Vending the City: Mapping the Policy, Policing and Positioning of Street Vending in New York City

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VENDING THE CITY:
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ABSTRACT

Despite a single formal regulatory framework for street vendors within cities, there is significant disparity in tolerance of their activities; governments often allow street vendors in certain areas of the city, while relocating street vendors from sidewalks in others. In the absence of meaningful, in-depth datasets on urban informality, studies investigating this variation have had to rely on case studies, anecdotal material and qualitative neighborhood comparisons. As a result, there have been no large-scale empirical studies undertaking city-wide analysis of the policing of urban informality.

This thesis overcomes such limitations by using a mix of administrative data, mobile sensing, GIS mapping and qualitative methods to uncover informality’s relationship with the state and the larger urban fabric in New York City. Through visualization and empirical analysis of the enforcement landscape vis-à-vis socio-economic variables in New York, this project highlights the underlying impulses that lead to uneven regulatory outcomes: disparate claims on urban citizenship and a city’s move towards more privatized urbanism. At the same time, my methodology allows this thesis to display the unique interactions street vending has with each neighborhood’s socio-spatial environment, resulting in the creation of diverse vending cultures. By recognizing this vibrancy and detangling the determinants of the spatial landscape of vending rule enforcement, this thesis advocates for a fairer regulatory schema for informal commerce.

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CHAPTER 1: RESEARCH OVERVIEW

“In different people with different projects must necessarily struggle with one another over the shape of the city. [But] more and more the spaces of the modern city are being produced for us rather than by us.”

In March 2016, the global retail brand Zara opened a flagship store in SoHo, New York City, complete with an exclusive floral sidewalk installation to mark the occasion. Precious sidewalk space was taken up, pedestrian traffic slowed as people stopped to stare at the display and the safety of protruding steel tresses on a busy sidewalk was questionable. Yet, it was the sidewalk vendor a few steps down the road who was asked to move his table by police officers, for being an obstruction to pedestrian flow.

What logic does a city follow when it allows certain activities on its sidewalks all the while displacing others? Why are sidewalk cafes permitted where hot dog stands are not, newspaper stands welcome but the book

Figure 1 ZARA’s store installation in SoHo-March 2016

1 Mitchell, Don, the Right to the City–Social Justice and the Fight for Public Space. (New York: Guilford Press, 2003), 19
peddler not? Sidewalks, as one of the most ubiquitous public spaces in the city, should not by definition be filtered. Yet, they are carefully controlled by both private and public agencies to allow only activities that are considered desirable, legitimate and worthy of visibility. However, not everyone’s visions of order can be inscribed onto the public realm. In the complicated regime of public space management, it is only certain people whose imagination of cityscapes is actualized. Street vending—the respite of the unknown, immigrants and minorities—falls on the losing end of this order-spectrum. In New York and elsewhere, street vending at different times has been deemed too obstructive to pedestrian traffic, too noisy, too smoky or too ‘unfair’ a competition to brick-and-mortar businesses to be allowed a claim on the premium sidewalk property. One New York Times article describes street vending as “chaos on a collision course.” A Metropolitan Museum Official quoted in another article called vendors, “a blight on a magnificent new civic space, and a huge impediment, bordering on a safety hazard.”

Yet, street vendors still persist in being a part of the cityscape. Many have written about the cat-and-mouse game that vendors and enforcement agencies play. Some have also noted how within the same regulatory landscape, policing of vending rules differs significantly within cities. A vendor may be allowed to make a living on stretch of the sidewalk, and chased out from another. How are these decisions of enforcement made? What can we learn about the city, its social hierarchies and its ideas of citizenship from the way it controls sidewalks? Is an experimental investigation of this spatial variation possible?

This thesis provides an empirically founded contribution to the larger discussion on urban citizenship, highlighting – through the enforcement of informality – the spatially contingent, variegated modes of urban governance employed to control public space. Using administrative datasets, innovative mapping and qualitative study, this thesis measures the extent to which the City’s regulation of informality is influenced not by technocratic ideals but by private interests of businesses, rich citizens and property owners. It then highlights the importance of spatial context and local neighborhood dynamics in creating pockets of unique regulatory outcomes. Essentially it asks when there is a conflict over public space, whose voice wins out,

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why such an outcome is achieved and whether this result is consistent across the City.

STRUCTURE

The next section unpacks the theoretical frames used by this thesis and introduces the research question. Chapter 2 then details the methodology I used to study this question, its contributions as well as its limitations. Chapter 3 introduces the contextual backdrop to this thesis, by describing the current policies related to street vending in New York as well as the governance structures that act upon on vending. Chapter 4, 5 and 6 discuss the main findings of this study. Chapter 4 provides a snapshot of police enforcement: the patterns, reasoning and results of ticketing in Manhattan. After that, chapter 5 unpacks and isolates the correlation of differing explanatory variables on enforcement of vending. Chapter 6 compares policies and enforcement within BIDs, pointing to the profiles and local context of BIDs as explanatory factors of any variations found. Finally, Chapter 7 condenses all these findings into recommendations for more equitable, workable and practicable policies.

