

StreetNet International

Research Report: Statutory Representational Systems at Local Government Level

São Paulo, Brazil



Members of *Associação de Camelôs de Brás* meet to fight cancellation of licences

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Abstract

São Paulo has a long history of street trade. Successive administrations developed repressive regulatory measures to manage what was consistently seen as a threat to urban order and cleanliness. The first comprehensive attempt to manage street trade in a more participatory manner was instituted under a progressive PT (Workers' Party) administration in 1991 with the introduction of the CPA (*Comissão Permanente do Ambulante*) - Permanent Street Vendors' Commission. For the first time, street vendors gained access to a structure which brought together representatives of the administration, formal business and civil society organizations to consult over the terms under which street trade was to be regulated. The CPA provided for Temporary licences which were issued to street vendors under clearly defined conditions and institutionalized negotiation over the terms of street vending for licenced traders. The system was further developed in 2002, under another PT administration.

Street vending regulation in São Paulo is greatly influenced by the political complexion of the administration in office, and the system lacks real institutional autonomy. The conservative administrations which have been in office more recently have undermined the consultative mechanisms of the CPA. The CPAs have not functioned properly for some time, and have been used to cancel the licences of vendors registered in the system. From 2009 the administration has undertaken aggressive policing actions against vendors, using off-duty military police officers as an additional inspectorate. Most recently, in May 2012, the administration attempted to cancel all remaining vending licences in the city. This move was resisted through legal actions brought by an alliance of street traders assisted by a human rights organization, and a stay of execution has been obtained. The Street Traders Forum has mobilized politically in advance of local elections and is attempting to hold local candidates accountable for their policy on street vending.

Acronyms

ACESP: *Associação dos Camelôs, Ambulantes e Autônomos de São Paulo* -Association of 'Camelôs', Vendors and Autonomous traders of São Paulo)

COOPAMESP: *Cooperativa dos Trabalhadores Ambulantes do Estado de São Paulo*- Street Vendors' Cooperative for the State of São Paulo

CPA: *Comissão Permanente do Ambulante* - Permanent Street Vendors' Commission

DIEESE: *Departamento Intersindical de Estatística e Estudos Socioeconômicos* - Inter-Trade Union Department of Statistics and Socio-Economic Studies)

MNCR: *Movimento Nacional dos Catadores de Materiais Recicláveis*- National Movement of Collectors of Recyclable Materials

PED: *Pesquisa de Emprego e Desemprego* - Employment and Unemployment Study

PT: *Partido dos Trabalhadores*- Workers Party

SEADE: *Fundação Sistema Estadual de Análise de Dados* - State System of Data Analysis Foundation

SEBRAE: *Serviço Brasileiro de Apoio às Micro e Pequenas Empresas* - Brazilian Support Service for Micro and Small Enterprises

SINDIMEI: *Sindicato dos Ambulantes, Autônomos e Microempreendedores Individuais do Estado de SP* - Union of Vendors, Camelôs, Autonomous Traders and Individual Microentrepreneurs of the State of Sao Paulo)

SINPESP: *Sindicato dos Permissionários do Estado de São Paulo* - Union of Permit Holders of the State of São Paulo

SINTEMEI: *Sindicato dos Micro Empreendedores Individuais e da Economia informal do estado de São Paulo* - Union of Individual Micro Entrepreneurs and the Informal Economy of the State of São Paulo

TPU: *Termos de Permissão de Uso* – Temporary Use Permit

WCCA: World Class Cities for All

1. Introduction.

This report is based on a research visit to Sao Paulo between 17th and 31st March 2012 to investigate the institutionalized system of negotiation existing between local authorities and street vendors in that city. It is part of a wider StreetNet project 'Statutory Representational Systems at Local Government Level' which aims to produce case study reports of instances where affiliates have successfully negotiated binding agreements with local authorities in respect of various aspects of street trade regulation. The final project report will synthesize the various experiences documented in the individual case study reports with a view to drawing conclusions on policy and practice that can be used by affiliates in the course of their negotiations with local authorities.

Preparations for the São Paulo visit included preliminary briefings with the Coordinator of StreetNet International where some specific orientations and a contact list of individuals and organizations seen as important for the research were provided. Contacts were made in advance, and several interviews were successfully scheduled before departure. A literature search provided a range of useful materials which was substantially augmented during and after the visit. The research trip itself was focused on interviews with street trader organization leadership and members, and a range of other relevant organizations. These are listed in the interview schedule. The research brief also included interviews with waste picker organizations, and a visit to the neighbouring Municipality of Diadema to obtain a view of how a 'progressive' municipality handled the street vending issue. Reports of these interviews and visits are appended separately.

Subsequent to the visit, in May 2012, in a dramatic but not entirely unexpected move, the Prefect of Sao Paulo cancelled all remaining street trading licences. The threat to street traders has galvanized their disparate organizations as never before and a common front – the *Fórum dos Ambulantes*, formed in 2011- has solidified to meet the challenge, with the support of civil society organizations. The cancellation led to street protests and legal action which has for the moment stayed the hand of the executive. The issue of street trading has become politicized in the context of the upcoming Municipal elections, and local candidates from the various parties are being called upon to address the traders specifically and to make their positions clear to the electorate.

2. Acknowledgements.

The research visit would not have been possible without the facilitation provided by Luciana Itikawa of the Gaspar Garcia Centre for Human Rights, a StreetNet partner in Sao Paulo. She provided an invaluable point of entry, assisting with an indispensable cell phone SIM card for Sao Paulo, integrated Metro/Bus pass, maps, orientation and interview scheduling. I was made to feel very welcome by all the staff at the Centre at Rua Dom Rodó, Santana. The Centre provided a base from which to work and plan interviews. Maira Vannuchi of StreetNet, the author of an invaluable report on Sao Paulo written as part of StreetNet's World Class Cities for All (WCCA) campaign, provided critical transport and interviewing assistance shortly after my arrival when we travelled beyond the Metro rail network in her car. Her list of contacts with street trading organizations, obtained as part of a scoping exercise, formed the basis on which interviewees were selected. I am indebted to all those who so willingly gave of their time to be interviewed by me. Space does not allow me to list them all – their names appear in the list of interviewees at the end of the report - but special mention should go to Otavio Anisio Ramos from Santana, Ricardo Luis Prado of COOPAMESP, Vania from Bras, Eduardo Ferreira of Movimento Nacional dos Catadores de Materiais Recicláveis (MNCR)

and Eng° Kamura of Diadema Solid Waste for their generosity towards me. Thanks are also due to all the staff at StreetNet in Durban who assisted with the logistics involved in the trip. Grateful thanks to Sally Roeber for permission to use an unpublished WIEGO background report on the complex legal situation in São Paulo following the cancellation of all licences in May, and for helpful comments on this report. Finally a tribute to fellow researcher Debbie Budlender for her skilled and patient piloting of the whole project. It has been both a pleasure and an education to work with her.

3. São Paulo: History and basic information.

São Paulo is Brazil's biggest city, and a mega-city on the world scale. The Municipality occupies an area of 1,522.986 km² and in 2011 its population was 11,316,149 according to the Brazilian Institute for Geography and Statistics (IBGE). Geographically it is the largest city in the southern hemisphere and the Americas, and the world's seventh largest city by population. The metropolitan area – 'Greater São Paulo' has 39 municipalities covering an area of 17,943,818 km² and has one of the world's fastest growing populations, which stood at 19,889,559 in 2011, giving it the second largest metropolitan population in the Americas after Mexico city. Brazil has a federal system of administration. The city of São Paulo is also the capital of the State of the same name in south-eastern Brazil, which has the greatest concentration of population in the country. The city is a major financial and industrial centre with significant cultural, economic and political importance both nationally and internationally. It has the greatest concentration of wealth in Brazil, with a large middle class and highly visible social inequality.

(http://www.ibge.gov.br/english/presidencia/noticias/noticia_visualiza.php?id_noticia=1766&id_pagina=1)

São Paulo officially became a city in 1711. In the 19th century, the Brazilian coffee export economy boomed and the city experienced economic prosperity brought about through its strategic link with the port of Santos. Following the abolition of slavery in 1888, immigration from Germany, Italy, Spain and other European countries was deliberately encouraged as a means of counter-balancing the preponderantly former African slave population which had been imported to work on the plantations. By the beginning of the 20th century the coffee boom had ended due largely to a fall in international prices. The Wall Street crash of 1929 further contributed to the decline in power of the coffee barons, and a search for diversification into other alternatives such as sugar cane and the production of alcohol began. Secondary industrialization began to gain some momentum in response to the relative decline of the agricultural export economy. (http://www.wikipedia.org/wiki/São_Paulo#History)

The Second World War disrupted imports of manufactured goods and encouraged the development of a national import substitution industrialization (ISI) strategy which led to the rapid industrialization of the city. Japanese, Syrian and Lebanese immigrants also arrived in large numbers, along with waves of migrants from the poorest regions of Brazil, such as the north-east. By the 1940s the city had become the major engine of Brazil's economic growth. Rapid urban migration from the 1940s to the 1970s, followed by an economic crisis in the 1980s, and neo-liberal style economic restructuring in the '90s, combined to generate large-scale unemployment in the city.

Many workers turned to the informal economy and street trading as a dynamic response to the challenge of creating livelihoods for their families. Today the city continues to attract poor migrants from the rural areas of Brazil, and from other countries in the region, who find themselves at the bottom of a social structure in which they are competing for survival with

local residents, some of whose lives have been slowly improving during the more recent years of economic growth. (Roever: 2006)

Sao Paulo has played an important role in Brazil's political development historically. From the 1930s, with industrialization, rapid urbanization and the development of a substantial urban working class, Brazil's rulers developed a corporatist system of industrial relations which provided social benefits within a system controlled by political patronage.

A period of democratic rule at the end of the Second World War – the Second Republic – was brought to an end by a military coup in 1964 when the corporatist model of government developed in the 1930s by Vargas was put under pressure by rapid urbanization, social mobilization, labour militancy and deep ideological divisions between left and right. The military centralized power and held it for twenty-one years during which they sought to 'modernize' Brazil through repression, the extensive use of unaccountable technocrats for planning, and the strategic development of a large-scale state-centred economy. Worker resistance which began in São Paulo, the development of a broad democratic opposition and economic crisis combined to bring military rule to an end in 1985. The Workers' Party (PT), which began as the left opposition, and has now held power nationally since 2003, had its origins in the industrial unions of São Paulo, but has failed to obtain a governing majority in the city in recent local elections.

