

AN ANALYSIS OF THE GROWING NEED FOR MUNICIPALITIES IN SOUTH AFRICA TO DEVELOP SOUND INFORMAL TRADING POLICIES.

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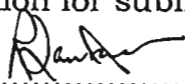
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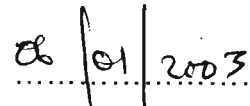
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Date: *23rd December, 2002*

DECLARATION

I declare that this dissertation is my own independent work. All the sources used have been acknowledged in the text and in the bibliography. It has not been submitted in part or in full to any other university other than the University of Natal, Pietermaritzburg.


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Signature


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Date

ABSTRACT

Despite numerous research efforts and a number of 'friendly ' national policies on the field of the informal economy in South Africa, there does seem to be a continuous public policy conflict at local government level in this country. The evolution of the informal economy and the policy crisis at local government level seem to be largely shaped by the legacy of colonialism and racial capitalism.

This study focuses on three critical policy areas of informal trading, namely; the taxi industry; the shebeens that belong to the category of home based economy; and street traders. These three are the oldest form of informal economic activities pursued by the Africans (indigenous people).

The study will investigate the progress of informal trading as a critical policy area for municipalities made thus far since the democratisation of South Africa in 1994. It confronts the lack of progress by this sphere of government. It concludes by exposing the neglect of the three types of informal trading. It also concludes that the development of sound informal economic policies at municipal level is a prerequisite as there are national policies and legislation that need to be adhered to. The study recognises that despite the development of sound informal economic policies being obligatory, there is an underlying social, political, environmental and economic need for this important process. It finally identifies the specific critical areas that need to be addressed and recommends a policy process that is participatory, credible and progressive.

DEDICATION

This dissertation is dedicated to my late husband, ***Major Ntela Richard Sikhosana***, who was both an intellectual and my mentor. He would have loved to see me finally completing this thesis on the subject that has dominated most of my life since 1996 when I first became involved in local government.

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TABLE OF CONTENTS

	Page
Declaration	(i)
Abstract	(ii)
Dedication	(iii)
Acknowledgements	(iv)

CHAPTER 1

INTRODUCTION

1.1	Municipal informal economic policies: Defining the scope of study	1
1.2	Brief historical background of the informal sector in South Africa	2
1.3	Informal sector under the new dispensation	4
1.4	Hypothesis and assumptions about the study	11

CHAPTER 2

RESEARCH METHODOLOGY

2.1	Sources of information	14
2.2	About the case study	19
2.3	Location of the case studies	21
2.4	Limitations of the study	24

CHAPTER 3

THE CONTEXT OF INFORMAL TRADING IN SOUTH AFRICA

3.1	Introduction	26
3.2	The political context	28
3.3	The global context	31
3.4	The legislative and policy context	36

CHAPTER 4

ORIGINS, DEFINITION AND CIRCUMSTANCES OF THE INFORMAL SECTOR IN SOUTH AFRICA

4.1	Introduction	41
4.2	Origins of the informal sector in South Africa	41
4.3	Definition and perspective of the informal sector	43
4.4	Political debate about the informal sector	46
4.5	Origins of the informal sector	45
4.6	The formal sector	50
4.7	Motives for participation and factors shaping the informal sector in South Africa	52
4.8	Identification of the informal sector in South Africa	59
4.9	Conclusion	65

CHAPTER 5

POWER, POLICY AND DEVELOPMENT

5.1	Introduction	66
5.2	Policy in the context of development	67
5.3	Why policy development?	69
5.4	Power and its relevance to policy development	70
5.5	Decision making as part of policy development and implementation	74
5.6	Conclusion	80

CHAPTER 6

THE POLICY AND LEGISLATIVE FRAMEWORK

6.1	Introduction	81
6.2	The context	86
6.3	South African policies and laws that impact on the informal sector	87
6.4	Conclusion	105

CHAPTER 7

THE TAXI INDUSTRY

7.1	The rise of the taxi industry	106
7.2	The context of the taxi industry	108
7.3	The National Taxi Task Team (NTTT)	111

7.4	Municipalities and the taxi industry	117
7.5	Data analysis and findings on the taxi industry	118
7.6	Summary	137

CHAPTER 8

STREET TRADING

8.1	Introduction	139
8.2	Street trading defined	140
8.3	Challenges facing street traders	143
8.4	The international policy intervention	146
8.5	Common features and patterns of street trading in South Africa	149
8.6	Street trading: a policy challenge out of control - the case of Pietermaritzburg	151
8.7	Findings on the conditions of street traders	153
8.8	Conclusion	154

CHAPTER 9

HOME TAVERNS/SHEBEENS

9.1	Introduction	156
9.2	Home based economy	156
9.3	Municipalities and the home based economy	159
9.4	Brief background of shebeens	160
9.5	Shebeens as a critical policy area	162
9.6	Why should municipalities take a keen interest of	

	shebeens as a critical policy area?	163
9.7	Critical findings on shebeens in the township	164
9.8	Conclusion	167

CHAPTER 10

RECOMMENDATIONS

10.1	Introduction	169
10.2	Executive summary	169
10.3	Recommendations on informal trading policy	174
10.4	Proposed policy development at municipal level	181
10.5	Local government policy formulation chart	183

BIBLIOGRAPHY

Appendix	1	Questionnaire	195
Appendix	2	Planning guidelines for taxi ranks	197

LIST OF TABLES

Table 1	Unemployment (strict definition) by race from 1994-1999	34
Table 2	Unemployment (expanded definition) By race from 1994-1999	35
Table 3	Economic indicators 1996	37
Table 4	Economic participation of sector 1996	94
Table5	Average profit margin of the taxi industry	118
Table 6	Selection of taxi sites	136
Table 7	Development local government policy formulation chart	183

CHAPTER ONE

INTRODUCTION

1.1 MUNICIPAL INFORMAL ECONOMIC POLICIES: DEFINING THE SCOPE OF STUDY

This study will focus on the informal sector as a critical policy area for municipalities in South Africa. It will look closely at three types of informal traders, namely the taxi industry, street trading and shebeens. The areas have been chosen because they appear to be the areas of serious policy neglect. This study will attempt to address some of these policy oversights. It will also demonstrate the relationship between power, policy and implementation. The approaches of colonial/apartheid and democratic regimes will also be briefly discussed as they tend to differ remarkably. The study will thus explore and investigate the possibility of 'appropriate' and sound economic policies for the informal sector at local government level under the new democratic dispensation. It will recommend a policy formulation process that is developmental in line with the principles of South Africa's democratic order.

1.2 BRIEF HISTORICAL BACKGROUND OF THE INFORMAL SECTOR IN SOUTH AFRICA

The informal sector can not be seen in isolation from the power relations of South African society. The informal sector is predominantly black whilst the formal sector is predominantly white. The informal sector is reflective of the class contradiction and the implications of globalisation; especially on the poor. The informal trade workers demonstrate this factor. They tend to be poorer than the formal sector participants. The number of participants in the informal economy has grown rapidly for the past decade.

The set of challenges that were faced by the informal sector during the colonial era in the early 1900 until 1948, when apartheid became government policy, are different from the post 1994 challenges, when South Africa has a new democratic government and new policies that are based on the principle of human dignity.

South Africa is a new country politically and economically speaking. As a result of its racial segregation or apartheid policies it was isolated from the political, cultural and economic activities of the world. It can be argued that it has limited experience as a global player.

Although it has been in existence for about a century (1910) as a republic, South Africa has nevertheless delayed its growth by adopting racial capitalism which was dismantled when the new democratic government came to power on the 27th April 1994. Prior to political reforms that began in the late 1980s, informal trading was suppressed as it was considered a nuisance. The new democratically elected government embarked on the process of de-racialising the South African economy through black economic empowerment programmes for black South Africans. This process of de-racialisation of the economy was aimed at changing the outlook of the South African economy, which significantly still reflects the legacy of apartheid.

The Land Act of 1913 left the indigenous peoples with only 13% of land in the reserves. By 1939, thousands of Africans had poured into the cities.

Urbanisation and poverty became the life of the day in cities like Johannesburg. Appalling conditions and starvation in the reserves left many Africans with no choice but to move into the urban centres to make a living.

“It was the culture of the slumyard and it thrived on music, shebeen queens, beer-brewing, ‘exquisite ladies of the night’, unsophisticated migrant workers and smooth talkers...” (Illustrated History of South Africa, 1994:358)

The entrenchment and intensification of racial policy in 1948 led to the exclusion of South Africa, especially during the 1980's, as a player in the world economy. Through the apartheid policy the Africans, who are the majority and are the

indigenous people of the South African land; were not only disenfranchised but could not trade freely or live and school in the areas of their choices. They could only live, go to school and trade in the black demarcated areas, which had no infrastructure, and were overcrowded, poverty stricken and very infertile.

The only African informal trading activities that, although not legalized, were operating in the cities and towns were in places where there was a high volume of African commuters. It was often downtown where Indian traders were the main business permit holders. These street vendors operated in black demarcated bus ranks. However, it is important to note that this trading was not running smoothly. Most of the time the municipal officials and South African Police would chase the informal traders, often taking whatever they were selling. These attempts never stopped informal traders. They soon developed their own sign codes to alert others when the municipal officials came. (Unpublished paper, African National Congress speeches)

1.3 INFORMAL SECTOR UNDER THE NEW DISPENSATION

A recent bibliography (Informal trading in South Africa, 2000) by the University of Cape Town lists some 200 to 300 research investigations into different facets of South Africa's informal economy. However, very few of these research efforts around this sector deal with policy development at municipal level.

The new South African government inherited an absence of policy to deal constructively with the informal sector. There have subsequently been a number of items of legislation that give recognition to this sector. They will be dealt with in Chapter 5, which focuses on the legislative framework.

Prior to 1994, the level of services in different areas reflected the racial distribution of resources under apartheid. In African townships and other African settlements there were hardly waste removal, roads were often dusty, and the majority of these people had no access to clean water and other basic services.

The first democratic local government election in 1995 and 1996 saw the expansion of municipal boundaries, which included the disenfranchised majority, particularly Africans. The neighbouring African areas were incorporated into the new white areas, which also accommodated Indians and Coloureds to a large extent. It was not until the 5th December 2000 elections that we saw the new municipal demarcation boundaries that sought to integrate South African society.

The new wall to wall municipal boundaries are an attempt by the new government to address economic disparities that exist in each town or city.

These new boundaries are also aimed at addressing the racial, rural and urban divide. It is important to note that the process of integrating the South African communities is not an easy task and it is likely to take at least another generation before it is fully realised. The process of re-demarcating municipal areas also means that there is no longer an area that does not fall under a municipality. The

main objective behind the drawing of these new boundaries is to ensure equitable services. Clearly, this change will put a serious strain on municipal budgets, as the incorporated areas have no significant revenue base. At the recent South African Local Government Association (SALGA) conference held on the 11-14th November 2002, Minister of Finance in South Africa, Mr. Trevor Manuel estimated the amount owed to municipalities at R22 billion. This figure cannot be attributed only to the newly incorporated areas. However, there is an appreciation by municipalities that most of the people living in the newly incorporated areas are poor and can not afford to pay for most services. Recently the Durban Metropolitan Council, known as Ethekewini unicity, has approved a policy of no rates for properties valued below R30000.

The lack of relevant regulatory framework and outdated by-laws on informal trading have deprived municipalities of much needed revenue in the form of rates, levies and other tariffs that municipalities might charge the informal sector. The other problem with non-regulation of the informal sector, is the claim by the formal sector that informal traders tend to litter and depreciate the price of their properties. It was not until the late 1990's that we saw municipalities beginning to grapple with the informal trading sector. "In 1999 the Greater Johannesburg Metropolitan Council in Gauteng implemented steps to restrict informal trading in the inner city and to divert it to designated and regulated areas...Hawkers reacted angrily to the decision, refusing to move into a market which they claimed

protected the business interests of a private company.” (South Africa survey 2000/2001, pp.404-405)

The advancement of technology coupled with mechanization has been blamed for the decline of the formal sector as a job creator. Globalization and the rapid decline of mining and manufacturing industries have led to retrenchments. The informal sector of the economy has thus become the most chosen available option for survival by the unemployed. “South Africa’s economy had changed considerably over the past decade, most notably in respect of the decline in the primary sector and an increase in the size of the tertiary sector, according to the Department of Finance...Inflows of foreign capital, investments in South Africa helped to expand the country’s financial and business services considerably. The informal sector also expanded, and was estimated to make up about 7% of GDP by the end of 1990s, and to provide employment to some 1 million people. Declines were evident in the share of GDP accounted for by construction and mining, owing respectively to declines in the residential housing market and lower levels of fixed capital in the public sector, and a decrease in gold production.” (South Africa Survey, 2000/2001, p. 429)

It might be misleading, though, to put all informal sectors in one category of survivalist. Some join the informal sector to avoid costs associated with formal business such as electricity, property rates, and business levies, taxation, rental, trade unions and labour laws. This will be explored in Chapter 4.

1.3.1 PIETERMARITZBURG: A CASE OF INFORMAL TRADING AS A CRITICAL POLICY AREA FOR MUNICIPALITIES IN SOUTH AFRICA

Pietermaritzburg is the second biggest city in KwaZulu-Natal province with a population of over 500 000 people. It is about 75 kilometres from Durban which is the largest city in this province with a population of just over 3 million people. Pietermaritzburg is surrounded by a number of rural areas that have no economic base and rely on it for employment opportunities.

It is important at this stage that we look briefly at the Pietermaritzburg case study to highlight the importance of the informal sector as a critical policy area, which has become extremely difficult to regulate due to difficulties with enforcing by-laws. The problem is not only with the implementation of policies but also raises a number of questions about the relevance of policies currently in place. There is clearly a lack of attention to the process of policy formulation and the volatile nature of informal trading seems to be at the centre of authorities difficulties with dealing with this sector. It has become such a difficult and even dangerous subject to handle. For instance, in the issue of Friday, the 17th of August 2001 of **The Natal Witness**, the headlines on the front page of this newspaper read “*Council to spend more: Informal Trading in Chaos.*”

Councillors agreed that consultants would have to be engaged in a bid to come up with a street trading management plan that identifies informal trading nodes and possible off-street markets within the city. It was also agreed that the consultants would investigate the possibility of outsourcing the enforcement of informal trading by-laws and that a total of R1, 25 million be made available for the whole task of clearing the city of unauthorized vendors... (Natal Witness, 17 August 2001)

In the issue of the 9th March 2002, again this issue made it into the front-page headlines of the Natal Witness: **MAYOR ZONDI GETS TOUGH ON ILLEGAL CITY VENDORS.** "After a six-week clean up programme was initiated about three weeks ago, municipal departments now work together, simultaneously and within the same area to clean and repair all and any dirty areas and damaged infrastructure, ensuring an improved service to the ratepayers, he said."

These two articles demonstrate the urgent need for developing participatory, friendly, environmentally and economically sound informal trading policies. They also highlight the major challenges facing municipalities in South Africa with the formulation, process, implementation and enforcement of informal trading policies. They also illustrate the difficulties of dealing with this subject.

In January 2002, the Johannesburg street traders, who felt that their rights were violated when the city forcefully removed them, took the Johannesburg

Metropolitan Council to court as they felt the action of the city was unconstitutional and violated their basic human rights. These traders wanted the court to consider their application to be allowed to trade in the streets.

The difficulties experienced by Pietermaritzburg and the legal challenge faced by the Johannesburg Metropolitan Council are evident and seem to be compelling reasons why informal trading as a policy issue needs to be taken as one of the top priorities by municipalities. If the informal trading issue is not taken seriously as a critical policy area it is likely to be costly to municipalities as clearly demonstrated by the Pietermaritzburg case study when the city committed R1.2 million to clear informal traders. It is also important to note that Johannesburg City Council is also likely to incur legal costs in defending their action against street traders.

Chapter 7 of the Constitution of the Republic of South Africa (1996), and the White Paper on Local Government (1998) place a lot of emphasis on sustainability and affordability. Given the financial challenges faced by municipalities nationwide which have been alluded to earlier, it is clear that the responses of Johannesburg Metro and Pietermaritzburg City Council are unaffordable and unsustainable. There is therefore a need for a policy process that fulfills the developmental role of local government.

“The informal sector is here to stay. It is not something temporary. It is not a pause on the road leading to jobs for everyone in the formal economy. All over the world, the size of the informal economy and the number of workers within it have been growing. In most parts of the developing world, most new jobs are created in the informal economy. In spite of this, the informal economy is still not well recognized, and sometimes not very visible. (Lund, 2000:9)

According to Ferial Haffagee “street trading is the fastest growing sector of the economy, yet authorities fail to acknowledge its vital role.” (Hafagee, 3 July 1998)

1.4 HYPOTHESIS AND ASSUMPTIONS ABOUT THE STUDY

This study is based on a hypothesis and a number of assumptions, which will be tested during the literature review, analysis of data collected, and observations made during site visits. They are as follows:

- ◆ Informal trading in South Africa has been largely shaped by the political realities of the time.

- ◆ Policy formulation, process and implementation can not be divorced from power relations. This will be demonstrated later in the study especially when

we look at Lukes's dimensional view of power and decision making as part of policy development and implementation.

- ◆ Informal trading is a critical policy issue especially at municipal level as it is where the real implementation of national laws and policies take place. That is where the enforcement of by-laws happens. More so it is the closest sphere of government to the people.
- ◆ The way the informal sector has been dealt with historically especially at municipal level proves to be counterproductive and tends to contribute negatively to the economy especially at local government level.
- ◆ Yet, the informal sector is important as it creates jobs for many people, although it is not the only solution to high unemployment levels.
- ◆ The informal economy also encourages monetary circulation and that creates a sound base for economic activity.
- ◆ However, informal trading does not seem to enjoy the same municipal services as their counterparts in the formal sector and is often seen as a threat rather than as an opportunity.

- ◆ Local economic policies tend to focus on the formal sector of the economy and portray the informal sector more as a nuisance rather than as an inevitable part of the modern and highly mechanized society.
- ◆ There is a need to develop policies and by-laws that create an enabling environment for the informal sector to grow.
- ◆ In consultation with all the key stakeholders, regulating, formalizing, educating and legalizing informal traders may bring order and stability to the sector and could create jobs and expand the revenue base of municipalities.
- ◆ Designing policies that take into account the views of all stakeholders and their involvement in the policy formulation process, consideration of environmental factors, financial implications and enforcement of by-laws, and the use of current legislation that have implications on this sector could lead to the stability of the informal sector.

CHAPTER 2

RESEARCH METHODOLOGY

2.1 SOURCES OF INFORMATION

The arguments, facts, observations and recommendations presented in this study emanate from and are influenced by the following sources:

- Newspapers
- Magazines
- Interviews and questionnaires
- Municipal reports, journals and newsletters
- Observations
- Site visits
- South African legislation
- Published and unpublished sources.

2.1.1 NEWSPAPERS AND MAGAZINES

In investigating whether sound informal trading policies at a municipal level are needed, one had to draw more from primary sources like newspapers as they report events as they happen. But the newspapers are not immune from subjectivity. Those that report on a particular issue often do so with a certain motive. It could be political, social or just providing information to the public without any prejudice. However, I would strongly argue that newspapers are written sources that often capture what is topical and newsworthy at a time and therefore provide almost first hand information on the matter under investigation. Newspapers are also very relevant sources especially if one is investigating a possible policy vacuum as they often report 'crisis or bad news'. If a policy is working it will rarely make news headlines, whereas if it is not it can be reported in a provocative way much to the dissatisfaction of governments. It is for this reason that I have relied heavily on newspapers as my primary source during this study. I have been able to isolate issues and identify critical stakeholders through an objective engagement with the newspaper articles on the subject under investigation.

I have also found magazines like Metro Beat, a Durban Metro Council monthly magazine, very useful as most of the information contained in it is often current and tends to reflect on the thinking and attitude of a municipality on the subject under investigation. I have also relied on newsletters of various informal traders'

stakeholders. They are useful in the sense that they express the views of members and reflect their perceptions on the authorities, especially municipalities.

2.1.2 INTERVIEWS AND QUESTIONNAIRES

This study would not be complete without the interviews and questionnaires that allowed different stakeholders to express their opinions about the matter under investigation. Thus interviews were conducted with the key stakeholders in the policy formulation process on the informal sector to balance the findings of this study. The questionnaires, which are referenced in the bibliography and appendix, have also been used, as most of the targeted informants are often very busy people. This was to allow them to answer questions in their own time.

Given the actors in the informal sector it was often impossible to get some information from them, especially from taxi operators and owners and shebeen owners. They are currently not paying tax and view any question about their income with suspicion. The taxi industry is currently volatile and the interviewees prefer their names to remain anonymous. The information they give is often censored by themselves to avoid being misinterpreted or being seen as 'sell-outs'.

Based on my own observation during my site visits to shebeens, it makes sense why they withhold some information as there is often a number of illegal activities taking place at shebeens like child prostitution, child labour and drug dealing.

2.1.3 MUNICIPAL REPORTS

The municipal reports were also consulted so as to appreciate the level of debate on this critical policy area. It became important especially when one had to assess the level of preparedness in facing the new informal trading policy challenges. They are also helpful in terms of making this study a meaningful one as its intention is to recommend a strategy or policy development that meet the challenges of this epoch.

2.1.4 OBSERVATIONS AND SITE VISITS

I have also drawn from my own experience and observation of the informal sector. My experience is very relevant for this study as I am a member of the steering committee of the Town Planning Assessment of Taxi Ranks which is a sub-committee of the Town and Planning Commission in KwaZulu-Natal. Inkosi Nyanga Ngubane, the Minister of Local government in this province, appoints this Commission. I am also part of the steering committee that is investigating the informal trading standard by-laws in KwaZulu-Natal. Further, I have been actively involved in Local Economic Development Forums, firstly as the deputy

Mayor and Chairperson of the Finance and Policy Committee in Pietermaritzburg and currently as the Chief Executive Officer of the KwaZulu-Natal Local Government Association.

The site visits were also another critical area of this study as that is where the informal economic activities take place. The findings on the conditions of the three sectors of informal trading under discussion in this project are largely based on the site visits.

2.1.5 SOUTH AFRICAN LEGISLATION

The study deliberately focuses on informal economy policy development at local government level. That is why it was critical that an assessment of national and provincial legislation is conducted, as municipal policies are largely shaped by this legislation. Local law and municipal policies have to be consistent with national and provincial legislation.

2.1.6 PUBLISHED AND UNPUBLISHED SOURCES

Since this is primarily an academic study I have had to review literature, especially drawing from those policy analysts that have done research on a similar field of study. The literature review has enabled me to draw from the theoretical frameworks and extensive research by various scholars of

governance and policy studies. It is a study that seeks to make recommendations and therefore requires one to consider and appreciate the different approaches to policy formulation, analysis and implementation.