THEORETICAL FRAMES AND MOTIVATIONS FOR STUDY

Even though this thesis specifically focuses on street vending in New City, the battle over the sidewalk it engages with brings to fruition concepts of larger global and theoretical relevance: biases in state policing, issues of privatized governance of public space and attitudes towards urban informality. The discourse and policy of street vending reflect considerations of urban citizenship as well as what it means to have a 'right to the city'. Vending provides space for the some of the least privileged in the schema of urban life: those who cannot get formal employment, do not have enough capital to start up their own business and very likely are new migrants into the city. These are individuals often marginalized in claims to urban citizenship, and resultantly seem to have diminished entitlements to public space usage.

It is also important to understand why the site of analysis for this project is New York. While vending has traditionally been associated with the Global South in literature and imagination, economic shocks and South-North migration have expanded the informal sector in the developed world. This mistaken association means that, on one hand, developing countries wishing to make their cities appear ‘world-class’ and developed see no place for this form of commerce on their cityscape and, on the other, developed cities, seeing vending as a marker of the global south, wish to push them out. Thus vendors in both the developed and developing world face displacement, police action and censure. Unfortunately, theory has not kept up with this change, and literature on informality (with a few exceptions) mostly focuses on the developing world.

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world. Scholars pushing for inclusive urbanism need to pay attention to the needs and experiences of vendors in the Global North as well.

The following theoretical discourses served as both the basis of my hypothesis as well as my motivation for developing a mixed methods approach to studying the interactions of urban informality with the larger city.

Informality and its discontents:

32% of the global urban population depend on some form of informality for shelter. Millions of street vendors, hawkers, and peddlers around the world depend on informal urban activity for their daily livelihood. Yet, policies in the developed and developing world betray a lack of nuanced understanding of the needs of this sector. A review of the literature on informality shows that the modes of knowing informality have failed as much as the modes of acting upon it. In an attempt to bring recognition to the poverty of the policy and intellectual agenda of informality, most literature has mistakenly cast informality as the opposite of the structured, organized formal work that canonical planning deals with. Even attempts to free informality from this binary have backfired. In a bid to show how informality is as much the domain of the rich as the poor, Ananya Roy describes informality as systems which are simply outside the law, or impossible to “fix and map according to any prescribed set of regulations or the law.” These ideas have done little to divorce informality from narratives of ‘chaos’, ‘disorder’, ‘flux’. Unfair characterizations of informality have led urban administration in both the developed and developing world to viewing informality as antithetical to their aims of presenting a pristine landscape. Vending in fact, amplifies this baggage by its own visibility in the city. The visions of poverty and disorder associated with any other informal system, seem more extreme, since vending claims for itself some of prime and ubiquitous property in the city: the sidewalk.

Such perceptions of informality have, in some ways, been more central to policymaking than actual ground truths. Strategies for informal urban systems are intimately tied to the way informality is viewed. When informality is characterized as chaos and a blight on the urban landscape, calls ring for its exclusion from the

9 Street vendors form a large proportion of the urban workforce in numerous developing countries: 11% for Hanoi, 9% for Lima, 11% for all employment in India and 15% in South Africa. New York currently has an estimated 20,000 street vendors working. (Planning Sustainable Cities)
11 As the Commonwealth Games got underway, the Supreme Court of India banned 300,000 road-side vendor stalls from the city. Given around 85% of workers in India were employed in the informal sector in 2006, this is an unsettling trend. Similarly in Turkey, during the UEFA Final 2005 informal settlements like those in Ayezma were ordered to turn off their lights so as not to be visible to the tourists.
city, whether through demolition of informal settlements or evictions of street markets. Administrations that view informality as an essential but degraded form of service provision to the urban poor seek physical upgrades to improve its conditions. When informality is categorized as wasted capital and economic revenue, it is asked to be brought into the fold of formal planning. Yet, a lot of these polices have not had any real impact on improving the conditions and wellbeing of those linked to the informal urban sector. While the reasons for these failures have, of course, been diverse, but a large part stem from a failure of understanding informality’s organizing logic and the dynamic networks it relies on. A quick review of these policies lays bare a lot of the generalizations in their assumptions of informality.

