

Urban Citizenship: Governance, regulation, development and participation. Some thoughts from the Warwick Junction Project, Durban. ¹

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1. Introduction

The central question behind this set of reflections is “What is the relationship between urban governance and urban citizenship”? The aim of this paper is to explore the relationship between attempts by the local authorities to manage and develop the city in accordance with their mandate and the unfolding dynamics of some urban practices within a clearly defined area of the central city. The paper will point to the complexity of the changes taking place in social relations, and will highlight the often ambiguous interplay between the formal and informal, the planned and the unplanned in the daily life of one of its key gateways. The paper begins with some comments on the question of citizenship in order to draw attention to some aspects of the literature considered relevant to the issues under investigation. It then briefly outlines the policy process and context which frames governance of the informal economy in the light of local government’s constitutional responsibility to be “developmental”. The question of the intersection between regulation and development and its bearing on urban citizenship is then raised, and explored further in the light of case studies involving the use of public spaces; the use of electricity on the streets, the question of public toilets and the activities of the bovine head cookers. The paper aims to explore the interface between policy and practice and these urban vignettes capture very well the complexity and ambiguity of a city in transition and the forces which both impel change in certain directions and impede it in others.

2. Citizenship- some (almost random) conceptual remarks.

The notion of citizenship is both complex and contested, and its practice, especially in the context of the local arena which is the focus of our discussion, is equally so. Citizenship is one of the key ideas of contemporary South African politics. Its development holds out the promise of a better life for South Africans denied citizenship under the apartheid regime and is the subject of the daily struggles of millions for a fuller life. It has also become a major marker of inclusion and exclusion, with ‘foreigners’ being the subject of what seems to be a growing xenophobia on the part of many South Africans.

Citizenship is both a status, derived from membership of a collectivity, (which is the modern state), and a system of rights and obligations that incorporates the ideas of justice, equality and community. All of these ideas become important in a consideration of citizenship, which also manifests itself in a series of practices. Citizenship and its rights provide the legitimation of life in the political system. To be fully effective, citizenship needs supporting procedures, institutions and arenas in which it can be acted out in practice. At the local level, local government does not determine citizen status, but it does provide the arena in which many of its rights are exercised or denied. Local Government, with its local political mandate, has considerable discretion over decisions which may affect the substantive practice of citizenship within the city. (Hill, 1994) In the South African context, the levels of poverty and unemployment currently experienced by large numbers of urban citizens make local government a crucial arena for enabling new forms of economic citizenship through policies which foster the development of the informal economy.

¹The author would like to acknowledge with thanks the fieldwork done by members of the Political Science Honours class of 2000: Thobani Gumedede, Mthandeni Mhlongo, Anam Nyembezi, Sithembiso Zulu, Bonginkosi Zuma and Thinta Zwane, as well as the indispensable assistance of the Warwick Junction Project team. Thanks are also due to all the people who agreed to be interviewed as part of the research, and to Caroline Skinner of CSDS for her generosity with time, documents and ideas.

The importance of cities for the development of citizenship has been noted by Holston and Appadurai (1996). The notion of the city itself has been a key element in the development of western thought on freedom, the individual and civility. Turner argues that "To leave the countryside in order to enter the city was typically connected with the process of civilization; to become urban was to "citizenize" the person.² In our context the accelerated urbanisation of the last ten to fifteen years has seen instead, in some very real senses, the ruralisation of the city.

The notion of citizenship as contested and as the outcome of historical processes is well captured by Tilly (1996:227)

"If citizenship is a tie entailing mutual obligations between categorically-defined persons and a state, the identity 'citizen' describes the experience and public representations of that tie. Such an identity does not spring whole from a deliberate invention or a general principle's ineluctable implications but from the historical accumulation of continual negotiation".

The importance of the historical perspective is that it provides a temporal dimension to thinking about issues which are very much in the forefront of contemporary analyses. We need to remember that citizenship is very much the outcome of historical struggles.

For Ikegami (1996:186) the construction of citizenship is the outcome of shared but also contested understandings of the social identities of the state's members. Citizenship is

'A set of negotiated relationships between the state and its members, entailing certain provisions for individuals' rights and obligations that define their relationships. The construction of citizenship as a political relationship rests upon shared, but also often simultaneously contested, understandings of the social identities of the state's members, as well as that of the state itself'.

He goes on to add a number of qualifiers that I think are important to note:

"The modern version of citizenship, which assumes an egalitarian principle of membership in the state, is also a Western product associated with the rise of the nation-state, democracy and a mature civil society. Thus the development of citizenship in non-Western societies is conventionally measured according to the extent of their importation of Western ideas and institutions." Ikegami (1996:186)

How are we to treat the notion of citizenship in our particular context? How shared, and how contested, are our understandings of our social identities? Are we a 'western society'? What does the "African renaissance" say about our citizenship? What of the question of a mature civil society? The last would seem to be a key to the development of more organised forms of citizen participation in political life at the local level- an idea fully recognised by local government as a good one in principle, but more difficult to institute in practice.

Looking at Brazil Ann Mishke (1996) notes that the struggles for societal opening in that country provided the context for the use of the notion of citizenship, and that it had multiple resonances; for example demands for rights and entitlements, calls for autonomy from state repression and control, and moral injunctions for renewed civic participation, all of which rendered the citizen-formation process complex and ambiguous.

