regulatory approach was part of governments' broader strategy to suppress black people's economic activities to secure their "cheap" labour for white capitalists' concerns (Sibanda 1992, Mhone 1991, Mkandawire 1985). The government denigrated black people's economic activities as "inadequate", "backwards", "wasteful" and "inefficient" (Ndoro 1991). It further constrained their activities through a barrage of laws and regulations, including racist licensing laws and restrictions on freedom of movement and activity in urban areas (Siddiqui and Maya 1992, Ndoro 1991, Mkandawire 1985). The transition to majority rule in these countries did not automatically translate into the transformation of local governments' approach to regulating street vending. Local governments have either retained the colonial legislation or have adopted new legislation that maintains the regulatory approach.

Several other narratives explain the contemporary exclusion of street vendors from urban space and apply to many other countries. Cities seeking recognition as modern and 'world class cities' do not see vendors as part of the modern urban landscape (Roever 2014, Roever and Skinner 2016). National and local governments also exclude street vendors from urban spaces when preparing for mega events (Roever and Skinner 2016). Some research highlights the role of private development and management companies that are vested in the exclusion of street vendors from urban spaces.¹⁰

The non-recognition of street vendors' collective rights to access and use urban public space to earn a living creates regulatory loopholes that enable local government officials to use their power to extract concessions from street vendors (Roever 2016). Officials extract these concessions through 'informal governance practices', such as harassment (demands for bribes and protection fees), as well as evictions and confiscations (Roever 2016), which I described in section 2 above. These practices are informal because they do not adhere to written norms that regulate the ways in which local government authorities are empowered to address street vending (Roever 2016). Moreover, the non-recognition of street vendors underpins institutional biases that influence the prosecution of offences and stakeholder consultation on the implementation of policy.¹¹ These informal practices and institutional biases persist even in India, which has enacted a progressive national statute that seeks to support and protect street vendors (Jha 2018).

¹⁰ These firms are either participate in property development projects that displace street vendors, or construct and/or manage private markets that remove street vendors from more viable trading areas.

¹¹ See sections 4.2 and 4.4 below.

Criminalization of contraventions of street vending laws

The laws in Ghana, India and South Africa criminalize the contravention of local legislation that governs street vending. The laws in the three countries stipulate fines for such contraventions and the Ghana and South Africa by-laws further stipulate imprisonment. The by-laws in several South African municipalities, for example, stipulate fines ranging from ZAR 500 to 5,000 (US\$ 32 to \$320) and/or imprisonment for up to three to twelve months. These penalties are excessively punitive, considering that trading in prohibited spaces does not in itself amount to criminal activity. Workers in Ghana and South Africa demanded that the local authority reduce the fines and abolish custodial sentences.

Criminalization is compounded by procedural irregularities in the prosecution and sentencing of street vendors. For example, local authorities falsely accuse street vendors of offences to extract bribes in exchange for halting prosecution, often forcing street vendors to borrow money for bribes (Roever 2014). Street vendors also complain that the local authorities do not enforce the regulations fairly and equally (Roever 2014). Box 1 presents a case study of these irregularities in Ghana, which suggest an institutional bias against street vendors who are accused of crimes.

Box 2: The Prosecution of Street Vendors in Ghana

During the Law Project, researchers analyzed the judgments of Ghana's Traffic and Sanitation Court and information from stakeholders, which revealed the following irregularities:

- The court conducts the proceedings a few hours after arrest, which is often too early for the accused to seek legal advice and consider their options. This violates the accused's right to a fair trial.
- Prosecutors persuade vendors to change their pleas from innocent to guilty to secure a speedy trial.
- The authorities often arrest a group of street vendors that they find trading in the same area and charge them as a group, even though each vendor conducts their activities individually. This results in delays where one or more of the co-accused cannot appear in court.
- The AMA court amalgamates several offences to include contraventions of national legislation, including the Criminal Act (for assault) and the Motor Traffic Act (for obstruction of traffic), for which AMA has no jurisdiction. As a result, the penalties that the court imposes on street vendors are excessive.
- Female street vendors reported that local authority officials demand sexual favours in exchange for the return of their goods or protection from prosecution.

Sources: Ghana TUC 2013b, Ghana TUC 2012

Street vendors further complained that the criminal justice system is so biased against them that its officers do not effectively prosecute people who commit crimes against street vendors (Roever 2014). For instance, the police do not prosecute other enforcement officers when street vendors accuse them of stealing their stock or physically abusing them. In some cases, the authorities have allowed other people to abuse street vendors or have neglected to prosecute people who have perpetrated crimes against them. Consequently, many workers do not file criminal complaints to seek justice.

