

# **MANAGING THE URBAN COMMONS: WHAT SPACE FOR INFORMAL LIVELIHOODS? WHAT ROLE FOR ORGANIZATIONS OF INFORMAL WORKERS?**

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## **INTRODUCTION**

Elinor Ostrom began her illustrious career – her “intellectual journey” (Ostrom 2010: 1) - interrogating the management of urban public services in the US: specifically, water and policing services. But she became best known, and earned a Nobel Prize in Economics, for her research, both meta-analysis of existing research and field studies, of the collective management of common-pool natural resources, such as fisheries, forests and pastures, in mainly the developing world.

Now that more than half of the world’s population lives in urban areas, and that many cities around the world are engaged in massive urban renewal schemes which reallocate the use - and users - of public space and other public resources, it is important to revisit the management of urban commons, applying the theoretical and applied lenses that Elinor Ostrom and her colleagues developed through their pioneering work on common-pool natural resources.

In this paper, I examine the management of two quite different types of “urban commons” - public space and waste - drawing theoretically on the writings of Elinor Ostrom and other social scientists and empirically on my practical experience with organizations of street vendors and waste pickers. On a daily basis, in cities around the world, street vendors and waste pickers face being evicted from or denied access to the public resources that are critical to their livelihoods: public space from which to vend in the case of street vendors; waste (garbage or trash) to collect, sort and recycle in the case of waste pickers. This raises a key core question regarding how best to manage the urban commons: best for whom and for what uses?

Around the world, organizations of street vendors and waste pickers collectively bargain with local government to secure access to the public resources that they need to pursue their livelihoods and, in some contexts, collectively manage whatever public resources they are able to gain access to. In this paper, I provide examples of collective management of open-access resources by collectives of informal workers, following their own informal rules and with support from civil society, which have had positive outcomes not only for themselves but also for the local economy and environment.

In applying lessons and principles from the collective management of rural natural resources to the management of urban commons, it is important to keep in mind some distinctive features of the urban context. Arguably, in urban areas compared to rural areas, there are fewer common-pool resources to be collectively managed; the competition for scarce resources is more intense; and the threat of privatization of - or eviction from - open-source or public land is also more intense. This is because, in urban areas, local government should regulate the use of public

space but, instead, often colludes with private elite interests in limiting access. Further, in urban areas compared to rural areas in most countries, the poor are less likely to own some land or even the house they live in; and often have to make do on whatever land they are able to occupy for their shelter and their livelihoods. This is not to deny that as cities expand geographically they compete for rural land and resources; that the competition for rural land and resources from private companies has also intensified; and that in many countries poverty rates are higher in rural than in urban areas. But it is fair to say that defining, understanding, and managing “the commons” have to be approached somewhat differently in urban areas than in rural areas.

## **I. DEFINING THE URBAN COMMONS: COMMON-POOL, OPEN-ACCESS OR PUBLIC RESOURCE?**

### **Defining the Urban Commons**

What are “the commons”? Ostrom and Hess identify three types of communal rights that by inference can extend to the urban commons: *common property regimes* where members of a clearly defined group have access to a resource with a legal right to exclude non-members; *open access regimes* that allow anyone free and equal access to a resource, but without rules to govern access there is no incentive to protect the resource which leads to over-consumption, as famously described in Hardin’s ‘tragedy of the commons’ (Hardin, 1968); and *common pool regimes* that function as a hybrid, where there is common ownership but it is too costly or impractical to exclude people through physical or regulatory boundaries. Use by one person thus detracts from use by others (and is therefore rivalrous), and the resource is liable to over-use and congestion unless limits are devised (Ostrom and Hess 2010: 56-59).

In urban areas, public space, such as streets, sidewalks, and parks, are widely seen as “the most obvious analog to the commons metaphor” (Foster 2009: 267). Although public spaces are owned by local government they are effectively open-access and are, therefore, much closer to a “pure commons” than common-pool resources (Garnett 2012: 2007). This is because national constitutions, court rulings or local politics put limits on the extent to which cities can control these spaces and exclude individuals or groups from using them. However, the inherent vagueness of many of the legal limitations put on state control over public space, often gives too much power to local authorities, including the police, and too little to citizens (Ibid.).

In addition to public space, what are the other public resources to which all urban residents might or should have use rights? Watersheds and ground water systems are widely seen and treated as common goods. Public transport is also sometimes seen as a public common good. But while individuals should not have to compete for or be excluded from public transport, there is usually a cost which brings with it the possibility of exclusion as not all individuals can afford the cost. Also, it should be highlighted that public transport systems are often not designed to serve poor communities living in informal settlements.<sup>1</sup>

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<sup>1</sup> An urban expert in Bangkok refers to the BTS Skytrain and subway systems as “class-transit”, not “mass-transit”, as the poor cannot afford to ride on them. In fact, the poor cannot afford other more-informal modes of transport in Bangkok: the two-wheel and three-wheel motorized taxis. The poor tend to walk and take public buses or, if they can save enough money, buy their own motorcycle or car. (Apiwat Ratanawaraha, personal communication January 2014).

Another public resource, which I will discuss in this paper, is waste. Waste is different from other public resources in several regards. First, it is not strictly owned by anyone once an individual, household or institution disposes of it. Second, it is a moveable resource of a non-fixed quantity. Third, the problem – or “tragedy” if you will – associated with waste for the public and for local government is that individuals and institutions generally add to, rather than subtract from, this resource. Also all members of the public who want to reduce waste on the streets do not play an equal role in reducing, recycling or disposing of the waste they generate. In other words, in regard to waste, free loaders might be defined as those individuals who do not try to limit the waste they produce, do not sort and recycle their waste, and/or dispose of dangerous materials in recycling bins, public dumpsters or on the streets.

Finally, while the general public and the city want to get rid of waste, some individuals and institutions compete for the waste: waste pickers who live off collecting, sorting and recycling waste; municipal street cleaners who want to top up their low salaries by recycling waste; private companies that compete for garbage collection contracts; and private companies that compete for and process recyclable waste.

### **Defining the Urban Public Good**

Public goods are widely defined as being non-rivalrous and non-excludable. But there is stiff competition for public space: in other words, it is highly rivalrous. So public space is not a pure public good so defined. In terms of physical public goods, street lights are often cited as pure public goods: as no individual can be excluded from using a street light (non-excludable) and no one individual’s use of the street light affects the use of it by others (non-rivalrous). But, it should be noted, many informal settlements in cities around the world lack street lights. So how “public” a good are street lights?

In this article, I define the urban public good not in terms of physical resources but in more abstract terms: as being able to live in an inclusive, sustainable and peaceful city. For the purposes of this paper, I use the term “inclusive” to refer to policies, regulations and practices of local government and city authorities that recognize and value those who live in informal settlements and earn their living in the informal economy and include them in their housing, land allocation and local economic development plans as well as in public procurement contracts. By “sustainable”, I refer specifically to the reduction in carbon emissions when waste is collected, recycled and disposed of in sustainable ways. And, by “peaceful”, I refer to the peace dividends associated with a reduction in inequality, injustice and unemployment in cities. This definition of the urban public good conforms closely with Sustainable Development Goal # 11: “Make cities and human settlements inclusive, safe, resilient and sustainable.”