She argues that in Brazil there is the absence of a "modern and democratic" civic culture. In such a situation rights on paper do not translate into rights in practice. In other words, formal rights do not translate into substantive ones. This would seem to be one of the key issues surrounding the contemporary debates on citizenship in this country. In Brazil, the ambiguity of the language of citizenship allowed it to serve as a 'coin of the realm' in the political games of democratic transitions; it is used as a grounding for diverse claims, struggles and alliances as actors battle both for procedural space and substantive influence in state and societal decision-making processes.(Mishke;1996:136) In the Brazilian context it would seem that the concept has itself become a weapon in the various struggles waged for the transformation of

² B.S Turner **Outline of a theory of citizenship**, cited in Hill (1994:11)
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structural inequalities which are as acute and as entrenched in historical circumstances as our own.

What of citizenship and capitalism? Critical Social Science discourse has shifted substantially in the last fifteen years, since the ending of the Cold War and the putative "ending of history". We do not hear very much about class struggle any more. Is that because it has disappeared, or because it is not seen to be important to look at any longer? Marxism presented a challenge to the idea of citizenship under capitalism- it argued that large sections of the population are inherently and permanently powerless, due to the fundamental class divisions in society, founded on property rights and the ownership of capital. Capitalism created the framework within which citizenship could develop, but it used the so-called equal status of citizens to maintain the fundamental class divisions of society. It can be argued that these inequalities between capital and labour remain, and that struggle and conflict are still very much part of the realisation of citizenship.³

Citizenship has been defined universalistically in terms of the nation-state. In advanced capitalist states in the twentieth century, following T.H Marshall, there was a concern with the social rights of citizenship. Much of the debate today, in Europe at least, seems to be about how to find a 'normative theory of social membership at the local level'. (Hill: 1994) The need is felt for the restoration of *civitas* and to provide the motivation for engagement in public affairs, which is perceived as weakening everywhere due to a complex range of factors.⁴ Life in civil society and the political community depends on the exercise of civility that goes beyond mutual tolerance into active support for activities and structures that constitute the public realm.

Looking at the material on citizenship three strands of thought emerge from the historical evolution of the concept and dominate the debate today: the liberal-individualist; the civic republican and the Marshallian approach to social citizenship.⁵

Liberal-individualism: The first position stresses the autonomy of the individual citizen. The liberal-individualist citizen claims rights as against the state and owes duties to it, primarily to pay taxes and defend it. The individual also has the duty to respect the rights of others, but no wider obligations to society as such other than those entered into on a contractual basis. The liberal tradition formulates the citizen in procedural terms, with citizens sharing a belief in the rules that govern living together in society, rather than having a shared belief in a substantive common good. The notion of a common good runs counter to the pluralism of liberal democracy. This position has been reaffirmed by the new right in recent years, and is an ideological standpoint which has significantly challenged claims to welfare rights. From this perspective the the real world is structured along contractual lines and is based on individualised market and commodity relations.

Civic-Republicanism: From the viewpoint of the left the concept of the common good lies at the heart of citizenship and embodies those needs, rights and opportunities which everyone must have in order to pursue their goals. Freedom is a necessary condition for autonomy but not a sufficient condition on its own. For that very reason freedom cannot be separated from the capacity to pursue ends, from access to resources and opportunities. In the civic republican view, individuals are citizens only as members of a community, and it is a shared commitment to practice which makes individuals citizens. If in liberal individualism the key aspect is freedom from the state, in civic republicanism it is the shared experience of participation in the political community that is crucial. The notion of fraternity is bound up with the argument on how to generate commitment to the duty to practice citizenship. From the French revolution onwards thinkers have explored this notion of fraternity, and have emphasised the reliance on common values through patriotism and loyalty, the socialisation through shared experiences of family and work, and the neighbourliness that inheres in daily life. Fraternity inheres in feelings of belonging, of common purpose and in action to achieve it, in solidarity.

³ In the South African context the discourse of race dominates public debate, and discussion by the left and the workers' movement of class issues runs the risk of being labelled as divisive of the ruling 'alliance'.

⁴ Including, for cities, the impact of the international restructuring of capital and labour, physical decay, fiscal inadequacy, the decline of manufacturing employment, the flight of population and business to the suburbs, marginalisation of sectors of the population- 'the underclass', and crime and disorder.

⁵ The summary here is drawn from Hill(1994)

Marshall's social rights of citizenship: The obligations and duties of citizenship dominate the debate which has its roots in Marshall's work. He defines the three elements of citizenship as civil, political and social rights which have developed over time. Citizenship in Marshall's writing is a status held by all those in full membership of a community; that is, citizens are equal. By the social element of citizenship he meant

" the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in the society."⁶

Marshall's thinking on citizenship was very influential in the formation of the welfare state in Britain, where the notion of 'social citizenship' helped to blunt the sharp edges of capitalist society, and served a redistributive function, until it was challenged by the new right under the Thatcher government.

The main conclusion emerging from the contemporary debates on citizenship between the liberal-individualist and civic-republican positions is that citizenship must encompass autonomy, agency and practice. While the liberal-individualist tradition emphasised autonomy and civil and political liberties, civic republicanism has stressed communitarianism and the practice of citizenship. This communitarianism is informed by ideals of civility, fraternity and concord, the bonds of citizenship. The civic-republican tradition asserts a common good to facilitate the real exercise of individual liberty. To this Marshall adds social rights and the recognition of citizenship as the status bestowed on those who have full membership of the community: citizens are equal. While the Marshall position that social rights are part of contemporary citizenship gained broad acceptance, this has been challenged both by new right theorists who dismiss welfare 'rights' as dependency and by those who believe that while social rights facilitate citizenship, they do not constitute it.