Complexity and inaccessibility of laws regulating street vending

The laws regulating street vending are often complex and difficult for street vendors to understand. In South Africa and Ghana, different by-laws govern different aspects of informal trading in each municipality. For example, the following 15 by-laws regulate different aspects of street vending in the Accra Metropolitan Assembly:

- i. Accra Metropolitan Assembly (Business Operating Permit) By-law, 2017;
- ii. Accra Metropolitan Assembly (Profession, Business and Trade Self-employed) By-law, 2017;
- iii. Accra Metropolitan Assembly (Cleaning) By-laws, 2017;
- iv. Accra Metropolitan Assembly (Temporary Structure) By-laws, 2017;
- v. Accra Metropolitan Assembly (Push Trucks) By-laws, 2017;
- vi. Accra Metropolitan Assembly (Porters) By-laws, 2017;
- vii. Accra Metropolitan Assembly (Control of Hawkers) By-laws, 2017;
- viii. Accra Metropolitan Assembly (Abatement of Noise) By-laws, 2017;
- ix. Accra Metropolitan Assembly (Public Markets) By-laws, 2017;
- x. Accra Metropolitan Assembly (Food Safety and Hygiene) By-laws, 2017;
- xi. Accra Metropolitan Assembly (Growing and Sale of Crops) By-laws, 2017;
- xii. Accra Metropolitan Assembly (Herbalists) By-laws, 2017;
- xiii. Accra Metropolitan Assembly (Sale of Intoxicating Liquor) By-laws, 2017;
- xiv. Accra Metropolitan Assembly (Billboards or signs and advertising) By-laws, 2017;
- xv. Accra Metropolitan Assembly (Notices and Obstruction) By-laws, 2017.

A street vendor operating within the Accra Municipal Assembly must find and read these by-laws to understand their applicability in relation to his/her place of work (street or market), the commodities he or she sells (e.g. food or herbs) and operational issues (use of a push truck or structure). In addition to the multiplicity of the applicable by-laws, the application and interpretation of these instruments poses challenges even for seasoned lawyers to understand. For example, it is unclear whether a street vendor or a market trader must obtain a permit in terms of either the Accra Metropolitan Assembly (AMA) (Business Operating Permit) By-law, 2017, or the AMA (Profession, Business and Trade Self-employed) By-law, or both. These ambiguities suggest that street vendors themselves confront several obstacles to accessing, knowing and understanding all the laws that regulate them.

Another challenge relates to the frequent changes in the laws and regulations governing street vending, as is the case in Bangkok, which has witnessed a constant turnover of Governors over time (Tangworamongkon 2014). Each Governor has adopted a different policy stance and has shifted between a “lenient” approach, which accommodates street vendors, and a “restrictive” approach, whereby the authority imposes many restrictions on street vendors and even revokes designated trading spaces (Tangworamongkon 2014). Street vendors struggle to follow and adapt to these constant changes.

A further challenge relates to the accessibility of the laws and regulations governing street vending. The local laws are written in legal terms, making them inaccessible to traders who are not formally educated (Social Law Project 2014). This is compounded by the fact that the laws and regulations are often not available in local languages, making them inaccessible to street vendors who do not speak the dominant official languages such as English. Another problem is accessing the laws, given

the absence of an obligation on local authorities to provide free copies of the laws to workers. Street vendors in Ghana have argued that the local authorities deliberately avoid furnishing them with copies of the by-laws to prevent them from knowing their rights: “Do you think I will give you a gun so that you can shoot me?” (Mercy Deejan 2018). While many municipalities publish their by-laws on the internet, these are not easily accessible to the many workers who do not have smartphones and/or cannot afford data.

Under the circumstances, it is unsurprising that street vendors have limited knowledge of the laws and regulations that regulate their work. This means that many street vendors do not fully understand their legal rights and are unaware of their legal obligations (Roever 2014). This compromises their ability to comply with the legislation, as one Peruvian street vendor observed: “They don’t orient us; we don’t know, and they don’t even tell us what we are doing wrong... They put it on us, that’s it... Without any notice they fine us” (Roever 2014: 32). Moreover, lack of awareness of the laws makes street vendors vulnerable to abuse and unable to claim and defend their rights.

Failure to consult street vendors

Street vendors in Ghana and Thailand complained that the authorities do not adequately consult them when developing laws and policies or making decisions about issues that affect their livelihoods (Tangworamongkon 2014, Ghana TUC 2013). In some cases, access to the local authorities is politicized, with some authorities favouring some traders’ associations over others, or consulting associations that do not truly represent street vendors (WIEGO undated (b)). The laws in Ghana and Thailand do not require local authorities to consult street vendors when making decisions. One could argue that the failure to consult workers in these jurisdictions is a result of the absence of a legal obligation on local authorities.