2.2 ABOUT THE CASE STUDIES

In order to debate informal policy development at municipal level, I decided to select three case studies that generally reflect on the uniqueness and the diversity of the informal trading sector in South Africa. Hence the study focuses on the taxi industry, the street traders and the shebeens or home taverns.

However, the study does not purport to suggest any homogeneity amongst these three types of informal trading identified and selected. But rather it seeks to categorise them in terms of a set of similar challenges that each one faces. The taxi industry has the same service and shebeens have the same products.

However, street traders are a diverse field on their own. The common thing that all street traders share is trading on the streets. Whereas home taverns are run in a home and taxis are mobile.

The study draws attention to the conditions that these traders operate under which justify informal trading as a critical policy focus and an area of serious policy neglect at municipal level.

Over and above the observations of the sites of operations of all the three types that are under investigation in this study, I interviewed ten taxi operators. Four short and medium distance taxi owners (operators) were interviewed in Durban. The reason for this was that about 3 million of the 10 million population of KwaZulu-Natal live in the Durban Metro area. Secondly Durban Metro challenges are almost representative of the experiences of Johannesburg, Cape Town and Pretoria. All these mentioned major cities experienced taxi violence, as the routes in these cities are lucrative. Although Pietermaritzburg had never experienced taxi violence, three taxi operators were interviewed there as well. The motive behind the selection of Pietermaritzburg is that it is the medium size city with a very significant rural population around the city. It seemed the perfect example and a representative sample of cities or towns of its similar size like East London, Pietersburg, Nelspruit and Kimberly. Finally three taxi operators were interviewed in Escourt which is rural town and is a reliable sample for other small towns like George, Benoni, Vryheid etc.

It is important to note that whilst the interviews were only conducted in KwaZulu-Natal, the site visits and observations are based on the sites beyond KwaZulu-Natal (see 2.3.1 on sites visited).

It is also important to understand that it was cost effective for me to do these interviews in KwaZulu-Natal because I live in this province and understand the environment better. Again it is also important to remember that the taxi industry

is currently undergoing rapid changes and has been riddled by violence. It is a volatile sector. Hence I have interviewed people that were accessible to me. This sector is also highly mobile and is driven by profits especially in the absence or lack of access to finance, as will be discussed later in the study.

2.3 LOCATION OF THE CASE STUDIES

2.3.1 THE TAXI INDUSTRY

I was very lucky to have been appointed as one of the adjudicators of the “Cleanest City Competition” by the Minister of Environmental Affairs and Tourism, Mr. Valli Moosa in October 2001. As adjudicators we were expected to evaluate the cleanliness of the nominated cities. The process began in October last year (2001) until the end of May 2002. My participation has enabled me to observe the conditions of the informal traders thus enabling me to identify the key critical policy areas concerning this sector. I was able to go around the country enabling me to base my findings on a truly representative survey or observation.

The study of the taxi industry and street trading is based on a number of sites that were visited, namely:

1. Kempton Park and SOWETO rank near Baragwanath hospital, Johannesburg station (Gauteng Province),

2. Port Elizabeth, which is now known as the Nelson Mandela Metropolitan Council, which won the Cleanest City Competition in the Category C municipalities which are metropolitan areas (Eastern Cape Province).

3. George which is a very small municipality and the Cape Town Metropolitan Council (Western Cape Province). I visited almost all the major taxi ranks in this town and city as an adjudicator. It is important to note that most street traders are close to or in taxi ranks.

4. Newcastle, which won the title as the Cleanest Town under Category B municipalities, Pietermaritzburg and Durban sites were visited although they did not enter the "Cleanest City Competition".

In all these towns and cities, taxi industry remains a critical policy area.

2.3.2 THE STREET TRADERS

There is a lot of literature on street traders. I have drawn largely from previous research. However, during my taxi industry site visits I could not escape observing and noticing this sector in the taxi ranks themselves. The street traders are an inevitable feature of all taxi ranks. The location of the street traders is no different from the taxi industry above. As will be demonstrated in

the findings later on, the policy challenges of the taxi industry are similar to those of street traders.

2.3.3 THE SHEBEENS OR HOME TAVERNS

The shebeens are a strong feature of any black township in South Africa. However, for the purposes of this study I have investigated Inanda, North of Durban, Umlazi, South of Durban and Pietermaritzburg. Due to the possible dangers associated with drug dealing, and the fact that this sector's future is hanging in the air as debates continue to stir controversy in council chambers, as some of their illegal activities is attributed to moral regeneration, it was thus extremely difficult for me as a person perceived to be a government agent to go to places that I'm not very familiar with. Whilst it seem impossible to interview shebeen owners and operators, I was nevertheless able to visit some of the shebeens. However my site visits was confined to KwaZulu-Natal. My assumption is that the conditions and policy challenges of this sector are likely to be the same in any part of South Africa.

2.4 LIMITATIONS OF THE STUDY

2.4.1 THE TAXI INDUSTRY

It has been extremely difficult to get some information from the taxi owners, like how much profit they make. All of those interviewed feared the Receiver of Revenue and because I work with the government they could not trust me even when I assured them confidentiality. They simply thought that I was going to forward the information to the Receiver of Revenue for tax purposes.

Another problem was that the taxi industry seemed very insecure. Strangely they thought that I was investigating strategies on behalf of municipalities to get rid of them so that municipalities may introduce another 'efficient' mode of transport.

2.4.2 THE HOME TAVERNS/ SHEBEENS

This is one area that is extremely dangerous as shebeens have become the distribution points of drugs and also often involved in illegal lending schemes. It has also been difficult to get them to agree to an interview. Only one out of five that I approached for an interview was available and willing to talk to me. One of the things that I observed was child prostitution, which seems to be on the increase in these shebeens.

2.4.3 THE STREET TRADERS

The sector is too diversified. It was not possible to have findings that are representative of this whole sector. It is for this reason that the findings on this sector are largely based on the hawkers that operate in taxi ranks and traditional healers that operate close to the taxi ranks. The reason for this was that the areas around taxi ranks seem to be the ones that are not regulated and that lack services that are critical in densely populated areas like taxi ranks.

CONCLUSION

Chapter 2 has dealt with the research methodology, which informs this study. The next chapter will deal with the context of informal trading in South Africa.

CHAPTER 3

THE CONTEXT OF INFORMAL TRADING IN SOUTH AFRICA

3.1 INTRODUCTION

South Africa is gaining international respect as a constitutional democracy. In September 2001, it hosted the Racism Conference which was attended by over 15 000 people from across the globe. Again in September 2002 South Africa hosted the biggest United Nations conference on sustainable development which was attended by over 60 000 delegates from all over the world. Indeed this country is undergoing rapid transformation. It is not surprising to note that South Africa has also been chosen as a pilot site for the action research network, Women In Informal Employment: Globalising and Organizing, or WIEGO. The WIEGO project hopes to promote a more favorable policy environment and appropriate programmes for women workers in the informal sector. They want to meet the following objectives:

- Change the way countries keep statistics about informal economy, so that the work done in the informal economy is counted and valued.

- Conduct research studies, which compare different cities in the world to see how workers in the informal economy are dealt with.
- Study and work with organizations of street traders and of home based workers to strengthen their ability to make their voices, needs and concerns heard, through establishing negotiation mechanisms at local and national level.

If one looks at the objectives of the WIEGO conference one would understand the immediate impact the power shift has had on informal trading. The fact that South Africa has been chosen as an obvious choice clearly illustrates the relationship between policy, power and implementation. Under the racist regime, political power was used to implement the apartheid policies that suppressed informal traders who were and are still predominantly black. Under the new democratic government we can see the booming of the informal trading such that it is out of control. The policies of the new order emphasise community participation and the participatory process of drawing up policies. In South Africa under the new democratic order it is a prerequisite for all the spheres of government to call for inputs through newspaper advertisement and other forms of media when a new policy or legislation is being considered.

Informal trading is a global phenomenon and South Africa is equally affected. However, it is equally important to note that apart from the factors that shape

informal trading in other parts of the world, South Africa's informal sector operates in a different context: South Africa can not immediately escape the legacy of apartheid.

- ◆ “Black people are poorest: 77% of the population are black and 60% of black people are classified poor. Whites make up 11% of the population, with only 1% classified as poor.” (Lund,2000:5) In the official records, 7% of all new jobs are created by the informal sector.

The realities that shape informal trading in South Africa can be categorized into three broad contexts:

3.2 THE POLITICAL CONTEXT

One of the defining features of the liberation struggle is the way in which people resisted apartheid at a local level. “One of the most important aspects of that struggle was the passion in which people resisted a series of illegitimate, toothless bodies to control and handle matters relating to African people – councillors, Bantu administration boards and black local authorities. ... These issues manifested themselves victoriously when people took steps against being excluded from matters, which affect them. . . This led to intensifying the role of civic associations in the country, although in the 1980's the state of emergency imposed thwarted these efforts.” (Tsenoli. L. (Reddy), 1995,p.33) The mid-

1980's saw a lot of defiance campaigns. There were protest marches everywhere. The then South African, Nationalist party government could no longer sustain apartheid. In the mid 1980's it came up with what it called four pronged strategy:

- (i) It replaced the system of bringing finance with intergovernmental transfers
- (ii) It developed more expenditure responsibility to the third tier of government with decreasing subsidies
- (iii) Central government increasingly shifted the responsibility of financing Black Local Authorities (BLA), road maintenance and so fourth to the white local authorities and Regional Services Council. (Botha Thozamile (Reddy), 1995 p.8)

It became the most expensive and illogical policy that only deprived South Africans the international exposure that was soon to become the biggest economic and municipal policy challenge that South Africa ever faced.

The informal sector was also affected by the political upheaval of the 1980's as such laws as the Group Areas Act, pass laws, influx control, job reservation, licencing ordinances and other by-laws impeded the growth of this sector. The political climate of the 1980's also created an opportunity for this sector to assert itself in the market by breaking the laws that were impeding their operations. "Whilst the informal sector has existed for many decades in various guises, past governments and economic policies up until the mid 1980's have to a large extent discouraged the growth of this sector. " (Reddy, 1995, p. 116)

The year 1985 was a turning point for the informal sector with the publication of the President Council's report entitled "A strategy for Small Business Development and deregulation". This report recommended the removal of discriminatory laws and promotion of equity amongst all business sectors. In 1986 "The Temporal Removal of Restrictions on Economic Activities Act of 1986" was accepted and approved by the then government. This government decision was followed by the Business Act 71 of 1991, which further lifted restrictions on the informal sector.

The relaxation of restrictive and discriminatory laws in the early 1990's attracted not only the informal sector participants in the country but also other participants from the African continent and the world. The informal economy has grown rapidly for the past decade. Statistics suggest the critical importance of the informal sector to South Africa's economy. According to Ntsika Enterprise Promotion Agency "small businesses in South Africa absorb more than half the people formally employed in the private sector and contribute about 42% of the country's GDP. There are an estimated three million micro-enterprises in the country." (South Africa Year Book , 2001/2002, p158)

The political reforms and the democratisation of South Africa have created an enabling environment for the informal sector to grow. The taxi industry is arguably one of the informal sectors that have grown and transformed into a

meaningful participation of Africans in the economy. This point is not in anyway trying to underplay the problems associated with this sector of the economy. The Minister of Transport in KwaZulu-Natal province, Mr. Sbu Ndebele, had these comments to make about the informal sector rapid changes: "the minibus taxi industry is a triumph of black entrepreneurial spirit and is absolutely central to the economic growth, development and upliftment of black people." (12 September 2000). Whilst there are national and provincial processes to legitimise, regularise and empower this industry, no similar processes are evident at local government level. This industry still operates under unregulated local environment. The conditions under which it operates are totally different from those of the formal sector in terms of municipal service provision. These conditions will be discussed at length in Chapter 5.

3.3 THE GLOBAL CONTEXT

When South Africa became a democracy with its relatively good infrastructure if compared with other countries in the continent, it soon became a symbol of hope for many economic and political refugees of the neighbouring countries and Africa as a whole.

This was not only limited to African refugees but also people from other countries, especially from Asia and some parts of Europe, saw South Africa as an attractive emerging market ready to be exploited. South Africa after 1994

experienced a boom in street trading. Prior to this period street trading was dominated by fruit sellers.

Now, there is nothing that is not on sale on the streets. Hawkers unpack box loads of jeans still in their plastic covers next to a stall selling live chickens. In turn hawkers have inspired several downstream industries: a man selling flattened cardboard boxes from his bicycle is doing a roaring trade; Taiwanese wholesalers drop truckloads of boxes to street-side sellers, while Indian fruit wholesalers off-load trays of cut-price avocados. (Haffagee, July 1998)

On the other hand globalization was not good news for the South African businesses that were so used to being protected and had a guaranteed market. They were caught unprepared, resulting in many businesses being closed down and many South African products being removed completely from the shelves. The consumers benefited from globalization as they suddenly bought goods for almost half price than the normal price. But this benefit was short lived as many people were soon out on the streets, as retrenchments became the only option that made economic sense to the employer.

The International Monetary Fund (IMF) in its March 2000 report on the influence of trade liberalisation also admitted the negative effects that globalisation had on the South African economy. The IMF report compared the footwear and

chemical sectors in order to determine the effects of trade liberalisation on employment. "The footwear sector employed 33 000 people in 1990 and was protected by an import tariff of 47%. Protection for this sector continued throughout the 1990s and in 1998 the tariff was reduced to 34%. Despite tariff protection, employment fell to 22 000 in 1998, or by 5% a year. On the other hand, the chemical sector employed 64 000 people in 1990 and was protected by an import tariff of 29%. By 1998 the tariff had been reduced to 5% but employment had grown to 68 000, or by 1% a year." (South Africa Survey 2000/2001, p. 286)

Foreign investment did not always translate into job creation. "In 1988 foreign direct investment accounted for R18.48 billion which is 23.0% of the proportion of total. By 1998 it had increased to R91.86 billion which is 48.25% of total proportion of foreign direct investment." (South Africa Survey 2000/2001, p.449). Yet unemployment figures continued to rise despite a noticeable increase in foreign direct investment. "According to the strict definition (to be explained below), South Africa had an Employment Active Population (EAP) of 13.5 million in 1999. According to an expanded definition, South Africa had an EAP of 16.3 million in 1999... According to the strict definition of unemployment 35% of African women were unemployed, compared to 5% of white women, 25% of African men compared with 4% of white men." (South African Survey 2000/2001, p. 380).

The table below illustrates the change in unemployment by race from 1994-1999.

Using a **strict definition** of unemployed in accordance with Statistics South Africa's definition; it refers to those among the active population who:

- ◆ Have not worked during the last seven days prior to being interviewed
- ◆ Want work, and are available to start work within the week of the interview; and
- ◆ Have taken active steps to look for work or to provide themselves with self-employment in the four weeks preceding the interview.

Table 1

Strict definition of unemployment by race from 1994-1999

Year	African	Coloured	Indian	White	Total
1994	1 637 000	260 000	48 000	42 000	1 988 000
1997	2127 000	209 000	39 000	75 000	2 251 000
1998	2 793 000	220 000	59 000	89 000	3 163 000
1999	2 751 000	232 000	72 000	99 000	3 158 000

Source: South African Survey, 2000/2001

The **expanded definition** of unemployment in accordance with Statistics South Africa refers to “those who have not worked during the past seven days prior to the interview, and are available to start work within a week of the interview. It thus excludes the criterion that those qualifying as unemployed must actively have sought employment (or an alternative).” (South African Survey, 2000/2001, p. 380)

Table 2

Expanded definition of unemployment by race from 1994-1999

<i>Year</i>	<i>African</i>	<i>Coloured</i>	<i>Indian</i>	<i>White</i>	<i>Total</i>
1994	3 216 000	339 000	62 000	55 000	3 672 000
1997	4 702 000	328 000	53 000	119 000	5 202 000
1998	5 048 000	367 000	83 000	133 000	5 634 000
1999	5 235 000	397 000	99 000	146 000	5 882 000

Source: South Africa Survey 2000/2001, p. 378-382

A good example is the high tech Hulleys Aluminum Plant in Pietermaritzburg with an investment value of over R2 billion, which produced less than 300 additional jobs. Most of these ‘big’ investments import technology. Judging from the above statistics it can be argued that foreign direct investment and trade liberalisation tend to benefit the investing country, especially where high technology is applied, and thus create jobs in those foreign countries where the imported machinery is manufactured. (Pietermaritzburg-Msunduzi TLC Local Economic Development Sub-committee report, November 1998)

A number of local industries, especially manufacturing industries, could not cope with the global players and as a result they closed down. A good example is Pietermaritzburg where almost all the shoe industries closed down. This was the single biggest employer in this city. It only took between three and four years to shut these industries down. The period 1996 to 1998 saw this footwear industry perishing before local businesses, local authority, the workers and their families. In Cape Town same thing happened with the clothing industry. These factors led to the growth of the informal sector. (Business Map Report, November 1998)

3.4 THE LEGISLATIVE AND POLICY CONTEXT

The policy vacuum and outdated by-laws on informal trading appear to impact negatively on municipalities' attempt to build strong local economies. Further, this policy crisis seem to result in the strain of municipal budgets as the largest part of these informal trading activities do not seem to contribute to the municipal revenue as they do not pay levies and rates. The policy vacuum should not necessarily translate to over regulation of this sector. The informal sector does not seem to enjoy the policy focus that the formal sector enjoys. This is demonstrated by the fact that out of 61 interim Integrated Development Plans of municipalities in KwaZulu-Natal only 14 of those see the informal sector as being one of the key engines to local economic development. (Kwanaloga informal economy task team report 2001)

The failure by authorities to recognize this sector contributes to the high statistics of unemployment in South Africa. The unemployment statistics are a case in point as illustrated in the table below:

Table 3
Economic Indicators 1996

	Unemployment Rate	Per Capita Income	Nominal GGP	Real GGP (1990 prices)	Average Annual growth- GGP (1991- 1996)	Contribution to GGP
	%		(Rm.)	(Rm.)	%	%
Eastern Cape	48.4	6.484	36.508	19.574	1.5	7.5
Free State	29.7	11.032	27.696	15.461	(0.5)	5.7
Gauteng	28.1	23.724	176.808	94.558	0.9	36.5
KwaZulu-Natal	39.1	9.436	77.909	42.401	2.6	16.1
Mpumalanga	32.8	9.406	34.683	20.261	(0.6)	7.2
Northern Cape	28.3	4.555	11.100	6.169	2.8	2.3
Northern Province	45.9	10.327	20.187	11.324	4.2	4.2
North West	37.8	8.338	23.875	13.297	(0.6)	4.9
Western Cape	17.8	18.230	75.290	40.649	3.8	15.6
South Africa	33.8	11.858	484.057	263.694	1.5	100.0

Source: Development Bank of South Africa, 1999

The above table excludes most street traders, shebeen owners and workers, the taxi industry which employs over 500 000 people, like taxi drivers, conductors, rank managers and car-washers. Those employed in this sector are often counted as unemployed. The labour laws are not observed in the informal sector and little has been done to address that problem. Access to finance and the absence of legal means to encourage the financial sector to create favourable conditions for the purposes of expanding informal business is still a major grey area. This is well put by Thobelani Mkhize, the taxi owner in Durban: “ Some sort of innovation and technological advancement is needed to take the industry to the 21st century. For this to succeed, financial institutions must also come on board and support the industry. The fact that we pay 50% deposit on new vehicles shows that the financial institutions have no faith in the industry. The banks are not giving the industry the recognition and support it deserves...” (Metro Beat, Issue 38:27)

This is notwithstanding the fact that the majority of survivalist informal traders prefer being in the formal employment. Nevertheless, millions of people in South Africa are supported by street takings. In recognizing this fact the then Deputy President, President Thabo Mbeki, had this to say “Nothing is said about the emergence of the so-called ‘grey economy’, as a result of which growth in the economy is not recorded and new jobs are not counted.” (Deputy President Mbeki, June1998)

It does seem as though municipalities did not anticipate the economic and legislative challenges that were coming with the political changes in the country. As in the case of Pietermaritzburg and Johannesburg as alluded to in the earlier chapters of this study, informal trading seemed to be out of control.

It is also becoming clear that municipalities as institutions and human resources that are expected to deal with this growing sector seem to lack capacity in terms of the mindset, the skills and the appreciation and understanding of the new developmental role of local government. Jim Dator captures this well: “

Traditional bureaucratic governments focus on supplying services to combat problems...To deal with crime, they fund more police.” (Osborne and Gaebler, 1993:218). This kind of mentality calls for policy review especially in the informal sector. Municipalities have tended to suppress informal trading by spending most of their resources in suppressing it rather than coming with creative sustainable solutions (see Pietermaritzburg case study 1.3.1).

It is therefore critical to observe the political, global and legislative context of informal trading in South Africa as this tends to heavily influence the policies of government. Thus any policy development at local government level will also have to be mindful of these facts as they, to a very large extent, determine the acceptance or rejection of that particular policy. Most of all, they give the context of the informal policy at local government level in particular. Having discussed

the context of informal economy in South Africa, one will now attempt to define informal trading in the following chapter.

CHAPTER 4

ORIGINS, DEFINITION AND CIRCUMSTANCES OF THE INFORMAL SECTOR IN SOUTH AFRICA

4.1 INTRODUCTION

The informal sector in South Africa has its roots largely in the historical setting, which will be dealt with in detail in 4.2 below. Subsumed in the term 'informal' sector is the notion that there is a formal sector. Section 4.5 will deal with the formal sector, as this will allow us to arrive at a more balanced definition of the informal sector. This chapter will also consider different definitions of the informal sector. It will also highlight how perceptions or understandings of the informal sector can influence the nature and type of policy that one adopts. This will be done by analysing the speeches and debate of different mayors on informal trading.

4.2 ORIGINS OF THE INFORMAL SECTOR IN SOUTH AFRICA

In South Africa as in many parts of the African continent, there is sufficient evidence that links the land dispossession and urbanisation, which eventually gave rise to the informal sector. This argument is well elaborated by N.J.Mijere,

in his paper titled: **Urbanisation and the informal sector in the former South African homelands.** “ To ensure the continuous flow of cheap black labour, the white political class enacted the Native Land Act of 1913, the Native Land and Trust Act in 1926 and the 1936 Bantu Trust Act... Thus the ideology of separate development contributed to the accumulation of wealth in the white enclaves of South Africa. In addition, the ideology underdeveloped the Bantustans in South Africa.” (N.J. Mijere, 1993, Department of Sociology, University of Transkei)

The perfection and enforcement of these laws and racial policies especially during the 1950's ironically starved people in the reserves and pushed them into the urban centres, thus giving rise to the informal sector as we understand it today.