### **Defining the Tragedy of the Urban Commons**

What is “the tragedy of the commons”? As defined by Garrett Hardin in his 1968 article of this title, the tragedy is that resources held in common are doomed to over-use or over-exploitation. But over-use of urban public space is different than over-use of rural natural resources: as it is the quality, not the quantity, of the public space that tends to be depleted by over-use, unless the public space is appropriated for exclusive use by the state or by other actors. In other words, the physical quantum of public space is not depleted unless it is privatized by the state; but the quality of public space may be diminished by over-crowding and competing uses, unless

appropriately regulated. In urban areas, the urban poor and the urban elite live and operate in close proximity, competing for the same public space. The challenge for local government is to regulate the competing uses: for example, the use of sidewalks by drivers to park their motorcycles or vehicles, by street vendors to sell goods and the general public to walk or commute on foot.

In regard to waste, an increase in the quantity of waste generated is considered a “public bad” by the public (who do not want it on their streets) and by the state (which has to dispose of it). But for those who collect, sort, recycle, transport or dispose of waste, they see waste as an open-access resource, unless privatized by the state. Whether waste management leads to a more sustainable urban environment, a public good, depends on how waste is collected, transported and disposed of and whether, along the way, it is sorted for recyclable materials. Unsorted waste which is simply hauled to a dump, landfill or incinerator generates a lot of carbon emissions, whereas sorting waste to reclaim recyclables which can be processed and sold as raw materials or packing materials reduces carbon emissions.

Finally, it is important to think of the “tragedy of the urban commons” not just in terms of over-use but also in terms of competing uses and users. Different uses and users of public resources – in this case, public space and waste - will have different outcomes in terms of the urban public good defined, as here, as an inclusive, sustainable and peaceful city.

## II. MANAGEMENT OF URBAN COMMONS: THE POLICY DILEMMA

Historically, there have been two broad approaches to managing the commons: *governance* – or centralized control – by the state; and *exclusion* – through privatization – by private property owners. Dating back to at least Garrett Hardin’s 1968 article, centralized government control of the commons was seen as necessary to restore order to the urban commons by banning or allowing different activities and different “public-space appropriators” (Garnett 2012: 2008). Other observers have long argued that privatization is a more effective means of managing the commons: as those who are given property rights would then exclude other users (Smith 2002).

As the other chapters in this volume attest, the classic dichotomy of regulate or privatize the commons has been effectively challenged by Elinor Ostrom, her husband and their colleagues. They have shown that common-pool resources can be cooperatively managed by local groups operating on trust and agreed-upon principles or norms.

In regard to the management of the urban commons, two broad models have been tested and studied: community management of public spaces in residential neighborhoods; and joint management of public spaces and joint investment in commercial activities by local investors/businesses in business improvement districts (Foster 2011). Both of these models might be considered as *quasi-privatization* as they are premised on collective action by the property owners in the areas with support from government in terms of regulation and/or investment. Another model is *multi-stakeholder associations*, including government, private sector and local residents, to manage public natural resources, such as urban watersheds and groundwater basins.

It is important to highlight the role of police in managing the commons. Police are seen as essential to maintaining law and order and reducing crime: but the response by police varies from repressive or coercive policing to community policing whereby police officers try to build better relationships with the citizens they are supposed to protect. However, there are few, if any, police forces which take a “community” approach to policing informal activities. This is because the informal workforce and their activities are not seen as legitimate – to be protected – by local authorities. Indeed, in most cities around the world, informal workers and their activities are penalized, if not criminalized. In India, police are authorized under the criminal code to subject street vendors without licenses to summary arrests, fines, confiscation of goods and evictions; and cities in India tend to issue licenses infrequently and to a small percentage of street vendors in their cities. In South Africa the legal framework governing street trading applies criminal rather than administrative sanctions, with urban bylaws frequently declaring the most viable trading areas restricted or prohibited trade zones.<sup>2</sup> This provides the context for widespread police harassment of street vendors. (Skinner, 2016; Dube, Mkhize and Skinner, 2013)

In many cities around the world, the current management of public space and other public resources is an uneven, unpredictable and unjust mix of state regulation, state deregulation and privatization which tends to disadvantage the urban poor who live in informal settlements and earn their living in the informal economy. Consider streets which are managed in the interests of the transport sector, those who drive private cars and formal commercial enterprises which abut the streets. Parking bays and parking lots occupy a large share of public space in central business districts, which could be turned over to informal workers to use, at least at night for storage. Consider public transport systems which are designed to replace cars, and therefore tend to follow the routes of those who drive cars rather than the routes of the informal workforce. Consider public space and vendors. Local governments often turn a blind eye to the informal workforce and their livelihoods and to the myriad injustices they face only to suddenly clamp down on their informal activities, trying to sweep them away.

Consider waste, waste management and waste pickers. As noted earlier, waste is a public resource of a special kind: it is not a fixed, physical space (like streets, sidewalks or parks) but a moveable, material resource; urban dwellers tend to replenish, rather than deplete, this resource; waste is seen as a “public bad” and cities are pressured to clean the streets of this resource as quickly as possible; and, to deal with the challenge of waste management, city governments often privatize waste collection, transport and disposal services. But as stated earlier, there are those who compete for access to this resource: informal waste pickers who earn their living from collecting, sorting and recycling waste; municipal street cleaners who seek to top up their low salaries by recycling waste; private companies which receive contracts from the city to collect, transport and dispose of waste; and private companies which recycle and process waste for use as raw materials or packing materials. There is big money to be made in the collection, transport and disposal of waste and in the processing of reclaimed recyclables. But local governments often completely overlook and bypass the informal waste pickers who have been recycling waste in their cities and privilege private garbage collection companies which do not reclaim recyclables when they issue bids and contracts for solid waste management.

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<sup>2</sup> Currently, in South Africa, the primary legal framework is the 1991 Businesses Act but it is in the process of being replaced.

In other words, state governance of the urban commons has uneven consequences for different populations: and some users have more influence over the state's governance machinery than others. Stiglitz uses the term "cognitive capture" to suggest that government officials are in the same class and social circles as business so that their ideology, if you will, is the same (Stiglitz 2012). In a paper on "the disconnect between the economic lives of policy makers and those for whom they make policy" Kanbur raises the thorny question of street vending and urban space as well as waste pickers and solid waste management and how these classes of economic activities are penalized or even criminalized by local governments.

"Loitering and vagrancy laws are often used by the police, at the behest of local residents, to clear away street vendors from public spaces. Street vendors are seen as dirtying clean spaces and obstructing living spaces in various urban neighborhoods. But street vending is the major form of livelihood for many in the informal economy. Thus we see the almost daily drama of groups of informal traders being moved on from one place, only to congregate in another and perhaps eventually cycling back to the same place when the attention of the police is elsewhere. In the process an entire class of economic activity is criminalized.

The daily drama is turned into a mega crisis when nations and cities host major international events, like the Commonwealth Games in Delhi, the World Cup in South Africa, or the World Cup and the Olympics in Brazil. "Beautification" programs in preparation for an event that lasts a few weeks lead to the displacement of thousands of informal sector workers from their normal place of trading and work. A different but conceptually similar crisis occurs when the work of garbage pickers is displaced by formalized mechanisms with contracts given to big companies. The policy mindset is such as to always view this move favorably, as being towards modernity and formality" (Kanbur 2014: 9-10).