Consultation of street vendors is (at least to some extent) required in the other three jurisdictions. India’s Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act requires each local authority to establish a Town Vending Committee whose membership must comprise government officials, NGOs and at least forty per cent elected street vendors, of which a third must be women. In South Africa, several municipalities’ policies provide for consultation and some by-laws expressly require local authorities to consult with street vendors’ associations. For example, the Cape Town Municipality Informal Trading By-law requires the local authority to consult stakeholders when adopting trading plans (*Makwicana v Ethetkwini Municipality* 2015).¹² While these are positive developments, these laws need to be fully implemented to ensure that workers have the opportunity to voice their concerns before local authorities adopt laws and policies and make decisions that affect them. In India, for example, very few cities have established the town vending committees that must play an instrumental role in ensuring the implementation of the Act at the local level.

¹² Clauses 5 and 6 of the City of Cape Town Informal Trading By-law Published in Western Cape Provincial Gazette No. 6677 of 20 November 2009. A trading plan defines a trading area and demarcates bays and outlines the conditions under which the workers may trade.

Street vendors and their struggle: lessons learned

The foregoing discussion shows that local authorities' legislation and practices have contributed towards street vendors' challenges (Roever 2016, Skinner 2008). Local authorities have either failed to align their local laws and practices with constitutional rights and national policy that support and protect street vendors, or have failed to implement their local regulations that support and protect street vendors. A key advocacy goal for street vendors should therefore be to hold their local authority accountable: local government regulations and practices must reflect constitutional provisions and the national policy agenda.

This section discusses the strategies that street vendors have used to secure their legal recognition and to secure better working conditions. The strategies that are available to street vendors are i) invoking national laws to challenge local authorities' actions and decisions; ii) participating in law reform processes; iii) campaigns to promote awareness about their circumstances and challenges. I discuss these strategies in a way that highlights the relationship between law and political struggle.

Noting the important role that lawyers play in supporting street vendors, I also explore different approaches to lawyering and their implications for the relationship between lawyers and the communities they serve. Although we draw on our experience in working with street vendors, we rely on the literature on public interest lawyering, which applies broadly to disadvantaged groups or communities.

Strategies to secure legal recognition for street vendors and protect their rights

The first strategy available to street vendors is to invoke national laws to challenge local authorities' actions and decisions. While litigation in courts is the most obvious recourse, vendors can also file internal appeals against decision-makers or file complaints with ombudspersons or human rights commissions in their countries.

Although the Law Project did not directly support workers' efforts to challenge the actions and decisions of local authorities, street vendors in a few project countries litigated to protect their livelihoods during this period. In South Africa, a street vendor in Durban (John Makwicana) successfully challenged the local authorities' confiscation of his goods on the grounds that he did not have a permit to trade.¹³ The court struck down the provisions of the by-law that authorized the confiscation of his goods without allowing him an opportunity to challenge the unlawful confiscation in court. The Court held that the by-law violated street vendors' constitutional rights to property; freedom of trade, occupation and profession; and access to courts. The Court ordered the local authority to draft a new by-law that respected street vendors' rights.

¹³ In fact, the trader had a permit, but neither he nor his assistant were at his trading space to present it to the enforcement officials.

Second, street vendors can participate in law reform processes to demand the adoption of protective laws for the sector. In India, street vendors' membership-based organizations (MBOs) were closely involved in the drafting of the National Street Vending Policy in 2004, and the revised National Street Vending Policy in 2009. The Policies were adopted following a long and concerted campaign led by the National Alliance of Street Vendors of India (NASVI), which was established in 2008.

NASVI conducted research on street vending in India, and used its findings as a platform to demand the adoption of a national policy on street vending (Sinha and Roever 2011). The Government of India included NASVI and the Self-Employed Women's Association (SEWA) in the National Task Force on Street Vending, which it established in 2001. The participation of these activists and representatives of the street vendors' movement contributed to the content and the approach of the policy (Sinha and Roever 2011).

NASVI and its allies subsequently shifted their focus to campaign for a national law on street vending. The activists and workers submitted thousands of petitions to the government, lobbying key government officials, organized protests in cities throughout the country, and even embarked on a hunger strike (NASVI undated). These efforts culminated in the enactment of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act in 2014.

Third, street vendors can engage in campaigns to promote awareness about street vendors' circumstances and the challenges that they face through the media, demonstrations, and engagement with government and the communities. In doing so, they can address societal attitudes and political and institutional biases against street vending and secure the public's sympathy and support. As was the case in India, campaigning is often part of a larger law reform strategy.