The home based economy in the form of shebeens seems to be one of the oldest forms of informal economy by Africans. In the 1950's in Johannesburg, Sophiatown was well known for its African home brewed beer, which was sold by the most popular shebeen queen, Sophia.

Although the term informal sector was first introduced to academic discussions by Keith Hart and adopted by the International labour organisation in the 1970's, the informal economy had been in existence long before then.

Although it is very difficult to establish the precise definition of the informal sector, there does seem to be an agreement amongst sociologists, political scientists

and economists about the relationship between urbanisation and the rise and growth of the informal sector of the economy.

4.3 DEFINITION AND PERSPECTIVES OF THE INFORMAL SECTOR

There is a debate around the use of the term informal sector. Some scholars and practitioners reject the use of informal sector in the contemporary capitalist political economy. Others like Mary Osirim (1994) used the term micro-enterprise for the informal sector. Even in South Africa, there is a tendency amongst senior politicians and economists to speak of Small Medium and Micro Enterprises (SMMEs) as though they also include the informal sector. There is a danger with trying to use such terms as SMMEs as meaning the informal sector as well, because the term small business may exclude a lot of informal traders, as is the case with most financial institutions, who define small business in terms of profit margins and capital value of business. For example, a fruit seller who makes a profit of R1000 a month will not be seen as small business. In fact she is classified the same as a person with no income.

The debate on the use of informal sector is ongoing. Nonetheless different actors, scholars and practitioners have attempted to define this sector. Professor Jill Nattrass, former head of the Development Studies at the University of Natal describes the informal sector as “ that sector of the economy which comprises

both infant enterprises which have the capacity to grow into full members of the capitalist economic system and individuals who have been forced into the sector simply because they have no alternative means of supporting themselves.”

(Reddy, 1995:115)

The Development Bank of Southern Africa simply defines it as a “all people active in unregistered enterprises.” (Reddy, 1995:15) This definition is too narrow and does not take into account that some informal business is to a large extent registered and regulated. The municipalities would register some of the informal businesses and will issue them with licenses, but they do not become formal by virtue of being registered.

Nattrass’s description of the informal sector accommodates the policy focus of this study. She describes the sector as “those economic activities that are small in scale, trading for survival and as part of entrepreneurship. They can be measured in terms of capital used and persons employed. In most cases they are their own employers. The informal sector is heterogeneous in terms of actors, activities and scale. Actors in this sector include... employers in small businesses with few hired workers, wage workers and apprentices.” (Reddy, 1995:115)

In simple terms, in the South African context the informal economy will include any form of economic activity that is outside the tax net. The people involved in

informal economic activities are often not registered with the South African Receiver of Revenue nor with the levy payers at district or local government level. These include taxi owners, drivers, conductors or money collectors, street traders and owners of shebeens and their workers, all of whom are not counted as employed.

The definition of informal traders seems to be clustered with roles and perceptions. Informal trading seems to be defined in the context of what constitutes the city. This tends to reduce the informal trading into a nuisance rather than an integral part of the economy.

Opinion makers –the media, officialdom, educational institutions, NRI's - define what constitute a good city. They turn to the well-known cities of the world, to London, Tokyo, Chicago and increasingly Singapore, the current favourite. They point to the many cars, the broad roads, over-bridges, shopping centers, high-rise apartment complexes, schools, hospitals, air-conditioning, and central heating, the bright lights and cleanliness. (Sethuraman, 1997:14)

These opinion-makers have one way of looking at this phenomenon. What kind of definition would come from a person that has already a fixed idea of a city? Thus informal trading is seen as the opposite of all that is mentioned in the quote

above. "Our perceptions of street vendors remain confused and much conditioned by the streets of London and Singapore." (Seminar, July 2000:14)

Yet, in reality urban centers have always been a place of dialogue, interaction and trade between rich and poor. The goods sold by street vendors are often cheap and many people of different classes buy from them. Why can't they be seen as an opportunity rather a threat to the well being of a city?

Rampartab, in his study of 'Competition, Co-operation and Co-existence among informal and formal traders: Verulam case study' found no evidence of the often claimed threat by the formal sector of the informal sector. He argues that "rather competition, co-existence seem to be a real possibility."(Rampartab, unpublished paper, submitted for Masters degree thesis 2001)

4.4 POLITICAL DEBATE ABOUT INFORMAL SECTOR

This sub topic seeks to highlight how perspectives influence policy. It also attempts to make connections between definition or perception and policy. In view of the fact that we are looking at the development of sound informal trading policies at local level, it then becomes necessary to brief you on the thinking of some mayors about this sector. Mayors are influential people and have the power to shape the policies at local level.

I happened to be the facilitator of the Mayor's conference at the KwaZulu-Natal Chapter of the African Renaissance Festival held between the 27th to the 31st March 2001. The Mayor's conference took place on the 28th of March 2001. What follows are verbatim quotes of different Mayors about the question of informal traders.

Present at the conference was the Mayor of Blantyre, Malawi, one of the biggest municipalities or local assembly as they call it in Malawi, with a population of about 2 million people. This is what Mayor Charles Samme had to say about informal traders:

"Cleanliness in Blantyre is a major problem. Vendors from rural areas trade without authority. How do you ask them to vacate? We would like them to leave the street in the interest of cleanliness and hygiene." (Samme Charles, unpublished speech) Given this mayor's perspective, it is likely that the policies his council will adopt will discourage or severely curtail the operations of the informal sector. From this extract, Mr. Samme's attitude towards the sector is clearly demonstrated. He associates informal trading with filth and unhygienic conditions. His own understanding influences the choice of solution. In this case, he chases informal sector away.

In response to this statement, the Mayor of one of the ten district Councils in KwaZulu-Natal, which happens to be very rural and very poor, UMkhanyakude District Council also known as District 27, Councilor Mthombeni said:

...Protect and strengthen the informal sector and develop our people where they are – in the streets. Both Durban and Johannesburg started as informal cities. It is the colonial mentality that makes us think in a classical way, and hence some of us want to see clean streets free from the pollution and obstruction caused by street traders. We think in terms of our standards as owners of expensive cars as opposed to putting ourselves in the shoes of poor people trying to earn a living in the street. We cannot afford to get rid of them. We must rather encourage them to clean up their mess. We must develop them where they are: in the street. In China they use motor bicycles to sell in the street. We cannot afford having clear streets. People are unemployed and people are hungry. So they search for their survival in the streets. If you want to move straight without street vendors, then go to Hell! (Mthombeni, unpublished speech, 2001)

Obed Mlaba, the Mayor of Durban Metro, which happens to be one of the richest cities in South Africa and Africa as a whole, had this to say about the informal sector of the economy:

Our informal sector is growing at a fast enough pace to make up for the collapse of the formal economy. There is a herbal indigenous market which we had to recognize and regulate with a R42 million annual turnover

comprising some 2000 practitioners who were given by us (the city council) space to trade and consult with their patients in privacy. The average profits that each of these traditional healers- informal traders' makes is R6000 a month. We believe that this is in line with our new democratic dispensation. We have also identified a huge square, which shall accommodate informal traders involved in craft, clothing and herbs. (Mlaba, O. unpublished speech, 2001)

The attitude of both Mayor Mthombeni and Mlaba tend to encourage the growth of the informal sector. It is not surprising to see friendly policies towards this sector in their own cities or towns. For example, councillor Mlaba in the extract above tells us how council contributed to the growth of the herbal informal traders by creating an enabling environment. He could even tell us the monetary value of this sector.

What exactly is informal trading? "Is it an unregulated nuisance clustering up city pavements or the great black hope of a revitalized South African economy?"(author unknown, extract from an unpublished paper) These are some of the questions that occur as one tries to define this phenomenon. Some see it as a form that is used to address the unemployment rate in South Africa. Some see the informal sector as only for those who struggle to make ends meet. The Deputy Traffic Chief and Head of the Informal Trade Forum in Pretoria, Mr. Elias Mavhandu, supports this view and has this to say about informal traders: "We

strongly discourage this kind of business as the informal trade is for those who struggle, not for rich people to get richer.”(Muvhandu, unpublished paper)

Depending on what we mean by informal traders, this kind of thinking might be problematic if one was to look at the taxi industry, for example, and claim that it is a formal trade. Probably to define what informal trading is one will have to look at what constitute a formal trader. This will then enable us to see who falls outside that category.

4.5 THE FORMAL SECTOR

In defining the formal sector one will have to do so by describing outstanding characteristics. It is important to note that by the formal sector we refer to both the private and the public sector.

John Bradley (Reddy, 1995:115) describes the formal sector in the three following points:

- Highly-capitalized social productive forces
- Privately-owned means of production, operated by labourers for the benefit of the small owning class (It is important to note that in the public sector, the state or its organ owns the means of production)
- And a highly developed division of labour with a clear hierarchical structure.

I would strongly argue that over and above the points cited by Bradley above, the following are distinctive features of the formal sector in South Africa :

- As the name suggests, it is a formal organization with clear structure, policies and rules
- It is often very unionised
- Labour relations are regulated in the South African context by the Labour Relations Act
- Easy access to finance
- It is recognised as 'the economic sector' by the government
- It enjoys legitimacy
- It is often easy to market because it normally has a clear corporate identity or brand in the form of logo or letter head

It is important to note that though there are attempts to enhance the status of the informal sector as a legitimate economic sector, the municipal policies and by-laws seem to be delaying this process. Further most official statistics that inform policies of this country tend to discount the value and the contribution of this sector in the Gross Domestic Production of this country.

4.6 MOTIVES FOR PARTICIPATION AND FACTORS SHAPING THE INFORMAL SECTOR OF THE SOUTH AFRICAN ECONOMY

People join the informal economy for different motives. Those activities that are criminalised in South Africa, for example, prostitution, dagga selling and drug trafficking, are excluded from this study. Informal trading is associated with urban poverty. This association, though, true tends to overlook the fact that people participate in the informal sector for different reasons. Sethuraman (1997:16) who has studied urban poverty and informal trading greatly acknowledges that there are different motives for participation in this sector. He cites the following motives:

Labour market flexibility. He argues that many women join this sector because they can work flexible hours. “They combine responsibilities with income earning opportunities by choosing their own hours and place of work as well as the activities.” Whilst it is true that this sector might give that labour market flexibility, my own research suggest a different motive in the South African context. Many of those who participate in this informal sector have often been let down by the formal sector both public and private. Their working hours are not flexible in South Africa. Their customers dictate to both the taxi drivers and street traders. They get up very early to catch up with their clients and leave business late after

hours. This is demonstrated by the fact that on Sundays when very few people (their customers) go to work, very few of taxi operators and street traders work on these days. Even if they want to work on Sunday, their market dictate otherwise as there is less volume of people who could buy their products or utilise their services.

Existence of profitable opportunities: This is true especially with the taxi industry and shebeens. Those who go into the taxi industry and some shebeens opt for them because they have identified these fields of informal sector as being profitable. Indeed as you will see later, the taxi industry is very lucrative. The only shebeen owner that I interviewed on the 20th of November 2001, Ms. Bongiwe Mbhele from Machibise, Pietermaritzburg told me that she makes approximately R30 000 a month profit.

Non-compliance with regulations: Sethuraman also argues that some join this sector because they are just non-conformist. These are people who dislike regulated environment.

There are many factors that shape this sector. Potter and Lloyd-Evans (1998), identified four types of informal activities, namely subsistence, small-scale production and retailing, petty capitalists, criminal and socially undesirable activities. Whilst these types are fine, it could be argued strongly that factors tend to shape the life span of that type of the informal sector. For example, those

that are shaped by entrepreneurial factors are often temporary informal traders. They eventually graduate into the formal sector. A good example is the taxi industry in South Africa, which will be discussed later on in the study.

For the purposes of this study I will not even consider those that have criminal and socially undesirable motives and outcomes, and those who opt for the informal economy to maximise their profits. These are the informal traders that run away from paying taxes, rent, levies, water, electricity tariffs and other municipal services. I will, therefore, focus on the six factors that seem to require urgent policy intervention of municipalities. They are the entrepreneur, survivalist, cultural and business, artistic and craft and the disillusionment factors. They are briefly defined and discussed below:

4.6.1 Entrepreneurial factor

The informal traders, motivated by this factor, identify a product /service and a market. They are often driven by opportunity rather than by unemployment. They often have enough capital to invest in their new venture. Those that fall under this category are often very organized and their profit margins are comparable to the formal sector. In South Africa, these would include the taxi industry; home based economies like taverns and some shebeens. These could easily be formalized. According to Natrass this group could grow into a capitalist

class and be part of the capitalist economic system. (Nattrass J and Glass H, Town and Regional Planning Report Vol.18 (1986).

4.6.2 Survivalist Factors

The traders, who are motivated by this factor, are often unemployed. Most of them are women, former workers in the formal sector who were retrenched. Most of them are breadwinners and have dependents to support. The typical example of this sector is fruit street vendors. They normally occupy a table or two. The money they make is only sufficient to buy grocery for their families. Poverty and survival are what bring these people on the street. As opposed to those that are motivated by the entrepreneur factor these do not have sufficient capital to start their business.

4.6.3 The Tax, Levy and Tariff Evaders

Those that belong to this category, run away from paying rent, rates, water and electricity tariffs. They pose as street vendors. These often have infrastructure like trucks. They are very easy to identify as they normally have big tents and enough stock to be in the formal business. They do not belong on the streets. It can be strongly argued that these are tax defaulters. This group is often running away from all the costs associated with formal business. wants to make maximum profit by utilising cheap labour and avoiding rent, electricity etc.

4.6.4 Cultural and Business Factors

The group which is motivated by this factor normally had indigenous knowledge which is passed on from one generation to another. They understand different traditional herbs and traditions. This is a very specialized sector of street traders. They are a very small group. This is so because there are no formal schools to learn about traditional medicine. Most of the muti traders got their skills from some senior member of the family or community who himself/herself practice traditional healing.

The typical example of these is traditional healers who go to the cities bringing the service closer to their clients. These target a specific cultural sector of the population. They can be found in the streets where most of their clients frequent.

The economic strength of this group has been ignored for a very long time. “ The value of this industry is estimated at over R2.5 billion per annum. It is for this reason that Durban Metro have developed a policy and have invested in ensuring the growth of this sector. It is said that an average Inyanga makes between R3 000 and R10 000 a month profit. Durban Metro has provided a trading area for this sector and in return they pay rent.” (unpublished paper, Mlaba Obed, October 2001).

4.6.5 Artistic and Craft Factor

These are often not employable by the formal sector where there is mass production. These people are talented and creative. They work for themselves. They often trade in tourist routes. They make unique products. Their main market is tourists.

4.6.6 The Disillusioned

This is the most exploited group. They have no product of their own. They often work for others. Some of them go to this sector because they don't have legal documents like Book of Life. They are often non-South Africans who are either illegal immigrants or are economic refugees. Sometimes they are South Africans who go to this sector because they are illiterate and therefore find it extremely hard to find employment. This group of people is vulnerable as many pseudo informal traders use them. These traders sell piracy items like bags and clothes with expensive brand labels but not genuine. These people belong to the formal sector and don't want to pay competitive salaries. They provide cheap or free labour to those who employ them.

4.6.7 Choice Factor

These traders find more pleasure in working for themselves. Most of them run away from exploitation in the formal sector. Some of them were domestic workers, farm workers, factory workers. Some experienced some kind of harassment or victimization and decided to work for themselves. These normally run spaza shops or sell small goods.

Whatever the factors that shape informal trading, the informal sector remains a critical policy area that needs urgent intervention if towns and cities are to be managed in line with the new legislation. The informal sector appears to have a lot of potential in terms of addressing the high unemployment rate. However, it is important for policy makers not to over estimate the capacity of this sector in absorbing the job seekers as it also has its own fair share of problems. For example, there is a lot of exploitation in this sector due the fact that the Labour Relations Act is not observed (see 4.7.2). It is a challenging policy field as it has diverse actors and directors. It requires a creative approach that takes into account all the factors as contained in this chapter when developing a policy and considering its implementation.

4.7 IDENTIFICATION OF THE INFORMAL SECTOR IN SOUTH AFRICA

The identification of the informal sector in South Africa is largely linked a number of factors namely:

- ***The level of municipal services:*** There is often inadequate provision of basic services such as water, toilets, electricity/lights and general maintenance such as regular waste removal and proper drainage.
- ***Lack of access to finance:*** In South Africa, the difference between the formal and informal sector is not about profit margins. To elaborate on this point let us briefly look at Khanya Mbatha, (popularly known as KI by his colleagues),
“ He owns 12 taxis operating between KwaMashu, Inanda, Umhlanga and Durban. The truth is that Mbatha is a wealthy man in his own right. He owns a R900 000 mansion in Reservoir Hills...drives the latest BMW 530d which cost him a whopping R340 000 and the latest Mercedes Benz C 230 at R257 000. He sends his children to private schools...” (Metro Beat, Issue 38: 26-27). From Mr. Mbatha's case one could clearly see that informal sector in South Africa is not necessarily about profit margins but more about the perceptions of financial institutions as well as local authorities that would not provide comparable services to this sector as they do the formal sector.

Mr. Mbatha has applied for finance from financial institutions but they put conditions that they would not impose on the formal sector. For example they require him to pay a deposit of 50% which translates to about R60 000 for a 10 seater taxi. Whereas with somebody from the formal sector, banks will simply look at the cash flows of his/her business and credit record if necessary but not the deposit as such.

Financial institutions classify the informal sector, especially the taxi industry, as being the highest risk exposure. Ninety five percent of the taxi owners and drivers interviewed cited this as a major problem facing this sector. They attributed their aging fleets of vehicles to this factor.

- ***The simple environment that is accessible to customers:*** In the informal sector there is an inclination to use round figure pricing. In the informal sector a price is not like in formal sector where the fee structure is complicated like R3.99; in the informal sector it will be R4.00 or R3.50.
- ***Payment of taxes and other levies:*** The informal sector in South Africa is often outside the tax net. Street traders, some of whom are traditional healers, can make an average of between “R6000 and R10 000” (Durban Metro Economic Development Report, 2001) profit a month. The fruit sellers interviewed in December 2001, all said they were not paying income tax. Taxi owners would not divulge how much they make a month and whether they

pay tax or not. Some of these owners make profits as high as R100 000 a month judging from their life styles. (see Khanya Mbatha case study, 4.7 lack of finance sub topic)

There is no uniformity of the informal sector in terms of operations and formations. This is so because these different types of informal sector are influenced by different factors and therefore operate differently.

However, there are common features of this sector. John E. Bradley (Reddy, 1995:16), former City Planner of Pietermaritzburg summarises them as follows:

- Both the means of production and techniques are more labour intensive than capital intensive
- The means of production are generally owned by those that operate them
- The division of labour is rudimentary and horizontal , rather than vertical
- There is considerable freedom of entry, both for employees and entrepreneurs, with no institutional restrictions, such as professional qualifications and patent rights
- Monopolistic practices are scarce because of absence of technological protection of various enterprises

I will now look at each of these common features as identified by Bradley so to unpack them. This is to avoid generalizations, as this sector is an extremely flexible one.

4.7.1 The Means of Production

Whilst I agree with Bradley in so far as the ownership of the means of production and techniques are concerned, it is also important at this stage to sound a word of caution about this argument. This applies to many types of the informal sector but not to all. This is true with the taxi industry; many taxi drivers do not own the means of production. Most of the times they are wage labourers who have no protection and can be hired and fired as and when the owner deems it necessary. The same thing applies to those that I refer to earlier as being the disillusioned factor. They normally work for those who own some of the stalls in the streets and have no say on the means and techniques used.

4.7.2 Labour Intensification

The informal sector is labour intensive. There is a growing trend internationally to recognize this sector, as it is becoming a real opportunity to address the high rate of unemployment. In South Africa about one third of employment is in this sector. There are over 200 000-taxi units in South Africa, each employing a minimum of two people. However, it is also true to note that exploitation in this sector is rife. The labour laws of this country do not protect these workers.

Generally they work under the following conditions:

- Unregulated hours
- A fire and hire policy is heavily practised

- There are often life-threatening risks. This is true of the taxi industry as more drivers have been killed than are owners of these taxis.
- There are no conditions of service or employment contracts
- They often have no access to basic facilities such as toilets, clean water and pre-schools especially for street traders

Of late the taxi workers are getting organised. They have formed a trade union. It is not officially recognised at this stage but is in the process of being officialised.

4.7.3 Freedom of Entry

Indeed there is flexibility in the informal sector. However, there are different minimum entry requirements depending on the type of informal sector one wants to join. In the taxi industry, to be the owner one needs capital. A new taxi unit costs the minimum of just over R120 000 (February 2002 figure). Entrants need to be creditworthy if they do not have cash. Secondly, they need to join the taxi association that operates that chosen route. It often costs as high as a R15 000 (2002 figure) joining fee. The labour cost is inescapable. If operators do not use their family labour then they need to budget for a minimum of two people, that is, the taxi driver and conductor who collects money and is often a tout to tell people the destination of the taxi. The conductor is also a liaison between the driver and passengers. To be an employee in this industry one needs to be literate. The

driver must be the license holder and the conductor must be able to count money.

Therefore, the freedom of entry by Bradley seems to underscore some of the difficulties that potential informal traders face. Even street traders have to be on a long waiting list before they can sell their goods on the streets. It is a very complicated sector as there are mafias who rent municipal stands to street traders. Corruption in this sector is very rife. Yes, the entry point in this sector is not as rigid as in the formal sector. Normally the formal sector has an employment process that has to be in line with the employment policy. Posts must be advertised and CVs submitted. In the informal sector there are often no set down employment procedures and policies.

4.7.4 Monopolistic Practices

Bradley argues that monopolistic practices in the informal sector are uncommon and not prevalent. Yes, this is largely true. However, the argument by Nattrass has to be borne in mind that some in this sector can grow into a capitalist class. Some of them do become monopolistic. They can develop into a franchise. In Johannesburg, there is a vendor who sells pap and vleis using his own homemade spices. He operates next to number 5 Simmonds street which is Standard Bank Building with more than 15 000 people. He has made a fortune. One can tell that by the car he drives which is the latest model of the BMW and the number of his customers that stand in a line patiently waiting to be served.

He has now franchised his business and has opened other business operations around Johannesburg.