The key core question of how best to manage the urban commons should be to ask: best for whom and for what uses? Urban public space is a precious resource with competing uses and users, including local government, real estate developers, transport companies, the public at large, private property owners whose property abuts the urban space, and informal workers and informal settlement dwellers (who often do not own private property). And the competition for urban public resources is only intensifying with urbanization and globalization. Who should be allowed access to public space for what purposes? What about the natural open-air markets which street vendors have developed over years, sometimes generations, on public space? Should street vendors be allowed to manage their own natural markets? Or should private real estate developers be allowed to build malls where natural markets now operate? What about informal waste pickers? Should access to waste and waste management be privatized to private companies which do not reclaim and recycle waste? In other words, what mix of uses and users would lead to the most inclusive, sustainable and peaceful city: to the urban public good as defined in this paper and in the Sustainable Development Goal # 11?

### **III. COLLECTIVE MANAGEMENT OF URBAN COMMONS: STREET VENDORS & WASTE PICKERS**

In this section, I present examples of collective management of public space by street vendors and of waste (its collection, recycling and disposal) by waste pickers. These examples are quite distinct from the cooperative management of urban common resources in residential neighborhoods or business improvement districts cited earlier, as they involve economic actors who do not own private property but provide public services, selling goods and services at affordable prices in convenient public spaces (unless excluded from these spaces by local government) and collecting and recycling waste (unless denied access to waste or excluded from solid waste management bids by local government).

### **Street Vendors**

Street vendors sell goods and provide services at affordable prices in public spaces in cities around the world. They sell fresh fruits and vegetables, prepared food, garments and crafts, flower garlands, locks and keys, electronics, building materials, auto parts and more. They repair bicycles, carts and cars; cut hair and polish nails; write documents and paint signs; and more. In carrying out their activities, street vendors create jobs for porters, transport operators, and guards and generate demand for goods produced and sold (to them) by both formal and informal suppliers. And they generate revenue for local governments in the form of operating or licensing fees and taxes on goods or services they purchase and sell (Roever 2014). Available official statistics show that street vendors comprise between 10 to 20 per cent of total employment in 8 African cities; 4 to 6 per cent of total employment in 5 cities in India; 6 per cent each in Hanoi and Ho Chi Minh City, Vietnam; 3 per cent in Mexico City; and 9 per cent in Lima, Peru.<sup>3</sup>

Yet street vendors represent the iconic case of exclusion from public space by local government in most cities around the world. There is at least one forced eviction of street vendors every day around the world (WIEGO GMS). Further, even if they are issued a license or permit to sell in public space, street vendors are subjected on a daily basis to harassment by local authorities, including: summary warrants, fines, bribes, confiscation of goods, and evictions. And, if they do not have a license or permit, they are treated as criminals. Yet most cities issue licenses very infrequently and to only a fraction of the street vendors in their city (Roever 2014).

In Ahmedabad and other cities across India, the police can justify arresting, evicting, or otherwise penalizing street vendors on the basis of several national laws:

- *Indian Penal Code, 1860* that prohibits any act that creates a danger within a public right of way (s.283)
- *Criminal Procedure Code, 1973* that allows a police officer to arrest anyone about to commit any cognizable offence without orders from a Magistrate and without a warrant
- *Motor Vehicle Act, 1988* that seeks to ensure the free flow of traffic.

Further, local governments can justify similar actions based on municipal government and urban planning laws. In Gujarat State, where Ahmedabad is located, these include:

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<sup>3</sup> The data are published in the city page of the statistics component of the *WIEGO Informal Economy Dashboard: [www.wiego.org](http://www.wiego.org)*. They are based on Herrera et al. 2012 for 8 cities in Africa and 2 in Vietnam; and special tabulations prepared for WIEGO by Rodrigo Negrete for Mexico City, Lissete Aliaga for Lima and Govindan Raveendran for India.

- *Bombay Provincial Municipal Corporation Act, 1949* that still applies to Gujarat as it was enacted while Gujarat was part of the old Province of Bombay, and sets out the duties, powers and responsibilities of municipalities. These include: improving streets and maintaining them free from obstruction (Ss. 209, 226, 229, 231 and 234); issuing licenses for selling in public places, markets and slaughterhouses (Ss. 384, 328, 377, 378, 379, and 383) and the avoidance of public nuisance.
- *Gujarat Town Planning and Urban Development Act, 1976* that deals with the designation of land for development. Under this Act, street vendors can be charged on a number of counts, most frequently for causing an obstruction or not having a license, although no new licenses have been issued for many years.

As Ahmedabad, a major city in Gujarat State, has undertaken major urban renewal and infrastructure schemes, the situation for street vendors has gotten even worse than before. Many of the nearly 180 natural markets in the city have been demolished – or are under threat of demolition – due to the bus rapid transport system, the riverfront development project, the model roads scheme, and various historical preservation schemes. Each scheme, system or project involves the eviction of hundreds of street vendors – often with few, if any, plans on where to relocate them. In January 2012, over 550 street vendors were evicted from the historic Bhadra Fort market – which the Ahmedabad City Corporation planned to convert into a heritage plaza - without any plans for where to relocate the vendors. The Self-Employed Women’s Association (SEWA), a trade union with over 145,000 members in Ahmedabad of whom nearly 34,000 (23%) are street vendors, fought to have the vendors relocated temporarily around the original market area: with the hope that they would be allowed to move back to the plaza area once it was renovated.

In part, local governments respond the way they do because street vendors and the natural open-air markets they create are seen as chaotic, associated with crime and grime. But street vendors themselves do not prefer or choose to work in a chaotic or dirty environment. Vendors without an established vending space have to pick up and move whenever the police arrive on the scene, marking it difficult to invest in stock or equipment much less in a temporary space. Those who have occupied a given space – say, a street corner – for some months or years often invest in equipment and maintenance of their vending site.<sup>4</sup> Also, most natural open-air markets established by vendors are governed by a commonly-acknowledged set of informal rules, despite the apparent chaos.

Writing about the largest street market in Sao Paulo, Brazil, journalist Robert Neuwirth observes: “Rue Vine e Cinco do Marco (the street of March 25) in the Center of San Paulo, Brazil, only seems like absolute anarchy. The street market here – the largest in the city, where retailers from other markets come to buy, because many of the items you can get on this street are either unavailable or far more expensive elsewhere, even from wholesalers –

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<sup>4</sup> Rahul Mehrotra, an Indian architect and Harvard professor, has written about – and depicted in drawings – five stages of squatting by a street vendor in Mumbai, India: from being constantly on the move to securing a site to establishing operations, then building infrastructure and finally building shelter at the site (Rahul Mehrotra, personal communication, February 2015).

has unwritten rules and an unofficial schedule, almost as if all its merchants were punching a clock. The chaos here is meticulously organized.” (Neuwirth 2011:4).