Citizenship evoked in defence of rights has to be matched by duties. In the individualism of the liberal tradition, these are contractual duties of obedience to and respect for law and order. Beyond this, any further obligations may be voluntarily entered into, but they are not strict duties of citizenship. In the communitarianism of the civic-republican tradition, citizenship is realised by practice, but there are duties to defend the community and to exercise civic virtue by participation. Both right and left consider that promoting citizenship- however they define it- means giving greater powers to individuals. While empowerment also means different things from different standpoints, there is a common emphasis on community, on a variety of definitions of localism, and on the need to generate the will for action. Such motivation arises from enlightened self interest and from shared values and common loyalties. But it is also argued that institutions which encourage and promote participation themselves provide the motivation and the will, which the practice of citizenship requires. It is the institutional issues which are of particular interest and which are addressed in the next sections of this paper, along with the changing policy context for the regulation of the use of public spaces in the city.

3. Regulation and Street Trading: the changing policy context.

Under the apartheid system street traders were forbidden access to the central city and simply repressed and chased off the streets by the City Police. In the 1980's the struggle for space in the city and the right to trade as a mechanism to survive intensified as urban apartheid began to collapse and influx control was abandoned. There was a major influx into the city, and in particular its Central Business District, in the 1990's which was linked to numerous factors- the new access to the city, conditions in the surrounding rural areas, and the effects of job losses in the formal sector, partly the product of the opening up of the economy to global competition. Participation in the informal sector, of which street trading was the most visible component, became a survivalist option for many, rather than the first choice of employment.⁷ The national policy environment towards small and micro enterprises became much more favourable in the 1990's. The local government the transition process shifted the focus of local government policy with respect to street trading in a consultative and developmental direction, with local authorities being made directly responsible for local

⁶ Cited in Hill (1994:8)

⁷The DRA survey of 1997 found there to be around 19,000 street traders in the Durban Metro Area.
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economic development. The Business Act of 1991 seriously curtailed the rights of local authorities to regulate street trading and protected the rights of traders to trade.

At the institutional level the local government reform process in Durban saw the start of the integration of forty-eight local structures into a single Metropolitan unit. In terms of the regulation of street trading and the development of new policy Durban had the advantage of a dedicated unit, the Informal Trade and Small Business Opportunities (DITSBO) branch of the Development Facilitation Department of the Metropolitan Council.⁸ The North Central and South Central Local Councils, responsible for the management of the Durban's CBD took the lead in engaging with the new macro framework, and began a sustained process of reconsidering regulation following the first democratic local government elections.

The first phase of this process saw the appointment of consultants (due to lack of internal capacity) to undertake preparatory research on the informal sector and to make recommendations for its spatial regulation within the CBD. The resulting discussion document outlined three options available for regulation: high regulation and strict enforcement; minimum regulation, health and safety issues only, with trust being placed in self regulatory mechanisms; and the favoured option- for integrated development, labelled the Managed Market City approach.⁹ The approach proposed a 'Hierarchical District Management Plan' founded on a system of regulations which were to be applied geographically and based on the predominant character of an area, with a system of demarcated public market places and a phased implementation process.

The document also contained a critique of the Business Act which it saw as having deregulated the governance of the informal sector thereby subordinating the rights of the Council and other affected parties or communities to those of the traders. At the same time it was held that the removal of the licencing function took the burden of control away from the administrative law function and placed it within the ambit of criminal law, contributing in part to administrative collapse and high crime rates in the city. It listed a number of negative consequences flowing from the Act; the informalisation of certain formal business operations and 'unfair competition' with its implications for a dwindling rates base as formal businesses closed or relocated; the de facto ceding of open public space to traders thus complicating future development; the creation of a stigma against regulators and governance; the opening up of space for the spread of informal regulation through protection rackets aimed at formal traders.¹⁰ In general terms the document was critical of the unforeseen consequences of deregulation, and represented a policy thrust aimed at re-regulation, in a damage limitation exercise which essentially relied on traditional planning and administrative thinking.¹¹

The next phase of the development of policy for the regulation of street trading by the North Central and South Central Local Councils was qualitatively different in a number of respects. The major shift lay in the emphasis placed on the interdependence of the formal and the informal economies of Durban, and an attempt to view them as a single organic entity with points of convergence and coincidence rather than as separate. Included in the informal economy was the less visible, but increasingly important category of home-based workers. Additionally, the policy formulation was much more gender-sensitive, given that women constitute a large majority of street traders and home workers in the informal economy of Durban. This phase of the policy process was managed by a Technical Task Team led this time by the Economic Development Department of the Durban Metro Council.¹²

A policy consultation process was designed for inclusiveness, with the aim of informing interested parties about the process and gaining information from them on their views on key questions. Groups consulted included informal and formal business associations, councillors, officials, trade unions, civic groups and development forums.¹³ Lists of 'interested and

⁸ See Lund, Nicholson and Skinner (2000) for a simple and lucid outline of the changing regulative environment of street trading.

⁹ City of Durban (1998)

¹⁰ *ibid*- see section 2.2 "The Legal Context"

¹¹ The author is ignorant of the exact process by which the Managed Market Approach was developed into the next phase of policy, or of the fate of the original document.

¹² It included representatives from the Departments of Development Facilitation, Informal Trade and Small Business Opportunities, Development and Planning, City Police, City Health, Internal Audit, and the Warwick Junction Project as well as consultants from the University of Natal's Centre for Social and Development Studies.