4.8 CONCLUSION

This chapter has attempted to define the informal sector. In our South African context, it includes those players in the economic activities who are not paying income tax or business levies to municipalities. They may not be paying either one or both. They often lack access to finance, are under-serviced by municipalities (the study will show this later on), have no 'corporate culture' such as a brand. They cannot be measured in terms of income and number of employees as some of them especially in the taxi industry make profits comparable to that of the formal sector. They manage to operate outside minimum wages and labour laws. They are heterogeneous and cannot be defined and described in one single sentence.

CHAPTER 5

POWER, POLICY AND DEVELOPMENT

5.1 INTRODUCTION

It is critical for any policy maker to understand the interdependence and crosscutting relationships that exist amongst concepts such as power, policy and development. This is relevant to the subject under discussion in this thesis, which is the 'development of sound informal trading policies at municipal level.' The focus on power, policy and development enables us to understand that for any policy to be sound at local government level it will have to take into account the legislation of the national and provincial spheres of government. This prerequisite indicates the power at play amongst these three spheres of government. These national and provincial laws are derived from policy documents that articulate what kind of development and how it is to happen. In other words local governments have no absolute autonomy in so far as developing their policies is concerned. They need to be in line with the national legislation. In South Africa, organised local government is recognised by the country's constitution as the voice and representative of municipalities. This in theory is supposed to enable municipalities to provide input on national and provincial legislation during the drafting stage. However, in reality this is not

always possible as organised local government lacks capacity to monitor the bills and other proposed policies. That is why the understanding of power, policy and development is fundamental and is at the centre of any attempt to develop a sound informal trading policy, or any other policy for that matter; especially at municipal level.

5.2 POLICY IN THE CONTEXT OF DEVELOPMENT

'Policy' and 'development' are terms that have multiple meaning in the social sciences. Mark Turner, from the University of Canberra and David Hulme from the University of Manchester, agree that these terms depend on who is using them and in what context. They have attempted to simplify the classification of the term 'policy' as provided by Hogwood and Gunn (1984). They cite the following usage of the term 'policy' by people:

- ***As a label for a field of activity***, for example, broad statements about a government's economic policy, industrial policy, or law and order policy
- ***As a general purpose or desired state of affairs***, for example, to generate as many jobs as possible, to promote democratisation, to attack the roots of poverty
- ***As specific proposals...***
- ***A decision of government...***
- ***As formal authorisation***, for example acts of parliament or other statutory instruments

- ***As a programme...***
- ***As output...***
- ***As outcome...***
- ***As a theory or model...***
- ***As a process.*** As a long-term matter starting with the issues and moving through objective-setting, decision making to implementation and evaluation.
(Turner and Hulme, 1997:59)

In this thesis the term policy will be used in a way that accommodates all the above usages. This is so because the recommendations made in this project in respect of informal trade policy must make sense to all the role players, namely, the informal traders who are not homogeneous, the municipal officials and councillors, the ratepayers and citizens, the interests groups such as environmentalists, the national government and provincial government etc. The proposed policy format articulated in this paper is rather a set of recommendations that seek to attempt to address the difficulties encountered by municipalities in dealing with informal traders.

It is also important to emphasise that the informal trade policy in this paper is discussed within the context of power relations and policy as a process. Policy cannot ignore the historical setting. The booming or explosion of informal trade in South Africa is largely about the legacy of apartheid, protectionist policies of the former regime, lack of policies to deal with the informal sector, the influx of

illegal immigrants and illegal importation of goods and so on. Clearly, from this we can see that policies can build or hinder development, as was the case with apartheid policies that contributed to the development of white communities and the under-development of the black people and indigenous African majority in particular.

The focus on informal trade policy is influenced by the fact that policies do shape the economic state and the well-being of citizens of countries. As put by Turner and Hulme (1997), "While many factors influence the developmental records of countries, it is certainly the case that good policy choices and their effective implementation are major explanatory variables."

5.3 WHY POLICY DEVELOPMENT?

This paper attempts to move away from the traditional definitions of development to a definition that contributes to the better standards of living of people. It also attempts to move away from policy as an imposition from the more powerful; in this case it would be government. Hence, the emphasis on participatory policy development processes, as will emerge later in the chapter. The preference of developing a policy as oppose to policy formulation has process connotations. Developing a policy suggests a developmental approach whereas policy formulation may suggest a contrary approach. It is to a certain extent about changing the attitude of authorities in particular.

Coetzee and Graff (1996) in their search for a different definition of development concentrate on the processes preceding political, economic and social transformation. They argue that “ a different definition of development, then will include components that will allow for personal growth of every individual. This includes food, clothing, shelter, and other more concrete needs, but also a right to live a meaningful life. Esteem is also an important underlying aspect of development. Development efforts have to be based on the assumption that all people value respect and want to be treated as worthy individuals.” (Coetzee and Graff, 1996, p227)

The assertion by these scholars is critical in developing a sound informal trading policy. This is so because informal traders, especially street traders, often operate under appalling conditions that are detrimental to their health and the well being of their families. In this paper, the theory of Coetzee and Graff provides guiding principles on which a sound policy should be based.

5.4 POWER AND ITS RELEVANCE TO POLICY DEVELOPMENT

Power is an inescapable phenomenon. Governments, love, family, race, gender relations and social, economic, political and cultural institutions all reflect power relations in society. Power thus affects people as they practice, enforce or succumb to it. Policies thus become a strong feature in power relations.

Therefore, it is critical for any policy student or scholar to understand power and power relations because it assists us to develop a deeper understanding of why certain decisions are made and others are not made and the interests that those outcomes serve. It is also important because as policy agents we then come to understand whose interests those policies serve. How are those interests being served? It is for this reason that this chapter will look closely at the relationship between power and policy development.

There is a general agreement from all scholars and social scientists on the existence of power. There are nevertheless differing views on the discourses of power. They often approach it from different political schools of thought and are influenced by different ideologies.

Lukes (1974) provides us with a very good analytical tool of power as a concept. His conceptual analysis, framework and perspective of dimensions of power assist us as scholars of government policy to understand how power operates in a political context where decisions about how the country is to be run are taken.

5.4.1 LUKES' THREE DIMENSIONAL VIEW OF POWER

The *one-dimensional view*, sometimes called a pluralist view, mainly looks at the conflict in the decision making process. This pluralist view of power tends to confine itself to observable behaviour in decision making process. According to

this view "power can be analyzed only after 'careful examination of a series of concrete decisions.'" (Lukes, 1974:13) It looks at what is taking place and why such outcomes take place. Using street trading as an example, the emphasis will be on the breaking of by-laws or enforcement of those by laws. The danger with this view is that the other underlying factors that shape street trading like international trends, class stratification and the economy of scale may be overlooked.

Lukes' *two-dimensional view of power*, he argues, came to place as a response and critique of the one-dimensional view. (Lukes, 1974:19) This view moves from the premise that behavioural aspects in decision making alone does not provide an adequate or full picture of the subject in question. It is restrictive and somewhat obscure. Therefore the two-dimensional view thus attempts to broaden the understanding of power relations by bringing in the factor of inaction over and above behavioural aspects. This school of thought argues that a non-decision can be deliberate. Deliberate non-decision making process prevents equality in society because those people who engage in non-decision making resist and inhibit equality in society. This view thus provides both the subjective and conflicting interests. Therefore it moves beyond why certain decisions are taken and why certain decisions are not taken and why certain outcomes are not met or do not take place. In other words it argues that to build on a shortcoming is to make it worse and outcomes may be the opposite of what you intend.

The final dimensional view is the ***three dimensional view***, which improves on both the one and two-dimensional views in attempting to eliminate the shortcomings of both views. Here one goes beyond the behavioural aspects and inaction in decision making, by offering a sociological perspective of power and the structure of social institutions. It looks at the different mechanisms of power and the competing interests that exist in society. It admits two types of interests, namely, the real versus the subjective interests.

Lukes' three dimensional view of power can assist us as policy makers in making better policies by developing a clear understanding of underlying factors in power relations. Let us attempt to use Lukes' three-dimensional view of power in analyzing informal trading. We will use three-dimensional views as building blocks. What follows below is an attempt to show how Lukes' views could be used to develop our understanding of the phenomenon we want to develop a policy around. This is important because a number of policies fail to take into account different issues, interests, stakeholders and motives that shape the context under question. Therefore as a policy maker it is critical to answer the following questions in the context of power relations to analyze any matter that is critical to an organization so as to come up with a relatively sustainable solution where all stakeholders interests are taken into account:

1. What are the issues?
2. Who is involved?
3. Why are they involved?

4. How are their interests served?

The importance of understanding power relations in policy formulation helps us to understand the dynamics involved in socio-economic and political issues. Lukes' three-dimensional views of power offer a very useful analytical tool for policy makers and scholars. It helps us understand the power and power relations in social institutions and structures. Using this tool we have learnt that it is not only the local players and the directly affected players that need to be taken into account when we develop policies or when we analyze power relations. National government, financial institutions and the public are also parties that are critical in the informal sector policy debate.

5.5 DECISION MAKING AS PART OF POLICY DEVELOPMENT AND IMPLEMENTATION

Central to the process of policy formulation is decision-making. "Decision making falls between policy formulation and implementation. However (they) are closely interwoven, with decisions affecting implementation and initial implementation affecting later stages of decision making which in turn, affect later implementations. Decision making is hence not to be viewed as a passive process...decisions are processes and early decisions are often directional signals, initial prodding, or trials run, for later specifications and visions." (Ezzioni, 1968:203-4) Thus any decision taken by a municipality does become

policy in its own right which changes as prevailing material, social and political conditions dictate otherwise, which call for yet another decision to be made.

The most important point to be taken into account is that the focus of decision making remains with the national state. Municipalities in drawing or formulating their policies must in the first instance consult with the policies of the national government. Policy makers allocate values to decisions. Decision-making takes place in different arenas and at different levels. At one level there is a decision by high policy actors, at another there are decision of the actors who are involved at ground level. Modern government is a complex multi-layered, or multi-sphere activity in which a policy entails numerous decision points.

According to Lasswell, decision analysis is concerned with "who gets what, when and how."(Lasswell 1936) According to Parsons

Decision analysis encompasses a range of academic discipline and frameworks... For something as complex as decision-making by individuals and groups no one discipline or framework can possibly explain everything. In highlighting one aspect another is ignored or underestimated. Strengths are also weaknesses. There can be no one explanation of decision-making, and consequently the aim of policy analysis is to contextualise approaches, and clarifies the values and beliefs which frame a given theory (Parsons, 1995)

Parsons examines models of decision –making, drawn from a number of social sciences. These include political science, sociology, organizational theory, economic, psychology and management. These disciplines may be compressed into five major categories which are power, rationality, public choice and its alternatives, institutional, informational and psychological. Ideas can not be pigeonholed, contributions to decision analysis often overlap. Models of power view decision-making in terms of power structures such as wealth, class, bureaucratic and political arrangements, pressure groups and technical knowledge.

Models of power in turn can be viewed in different approaches, which clearly show power relations in decision making. Let us consider the following:

5.5.1 ELITIST MODEL

The elitist model holds that power is concentrated in the hands of a few groups and individual. According to this model a decision making process works to the advantage of the elite. Elitism purports to have been founded on how the real world works. It is argued that in the real world there are those at the top with power and the mass without power. The proponents of this model are Mosca and Pareto, both Italian theorists.

Mosca and Pareto argue that, contrary to Marx, history shows that elitism is inevitable. They argue further that democracy can be viewed as a form of politics where people compete for the people's vote in order to secure legitimacy for elite rule.

Commenting on power Lasswell (1936) takes the view that "the study of politics is the study of influence and influential." Lasswell agreed with Pareto that there was a circulation of the elite in democracy and that there was a shift from class struggle to a struggle between different skill groups such as those with business and commercial skills, technocrats who possess specialised knowledge and bureaucrats with administrative or organisational skills. When combined these elites pose a danger to democracy.

Implicit in this analysis is that elites are pervasive, and a gulf will always remain between 'them' and 'us'. In the result, participatory decision-making is limited for as long as there are elites.

The usefulness of the understanding of this model within the South African context enables us to understand why informal traders in particular at local government are ever suspicious about reforms or new policy initiatives or developments. Clearly, from this model we can now appreciate that informal traders may be cautious the authorities who are 'the elite' running the show in the name of democracy to further their elitist agenda.

5.5.2 CORPORATISM

This term gained currency in the middle ages and in the fascist movement of the post war period. The theory was that of a society based on the incorporation of groups in the policy making process. This, it was argued would overcome conflicts between labour and capital. Schmitter (1974) defines corporatism "as a system of interest representation in which the constituent units are organised into a number of singular, compulsory, non-competitive, hierarchical ordered categories, recognized or licensed by the state and granted a deliberate representational monopoly within their respective categories in exchange for observing certain controls in their selection of leaders and articulation of demands and supports."(934-936)

5.5.3 PROFESSIONALISM

This model seeks to analyse the extent to which professional elites have acquired power in decision-making and implementation of public policies. It is argued that professionals are more interested in their own gain than that of the public they are meant to serve.

5.5.4 RATIONALITY

“I think that there is plenty of evidence that people are generally rational ... they usually have reasons for what they do, even in madness there is almost always a method as Freud was at great pains to point out and, putting madness aside for a moment, almost all human behaviour consists of goal oriented action.” (Simon, 1985:285,297)

Human rationality according Simon is limited in terms of:

- The incomplete and fragmented nature of knowledge
- Consequences that can not be known
- Limits of attention
- Human being learning through adjusting their behaviour in line with purposive goals
- Limits of storage capacity of the human mind
- Human beings as creatures of habit and routine
- Human beings with limited attention spans
- Decision-making as also bounded by an organisational environment, which frames the processes of choice.

The theory of rationality seems to have some relevance in understanding some of the challenges confronting municipalities in their attempt to deal with informal traders. The above limitations of human rationality tend to explain why the

process of appropriate or sound informal trading policies does not seem to address the problems of managing the informal sector in a way that enhances their status and at the same time contributing to the economic development of municipalities.

5.6 CONCLUSION

Power can not be divorced from policy development and implementation. Power relations in turn play a major part in decision making. This chapter is important in the sense that it gives policy process a political context and reminds us that human beings are not homogeneous. There are a lot of factors that influence decision and non-decision making. Simon (1985) exposes the limitations of human rationality which influence what and how decisions are made. Chapter 6 deals with the legislative and policy framework of the informal sector in South Africa. Legislation and policies have a political context and in that way show the process of decision making.

CHAPTER 6

THE POLICY AND LEGISLATIVE FRAMEWORK

6.1 INTRODUCTION

The informal sector of the South African economy cannot be divorced from the history and development of this country. The policy and legislation of each historical or political stage seem to influence the operations of the informal economy. The informal sector has its roots largely in the historical setting of South Africa. The history of South Africa is a history of racial segregation and economic disparities along colour lines.

At the root of racial segregation was the policy of white supremacy under a colonial order and apartheid, the Nationalist Party policy that subjugated the African people. This subjugation was effected through the Native Land Act of 1913 ; The Native Act of 1926, the Bantu Trust Act of 1936, the Group Areas Act of 1948 and many other discriminatory laws and provincial ordinances.

Under the racial system, Africans were denied rights enjoyed by the whites. For example, Africans could not purchase clear beer and spirits. This gave rise to bootlegging and the subsequent rise of shebeens.

Through such laws as pass laws, the movement of Africans into and out of European areas was controlled. Only those Africans who were employed and who could prove this by way of a pass were allowed into European and urban areas. Mostly these were men. Women, though not allowed, found their way into the compounds. In time they supplemented their menfolk's income by engaging in trade, albeit illegally so.

Because it was in the interest of the employers that labour's mobility be limited, no measures were taken to develop a public transport system to serve black areas. The lack of adequate and efficient public transport system would, in time, give rise to the taxi sector which was uniquely to serve black communities. During this political dispensation, the informal sector experienced a number of restrictions which were often racially motivated. The Group Areas Act impacted directly on municipal by-laws as these local laws had to be within a national legal framework.

The political dimensions facing the country in the 1980's necessitated the state to relax some of the restrictive laws that hindered the development of the informal sector. The Business Act of 1971 which shall be discussed later in this chapter further strengthened the position of the informal sector.

In 1994 South Africa became a democracy with a new government and new vision. The commitment of the new government to uplifting all sectors of the

populace, the informal sector included, can be demonstrated by some decisions taken and already under implementation. Indeed, South Africa as a democracy and a country in transition can be said to be on the right track in so far as creating an enabling environment that would assist small businesses to operate. This is proven by the commitment of the government in economically empowering the historically disadvantaged South Africans through its policies as demonstrated by the facts below.

Telkom South Africa is a parastatal whose shares are wholly owned by the national government. A decision has been taken to privatise Telkom. In this regard government has announced its intention to sell shares to the historically disadvantaged at a discount. Within the context of informal trading it is worthy of note that informal associations such as stokvels have been accorded certain advantages. They can as an association buy certain shares up to R50 000 at a discount. (Telkom Annual report, 2002)

Government has also released a mining charter by which it sought to gradually allow the previously disadvantaged to acquire interests in the mining sector. National legislation, it is envisaged, will seek to transfer certain rights in the ownership of mines to, among other things, previously informal associations, although it is hoped that they will form part of the mainstream economy.

The national and provincial governments have also adopted tender practices which deliberately target the historically disadvantaged and the informal sector in particular.

The thrust of the government has been to get the informal sector to better organise itself and run just as the formal sector. However, it should be borne in mind that government policy does not always translate to implementation and desired outcomes. In this regard mention must be made of the developments in the taxi industry.

At the time of writing this dissertation, the national Minister of Transport and the South African Taxi Association are finalising implementation plans meant to transform the taxi industry and put it on a sound footing better equipped to compete with formal transport operators.

An amount in excess of R14 billion has been earmarked for the rationalisation of the taxi industry. Implicit in the rationalisation exercise is the fact that taxi operators will have to be registered. On Monday the 25th November 2002, the taxi operators and owners went on strike in defiance of the KwaZulu-Natal Department of Transport's Operation Shanela which was meant to remove all unregistered road unworthy taxis on the road. As a result of this strike millions of rands were lost as many people in this province did not report to work. (Daily News, 25 & 26 November 2002)

Political empowerment of the majority through democratic processes underway in the country must be accompanied by economic empowerment in order to achieve the national goal of sustainable social and economic development. The creation of meaningful jobs, wealth and a decent standard of living for the population will give meaning to their vote. Thus, political power can not bring stability and growth without addressing the issue of historical disparities within the economic power. Besides referring to those who were disadvantaged by the apartheid system in the past, the term 'disadvantaged' also applies to those South Africans who have been historically disadvantaged through discrimination on the grounds of gender and/or disability. (www.polity.org.za/white-papers/tele4.html ,1-3)

The relevance of the above extract from the policy document is indicative of the government's intentions and the context of legislation in this country. More so from the above extract we can see that there is a recognition that whilst black people were the ones that were discriminated against, it is equally important to address the plight of those discriminated against on the basis of gender and disability. The informal sector reflects this reality. It is predominantly black, but most street traders are women. It is also important to note that disabled people are employed mainly in the informal sector rather than in the formal economy.

6.2 THE CONTEXT

Policy formulation and implementation need to be seen in the context of intergovernmental relations. There are three spheres of government in South Africa, which are interdependent and interrelated. They all have legislative powers. All laws made must be compliant with the Constitution of the Republic of South Africa, which is the supreme law of the land. The national government is responsible for the national legislation. Most national legislation is derived from policy documents called White Papers. The White Paper thus gives the act the context and values. The provincial governments make laws called ordinances that govern the province. These laws are also informed by the national legislation and the national vision in the form of White Papers but take into account the realities of that particular province. At local government level they make by-laws that regulate their business to be in line with what they see as their local realities. These laws are applicable within their area of jurisdiction as demarcated in terms of the Demarcation Act of 1998 (Act 27). None of these spheres are exempt from observing and adhering to the national legislation. Therefore, municipalities when formulating and implementing policies need to take into account the national legislation and more especially the provincial ordinances and other legislation of that particular province. Failure to take into account the national legislation in particular and provincial legislation may have serious consequences in that any decision made may become ultra vires and

therefore may not be enforceable as they can be challenged before the courts of law.

It is in this context that I shall discuss the critical legislation and policy documents emanating from the national sphere that will have to be taken into account when considering informal trading policy for municipalities.

6.3 SOUTH AFRICAN LAWS AND POLICIES THAT IMPACT THE INFORMAL SECTOR

6.3.1 The Constitution of the Republic of South Africa, ACT 108 of 1996,

The Constitution recognises the history of separate and unequal development of the past and has allowed discrimination to the extent that the discrimination seeks to redress past inequalities and is reasonably justifiable in a democratic society. Although government has adopted empowerment policies such the Black Economic Empowerment (BEE) a recent review of this policy reveal that the policy has not met with much success. The review has revealed that instead of empowerment, there has often been tokenism whereby some blacks have been 'fronts' for established business. "The report showed that black control of the (Johannesburg Sock Exchange) JSE 's market capitalisation increased from 6.3% in 1996 to 9.3% in 1997. The figure then dropped to 8.9%

in 1998, and then decreased again at the end of 1999- to 6.8%.” (SA Survey 2000/2001, p. 399)

What the above demonstrates is that legislative intent alone cannot be the vehicle for empowerment. Political will power, as expressed by the legislation, must be coupled with funds with which to effect it.

Section 152 states that a municipality has among other objects, the object of promoting social and economic development. In part B of Schedule 4 and Part B of Schedule 5, the constitution further gives municipalities executive authority and the right to administer, amongst other things:

- Trading Regulations
- Licensing and control of undertakings that sell food to the public
- Markets
- Street trading.

Judging from the above sections of the constitution, it is evident that municipalities cannot avoid making critical policy decisions and enforcing those decisions. This study is informed by this section of the constitution.

Municipalities are required by the supreme law of the land to develop trading regulations that are developmental. Thus a policy framework at municipal level is required to enable them to fulfil their constitutional mandate. But to do that municipalities need to understand the factors that give rise to the growth of the informal sector such as rural poverty, unemployment and see the informal sector

as a legitimate socio-economic activity. These factors are so important as they influence the kind of regulations and by-laws that municipalities come up with. A good example is Durban Metro or eThekweni Municipality's policy on informal traders with specific reference to traditional healers. Previously, this municipality had attempted to move traditional healers from where they sell their herbs. They did not understand why they would not go to an alternative site where they can trade. It became clear after they conducted a study with the University of Natal, Durban, Centre for Development Studies and StreetNet that the traditional healers were selling their herbs at those specific spots to be close to their rural market who are working in the city forced by rural poverty.

eThekweni Municipality, after establishing these facts, realised that the traditional healing is a multimillion Rand industry.