In part because they face a daily threat of harassment or eviction, and in part to self-regulate the natural markets they create, street vendors are quite likely to be organized into groups. The WIEGO network maintains a data base of organizations of informal workers. Out of the 805 organizations featured in the data base, as of March 2015, 266 (one-third) were organizations of street vendors, of which over half were in Africa, nearly 30 per cent were in Latin America, and nearly 20 per cent were in Asia. Admittedly the data base is not comprehensive and is skewed towards organizations of the four groups of informal workers that WIEGO works most closely with: namely, domestic workers, home-based producers, street vendors and waste pickers (Chen et al. 2015). But the numbers confirm that street vendors are the most likely of the four groups to be organized. Two of the key functions of these organizations are to fight for public space from which to vend and to self-regulate the public spaces they are able to occupy.

Self-regulation of natural markets by organizations of street vendors can itself involve different functions. In addition to regular negotiations with police and other local authorities, these functions might include: allocation of vending spaces (as in the Ahmedabad case below); self-monitoring or policing of the natural market for crime, grime, and occupational health and safety risks (as in the Durban case below); and taxing members to pay for sanitation and other services that they do not receive from local government.

#### *Bhadra Fort Market, Ahmedabad (India)*

Consider the case of the street vendors of Bhadra Fort Market in Ahmedabad, India. Ahmedabad City is divided in half by the Sabarmati River. To the west of the river is the new city which, until recently, consisted largely of academic institutions, residential colonies, and storefronts built around a number of pre-existing villages. To the east of the river is the old walled city and, north of that, the cantonment area where the British colonial and military officers once lived. There are 12 gateways leading into the old walled city. One of these, in the southwest corner of the old city, is Teen Darwaza (three gates) consisting of three arched gateways. Just outside the walled city, facing Teen Darwaza, is the Bhadra Fort built in 1411 by Sultan Ahmad Shah, the founder of Ahmedabad City. The once-open area between the Teen Darwaza gates and the Fort was home to one of the oldest markets in the walled city, with some 575 vendors selling mainly clothes, shoes and sandals, handbags, costume jewelry, and household goods.

As part of its efforts to “beautify” Ahmedabad City, the Municipal Corporation, together with the Archaeological Survey of India, developed plans to renovate Bhadra Fort and to build a pedestrian esplanade from Teen Darwaza to the Sabarmati River. The plans were approved in 2011 and funded under the national Jawaharlal Nehru National Urban Renewal Mission. As part of this plan, the open area between the Bhadra Fort and Teen Darwaza where the Bhadra Market had operated for decades would be converted into a heritage site called the Bhadra Fort Plaza: this area was originally landscaped as a park by Sultan Ahmad Shah when he built the fort in 1411. In January 2012, the vendors of Bhadra Market were evicted without any plans for where they would be relocated. SEWA negotiated with local government and police officials to allow the vendors to relocate around the cordoned-off plaza construction site until the heritage plaza

was completed. When SEWA met with the municipal commissioner at that time he was very vague about whether the vendors would be granted space to vend in the restored plaza, stating: “let the work begin and the vendors will accommodate themselves”

The Corporation started building the plaza in January 2012, but little progress had been made when I spent two days in the area with a street vendor named Devi-ben a year later. In late January 2013, the Bhadra Market vendors were not sure whether any, some or all of them would be allowed to vend in the heritage plaza, once it was completed. “We are part of the heritage – part of the culture – of the city”, Devi-ben commented. Some of the vendors sell traditional cooked foods, others sell flowers and incense sticks to devotees who visit the Hindu temple at the base of the Fort: the relocated market, spilling into alleyways and onto a main thoroughfare, had the feel of a country fair – with a steady stream of customers of all ages and walks of life shopping or passing by throughout the day.

Muslim vendors dominate Bhadra Market selling mainly clothes, shoes and sandals, handbags, and jewelry; the other vendors – like Devi-ben - are low-caste Hindus. Some vendors sell from *laris* (push carts) while others –like Devi-ben – sell from a cloth laid out on the ground. It was not clear to me how trading spaces were allocated – but Devi-ben has her fixed spot between a *lari*-vendor and a street-level vendor, both from her own caste community. Each morning, she fetches her goods (stored in boxes) from a storage space a few blocks away; spreads a cloth on the ground; unpacks the goods; displays her goods in an orderly and attractive way; and sits down to wait for customers. Devi-ben has been selling photo frames (in sets of three) and wall clocks (decorated with images of the Hindu gods), all made in China, for the last decade or so. She said that she figured out that there must be a niche market for these goods, as no one else was selling them. She also sells small images of Hindu gods.

Each evening, Devi-ben repacks her goods into boxes which she ties together with an old sari. With one of these tied bundles on her head, and another other under one arm, Devi-ben carries the goods to a storage space a couple of blocks away. Devi-ben and two friends store their goods under a tarpaulin against a wall within sight of a man and his two sons who run a nearby garment shop. They pay the man and his sons 10 rupees (US 20 cents) a night for storage. After laying the tarp over their goods, they place a couple of logs or bricks on the tarp, so that it won't blow off. Fortunately, they have never had their goods stolen: it's hard to tell whether this is due to the paid guardians or to the police station next door.

I was told about several underlying sources of tension among the vendors evicted from the Bhadra Market: uncertainty after the recent eviction; the threat of new street vendors crowding into an already over-crowded market; and long-standing competition between the Muslim and Hindu vendors. But I was impressed by a high level of trust within the market: when we went to the wholesale market, a round trip of more than an hour, Devi-ben and her friends left their goods on the ground, uncovered, to be guarded by other vendors from their community. After I had been sitting for some time on a very low stool near Devi-ben's vending spot, I was offered a plastic chair to sit on by Muslim vendors across the lane. When Devi-ben brought tea for me and herself, she also brought some for the Muslim vendors.

I was also impressed by what appeared to be self-governance of the market: I met several vendors who are members of a Market Committee formed in 2011 which, with the help of SEWA, is negotiating with the city. There are 12 men and 13 women on the Committee: most of the women are SEWA members. It was impossible to tell, from such a short visit, what was the truth behind the semblance of trust and self-governance or what might trigger a break-down in that trust. But the Market Committee, with SEWA's backing, seemed determined to keep negotiating with the Municipal Corporation to allow the vendors to reoccupy the plaza once it was restored.

To form the committee in 2011, SEWA divided the original market area into seven zones: each zone elected a representative to the Committee. The Committee meets when the need arises, as often as three times a week when a court case is active. When the city decided to renovate their natural market into a heritage plaza, the Committee renamed itself the Bhadra Chowk Heritage Natural Market Committee.