¹³ Interestingly, Trade Unions failed to respond to invitations to participate. See: Technical Task Team (2000d)

affected parties' were drawn up and the people and organisations concerned were then offered a variety of methods to express their views, ranging from workshops to personal interviews. The Informal Trade Management Board incorporated a consultation process into its Annual General Meeting in June and over 600 traders participated in group discussions on the issues document produced by the Technical Task Team for discussion purposes. A Draft Policy was written following the consultation process and made available in Zulu and English, for a further round of comments in August and September 2000.

The point of departure for the new policy framework was that local government has a difficult role in supporting economic development while at the same time pursuing policies which will benefit the poor. There was also recognition that all sectors of the economy are interrelated and that the informal sector makes an important contribution to job creation.

“The great challenge to local government, in its support for economic development, is to enable the creation of as many opportunities for work as possible, at different points along the continuum, while ensuring health and safety, orderly planning and management.” (p.2)

The new Informal Economy policy framework for the North Central and South Central Local Councils was accepted by the Development and Planning Committee in October. It will be put to the Umcity Council once this body officially comes into existence after the December 2000 local government elections. The policy is in many ways highly innovative and progressive in its approach, and puts Durban in the forefront of the urban citizenship building process in South Africa. The *caveats* which need to be noted are that good policies need implementation, and that the process of transforming the attitudes of councillors and officials towards the informal economy towards a fuller appreciation of its significance will be a long and arduous one.

4. Citizenship and Regulation.

The Warwick Avenue Triangle constitutes a locality of mixed use; it is a major transport interchange, a market area with a substantial informal component, and residually, a residential area.¹⁴ Many of the uses of the area by its citizens are in direct confrontation with each other. The use of the area is dominated by the major transportation routes which bring commuters into town. The regulation of the various components of the transportation industry has become a major issue for local government, affecting the maintenance of law and order and threatening life. Conflicts between rival taxi organisations have created violence which has spilt over into the streets. The independent bus operators claim that their operations have always been over-regulated by the local authorities and that they suffered heavily during the apartheid period due to exclusion from central routes.¹⁵ The taxi industry remains a wild card, with attempts by local and provincial authorities to reach agreement with its organised representatives being thwarted by what appears to be a combination of lack of will and pure criminality. The transportation sector provides some rich symbolism when looking at the question of citizenship. The formal sector has spaces and routes allocated, and compliance is rigorously enforced by the local authorities. The taxi industry on the other hand, has “invaded” the area, and is resistant to attempts by the state to regularise and regulate its use and practices. Although provision is made for representation within the District Working Group it is not a forum which attracts the attention or participation of the Taxi associations, whose official dealings with the city would be largely with the Metro Police and the Department of Traffic and Transportation .

On the other hand the informal traders, including the herb traders, have been extensively involved in negotiations over a period of time with the local authorities over the use of the area. The physical space of the Project premises provided a venue for an extensive series of meetings between traders and urban managers in the process of attempting to negotiate ground rules for the regularisation of trade in the area. The Department of Informal Trade and Small Business Opportunities (ITSBO) in fact played a key role in the formation of the Informal Traders Management Board, in order that the local authorities would have some

¹⁴ See Grest, J (2000) for a more detailed history of the area and background to the Urban Renewal Project.

¹⁵ Interview with Mr. Terry Murugan: Bus Liaison Forum. Isipingo ; Friday 4th August, 2000.

body with which to negotiate the regulation of informal trade in the central city area. The case of the ITMB raises a series of interesting questions about the nature of urban citizenship and its relationship to local state institutions.

The main question is about the relationship of urban regulation to urban citizenship. Is it possible that a drive on the part of a local authority to regulate and order trade could have as an outcome the development of new forms of citizenship based on the generation of shared understandings of urban meaning? A subsidiary set of questions need to be asked about the organisation which has emerged, and its nature. Is it a modern, democratic organisation with the structures of representation and accountability that contribute to the development of urban citizenship among its members, or does it somehow function in a more 'patrimonial' or gatekeeping manner which could be at variance with the 'modern' aims of local managers? The role of civil society organisations in the development of citizenship is crucial, and the future evolution of such interest-based associations as the ITMB will be of central importance in determining the governability of key areas of the central city.

How do governance, regulation and citizenship intersect in the central city?

I would like to pose the question very starkly as a means of addressing what seem to be difficult issues, because they are inevitably bound up in numerous cultural and political preconceptions:

Are citizens to use the city as they please, and are authorities to manage the city as they see fit?

How is one to conceptualise the relationship between citizens and authorities at the local level? It needs to be remembered that the central city remains for many of its users a foreign space which has been 'conquered' recently. How do such conceptions of that space affect its use? If it remains perceived as alien and hostile then this will profoundly affect citizen behaviour within it.

The management discourse on urban renewal is of the 'sense of ownership' or of 'Civic pride' that needs to be built within 'the community' in order for development to take place, or for more effective partnerships to be built between citizens and officials. The discourse presupposes that there is such a thing as 'a community' and that it can be identified through its use of place. Implicit in the discourse is the view that the use of a place, and its negotiated regularisation can be translated over time into a sense of ownership and belonging so that the relationship to the place becomes more than a simple use and occupation of that place, but translates into concern with its functionality and long-term sustainability.

If the process of negotiating the space between its users and its managers is to lead to the desired outcome- of a sense of ownership- then a key step in the process should be a much clearer understanding on both sides of the meanings attributed by each to the place, since it is likely that these may be quite different. The use of space is invariably contested, and there needs to be a greater congruence between the administrative or regulative view of the space and its social purposes, which may have changed over time. Regulations governing the use of public spaces such as pavements currently have behind them a logic which is partially derived from technical criteria based on function, or on health and safety considerations, and partially from an aesthetic which is more culturally specific and firmly embedded in (western) notions of proper planning and layout.