Given the size and diverse nature of the informal sector, the issue of capacity in enforcing existing by-laws remains a question. The issue of capacity and the challenges facing municipalities in so far as informal trading policies and implementation are concerned are going to be looked at closely in the following chapters of this study.

6.3.2 The White Paper on Local Government of 1998 offers a useful definition of what developmental local government is:

Developmental local government is local government committed to working with citizens and groups within the community to find sustainable ways to meet their social economic and material needs and improve the quality of their lives.

Whilst the White Paper sets principles of local governance through community participation and sustainable development; implementation of these values at local government level is very challenging. Almost all municipalities in South Africa are experiencing growing populations, poverty coupled with the HIV/AIDS pandemic and a diminishing resource base.

The informal sector is also one of the challenging features of local government in South Africa today. There is often a tension between local authorities and the informal traders. The municipal manager of Abaqulusi, former Vryheid Municipality, Mr. B. Ndwandwe argues that these tensions are normal in a participatory democracy. He argues that "if community participation in your area is not messy, conflict-ridden and tension-ridden, it is probably not happening." (unpublished paper, (Community and Public Participation in a Developmental Context) B. Ndwandwe, 2002).

6.3.3 Of particular importance in harmonised development is the **Municipal Systems Act, No. 32 of 2000** which for the first time makes it imperative for each municipality to annually develop an Integrated Development Plan (IDP). In developing an IDP the municipality is obliged by the Act to consult the local community in developing a plan which must, among other things, assess the

existing development in the municipality, identify which communities which do not have access to municipal basic services, and develop a spatial development framework which must include the provision of basic guidelines for a land use management system and disaster management plans.

The IDP must take into account the needs of the informal sector in terms of providing land from which to trade. This is covered in the section of the IDP that deals with Local Economic Development (LED).

Although it is too early to assess with any accuracy the success or otherwise of the legislation under discussion because of the short time it has been in force, it has nevertheless been revealed by this study that there is often inadequate or lack of basic municipal services where most informal traders operate (Chapters 7-9 deal with these findings in detail). What can be said, however, is that provided the spirit of the legislation is followed in implementation the informal sector would make a meaningful contribution to the economy of the local authorities.

6.3.4 There are national policies like the White Paper on **National Strategy for the Development and Promotion of Small Business in South Africa**, which was published in March 1995. This policy seeks to ensure that there is a conducive environment for the development and promotion of the informal sector.

The foreword of this policy document begins to lay a positive foundation for the informal sector as well since it is part of small and medium businesses. It reads:

Small, Medium and Micro-Enterprises (SMMEs) represent an important vehicle to address the challenges of job creation, economic growth and equity in our country. Throughout the world one finds that SMMEs are playing a critical role in absorbing labour, penetrating new markets and generally expanding economies in creative and innovative ways. We are of the view that that – with the appropriate enabling environment - SMMEs in this country can follow these examples and make an indelible mark on this economy. The stimulation of SMMEs must be seen as part of an integrated strategy to take this economy onto a higher road – one in which our economy is diversified, productivity is enhanced, investment is stimulated and entrepreneurship flourishes. (National Strategy for the Development of SMMEs, 1995)

The size of informal business in South Africa requires a practical implementation strategy. “There are more than 800 000 small, medium and micro-enterprises in the country, absorbing about a quarter of the labour force of 15 million people. This is in addition to about 3.5 million people involved in some survivalist enterprise activities.” (1995) Therefore, policy development must take into account implementation and continuous improvement as this sector tends to

develop rapidly influenced by a number of factors such as globalisation and politics which have been alluded to earlier.

The key objectives of the national small- business strategy are as follows, to :

- Create an enabling environment for small enterprises
- Facilitate greater education of income, wealth and earning opportunities
- Address the legacy of apartheid-based disempowerment of black business
- Support the advancement of women in all business sectors
- Create long-term jobs
- Stimulate sector-focused economic growth
- Strengthen cohesion between small enterprises
- Prepare small businesses to comply with the challenges of an internationally competitive economy. (National Strategy on Promotion and Development of SMMEs, 1995)

6.3.4 Recently (July 2001) a Draft White Paper on Local Economic

Development was released for comment. This paper recognises that the process of building strong local economies will also have to take into account all the important stakeholders. Local Economic Development is defined as “a locally driven process designed to identify, harness and utilize resources to stimulate the economy and create new job opportunities. LED is not one specific action or programme, rather it is the sum total of the individual contributions of a broad spectrum of the community. LED occurs when the local authority, business,

labour, NGOs and most importantly – individuals strive to improve their economic status by combining skills, resources and ideas.” (2001)

There is hardly a mention of the informal sector. However, a neutral term that accommodates both formal and informal sector is used. This generalisation limits the effectiveness of this draft policy. This is so because there is a perception that business denotes an element of formality. For example, the Concise Oxford Dictionary, tenth edition defines “business as a commercial activity...businessman/ woman as a person who works in commerce, especially at executive level.” (Oxford Dictionary, 1999). The evidence suggests that a significant percentage is employed by the informal sector. The table below shows Ntsika’s estimated distribution of the country’s workforce by formal and informal sector, in 1996:

Table 4

Economic participation of persons by sector 1996

Sector	Formal	Informal	Total	Proportion formal	Proportion informal
Agriculture, hunting, forestry, and fishing	846 000	370 000	1 216 000	70%	30%
Community, social and personal services	322 000	106 000	428 000	75%	25%
Construction	368 000	208 000	576 000	64%	36%
Domestic Services	762 000	-	762 000	100%	-
Electricity, gas, and water supply	73 000	12 000	85 000	86%	14%
Finance, insurance, and business services	492 000	83 000	575 000	86%	14%
Government Services	1 513 000	-	1 513 000	100%	-
Manufacturing	1 487 000	163 000	1 650 000	90%	10%
Mining and quarrying	574 000	-	574 000	100%	-
Trade	936 000	342 000	1 278 000	73%	27%
Transport, storage and communication	344 000	114 000	458 000	75%	25%
All	7 717 000	1 398 000	9 115 000	85%	15%

Source: South Africa Survey 2000/2001, p. 405

Judging from the above statistics, it is evident that municipalities cannot afford to ignore the informal sector in their IDPs and this Draft White Paper on Local Economic Development will have to be mindful of this sector. Special attention given to this sector in this document will assist municipalities in ensuring that in their IDPs and Local Economic Development Strategy (LEDS), the informal sector is focused on. The danger with not mentioning it, is that it may be left out in the planning process and results could prove disastrous.

It is clear that the public and private sectors are not the only employers and job creators. There is recognition of the fact that there are many jobs in the informal sector, although the working conditions in this sector are a great concern for the Department of Labour. Wages in this sector are not regulated. Secondly, it is a very mobile sector, it is very difficult to follow the trends and even measure their performance in terms of output.

The Handbook for Councillors and Officials on Local Economic Development stress the following reasons why LED is important. It:

- Creates jobs and new employment opportunities
- Increases income levels and enables people to pay for services
- Broaden tax and revenue bases of local authorities
- Enable the local authority to provide more and better services and facilities

- Concentrates on human resource potential and opportunities for development
- Builds new institutions for sustainable economic development and
- Promotes linkages between developed and under-developed areas.

(The Local Authorities Role in Economic Development, 1998)

6.3.6 The Business Act 71 of 1991/102 of 1996 moved beyond the **Licensing Act of 1984**, which only allowed those with licenses to trade. People with previous convictions could not acquire a license to start business. This appeared to be discouraging the rehabilitation of criminals and almost trap those with criminal records in criminality. The Business Act began to acknowledge that the informal sector is not just about trading goods but it is primarily about survival to most people, especially women. However, the challenges are enormous in terms of reviewing this Act so that it is in line with the current Constitution of the Republic of South Africa and the relevant white papers.

Of particular importance about the review of this Act is Section 2 (1): Discretion in Granting Licences. This section gives the licencing authority powers to decide who is or is not suitable to be granted a licence. These discretionary powers may create opportunities for corruption as authorities may give licences to their friends and those that bribe them. This is more relevant especially when there is such a high unemployment rate and so many people see the informal sector as an answer or quick option to their immediate poverty related problems.

Section 6a-(1) (C): Local Regulation of Street Trading needs to be repealed.

This section should try as much as possible to cut the red tape that often goes with regulations. It is my view that intervention by authorities should only be there as a harmonising factor. Currently, there are still a few legal constraints that confront newcomers in the informal sector and existing informal traders such as restraints on trade, prohibition and restrictions on business activities, registration requirements and regulations. Whilst one is not suggesting that we do away with all these legal constraints, it is equally important to ensure that these legal parameters do not hinder the growth of the informal sector. The Minister of Trade and Industry, Mr. Alec Erwin appointed an Advisory Board in 2001 to review regulations that affect the operations of the small medium and micro enterprises. This board has a number of task teams. The Business Trade Task Team (BTTT) is one of them. Their objective is "to ensure that legislation does not negatively impact on small business trade, competition and access to justice." (National Business Regulatory Review, Issues Paper, unpublished) The BTTT argued that in reviewing Business Act the following questions will have to be addressed:

- ◆ Is there a need for special regulations to cater for the licencing of SMMEs?
- ◆ Should licencing laws entitle applicants to licences automatically, unless they will clearly violate essential health and safety laws?

- ◆ What effective ways and methods can be used to provide access to information on the Act to the informal sector?

The above questions are just a few question that the BTTT seek to address so as to make the necessary recommendations to the minister.

The Act also seems to have serious policy implications at municipal level. As Andrew Ferguson former Chief Executive Officer of KWANALOGA puts it

The Business Act is a National Act but administered at a provincial level. This is the first flaw of the Act. It does not take into account the dynamics of the provinces and yet it is prescriptive in nature. The Act removed from municipality to decide what was good business practice for their areas. For example, certain categories of licenses were no longer required for people starting certain businesses. The Act, in a way dictated from central what the local government wants to do. (19 December 2001)

All these question remain unresolved and do affect the policy on informal economy and its implementation thereof at municipal level.

The provincial governments are currently trying to come up with ordinances and policy documents that will nurture the informal sector in line with the national governments thinking on SMMEs. This process should culminate in drawing up standard by-laws to regulate the informal sector. In KwaZulu-Natal the process

has begun between the Department of Economic Development and Tourism, Organized Local Government and Organizations representing the interests of the informal sector.

6.3.7 THE BY-LAWS

Local government is the closest sphere of government to the people. Whatever decisions are taken by council are immediately felt by people. The laws that are made by local government are called by-laws. These by-laws differ from one municipality to the other. The national legislation and provincial laws guide these by-laws.

The by-laws cover some of the following areas, which impact directly on informal traders:

- ***Controlling and Planning Regulations:*** These include forward planning, new land development and land use management. These laws impact directly on the taxi industry, as taxi ranks have to be zoned for such purposes. The same applies to street traders who will be affected by planning by-laws that would restrict trading in certain areas for a number of reasons. On the other hand these by-laws if enforced and applied positively can reduce the traffic congestion especially if properly planned identification of bus and taxi routes is done. In many cities the traffic is not regulated in a manner which accommodates taxis.

- ***The Standard By-laws:*** These seek to establish safety, building and environmental standards. These by-laws are critical to informal traders as a definition of standards is often based on first world standards and may exclude the majority of the informal traders and convert them into criminals as they will be breaking the law if they do not meet those minimum specified standards. However, some of the by-laws such as fire regulations, access to emergency and service vehicles and environmental pollution standards are good for informal traders.

The local government elections of 5th December 2000 culminated in the new demarcation of most municipalities. Municipalities were reduced from 843 to only 284. The amalgamation of more than two municipalities would pose serious difficulties as to which by-laws should be applied, because each municipality before December 2000 had its own by-laws.

It is important to note that the informal traders are often small businesses who depend on the business environment of that municipality in which they operate. Their access to basic facilities and services such as toilets, storm water drainage and waste management is dependent on the municipality's willingness to provide them. Unlike the formal sector who can afford financing these facilities and services, the informal sector often relies on the municipality to make provision for such.

The by-laws, especially those that affect the operations and functioning of informal traders, need a lot of attention. Cities in South Africa are currently facing a major challenge in so far as the management and encouragement of informal trading is concerned.

The following are some of the problems faced by municipalities in dealing with informal traders. They are taken from a report tabled by the licensing officer of the then Pietermaritzburg-Msunduzi TLC to the Development and Economy Committee on the 27th March 1996. They are similar to the problems faced by other municipalities in the country.

- Many pavements in the city are congested
- Formal businesses are experiencing difficulties with displaying goods in the windows
- Informal and street traders are erecting shacks and other structures
- Some informal trades are sleeping overnight at their business sights
- Street traders are beginning to overrun the central business district
- Informal trading is being carried out haphazardly
- Littering and soiling on the sidewalks and public roads is rife.

The above problems show the need to develop holistic policies. If one looks at the above problems objectively one will immediately see that there is more than one stakeholder involved. These are:

1. The Informal traders (the doers and possibly beneficiaries to the issue at hand)
2. The formal businesses (affected party who are possibly loosing customers)
3. The Council (the mediator who has to develop laws and regulate the business)
4. The market/people (the buyers who are at the center of the controversy because 1 & 2 are fighting for access to and both need them.)
5. The general public, that is those who find informal trading as a nuisance versus those who see informal trading as a convenience.

This illustrates the importance of policy and by-laws that ensure that the above stakeholders complement one another and act in the best interest of the city or town.

Listed below are some of the by-laws that will have to be considered by municipalities especially because they are relevant to the case studies under discussion in this study.

The Taxi Industry

- ◆ There is a need for Taxi by-laws that will designate a taxi and bus route as well as the stopping areas. Currently, almost in all the towns and cities taxis stop anywhere and often interfere with the flow of traffic. Some municipalities have designated stopping areas but those by-laws are not known or are not enforced. This should be done in a way that is not offensive. Given the nature of the taxi industry which is often violent and suspicious of government intentions, there will have to be a creative way of doing this. This may be long term, but the process has to begin somewhere.
- ◆ Municipalities are currently not involved in the registering and de-registration of taxis. This is currently the competency of the provincial government. There is therefore a need to consider the devolution of this mandate with the necessary funds so as to ensure the smooth or improved management of this industry.

The Shebeens

Whilst one discourages the over-regulation of this sector, there is nevertheless the need for municipalities to carry out their constitutional responsibility of ensuring health and safety for its citizens. The following by-laws will have to be considered by municipalities in so far as shebeens are concerned:

- ◆ Fire regulations are currently not enforced in shebeens. Even in big cities like Durban and Johannesburg, most shebeens have no clearly marked exit points. This could prove disastrous in the event of fire.

- ◆ Access to emergency services is almost non-existent in shebeens. Yet, the shebeen environment is potentially violent as many people are under the influence of liquor or other substances that may prompt violent behaviour.
- ◆ Building standards of most municipalities are beyond the reach of shebeen owners. There is therefore a need to relax these standards without compromising the safety and health of the people.

The Street Traders

- ◆ There is a need for a municipality to ensure that by-laws that are meant for street traders take into account the basic facilities that are required by this sector in the interest of health safety and hygiene, such as toilets, environmental pollution, access to a health facility.
- ◆ There is also a need to come up with by-laws on purchasing, storage and transportation of food that is affordable yet effective.
- ◆ Education and training should be part of these by-laws especially because most of the street traders do not have sufficient funds to spent on education.

The details of the three case studies will be considered in detail when one focuses on the findings and recommendations in the later chapters of this study.

However, municipalities remain the critical sphere of government is so far as the growth of the informal sector is concerned. They have to manage cities and

make by-laws that regulate business in the cities and towns whilst developing, promoting and enhancing small, medium and micro businesses in line with the National Government Strategy of Black economic Empowerment and Economic growth. Worth noting is the fact that most municipalities lack capacity both in terms of financial and human resources. This means by-laws alone can not address the critical challenges facing most municipalities. Financial and human resources seem to be at the centre of any policy implementation or enforcement of laws.

6.4 CONCLUSION

The legislative framework in South Africa clearly demonstrates the legislative commitment on the part of the national government in promoting economic growth and improved quality of life. What is left as the big challenge is the role of municipalities in translating the vision of the national government and their strategy documents and policies into a reality that makes every South African a proud citizen who is contributing to making this country the best place to be. The municipal by-laws and the attitude and policies of local government determine the success path or failure of the South African informal economy. This assertion will be tested in the following chapters that will consider the policy vacuum, as well as the operations and environment of the taxi industry, shebeens and street traders.

CHAPTER 7

THE TAXI INDUSTRY

7.1 THE RISE OF THE TAXI INDUSTRY

In the earlier chapter that dealt with power, policy development and implications, we looked at the different models of power which could assist us in contextualising our policy analysis in so far as the taxi industry is concerned. The power relations between the taxi industry and the state need to be analysed critically if one is to come up with a holistic policy approach to this industry. There is also a need to examine to what extent the taxi industry is shaped by the political history of South Africa.

The taxi industry in South Africa cannot be divorced from the colonial history of this country and the evolution of transport as a means of coping with the challenges that came with colonialism and capitalism. As Ndebele puts it “as colonial capitalism expanded through the sub-continent and swept aside the African peasantry, many Africans turned to transport riding, using horse, mule and ox hauled wagons to carry goods and people throughout the continent. The advent of the state owned railway system saw the demise of this venture in African capitalism. However, during this segregationist era leading up to

apartheid, the state provided little public transport for Africans migrating to and from the cities in their hundreds of thousands. Again Africans responded to a crying need and began to develop their own private taxi and bus companies. This they did with no financial assistance from the state: Indeed the state tried to prevent such operations." (interview with Minister Ndebele, KZN, 27 November 2001)

Lukes (1974) argues that inaction and non-decision making is also power relations. It is evident from Ndebele's account that it was the inaction and non-decision of the then state when it chose not to act on the transport crisis of the black South Africans. In not doing that it was exercising its power. Clearly power can not be seen outside racial prejudice, class and political arrangements.

Despite racial capitalism and racially discriminatory laws and policies, the taxi industry seemed unstoppable as it was providing the critical service to the majority of Africans that could not be confined in the underdeveloped reserves. During the 1950s and 1960s, there was a clear rise of black 'pirate' taxis that provided commuter service for urban Africans moving back 'home' to visit their families and job seekers from the 'reserves'.

By the late 1970s there was clearly a minibus revolution. At first these taxis were unlicensed, then the then apartheid government tried to regulate the industry with the aim of keeping the state subsidized monopoly of the Public Utility Company

(PUTCO). But despite harassment by the then South African Police (SAP) and local authorities, pirate and licensed minibuses continued to operate. By mid 1980s the then government gave up the fight. Anyone who had a taxi could operate it. By the end of the 1980s most municipalities in South Africa had sold their municipal buses. By the beginning of the 1990s the taxi industry had taken over most of the 'lucrative' routes. It is 2002 and the minibus taxi is the dominant mode of transport throughout South Africa.

7.2 THE CONTEXT OF THE TAXI INDUSTRY

The hard fact about the taxi industry in South Africa is startling. If one considers the following facts, it will be clear and easy to understand why the taxi industry is a major policy concern for municipalities in this country. According to the Department of Transport in KwaZulu –Natal, in 1994 the state of the taxi industry can be characterised in the following ways:

- The taxi industry transported about 335 million people every month in South Africa. This was about 70% of the South Africa's commuters.
- In the province of KwaZulu-Natal, the industry spent R2 million on petrol daily, R5, 4 million on services every three months and R41 million on tyres annually. (KwaZulu-Natal Department of Transport, 1994)

Clearly, from the above statistics we can see that this industry sustains the formal sector, generates and contributes significantly to the country's economic activity and finally to the GDP, yet it is never cited as one of the major

contributors to the economy. Clearly this is reflected in statistics on the motor and petrochemical industries.

The taxi in the South African context is different from taxis in other parts of the world. In other parts of the world taxi is the opposite of public transport. In this country taxis are mini-buses that have become the dominant mode of transport. In South Africa 70% of commuters depend on taxis as a mode of transport for short and long distance travel. "In unit terms there are approximately 126 000, 10 and 13 seater petrol powered taxis and 80 000, 18 and 35 seater diesel powered taxis operating country wide." (van Ransburg, "Taxi Recapitalisation Strategy", 1997) Despite all these facts, municipalities and government generally have not done enough in creating an enabling environment for these taxis to operate and to care for the passengers.

The taxi industry in South Africa is the only industry that has the potential of being a profitable business that is controlled almost completely by black people. Black in this context refers to Africans in particular, Indians and Coloureds in general. In his submission to the Commission of Enquiry into Taxi Violence, the Minister of Transport, Mr. Sbu Ndebele, stated this fact in no uncertain terms: "there is no question that the government regards the minibus taxi industry as a key role player in the entry of Africans into mainstream economy... The taxi industry is a flagship for black economic empowerment. The government is not

the enemy of the minibus taxi industry, in the same way as a midwife is not an enemy of a pregnant mother or an unborn child.” (12 September 2000)

Yet, this industry has been the subject of controversy. It is riddled by violence, which does not only lead to the killing of taxi drivers and owners, but innocent commuters who get killed during cross fire. The planning, strategy and process of formulating policies to regulate this sector will have to take into account these factors. Clearly, since this taxi industry is so volatile, there is a need to involve security forces in the process. It is in the interest of a municipality to avoid bloodshed as much as they could since they are the closest sphere of government and these kind of violent conditions are immediately felt at this level of governance.

The other problem associated with this industry is the high increase in road accidents involving taxis. This has been blamed not only on the speeding drivers who exceed the speed limit but also on the working conditions of taxi drivers who are expected by the owners to meet certain profit margins. The relevance of this point to this policy argument is the need to involve all stakeholders. In this case municipalities will have to collaborate with a provincial transport department to strengthen their capacity during policy formulation as well as during policy implementation.

This all happens in the context of vehicle prices soaring to unaffordable levels leading to the average life of a taxi peaking at least 10 years. Worse still the

financial sector has also made it almost impossible for this industry to function properly, as the access to finance to renew the fleet is almost an impossibility.

All these factors have contributed one way or the other to the volatile situation in the taxi industry. It can be argued that since the taxi industry is not subsidized by the government it is responsible for carrying 70% of the commuters. This results in tensions between the taxi industry and other modes of transport that are subsidized by the government. It is also true that taxi industry itself is competing over lucrative routes. Most of the taxi wars have occurred in long and medium distance routes, which are very profitable. Municipalities can no longer afford to be observers. Rather they have to play a leading role in stabilising the situation.

The national state has taken serious steps to regulate and recognise this sector. What follows is a typical three dimensional approach to policy making as suggested by Lukes (1974), which the national government has sought to apply in dealing with the taxi industry.