In November 2014, thanks to the on-going advocacy of the Market Committee and SEWA, the Ahmedabad Municipal Corporation announced that it was going to open up space for the vendors in the plaza. With help from SEWA organizers, the Market Committee identified and made a list of long-time vendors to whom spaces and ID cards would be allocated once the restoration work was completed. When the Corporation threatened to back-track on this commitment, SEWA and the Market Committee resumed negotiations. In response, the Corporation, announced it would hold a drawing that would allow only 150 vendors to be accommodated in Bhadra Plaza; the rest would be relocated one kilometer away. The Market Committee met and decided not to participate in the drawing but rather to protest outside the Town Hall where the drawing was to take place. The Corporation proceeded with a sham drawing in a completely empty room and took an arbitrary and illogical decision that shoe vendors could remain in the temple area near the Fort and that coconut and flower vendors would be relocated. The Market Committee took its case to the High Court, arguing that the original Bhadra Fort Market had evolved historically in an organic way and that the vendor community should be allowed to decide how to allocate spaces. The Court granted the Market Committee and vendors a stay order on the planned relocation with the stipulation that the Market Committee, SEWA and the Corporation must reach agreement on the allocation of spaces. SEWA and the Market Committee resumed negotiations with the municipal commissioner who agreed that the vendors could decide on the allocation and design of space.

Through a series of meetings with an architect, the Market Committee, SEWA and the vendors agreed on a design and allocation process. When they presented the design to the Corporation, they were asked to reduce the number of vendors from 557 to 503. The Market Committee and SEWA agreed to this compromise number and met to decide on the final list of 503. They started the meeting with an ecumenical prayer and then went through the list to make sure each vendor was allocated only one space: deleting additional spaces assigned to relatives or helpers of vendors from the list. They then submitted copies of the design and final list to the High Court and to the Corporation: and demarcated the spaces (4' by 6') on the plaza with yellow paint in accordance with the agreed-upon design.

As of August 2016, spaces for 503 vendors have been demarcated in the restored plaza based on a design and list developed through a participatory process with the vendors led by the Market

Committee and SEWA. The Ahmedabad Municipal Corporation has approved the design as well as funding for tables/platforms for the vendors. The plan will move forward as soon as the Corporation and SEWA file the joint affidavit with the high court to say that agreement has been reached. Once the affidavit has been filed, the Committee will have the authority to allocate the spaces to the 503 vendors on their list and to notify other vendors that they will not have a place in the restored plaza. A month later, the Committee will be authorized to distribute identity cards to the 503 vendors. In the meantime, there are no restrictions on vending in the area around the fort, temple and plaza. SEWA and the Committee have future plans to start a new participatory design process – this time to make the market area more aesthetically pleasing. The vendors have ideas for how special market stalls might be designed for different types of products. The Corporation is open to this proposal but wants to implement the first phase of the process before starting talks on the second phase.

The negotiations led to an unanticipated positive outcome. Every year, the Corporation holds a seven-day festival in honor of Lakshmi, the goddess of wealth. As part of the 2015 festival, the Corporation wanted to hold an inter-city folk dance competition at the Bhadra Heritage Plaza and asked the vendors for space. SEWA agreed on the condition that women vendors would be the first group of dancers featured in the competition, performing their own folk dance. SEWA thought this would be a way to make a public statement that the plaza belonged to the vendors. The women street vendors, who are members of SEWA, danced the first item in the dance competition, attended by the mayor and the municipal commissioner. Their dance was a big hit, earning them a prize – and, more importantly, public recognition.

*Warwick Junction Markets, Durban (South Africa)*<sup>5</sup>

In South Africa, one third of all economically active persons are engaged in the informal economy: and, 40 per cent of those running informal enterprises work in trade. Despite the predominance of informal trade in South Africa and elsewhere, there are very few good examples of inclusive urban planning for street vendors. For many years, Warwick Junction, a precinct in the inner city of Durban that houses, on a busy day, up to 8000 street and market traders, was looked to as best practice of street vendor management and support by local government: characterized by high levels of consultation with the street vendors and resulting in a high level of self-regulation and a sense of ownership of the area by the street vendors.

In the late 1990s, the Durban-eThekweni municipality began an inner city regeneration and management program within a policy framework that recognized and supported the informal economy. In Warwick Junction, the program developed sector-specific interventions in consultations with the various sectors or markets of vendors (medicinal herb vendors, mealie cookers and more): the interventions included a mix of capital investment in the built environment, design of equipment, and curb-side services as needed. The approach was

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<sup>5</sup> For more details on this case, see:

Chen, M. Bonner, C., Chetty, M., Fernandez, L., Pape K. Parra, F., Singh, A. and Skinner, C. 2012. '[Urban Informal Workers: Representative Voice & Economic Rights](#)' Background Paper for the World Development Report, 2013. Washington DC: World Bank  
Dobson, R. and Skinner, C. 2009. [Working in Warwick: Integrating Street Traders into Urban Plans](#). Durban: University of KwaZulu-Natal.

premised on a phased development trajectory for the various product markets in Warwick Junction.

As win-win solutions to key problems or constraints in each market were developed, the Warwick Junction markets gained international attention. But in the run-up to the World Cup in South Africa, the municipality in Durban turned its attention to building a stadium and other infrastructure. In 2006 and 2007, two of the local government officials in charge of the inner city regeneration and urban management program, decided to leave their government jobs and to form an NGO, which they named Asiye eTafuleni (“come to the table” or “let’s negotiate” in isiZulu), to continue the work they had begun under the government program. Asiye eTafuleni (AeT) provides design, legal and other support to street vendors, market traders, barrow operators, and waste pickers in Warwick Junction.

In February 2009, as a startling example of its change in policy, the Durban/eThekweni Municipality announced its plans to grant a fifty year lease of public land to a private developer to build a shopping mall in Warwick Junction, at the site of the Early Morning Market, a fresh produce market in the center of the Junction. These plans entailed a redesign of the whole district ensuring that the foot traffic, estimated at 460,000 commuters a day, would be directed past the mall rather than the informal traders, thus threatening the viability of all street and market traders in the Junction.

There was a groundswell of opposition to the proposal and a major civil society campaign opposing the development ensued. There has been a long history of street trader organizing in Durban in general and in the Warwick Junction in particular. Street trader organizations were supported by the Congress of South African Trade Unions and the South African Communist Party in the KwaZulu-Natal province who publicly opposed the proposals. Durban is also the headquarters of the international alliance of street vendor organizations called StreetNet. Civil society groups meet weekly under StreetNet’s campaign ‘World Class Cities for All’. Urban practitioners and academics also joined the campaign – writing letters to the press, arranging public debates and giving technical assistance. Central to this campaign was a pair of legal cases pursued by a public interest, non-profit law firm – the Legal Resources Centre (LRC).

The essence of one case was challenging the process by which the City awarded the contract to a private real estate developer: thus drawing on administrative law. This entailed close scrutiny of a vast number of council documents the City was forced to furnish to the legal team. The other case was argued on historic preservation grounds: as the Early Morning Market was a historic building that was to celebrate its centenary in 2010. It is unlikely that the legal battle would have been won with reference to socio-economic rights alone. With respect to the process, on one hand the legal cases were a key component of a major civil society campaign, while on the other hand civil society support and input were critical to the success of the legal cases. Asiye eTafuleni (AeT) facilitated access to appropriate claimants for the LRC and monitored daily developments in the market, so alerting the LRC to day-to-day harassment of traders by the City. These traders were supported by a strong network of trader organizations that have been operating in the area for years and the broader civil society group that rallied around this issue. Finally a group of urban practitioners identified with this issue and gave professional expertise –

advice on environmental impact assessment processes, heritage legislation, urban design and architectural inputs all of which informed the court papers.