Assuming that urban managers are serious about their role in negotiating citizenship the question of non-compliance with regulations warrants careful consideration. The insistence on the retention of unenforceable regulations with no clear current purpose clearly delegitimises other efforts which might be much more valid. The consequences of non-compliance will vary, but some will be much more dangerous than others. It is assumed that the logic behind many of the regulations involves considerations of public health and safety, for example traffic regulations governing speed and direction of flow, appropriate stopping places for public transport, roadworthiness and passenger loading criteria. Likewise the use of demarcated pedestrian crossings at traffic intersections and obeying the traffic lights and other signals. Other areas, such as public hygiene involving the storage and preparation of perishable foodstuffs and the use of public toilets may be more amenable to a more nuanced approach to regulation which could well contribute in large measure to the elusive sense of 'ownership' as a building block to citizenship. More research into the activities involved in food preparation and the meanings ascribed to them by both producers and consumers would be

useful. It would appear that incremental gains in these areas could, in the medium term, make a substantial difference to the quality of life on the streets.

Additionally the notion of 'community' in the central city area needs further investigation. To what extent do the users of the central city area form communities? Clearly property owners and ratepayers with a permanent, immovable stake in the area are well organised to represent their interests. Residents in the Warwick Triangle are represented by two competing organisations, both of which claim representativity.¹⁶ Some attempt to create quantitative measures for citizenship among users of the central city area such as informal traders would be useful in order to gain information on the levels of social capital present and the potential for the development of more purposeful forms of citizen involvement and representation in local level management.

At another level, it is quite possible that within the central city, in the informal sector, 'citizenship' may well be perceived as another form of regulation, and the avoidance of citizenship, like informality, may well be an option chosen by many. From this perspective we could argue that citizenship as a status in the city is negotiated, disputed, accepted or avoided, depending upon the circumstances and whether it is to the advantage of the individuals or groups to accept or reject aspects of this status. The state seeks to create citizens, or to incorporate them into the city, partially in order to carry out its developmental mandate, and to extend rights, and partly to regulate better, but it lacks the competence, the resources, or the will to enforce citizenship obligations in many cases. The case studies below seek to illustrate and develop some of the points made so far.

4.1 The use of Electricity on the Street.¹⁷

The increasing use of electricity by street traders in the Warwick Junction area has raised a number of issues related to management, safety, legality and general supply policy. The electricity is obtained in a number of different ways. The use of extension cables of varying lengths is common to most practices. The cables can be run from a shop or adjoining building- by arrangement with the trader or the occupier, in return for payment. Some traders, for example those around the Berea station draw their supply from distribution boxes which use a prepaid card system.

The use of electricity in three different locales was investigated- the Berea Station, the Bus Terminus and the Leopold Street bridge. Traders in all three areas drew electricity to power sound equipment used for the sale of audio cassette tapes. The bulk of the tapes being sold are in fact 'pirate' recordings, many of which are being produced by the traders themselves using their own tape-to-tape dubbing equipment. The question of the illegality of this practice was not investigated in the research, but it does raise some ethical problems at least for urban managers committed to finding ways which are both legal and safe to encourage small businesses. A further question which was not investigated was that of the financial viability of the businesses should they be compelled to operate on a strictly legal basis.

The Berea Station traders are in the best position, in the sense that they are located closest to the source of power which is the station property itself. They have created a committee structure with which to negotiate the use of electricity with the station property management company, Intersite. At present the electricity is being drawn from Intersite plugs, and negotiations are underway to formalise the supply. Intersite has provided 20 sockets with meters for use by the traders, and is planning to supply electricity on a 'pay and get' basis, which is a system of prepaying similar in principle to the use of prepaid cards. It is anticipated that the traders' committee will pay Intersite and collect from its members.

Traders at the other two sites investigated, the Leopold Street bridge and the Bus Terminus draw their power from the Berea station. Cables as long as 500 metres are daily extended from the station across the freeway to the other two sites, and are taken down again at close of business in order to avoid their being cut and confiscated by authorities overnight. The cables are exposed to the elements and constitute a safety hazard for pedestrians, with the ever present danger of their being severed by barrows. Cables run along the Leopold Street

¹⁶ A long-standing dispute between WATRA and OCR still awaits mediation.

¹⁷ Researchers: Thobani Gumede and Bonginkisi Zuma
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bridge. They are also strung across the roof of the bus terminus, which is metal, and could become live if there were a short circuit caused by wear. In wet weather the dangers of exposed cables are magnified.