In the developing world, policies of upgradation and aesthetization have mostly focused on bringing a better physical standard of living to informal housing settlements. Better management of sewage, stronger facades and built structures, and newer roads are the modus operandi in this policy school. Unfortunately, by associating a physical upgrade of informal settlements with better quality of life, these policies ignore basic needs of the informal settlements, which in some cases lead to more hardships than physical disrepair. The larger exclusion of informal settlement from the wider city, its transport and social networks, is ignored. Borrowing from James Scott\textsuperscript{12}, this is a classic case of “inferring functional order from purely visual order.”

Another policy tool entails eradicating or displacing informality, by moving it to outer rings of the city. This mechanism has been championed by numerous urban administrators world over, from New York\textsuperscript{13} to Delhi\textsuperscript{14}, who see informality as antithetical to urban order. Such policies generally rely on tropes about the ‘chaos’, ‘dirtiness’ or ‘criminal elements’ of informality, that do not always have a basis in reality. Informality might seem chaotic if its organizing logic is not studied and in fact, like any eco-system, informality lays claim to its own dynamics, internal organization and patterns of existence. Street vendors, for instance, prefer having semi-permanent spots where they open up their trade every day, just like any other brick and mortar store. They have a logic to location choice and, like the formal sector, are subject to the same market forces that determine their success of failure. This recognition is absent from most policies that treat the growth of informality as random and confused.

Calls for formalization too are global in their popularity, including vendor permits, titling informal

\textsuperscript{12} Scott, James, Seeing like a state: How certain schemes to improve the human condition have failed (New Haven, CT: Yale University Press, 1998), 183.


\textsuperscript{14} see Special Rapporteur On Adequate Housing, Summary Of Communications Sent And Replies Received From Governments And Other Actors , (United Nations 2011)A/HRC/16/42/Add.1
settlements, and creating new zoning laws for informality. These, too, fail in a similar ways as the above policies since they miss the power dynamic inherent in the gaze of the state acting upon informality. These measures while clearly intended as progressive “are cast in a dichotomy that makes formalization the only promising option while ignoring fundamental structures of power”\(^{15}\). In fact, some scholars have pointed to the severe “ethno-racial' discrimination\(^{16}\) present in the states interaction with informality. Forcing informal systems into the realm of 'legal' does not necessarily bolster their economic functions since this move does not address the “forms of vulnerability”\(^{17}\) that those dependent on informal systems have to contend with. These include discrimination, no access to capital, thorny relationships with policing authorities, and exclusion from both formal and informal social networks that can provide them with protection.

There is an increasing and growing recognition that informality’s purveyors and consumers require their own sets of planning agendas, ones that recognize their diversity and internal organizing mechanism. Thus, there are calls for the planning discipline to expand to accommodate\(^{18}\) these experiences, and to help re-conceptualize the divide between the formal and informal. A new theory of informality needs to take into account both its particularistic and general aspects. It needs to create a map of the networks, interactions and movement of informality while at the same time giving weight to the dynamic nature of these patterns. It needs to show movement of street vendors but also their fixity. Scholars should be able to study patterns of informal housing sites and how they connect to the city - but also have the capability to zoom in to the lived experiences of individuals. Studies should lay out the networks of informal transit on a map to understand how it contributes to exclusion of certain populations-- but also consider how people riding each bus use it in their daily lives. This project is an attempt to guide urban theory towards this direction by developing a mixed-methods approach. In this methodology, data from digital traces of urban living, cartography and qualitative study exist in a symbiotic relationship, the limitations of each recognized and addressed.

Is the public welcome in ‘Public Space’?:

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\(^{15}\) Libby Porter, “Informality, the Commons and the Paradoxes for Planning: Concepts and for Informality and Planning”, *Planning Theory & Practice*, 12, (2011): 118


Having reviewed why informality might be banished from the public realm, understanding the implications of this action is also crucial. The literature on urban regulations is rife with excellent critiques of the control of public space, whereby the values of small, influential group of urbanites is encoded into the cityscape. A lot of scholars have written specifically on the forces of privatization that have given rise to increasingly exclusive public space: sanitized of ‘undesirable’ elements, like street vendors, from the cityscape. Such actions allow cities to project a “a mix of urban and suburban values” whereby they can be exciting, diverse and full of opportunities while also being safe, clean and ordered.  

This is not a new or unusual phenomenon. Harvey's writings on Haussmann's Paris remind us that in our cities public space is carefully controlled and manicured, and it is the urban poor, migrants and the marginalized who get excluded from the city’s development. If public space is meant to reflect the grandeur of the city, there is little room there for those considered a blight on the landscape. Thus, these groups are often forced into what Yiftachel's calls “grey spaces” of the city, existing partially outside the gaze of the state. Such ethno-economic discrimination by the state is well documented when it comes to urban policy, and while such attempts at sanitation are not always successful these actions still go on.