By April 2011 the City Council finally rescinded its 2009 decision to lease the market land for the mall development noting that there was ‘little prospect of the legal challenges relating to the current proposal being resolved’. This was a major victory for the street vendors, market traders and barrow operators of Warwick Junction. The legal cases did not mandate the change in position by the City Council. But the legal cases, in combination with civil society activism and protests, helped leverage the change in the City Council’s position.

Even before those legal victories, the Legal Resources Center, AeT and WIEGO had wanted to file a legal case against the confiscation of street vendor goods by police and other local authorities. But they needed a vendor whose goods had been confiscated and who was willing to file a test case. In 2013, they found just such a vendor. John Makwicana sells shoes and sandals in Durban’s inner-city transport inter-change Warwick Junction. Through this, he earns a living for himself and eight dependents. He is also an activist who serves as chairperson of Traders Against Crime, an association of local traders which works with the metro police to fight crime in Warwick Junction, and deputy president of Masibambisane Traders Association, an association of street trade organizations which works to defend the rights of their members against unfair practices by municipal officials. John has had a permit to trade in Warwick Junction since 1992 and was authorized to employ an “assistant trader.”

Early morning on 6 August 2013, John set his goods out on display and then left to do some of his activist work, leaving his assistant to tend his table. At mid-day, his assistant went to buy lunch from a nearby supermarket, and left John's trading permit with a nearby vendor. While the assistant was away, a police officer stopped at John's table. The nearby vendor called the assistant who rushed back, only to find the police officer packing 25 pairs of new sandals into a plastic bag, leaving only old sun-bleached stock on John's table. The officer handed the assistant a receipt for one bag of (un-itemized) goods and a notice to pay a fine of 300 rand (\$24) before 18 October 2013 or appear in court on 29 October 2013.

John Makwicana went to the High Court before the 29 October deadline to urgently seek the return of his confiscated goods. But John was unable to reclaim his goods from the municipality. He was told that the goods had likely been sold off at auction as they had been held for more than six months.

In 2014, the Legal Resources Centre and AeT decided to file a test case in the Durban High Court, challenging the power of the city to confiscate and impound the goods of vendors/traders and seeking appropriate compensation for John. The director of WIEGO's Urban Policies Program, who had studied and worked in Warwick Junction, served as an expert witness. In the High Court, the Legal Resources Centre lawyer argued that the provisions in the eThekweni Municipality’s Street Trading Bylaws which authorize confiscations are in conflict with the constitutional right to equality, the right to choose one’s trade or occupation, the right to property and the right of access to courts.

In February 2015, a judgment and an order from the High Court were made in John's favor. The presiding judge also ordered that the municipality compensate John 775 rand (US\$62) with interest for the confiscated goods and also compensate him for his legal fees. The judge declared the clause in the bylaw that allows for impoundment and confiscation of street trader goods "unconstitutional, invalid and unlawful" and ruled that the city needed to redraft this section of the bylaws, which it is currently in the process of doing. In addition the court also ruled that the city is no longer exempt from liability for the loss of the goods. This means that the police can be held liable if trader goods "disappear".

This judgment represented an enormous victory for John and his fellow street vendors/market traders across South Africa, since the judge acknowledged that street vendors are engaged in legitimate activities but remain vulnerable to unfair practices by local authorities. The judgment is precedent setting; its legal arguments can be used by street vendors around the world in their struggle for economic justice

John Makwicana's willingness to fight the case in the High Court is admirable, considering the personal, financial, and political risk involved, not least the opportunity cost of spending so much time away from earning his living. John's determination to seek justice is reflected in his testimony during the court hearings: "We as informal trader leaders have been trying to discourage police officers from impounding traders' goods, but to no avail. It is my hope that this case is successful and results in less abuse of power and corruption by police officials and finally brings some relief for us traders. The bylaws permitting confiscations of traders' goods need to be struck out."

The efforts to support the self-organization by informal workers in Warwick Junction began twenty years ago in 1996, when the City Health Department facilitated the formation of a local committee of medicinal herb vendors.<sup>6</sup> The original city-led efforts in Warwick Junction emerged in the "honeymoon" period post-apartheid when there was a heightened awareness across South Africa around consultation with and inclusion of those who had been denied access to public space, public services and other public resources. The consultation built on and reinforced traditional leadership and self-organization among the street vendors, market traders, barrow operators and waste pickers in Warwick Junction. Since the formation of the Herb Market Committee, other sector-specific or market-area committees have been formed, again building on existing self-organization and traditional leadership among the informal workers in Warwick Junction. The two government officials who stepped down to form AeT continued the consultation approach: consulting with the local committees and leaders on issues and project design. To help design and implement each of its projects, AeT forms a project committee with representatives from relevant market committees or worker organizations in Warwick Junction. As Richard Dobson, former city official and founder-director of AeT, recently noted: "It is only because of the self-organization and decision-making by the informal workers of Warwick Junction that it is possible to do the work we do." (Richard Dobson, personal communication, August 2016).

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<sup>6</sup> Ma Dlamini, one of the founders of the Herb Market Committee, also played an important leadership role in the formation of the South Africa Self-Employed Women's Union (SASEWU) and of StreetNet, the international alliance of street vendors. Her death in July 2016 was mourned around the world.

## **Waste Pickers**

Waste pickers make a living by reselling or making personal use of recyclable materials which they reclaim by collecting and sorting waste. They include people who sift through garbage in search of food, clothing, and other basic daily needs; and those who collect and sort waste to reclaim recyclable materials which they sell to middlemen or businesses. Some waste pickers operate on their own while others are organized into unions, cooperatives, or associations. Official data suggest that nearly 1 per cent of the urban workforce in many cities around the world live off recycling waste. Despite operating in public spaces, and providing a public service, waste pickers remain largely invisible; and their environmental and economic contributions to local governments, local communities, and the recycling industry remain largely unrecognized. If recognized at all, they tend to be stigmatized. And yet they are an iconic case of how the urban commons could be managed for the public good: as the 21<sup>st</sup> century is arguably the century of cities, sustainable waste management is a key challenge facing cities, and waste pickers should be seen as part of the solution, not a problem.

### *Waste Pickers in Colombia*

For decades, waste pickers in Colombia have been reclaiming recyclable materials - metal, cardboard, paper, plastic, and glass - from discarded waste. Recent estimates suggest that more than 50,000 families across the country depend on waste picking for their livelihoods (Aluna Consultores 2011). In Bogotá, the capital city, there are an estimated 18,000 waste pickers or *recicladores*.<sup>7</sup> Waste picking is a difficult job, and workers are subject to arbitrary pricing by middlemen and to harassment and discrimination on the streets.

But it is the privatization of public services, including waste collection, which most profoundly threatens the livelihoods of the waste pickers. Increasingly, in cities across Colombia and around the world, municipal governments are giving exclusive contracts to private companies for the collection, transport, and disposal of waste: most of whom do not reclaim recyclables in the process. Through the process of privatization, waste pickers lose access to waste, the basis of their livelihoods. Also, organizations of waste pickers are seldom allowed to bid for contracts. Over the past 20 years, the waste pickers of Colombia have struggled to continue waste picking and have filed legal claims to preserve their occupation. Organizations such as the Asociación de Recicladores de Bogotá (ARB), an umbrella association of cooperatives representing over 2,500 waste pickers in Bogotá, played a key role in aggregating claims and taking the legal cases forward.