During the Law Project, street vendors in all five countries conducted public awareness-raising campaigns to counter negative perceptions about street vending. In Ghana, for example, the street vendors' Law Project campaign message was "Street vending is not a crime" and they demanded recognition as workers. Street vendors also engage in targeted initiatives to sensitize and influence specific decision-makers. For example, the Law Project team in Ghana held a workshop for street vendors to engage with the magistrates of the Accra Traffic and Sanitation Court. Street vendors highlighted the procedural and other challenges that they face when they are prosecuted in the Court and magistrates responded to street vendors' concerns.

The above points to the multi-faceted and mutually reinforcing relationship between law and political struggle. Political struggle contributes towards the enactment of laws and the passing of judgments that recognize and respect the rights of street vendors. Writing about human rights litigation, Marcus and Budlender remark that "one can never overestimate the value of having real plaintiffs being visible at court proceedings — especially where the plaintiffs' circumstances [are] sympathetic" (see Marcus and Budlender 2008: 57). Street vendors' campaigns may have contributed to a positive outcome for street vendors in Thailand, who engaged in campaigns and advocacy on the sidelines of a court case in which residents sought to evict them from a temporary vending market (Tangworamon-gkon 2014: 32-33). The Court held that the local authority could not evict the street vendors without relocating them to an alternative site.¹⁴

¹⁴ Because the local authority could not provide the vendors with an alternative trading site, the decision effectively allowed them to stay on the site indefinitely.

Political struggle is also important after securing legal victories because governments may lack the political will and/or resources to implement and enforce administrative or judicial decisions and laws that require them to respect human rights. This means that even after securing a victory, MBOs must pressure the government to implement court decisions and laws (see Marcus and Budlender 2008: 88-89). They can achieve this by popularizing laws among their members so they can demand tangible implementation (see Marcus and Budlender 2008: 98-99; 119; 139).

The role of lawyers and approaches to “lawyering”

Lawyers can provide street vendors with various forms of support, from advising and representing street vendors in legal proceedings to following up on the implementation of court decisions. They can also undertake research, facilitate capacity-building, and support worker organizations in negotiations with local authorities, or comment on draft legislation. WIEGO’s Law Programme does not have the capacity to provide direct legal services in different countries. The Law Programme therefore aims to foster partnerships between informal workers’ organizations and local public interest law centres and/or with private lawyers who provide free legal services to communities in need.

While there are many approaches to lawyering in low-income or disadvantaged communities, the discussion will focus on the conventional or “regnant” approach, and the “rebellious” approach. Conventional lawyering is often described as regnant lawyering, which suggests that the lawyer assumes the dominant role in the relationship with the community (see Alfieri 2016). The lawyer is the “expert”, who drives the strategy by determining the course of action to be taken and the approach to be adopted with minimal input from and active participation of the clients (Marcus and Budlender 2008: 125). Under this approach, the clients are poor, passive and helpless, and “give” their problem to the lawyer — the hero — who knows how to “solve” the clients’ problem (see Alfieri 2016).

This approach to lawyering is elitist and paternalistic (Alfieri 2016) and does not encourage seemingly progressive and well-intentioned lawyers to understand the lives and circumstances of the communities they serve (Alfieri 2016). The failure to connect and collaborate with communities is highly problematic as it denies the communities the opportunity to exercise their autonomy and to participate in their self-determination (Alfieri 2016). John Makwicana challenged the paternalism underlying regnant lawyering when he questioned why his lawyer would represent him in a meeting to which he had not invited John: “I asked him: ‘Have you ever been a street vendor? What do you know about street vending?... So how are you going to represent me in this meeting?’” (Makwicana 2016).

Rebellious lawyering¹⁵ “embodies a vision of legal practice that diverges from a narrowly formalist, neutral concept of client-centred lawyering to embrace broader community and social movement-building” (Alfieri 2016: 13). It is inspired by “egalitarian client norms of democratic participation and full citizenship” and aims to address the needs of both individuals and groups in disadvantaged communities (Alfieri 2016:13). The key principles underlying this approach include the following: “(i) collaboration with individual, group, and community clients; (ii) inclusion of diverse client perspectives in framing and resolving problems; (iii) encouragement of client-generated alternative approaches to community intervention and problem solving” (Alfieri 2016: 15).

¹⁵ Two other similar schools of lawyering are poverty lawyering and legal empowerment of the poor.

