



Enrolling a goddess for Delhi's street vendors: The micro-politics of policy implementation shaping urban (in)formality



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ABSTRACT

In a world of persistent and growing informality of working and living conditions in cities, and increasing policy efforts to formalise the informal, why are some forms of informality criminalized while others enjoy sanction of the state? This paper argues that analysis of the politics of policy implementation of formalisation efforts can provide rich insights into urban formal-informal relations in cities of the global south, to complement policy-making or policy impact analyses. We present an in-depth case study analysis of the contested implementation of a unique policy effort to formalise street vendors in Delhi, India. A public authority lens reveals the micro-political practices employed by non-state and state actors in bureaucratic, judicial, political, market and other arenas aiming to control urban space. We argue that policy implementation outcomes are significantly shaped by 'horizontal' contestations within society and within the state, to complement and intermesh with 'vertical' state-society struggles. Moreover, contestants for public authority exploit official rules but also informal practices by the state, to engage and advance state fragmentation, enduringly shape cityscapes and to affect which forms of informality are condoned or condemned.

1. Introduction

Globally, informality is a pervasive and growing feature of the economies, governance and life of cities. The majority of urban jobs are informal, i.e. unprotected by labour regulations and without social security (Ghani and Kanbur, 2012) and such casualization of jobs is a major international trend (Charmes, 2012). Spatial forms of informality, such as urban informal settlements, now house 1/4th of the world's and 1/3rd of the least developed countries' urban population, i.e. over 863 million people (UN-HABITAT, 2013). Moreover, the poor and the "disadvantaged usually depend on *informal* rather than formal systems of power and governance to access resources, public services or to mitigate risk" (Mosse, 2010:1164 italics in original).

As informality abounds, one key question is why some forms of informality are criminalized and rendered illegal while others enjoy state sanction or are even practices of the state (Ghertner, 2008; Roy, 2009)? In this paper, we engage this question by looking at the politics and the institutions that shape, sustain and bestow resilience to the relationship between formality and informality. While "remarkably enduring and under-investigated" (McFarlane and Waibel, 2012: 1), recent studies in the global South (McFarlane, 2012; Roy, 2005, 2009) and North (Devlin, 2011) show how the relationship between the formal and informal critically shapes development in and of cities. Delivering on major international development goals, as set out in the

New Urban Agenda (UN-HABITAT, 2016) and in Sustainable Development Goal 11 that seeks to achieve inclusive, safe and secure urbanisation and cities, hence requires paying attention to the relation between formality and informality.

This paper builds on recent analyses emphasising the state playing an active role in shaping fluid formal-informal relationships (Roy, 2005; Xue and Huang, 2015), rather than being absent or a weak background factor (e.g. Castells and Portes, 1989; de Soto, 2000). Even in conditions of a strong state, we view the state as a part of wider constellations of institutions and actors engaged in the "formation and stewardship of the formal and informal rules that regulate the public realm" (Hyden et al., 2004:16). As such, urban governance is characterised by "fierce competition between different territorialised forms of association and patronage – be they the state, religious organisations, NGOs or international development organisations" (Alsayyad and Roy, 2006:12). For instance, in Goma, in DR Congo, enduring fragility and a weak and withdrawing state have enabled a range of non-state actors to govern (Büscher, 2012), while the governance of land tenure in informal settlements in Durban (van Horen, 2000), Maputo (Earle, 2014) and Dhaka (Suykens, 2015) involves cooperation and competition between state, political party, mafia and community institutions.

Actors and institutions within and without the state thus seek to exercise public authority: i.e. to "define and enforce collectively binding decisions on members of society" (Lund, 2006:676) to help

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explain temporal and spatial variations in the practice of governance. Being in short supply and heavily competed for, public authority requires to be persistently asserted through a range of political practices, from the “use of subtle idioms to more heavy handed means – often in paradoxical conjunction” (Lund, 2006, p. 690). They include the use of language, procedures, style, objects symbolising authority, and draw on material, discursive and other legitimising registers. Prominent material practices concern the territorialisation of space, by displaying authority through flags, banners, signs, fences or graffiti, and the assertion of control through dispensing justice, levying taxes or providing security. In addition, people’s support for emerging forms of public authority is marshalled by referencing common notions of legitimacy, e.g. the modern state, tradition, identity, belonging, the local and the distant, the historic and the new (Lund, 2006).

Accordingly, in this paper we employ the concept of public authority to investigate the highly contested implementation of an innovative urban policy which radically sought to formalise street vendors in a South Delhi market. By analysing the politics of policy implementation, the article complements studies that typically focus on the effects of policy outcomes (e.g. on land titling see: Briggs, 2011; Devlin, 2011; Porter, 2011), or on the agenda-setting and policy-making, and the role of the judiciary in public policy processes. For instance, for Delhi, these processes are set out in relation to large-scale erasures of informal settlements (Bhan, 2009; Ghertner, 2008, 2011) and for street traders (Schindler, 2014a, 2016; te Lintelo, 2009, 2010).

We present a rich in-depth case study to show in what ways and why the politics of implementing a policy aimed at formalisation takes place across a wide range of arenas and through profuse tactics, to critically (re)produce the informality of Delhi’s street vendors and to enduringly shape cityscapes. This qualitative study combines ethnographic with policy and legal analytical techniques. We draw on key informant interviews with actors competing for public authority, a census survey that we conducted with food vendors and non-participant observations in Sewa Nagar market in 2005–2006. Furthermore, we analyse official documentation of municipal, state and national level policymaking and implementation processes, and investigate a paper trail of litigation between contestants in Delhi High Court.