7.3 THE NATIONAL TAXI TASK TEAM (NTTT)

The national and provincial governments have embarked on a strategy to recapitalise the taxi industry. The new democratic government recognized the fact that despite apartheid which was a policy that discriminated against black

people and made Africans in particular synonymous with manual labour, the taxi industry emerged as the only opportunity available then that could begin to see black people not only as contributing to the economy by being employees but also could contribute as creators of wealth and employers themselves.

This consideration by the national and provincial governments is not just on the behavioural aspects and inaction and lack of decision-making by the then apartheid regime, but rather looking at in terms of the sociological perspective of power and the structure of social institutions, raising questions such as “who controls the South African economy?” They clearly acknowledge the fact that if they do not bring this sector into the main stream of the economy they cannot justify their political power and the fact that whether South Africa has changed for the better or worst for black South Africans.

This was one of the reasons that led to the government to appoint the National Taxi Task Team (NTTT). The composition of this task team was to be critical to the success of this strategy. It was for this reason that a corporatist kind of model was chosen. The corporatism model as defined by Schmitter, and quoted earlier, sees this model as “a system of interest representation ... recognised or licenced by the state and granted a deliberate representational monopoly within their respective categories in exchange with observing certain controls in their selection of leaders and articulation of demands and supports.” (Schmitter, 1974, p.934)

The government thus in choosing this kind of model had to ensure that all stakeholders are represented equally, that is, government and representatives of the taxi industry. It is important at this stage to state that all three spheres of government were represented in this task team, namely, national, provincial and local government. The industry was represented in such a way that all different formations that were not always in good terms were represented.

Policy formulation is both a process and a programme. Hence the NTTT went on a comprehensive consultation process, which culminated in 36 public hearings nationwide. This task team then made recommendations to the government as early as 1996, which were accepted by the government.

The NTTT made the following recommendations to the government:

7.3.1 Formalization of the Taxi Industry and Training.

This meant the recognition and acceptance by the government that the taxi industry is a formal part of the public transport system. This industry has historically been operating under very difficult conditions as it was always seen as an illegitimate mode of transportation. For all practical purposes this industry was regarded as a threat and a nuisance by the government of the

day. This was a major step by the new government, which broke the stereotype, which had been there for over 30 years around this sector.

However, this was subject to the taxi industry complying with the principles of democracy, peace and unity within the industry. There was also recognition of the fact that this process would require a lot of training on the part of the taxi industry, as well as the government.

The taxi association was also expected to adopt a standard constitution and a code of conduct, and the signing of the memorandum of understanding between the South African Taxi Council (SATACO) and the government. This agreement was signed in May 1999, but there has been very little further progress made thus far.

7.3.3 Regulation and Control

This meant that taxis have to register and get permits to operate. It also meant that taxis would now be route based. Previously, permits were vague. This process of legalizing the industry became known as the Special Legalization Procedure. The cut-off date for this special procedure was the 31st October 1997. However, to date "approximately 25 400 operations remain illegal, i.e. without permits and the accompanying verification process as a critical short term intervention which is needed by government in order to

enable legalization to be completed and a national data base of all operators, permits, associations and vehicles to be established.”ⁱ (Taxi Recapitalisation Strategy)

7.3.4 Economic assistance

NTTT recommended that government should assist the taxi industry economically.

This economic assistance was accepted and approved on the basis that the taxi industry, unsubsidized and completely deregulated prior to 1994, has a 65% urban market share. The risks associated with a fragmented and volatile, yet economically powerful industry could only be managed to the benefit of the public transport sector, if the collective economic power of the industry could be harnessed through democratically constituted bodies, which would benefit every legal operator, irrespective of affiliation. It is clear that the taxi owner cannot afford to renew their fleet under the current conditions... In short the economic assistance strategy is aimed at providing significant incentives and disincentives towards the objectives of black economic empowerment in our economy.” (van Ransburg, “Taxi Recapitalisation Strategy”, 1997)

7.3.5 The Implementation Programme

The Task team recommended the implementation strategy, which was accepted and is being implemented.

The government approved 18 and 35 seater passenger buses. Bidders were invited to submit proposals on the 20th September 1999. Before these vehicles could be operational a National Transport Register had to be in place. There was also a need for the development of enforcement capacity, completion of the legalization process, establishment of taxi co-operatives and the completion of the industry democratization process of electing provincial taxi councils, which will culminate into the election of SATACO structure. This process was completed in July 2001 at the conference held in Durban where the national executive of the taxi council was elected in the presence of the National Minister of Transport, Mr. Dullar Omar and all the 9 provincial ministers of transport.

There was also recognition that there has to be a communication strategy followed by a roll out plan, enforcement strategy as well as administrative processes.

7.4 MUNICIPALITIES AND THE TAXI INDUSTRY

In South Africa people continue using the taxis despite indiscriminate violence in the sector. Why is that? Why do people continue using taxis despite this danger to their own lives? Some have argued that people have no choice. Others argue that it is because the taxi offers that added service that no other public transport could do. It drops them closer to their destinations as there are no taxi stops. It stops anywhere. Whereas with buses and trains there are areas demarcated for stopping.

The primary responsibility for licensing taxi operators rests with the municipalities. The Integrated Development Plans required by law in terms of Development Facilitation Act to develop strategies that facilitate economic activities within their areas of jurisdiction, yet municipalities fail to recognize this sector as a legitimate business operation. As a result taxi operators seem to impose plans on municipalities. In almost all towns and cities the taxi industry identifies the site, consults nobody and they operate. Municipalities' planning departments often start off by applying law that stop them from operating in that identified site. They then allow them to continue operating. They then are forced to rezone that area to accommodate the new taxi rank.

Despite all these processes at a national and provincial level, little has been done by municipalities in assisting this sector to grow and to create a conducive environment for it to operate.

7.5 DATA ANALYSIS AND FINDINGS ON THE TAXI INDUSTRY

The results of this study are based on the site visits, interviews with taxi operators and also drawn from a survey conducted by Maseko, Hlongwa & Associates (2001).

The table below attempts to illustrate the value of this industry in rand terms. If one takes into account that there are over 200 000 taxi units in the country, one can appreciate the value of this sector and its contribution to the formal economy especially in so far as car maintenance and fuel is concerned..

Table 5

Average profit margin of the taxi industry per month (estimates).

Capacity of taxi/official number of seated passengers	Long Distance	Medium distance (urban centres)	Short distance urban & peri urban areas	Rural areas Medium and short distance
10 seater	R5000-R12000	R4000-R6000	R3000-R5000	R3000-R4000
14 seater	R12000-18000	R6000-R7000	R4000-R6000	R4000-R5000
16 seater	R14000-R20000	R10000-R12000	R8000-R10000	R5000-R6000

7.5.1 The Taxi Ranks Environment

- The conditions at taxi ranks are appalling. The environment is so de-humanizing. I could not escape fear, noise pollution, unhygienic conditions and frustration that all the street traders, commuters and taxi operators are subjected to on a daily basis. Yet, some of the problems can be solved with minimum cost to councils as will be demonstrated in this section. Some of the problems have such serious consequences that outweigh the cost factor.

Below are some of the generic problems experienced in the taxi ranks, the impact/ consequence and possible solutions:

Litter

Most of the taxi ranks anywhere in this country are filthy. Littering seems to be the way of life. There are very few refuse bins if any at all. This has become a feature in almost all taxi ranks. There are no anti-litter signs. There does not seem to be any attempt to extend clean environment and street campaigns in these parts of the cities.

Impact

The Constitution of the Republic of South Africa, Act 108 of 1996, schedule 152 clearly makes it obligatory for municipalities “to promote a safe and healthy environment...” (page 63)

Litter results in environmental pollution and degradation. If a municipality is not doing anything about this, it is indeed violating the Constitution, which is the supreme law of the land.

Litter also impacts negatively on any attempts to promote the city or town as a tourist destination. Municipalities are also charged with the “promotion of social and economic development.”(RSA Constitution, 1996:63) It is also important to note that all cities and towns globally are competing to attract tourists. Eco-tourism seems to be one of the few sectors that is labour intensive. Therefore, failure to cleaning up the cities would result in serious economic decline as possible foreign capital will not be flowing in a direction that does not have favourable investment conditions.

Litter could also be a serious health hazard as bacteria find fertile ground in filthy conditions like this especially because there are hawkers selling food in these ranks. In fact during the interview with the commuters in Durban station on the 13th January 2002, all the five that I interviewed cited the outbreak of diarrhea in this part of town as a common thing. Some of them said they do not buy food there because they fear food poisoning. The Constitution of RSA categorically mentions “licensing and control undertakings that sell food to the public” as a municipal function. (RSA Constitution, 1996:66)

Possible Solution:

The suggested possible solutions must be seen in the light of the new developmental role of local government. "Development requires rethinking and renewal." (Turner and Hulme, 1997: 11) It thus becomes important for municipalities to have developmental administration in order to ensure that local government does play a developmental role. "The primary obstacles to development are administrative rather than economic." (Stone, 1965:53) The suggestions about possible solutions as shall be seen below are not economic but more administrative. They could be implemented with minimum costs to councils.

Education: Anti-litter signs could be put up in all the visible spots as a way of educating the public. These signs are often affordable and sponsorships can be sourced easily as business people in many cities are often willing to be associated with campaigns like this one. Anti-litter campaigns involving school children, informal traders and councillors could be organised. Basically everybody could be involved in these campaigns. The Durban Metro City Council has done this successfully. The street traders in the Durban City are the ones who educate the public about the clean environment.

Council could start budgeting for these campaigns and raise funds from the local businesses. Municipalities are required to link their budgets to the Integrated Development Plans (IDP s) by the Development Facilitation Act 67 of 1995 and Municipal Systems Act 32 of 2000. The IDPs are municipal plans that reflect on the needs and challenges of their communities. In terms of the White Paper on Local Government of 1998, development should be integrated, sustainable, affordable, and should promote and protect friendly environment.

Provision of refuse bags : The Durban Metropolitan Council already provides refuse bags to all street traders and its households. This helps in minimising waste. It could assist in keeping the taxi ranks and areas of street traders clean.

To avoid costs of providing refuse bags, local businesses could be approached to advertise to provide refuse bags or bins. The local businesses could use these refuse bins and bags to advertise their products or services. They may find this offer attractive in that taxi ranks are high population density areas. Thus they can get good mileage from this exercise.

Organizations concerned with the environment could be drawn into the strategy to educate people in these taxi ranks, including the so called rank managers, street vendors, commuters as well as taxi drivers. Ward Councillors could also take the lead in these kinds of campaigns, especially in taxi ranks, because the people in taxi ranks are also their constituency.

Effluent Liquid Waste

There is evidence of effluent in high impact ranks mainly out from vehicle washing. This is caused by lack of proper drainage. It is also caused by the failure of municipalities to zone certain parts of taxi ranks into car-wash facilities. This is a business opportunity for the unemployed. It could save municipalities thousands of rands they lose due to water wastage and water that is not accounted for.

Impact/Consequence:

The effluent liquid waste results in potholes in the streets nearby. Municipalities are responsible for the maintenance of all the streets within their area of jurisdiction. Municipalities are required to provide equitable services to their communities, but the services do not seem to be equitable if one compares the level of services to the formal and informal sector. The municipality's obligation in this respect is clearly stated in the Municipal Systems Act of 2000, Chapter 8 which deals with municipal services. It reads:

Municipal services must be equitable and accessible: be provided in a manner that is conducive to – (i) be prudent, economic, efficient and effective use of available resources; and (ii) the improved standard of quality over time; be

Possible Solution:

This proposed solution is cost effective and is in line with the Municipal Systems Act and the White Paper on Local Government. Through this solution municipalities can recover costs of water that is wasted; protect and promote a friendly environment; create job opportunities and contribute to the well being of their citizens.

Establishment of car wash facilities with proper infrastructure like adequate drainage systems and a water facility, preferably re-cycled water, as it would save a lot of water. Car washers could be recruited (they already exist in most of these taxi ranks) and be billed for water used. These car washers could also pay a nominal rental so as to encourage them to be responsible and look after the place. "A municipal council must adopt and implement policy on the levying of fees for municipal services provided by the municipality itself or by way of service delivery agreement..." (Municipal Systems Act, 2000)

Planning and zoning of taxi ranks with all the necessary features of basic facilities such as toilets, clean water etc should be reflected in municipal IDP s and reflected in municipalities' annual budgets so as to ensure its implementation.

Lack of proper planning to regulate the high pedestrian movement

A number of people that I interviewed (Durban 13/01/02 and Pietermaritzburg 15/01/02), especially elderly women who are street vendors around taxi ranks, complained of a number of accidents that occur especially during peak hours. This is one area of negligence.

Impact:

A number of accidents occur especially where the taxi rank is located close or next to a major road.

Possible Solutions:

The accidents could be avoided by designating proper and controlled pedestrian crossings and building traffic speed humps.

The Absence of Proper Signage

The legacy of apartheid continues to show its ugly face. Municipal officials most of whom have not been capacitated to deal with the new challenges of this new dispensation continue to display a professionalism kind of power model. Even simple and affordable things such as signage, which are a basic need of commuters, have not found their way into municipal budgets and priority lists.

Officials make recommendations to council. Councillors are elected members of council who rely heavily on officials for technical input and recommended solutions to problems. Therefore if municipal officials do not disseminate information, it is highly unlikely that a councillor would come up with a recommendation and even suggest how it is to be funded and implemented. Therefore there is a need for a proactive public service that understands the challenges of the new democratic dispensation. Further the officials should have the necessary capacity both in terms of skills and attitude to transform councils.

Clearly the absence of proper signage in taxi ranks is one of the basic things that should be a feature at taxi ranks, but in cities like Pietermaritzburg, Kimberley and many more other towns taxi ranks remain critical areas of serious neglect by authorities. It is very difficult to understand why it has not been done given the fact that, where there are buses there is often clear signage.

Impact:

The absence of signage results in noise pollution, as the taxi conductor has to shout where the taxi is going. There are so many taxis; this makes it difficult for the commuters to identify the taxi that is going to their destination.

As a result of this there is chaos, havoc, disorganization, panic and fear.

Possible Solution:

Proper signage would bring order in taxi ranks. It would attain the respect of commuters who are primarily citizens of these towns and cities and possibly ratepayers. They simply adjust to these kind of animal like conditions not because they like it but simply because they have no choice. Municipalities are obliged by the Constitution of the Republic of South Africa, the supreme law of the land, to observe this basic human right of respect.

Accessibility

People with physical challenges are not catered for, as there are no humps for people in wheel chairs. Related to this point is the discrimination of fat people during peak hours. They are often told to wait until the queues have disappeared before they could be taken home. The argument by taxi drivers is that these people occupy a space of two people for one taxi fare.

Possible Solution:

The National government is currently investigating the possibility of changing the current fleet of taxis to mini-buses that are a little bigger. The National government has proposed 18 and 35 seater buses. Municipalities through their organised local government structures could make representation to the relevant

intergovernmental forums to lobby for the people with physical challenges to be considered when the new buses are assembled.

Municipalities could also introduce by-laws to regulate this industry at a local level. However, it is important to involve the affected stakeholders right from the beginning of the process.

Lighting and Electricity

In most taxi ranks, lighting is very poor. This makes taxi ranks vulnerable to criminal activities. This problem is worse in winter as it gets dark earlier than usual. Surely this is the responsibility of municipalities to provide lights. The issue of costs can not be ignored though. Municipalities must find ways of financing this basic need.

Impact:

The lack of lighting in these densely populated areas creates a fertile ground for criminal activities. Ninety percent of all the street traders identified this as a critical policy area that need to be addressed. More so these street traders stated that they do not have a problem with paying an affordable monthly tariff so as to ensure they trade under safe conditions.

Another possibility is limited business hours for hawkers as they heavily rely on street lighting for their business operations, especially in winter when it gets dark earlier. Thus leading to a reduction in economic activity.

Possible Solution:

The policy intervention in addressing crime as the critical policy area of the informal sector will need to be tackled as part of a broader strategy to deal with crime. Intergovernmental forums will also have to be used in addressing crime as municipalities do not have adequate capacity both in terms of financial and human resources to deal with this problem. Co-operation with the South African Police Services (SAPS) is one of the possible solution. These are some of the issues that Organized Local Government need to take up as they are supposed to be the voice and representative of municipalities. Like the other critical policy areas that have been identified early in this chapter, municipalities must incorporate this crime challenge in their integrated development plans and make a budget provision for this important need.

It should be borne in mind that this problem does not only affect the taxi industry and commuters but it also affects street vendors who are a strong feature of many taxi ranks and depend or rely on the power supply to run their business once it is dark.

Centre for Public Complaints

Although this is not the municipalities' problem, but they can play a role in addressing it. Commuters have nowhere to lodge a complaint if they are not happy about something. Sometimes commuters wait for more than two hours for a taxi. There is a need for the municipality to work closer with taxi associations and operators to address this.

Poor Management of Taxi ranks

This is similar to the above. Taxi ranks are not managed well and this is something that municipalities should take a keen interest in even if it means ensuring that the taxi associations address this problem. Maseko and associates (2001) have linked this problem with the monopoly of an individual association in managing the rank, especially the bigger taxi ranks. According to their study, rank managers are more focused on routes than on the management of the entire facility. There does not seem to any person charged with the overall management of the entire facility.

Possible Solutions:

Appointment of an overall rank manager who is not related to the taxi association.

Vehicular traffic congestion due to high traffic volumes

This particular point also came up in the report by Maseko and associates. Generally this problem occurs where the taxi rank facility is in close vicinity to a high volume traffic route and where there is an intersection.

Impact:

The traffic congestion often results in traffic blockage especially during peak hours. This leads to accidents and sometimes the loss of life.

Possible Solutions:

Maseko and associates (2001) have the following suggestions to make:

- Snake loops around taxi ranks
- Off-ramps at furthest points from taxi ranks
- Multiple entry exit points

Lack of Consideration for Town Planning Schemes

Some facilities are established based on vacant land or land donated/purchased and privately owned.

Impact:

The lack of consideration for town planning schemes results in negative land use in that the land is no longer used for what it was originally earmarked.

Planning thus becomes a nightmare when one tries to convert, for example, an area zoned for residential use into a taxi rank facility which requires a lot of land in order to accommodate all the facilities that are in line with a densely populated activity. There is also a lack of consideration for other facilities around the chosen taxi rank for example, schools, hospitals and the like.

Possible Solution:

Integrated Development Plans and Local Economic Development Plans need to identify sites and their use with clear time frames to avoid invasion of land or misuse of land. Full involvement of town planning sections before proclamation of taxi ranks is important.

Uncontrolled Street Vendor Operations

Street vendors are a strong feature of taxi ranks. That is where the high volumes of people are concentrated. Therefore it makes business sense for street traders to operate from taxi ranks.

Generally there are no adequate facilities for street traders. There is thus a tendency to locate kiosk and tables in a manner that is obstructive to commuter movement and sometimes traffic.

Possible Solutions:

- Provision of trading shelters and kiosk in a structured pattern
- Proper design prototypes for such kiosks
- Street trading to be accommodated in taxi rank plans
- An adoption of a holistic approach in dealing with challenges like this.

Lack of Commuter Facilities

There is an absence of a number of essential facilities for the general commuters, especially the disabled, elderly and mothers in most taxi ranks. For example, there are sitting, ablution, baby change rooms or even toilets in some taxi ranks.

Possible solution:

A checklist of essential facilities needs to be developed and applied in the design of taxi ranks. The table below is a proposal from Maseko and Associates who were appointed by the KwaZulu-Natal Town and Planning Commission in 2001 to investigate the viability of taxi ranks within the town planning context. The proposals made by Maseko and Associates were arrived at after the consultation with the taxi operators as well as other important stakeholders like the formal business.

(The following page is thus a proposed selection of a site for a taxi rank by Maseko and Associates)

Table 6

SELECTION OF A SITE FOR A TAXI RANK	
FACTORS FOR CONSIDERATION	KEY DECIDING ISSUES
Number of Taxis	<ul style="list-style-type: none"> ◆ Number of taxis that will operate from a planned facility ◆ Number of routes served ◆ Relative location of the facility in the route pattern ◆ Need for taxis to wait in a facility ◆ Type of trip (long or commuter distance)
Commuter requirements	<ul style="list-style-type: none"> ➤ Number of commuters expected to use the facility ➤ Number of commuters boarding, alighting or transferring ➤ Safety considerations (commuter-vehicle consideration) ➤ Minimum walking distance ➤ Waiting times and queue lengths
Impact of taxis expected to use the facility	<ul style="list-style-type: none"> ➤ Impact of taxis on vehicular traffic by determining <ol style="list-style-type: none"> 1. The respective traffic flows 2. The capacity of the road network
Size of the area served	<ul style="list-style-type: none"> ➤ Consider the availability of land ➤ Consider road hierarchy systems ➤ Considerations for spacing of intersections ➤ Considerations for adjacent road systems ➤ Considerations for the land use to be affected

Source: Maseko and Associates

SUMMARY

The taxi industry remains the critical policy area at municipal level. Firstly because the national government has a black economic empowerment policy and has identified this sector as a critical focus area. Secondly, the Constitution of the Republic makes it obligatory for the three spheres of government to co-operate. Therefore, the taxi industry is a good example of intergovernmental relations needed in resolving issues of national importance. Thirdly because this sector is one of the biggest employers and is capable of producing yet more employment in the form of car washers. Fourthly, the different acts of parliament, especially the Municipal Systems Act, 2000, clearly spell out that it is the responsibility of a municipality to manage its affairs, grow the economy, protect the environment, maintain, plan and develop land in a way that enhances the developmental role of local government.

Municipalities also have a role to play in the re-capitalization process of this taxi industry. They also need to play their part by acknowledging that it is the dominant mode of public transport in South Africa. They need to accommodate it in their town and planning schemes, integrated development plans, Local Economic Development (LED) plans and in their budgetary provisions, especially with special attention to the areas that came up as findings during my investigation. Legalising, regulating, formalising and creating of a conducive environment for this sector to grow will benefit the commuters who are the

backbone of any municipality as they contribute to economic activity as business people, workers and customers, pay rates, levies, taxes, water and electricity tariffs, and are voters and citizens of municipalities.

CHAPTER 8

STREET TRADING

8.1 INTRODUCTION

Much has been said about street traders by scholars, pressure groups and policy analysts. When people speak about informal traders, they are often speaking about street traders. Street traders have become the main feature of the informal economy. They also originate from urbanisation. In South Africa, the history and character of street trading reveal the scars left by colonialism, land dispossession and the intensification of racially discriminatory laws.