4. Street Trading Historically

São Paulo developed around a series of commercial nodes linked by a transport system which carried its inhabitants between them and their places of work and residence. Street trading in São Paulo is as old as the establishment of the town itself, with regulations dating from the early 1700s aimed at controlling the activities of itinerant vegetable sellers. (Itikawa 2006:249) Street vending gained momentum with the abolition of slavery, and the creation of a reserve army of labour not incorporated into formal employment in the urban economy. In the 19th century, Syrian and Lebanese immigrant traders moved into the central parts of the city as itinerant traders, competing with local vendors, and then consolidating themselves into a new stratum of property owners in the retail trade. (Faria 2005)

Emerging out of these transitions there developed the well-known struggle for trading space between the better established formal traders and the itinerant *ambulantes*, with the municipality restricting the spaces allowed to *ambulantes* in the central area in the mid 1800s, and formal traders putting pressure on the municipality to restrict a range of items sold by the *ambulantes*, such as flour, maize and beans, to the formal traders as people who paid taxes. (Itikawa 2006:249) In 1898 more detailed legislation regulating street vending was passed, dealing with among other issues; areas permitted for trade, distance between points of sale, questions of space for people to transit, and basic health and hygiene regulations.

The expansion of the city in the 1930s saw many more people moving through the centre and a concentration of street vendors in the areas of greatest pedestrian traffic. The municipality at that time decided to contain the spread of street trade through repressive measures, but these had no lasting effect as the vendors always returned. Raising the fees levied on traders simply increased the numbers operating clandestinely. Intensification of policing of street trade reached new levels in 1946 when it became obligatory for vendors to provide criminal conduct clearance certificates from the police.

The 1950s saw the introduction of priority allocation of licences to the elderly and disabled, and the obligatory fortnightly rotation of spaces among vendors to avoid the monopolization of the most lucrative spaces. At least two-thirds of goods sold had to be of national origin, and anyone ceding their trading site to a third party rendered themselves liable to having it cancelled, indicating that this must have been common practice then. In 1960 complaints against the inspectorate for demanding bribes from illegal vendors led to the punitive temporary suspension of street trading in the city. (Itikawa 2006:250)

Rapid growth of Brazil's major cities in the 1970s saw the numbers of street vendors soar to around 40,000 for the whole city - 10,000 in the City centre alone, but of these only 1,350 were licenced. Itikawa (2006:250) notes that this intolerance of street vending was part of the 'City Maintenance and Cleaning Plan' of the Prefect (Mayor) at that time. In 1977 a campaign by the Prefect to get people to stop buying goods from street vendors had no effect whatsoever.

In 1984 the Prefect withdrew the most lucrative central-city trading zones, where pedestrian circulation was greatest, from street vendors and reserved them for use by the middle classes. The next administration cancelled licences and fixed points of sale of all vendors in the centre and systematically ordered the confiscation without return of goods of those affected. Itikawa (2006:250) comments that this 'cleansing' mentality towards street vending was evident both spatially and socially. Street vendors were perceived as belonging to marginal social groups who brought dirt and disorder into the central city and thus needed to be swept away, and the idea of 'cleansing' has become a powerful driver of the actions of the most recent administrations.

5. Street Trading Today

The most recent data available, for 2009, on the numbers of street traders currently active in São Paulo comes from the Employment and Unemployment Study (PED) produced by DIEESE (Inter-Union Department of Statistics and Socio-Economic Studies) a research organization funded by the major Union Federations. PED is a household sample survey that produces broad labour market trends in the metropolitan areas. Data are collected in public spaces and through door-to-door surveys. Data for the number of residents of the Metropolitan Region engaging in retail street trade in the City in 2009-10 indicated that vendors made up 1,7% of the employed population in São Paulo. (Vannuchi: 2012)

According to the study (DIEESE: 2009) there were 158,000 street vendors in the Metropolitan Region. Of these 43% had an income below or equivalent to the minimum salary¹, and 36% earned the equivalent of between one and two minimum salaries. On average street traders worked 40 hours a week and earned a monthly income of R\$ 790, with their length of involvement in trading activity averaging nearly seven years. However, only 14% made Social Security contributions entitling them to state benefits. Two-thirds were men, half were over 40 years old, and nearly half had incomplete primary education. Most were heads of poor households and long-time residents of the city, over 45% having lived in the region for more than 30 years. (Pamplona 2009:40)

Pamplona (2009) points to a decrease in numbers of informal traders from 133,000 in 2004 living in the Metropolitan Region and working in the City to a figure of 100,000 in 2009. He argues that a fall of 17 percentage points in unemployment levels and a progressive growth in employment would have contributed to a slight diminution in their numbers, but not as the result of their own personal attributes. The Municipal authorities have argued that the levels of

¹ Set at R\$465.00 per month, or \$US 236.00 in 2009 (http://pt.wikipedia.org/wiki/Sal%C3%A1rio_m%C3%ADnimo#Brasil)

economic growth experienced in the past and projected for the future – in other words market forces - will be sufficient to absorb those traders who have been excluded from the streets as a consequence of a hostile Municipal policy towards both licenced and unlicenced traders alike, but this appears not to be the case.

The figures for licenced traders contrast sharply with those for the total number of traders in operation, given in the paragraph above. In 2004 there were 24,000 licenced traders in São Paulo. By 2009 the number was reduced to 2,200, according to figures from SINPESP cited by Vannuchi (2012).² It would seem very hard to argue, as Municipal authorities have done, that these traders, with their personal characteristics noted above, can be easily absorbed into the formal economy once they have had their licences cancelled. What has occurred, effectively, between 2004 and 2009 has been the wholesale cancellation of licences, and thus the criminalization of the minority of traders seeking permission to work within the legal framework created by the Municipality.

6. Legal Framework for Street Trade Management.

Street trading is regulated by **Decree 42.600/2002** which amended and consolidated the original **Municipal Law 11.039 of 1991** which set out to regulate street trade in São Paulo.

Law No. 11.039 of 23rd August 1991 was passed to 'Discipline the exercise of commerce or the provision of vending services in the streets and public spaces of the São Paulo Municipality'

- **Article 2** allows these activities to be exercised by an 'autonomous professional', but stipulates they have a 'precarious character' and need to have a 'regular form' in accordance with the determinations of the legislation stipulating hours of operation and other conditions.
- **Article 3** recognizes a seller or service provider as a Vendor (*'Ambulante'*) who is someone who engages in legal activity on his or her own account or in an employment relationship and whose activities are authorized by a competent legal authority.
- **Article 4** divides *'ambulantes'* into 3 categories:
 - a) people suffering from severe disability;
 - b) those who are physically disabled with reduced capacity, and the over-60s
 - c) the physically fit.

In the 2002 Decree (Ch 4. Article 17) preference is given to categories a) and b) – the physically disabled and those over 60- in the issuing of licences for fixed points of sale, reserving two-thirds for them and only allowing one-third to the physically able.

- **Article 5** distinguishes three types of vendors; 1- *'efetivos'* - those who carry the goods on their persons, equivalent to the *'camelôs'*- a name which is often used to refer to street vendors in general; 2- those who are mobile and use collapsible stands or vehicles; and 3- those who trade from fixed points which have been previously determined by the authorities.

² In 2004 18% of traders were licenced ; in 2009 just 2,2% were 'legal'

- **Article 6** creates a physical distinction between different areas where vending can take place legally under conditions of regulation;

a) in whole defined 'Areas of Activity' - in the 'bairros' ; b) in squares ; c) in roads; d) in Commercial Zones - (*Bolsões*) - or 'pockets' set up by the competent local authority with adequate infrastructure, and originally meant as areas of tourist attraction. The 2002 legislation refers to the new terminology of '*Shopping Popular*' as areas of real commercial viability set up by the municipality alongside regular markets, or separately, in keeping with local urban planning goals. The 2002 legislation also includes 'Linear Zones' as areas of real economic viability which can be set up in roads or squares with sponsored or individual stalls. The sub-prefectures determine the form in which street trade is carried out in each region, following directives from the Municipal Secretary of the Sub-prefectures (SMSP) and the Municipal Secretary of Urban Planning (SEMPA).

- **Article 7** creates a Permanent Street Vendors' Commission - '*Comissão Permanente do Ambulante*' (CPA) in each regional administration, under its control. This is a consultative body intended to regulate and control street trade. The 1991 legislation set down membership of the body as representatives of street vendor organizations, formal commerce and the municipal administration but did so in only in general terms. Legislation from 1993 went on to detail the membership of the permanent Street Vendors Committees (CPAs) and listed a range of organizations which were named at the time. This listing of specific organizations served to create a lack of flexibility in a situation which by its very nature was in constant flux.
- The composition of the CPAs was further specified in the 2002 legislation, in Chapter 3 Article 9. They were to be composed as follows:
 - 1) A minimum of 2 and a maximum of 5 members of bodies representing established commerce;
 - 2) A minimum of 2 and maximum of 5 members representing informal trading associations, whether affiliated to a union or not, which had a minimum of 70 members.
 - 3) A minimum of 3 and a maximum of 6 representatives of civil society or popular movements. In the event of there being a range of associations representing the various categories, those with the greatest membership would be chosen, or the oldest in the case of parity in members.
 - 4) A minimum of 2 and maximum of 5 representatives of the municipal administration.

It was intended that the representatives of formal commerce and street vendors should always have parity in terms of representation within the CPAs. Provision was also made for attendance at CPA meetings, in case of need, of representatives from the Federal Revenue Office, Federal Police, Civil Police, Military Police, Secretary of State for Treasury, the State Public Ministry and other municipal bodies depending on the issue under discussion. The CPAs were able to draw on technical support from diverse municipal departments, especially Transport, Urban Planning, and Urban Security, including the Metropolitan Civil Guard.

- The competences of the CPAs in the initial 1991 legislation were:
 - a) To indicate the areas, squares and roads, and fixed points where street vending could take place
 - b) To indicate those areas where Commercial Zones could be created
 - c) To rationalize the range of products to be sold and services to be rendered
 - d) To clear up uncertainties in the application of the law, within the competences afforded them.

The 2002 Decree additionally and explicitly mentions the issuing of **Licences** to vendors.

The licence in question is a permission to use public space to trade. It is called a TPU (Term of Permission of Use) and is, according to the 1991 legislation (Article 13), ‘a unilateral concession by the local municipal authority to physical persons who satisfy the requirements set out in this Law’. Article 19 of the 2002 Decree further specified that ‘The vendor’s activity, no matter of what category, can only be exercised through the issue, by the respective Sub-prefecture, of the TPU (which is) of precarious title - [meaning for a limited period only], burdened- [by a range of strict conditions], personal and non-transferable, able to be revoked at any time, without any right to compensation for the affected party’.