ARB and the waste pickers achieved a landmark victory in 2003 when the Constitutional Court ruled that the municipal government's tendering process for sanitation services had violated the basic rights of the waste-picking community. In making its case, the association and its pro-bono lawyers appealed to the Constitution's provision of the right to equality, arguing that waste pickers should be allowed preferential treatment and judicial affirmative action in the tendering and bidding process for government contracts to manage waste.

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<sup>7</sup> Estimates of the number of waste pickers in Bogota city range from 13,700 (2012 Census) to 21,000 (2014 census). As of December 2015, 18,000 waste pickers were listed in the Register of Professional Recyclers.

Subsequent rulings by the Constitutional Court have appealed to other constitutional provisions, including the right to survival as an expression of the right to life (article 11 of the Constitution) and the right to pursue business and trade (article 333), which were used to argue the right of waste pickers to pursue waste picking as a livelihood and the right of cooperatives of waste pickers – and not only corporations – to compete for solid waste management contracts and in waste recycling markets. Interestingly, WIEGO’s waste specialist based in Bogotá applied the Institutional Analysis and Development (IAD) framework pioneered by Elinor Ostrom and her husband Vincent to support an ARB challenge to a 2008 environmental law passed by the Congress of Colombia which criminalized the activities of waste pickers. Following the Ostrom guidelines, he documented the attributes of the waste picking community: their sociocultural context, their physical and human endowments, and the different ways in which they work. In its subsequent ruling against the 2008 environmental law, the Constitutional Court evoked the “principle of legitimate trust” to argue against sudden changes in policies that acknowledged and permitted waste picking without the provision of alternative sources of livelihood.

The most recent ruling, in December 2011, halted a scheme to award US\$1.7 billion worth of contracts over ten years to private companies for the collection, transport and disposal of waste in Bogotá City. The Court mandated that the cooperatives of waste pickers had a right to compete for the city tenders and gave the city government until March 31, 2012 to present a concrete proposal for solid waste management which includes the waste pickers and their organizations. The ARB, with technical, legal and political help from allies, including the WIEGO network, participated in the process of drafting the official inclusive plan and also prepared its own proposal which included points on which there was consensus with the official city proposal. The negotiations lasted until November 2012 when the city government endorsed the ARB proposal and ARB’s network of partners and formulated Decree 596 which created the current model of solid waste management which integrates waste pickers. As of March 2013, the waste pickers of Bogotá began to be paid by the municipal government of Bogotá.

To promote collective legal advocacy and to submit a joint proposal to the city, ARB has formed a permanent round-table (*mesa*) of waste picker organizations in the city: including leaders from the 21 organizations that are affiliates of ARB and also leaders from 20 other partner organizations of waste pickers (representing a total of more than 5,000 waste pickers). The mesa meets once a month to analyze changes in waste management policies at the local and national levels, to define advocacy strategies, and to specify action plans. In addition, ARB helps both its affiliates and partners to negotiate with government and to complete the documents and meet the legal requirements to get registered as recycling service providers under the Register of Providers of Public Services. ARB and its partners in the mesa submitted a joint proposal to the city government in late 2012. In March 2013, the city began paying the waste pickers for their collection of recyclable waste.

As of December 2015, over 10,000 waste pickers were being paid by the city for their recycling services: of whom, around one-quarter were members of ARB affiliates; another quarter were members of partner organizations in the round table; and the other half were mostly individual waste pickers who did not belong to any organization. All payments were made directly to the organizations of waste pickers or to the individual waste pickers. Between March 2013 and

December 2015, the recyclers were paid 25 million US dollars: which averages around USD 75 per month per waste picker.

But since January 2016, when a new mayor took office in Bogotá, the city government has tried to transform the payment system, arguing that many of the waste pickers who are paid by the city are no longer poor and vulnerable; that the payment was a subsidy, not remuneration; and that payments should only be made to formally registered organizations, not independent individual waste pickers. The new model of waste management proposed by the current administration includes building underground containers and 19 collection and recycling centers.

Since January 2016, ARB and the mesa representatives have developed their strategic response to this new model of waste management. To provide evidence for their response, the WIEGO network assessed the experience in other cities (Belgrade, Lima and Montevideo) which have introduced underground containers: they found that underground containers limit access to waste by waste pickers and, thereby, reduce the percentage of waste that is recycled. During an annual meeting of the National Association of Waste Pickers, held in Bogotá in August 2016, the waste picker leaders met with city officials to discuss the new proposal. The city officials agreed to reassess the proposed introduction of underground containers. Meanwhile, ARB will continue to support its affiliate and partner organizations to get registered: not just in Bogotá but around the country.

Since a national policy modelled on the Bogotá integration and payment system was issued in 2013, ARB, the National Association of Waste Pickers, and WIEGO have been actively supporting organizations of waste pickers in eight other cities of Colombia to get registered and certified as waste recyclers. As part of this process, they are encouraging cities around the country to carry out a census of waste pickers in their city: which is a key requirement if waste pickers are to be paid for their recycling services. And, since 2015, they have worked with the National Training Service to specify the occupational skills involved in waste recycling and to certify individual waste pickers, a significant step in professionalizing the occupation.<sup>8</sup>

Meanwhile, fearing competition from the waste picker organizations, private garbage collection companies around the country are taking advantage of loopholes in the existing national or local policies and advocating for “free competition” in the sector. But most private garbage collection companies do not reclaim recyclables, they only collect, haul and dispose of waste. Cities have a clear choice to make when it comes to solid waste management: between private garbage collection companies which only collect, haul and dispose waste and waste pickers and their organizations who sort the waste they collect for recyclable materials (which they reclaim, process and sell as raw materials or packing materials) and then haul and dispose the waste that remains, thus helping to reduce carbon emissions. In other words, policies that include waste pickers in solid waste management are good for the environment, the public good, and also for the livelihoods of waste pickers, who tend to be from low-income households and disadvantaged communities.

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<sup>8</sup> Under a national law (#511) of Colombia, legislated in 1999, the National Training Service was mandated to introduce throughout the country an education and training program for people involved in recycling solid waste.

In sum, these examples are quite distinct from the cooperative management of urban common resources in residential neighborhoods or business improvement districts cited earlier, as they involve economic actors who do not own private property but provide public services, selling goods and services at affordable prices in convenient public spaces (unless excluded from these spaces by local government) and collecting and recycling waste (unless denied access to waste or excluded from solid waste management bids by local government). The Warwick Junction case began as a municipal urban renewal project headed by two city officials who were committed to consultations with the informal workers and finding win-win solutions for the city and the informal workers. When the city changed its policies, the two city officials left their government jobs to form the NGO, Asiye eTafuleni, to continue the work they had begun. The Ahmedabad and Bogotá cases of cooperative management of public resources by informal workers began in response to inappropriate or hostile government policies and practices. And, yet, to be fully successful all three models, and others like them, require appropriate government policies and practices: which is why the organizations of street vendors and waste pickers are involved in on-going, often decades-long, legal struggles and policy negotiations with local government.