The Electricity Department, which is charged with the installation, oversight and maintenance of power supplies and the enforcement of bylaws, requires formal consent from the landowner before it will proceed to provide a regular supply. It is opposed to incurring the costs of installation without guarantees that the work undertaken will not be disturbed due to administrative decisions taken by other departments about the location of the traders. It has the technical capacity to provide a low-cost system with multiple plugs and a single metre with a trip mechanism that would ensure a limit on the wattage drawn from it, thus restricting use to appliances which do not exceed 5 watts. The traders' committees are anxious to have a formal supply and are prepared to pay for it, and would manage the compliance through control over the key to the trip switch box.¹⁸

The traders operating at both these sites have to deal with the Department of Traffic and Transportation as the responsible authority, and have formed a single committee to negotiate with that Department, seemingly so far without much success. The Department of Traffic and Transportation needs to have a determination from Informal Trade and Small Business Opportunities on the legal status of the traders before it will proceed. There are thus at least three sections of the Metro council involved in the issue: Traffic and Transportation, ITSBO and the Electricity Department. It would seem that the second traders' committee has to negotiate these three branches of the urban management system, as well as the questions of how to manage the inevitable pressures to open their ranks to newcomers, or to find ways to exclude them. A further longer-term issue which has not been considered by the committee relates to the decibel levels of the sound equipment they operate, which could result in permanent damage to their hearing apart from the additional noise pollution which it generates.¹⁹

4.2 The Public Toilets; a pilot project.²⁰

Public toilets are in practical and symbolic ways very central to the question of urban citizenship. A city that does not make public provision for some of the most fundamental of its citizens' physical needs is sending out strong negative messages about the value it attaches to the dignity and convenience of its citizens. Conversely, the use of public spaces other than toilets by citizens could be taken as an index of their indifference to or ignorance of the norms of civility. Perhaps there is merit in the adage that if you wish to know how well a city is working you should go first to the public toilets.

The public toilet management system for central Durban is fairly complex. Originally public toilets were run by the Sewage Department. The post 1994 local government transferred their management to the Parks Department, which is responsible for the thirty blocks in the CBD. The Parks Department has handed over control of eleven public toilet blocks in the vicinity of Bus and Taxi ranks to the Department of Traffic and Transportation, which has in turn sub-contracted their management to the private sector. The private contractors are obliged to keep the public toilets open from 7:00am to 18:00pm daily, and to keep attendants in place at all times. One Parks Department inspector is responsible for all the CBD toilets. His task is to visit each on a daily basis to check on the attendants, soaps, towels, cleaning materials and any technical faults concerning lighting, floors, blockages or leaks. Electrical faults have to be referred to the Electricity Department, pipes and plumbing repairs have to be directed to the supervisor in Parks who passes on a requisition to the Architectural Department in City Engineers who then engage a private contractor.

There are three public facilities in the vicinity of the Warwick Junction Project; in Block 28, the Victoria St. Bus rank, and the pilot toilet facility, physically located in Canongate Rd. The aim of the pilot toilet project is to improve design, management and use with a view to the wider replication of the outcomes. Various developmental and management options are being considered, including the use of commercial advertising to provide additional financing, the

¹⁸ Formalisation of the supply raises the question of alternative uses for the power to run low wattage appliances such as fridges. These could become the basis for the sale of alcohol around the transport node.

¹⁹ Noise falls within the scope of the Environmental Health Division of Metro Health.

²⁰ Researchers: Mthandeni Mhlongo and Anam Nyembezi
jeremy grest/november 2000

development of toilets as security/surveillance and public information zones with access to monitoring and communication control, and new modes of servicing and control over access involving a greater degree of community participation; a sort of public-private partnership. The introduction of *pissoires* is being investigated, and thought is being given to the special needs of women and their safety and security in public toilets.

Observation and investigation revealed the extent of the challenges posed. The use of the three facilities is varied and determined in large measure by location. The busiest block is Cannongate West, a few metres away from Warwick Junction. It is used by residents of nearby blocks of flats without water as a source for cooking, washing and drinking as well as a bathroom and toilet. Between 4:00 and 6:00 am it becomes a unisex bathroom for women informal traders and trolley men, who perform their ablutions, and nappy washing, by the light of the street lamp outside. Car washers associated with the nearby taxi ranks draw water for their operations, as do trolley men who sell it at R1.00 per 25 litres. The Victoria Street Bus Rank toilets accommodate vagrants and street children. Only block 28 is exempt from these out of hours activities, for the simple reason that it is locked. Block 28 seems to function more as a bath and dressingroom than as a toilet. Since it only has one entrance the presence of naked men in the passage way intimidates female users.²¹

Toilet attendants are fully aware of the nuisances and vandalism taking place in the blocks under their care, since many are carried out in front of them, but they do not have the powers and means to prevent them. They feel intimidated by the users, and in some cases the Indian attendants are subjected to verbal abuse by the African users. They claim that they report fully but that nothing is done to improve their situation. Many users think that the toilet attendants are not doing their jobs, and point to shocking condition of the toilets: the broken hand basins, blocked toilets and lack of light bulbs and signs. Apart from the vandalism and abuse of the facilities by the public, the complex administrative structure of the public toilets seems to create ample space for inefficient management and maintenance and the siphoning off of supplies of cleaning materials, towels and paper at some point in the distribution chain. Toilet attendants deny that they ever see the soaps, towels, aroma block and anti-bacterial gels that are budgetted. On the other hand it was observed that attendants distributed toilet paper to informal traders in return for considerations of fruit or food. In the absence of toilet paper, users employ unsuitable materials such as newspapers, which become a major source of blockage.

Part of the pilot project has involved the use of the traders' committee structure as a regulatory mechanism designed to improve the management of the toilet and its immediate environment. The traders control access to the toilet, which gives them the power to arbitrarily exclude certain categories of people, such as rival traders, or people they deem too large. Committee members have indicated that more explicit regulatory signage in the toilets stipulating acceptable and unacceptable uses would help in their attempts to manage behaviour, since the authority requiring compliance with the stipulated norms would then be depersonalised and external to the traders. It is clear that the present public toilets, dismal as they are, constitute a resource which is being extensively used and abused and that the evolving management system will have to ensure that they remain public, and their use is open to all, whilst a more attractive, safe and efficient system developed.