- **Article 14** of the 1991 legislation sets out the requirements for a vendor to obtain a TPU, which involve the satisfactory production of a range of as many as eight documents.³ Only someone who has lived in the area for seven years, and can prove it, is eligible to apply (Article 15)
- **Article 16** of the 1991 legislation set out regulations concerning the documentation to be carried by traders whilst working on the streets as proof of their right to be there, the obligations regarding cleanliness and hygiene in sale of produce, and location of work, use and storage of equipment, and a series of prohibitions covering the cession of business to third parties, adulteration of produce and sale of a range of products deemed toxic or dangerous.
- **Article 17** provides for the issuing of TPUs for 3 years to category a) sellers- those who are severely physically disabled; for 2 years to category b) sellers – the over-60’s and partially disabled, and one year only to category c) sellers- the able-bodied. Allowance is made only for two further periods of renewal after the first licence is issued. This article may have been intended to act as a disincentive for vendors to continue vending, or as a means of control over those who became a nuisance to the municipality.

Vendors are able to contract one or two assistants, depending on the category of their registration. Those with severe disability (category A) are able to have two, Category B may employ one, and able-bodied Category C vendors are not allowed an assistant. Various criteria- such as the physical condition of the trader, the degree of disability, and length of time spent or seniority as a street vendor, were used by the administration to establish priority in the distribution of licences and their allocation to defined physical spaces. Detailed regulations on the type of equipment to be used by each category of vendor, the specification as to size

³ Amongst others: Identity document; proof of registration with Ministry of Works; proof of residence in SP; certificate of good character; health certificate relating to infectious diseases; medical declaration regarding disability; proof of payment of trade union dues where applicable.

and placement etc. are contained in Chapters 4 of the 1991 legislation and Chapter 8 of the 2002 Decree.

Chapters 6 (1991) and 9 (2002) cover a range of duties and prohibitions:

Vendors are *obliged* to :

carry their TPU, Identity Document and any other documents specified at the time of issue of the TPU; carry proof of payment of licence fees and taxes; carry out their activity personally; demonstrate rigorous standards of hygiene both personally and in terms of their equipment; ensure their equipment conforms to the Municipal specifications; sell produce in good condition and in keeping with Municipal legislation; use paper to wrap food items; keep their work area clean in terms of Municipal legislation, observe good behaviour and politeness towards the public; keep to the hours of work specified; mark merchandise clearly with prices; make sure any scales used for weighing goods are accurate; provide, when asked by an inspector, tax documentation related to purchase of products on sale; follow orders and instructions emanating from a competent authority.

Vendors are *not permitted* to:

Cede to a third party any title, their use permission (TPU), fixed point of sale or equipment; change or erase documents needed for their activity; sell any toxic, pharmaceutical, flammable or explosive articles, fireworks, alcoholic drinks, live or embalmed animals, watches, jewels and spectacles, and food in contravention of health and hygiene regulations; sell articles or provide services in contravention of the terms of their permission.

Article 34 of Decree 42600 goes further to prevent vendors from: using loudspeakers to advertise their wares; going shirtless in public and playing any games – [such as football] in public, with the clear warning that any breach of these prohibitions will result in cancellation of the Permission.

Revocations and cancellations of TPUs come through decisions of the Sub-prefect, with the infractions leading to this measure having been previously heard at the appropriate CPA meeting (Article 21 of Decree 42.600). Such revocation requires a period of 30 day's notice for the vendor to cease operations in terms of Article 23. The only grounds for cancellation listed in this part of the legislation appear in Article 22, which refers to a failure to take up trading within 30 days of receiving the Permission, without providing an acceptable reason.

Detailed Internal Regulations have been published for the CPAs, in the form of By-law No. 018/SMG/GAB/2007 published in the *Diario Oficial da Cidade de São Paulo* of 22nd May 2007, by the Municipal Secretary for the Coordination of Sub-prefectures.⁴ The regulations review the composition and attributes of the CPAs as already noted, and go on to specify in more detail the procedures for the management of meetings of CPA, recording and archiving of decisions, and the competences of the various parties.

A major challenge for informal traders (Vannuchi: 2011; Roever: 2012) relates to the contradiction between the regulations governing street trading permission at the municipal level and the legal category of MEI (Individual Micro-Entrepreneur) established by Law 128/2008. An MEI is defined as any person working on their own account or with a maximum of one assistant, and with a maximum annual income of US\$34,000. Informal traders fall within the definitions set out by the law, which sets out to facilitate access to social security

⁴ See Appendix D

and credit on favourable terms. Whilst this legal framework could potentially benefit informal traders, the Municipal TPUs require that the permit-holder be registered as a physical, not a juridical person as for the MEI law. The consequence is that TPU holders cannot benefit from MEI status, and anyone holding MEI status cannot become a licenced permit holder, as the laws stand. In addition, the MEI legal framework is aimed at individuals and discourages a collective bargaining approach by street traders to social security.

Many of the street trading representatives interviewed about the CPA structure were of the view that it was relatively progressive in its original intent when introduced by the PT prefect Luisa Erundina (1989-92), but that over time this intent had been undermined by successive conservative administrations. It was argued that the legislation was written '*em branco*' i.e it gave wide discretionary powers to the prefect, and that this capacity to delineate further regulations was used over time effectively to re-write the way in which CPAs could work. The prefect sets the tone of the administration from the centre and all the sub-prefects then follow the lead. An example given was how the Serra administration (2005-06) prevented experienced SINPESP representatives from attending CPA meetings in more than one sub-prefecture. The effect of this regulation was to weaken seriously the capacity of the street vendor representatives of CPAs in the various sub-prefectures. Many of them were not particularly well organized or experienced and were less able to deal with CPA business in a hostile environment without the support of experienced comrades from the central organization. (Interview: Ricardo Luis Prado - COOPAMESP)

There were doubts about the advisory nature of the CPAs, and some representatives argued that they needed to be deliberative bodies, with real decision-making powers, and not merely consultative. This would require a change to the legislation in force. There were also doubts about the democratic functioning of CPAs. Some street traders' representatives held that they would always be a voting minority in terms of the present composition of the Commissions. Representatives of formal business were seen as generally hostile to street vendors and tending to vote with the administration, whilst civil society representatives were potentially fickle and not necessarily firm allies when it came to the vote.

Most street vendor representatives when asked how the functioning of the CPAs could be improved responded by pointing to the necessity for a change in the administration and many were looking to the municipal elections of October 2012 for a more progressive local regime which would be more responsive to their interests. (Interviews: Otavio Anisio Ramos, *Coletivo Camelôs de Santana*; Manoel de Souza, *SINPESP*)

7. The Institutional Management of Street Trading: Structure

Local government in Brazil maintains a separation between the executive, in the form of a mayor, ('the prefect') and the legislative body, the city council. São Paulo's local government is decentralized administratively along territorial lines; there are 31 sub-prefectures (*subprefeituras*), and these are in turn divided into 96 districts. At a local level the districts may contain one or more neighbourhoods, known as *bairros*. The mayor, known as the prefect, is in overall charge of the city's local government, with appointed sub-prefects in charge of the districts.

The Municipal Secretary for the Sub-prefectures (SMSP) is responsible for the regulation of open public spaces, and thus for street vending. This office coordinates all the Sub-prefectures directly responsible for informal trade in the various districts of the city.

The inspection of informal trade is carried out by the Municipal Secretary for Urban Security (SMSU) through the Metropolitan Civil Guard (GCM) Their mandate, among others, is to 'control public space and inspect street trade' with a view to 'significantly reducing the inappropriate use of public space by unlicensed and illegal vendors through inspections', thereby 'freeing up public space and returning it to the legal and collective use of society, thus contributing directly to a sense of security'.

(http://www.prefeitura.sp.gov.br/cidade/secretarias/seguranca_urbana/guarda_civil/)

The Civil Guard was reorganized in 2004 in terms of Law nº 13.866/04 which created SUFIME, the Superintendency for the Inspection of Street Trade, Mediation of Conflicts and Crisis Management. This made inspection of street trade a Civil Guard priority, and directed nearly one third of its personnel towards illegal street trade as a public security issue.

(<http://osmunicipais-wagner.blogspot.com/2011/01/fiscalizacao-do-comercio-ambulante.html>)

In 2009 inspections were widened in various regions of the city in a move to clamp down on unlicensed vendors. The Prefecture launched *Operação Delegada* (Delegated Operation) through an agreement with the Military Police.

The Military Police is responsible to the State of São Paulo, and as a paramilitary body carries out a range of functions such as emergency operations and fire-fighting, road and rail transit policing and traffic management, as well as special operations such as riot control.

8. Street Trading regulation in practice

In 2009 an extra 6 000 Military Police officers were enlisted as part of *Operação Delegada* into a blitz by the Municipality against informal vendors. These officers became inspectors in their off-duty hours, and received overtime payment as a substantial salary augmentation. Opinions differ on the source of the additional funds. Some vendors claim that they come from the State budget, relieving the municipality of the direct costs of this intensified policing effort. In contrast, and more credibly, it is claimed that the Municipality has put aside extra funds for this purpose to the tune of R\$150 million that could easily have been used for more productive purposes such as the provision of better equipment and conditions for informal traders.

(www.redebrasilatual.com.br 28.2.12)

The Operation was justified in terms of combating the sale of illegally imported and pirated goods and as a move to 'clean up' the city and fight crime in the areas where informal trade took place. The inspections led to the cancellation of many licences on arbitrary grounds, the issuing of fines without justification and the seizure of goods. The militarization of informal trade inspection led to many abuses by officers trained in military discipline and habits of obedience and unschooled in the skills of negotiation needed on the streets. The behaviour of individual officers was often extremely aggressive, with no regard to the legal procedures laid down for the inspectorate, for example in the confiscation of goods. Heavy fines were often issued without justification. The use of Military Police signaled clearly that the administration had no real interest in negotiation through the legal channels of the CPAs, which had effectively ceased to be used as anything other than vehicles to confirm the cancellation of licences.