There are several advantages to adopting this approach. One advantage is that collaborating with the community enables the lawyers to obtain the information that is required to launch a successful intervention (Marcus and Budlender 2008: 98-99). It also generates the support of ordinary citizens, which can influence decision-makers and key stakeholders (Marcus and Budlender 2008: 98-99). Moreover, engaging the community throughout the process ensures that they understand the outcome, own the outcome, and can demand the transformation of their victories into reality (Marcus and Budlender 2008: 98-99).

WIEGO's Law Programme work is inspired by this bottom-up legal empowerment approach. The Programme is working towards fostering collaborative partnerships between informal workers and local lawyers who commit to supporting them. One of the ways in which the Programme has sought to do this is by facilitating interactions that allow lawyers to understand and reflect on the realities that informal workers face. The most powerful means of doing this is an exposure dialogue programme (EDP), which allows practitioners to have first-hand experience of the daily lives and challenges of informal workers.¹⁶ In April 2019, the Law Programme organized an EDP in Dakar, Senegal, where ten Senegalese lawyers spent two nights and two days living and working alongside street vendors and other informal workers.

The EDP was a catalyst in shifting lawyers' perceptions about the realities that informal workers experience, their socio-economic contribution, and their organizational capacity. For workers, it validated the centrality of their daily realities and lived experiences to any strategy to support them: "[The lawyers] lived like I live. They accepted me. We discussed the whole night about my job, my life, my perspective. If you want to help a human being, you must know who he is." (Thiam 2019)

The Law Programme is building these principles of democratic participation and collaboration into its capacity-building activities with street vendors and other workers. The Programme's Administrative Justice Project seeks to build street vendors' and waste pickers' capacity to use administrative justice principles¹⁷ to challenge the actions of local authorities that make decisions that affect their livelihoods. Over the past few years, we have learnt that the following principles and techniques — most of which are in the traditions of adult education and popular education — are instructive:

- Consult with workers and assess their needs to ensure that the content and timing of training activities complements their strategic priorities and needs.
- Begin by asking participants about their experience and knowledge about an issue and use their knowledge and experiences as a foundation for building new knowledge.
- Ground the training in workers' realities (e.g. link or apply legal principles to familiar scenarios) as opposed to adopting an abstract and theoretical approach.
- Include participatory activities such as group activities that involve joint reading and problem-solving to enable workers to take a more active role in their learning and to foster peer learning among the workers.

¹⁶ After the exposure, both guests and hosts reflect on the experience. Guests then engage in a structured dialogue on a relevant topic such as informality and labour markets or informality and law. They are then asked to write their personal reflections and technical notes.

¹⁷ Essentially, these principles govern the process (as opposed to the substance) of decision-making: government officials must make decisions and take actions in a manner that is lawful (within the scope of the law), reasonable, and procedurally fair.

- Recognize that learning is not a unilinear (top-down process): workshop participants have important insights and experiences from which fellow participants and even facilitators can learn.
- Use workshops as an opportunity to test and obtain feedback on draft worker resources (e.g. a booklet or pamphlet) that workers can subsequently use as a point of reference about law.
- Incorporate activities that enable workers to share the strategies that they have successfully used to foster peer learning.
- Incorporate activities that allow workers to reflect on how they can use law to build their organizations, to mobilize and promote worker solidarity.

Conclusion

Despite making significant socio-economic contributions in the localities and countries in which they work, street vendors are among the most vulnerable and insecure informal workers all over the world. This Research Document has analyzed local authorities' regulation of the public spaces on which they work. It has highlighted several shortcomings in the local governance of street vending in the five countries. The principal challenge is that local by-laws and ordinances have historically failed to recognize street vending as a legitimate economic activity. It has demonstrated that local-level laws and practices are often inconsistent with national constitutional rights and national and local policy commitments to protect street vendors.

Lawyers can play an important role in street vendors' struggle to ensure the alignment of local government legislation and practices with the constitutional and policy provisions that support street vending. Lawyers have traditionally followed a top-down approach in which the lawyer makes key decisions about the action to take and the approach to follow, with limited input from the disadvantaged communities that they serve. Arguably, lawyers consciously and unconsciously learn this approach to lawyering during their formal legal education and practical training.

This study argues for a rebellious, worker-centred approach to lawyering, which embraces the reality that law cannot be separated from struggle. In terms of this approach, disadvantaged communities should actively participate in the creation and implementation of strategies to realize their objectives, and lawyers should treat their "clients" as partners with whom they can collaborate. Although rebellious lawyering has several advantages over regnant lawyering, few public interest lawyers have been exposed to this approach. The challenge for organizations such as WIEGO that aim to support street vendors and other disadvantaged communities is to expose more lawyers to the pedagogy and practice of rebellious lawyering through legal education curricula, clinical legal training and other forms of professional exposure.

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



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