The general absence of public toilet facilities in the central city area, and the acceptable use of those that do exist remains an ongoing challenge for city managers both in terms of public health and in terms of safety and security. The question of design is important in terms of safety and security, since the previous ones, and some existing configurations, have allowed for a range of practices in their vicinity which are either criminal and a threat to the safety of users or contrary to accepted health regulations and norms. The maintenance of the toilets—their cleaning and the provision of toilet paper, and their custodianship and management is of direct health concern. As public facilities in demand, toilets also constitute a resource, the control of which has led to conflicts in the city. Actual use of the facilities, and what constitute acceptable and unacceptable practices for both officials and the public remains an important issue for further discussion.²²

²¹ On this toilet there are no male or female signs to direct users. Men automatically turn to the right because of left and right traditions in Zulu society, only to find they have entered the women's side.

²² Some interesting ideas for public education came out of the research project involving the use of radio, chat shows, and competitions for a loo of the year award for attendants.

4.3 The Bovine Head Cookers.²³

The bovine head cookers are a distinct community of informal traders who occupy a stretch of pavement on the busy Warwick Avenue abutting the formal Morning Market.²⁴ The urban practice of cooking bovine heads seems to have originated in KwaMashu in the 1970's and to have been taken up in the Dalton Road Men's Hostel after that. In Warwick Junction it is a comparatively recent food preparation practice, having begun in 1995.²⁵ The first bovine head cooker was a man who had previously been selling fried fish, chicken and *vetkoek* as well as pigs' heads.²⁶ The practice developed quite rapidly, and there are currently 39 registered sellers working on the pavement, the majority of whom are women who were previously involved in other forms of food preparation.²⁷ Some continue to sell chicken alongside their main bovine head cooking activities. The Warwick Avenue traders claim they generally obtain their bovine heads from a limited range of formal butcheries, unlike their counterparts in the Dalton Road hostel and Umlazi who also tap into informal and unregulated suppliers.²⁸ Heads are supplied fresh or frozen. If the latter, they are left on the pavement to thaw before being skinned and cut up with an axe to extract the flesh, which is then boiled in vats large enough for two heads, each vat heated by four number of parafin-fuelled primus stoves.²⁹

The unregulated development of the bovine head trade brought with it health and safety issues which have been addressed incrementally by the departments of the Metro Council most closely involved- Informal Trade and Small Business Opportunities, Durban Solid Waste, and the Environmental Health Section of the City Health Department. The processing of the heads on the pavement created a slippery mess of blood and gore and attracted flies. The disposal of the remains - the skulls and bone splinters - required additional waste disposal facilities and procedures. The pavement has no facilities for food preparation such as running water and drains, and is fully exposed to the elements. The primus stoves can be dangerous: on one occasion an exploding stove nearly caused a serious fire in the next door Morning Market.³⁰

Given the lack of facilities and infrastructure the enforcement of health regulations has been approached with flexibility by ITSBO, which has established a set of minimum conditions that it seeks to maintain. A committee has been created, which manages relations with the authorities and regulates the common affairs of the cookers and their dealings with customers or commuters in the event of dispute. The committee has been involved in the negotiated improvements of health and safety standards with the Environmental Health Department which runs health and environmental education in partnership with the Keep Durban Beautiful Association. Sellers are educated about the importance of clean water for cooking, and water for washing customers' hands. This is supposed to be stored in covered 25 litre containers fitted with a tap. The importance of the hygienic storage in cooler boxes of the heads is understood, as well as the dangers of allowing flies to walk over the food. A minority of sellers now cover prepared food with plastic domes. The City Health Department issues certificates of compliance to sellers completing their courses, more as a symbol of the traders' commitment to the creation of businesses which are hygienic and safe for the many

²³ Researchers: S'thembiso Zulu and Thinta Zwane.

²⁴ Community in the sense of occupying a common space, cooking the same food, and mostly belonging to the Shembe Church.

²⁵ It is not a 'traditional' practice anymore, even though the Warwick Junction project management have expressed interest in its potential to be marketed as something which is culturally distinctive and expresses the rural in the urban.

²⁶ The consensus of traders interviewed is that Mr. Dlangalala was the pioneer of this activity. He switched from pork because its consumption is incompatible with the use of *umuthi*- traditional medicine, and abandoned the other cooking because he felt it was women's work.

²⁷ Some of the cookers have family assistance. It is unclear from the research how many are actually working on their own account and are therefore unlicensed, strictly speaking.

²⁸ Suppliers named were Cambridge Meat, Trans Natal Wholesalers, Jwayelani Butchery and Chester Butchery. The outbreak of foot and mouth disease in Camperdown District in September 2000 was a concern to the traders.

²⁹ The boiled head is sold in portions at a standard rate- R4.00. There is no price competition among the traders. The cost of heads varies from R24.00 for small to R32.00 for large. The number of servings ranges from 16 for the small to 24 for the large. The more successful traders can gross up to R600. 00 per day.

³⁰ Relations with the Morning Market traders, the majority of whom are Indian, have been strained at times.

customers buying their products than as a guarantee that all health regulations are being complied with.³¹

The head cookers would like improved facilities in order to better carry out their business. The Warwick Junction Project management is exploring the possibility of providing a central food preparation facility serviced with water and drainage, and of making its upkeep and management a business opportunity for the trading community. Traders would like electricity instead of using their primus stoves, and would like to be able to offer their customers the option of sitting down to eat rather than simply providing a take away service for passing commuters. The present location of their trade, on a pavement off one of the city's busiest roads makes these desires more complex. The traders are adamant that the passing trade is their lifeblood, and that relocation would seriously harm their livelihoods. Regulation and development are competing imperatives requiring flexibility and creativity on all sides.