Operation *Delegada* affected large numbers of unlicensed informal traders who were then prevented from earning a livelihood to support themselves and their families. In the past many of these traders had managed to survive illegally by paying bribes to inspectors who would

turn a blind eye to their activities. One leader of an informal traders' association leader seemed to say it was partly the corruption of the councilors, who collected on the bribes paid to the inspectors, that drove the Mayor to remove some of their competences and to turn to the Military Police in order to cut the councilors out as interlocuteurs between traders and the subprefecture inspectorate. His view was that the agreement under which Retired Military Police Colonels became administrators of informal trade was not legal, and was totally irregular, as the Military Police are state functionaries and not municipal ones, and have a security function and not an administrative one. He claimed that there was a logic to what was done, given the corruption of the past, but that more deals ended up being made once again with 'non-serious' people, which had led to further corruption. In 1999 a Parliamentary Commission of Enquiry into corruption in São Paulo led to the dismissal of a state deputy, some city councilors and the arrest of various people on charges of bribery related to street trading. (Interview Jose Artur Aguiar)

The systematic cancellation of TPUs by the current administration of the Prefect Gilberto Kassab has been a concerted attack on the rights of street traders. Whole areas of the city which were traditionally given over to street trade have been cleared. These include Santana in the north, Largo 13 de Maio in the south, Lapa in the west, Largo da Concordia in the centre-east and Itaquera in the east. All TPUs in these areas have been cancelled. Those traders remaining in these areas operate without licences, by virtue of informal pacts with the sub-prefectures. This situation creates a form of perpetual instability. Some councilors attempted to negotiate more permanent locations for the traders in temporary public or private spaces set aside for them such as popular shoppings. The traders in this situation became much more vulnerable to demands for bribes from inspectors.

9. Street Trading Organizations in São Paulo

Vannuchi (2012) notes that over the last twenty years there have been various unsuccessful efforts to create a unified city-wide movement of street vendor organizations, according to some leaders she interviewed. The organizations all struggle to defend the rights of their members to create a livelihood for themselves and their families in the face of an exceedingly hostile administration which has for several years refused any meaningful dialogue with them, and is intent on doing away with street vending completely. Their vulnerability has been increased by the traders' fragmentation and inability, until very recently, to create a unified front. Violent competition between predominantly male leaders for control of trading space, leading in one case to assassination, also contributed to general bargaining weakness (<http://www1.folha.uol.com.br/cotidiano/> Folha. Presidente do Sindicato dos Camelôs Independentes Morre Baleado em São Paulo. 15/12/2010) Recent developments, dealt with below, have changed this scenario to some degree.

The main organizations of informal vendors with any real presence in the city are as follows⁵:

Central Region.

- **SINPESP – Sindicato dos Permissionários do Estado de São Paulo, (Union of Permit Holders of the State of São Paulo)** which has links with **UNADEF – União Nacional dos Deficientes (National Union of the Disabled)**. The Presidents of these Unions are also leaders of vendors in the vicinity of Rua 25 de Março, one of the main areas of street trading

⁵ The information in the following paragraphs draws substantially from Maira Vannuchi's scoping exercise for Sao Paulo in 2011 carried out as part of the StreetNet WCCA Campaign.

in the city. The organizations were founded in the 1980s and decisions are taken in general or special meetings. Executive members meet every three months and decisions in council are taken by direct vote. SINPESP is not affiliated to any Trade Union, but to the Federation of Commerce, which is a formal business association.

This approach to affiliation is justified on the grounds that the people doing the street vending are linked to commerce, and that those who have permission are 'formal' because they have permission to have their stalls in the centre of the city. The main work of SINPESP seems to be mediating the relationship between *permissionarios* and the city, with the aim of demonstrating the necessity for the vendors to be able to keep working, and for the government to make some concessions to allow them to participate. In this task the Union faces major difficulties because the present incumbent Prefect Gilberto Kassab took the position from early on that he wanted to do away with the vendors as a cause of confusion in the streets. SINPESP advances the position in their defence that many have been on streets for up to 40 years, a good part of them are working with TPUs, and the majority of these are people who are disabled or over 60, and even those who are not, most are over 40 years of age and have no other qualifications to work in formal work. (Interview: José Gomes: SINPESP)

• **Associação dos Camelôs e Ambulantes da região do Brás e Adjacências da Capital (Association of 'camelos' and vendors of Brás and Adjacent areas of the Capital)**

This association was formed in 2011 in the context of the cancellation of licences in the region of Bras. The area has the largest group of street vendors in the city, as the *Feirinha da Madrugada* (Early Morning Market) is located here. It is the largest street vending site in the city and largest retail vending hub in the country. Vannuchi (2012) cites an informal census from the beginning of 2011 which established that there were approximately 7,000 informal vendors inside the 'Popular Shopping' market and another 2,000 in the surrounds. The 'urban clean up' operations undertaken by the City in 2011 aimed at removing all informal vendors from the surrounds of the Early Morning Market. These actions led to conflict between the vendors, Military Police, Metropolitan Civil Guard, and formal traders. All 350 traders had their licences cancelled on the grounds that they did not have their required documents.

The Association was formed to put pressure on City Councillors and the State of São Paulo to reverse the cancellations as being indiscriminate. The direct intervention by a State deputy with the Municipal Administration led to the cancellation being revoked. Traders from the Mooca region were the only group in the whole of São Paulo that managed to carry on working despite being 'cancelled', and they managed to do this by creating a political alliance which was ultimately based on patronage. But the traders themselves were not involved in this process, and had no real idea what the terms of the deal were between the political actors. This outcome allowed the vendors to continue to operate, but still in the face of arbitrary actions on a daily basis, something which has generated great indignation and desperation amongst the vendors. (Interview Vania; 23rd March 2012)

The stay on cancellation came about because the lawyer they employed worked as an adviser to a State Deputy. The lawyer was able to bring the Deputy into the issue, and he called the Secretary of the sub-prefecture to account. The sub-prefecture had effectively acted illegally against the traders, playing 'a dirty game' with them. (Personal communication, Luciana Itikawa, 23rd March 2012) It cancelled their TPUs on spurious grounds, such as falsifying the sick notes that they submitted to justify absence from the streets, and then claiming that they

were not in order, or by withdrawing the documentation they had submitted as part of the registration process from the sub-prefecture files, and then claiming it was not there.

Fortunately the traders had not submitted their original documents to the sub-prefecture as demanded, but only copies, and when incomplete documentation was given as grounds for cancellation, the originals were available for re-copying and re-submission to the administrative hearing. The Mooca region CPA was described by traders as being a paper organization which in practice was there simply to get rid of traders. It was reported that at a 2010 CPA meeting attended by a traders' representative the President of the CPA simply told other members of the commission of the decisions he had taken, with no discussion, no explanation, and no scrutiny by other members of the commission of the documentation on which the decisions had been taken. (Interview Vania; 23rd March 2012)

- **ACESP- Associação dos Camelôs, Ambulantes e Autônomos de São Paulo (Association of 'Camelos', Vendors and Autonomous traders of São Paulo)**

This union represents informal vendors with TPUs, and is linked to the UGT (General Union of Workers) Trade Union federation. ACESP functions in Bras and was part of the process which established the Early Morning Market, which was part of a Municipal management project in 2000 which moved traders from the streets and relocated them in the 'popular shopping' in space allocated to the Union.

- **SINDIMEI – Sindicato dos Ambulantes, , Autônomos e Microempreendedores Individuais do Estado de SP (Union of Vendors, Camelôs, Autonomous Traders and Individual Microentrepreneurs of the State of São Paulo)**

SINDIMEI is also linked to the UGT and has several sub-branches in the State of São Paulo. While it groups together various categories of informal workers, and micro-entrepreneurs, it seems as though it is focused on providing support for vendors to become micro-entrepreneurs and set up small businesses, thus assisting a process of formalization and changing their legal status. It has sections which provide training, legal support and assistance with accessing state benefits. It clearly obtains some resource benefits from its association with the UGT Federation. The representative interviewed was a Treasurer of SINDIMEI, and also the UGT National Secretary for Informal Work. He argued that the general attitude of the trade unions towards informal trade in the past and even today is that they do not take it too seriously. His central union created the informal organization, but he feels it is still very much discriminated against within UGT and that there is a need to create more awareness and interest among Union leadership. (Interview: José Artur Aguiar)

The development of 'Popular Shopping' as a means of supporting the growth in numbers of small-scale entrepreneurs is a major focus of the organization's work, and has been since the first *Camelodromo* (covered space for vendor stalls) was developed in São Paulo in 2000. Popular Shopping projects have management shared by the Public Ministry, trade unions, the Prefecture, and the Federal Government and the aim is to get people selling legal goods within a structured framework which is also easier to manage in terms of inspection and revenue collection, according to the interviewee, who was also involved in the inception of the Early Morning Market in Bras in 2002, when traders were moved out of the Rua 25 Março. (Interview: Jose Artur Aguiar)

The 'Popular Shopping' model is widespread in Brazil and also in other Latin American countries (under a different name). The 'Popular' appellation is misleading. These municipal projects generally privilege certain groups of vendors only - usually those who are better off and who can afford to pay rent in an off-street location. 'Popular shoppings' are often held up by municipal administrations as proof of their commitment to working with vendors. But they also give the same administrations an excuse to evict vendors who have not been incorporated into the project- generally those who are poorer. Popular shoppings are sometimes viewed as success stories, but in fact tend to make those vendors who are excluded worse off. (Sally Roever: personal communication 26/9/2012)

Eastern Region

- **COOPAMESP - Cooperativa dos Trabalhadores Ambulantes do Estado de São Paulo, (Cooperative of Street Vendors of the State of São Paulo)**

This body represents the vendors working in the Parque do Carmo, a large Municipal Park, and also those selling in the centre of Itaquera. It was created in 2006 after the vendors were expelled from the surrounds of the Itaquera Metro station, when the Itaquera 'Shopping' was inaugurated. As a special concession the Park Directorate, which is under the control of the Municipal Secretary for the Environment (SMVA), allows informal vending in terms of a bilateral agreement, independently of the Sub-prefecture. The park is a protected space for the vendors, but the traders' position is precarious nonetheless, as they operate without licences, and have to be very careful to obey the rules of the Park. The Park Directorate meets fortnightly with the Cooperative's steering committee to make decisions, and the Cooperative steering committee has representatives on the Park's management commission. The Civil Guard patrol the park, and are also represented on the Park's management commission, but the traders manage to survive with the protection of the Park's management. COOPAMESP office holders are elected every three years. All members meet on a monthly basis. This cooperative arrangement, in a protected space, is in stark contrast with the attitude of the sub-prefecture, but is only able to accommodate a limited number of vendors.

Southern Region

- **SINTEMEI – Sindicato dos Micro Empreendedores Individuais e da Economia informal do estado de São Paulo (Union of Individual Micro Enterprises and the Informal Economy of the State of São Paulo)**

This body emerged out of the former Sintein (Union of Informal Economy Workers) affiliated to the Union federation CUT (*Central Única dos Trabalhadores*) (Single Union of Workers). Created in 1992, Sintein was designed to promote entrepreneurship and access for its members to micro-credit through the Ministry of Labour's Solidarity Economy Board, and to support the creation of buying cooperatives to strengthen workers' bargaining power with wholesale dealers and access to new suppliers. A 2009 ILO working paper noted that Sintein-CUT joined StreetNet, and that a seminar on public policies in different administration levels was held in São Paulo in November 2005. The seminar's resolutions were never published, and the authors report that a member of the CUT Executive Board said that Sintein-CUT remained "a dream", in that it could not achieve its main goals, largely due to its inability to attract and consolidate a stable membership. (Cardoso & Gindin 2009:32) Sintein ceased to exist in 2009.