Scholarship on sidewalk vending has considered this movement and its impact on the vending landscape in American cities. Anastasia Loukaitou-Sideris and Renia Ehrenfeucht ascribe stringent vending regulations to pressure put on local bureaucrats by anti-vending groups like Business Improvement Districts, abutting property owners and middle-class consumers of vending. In this theory, vendors are sacrificed to economic concerns of municipal regulators: protecting brick-and-mortar businesses, a pristine image of the city and keeping their richer residents happy. These concerns are then said to be wrapped under the guise of concern


20 Kohn, Margaret, Brave New Neighborhoods: The Privatization of Public Space, (Routledge, New York: 2004), 65


for the unimpeded flow of pedestrians.

Here it is relevant to dwell on the role of Business Improvement Districts in New York's urban management, as they represent an important facet of privatized and exclusionary urban governance. As crime rates rose in the 1970s and 80s in New York City, property values dropped and businesses took a hit. In response, property owners and business managers formed the first BID in 1986 in Union Square with the express purpose of providing private security and sanitation. Overtime, their functions have expanded to capital investments, neighborhood promotion and branding as well as streetscape upgradation. In 1994, Rudolph Giuliani, New York City's mayor and a strong supporter of BIDs, celebrated them for “filling in for government.”

Funded by a 'tax' on property-owners and businesses, these privatized urban governance systems have meant that areas with richer business and larger budgets have been able to afford better services for their areas. Thus, BIDs have been blamed for furthering revanchist urbanism and exacerbating inter-local inequality in the delivery of municipal services.

It should be noted that most BID leaders, when interviewed, vehemently deny they are anything but partners with the City government. However, it is true that in the new urban governance milieu BIDs are proto-city administrations providing most of the services city governments are meant to supply (at least previously). If they do not provide the services themselves, they have enough power and resources to demand policy concessions and service delivery from local governments. A perusal of BID websites reveals ex-police commissioners as heads of security and Mayors as members of Board of Directors. In a 2001 study on BIDs, Mitchell found that 34% of the BID managers considered their primary job to be a liaison among the business community, city government, and other local stakeholders. When walking through a BID neighborhood, there is also little doubt about who 'claims' this public space, given the branding BIDs engage in down to the logos they put on the trashcans and trash bags (Figure 2 below).


BIDs have also been termed undemocratic since their governance structure is based on property-dependent voting. While having access to one of the central areas of the city, their constituents are an exclusive cadre of property owners, retailers and by extension their customers. This lack of accountability to the wider of neighborhoods becomes worrying as in competing visions of public space, BIDs are said to be winning out in creating their own exclusive public space with enough power to drown out any contestation. Margaret Kohn argues that in an effort to keep their constituents happy and safe from the discomforts of public space, Business Improvement Districts have imitated the environment and management structure of the suburban shopping mall by allowing “consumers to enjoy the traditionally urban pleasures of proximity to diverse strangers in a setting where any risk of threat, disruption, disorientation, or discomfort has been removed.” Interestingly enough, the official New York guide for starting a BID itself celebrates how the functioning of BID is modeled on the shared maintenance program of many suburban shopping centers.29

Yet, an anti-vending BID can only be one piece of the puzzle. If vending rules enforcement is a result of BIDs power to control public space, why does policing vary even within BID neighborhoods? Are some BIDs forced to be pro-vending due to their own local context? Or are they rendered powerless due to lack of resources? There is of course great variety within the capacities, aims and structure of BIDs that the literature has ignored. Gross, in a 2005 study,30 found that the revenue, size and organizational set up of

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BIDs impacted the projects they could take on. Larger BIDs like 5th Ave could take on capital improvement, marketing and lobbying while smaller BIDs like Washington Heights with a 1 member staff could not.

To truly explain variance in enforcement of rules, one also needs to study the other possible influences on a city’s policy other than BIDs. Looking at the variation of enforcement outcomes in New York City, it would be difficult to believe that all municipalities and police officers are working as a monolithic entity for the corporate sector. Scholars such as Ryan Devlin31 and Annette Kim32 have similar concerns with the commercialization thesis. They see regulations and enforcement as embedded within the local context of public space with commercial interests being one part of myriad forces acting upon the sidewalk. Devlin rejects the role of state law in sidewalk regimes instead focusing on the “spatial negotiations and maneuvers” between the vendors and individual property owners. His theory is that these negotiations vary from place to place, and hence result in a differentiated landscape of vending across the city. For Kim, studying Ho Chi Minh City, it is the police and municipal authorities that, through a contextual positioning in the web of the sidewalks social relationships, create new outcomes of regulation. At odds with the commercialization thesis, her work revealed stories of cooperation with the local police, where some police officers helped vendors skirt the law for their own welfare.