It is as old as urbanisation in South Africa. This sector was also not immune from harassment by the police and also by municipal authorities. There are still isolated incidences of police harassment that are reported today. One might argue that, in some instances, it is still subjected to those conditions of pre-1990 period before the Congress of Democratic South Africa (CODESA) met to establish the basis for democracy.

Generally, the new dispensation, which is post 1994, has seen a number of policies and legislation that acknowledge the street trading. There is also a

process in KwaZulu-Natal that began in October 2000 to review legislation at provincial level that impacts negatively on this sector. The task team composed of the Department of Economic and Tourism Affairs, KwaZulu-Natal Local Government Association (KWANALOGA), Streetnet and the University of Natal, Durban appointed PriceWaterHouseCoopers to do a review of informal economic policy. The study is still being undertaken and I'm one of the advisors and members of the task team.

8.2 STREET TRADING DEFINED

Lund, Nicholson and Skinner define "street traders as those who belong to the informal economy and trade in the streets." (Lund, 2000:10) They point out the gap in terms of income of this sector. "Some street traders are comparatively wealthy people who trade in luxury goods at flea markets." (ibid.)

Street trading is in part a gender issue as there are more women employed in this sector than there are men. This is true especially if one looks at the fruit and vegetable street traders. "African women make up 60% of the workers in the informal sector."(ibid.) There is strong evidence that there is a link between street trading and urban migration and rural poverty. Many rural women flock the cities to find employment and end up as street traders. Retrenchments and the decline of the public and private sectors as the source of employment have led millions of people in the world to search for survival in the streets.

Street traders suffer the most discrimination of all informal traders by local authorities. Their daily problems range from being arrested, having their goods confiscated and pay fines for breaking by-laws.

The following case is a typical example of the harsh conditions street traders operate under. Whilst the following incidence is based on the Johannesburg experience. It is not an isolated incidence as stated by the author of the article but rather an 'increasingly common outrage" against street traders. Most street traders go through a similar experience in most parts of the country.

It is important to note that this study is by no means trying to stop municipalities from enforcing their by-laws but rather it is an attempt to analyse the situation as is. It comes from the Star newspaper (23/02/2000). (see next page)

DEPRESSING VICTIMISATION OF TRADERS

On February 15 I witnessed a distressing and increasingly common outrage against destitute citizens trying to make an honest living. Seven poor, harmless and enterprising women were selling fruit and vegetables in Raleigh Street, Yeoville, Johannesburg, where they have been trading for years. A large contingent of the Johannesburg Metropolitan Council's hawkker squad descended upon them in what appeared to be an unprovoked and unlawful raid...

The February 15 raid appeared to me to be deliberate and blatant discrimination against impoverished and helpless citizens. More officials than there were hawkkers started confiscating the goods of one of the street traders. The products they confiscated were in closed bags, not on display for sale... It transpired that they had not issued receipts when they started confiscating, or possibly stealing goods because they had none with them... The receipts issued did not list all the goods confiscated, and where goods were listed they were not itemized. One consequence is that street traders allege that they do not get all their goods back, and that when they get them back they are perished. Furthermore, they are forced to pay fines to recover their goods even though they are never charged and there was therefore no lawful basis for confiscation... The Johannesburg City Council along with a growing number of municipalities, is declaring vast areas of the city "prohibited areas". This action appear to me to be unconstitutional. For compassionate and human rights reasons, I have taken it on myself to assist and represent street traders wherever I can...

LEON LOUW

EXECUTIVE DIRECTOR,

FREE MARKET FOUNDATION, SANDTON

Source: *Star Newspaper, Johannesburg, 23 February 2000*

8.3 CHALLENGES FACING STREET TRADERS

The following issues come from the magazine called 'What is Illegal about street Vending' (June 1996). It is produced by the International Alliance of Street Vendors. These legal issues affecting street traders are similar around the world. I'm quoting them verbatim as they were also true when I conducted my own research:

"Many street vendors do not have access to licenses because of city policies that restrict the number of licenses issued to vendors. As such, these vendors are forced to operate illegally." (In Johannesburg, there is a court case between 'illegal' street traders and the Johannesburg Metro Council. This case started in January this year when these traders were forcefully removed from the street by the municipal officials)

"Many vendors face municipal laws that limit the areas where they can trade legally and sell their goods. This means that due to overly restrictive zoning laws vendors are forced to sell in restricted areas in order to make a day's wage." (According to David Gengan who is the Economic Development Administrator in Pietermaritzburg, they only have 550 designated stands, yet there are over 1000 street traders that are operating and hundreds in the waiting list)

“Vendors are subject to police harassment, particularly those vendors without licenses and those who sell in restricted areas. Whilst it is clear that infringement to the law cannot be tolerated by the municipality, more reasonable laws are necessary in most cities.”

“Due to the restrictions in most license issued by city governments, licenses become very valuable, and are bought up by 'Mafia' operators. Their 'Mafia' peddlers control large numbers of licenses and rent them out or sell them at an inflated price. This further limits the ability of poorer vendors to own a legitimate license.”

“City planning does not take into account the existence of street vendors. It is very rare that city markets are planned, and it is even more rare for vendors to be consulted as these plans are drawn up. Usually vendors are simply relocated to areas outside the city where they are unable to sell their goods, and they drift back to their old familiar spots to sell illegally.”

“Credit is not readily available to this client group. Vendors need access to credit and savings facilities, sometimes on a short term or seasonal basis. They need to be freed of dependence on the moneylender so their business can move beyond survival.”

“Street vendors are usually in the unorganized sector, that is, they are not organized into trade unions and as such, have less negotiating power within the local business community. They do not have their collective bargaining voice in city planning venues, and their concerns are rarely brought forward and considered by municipal decision makers.”

“When vendors become unemployed, injured or pregnant they receive no benefits such as social security, workers compensation or maternity pay. Since they do not have formal contractual relationship with an employer, they are not entitled to the benefits enjoyed by workers in the formal sector. Street vendors must rely on savings they have generated themselves, and since they are usually subsistence workers, these savings rarely cover family emergencies.”

The issue of street traders seems to be the biggest challenge facing local authorities in South Africa. It is relatively easy to talk about formalizing, legalizing and regulating the taxi industry compared with street traders. Why this discrepancy? The answer to this is simple; the taxi owners have assets, clearly defined dedicated customers who have no choice other than to use the taxi as the mode of transport. Whereas, street traders in general compete with the private sector and among themselves. The market is the same and it has a lot of choices.

Most street traders are working for survival, whereas the taxi industry has moved beyond survival to entrepreneurship.

8.4 THE INTERNATIONAL POLICY INTERVENTION

It should be acknowledged that the issue of street traders is an international phenomenon. Such traders are organised and have serious policy issues which are central to any planning for any municipality in the world. There is a need to strengthen the capacity of municipal official to deal with these challenges.

The Bellagio International Declaration of Street Vendors which was adopted in November 1995, summarises the grievances of street vendors as follows:

Having regard to the fact:

That the fast growing urban sector there is a proliferation of poor hawkers and vendors, including those who are children

That because of poverty, unemployment and forced migration and immigration, despite the useful service they render to society, they are looked upon as a hindrance to the planned development of cities both by the elite urbanites and town planners alike. This elitist and professional model of power appears to explain why local authorities have not come up with sound informal trading policies. There is a growing tendency by municipal officials to see informal

traders as a nuisance. The elected representatives tend to be populist in their approach as they would normally promise to address the plight of these people especially during election campaigns. Once they are in power they forget about them.

Is elitism inevitable as suggested by Mosca and Pareto? If one looks critically at the informal traders' plight one would appreciate that their grievances are rational. Their demand for a conducive trading environment seems to be legitimate. Therefore, one disagrees with the notion that elitism is inevitable. Human beings are reactive and can change their approaches if they choose to. Therefore there is nothing inevitable about human behaviour.

In South Africa, the informal policy challenges facing municipalities requires rationality and an application of Lukes' three dimensional view of power, if these policies are to reflect to the developmental role of local government.

That hawkers and vendors are subjected to constant mental and physical torture by local officials and are harassed in many other ways which at times leads to riotous situations, loss of property rights, or monetary loss;

That there is hardly any public policy consistent with the needs of street vendors throughout the world.

We urge upon Governments

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

1. Give vendors legal status by issuing licenses, enacting laws and providing appropriate hawking zones in urban plans
2. Provide legal access to the use of appropriate and available space in urban areas
3. Protect and expand vendors' existing livelihood
4. Make street vendors a special component of the plans for urban development by treating them as integral part of the urban distribution system
5. Issue guidelines for supportive services at local levels
6. Enforce regulations and promote self governance
7. Set up appropriate, participative, non-formal mechanisms with representation by street vendors and hawkers, NGOs, local authorities, the police and others.

8. Provide street vendors with meaningful access to credit and financial services
9. Provide street vendors with relief measures in situations of disasters and natural calamities.
10. Take measure for promoting a better future for child vendors and persons with disabilities. (Bellagio International Declaration of Street Vendors, November 1995)

8.5 COMMON FEATURES AND PATTERNS OF STREET TRADING IN SOUTH AFRICA

The numbers of street traders fluctuate. "Surveys in Johannesburg and Durban show that the number of people trading at any given time varies greatly. In the central trading area in Johannesburg the numbers varied from about 3000 to 7000 on two different counts. The Durban survey counted 19 000 traders, but this number dropped on a later count." (Lund:200, 10)

Street trading is often highly mobile. Different goods are sold at different times and different places. During my site visit at one the taxi ranks in Durban, I got to know a woman who was selling very nice vetkoeks. The following week I went

to the same place hoping to find her. When I enquired from other street traders, they told me that she comes to that particular site once a week. This case study highlights the enormity of the challenges municipalities have to deal with. Clearly municipalities will have to come up with town planning schemes that accommodate these street traders.

Street trading is a very unstable sector in terms of players and goods. I also found that in Durban some Mafia kind of group rents most of these municipal stalls. This group then in turn rents it to street traders. One of the factors that make this sector so unstable is that this group decides who will be occupying the site. They charge different rentals.

Because there are so many street and aspirant street traders, they then trade anywhere as long as there is a market to sell the goods or services, resulting in tensions between the local authorities and them. This also results in tensions between the formal and informal sectors. It is becoming increasingly difficult for municipalities to manage and control street trading.

8.6 STREET TRADING A POLICY CHALLENGE OUT OF CONTROL: THE CASE OF PIETERMARITZBURG

Is street trading a real policy issue out of control or is it a failure by authorities to regulate it? The reality is that initially street trading was taken as a less complicated policy issue. When South Africa became democratised in the mid 1990s, the thinking was that street trading was an answer to high unemployment levels. The practical evidence was to suggest otherwise. It is not so much not wanting street traders but the problem is the number of them. They are just too many to handle.

A good example of this is Pietermaritzburg: On the 3rd May 1996, a very positive story was reported in the Natal Witness with these headlines: **INFORMAL TRADERS ON THE ROAD TO SUCCESS.**

We all followed this story with interest as during this time the media in many parts of the country, especially Johannesburg, was dominated by very negative stories. This article reads:

"Informal traders along Kershaw Street are on their way to success since they have been able to obtain licenses and attractive selling posts with the assistance of local business."

This story grabbed the attention of many policy makers, firstly because the municipality issued licenses, and secondly because the formal sector was involved in enhancing the growth of the informal sector. They did not see it as a threat but rather as an opportunity.

Five years down the line we read: "Council to pay more: INFORMAL TRADING IN CHAOS." (The Natal Witness, 17 August 2001)

The first paragraph reads"

"The campaign to formalize street trading in the city has been thrown into chaos as people who are driving it have expressed fears for their lives."

The major problem is that there are just too many people who see street trading as the answer. This is evident in the remarks of David Gengan, City

Administrator for Economic Affairs:

"There are more than 1000 street vendors in the city despite there being only 550 demarcated trading stands. There are also 1 800 on the waiting list."ⁱⁱ

8.6.1 Is the Informal Sector the only answer to unemployment?

Clearly from the above evidence the informal sector cannot be seen to be the only answer to the high unemployment rates. Whilst there is a greater need for the informal sector to be enhanced and become integral to the economy, it cannot be seen as the only answer to unemployment. Municipalities must work

hard at attracting investment to their towns and cities and must explore other ways of generating jobs for the people.

8.7 FINDINGS ON THE CONDITIONS OF STREET TRADERS:

There is a lot of exploitation of street traders that go unchecked. As mentioned earlier some mafia kind of group rent these municipal stalls to street traders at a marked up price making them unaffordable. For example in Durban, the municipality charges R100 per stall per month. These mafia groups rent these stalls from municipalities and often charge street traders as high as R400 a month.

No litterbins are provided resulting in waste and litter.

There are often neither toilets nor running water facilities, and where there are these facilities they are filthy.

There are no health inspectors to check on the food sold resulting in people suffering silently from food poisoning.

Most of street traders are women, there are no facilities that are women friendly for example there are no child care facilities.

There is no cheap accessible accommodation for street traders since a lot of them come from very far. As a result most of them sleep in the streets at their sites.

There is often no lighting resulting in high crime rates and difficulty in trading once it is dark especially in winter since it gets dark very early.

8.8 CONCLUSION

The biggest challenge with the development of sound informal trade policies at municipal level will be tested in the strength of the policy in addressing the street vendor challenge. In my own findings most of the vendors who were interviewed indicated their willingness to go to the formal economy if the opportunity arise.

As summarized by Mrs. Mokoena of Alexandra, Johannesburg trading at Sour Street " (*Kunzima lapha. Sisebenzela ipuleyiti. Uma ngingathola umsebenzi ngingashiya phansi. Sithengisa into eyodwa sonke, uthi uyashintsha, bakulandele badayise leyonto mabebona ithengwa*) Life is hard in this sector.

We are literally working for a plate of food, nothing else. If I can get a job in the formal sector, I will leave. You can not even introduce new commodities to sell. If you do your colleagues will sell that same thing and thereby saturating the market."

(23 March 2002)

Municipalities in South Africa need to accept and recognize the fact that street trading is not a nuisance but a reality of urban poverty. They also need to understand the motive or the driving reason why they are there. Statistics show that the overwhelming majority of street traders are there for survival purposes. They do not break laws for the sake of breaking them.

Therefore, municipalities must invest in their local economic plans by ensuring that they attract foreign and domestic investors especially those that are labour intensive. Tourism has been identified as the key to addressing some of these challenges.

Any attempt to deal with this sector needs to involve a participative process where the street traders themselves are part of the decision making process. This is equally true of the other critical stakeholders.

CHAPTER 9

SHEBEENS

9.1 INTRODUCTION

A lot of research is required around this area. Shebeens, despite being one of the oldest forms of informal economy which also the taxi industry and street trading also arose as a response to the harsh realities of colonialism, racial capitalism and urbanisation. There is very limited research on this field. Unlike street traders who are researched internationally and locally, shebeens are not. They are a unique feature of South Africa.

In developing a policy on shebeens it is important that an understanding of the home based economy is developed as shebeens are part of the home based economy class. It is discussed in 9.2 below:

9.2 HOME-BASED ECONOMY

Home based economy refers to those economic activities that are run from home. They include the following business ventures: namely, shebeens, stokvels, lending schemes, bed and breakfast (B&Bs), spaza shops etc.

- **Shebeens** – these are a strong feature in any township. They sell liquor in the home and snacks/food. People sit and relax in this environment. People tend to enjoy drinking liquor in groups rather than individually at home. Most of them use this as way to release their stress after a day's hard work. I will focus on this form of home-based economy later in the chapter as a case study.
- **Stokvels** - these are saving schemes in many townships and rural areas. They are often a response to poverty. Women often run these and constitute over 95% of the actors or participants in the scheme. Each member of the group contributes or saves as little as R10 a month and up to R100 a month. The size of groups differ in size and character. There are different kinds of stokvels, namely food stokvels; funeral cover (Omasigcwabisane), school fees saving schemes, housing saving schemes etc.

The food stokvel and funeral stokvels are the most popular in the townships. They exist in almost all locations where there is a concentration of poor Africans. The objective behind saving money to buy food in bulk especially during school holidays is an attempt to make their families happy during this time of the year. It is a common feature during December holidays in particular to see women buying food in bulk. The commitment to save is

there but they have not developed into entrepreneurial ventures where they save to open their own shops and buy from themselves.

The idea behind funeral stokvels is based on the fact that Africans in particular respect the dead. Therefore, they want their loved ones to rest in peace. Hence, they save their monies in the event that somebody dies in the family. Because they are poor they live under very unpredictable circumstances. Death occurs as a result of poverty related diseases, violence etc. Most financial institutions and insurance policies have researched and found that there is so much money that change hands in the township as a result of this saving scheme. That is why almost all of them have come up with 'cheap' funeral covers. They are hoping to give people a different alternative. But it is limited because their funeral cover is based on an individual member, whereas the stockvels cover every member of the family including members of the extended family, without any effect on the monthly premium.

- ***Small money- lending schemes:*** They are called Omashonisa in the township because their interest rates can be as high as 100%. However, people still use them because they are accessible, no questions are asked and no identity document is required. They operate in the community where people know one another. They are informal banks if you like. Some of the schemes are very organised. You can borrow and invest your money in them.

Recently, Financial institutions have also launched products to counter this emerging strong competitor. The police have not been kind either to this sector. When they grow big they are called 'pyramid' schemes. Once authorities get to know about them leaders of the scheme are often arrested and often people who invest in these schemes lose their money. Some of the 'pyramid' schemes are just scams. People are promised big returns for their investment which never materialise.

- ***Bed and Breakfast*** : People who have both capital and passion for their job often run these bed and breakfast enterprises. They usually have very big homes and convert some of their space into guest quarters.
- ***Tuck/spaza shops***: these are small shops operating in people's home or a shack around the corner selling basic foodstuffs. They are also a very strong feature in the township.

9.3 MUNICIPALITIES AND THE HOME-BASED ECONOMY

Municipalities have tended to ignore the existence of these economic activities, probably with the exception of bed and breakfast establishments in their area of jurisdiction. They have some database of bed and breakfast establishments. This is due to the fact that most of them have identified tourism as an area of

potential economic growth. Again because the bed and breakfast outlets often operate in middle to upper middle class areas and not in the townships which are predominantly black working class.

Municipal policies on Local Economic Development have tended to ignore the economic activities that take place in the township. Even cities like Durban or Ethekewini Unicity which have done well in coming up with sound street trading policies and strategies for economic growth of the informal sector, have not taken into account the other informal economic activities in the townships such as shebeens.

It is a great concern especially with shebeens as they operate in residential areas without proper regulations to protect children and citizens in those areas.

9.4 BRIEF BACKGROUND OF SHEBEENS

Selling liquor in the township during the apartheid era was as bad as political related activity. Police would harass, confiscate the goods and arrest not only the owners but their customers as well. Despite all this many families in the townships (although in percentage they are insignificant) have survived through selling liquor in their homes.

Shebeens are not bottle stores. They are sitting places where you drink your liquor in the company of others. Strong women who are often feared by men often own these business ventures. Probably that is where the term shebeen comes from. They have to be bold and strong because most of their clients are men who live in a patriarchal society where a woman is believed to be inferior to a man.

The history of shebeens is not just about the survival strategies of landless peasants and Africans in colonial and apartheid South Africa, but it is the history of women's struggle to position themselves in a patriarchal society. These are the women that did not only defy the racist capitalist regime but they also defied their own traditions and customs.

These informal business operators also expected a change in their lives after April 1994. However, 100% of those that I interviewed said they feel that municipalities still consider them illegitimate although they are no longer harassed and their businesses are thriving as a result of that. They feel that they are ignored. Although most of them expressed reservations about the question of licensing and being formalized.

9.5 SHEBEENS AS A CRITICAL POLICY AREA: DURBAN CASE

Municipalities have been shying away from addressing the question of shebeens or home taverns. All the major cities, needless to mention the small towns, have not yet identified this type of home-based economy as a critical area that needs urgent attention. As recent as 15th March 2002, it was reported in the Daily News that councillors are not keen to make a final decision on shebeens or home based taverns.

The probable reason is that shebeens went through a lot of hardship during apartheid days. This is the only business venture where the strength and capabilities of African women are unquestionable, yet the type of business poses a number of moral issues. Shebeens are the strongest features of African townships.

It is not surprising to note that the African National Congress and Inkatha Freedom Party (IFP) councillors who are predominantly black seem to support the plan to legitimise and regulate the shebeens. On the other hand you have the Democratic Alliance (DA) and African Christian Democratic Party predominantly white, both vehemently opposing the plan.

The matter was discussed in 1998 by council and reported by the then Durban North and Central councils in 1999, prompting a strong public reaction. This year 2002, the matter has surfaced again.

9.6 WHY SHOULD MUNICIPALITIES TAKE A KEEN INTEREST AND DESIRE TO ADDRESS SHEBEENS AS A POLICY AREA?

It is the responsibility of municipalities to regulate business within their area of jurisdiction. These areas now form part of municipalities. There are no areas that fall outside a particular municipality, not even remote rural areas. The demarcation of municipalities after 5th of December 2000 ensured that every citizen belongs to a particular local authority. Therefore, there is no excuse why law can be applied in one area and not in other areas. Though one understands the administrative logistics and barriers as municipalities are still transforming from the old order to the new one with rapid legislative changes that affect all aspect of municipal life, they surely have to start somewhere. But people in the township have an expectation, which has to be met at some point.

Municipalities need this kind of income. District municipalities in particular do not have a sound income base, so it does not make economic sense for them not to take a keen interest in these shebeens because this is another potential source of business levy income.

Municipalities have a town planning function, therefore zoning these business operations is important. Business or commercial rates are more than the residential rates and municipalities could obtain revenue from this source.

Municipalities are required by law and policies of this country to facilitate local economic development. These are local economic activities that need to be brought on board in efforts to build economically viable localities.

Municipalities are also required to protect their citizens' health. Most of these taverns/shebeens sell food beverages including liquor and these are not regulated. The legislation makes it obligatory for municipalities to control the sale of foodstuffs.

It is the responsibility of municipalities to ensure that there are basic facilities in these kinds of public areas, for example, emergency exits in the event of fire, proper sewerage to avoid health hazard, proper parking etc.

9.7 CRITICAL FINDINGS ON SHEBEENS IN THE TOWNSHIP

The following are some of the findings of the survey conducted on 14 taverns in the townships in KwaMashu, Inanda (Durban), Edendale & Imbali (Pietermaritzburg), Dlamini section (Johannesburg).

Finance Related Findings

Ten out of fourteen of these owners make more than R15 000 a month. Many traders in this business are survivalists who have gone beyond just survival into serious business.