Founded in 2010, SINTEMEI includes a large part of the former leadership of Sintein. SINTEMEI was created for two principal reasons. Firstly, the Union movement organizing formal sector workers had not paid much attention to organizations representing informal workers, which over the long term created a lot of discontent in the leadership of Sintein.

Secondly, there was a legal requirement to change the juridical status of the union so that it could officially represent workers categorized as MEI (Individual Micro-Entrepreneurs) and register with the Ministry of Labour and Employment. The Union issues cards to its members and thus gains access to the obligatory union dues which informal vendors who are registered as Individual Micro-Entrepreneurs contribute annually. In this way the union is able to make itself more financially viable, something it was never able to do previously. The Union's highest decision-making body is the Assembly, open to all members, which meets twice a year, meetings of which have to be advertised in a high-circulation newspaper and in the Official Gazette. The executive meets fortnightly and the directorate, which has a majority of women members, monthly. (Vannuchi:2011)

10. The politics of Street Trade in São Paulo

Spatial factors are important in governing the relationship between informal trade and political power in the city because the regulatory system is decentralized. State and local politicians have established their electoral bases with the various dispersed poles of commercial activity in mind, which means that the channels of representation available to traders are also localized and fragmented. The legislation regulating street trade was based on regional administrations and commissions, so that dialogue between local authorities and street trading organizations would take place separately in each sub-prefecture, mediated by the local elected legislative representatives. The consequence of this form of regulation was to weaken further the capacity of traders to articulate a unified approach.

Even though the CPAs were designed as a three-way channel for Social Dialogue involving street trader representatives, civil society and local administration, they have not been convened on a regular basis as provided for in the legislation, for at least the last five years. Representatives of street vending associations interviewed were unanimous in claiming that they have in effect become a dead letter, their neglect by the administration demonstrating its lack of commitment to the institution and general hostility to street trade. Some authors (Itikawa, Vannuchi 2012) note that attitudes towards informal trade adopted by recent administrations have differed substantially, largely dictated by the party political affiliations of the leadership. The Prefecture of Luiza Erundina, a PT(Workers' Party) incumbent between 1989 and 1992, was ground-breaking. Her political origins were in grass roots social movements and in the trade unions, and her term of office saw the introduction of a social dialogue mechanism in the form of the CPAs which were set up as a mechanism to include street traders in the process of regulation. In contrast, according to the same sources, the following administrations, of Paulo Maluf from the PPB – Brazilian Progressive Party (1993-1996) and Celso Pitta also of the PPB, and later of the PTN- National Labour Party (1997-2000) were marked by the involvement of members of the Executive and the Legislature in mafia-type schemes and the collection of bribes from street traders. Parliamentary Commissions of Enquiry into corruption in the management of street trade were instituted in 1991, 1995, 1997 and 1999 by councillors linked to the leadership of street trader organizations.

The PT Prefect Marta Suplicy (2001-2004) carried on where Luiza Erundina's administration had left off, and systematically instituted the CPAs in the sub-prefectures. In this phase the CPAs functioned as legitimate spaces for street trader advocacy and complaints. The most recent administrations, of José Serra (2005-2006) PSDB (Brazilian Social Democratic Party) and of Gilberto Kassab of the Democats (2007-2008; 2009-2012) have been hostile to all street traders, including those who were licenced.

In 2007 the Secretary for the Coordination of the Subprefectures suspended the issuing of new TPUs in the City for a year.⁶ This was justified at the time as a move to contain the spread of informal trade and rationalize the use of public space, and was repeated annually with the argument that there was an ongoing need to reorganize public spaces to deal with the irregularities of informal trade⁷.

The current administration of São Paulo under the Prefect Gilberto Kassab has been characterized by its hostility towards street traders, but it only clearly articulated its ultimate goal of removing all traders from the streets in 2012. On 18th May Kassab issued a Decree (No 53.154) which revoked a 1997 Decree (No. 37.143 of 4th November) which had dealt with the allocation of areas for street trade in the central region of São Paulo. The sub-prefectures of Sé and Lapa then issued lists of the roads that would be affected in their areas, and gave street traders 30 days notice to vacate these areas. The measure affected about 270 physically disabled traders. Additionally, 512 street traders from Pinheiros and Lapa in the west, and São Miguel Paulista in the east, had their *Termos de Permissão de Uso* (TPU) licences cancelled. All remaining licences were to be cancelled in the following days.

The text of the Decree justified the move in terms of 'the necessity to adopt measures which better guarantee the urbanity and wellbeing of the local population, allowing the reordering of public space, ensuring accessibility for pedestrians, and preserving the urban landscape and its heritage'. The Decree also referred to 'the difficulties encountered in the regulation and control of street trade' and the necessity of putting in place integrated plans and policies aimed at 'formalizing entrepreneurial activity in the city'. By this is meant the aim of forcing traders off the streets and into three 'popular shopping' structures, which still have to be built, and which will not be as strategically located for passing trade. (Globo <http://g1.globo.com/sao-paulo/noticia/2012/05/>)

Having done this Kassab took a step back and allowed an exception for disabled and aged street traders, saying that he would 'offer to them the security that their work and income would not cease' while the popular shopping structures were being built. On completion they would have priority access to these, but in the meantime there was no clarity on whether they would be allowed to continue as normal, or whether another solution would be found for them. Able-bodied street traders were offered no short-term solution to their problems, however. The response from traders was immediate: street protests and legal recourse via a Civil Public Action brought jointly by the Public Protector of the State of São Paulo and the Gaspar Garcia Centre for Human Rights. On 4th June the local court gave provisional relief in the form of a suspension of the 2012 cancellation of licences, and went further in reinstating the licences of traders who had suffered arbitrary cancellations since the inception of *Operação Delegada* in 2009. The public protector provided evidence in the form of statements from traders who had not been able to defend themselves in the administrative processes which had resulted in the cancellation of their licences.

However, the temporary injunction was revoked by the President of the State Tribunal, Dr. Ivan Sartori, on 12th June with the effect that all 4,000 remaining TPUs in São Paulo were cancelled. The judge found that the temporary injunction provided by Judge Carmen Cristina Teijeiro e Oliveira constituted 'judicial interference' with the efficient development of municipal public policy within its discretion, namely the removal of street traders from areas reserved exclusively for pedestrian use. He also held that the street traders' presence promoted a

⁶http://www.prefeitura.sp.gov.br/portal/a_cidade/sala_de_imprensa/audios/index.php?p=18877
⁷<http://www.jt.com.br/editorias/2008/09/14/ger-1.94.4.20080914.4.1.xml>

grave threat to order, and risks to health, security and the public economy. This decision was based on recourse to a 'security suspension' instrument, an exceptional mechanism accepted as constitutional by the Federal Supreme Court, but arguably in this case used for political reasons and administrative convenience.

The Gaspar Garcia Centre for Human Rights, an interested party in the case, argued that it imposed a state of exception which runs counter to the constitutional conceptions of Civil Public Action such as the Right to the City, Right to Work and the Right to Popular Participation. It also made judicial recourse to higher instances more difficult. (Luciana Itikawa communication 13th June 2012.⁸ The state public defender's office and the *Centro Gaspar Garcia* then filed another judicial petition called an "*agravo regimental*", a legal instrument by which a court is requested to reconsider its own decision on the basis of a problem of procedure, conflict of interest, or other problems internal to the judicial system. On the basis of this petition, the vendors' advocates aimed to have this decision of the President of the Court reviewed by the *Órgão Especial*, a panel composed of 25 appellate-level judges.

Because the request for judicial review was not sufficient to guarantee the suspension of city-led evictions during the period while it was being considered, the petitioners also brought a separate request for another injunction. Their primary request was that evictions be suspended immediately until a review of the chief judge's decision could be undertaken by the full panel of the *Órgão Especial*. On 20th June 2012, after considering the requests from the *Centro Gaspar Garcia* and the public defender's office, the chief judge of the *Órgão Especial*, Judge Grava Brazil, granted an injunction that suspended the decision by the president of the tribunal. Judge Grava Brazil's decision cited the risks posed to the rights of the vendors pending a decision by the panel if evictions were allowed to continue. At the same time that these lawsuits were pending, vendors' associations and the *Centro Gaspar Garcia* were also working with vendors to organize in other ways.

As from May 2011, the *Centro Gaspar Garcia* held meetings with vendors, designed to bring together representatives of the various regions of the city and to provide vendors with a space to develop and undertake coordinated strategies. In the first five months, only representatives from the central region attended. As the Prefecture began evicting vendors from other areas of the city, representatives of those regions also began attending, broadening the geographic scope of the workers' network. In early 2012, the network that had been meeting at *Centro Gaspar Garcia* was renamed the "*Fórum dos Ambulantes da Cidade de São Paulo*" (São Paulo Vendors' Forum).⁹

From May 2012, when a full 100% of permits were revoked by the city, the Forum began to organize weekly demonstrations. These demonstrations were designed to protest the arbitrary administrative processes, lack of social dialogue, and misconduct by officials charged with monitoring vendors' activities. In the various demonstrations that occurred during May and June 2012, the Forum succeeded in gathering approximately 1,500 vendors in front of the city hall, the centre of the municipal government, and the state court. These demonstrations also captured the attention of the media and society, helping to draw attention to the vendors' ongoing legal battle and their dissatisfaction with the lack of alternatives.

⁸ The following paragraphs draw verbatim from Sally Roever's June 2012 WIEGO update on the situation in Sao Paulo, which succinctly outlines a complex series of legal manoeuvres.

⁹ See Appendix E Street Vendors' Forum **Agenda for the Informal Urban Economy 2013-2016: Proposals for Street Trade in the City of São Paulo.**

When the city became aware of the decision of Judge Grava Brazil, the city government again brought a complaint before the President of the Court. As a result, on 22nd June, the president of the court asked the judge of the lower court to reestablish his decision and remove the injunction protecting the vendors, violating the order in the other injunction to ensure the effectiveness of a decision by the *Órgão Especial*. On 27th July, 2012, the court's *Órgão Especial* ruled in favor of the street vendors with respect in the matter of the *agravo regimental*.

The judges' decision highlighted the social and economic consequences of the proposed evictions and argued against the allegations that the original decision in favor of the vendors had constituted a "serious injury to order." Finally, the decision emphasized the need for a reasonable and non-violent solution to the issue, one that would respect the rights of those who do not have other means for sustaining the livelihoods of their families. From the point of view of *Centro Gaspar Garcia*, this combination of judicial and political actions undoubtedly contributed to the reversal of the Prefecture's initiative to promote the elimination of all street vending in the city of São Paulo.