This theory sounds appealing, since it addresses the complexity of sidewalk management missing from commercialization literature. However, it also individualizes each case of the state’s interaction with a vendor thus sideling the recurrent patterns of property owners and pedestrian traffic being considered over vendors. While commercialization theories homogenize commercial control over public space, contextual theories miss the larger power-dynamic at play in the backdrop. This project, through a spatial and empirical investigation, seeks to tease out the weight of different factors in the eventual spatial order of the sidewalk

**Policing the Pariah:**

Privatized control of public space is only one part of the larger debate on urban citizenship, and accords the state only an indirect role. However, in large part, control of public actions is administered by the State and its actions to condemn, penalize and clamp down on certain activity or individuals, and helps us gain insight into its biases.

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31 Devlin, ‘An Area That Governs Itself ‘.

32 Kim, Annette M., Sidewalk City, Remapping Public Space In Ho Chi Minh City, (Chicago Il: University Of Chicago Press 2015)
In general, literature on policy enforcement accepts the political nature of policy formation and recently has begun to move towards acknowledging the ample discretion officials have when it comes to enforcement.\(^{33}\) One school of thought pins this selective enforcement on factors internal to the organization. These include the culture\(^{34}\) \(^{35}\) of the implementing organization, the enforcing individual’s own “entrepreneurial spirit”\(^{36}\) that finds innovative methods of dealing with new situations, or vague laws. Other scholars have pointed towards a resource or budgetary constraint that forces organizations to pick and choose which rules they are willing and able to enforce.\(^{37}\) However, most of this literature sees discretion as an incidental factor that would be improved upon with time, with decisions and the standards for evaluating decisions improving with regards to fitting better with the demands placed on the organization.

Some scholars argue that discretion is a positive, inherent part of the enforcement process. In this conception, enforcing agencies create linkages with wider society, especially interest groups to create positive enforcement outcomes. The work of Coslovsky, Pires and Silbey,\(^{38}\) as well as Amengual\(^{39}\) places great value in how the bureaucracy, by finding co-partners in society, finds room to maneuver the wrongdoers’ preferences and willingness to comply. Since the empirical scope of this branch of policy studies, is limited to studying established firms and businesses, their applicability to small-scale informal economic actors has not been tested. The firms studied by these scholars have had the power to push back on enforcers, and negotiate the policy compliance. To what extent such ‘negotiations’ are underway with street vendors, who cannot challenge the law but only skirt it, remains to be seen. Further, the relationships with civil society described in this literature (partnerships with business groups, labor unions etc.) are a far cry from the informal linkages street vendors develop with authorities. These include personal relationships with police officers as well as more ‘under-table’ interactions involving rent-seeking and bribery. However, even in the case of vending, linkages of the State to interest groups (like BIDs) seem to be vital in increasing compliance of laws. Further, policy enforcers do need to balance competing interests when it is time to

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\(^{38}\) See note 1.

\(^{39}\) See note 5.
implement policies. Michael Piore\textsuperscript{40} contends that the weight placed on these different goals will vary with the political and economic climate. It is exactly this varying weight that this thesis will look to explore. How do policy-makers and policy enforcers decide certain goals are more worthy of being addressed than others?

Another aspect of enforcement discretion is structural bias. Policing in the US has increasingly come under scrutiny for its unfair practices. Monikers like ‘Driving while Black’ and more recently movements like Black Lives Matter shed light on disproportionate policing of black youth, indicating the prejudices that fester within state institutions when dealing with certain populations. Scholarly work has also examined the way race and class negatively impact policing outcomes for minorities in the US.\textsuperscript{41} However, beyond these another less noticed element of prejudiced policing is the impact of place-based cues on police decisions irrespective of the race/class of the policed.

Evidence suggests that geography plays an important role in policing strategies. Police behavior is shown to change in lower-class neighborhoods, with officers being more likely to stop, arrest ‘suspicious persons’ in lower status neighborhoods.\textsuperscript{42} Officers are also reported to display more aggression in lower-class neighborhoods\textsuperscript{43} when confronted with suspicious activity. Even with the handling of 911 calls there is seen to be a correlation between calls being downgraded or upgraded and neighborhood characteristics like the proportion of Black residents in the neighborhood, the level of wealth in that area, and the amount of violence in a census block group.\textsuperscript{44} Interestingly, it is not just policing that is impacted by geography but also administration of justice. Barry Feld\textsuperscript{45} found that court sentencing for similar offences varied with the place of the crime, with urban counties receiving less stringent punishments as opposed to rural counties.