#### **IV. THE FUTURE OF URBAN COMMONS**

The WIEGO network which I represent works with organizations of informal workers around the world: most of which are structured, some of which are formally registered, and many of which self-regulate the informal markets in which they operate. As the examples in this paper illustrate, open-air markets of street vendors are often self-regulated by those who vend goods and services in them. And the collection routes and sorting areas of waste pickers are often self-regulated by those who operate in them. Yet local governments typically do not recognize street vendors and waste pickers, and other urban informal workers, or value their contribution to the economy and the environment; often penalize or criminalize their activities; and tend to privilege private sector firms, over informal worker organizations, in the competition for public space, public waste and public procurement contracts.

As an activist academic working to support organizations of the working poor in their struggle for resources, it has been gratifying to revisit Elinor Ostrom's work on the collective management of common-pool resources: which proved so effectively and convincingly that informal collectives can be structured and that open-access resources can be effectively managed by informal rules, often with better outcomes than state regulation or privatization of the same resources. However, the urban cases presented in this paper suggest that in the urban setting the informal collectives of the urban poor face heavily-regulated environments, which are often hostile to their ways and places of living and working, and cannot rely only on their own informal rules but have to engage with the rules and practices of local government, including authorized exceptions to the formal rules which are often in favor of the powerful elite.

My hope is that this article will help to stimulate more research and debates on urban informality and the urban commons. There has been quite a bit of research on informal housing settlements as a commons dilemma (Foster 2009). Informal settlements on the periphery cities on private land acquired and then subdivided by a developer or land speculator do not pose a commons dilemma per se, as the land is privately owned, but they do pose an informality dilemma, as the land is subdivided without conforming with land use regulations. Informal settlements in more

central parts of the city involving occupation of public land pose both a commons and an informality dilemma: as open-access public land has been occupied informally on a semi-permanent basis. Informal settlements of both kinds are often sites of cooperative management: developed through self-help and self-regulation as they operate outside the reach of government services and regulation. Case studies abound of the poor organizing themselves in informal settlements in order to build their settlements, albeit incrementally, into livable neighborhoods, securing adequate infrastructure services and sometimes eventually legal status (Durand-Lasserve and Royston 2002; Patel et al. 2012).

There has been less theoretical and empirical work on informal livelihoods and the urban commons dilemma. My hope is that the theories and empirical analyses of the collective management of space and other resources in urban informal settlements will be extended to urban informal livelihoods. While it is true that a very large percentage of the urban population lives in informal settlements, it is also true that a large percentage of the urban workforce (50 to 80% in developing countries) earns their living in the informal economy (Vanek et al. 2014). Public space is the worksite for a large share of urban informal workers, not only street traders and waste pickers but also informal transport and construction workers (Brown 2015). The other common worksite for informal workers is private homes: the home of the employer (in the case of domestic workers, landscapers, gardeners, watchmen, and drivers) or the home of the worker (in the case of home-based workers, both self-employed and industrial outworkers). It is also true that most of the working poor in the informal economy live in informal settlements; and most informal settlements are full of informal economic activities. These concrete real-life links between informal settlements and informal livelihoods, and the related challenges to - and opportunities for - managing the urban commons, need to be better understood, theorized and addressed.

A key question is what should be the respective roles and relationship between the self-regulating informal settlements and informal markets and the formal regulatory system. My hope is that local governments would help secure the tenure and upgrade the infrastructure in informal settlements and informal markets. More specifically, my hope is also that local governments would extend political and investment support to the collective management by the urban poor who do not own private property in much the same way they support models of cooperative management premised on private property ownership – such as residential neighborhoods or business improvement districts. If those who live and work in informal settlements were extended de facto tenure and provided with sanitation, water, paved roads and street lights, they could develop those settlements into habitable residential communities and productive business districts. If informal workers who work in public space were extended de facto tenure and provided basic infrastructure services at their worksites, they too could develop these worksites into orderly and viable business areas. This would represent an equitable approach to the management of the urban commons and could have win-win outcomes for the communities involved, the public at large and the local economy.

The moral challenge, then, to city planners and local governments is to recognize that most informal settlements and informal markets are legitimate efforts by the poor to forge a life and livelihood in often hostile city environments. The related policy challenge is to integrate informal settlements, markets and livelihoods into local land and economic planning. If this

moral challenge is not accepted, and the related policy shift does not occur, we are likely to end up with cities comprised of islands of prosperity (central business districts and upscale residential neighborhoods) surrounded by a sea of poverty (informal settlements and informal markets largely on the periphery), borrowing on the metaphor of Nobel Laureate W. Arthur Lewis in his award-winning 1954 article.

Inclusive urban planning will require a fundamental change in mindsets. As Ela Bhatt, founder of the Self-Employed Women's Association (SEWA) and founding chair of the WIEGO network, puts it:

“The challenge is to convince the policy makers to promote and encourage *hybrid economies* in which micro-businesses can co-exist alongside small, medium, and large businesses: in which the street vendors can co-exist alongside the kiosks, retail shops, and large malls. .... Just as the policy makers encourage bio diversity, they should encourage *economic diversity*. Also, they should try to promote a *level playing field* in which all sizes of businesses and all categories of workers can compete on equal and fair terms.”

In conclusion, I am cautiously optimistic about cooperative management of urban open-access resources. I am well aware that increased privatization of public resources, notably public space, is quite likely as cities become increasingly dependent on private capital and resources, including financial transfers from private real estate developers in return for access to prime land (Foster and Glick 2007). In her analysis of land markets and settlements in Indian cities, Ananya Roy distinguishes between informal settlements created by the urban poor (“subaltern informality”) and informal settlements created by the state in collusion with rich residents, housing authorities and private real estate developers (“elite informality”) (Roy 2005).

The major challenge, then, is to persuade city governments that public resources – including public spaces and waste – *are* common property which should not be privatized, as is happening quickly and widely in many cities around the world. The second challenge is to persuade municipal governments to manage and regulate the urban commons on fair and equitable terms for different uses and users. This responsibility should not be delegated solely to the police to maintain law and order. This responsibility should rest, more centrally, with local municipal governments, to introduce regulations and practices that take into account and balance the competing rights of different users: vendors and hawkers, pedestrians, and vehicle owners/drivers in the case of public space; waste pickers, municipal cleaners and private companies in the case of waste.

If municipal governments or the mayor's office increasingly privatize public resources or impose unreasonable restrictions on their use by the public, the courts in many countries have a right to intervene: as they did in the cases from Colombia, India and South Africa featured in this paper. After all, the ultimate purpose of law and the legal process is to redress power imbalances. To redress power imbalances, the legal process must involve those without power. In all three cases, organized groups of informal workers with support from lawyers, activists and academics had engaged in legal struggles for many years to secure the court rulings in their favor.

To promote the public good of inclusive, sustainable and peaceful cities, city governments must engage with the urban poor who, in the absence of appropriate regulations and public services,

are self-managing the informal settlements in which they live and the informal markets in which they earn their living. As the cases presented in this paper illustrate, participatory legal and policy reform processes that involve the urban working poor, with support from civil society, and collective management of the urban commons by the urban working poor are both desirable and feasible.

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