In the run-up to the Municipal elections of 7th and 28th October, the Centre hosted meetings between the Forum and candidates of the leading political parties, as a means of widening the debate over the position of street vendors in the city. The aim was to pressure candidates to include proposals developed by the Forum in their plans for city management and to acknowledge their importance in any urban planning proposals. Featuring prominently in the Forum's platform were the demands for a guarantee of work for the thousands of street vendors currently outside of any regulatory system, and for the strengthening of popular participation in decision-making processes. The demand was for transparency, regularity and guarantee of full representation at meetings of the CPAs, and a return to their original participatory intent as formulated under the administration of Marta Suplicy of the PT from 2000-2004. (<http://www.gaspargarcia.org.br/Noticias.aspx?p=137> accessed 6th September 2012)

The Municipal elections for São Paulo to be held over two rounds on 7th and 28th October will be hotly contested by the leading political parties, as control of the city is seen as a potential rehearsal for the next Presidential Elections in 2014. José Serra, a senior politician of the PSDB – the Brazilian Social Democratic Party- and former Prefect in 2005-06, made a late and surprising announcement of his candidacy for the Prefecture in February. He stood unsuccessfully for President on two occasions: he was defeated by Lula Inacio de Silva of the Workers' Party in 2002 and by his protégé Dilma Rouseff in 2010, and may have been contemplating a third attempt. His main opponent will be Fernando Haddad, a former Minister of Education in Lula's government, and someone who has been promoted by him against the wishes of PT militants in São Paulo, who would have preferred to see the former Prefect from 2001-2004 Marta Suplicy nominated for the position. (<http://www.opendemocracy.net/arthur-ituassu/brazilian-politics-s%C3%A3o-paulo-microcosm>)

The PT and the PSDB have been at the heart of Brazil's political scene for the last twenty years. The PSDB under Fernando Henrique Cardoso's *Real* (currency) plan was able to cut inflation and bring economic stability to Brazil following the transition from military rule. This won it two terms of Presidential office. Lula won the Presidency for the PT in 2002, on his fourth attempt, but the PT has not managed to hold onto power in São Paulo. Apart from Marta Suplicy, the only other PT Prefect has been Luisa Erundina who held office from 1989-1992.

What makes the São Paulo dispute especially sharp is that both parties originate in the city. The PT was created in 1980 by workers in local industries, with its leader Luís Inácio Lula da Silva gaining prominence in the fight against the then military regime. The PSDB was born in 1988, clustering around an intellectual *paulista* elite. In that sense, the current political polarisation between the parties can also be seen as an expression of an ongoing class struggle at the heart of Brazilian capitalism. (<http://www.opendemocracy.net/arthur-ituassu/brazilian-politics-s%C3%A3o-paulo-microcosm>). The outcome of the election will certainly have a critical influence on policy towards street vendors and will determine whether it will move in a more inclusive direction following years of marginalization, or whether there will be continued exclusion and persecution.

11. Conclusions and Lessons:

- The political complexion of the party in power is decisive in shaping official attitudes towards street trade and the manner in which the legislation is actually implemented in practice.
- The municipal street trading regulative structure in São Paulo lacks institutional autonomy. It is subordinated politically to the party in power at any particular time.
- The mass cancellation of licences in May has galvanized street vending associations into concerted political action: the Fórum dos Ambulantes da Cidade de São Paulo has mobilized street protests, advanced its own Agenda, and is campaigning to hold political party candidates standing for local election accountable for their positions on street vending.
- Representatives of street trading organizations interviewed were generally of the view that the legislation relating to CPAs was good in theory, but that in practice it had become a dead letter as CPAs had not functioned effectively since 2007 when a hostile administration took office in the city.
- There were doubts about the advisory nature of the CPAs, and some representatives argued that they needed to be deliberative bodies, with real decision-making powers, and not merely consultative. This would require a change to the legislation.
- There were also doubts about the democratic functioning of CPAs. Some street traders' representatives held that they would always be a voting minority in terms of the present composition of the Commissions. Representatives of formal business were generally hostile to street vendors and voted with the administration, whilst civil society representatives were potentially fickle and not necessarily firm allies when it came to the vote.
- It is argued by street vendor representatives that the original participatory intent of the CPA has over time been undermined fundamentally by the use of the large discretionary powers of Prefects hostile to street vending to fill in the gaps in the regulations.
- The right of street vendors to work has not been respected by the recent administrations but vendors are beginning to organize on a city-wide basis to combat their weakness, and to advance political demands.

- Attempts to create 'popular shoppings' for vendors are a partial solution only, and can never fully accommodate the number of vendors who are seeking to make a living for themselves and their families on the streets.
- Street vending regulated by the local Temporary Use Permit and the CPA system creates anomalies within the state's framework of formalizing vending through the category of Individual Micro-Entrepreneur. Vendors in the former system are excluded from the system of contributions and benefits of the latter.

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Appendix A: List of Interviews

- 19th March. Luciana Itikawa Programme Director, Centro Gaspar Garcia, Armenia
- 20th March. Otavio Anisio Ramos, Coletivo Camelôs de Santana.
Leonardo Vieira, CUT International Affairs Department, Bras.
- 21st March Eduardo Ferreira, Coopamare, MNCR, Vila Mariana.
Ricardo Luis Prado COOPAMESP. Parque do Carmo, Itaquera
Antonio Santana. (Associação dos Vendedores Ambulantes do Comercio da Cidade de São Paulo) &
Manoel de Souza. (Diretor do Sindicato dos Permissionarios em vias e lougradouros publicos de São Paulo, President of Association of Independent Vendors of São Miguel Paulista SINPESP. São Miguel)
- 23rd March José Artur Aguiar: Associação de Camelôs do Est de SP. Sé. (UGT affiliation)
Francisca Vania and others. Associacao de Camelôs Bras
- 26th March Eng^o Kamura. Diretor de Limpeza Urbana, Diadema
Monica - MNCR Diadema
Luci Serre: Secretaria de Segurança Alimentar, Diadema
- 27th March. Valdina- Coletivo de Camelôs da Republica
- 28th March. Jose Gomes Santo Amáro, Se: SINPESP
- 29th March. Itamar Escalona, Informal Economy Specialist & Ivan Gonzalez CSA/CSI
- 30th March. Roberto Rocha MNCR Cruma.

Appendix B: Report on visits to Wastepicker Organizations.

Interviews with:

- Eduardo Ferreira of Coopamare & MNCR 21st March 2012
- Roberto Rocha of MNCR 30th March 2012

The MNCR (National Movement of Collectors of Recyclable Materials) is a social movement which has been organizing collectors of recyclable waste materials on a national basis in Brazil for the last ten years. The Movement aims to valorize waste collectors as an important working class group, which has been marginalized and discriminated against historically. One of its key principles is maintaining working class independence and denying the right of political parties, governments and employers to speak in its name. It holds to the practice of direct popular action as an effective means of participation of workers in every aspect of their lives, enabling them to break with popular indifference and open up avenues of social transformation. Other key principles which guide the Movement's activities are self-management and organization and mutual assistance and class solidarity. The Movement aims to contribute towards the building of a just and sustainable society through the social and productive organization of waste collectors and their families guided by these principles. (http://www.mncr.org.br/box_1/principios-e-objetivos)

The MNCR was built as a national movement of collectors after long and hard struggles by individual groups of collectors in various regions. According to Eduardo Ferreira of Coopamare, a founding member of the Cooperative based in Pinheiros, Sao Paulo, the first Waste Collectors' Cooperative to emerge in Brazil was his, in 1989, with 20 members. The prefecture allocated space under the Paul VI viaduct, and passed a municipal decree which officially recognized waste collecting as a professional activity and guaranteed the right to work. The *catadores* received training, and a service agreement was signed with the Directorate of Solid Waste Removal. With this structure in place the waste collectors gained legitimacy with both manufacturers and intermediaries, and greater visibility in relation to traders, householders, businesses and the population in general. (<http://www.catasampa.org/cooperativas>)

A 1999 meeting in Minas Gerais on Solid Waste collection attended by Cooperatives from six states gave the impetus for further organization as the *catadores* found that there were many technical issues they did not understand. From there work was done with the Church, NGOs and Government to create partnerships to provide technical assistance and to assist with mobilization.

The MNCR emerged in 2001 as a national movement by linking a range of regional efforts and creating a single objective. Waste collecting was given official recognition as a category of work in the CBO (Brazilian Classification of Occupations). In 2003 the Movement gained autonomous status at the national level within the Federal Environmental framework. Also in 2003 the First Latin-American Congress of Waste Collectors took place bringing together organizations from the sub-continent. From this point on the MNCR began to build organizational momentum as it operated at both the regional and national level. In the same year a meeting with President de Silva provided enormous legitimacy for the Movement and opened doors to its inclusion in discussions on national Solid Waste legislation and public policy issues. The Movement is involved in the Interministerial Committee for the Fight against Hunger and Poverty, and from

there it has a link with the Ministry of the Interior in respect of Social Assistance. In 2006 the MNCR organized a march on the Federal Government in Brazilia to demand the creation of more employment in cooperatives and grass-roots associations of the Movement with a target of 40,000 jobs for the whole of Brazil.

Waste collecting cooperatives are now beneficiaries of Federal Law 11445 which enables them to render services without going through the usual complex tendering process. There are several cities which are contracted with Waste Collecting Cooperatives, including Diadema, but not Sao Paulo as yet. Businesses which buy recyclable material from Waste Collector Cooperatives are exempt from the Production Tax normally payable by producers of products which will become waste at the end of their use cycle. In Brazil it is now the legal responsibility of the producer to deal with the used product when it becomes waste.

The story of the creation of waste collectors' cooperatives, their development into a national and international movement with influence is inspiring. It is due to the courage, determination and vision of the leadership and its capacity to organize, and to take advantage of the spaces which opened up with the election to office of a progressive party and President. It is also due to a confluence of factors, such as the economic crisis which hit Brazil in the 2000s which caused municipalities to look for ways of saving costs on waste management, the growing awareness and importance of ecological issues for city managers, and the realities of a growing market for recycled materials. The MNCR has been able through its struggles to actively pursue a vision of a more just and sustainable society for its members who remain structurally marginal in Brazil's capitalist society.

Appendix C: Report on visit to Diadema Prefecture 26th March 2012.

Interview 1: Luci Aparecida Juliana Serra: Food Security Secretariat.