From the literature discussed above it is suggested that state’s policing of activity is not neutral nor spatially homogeneous. Instead, the presumption of innocence that officers ascribe to suspects is influenced by both structural prejudices ingrained against certain groups as well as place based cues. The assumption it seems, \hfill

\textsuperscript{40}See note 2.
is that individuals residing or present in a poor neighborhood are more likely to be criminals, leading the officer to have a lower inclination to give individuals in those areas the benefit of the doubt. On the other hand, wealthy neighborhoods carry with them an imagery of order and lawfulness. As a result, policing there would likely be more discreet and more informal— at least for those who appear to ‘belong’ to the neighborhood.

This project seeks to test this theory of enforcement’s spatial bias in the context of street vending: an interesting instance of uneven rule enforcement where the negative biases against poverty gets thrown into the pristine landscape of wealthy areas. Street vending also brings with it conceptions of informality that play into the decisions made by officers to exclude street vendors from public space. Thus, in this case enforcement is not a technical decision but a political one; it is intimately tied to conceptions of citizenship, social hierarchies and the ideal city.

RESEARCH QUESTION

Having uncovered the complexity of the regimes of enforcement with regards to informality, this project focuses on the puzzle of how and why spatially-contingent regulatory landscapes are created. To do so a few measurements are necessary. First, there needs to be a large scale, spatial study done on law enforcement to see if any ordering of enforcement can be created, by identifying hot spots and safer areas. Only when these patterns are discovered, can explanatory variables be tested. For instance, if the city is indeed reacting to BID demands when it initiates a crackdown on street vending, enforcement numbers should be consistently high in BID areas. However, if that is not the case, other variables need to be introduced to the equation. A logical start would be to examine the attitude of citizens towards vending, since this could be what the city is responding to in its policing drives. Even richer insights can be distilled if the socio-economic profile of areas with high and low enforcement is compared. This would inform us if the opinions of certain citizens have more weight than others, in the larger web of forces at play.

Conceptually creating this methodology would be useless if these seemingly amorphous concepts could not be quantified. At the very least, measures of policing, citizen complaints and socio-economic demographics of New York City would be needed. This project seeks to overcome these hurdles, through an innovative mixed-methods approach. To create a geographical tableau of policing, this project uses the Environment Control Board’s violations datasets, which records every ticket written for a city-code violation. Citizen response to a particular topic is tricky in lieu of a large-scale city-wide survey. However, changes in technology have also influenced the way people voice their opinions even to the state. This project taps into the “311” complaints dataset, a novel tool to measure citizen moods, opinions and relationship to the state. The validity of these methods will be discussed in the methodology section.

In light of this discussion this project tests three questions to understand how citizen attitude, commercial
interests and city politics get together to form the landscape of enforcement.

1) Do Business Improvement Districts result in higher enforcement of vending regulations?
2) Are areas with higher 311 calls more likely to get enforcement attention from the City?
3) Do BID characteristics constrain the BIDs ability to push their enforcement agenda?
CHAPTER 2: METHODOLOGY

The misrepresentation of informality, as laid out in the previous chapter, is not just a problem of perspective, but also one of methodology. If informality is a “differentiated process embodying varying degrees of power” and vulnerability, then the methods to study it need to be similarly nuanced and varied enough to capture this dynamism. Instead, reviewing previous attempts to understand the informal sector shows a siloed approach, where forms of investigation are self-limited by the questions asked. Investigating the micro-interactions and life-experiences of those engaged in the informal sector, almost exclusively falls to studies employing qualitative methods. On the other hand, works attempting a more quantitative analysis limit themselves to assessing policy impacts or providing numbers on the economic scale and spread of these sectors. A third category of work employs mapping to understand spatial patterns of informality.

This work is rare, and it focuses on mapping the physical elements of informality and rarely asks questions about the socio-political positioning of informality within the city.

**IMPORTANCE**

In the canon on informal vending, the focus of this project, one finds even fewer quantitative or spatial studies. Authors in this tradition mostly use ethnographies and interviews to give us important insights into the questions of power, exclusion and use of space in vending. However, while this literature has studied the interaction between the state, private actors and vending, it has only been able to focus on these dynamics within individual neighborhoods or small areas of one city. Due to a lack of quantitative, spatial data on the vending landscape, scholars have had to draw inference from case studies and anecdotes resulting in rich, localized knowledge but nothing largely representative about the functioning of vending on different scales. These factors have produced a narrative that unfortunately, has been unable to analyse the nuances in the motives, results, or spatial manifestations of the battle for the city’s sidewalk space. A spatial sensitivity to the geography of vending is also missing: how vendors navigate the space of the city, how state enforcement of vending manifests itself across various spaces or how the street vending network engages with the city's socio-economic landscape to serve its customers. There has also been little spatial or empirical comparison across different neighborhoods within the same city, or across different cities.