Their income ranges from R3000 to R35 000 a month untaxed. Those that sell home brewed beer tend to have a lesser income. The reason being that bottled liquor is well marketed and is associated with a better status in society. That is why those that drink home brewed beer are often manual labourers and the unemployed. Bottled liquor is mainly for those that are professionals, for example, clerks, teachers, police and the like.

However like many informal traders they do not have access to finance to expand their business

Social Conditions and Moral Related Findings

Children of the owners of these shebeens do not seem to have time to study as business hours are not regulated.

The business hours of shebeens are very flexible. All of them wait until the last customer is left. Often their customers often wake them up in the middle of the

night. This does not only affect the children of the shebeen owners, but also families of the customers as time meant for family is spent at the shebeen.

They have very loyal customers. Each one of those that I interviewed said more than half of their customers come for their 'buzz' more than twice a week. This affects family budgets and has the potential of causing domestic violence. Some customers spend as much as half their wages in alcohol. This was a factor with both homemade brew and bottled beer taverns.

There are more men customers than there are women customers in almost all those that I visited. This might be one of the contributory factors on the abuse of women. Most abuse happen under the influence of alcohol and other additive substances.

Health Related Findings

Those that sell home brewed beer often do not follow health regulations. There are unreported deaths and many people are even sick as result of what they drink. Some go to an extent of using old radio batteries to foment beer quicker. Others use stale bread when making home-brew. There is just so much that goes unchecked. In fact, though I did not ask them that I actually observed two of these home brewers putting dangerous substances in liquor such as stale

bread and radios batteries. Most of the people that drink in these home-brewed shebeens do not look well at all.

I observed that in some of these taverns child prostitution seem to be on the rise. This is not just a moral issue but it is a health issue as shebeens become the fertile ground of HIV/AIDS and other sexual transmitted diseases. In South Africa, the age group that is mostly affected by HIV/AIDS are people between ages 14-28.

Toilets seem to be inadequate. In other taverns the smell is unbearable. In some shebeens, there were also a lot of flies which could lead to many diseases.

Smoking is everywhere. The non-smokers do not have their designated area. Smoking has been blamed as one of the major causes of cancer. This is not just dangerous to smokers but also to non-smokers.

Planning Related Findings

In all those that I visited there was not a single one with a clear emergency exit.

Parking is a problem. Yards are small. Most of them seem to have fights with their neighbours on a regular basis as their customers tend to park in neighbours yards. This applies more to bottled beer taverns where professionals unwind.

9.8 CONCLUSION

In conclusion on this section of home-taverns, I would like to state that it has been very difficult to get written literature on this subject especially with reference to South Africa. More research has to be done in this area. Home based taverns are critical areas that need the urgent attention of municipalities, as the study findings reveal. This will be a measurement of the new government's success in taking unpopular decisions. This sector of the home based economy also poses not only legal challenge but a moral challenge too. This is so because street trading happens in the city centre where formal business will protest about the existence and operations of the informal sector. In the township nobody dares making noise about shebeens even if it means neighbours are disturbed by the noise because they have lost complete faith in the authorities and also fear intimidation by shebeen owners.

CHAPTER 10

RECOMMENDATIONS

10.1 INTRODUCTION

The recommendations made in this study are based on the findings, observations, literature review and on theories of different policy analysts that were debated and discussed during the study. The recommendations try as much as possible to be practical. In this Chapter, we shall only deal with recommendations on informal trading policy formulation process. The recommendations addressing some of the key challenges facing the informal sector, especially the conditions the informal sector at local government level in South Africa have been dealt with in the chapters that address each of the case study under investigation.

10.2 EXECUTIVE SUMMARY

The findings of the three informal trading case studies namely; the taxi industry, the street trading and the home taverns/shebeens , that were under investigation during this study as being critical areas of policy neglect at municipal level, show the enormity of the challenges faced by municipalities in their attempts to develop

sound informal trading policies that will contribute in building strong local economies and the developmental role of local government.

The evidence gathered during this study shows a lack of recognition of this sector by local authorities. They tend to apply the elitist model of policy formulation and implementation. The distribution of municipal resources in terms of services rendered clearly show the bias towards the formal sector. The informal sector despite its potential and contribution to the economy seem to be under serviced, for example the lack of basic facilities such as toilets where both the taxi industry and street traders trade. On the other hand the taxi industry is responsible for transporting about 70% of commuters who are predominantly formal sector workers. More so, the conditions at these taxi ranks do not only affect informal traders but voters, ratepayers and the public at large. Councils, cities and towns exist because of these people.

It is also important to note that some municipalities have attempted to develop policies that begin to address these informal trading policy challenges, but none appear to have given recognition to the shebeens, let alone developed a policy regarding the same.

There appears to be a lack of capacity on side of the administration in particular and councillors as well in dealing with the rapid growth of the informal economy

and the implementation of a lot of new national and provincial legislation. There seems to be a need for capacity strengthening.

A good government is advanced – although by no means ensured – when skilled and professional public officials undertake to formulate and implement policies when bureaucratic units perform their assigned tasks effectively, and when fair authoritative rules for economic and political interaction are regularly observed and enforced. In our view, then good government has much to do with the quality of human resources, organisations, and institutions in the public sector. Getting good government means, among other things, efforts to develop human resources, strengthen, organisations, and reform (or create) institutions in this sector. (Grindle M.S. 1997:8)

The three dimensions of capacity focus primarily on personnel, management, or structures and imply distinct activities if they are to be developed, strengthened, or reformed.

Democracy at local government level seems to be stronger and maturing.

Most municipalities including the following: Cape Town, Ethekewini / Durban, Pietermaritzburg/ Umsunduzi, Ugu District, Thswane/Pretoria, Johannesburg, Nelson Mandela/Port Elizabeth, eHlanzeni District and Middleburg

Councils have adopted public participation and open door policy.

This has resulted in them consulting with those affected by their policies.

However, whilst there is willingness in terms of this overall open door policy, there seems to be lack of understanding or appreciation of the process to be followed when one is developing a policy that is practical and implementable.

This study seeks to recommend a policy that is based on Luke's three-dimensional view of power. This theory seems to assist in taking into account all the critical areas that need to be considered when a policy is being developed.

It is disturbing to note that the sectors of economy that are predominantly black like the informal sector are not yet fully recognized as legitimate business that contribute in the economic health of a country and its cities and towns.

Municipalities need to recognise the informal sector as a critical aspect of local economic development strategies. They also need to appreciate the fact that sustainability will be brought about by sound Integrated Development Plans that accommodate all the ingredients to development which include in our South African context the informal economy. That way municipalities shall be able to generate revenue that will in turn assist its citizens to pay for services. It is encouraging to note that out of 15 local economic plans or integrated development plans I assessed only 1 did not include the informal sector in their plan.

Whilst most municipalities mention the informal sector in their Interim IDP s they have not identified the informal sector as a possible source of revenue. In other countries being able to collect income due to you is part of their fiscal policy.

Robbert J. Bennett in his paper on Decentralization and Local Economic Development demonstrates this, he argues:

Taxes, as well as fees and charges, are an important aspect of governmental resources and policy leverage on business in all Western countries. Fiscal policy offers a major means of adjusting incentives in an economy and can be used as an important instrument of economic development... (Bennert, 1990: 234)

Municipalities must identify areas that could bring them more revenue. This is a prerequisite for municipalities if they are to survive in this dispensation where boundaries and demographics have increased but income revenue is declining.

There is also a need for municipalities to re-examine their expenditure. Their expenditure must also ensure that there is income growth. Bennett in his discussion on expenditure policy explains that:

Expenditure represents the benefit aspects of government activity whereas taxes and fees represent the costs. The benefits may be general public-good provision, or may be targeted on particular sectors or individual businesses in order to provide support for particular policy priorities. In general it is concluded

that selective, targeted support is to be preferred to general support for most partially joint business goods...hence support is best when restricted to relatively pure public goods such as infrastructure. (Bennert, 1990:236)

It is for this reason that I would like to argue strongly that by investing in infrastructure such as roads, taxi ranks and proper rezoning and provision of basic facilities , I believe that a municipality stands a chance of increasing its revenue base as its services are visible and require maintenance. Secondly this would boost the tourism industry of those municipalities that have attractions. The informal sector will also understand that legitimacy comes with the price of paying and receiving services

10.3 RECOMMENDATIONS ON INFORMAL TRADING POLICY

Michael J. Bourk defines policy as “a multi-layered process in that it involves contributions from a number of disparate sources.” Policies are basically a vision. Governments derive their laws from policy documents that articulate the objectives and vision on that particular subject. For example, governments need economic policies. They then will be guided by these policies in the process of legislation. This is to ensure that laws are there as a strategy to reach the mission as articulated in the vision. Policies say where a country or city is heading. That is why the policy development process is critical. The basic principle of policies should be democracy and improved quality of life of

individuals. That way participation, accountability and ownership or awareness of contents of policy by affected individuals in particular become compelling principles, if that policy is to be effective.

Like any other policy, informal trading policy, centres on an **issue or issues** that give rise to the need for a policy. Issues which call for policy development in respect of informal trading are:

- Violations of by-laws, by people trading in the streets without permits
- Conflict situations which arise between the formal business and the informal sector, informal sector and local authority and informal sector and informal sector
- Growth of the informal sector and the need to deal with this challenge
- Retrenchments coupled with high unemployment rates which in towns and cities swells numbers in the informal sector.
- Demands by the informal and formal sector.

The policy has to be guided by the views of all **the stakeholders**. They include the following parties:

- Informal traders or their organizations that represent their interests or both
- The formal businesses or organizations that represent their interests or both

- The market or members of the public who buy from these people
- The council, both officials and councillors, will have to be represented. The councillors make the law and decisions. Officials enforce or implement those decisions.
- The important stakeholders will be advisors who are experienced and have expertise with this subject.

The other important point is that for any policy to be credible and enforceable it has got to be within the **appropriate legislation**. In the South Africa context, the following legislation will have to be taken into account if one is drawing an informal trading policy at local government level:

- The Constitution of the Republic of South Africa, ACT 108 of 1996
- The White Paper on Local Government
- The White Paper on Local Economic Development
- The Business Act of 1995

- The White Paper on the National Strategy for the Development and Promotion of Small Business in South Africa
- The by-laws that may affect this sector as some of them may require amendment.

Financial factors have to be taken into account. This is to ensure that whatever agreement or policy is agreed upon is implemented. This also facilitates an implementation strategy. Some financial costs that are often incurred when drawing up and implementing this policy include the following:

- Meetings with stakeholders require invitations, venue, food, tea, facilitators, recording, agendas etc.
- Feasibility study (possibly consultants) that will cover the situation analysis, possibilities and recommendations.
- Human resources. There might be a need to employ staff to enforce policy.
- Administrative costs, for example telephones, faxes etc.

The environmental factors are so important to take into account, as they become an important feature of good policies. When dealing with informal trading policy, this factor becomes an educational process, as stakeholders need to say how they see informal trading in the context of environmental protection. This is even more important because this sector is often associated with unhygienic conditions, litter etc. You will find that it is the municipality that is to be blamed for this rather than the informal traders. They often do not provide the street traders with refuse containers/bags. During my visit to the informal trading sites, especially at taxi ranks where street traders abound, I experienced and made the following observations:

- Solid waste and littering. This results in environmental degradation and can cause a health hazard. This could be easily solved by municipalities providing refuse bins, clear and visible anti-litter signage and on-going educational campaigns. When I interviewed street traders in most areas in Durban and Pietermaritzburg only 2% of them were exposed to some anti-litter campaign.
- Effluent/Liquid waste. There is evidence of running effluent in high impact ranks mainly out of vehicle washing. This results in potholes in the roads near by. Yet proper drainage and provision of water in controlled areas could minimize this problem which is not only environmentally degrading but is very costly in the long run, as roads will need to be repaired.

Municipalities could also use this to open an opportunity for car washers who can then pay for the water every month for every water used.

- Lack of or no clean toilet facilities. The informal traders and their customers tend to use any corner for relieving themselves. There is often bad odour around taxi ranks and informal trading sites.
- Sleeping overnight on informal trading sites and overcrowding. This results in infectious diseases spreading easily, such as tuberculosis. They also become vulnerable to all sorts of health-related problems caused by unfavorable weather conditions e.g. rain, snow, wind etc. Another important factor associated with this is the increasing number of street children since most street traders are women.

Planning is a critical factor in the process of policy formulation. Some of the planning issues that need to be taken into account include the following:

- In most informal trading sites there is often high pedestrian movement resulting in a number of accidents especially where the site is located close to a major road. Traffic humps and proper pedestrian crossings can minimize the problem. Municipalities can make provision for this when they demarcate an informal trading site. This is also true in taxi ranks where these accidents occur often.

- Lack of consideration of town planning schemes. Town planning must take into account the fact that the informal economy is becoming an integral part of the economy. Currently some facilities are established based on land donated or bought from private property owners. For example, there are a number of taverns that operate in residential areas but town-planning schemes did not make a provision for that.
- Uncontrolled street trader operation. Generally where there are no adequate facilities for street traders, there is a tendency to locate kiosks and tables in a manner that is obstructive to commuter movement. A checklist of essential facilities needs to be developed and applied in the design of taxi ranks.
- Erection of informal structures.

Time as also a factor in the policy formulation process can not be overlooked. This helps during the policy planning stages and implementation. Otherwise the process can take forever.

Implementation is an aspect of policy design that measures the success or otherwise of a policy. This is so because policies only become policies if they

are effected. The following are some of the implementation requirements that need to be observed seriously if the policy is to be effective:

- Communication of policy to all concerned. This can be done by inviting public comments through advertising.
- Adoption of policy by an authority. In this case we are referring to council.
- Education.
- Streamlining and development of action plan. Identification of short, medium and long term aspects of policy.
- Checking how policy is to be part of the Integrated Development Plan so as to ensure that whatever is in the policy is budgeted for accordingly.

Evaluation is an ongoing process because policies are dynamic. This is to ensure that there is feedback and continuous improvement.

In this section of the chapter we have dealt with the importance of policy and the policy formulation process. We have identified the critical areas that need to be taken into account during the policy formulation process. These are the identification of issues, the stakeholders, environmental factors, appropriate legislation planning issues, financial factors, time, implementation and evaluation assisted by the understanding of power relations that contribute to policies that are effective.

10.4 PROPOSED PROCESS FOR POLICY DEVELOPMENT AT MUNICIPAL LEVEL

The proposed process does not differ much from the above recommendations.

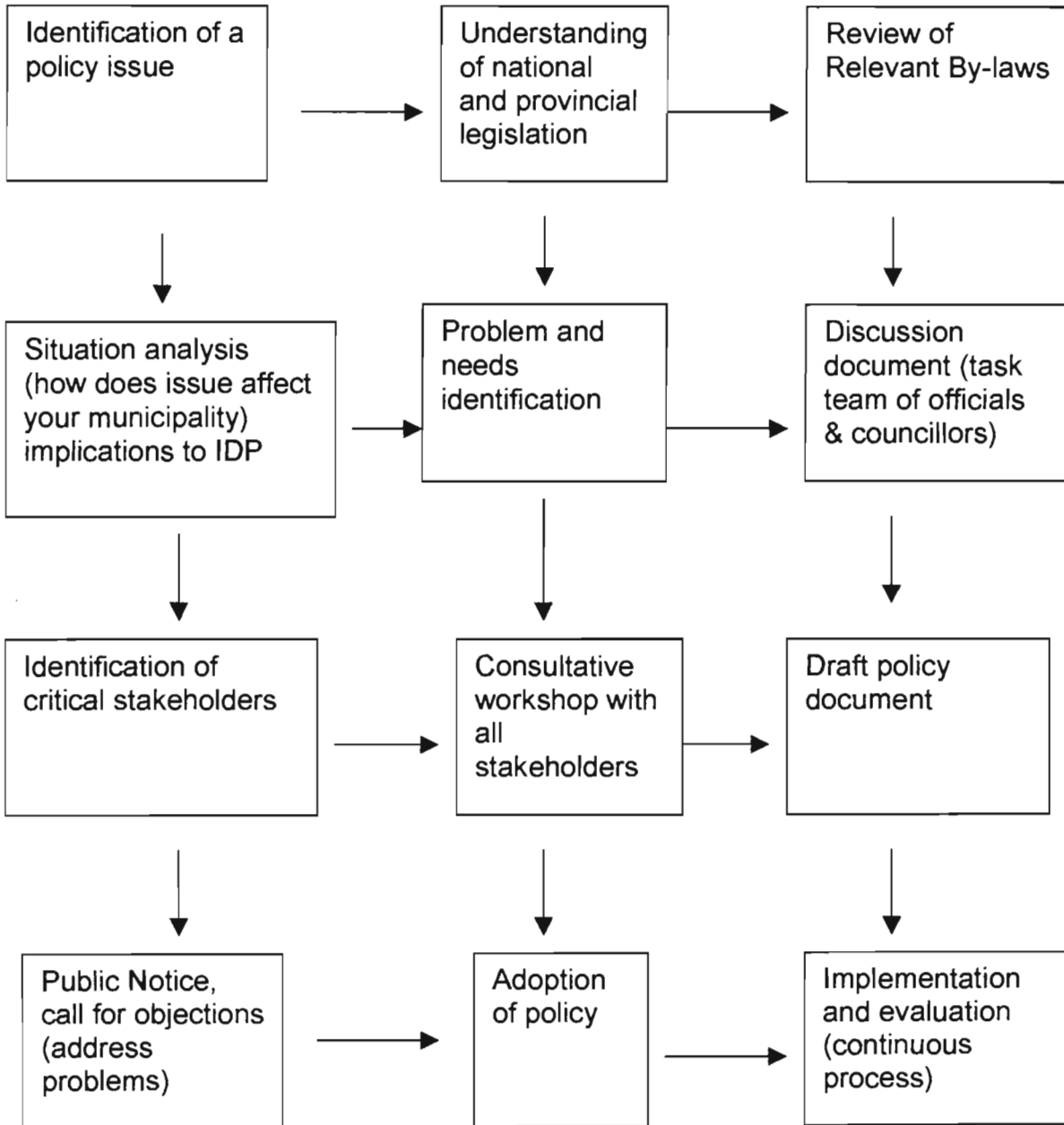
The proposed process hopes to simplify and contextualise policy development at local government level. It is a broad process rather than a specific one as recommended in 10.3 above.

In their article "Reinventing Government", David Osborne and Ted Gaebler had the following to say: " These statistics present an appalling indictment of our governments. Our ship of state is like a massive ocean liner, with all the luxuries above decks but no radar, no navigation system, and no preventive maintenance below." They quoted Alvin Toffler in their article "Reinventing Government" Toffler, with approval when he said, " our political system is "Future blind." Policy makers must "...use an ounce of prevention, rather than spend a pound on cure..." (supra) p.222

It is for the reasons spelt out by Osborne and Gaebler that I made the above recommendations and propose the policy development chart below. The chart suggests a policy process that takes into account the different critical stages that need to be gone through during policy development at local government level in South Africa.

Table 7

Developmental Local Government Policy Formulation Chart



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APPENDIX 1: QUESTIONNAIRE

(Please note that any information given in this questionnaire is confidential. No name shall be mentioned in the thesis without consent from interviewee).

OPTIONAL (PERSONAL DETAILS):

1. FULL NAME

2. ADDRESS

3. PHONE NUMBER AND OR E-MAIL ADDRESS

QUESTION FOR INFORMAL TRADE ACTORS

4. WHAT TRADE ARE YOU INVOLVED IN? (please tick the appropriate box)

Street trader [] taxi industry [] shebeen []

Municipal official [] any other (please specify)

5. WHO CONTROLS WHERE YOU OR INFORMAL TRADERS MAY TRADE?

6. HOW ARE YOU TREATED?

1. WHAT ARE THE REGULATIONS?

2. HOW ARE THEY ENFORCED?

3. ARE YOU AWARE OF ANY MUNICIPAL POLICY ON INFORMAL TRADING?

4. WERE YOU OR YOUR ORGANISATION EVER BEEN CONSULTED ON ANY BY-LAW OR POLICY THAT AFFECT INFORMAL TRADERS?

11. WHAT ARE THE ISSUES OR PROBLEMS AFFECTING INFORMAL TRADERS?

APPENDIX 2: PLANNING GUIDELINES FOR TAXI RANKS

Name of Interviewee	Date of Interview
Name of Taxi Rank	Place of Interview
Capacity	

1. Description and Location of a Taxi Rank

1.1 Do you know who established the taxi rank?

1.2 What and where was the first (Informal) rank, if different from this new taxi rank?

1.3 Is the taxi rank generally acceptable to operators and users, if not why?

1.4 Who actually chose the rank site?

1.5 Is there an alternative site that would have been preferred?

2. Management of a Rank (Operator Perspective)

2.1 Could you briefly describe how the taxi rank is managed in terms of:

2.1.1 Access of taxis

2.1.2 Departure of taxis

2.1.3 Loading

2.2 Is the rank properly maintained?

2.3 Who is responsible for its maintenance?

2.4 Are there forums where maintenance and other issues are discussed?

2.5 What would you define as an ideal rank?

2.6 What is the role of the Local Authority on the taxi rank?

2.7 Who issues permits of operating in a rank?

2.8 Is the rank big enough to accommodate the number of taxis available?

2.9 Are there considerations for rank capacity before acceptance of new members?

2.10 Is there a limit on a number of taxis a member may bring into the rank?

2.11 Are there mechanisms for holding taxis during off-peak period?

2.12 When do ranks tend to be congested, in respect of time and days?

2.13 Is there anyone taking overall responsibility for the rank. Would it be a good idea to have such?

3. Other activities and adjoining facilities associated to the rank

3.1 What are other commercial activities occurring within the rank

3.2 What impact do they have in the day-to-day primary activities of the rank?

3.3 What are negative and positive factors of these activities?

3.3.1 Positive factors

3.3.2 Negative factors

3.4 Are there facilities available for these activities, if available, are they effectively used and whether they are sufficient?

4. Facilities for the rank

4.1 What is the condition of available facilities?

4.2 What facilities are lacking in the rank?

5. Road or Traffic Considerations

5.1 What is the relationship between taxi ranks and other means of transport?

5.2 Is there co-ordination between incoming taxis and ongoing taxis? Explain

5.3 Are there no serious problems with this system?

5.4 What are problems encountered with regard to exit and entrance points to main roads?

5.5 What problems associated with the ranks regarding pedestrian and traffic flows?

5.6 When do you experience those problems?

5.7 How could those problems be solved?

6. General

6.1 What impact will the introduction of midi-buses have in the current set-up of the rank?

6.2 From your experience of working within taxi industry, what do you feel needs to be considered or dealt with or a proposal on the operation of taxi ranks?