The regulatory issues arising from street trade have been approached in a more sympathetic fashion in Diadema than in Sao Paulo. Here the complexities of competing claims on public spaces by formal traders, pedestrians, commuters and informal traders have been more openly recognized, and some attempts at creative solutions have been explored. There has been an attempt by authorities to adopt a social view in urban planning, and to understand the motivations of street traders in order to be able to create a balance between the needs of the other sectors generally opposed to street vending, and the demand for space to pursue a livelihood from the vendors.

In 2001 a project designated 'Popular Business' aimed at managing street trade was begun. Two main issues were addressed, the first relating to organization of public space. A study was made of the various public spaces where traders could be brought in without causing confusion between the competing demands of users, and *bolsoês* – precincts were created. Some were in the *bairros* (suburbs) and in the avenues. Some were on the outskirts of the weekly 'free markets' in the suburbs. These are licenced and controlled markets, and the challenge was to incorporate the unlicenced *ambulantes* who arrived to sell there. They were given licences and allocated a (smaller 2 metre) space to sell.

In the central region of Diadema a 'Popular Shopping' was created in 2002, with 241 places for vendors. This move was in reaction to a legal action brought against the Prefecture by the Commercial Association, which was demanding that all street vendors, a cause of disorganization and overcrowding in the area, be removed. In contrast to the attitude of the authorities in Sao Paulo, the Diadema Prefecture called the street vendors together and began to talk about alternatives, and their relocation on the basis of negotiation to a 'popular shopping' built for this purpose. About half of the street vendors in the central area that were relocated already had trading licences.

Thus Diadema Prefecture regulates 3 different types of vending activities – those in the *bolsoes*, the *Feiras Livras* (street markets) and the 'popular shopping'.

The second aspect of regulation involves the issuing of individual licences to vendors, which constitutes an authorization from the prefecture for the vendor to work in that particular space. The vendors pay an annual rent for the space, and a licence fee. They have to possess the documentation as proof that they are legal. With this they can open a bank account or go to a shop and get credit for goods for their stall. They are enabled to buy at lower prices from the cooperative, and they can also obtain hire purchase facilities, for example to buy a computer for the family, on the basis of the licence documentation.

The Prefecture has identified the need for training as important. SEBRAE - *Serviço Brasileiro de Apoio às Micro e Pequenas Empresas* - (the Brazilian service of assistance to micro and small enterprises) created by the national Chambers of Commerce and Industry offers courses on among other issues, entrepreneurship and food hygiene for vendors. The Food Security Secretariat manages this latter form of training.

The legal framework for the regulation of street trade is set out in the *Lei Ordinaria* No. 3078/11 of 7th January 2011. There is no provision in this legislation for CPAs, unlike Sao Paulo, but the general conditions governing the issuing of licences are similar. Food sellers are obliged to attend training courses and be in possession of certificates. The sanctions for infractions of the rules are graded into 5 stages: notification; fine; confiscation of goods; suspension of licence for 10 days; and cancellation of licence. Article 31 provides for the nomination of a technical Commission composed of representatives from the Secretariats of Food Security, Health, and Economic Development and Labour to work on the drafting of regulations governing issues such as those that the CPAs in São Paulo are meant to deliberate on. In this case they include: allocation of spaces; organization of goods and services to be offered in the light of public health and safety norms; setting the hours of trade; definition of the criteria for issuing of licences; clarification of uncertainties in the application of the law; definition of the norms governing equipment and uniforms used by vendors.

The 'Popular Shopping' is governed by two sets of regulations: Decree No. 5.111 of 25th September 2002 sets out the conditions under which Use Permission of Stalls within the complex is granted to vendors. Decree No. 5.808 of 25th of February 2004 sets out the regulations for the internal management of the Popular Shopping. The Popular Shopping is run by a Management Committee of 8, comprising 1 representative of the Secretariat of Services and Works; 1 from Finance; 2 from Economic and Urban Development ; and 4 vendors' representatives. The composition of the Committee is equally balanced between officials and vendors, which implies a more even distribution of decision-making and also probably a need for more careful negotiation than in the case of the CPAs in Sao Paulo.

According to the interviewee, there is no street vendors' union or association in Diadema as yet, but there are attempts being made to create one.

Interview 2: Eng° Kamura, Director- Department of Urban Cleansing.

Faced with the closing of a principal municipal waste dump in 2002 Diadema developed a new model of waste management which committed it to a policy of greater social inclusiveness and environmental recovery. The Municipality developed the 'Clean Life' Programme and created an Environmental Pact Association as part of its plan to include the catadores who had worked on the former dump into its solid waste management programme.

The programme is carried out through self-managed associations organized as OSCIPs (Public Interest Civil Society Organizations) which are based at the various waste collection sites, where the workers assume full management, beginning with the structuring of the site, through to the control of the whole process including collection, triage and sale, thereby consolidating an economic base for their cooperatives.

The legal basis for the new model is provided by the following:

- Law 2336/04 – Municipal system for sustainable solid waste management
- Decree 5984/05 – Regulates the Municipal law and sets out norms, criteria, sanctions and penalties.

- Partnership Terms- the instrument which set up the partnership between the local authority and the Public Interest Environmental Pact Association as the body representing the *catadores*.

Waste picking has been defined by the law as an integral part of integrated waste management, and is seen as an instrument of social inclusion and revenue generation. Recyclable waste collectors have been recognized as urban cleansing personnel, and payment for their services has been set at the same level as other contracted parties.

Federal Law 11.445/07 introduced a national cleansing policy, and dispensed with the need for associations of *catadores* recognized by local authorities to compete with commercial operations when tendering for municipal waste removal contracts. The associations are paid at municipal rates for waste collection, and are also able to sell the recyclable materials they collect.

The gains made by the associations include capacity building for self-management, permanent training on logistics, stock control, sales etc. and the strengthening of leadership. There is also, very importantly, the guarantee that the waste collectors are included in all decision-making processes.

Appendix D: Diario Oficial da Cidade de Sao Paulo 22nd May 2007

Coordenation of Sub-prefectures.

By-law No. 018/SMG/GAB/2007

The Municipal Secretary for Coordination of sub-prefectures, exercising his legal attributions and

CONSIDERING the terms of article 9 of Decree No.42.600 of 11th November 2002;
CONSIDERING the terms of articles 18 and 21 on Law No. 13,399 of 1st August 2002,
RESOLVES:

1. To approve the internal regulations for the CPAs foreseen in Article 7 of law No. 11.039 of 23rd August 1991, altered by Law 11.124 of 26th November 1991, integrated as annexe to the present By-law.
2. To recommend that the Sub-prefectures, through the intermediacy of their Supervision of Land Use and Occupation promote wide-scale publication of the Regulations so approved.
3. To publish the regulations.

Internal Regulations of the Permanent Commission of Street Vendors.

Chapter 1. Preliminary Dispositions.

Article 1. The CPA, created by 7 of law No. 11.039 of 23rd August 1991, and regulated by Decree No. 42.600 of 2002 will be constituted through By-law of the Sub-prefecture, and will have its functioning governed by the present Internal Regulations.

Single paragraph – the CPA is a consultative and opinion-expressing body of the sub-prefecture for issues pertinent to the activities of Vendors, and will have a one-year mandate.

Article 2. - Each sub-prefecture's CPA will integrate the Urban Planning and Development Coordination, presided over by the Sub-prefect, Coordinator or other person designated by the Sub-prefect.

Article 3. The Internal Regulations of the CPA are an instrument managed by acts of the Municipal Secretary for Subprefectures and can always be revised by that person when necessary

Chapter II. Composition.

Article 4. - CPA composition must follow the terms of Decree 42.600 of 11th November 2002.

- 4.1 Bodies represented on CPA can substitute representatives – both principal and alternate when necessary, providing names and dates of substitution
- 4.2 Representatives can only participate in one CPA, or in one sub-prefecture
- 4.3 Alternate members only allowed to vote when attending as substitutes for principal

Chapter III. Attributes

Article 5. – The following are the attributes of CPA:

- a. Proposing roads and public spaces where fixed and moving vending spaces are defined and installed, on the basis of their relation to those defined by the Subprefecture as adequate for the purposes of street vending;
- b. To study and propose the number of effective vendors permissible in the area under the jurisdiction of the Sub-prefecture;
- c. To study and propose roads and public spaces for street vending
- d. To study and propose sites for the establishment of Commercial Zones (Popular Shopping) and Linear Zones
- e. Regulating and proposing products to be sold and services offered by vendors, in terms of existing legislation
- f. To propose meetings of vendors and traders to provide clarifications whenever necessary
- g. To give opinion on doubts and omissions in the legislation regulating street vending
- h. To propose the publication of norms or changes in the forms of inspection and control of street vending activities
- i. To develop jointly with vendors and their assistants activities for the strict observance of the terms of existing legislation.
- j. To propose norms or solutions which contribute to or reach solutions to problems related to street vending.

Chapter IV : Meetings.

Article 6.- The CPA meets ordinarily every two months and on an extraordinary basis whenever necessary, when called by the coordinator or through written request signed by three principal members

Article 7.- The venue for meetings is the Sub-prefecture or other place determined by the Coordinator

Article 8.- The date, time and agenda will be communicated to members and published in the Official Municipal Diary three days in advance

Article 9.- In meetings the following procedure will be followed

- a. Reading, discussion and approval of Minutes of previous meeting
- b. Presentation, discussion and deliberation of agenda items

Article 10 - Emerging or important non-agenda items can be presented and discussed at the discretion of the Coordinator.

Article 11- Minutes of the meeting need to be taken in the designated minute book and should record:

- a. Date of meeting (day, month and year) and time of commencement and closure
- b. Name of presiding authority
- c. Names of members present and those especially invited
- d. Matters presented, discussed and deliberated upon, with indication of their nature, number of process, specific report and opinion and facts and circumstances which merit recording, at the initiative of the coordinator.

First paragraph –the Minutes will be signed by the Coordinator, members of the CPA present and the Executive Secretary.

Second paragraph- the Minutes of the Meeting of the CPA must be published in the Official Municipal Diary.

Article 12 - Scheduled meetings of the CPA can only take place when a simple majority of members are present.

Article 13 - Decisions of the CPA will be taken by simple majority of members present at the meeting.

First paragraph- In case of a draw, the Coordinator has the casting vote.

Second paragraph – whenever necessary, any member of the CPA can call for a vote, which must be recorded as part of the Minutes

Chapter V- On competences.