This gap in the literature is testament to how difficult it is to quantify informality generally, and vending specifically. Characterized by unorthodox organizational patterns, informal systems have not lent themselves well to being studied through traditional methods of data collection or newer Geographic Information Technology. For instance, most of the informal sector is completely or partially outside governmental regulation, and thus there are often little to no official city/administrative records of geographical location, land use, customers, residents, or physical conditions. Without spatial and numerical data, scholars can only use small-scale interviews and observations to understand how these systems interact with the city, the formal sector, whom they serve and how they grow or contract. At times even city

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52 Geographic Information Technology refers to a group of tools related to spatial analysis such as aerial photography, satellite imaging and processing systems, Geographic Information Systems (GIS) and Global Positioning Systems (GPS).
administrations are unaware of the geographical, physical and population characteristics of its informal sector. Even when governments have such data, it difficult to access information that could reveal any oversight or malpractice. Street vending, in addition to these challenges, is also extremely mobile and thus even more difficult to quantify. As a result, those interested in more micro-scale, socio-political questions surrounding informality have shied away from quantitative study and mostly focused on qualitative work.

That is not to say scholars have not attempted to bridge this gap. The work of Annette Kim stands out in this regard as an important exception. In her seminal work on sidewalk vendors in Ho Chi Minh City, Kim uses critical cartography and what she calls ‘spatial ethnography’ to map the variegated life of the sidewalk. According to her, without first understanding why public space is being used in the way it is, little can be said about its control. Her maps reveal a rich set of users and claims to the sidewalk including pedestrians, vendors, moped drivers; with each actor bringing his/her own claim to the space of the sidewalk. However, Kim’s work does not just stop at description. She then questions and examines each claim through the lens or property rights, to explain the outcomes and results of this battle over the sidewalk. This work has been a guiding light for me as it reaches over the aisle and merges quantitative analysis, qualitative data gathering techniques and cartography to create a new methodological space.

Using the methodological legacy of Kim to ‘integrate the physicality of sidewalks with the sociology of sidewalks’ I examined why enforcement of street vending, within the same legal framework, seems to vary so considerably from one neighborhood to the next. In pursuit of the answer, I employed dynamic, spatial statistics to explore concepts like citizenship, state response, and city priorities, which have traditionally had a static, qualitative treatment. By following a triangulated, multi-method line of inquiry I was able to capture various parts of these concepts as they manifest themselves in the New York’s vending landscape. My methodology of combining cartography, quantitative analysis and qualitative data collection allowed me to accrue analytical benefits of each method: the comparative power of statistical models, the explanatory richness of interviews and ethnography, and the dynamic visibility of mapping. Each theoretical concept was operationalized to a measurable question, and was then matched to an appropriate dataset to allow quantitative and spatial representation. The results of this analysis helped me narrow down the areas I wanted to investigate further as well as sharpen and provide nuance to hypotheses. I then attempted to explain empirical and spatial patterns found, by interviewing key stakeholders such as BID members, community board representatives, street vendor organizations and street vendors. I also undertook

53 Kim, Sidewalk City.

54 Kim, Annette M. “The Mixed-Use Sidewalk.” 232. It should be noted however, that the data sources present within Ho Chi Minh City are different from the administrative datasets available in New York City. However, this study borrows from Kim’s usage of critical cartography to understand street vending.
ethnographic observation in 3 Business Improvement Districts. New information found during the qualitative study was validated by examining the datasets in new directions.

MODEL AND DATA OVERVIEW

The study process began by thinking of ways to measure 'state response' to vending. I decided to use the New York City's Environmental Control Board's dataset of ticketed city-wide administrative code violations. From 2010-2015, various State agencies in New York handed out 3,422,455 Environmental Control Board summons for administrative code violations related to 'quality of life' in all of New York City. There were around 30 types of violations represented in the dataset-table 2 lists the top 10. 97,773 of these summons were written for a vending infractions (see table 1 below), with 76% of these vendor summons originating in Manhattan, the highest policed borough for street vending in all of New York (table 1). For this reason I decide to focus my analysis on the borough of Manhattan.

Ticketing is an important way the state makes its priorities clear, by demonstrating which activities it considers worthy of deploying resources to penalize and which it considers more benign. This dataset provided interesting context of how much policing was going on of illegal vending as a proportion of other city code violation. I was also able to derive interesting contextual information regarding enforcement of vending rules including statistics on the frequency and magnitude of fines, the specific vendor violations that were being targeted and the likelihood of a vending ticket being dismissed once in court.