5. Conclusions.

The relevance of the models of citizenship outlined in the first section for any discussion of the case studies lies in the fact that they presuppose a modern political system and modern forms of political activity and consciousness, whether they be based on the idea of the individual free from interference from the state, or actualising his/her identity through purposive and conscious involvement in the polis. Whilst not wedded to the dualism of analysis in terms of tradition and modernity I would hold that because citizenship is a modern concept, based on modern conceptions of the individual and his/her place within society there are bound to be real implications for its development and practice in a society where there is no shared discourse or experience of what it means to be a citizen of a modern state.

New citizens from a newly urbanised background bring with them very specific attitudes towards political participation which may have more in common with their rural roots than their present urban situation. Common understandings of political situations between citizens and managers do not exist; they have to be built on the basis of work and negotiation. The question of the time taken to build these forms of cooperation and understanding becomes relevant. It is probably a matter of generations of urban living and urban governance and urban struggle that will be needed to forge new forms of citizenship. Given the nature of citizenship in capitalist society the struggle will always be to enlarge the scope for the substantive rights of citizenship, given that the formal rights guaranteed under the constitution are a starting point for the definition of citizenship, and not its end point.

In policy terms, one can see the influence in South Africa of the debate between right and left over citizenship. The project of the ANC in exile was certainly to create citizenship along the lines of the civic-republican model, with an important, if not central role for the state. The liberal-individualist model based on the operation of the market has become much more central in the post-apartheid period, with the introduction of public-private partnerships for local development and the retreat of the state from service provision. Marshall's ideas of social citizenship have only a residual echo in the new South Africa, where welfare services and state run education and health service are increasingly under threat from budget cuts and competition from the elite private sector services.

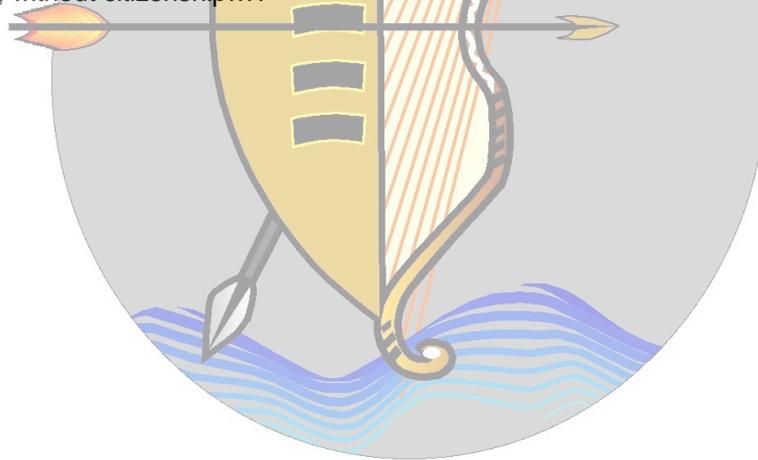
The three brief case studies presented above illustrate the complex nexus between governance, development, regulation and citizenship. Electricity provides opportunities for traders to practice the (illegal) sale of music cassettes, but the connections are irregular and potentially dangerous, and there are health and safety implications attached to the noise levels involved in the practice. Committees of traders and managers meet to work out constructive solutions but the institutions they face seem frozen in the old departmental mode. Bovine head cookers make a reasonable living under conditions of food preparation that are far from optimal, but resist the idea of improved facilities if it means a move which loses custom and livelihood. The dire shortage of toilets in the central city and the (ab)uses to which they are subjected combines with ignorance and lack of scruple over public urination and defaecation to present a profound challenge to urban managers. If indeed the level of civility of a city can be measured by its public toilets, then Durban has some room for improvement.

³¹ Head cookers purchase water from sellers without unduly concerning themselves about its source, which has in the past, and may still be in some cases, from public toilets in a highly unsanitary condition.

The transformation of local government structures in order to make them more developmental is a long process involving the transformation of institutions, their practices and their culture. The process itself has, in the short run, led to a measure of disorganisation and demoralisation within the structures. New policies are being framed for implementation by these structures aimed at developmental local government which will enhance the capacity of Durban's inhabitants to live more fully as citizens. The struggle in the city, and for the city continues on a daily basis. The transformation of urban management practices from the old apartheid system is more advanced in some parts of the city administration than in others, and credit should be accorded to both the managers who have made creative efforts to engage in new and democratic ways in citizen formation and the citizens who through their engagement are contributing to a reshaping of urban management and attempting to move it in a developmental direction. Perhaps we could conclude with the observation made by the Technical Task Team in presenting their proposals for the new policy for the informal economy:

“For the last few years, local government in Durban has been slowly but systematically moving towards the regulation of workers in the informal economy. More recently it has combined this with actively trying to integrate informal economy concerns into overall economic development.” (Technical Task Team 2000d:33)

Whilst the processes of exclusion from citizenship in Durban are apparent, and the new corporatism of urban management has been noted, more inclusive alternatives have yet to be proposed. The alternatives to the presently evolving system have not been clearly specified. In the absence of alternative strategies for urban management, citizen engagement and the regulation of competition for urban space the future scenario for central Durban could well be accelerated urban dysfunctionality and the failure to maintain a sustainable urban environment for all its inhabitants. Without regulation no development, without development no citizenship, without citizenship...?



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