Article 14 – The Coordinator of the CPA has the competence to

- a- Chair the meeting, keep order, steer debates and structure them for discussion of issues under consideration;
- b- Represent the Commission or delegate representation to one of its members
- c- Create sub-commissions when necessary to develop its work
- d- Consult whenever judged necessary or convenient, or to invite to attend, people or organizations who by virtue of their knowledge are able to assist in clearing up doubts hampering any deliberations of the Commission.
- e- Submit to the CPA the relation of streets and public spaces previously defined as appropriate for street trading;
- f- Take to the subprefect an indication of other streets and public spaces which have been proposed by the CPA as areas for street trading;
- g- Approve studies and analyses for the creation of Commercial Zones (Popular Shopping) and Linear Zones, in terms of Article 6 and its respective paragraphs of Decree 42.600 of 11th November 2002.
- h- Approve and implement any proposals approved by the CPA
- i- Depatch proposals submitted for the examination, study or tabling at the CPA and to promote their distribution;

Article 15 – The Sub-prefect has the competence;

- a- To ask for those bodies represented on the CPA to name substitutes in the event that a member is absent for 3 consecutive meetings without apologies, or in the case of inappropriate behaviour;
- b- To approve guidelines and publish notice of ordinary and extraordinary meetings in the Official Municipal Diary
- c- To publish in the OMD the extract of the Minutes of meetings
- d- To create, through By-law, where convenient, the fixed and moving points in the streets and public spaces indicated by the CPA, within the terms referred to in item 'a' as well as in the streets and public spaces proposed by the Commission and approved in terms of item 'b' while observing any legal restrictions and the scale of priority of streets and public spaces;
- e- To approve and create, following CPA hearings, the number of Effective Vendors in the area of jurisdiction of the Sub-prefect;

- f- To approve and publish the list of products to be trades and services to be offered;
- g- To issue the Terms of Use Permission (TPU), as well as the tokens identifying the place and individual trader.
- h- To revoke and cancel the TPU in cases provided for by the law and consequently to collect the TPUs and the identification documents relating to place and individual trader
- i- Equipment should be closed down in the case of an able street trader going to meetings during working hours.

Article 16 – Members of the CPA have the capacity:

- a- To attend meetings of the CPA. In the case of a fully able vendor, the stall should be closed during the meeting;
- b- To justify absences and impediments;
- c- To participate in debates and vote;
- d- To present proposals for the examination of the CPA
- e- To report on processes which were distributed, presenting proposals and recommendations to their respective partners.
- f- To require complementary information in order for better instruction on processes submitted for their consideration, where necessary;
- g- To submit to the Executive Secretary processes received for distribution, with an explicit declaration, whenever not able to study or report on the issue for reasons relating to the licence or legal impediment;
- h- To suggest items for the CPA Meeting agenda to the Executive Secretary
- i- To observe Article 15, item a of this By-law.

Article 17 Competences of the Executive Secretary

- a- To develop and execute all the administrative and bureaucratic activities necessary to the smooth functioning of the CPA;
- b- To receive, prepare and expedite documents and correspondence;
- c- To edit, process and obtain signature of Minutes of meetings
- d- To organize the registry and archiving of CPA processes and documents
- e- To prepare and forward to the Coordinator, for distribution, the relation of processes received, keeping to chronological order of arrival of same;
- f- To organize and propose to the Coordinator the agenda items for CPA meetings;
- g- To prepare and forward to the Sub-prefect the notice of meeting, to be published in the OMD;
- h- To prepare and forward to the Sub-prefect the extract of Minutes, to be published in the OMD
- i- To forward, monthly, to the Coordinator, the statistical record of CPA meetings and member attendance

Chapter VI: Activation of Processes

Article 18- Whenever a written proposal presented at a CPA meeting requires a detailed study, if necessary it will be processed on SISPRO

Article 19 – Processes opened will be forwarded to the Executive Secretary to registration, preparation and forwarding to the Coordinator.

Chapter VII: Final dispositions

Article 20- Cases omitted from these regulations will be resolved by the Sub-prefects

Article 21- The present regulations will come into effect on their date of publication, all dispositions to the contrary being revoked.

Appendix E: São Paulo Street Vendors' Forum (2012) Agenda for the Informal Urban Economy 2013-2016: Proposals for Street Trade in the City of São Paulo.

(Summary from power point presentation of key proposals.)

- **The demand for an affirmative, inclusive and developmental agenda for street vending in São Paulo.**
 - an **affirmative** agenda for street vending means seeing it as part of the economic dynamics of the metropole, with all the contradictions contained within periferal capitalism.
 - an **inclusive** policy means to respect, dialogue with and provide incentives for the activity through organized and participatory support for both the trade and the workers.
 - Actions to **develop** street vending mean transforming them into State policy, with planning and investment.

- **Street vendors and the Right to the City.**
 - Urban space is contested by various political and economic forces: the space for street vendors to work in is subject to the play of forces and political pressures which both allow and withdraw the right to access space to work;
 - Urban land is expensive and difficult to access: street vendors do not have the same conditions of access as the large-scale (property) businesses, as a social right.
 - Some social (housing) movements are making progress with instruments of urban policy which guarantee the right to land for social purposes. Let us advance the Right to the City as a **social right!**

- **A planned and legal space to work in!**

1st : **URBAN PLANNING OF PUBLIC AND PRIVATE SPACES:**

- A participatory diagnosis(PUBLIC AUTHORITY + WORKERS +CIVIL SOCIETY) of spaces to work in close to centres of popular trade and urban transport terminals in each subprefecture. Deliberation in the Permanent Vending Commissions (CPAs), with suitable municipal law;
- Urban and Economic Planning of spaces to work (economic and urban viability studies). Approval, Implementation and Monitoring of spaces in the CPAs.

2nd : LONG-TERM STATE POLICY:

- Use of urban policy instruments to deal with the price of land and promote regularization and access to spaces dedicated to Popular Commerce:
 - o Special Interest Zones (ZEIS);
 - o Concession of a Real Right of Use (CDRU);
 - o Designation of empty and unused spaces for Popular Commerce;
- Timetable and Policy for Financing of spaces for Popular Commerce with criteria and funds managed by a dedicated Municipal Committee.

• **The Right to Work and Social Function in the City**

3rd : SCENARIO OF SUPPRESSION OF RIGHTS V CREATION OF NEW OPPORTUNITIES

- o In May 2012, the prefecture cancelled and withdrew ALL licences in the city. Those vendors who continued to work are having to pursue an injunction through a Civil Public Suit brought by the Gaspar Garcia Centre and the Public Protector, as well as individual legal processes.
- o It is important to **discuss with vendors** the criteria, conditions and regulations which will re-establish the previous licences and create new opportunities for the approximately 100.000 street vendors in SP. The whole process should go through the definition of spaces, with reference to the several participatory processes of urban planning.

• **The Right to Work cannot be a Right at Risk!**

1st : THE RIGHT TO WORK MUST BE SECURE IN TIME AND SPACE

- ✓ We need an advance in legal status to carry out our work; the TPU is precarious and can be revoked by the Prefecture with no guarantees for the worker in time or space;
- ✓ Dialogue with the instruments of urban policy which will provide further guarantees to enable the worker to operate during a defined time and in a designated workplace (e.g: CDRU, ZEIS, Programmes of Government=Popular Housing + Popular Commerce).

• **The Street Vendor needs the support and protection of the State**

2nd : THE RIGHT TO SOCIAL PROTECTION AND BUSINESS SUPPORT

- o The street vendor has a right to Social Protection: harmonization of municipal legislation with the formalization of the activity at the municipal and federal level (Individual Micro-entrepreneur – MEI) to enable the vendor to have access to the INSS (National Social Security System);

- The street vendor has the Right to Training and to Business Credit: Agreements with federal programmes (SEBRAE – Brazilian Support Service for Micro and Small Enterprise) with Municipal Secretaries for Training and Investment .
 - Integrated management: urban planning, inspection, administration, financing, social dialogue.
- **Street Vendors and the Right to Popular Participation**

Federal Constitution: guarantees the right of citizens to public participation in the adoption of public policies

1st : THE RIGHT TO DEMOCRATIC PARTICIPATION

- IN THE SUBPREFECTURES – PERMANENT VENDORS’ COMMISSIONS (CPAs): transparency, regularity and guarantee of full representation at meetings;
- MUNICIPAL POLICY: MUNICIPAL COUNCIL (Law Project of José Eduardo Martins Cardozo and Marta Suplicy’s management 2000-2004): discuss attributions, elections e representatives with vendors. Move forward with the management of a fund to finance projects designated for street trade.

- **Inspection of Street Vending must respect Human Rights**

1st : INSPECTION & RESPECT FOR HUMAN DIGNITY

- AN END TO “OPERAÇÃO DELEGADA” for the control of street vending: The agreement between the Military Police and the Prefecture **breaches** Municipal Legislation which confers powers and procedures on the Municipal Civil Guard;
- INSPECTION AND CONTROL PROCEDURES: criteria must be discussed in the appropriate Municipal Committee and in the Permanent Vendors’ Commissions (CPAs).

- **Processing of Complaints to avoid perpetuating Violations**

2nd : PROCESSING OF COMPLAINTS: OMBUDSMAN

- STREET VENDOR OMBUDSMAN: one channel for processing of complaints of corruption and institutional violence, with absolute guarantee of anonymity;
- ARTICULATION OF OMBUD WITH MUNICIPAL SECRETARY: debate with Vendors to determine with which municipal secretary the Ombud will articulate;
- MONITORING OF COMPLAINTS DIRECTED TO OMBUD BY MUNICIPAL COUNCIL: monitoring of complaints sent to Ombud by relevant Municipal Council;

- **Street vendors and the Right to the Popular and Solidary Economy**

Support for informal workers throughout the category

1st : ARTICULATION AND SUPPORT FOR WORKERS IN THE VARIOUS LEVELS OF THE CATEGORY

- AGREEMENT BETWEEN MUNICIPAL SECRETARIES OF LABOUR + SOLIDARY ECONOMY & STATE AND FEDERAL PROGRAMMES: Creation of Cooperatives, Small Loans, Articulation within the network of workers in the same field, collective purchasing, etc.;
- ARTICULATION WITH THE NATIONAL ECONOMIC SOLIDARITY SYSTEM AND SOLIDARY FINANCE SYSTEM

Support for activity: Pilot Programmes of Popular Commerce

2nd : STATE SUPPORT : PILOT PROGRAMMES – MANUFACTURING SECTOR, ETC.

- PILOT PROGRAMME TO SUPPORT CENTRAL REGION MANUFACTURING HUB: articulation with trade union federations, SEBRAE and universities to develop cooperative processes throughout the industry:
SALE : STREET VENDORS
PRODUCTION: CLOTHING MANUFACTURERS
WASTE COLLECTION: CATADORES
- EXTENSION OF SUPPORT TO OTHER POPULAR COMMERCE HUBS in other regions of the city.