Our analysis of the micro-political practices through which actors assert public authority over the control and use of urban space provides new empirical and theoretical insights into the production of formal-informal relations in cities of the global south. We explain how and why state and non-state actors employ a multitude of tactics in a variety of market, residential, judicial, bureaucratic and democratic arenas, combining street politics with litigation, advocacy and backroom lobbying. And we propose that state fragmentation; informal practices by the state; and ‘horizontal’ contestations *within* society and *within* the state are critical factors in the (re)production of urban informality, to fruitfully complement prevailing studies that ‘vertically’ juxtapose state and society.

Following this introduction, the remainder of this paper will first review the literature, before presenting an in-depth case study, followed by a discussion section and a conclusion.

1.1. On the relation between the formal and informal

The World Development report 2013 pithily summarises that “After nearly four decades of debates about the concept of informality, there is no consensus on what is meant by informal jobs” (World Bank, 2012:64). Conceptual clarity and consensus on informality has proven elusive. Typical analyses consider spatial (e.g. settlements), group (e.g. workers), and governmental features of informality (e.g. an ‘unregulated’ or ‘unorganised’ sector) (McFarlane, 2012; McFarlane and Waibel, 2012). Informality has also been conceptualised as a practice of the poor, as ways of knowing and being in the city (Blom Hansen and Verkaaik, 2009; McFarlane and Waibel, 2012), and as a mode of urban governance which operates through the constant ‘negotiability of

value’, characterised by shifting relationships between what is legal and what is not, and what is authorised or unauthorised (Roy and Alsayyad, 2004).

Governance studies have long ignored the informal, deeming it backward, impeding modernisation and lacking democratic legitimacy (IDS, 2010). In discussions about urban development and governance the formal is associated with state planning, and the informal a deviation from it (McFarlane and Waibel, 2012). For instance, informal settlements are typically depicted as a policy problem: being unplanned, unregulated, uncontrolled, messy and inefficient, and juxtaposed to ordered, regulated, efficient notions of planned land use and settlement (Porter, 2011; Roy, 2005). This narrative makes informal settlements central to the production of the city, because they enable and constitute debates about urban civilisation and law (Diken, 2005).

One classic notion holds the modern formal and pre-modern informal economy as distinct entities (e.g. Castells and Portes, 1989; Guha-Khasnobis et al., 2006), though critiques have noted their interdependency, as for instance in the case of informal workers being integrated in global value chains (Chen, 2007). Similarly, in terms of land governance, the formal city often gets juxtaposed to the informal city as being subject to different sets of de jure and de facto rules (van Horen, 2000). Yet these rules never quite operate autonomously from one another. For instance, official rules on building and land-use tend to impose unaffordable costs on housing for the poor and thereby foster the spread of unauthorised settlements (Chiodelli and Moroni, 2014; van Gelder, 2013; van Horen, 2000; Leaf, 1994). Moreover, large scale regularisations of informal settlements in one location can perversely incentivise their respawning elsewhere (van Gelder, 2013).

Equating informality with illegality or with being outside of the law, as for instance in the highly influential work of de Soto (2000), misses the point that informal activity is constituted nomotopically; “in light of the law” (Chiodelli and Moroni, 2014:162). For instance, people carefully plan land invasions to paradoxically minimise contravening land use laws. Moreover, informal settlements often develop unofficial rules and dispute settlement mechanisms that mimic form and substance of prevailing state law and legal principles (van Gelder, 2013, p. 505). Their inhabitants seek to advance their legal status combining strategies of non-compliance with adapting to the official legal system. For instance, they use state law to transform conflicts about land into legal conflicts, where claims to land tenure may be based on human rights, natural rights, or civil rights to counter others’ claims rooted in doctrines of property rights (van Gelder, 2013:497, 506).

The notion of informality as unregulated and outside the remit of state action depends on the idea of the latter being visible and overt. However “governmental reach may in practice be invisible” (McFarlane and Waibel, 2012:4), for instance when state actors adopt informal practices (Porter, 2011; Roy, 2005) that contradict official protocol. Studying land acquisition processes in peri-urban fringes of Kolkata, Roy (2009) thus argues that informality lies within the scope of the state rather than outside it. Moreover, dominant notions that the informal is the preserve of the poor are now vigorously challenged. For instance, wealthy urban elites are often able to negotiate what is legal and illegal, authorised and unauthorised in relation to building regulations and planning laws in Indian cities (Roy, 2005, 2009). Accordingly, in Delhi, much of the built city can be viewed as ‘unauthorised’ (Ghertner, 2008). Similarly, debates about the causes of flooding in Mumbai in 2005 have underlined how private developers seek to bypass regulations are actively facilitated by informal practices of the state (McFarlane, 2012). Consequently, the relationship between the formal and the informal hence can be better understood by refuting hard conceptual dichotomies of formal vs informal, legal vs illegal, authorised vs unauthorised, but instead consider these to be elastic, dynamic and part of an evolving interconnected system (van Gelder, 2013; Leaf, 1994; McFarlane, 2012; Porter, 2011; Roy, 2005; Schindler, 2014a).

Following this discussion of the literature on formal-informal

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