This dataset though, was not geocoded for the latitude and longitude of the addresses. Using New York City's Address locator in ArcGIS, I was able to geocode 72460 data points accurately out of 75015 recorded tickets. 2555 data points were not geocodeable due to data entry issues (missing street, avenue or house addresses names, addresses which did not exist)

<table>
<thead>
<tr>
<th>Borough</th>
<th>New York</th>
<th>Manhattan</th>
<th>Brooklyn</th>
<th>Queens</th>
<th>Staten Island</th>
<th>Bronx</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Summons</td>
<td>3422455</td>
<td>897431</td>
<td>935034</td>
<td>767669</td>
<td>123010</td>
<td>698255</td>
</tr>
<tr>
<td>Summons written for vending</td>
<td>98614</td>
<td>75510</td>
<td>8370</td>
<td>7520</td>
<td>147</td>
<td>6721</td>
</tr>
<tr>
<td>Percentage of vending infractions as a total</td>
<td>2.88%</td>
<td>8.41%</td>
<td>0.90%</td>
<td>0.98%</td>
<td>0.12%</td>
<td>0.96%</td>
</tr>
</tbody>
</table>

Table 1 Breakdown of ECB Data by Borough
Geocoding and mapping each ticketing instance allowed me to understand the spatial patterning of enforcement as well as helped me isolate neighborhoods, streets and areas with high ticketing numbers. Even just eyeballing this map made it clear that Business Improvement District areas were where the hotspots of policing mostly lay. This was in sync with what the literature on street vending had identified. However, this map also revealed a compelling variation in policing across BIDs, which was an aspect the literature had missed. These two patterns gave me research questions ripe for investigation.

While BIDs seemed like a crucial piece in the enforcement puzzle, it was important to factor in other variables that were influencing vending regulation other than the presence of a BID. The next step was to decide on various factors that determined spatial patterning of enforcement. To be able to do justice to both the methodological and theoretical puzzles I was grappling with, I decided to focus my empirical analysis on Manhattan. This decision was made after looking at the data that suggested a higher conflict between vendors, the state and residents in Manhattan (Between 2010 and 2015, 76% of all vendor tickets in New York City were issued in Manhattan.)

My analysis builds off two models both summarized in table 3 below: the first, a street-segment based model to isolate the impact of Business Improvement Districts on enforcement and the second, a BID-based model which explains the variation between BIDs based on BID characteristics. The dependent variables were

<table>
<thead>
<tr>
<th>Violation Type</th>
<th>Percentage of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sanitation</td>
<td>48.09%</td>
</tr>
<tr>
<td>Recycling/trash disposal</td>
<td>15.45%</td>
</tr>
<tr>
<td>Building code violations</td>
<td>8.98%</td>
</tr>
<tr>
<td>Improper use of street/sidewalk</td>
<td>7.71%</td>
</tr>
<tr>
<td>Fire regulation/hazard</td>
<td>7.68%</td>
</tr>
<tr>
<td>Health code violations</td>
<td>3.42%</td>
</tr>
<tr>
<td>General and Food vending violations</td>
<td>2.81%</td>
</tr>
<tr>
<td>Violation of park rules</td>
<td>1.36%</td>
</tr>
<tr>
<td>Vehicle and traffic law</td>
<td>1.10%</td>
</tr>
<tr>
<td>Water penalty schedule</td>
<td>0.94%</td>
</tr>
</tbody>
</table>

Table 2 Top 10 Violation Types recorded in the ECB Dataset

55 See Figure 9, page 41.
chosen based on literature, and interviews with various stakeholders.

<table>
<thead>
<tr>
<th></th>
<th>Model 1</th>
<th>Model 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Aggregation Level</strong></td>
<td>Street-Segment</td>
<td>Business Improvement District Boundary</td>
</tr>
<tr>
<td><strong>Dependent Variable</strong></td>
<td>Number of tickets handed out on each street segment normalized for length of street segment</td>
<td>Number of tickets handed out in each BID normalized for sq. Meters of area of each BID</td>
</tr>
<tr>
<td><strong>Independent Variables tested</strong></td>
<td>Dummy Variable of whether this street segment fell in a BID or not Number of 311 Calls/100meters Average tax valuation of the buildings on this street Residential density on this street Commercial density on the street</td>
<td>Number of 311 calls/100meters Average tax valuation of buildings in the BID Residential density in the BID Commercial density in the BID (including retail and office density) Average income of residents in the BID Proportion of budget spent on public safety</td>
</tr>
</tbody>
</table>

*Table 3 Explanation of Variables used in Thesis*

The dependent variable these two models tested was enforcement, calculated by the number of tickets written on the street or BID normalized for length of street or size of BID. These were then multiplied by 100m to gain a slightly larger unit of measurement and comparison. If enforcement happened on a street intersection, or if there were multiple streets that were in a similar distance range within 20 feet of the enforcement point, the data point was divided amongst those streets, in proportion to their relative distance with one data point going to a maximum of 4 street segments. In case, enforcement was not on a street segment but in between streets, it was distributed to the street it was nearest to.

The BID variable tests whether the street segment falls into a BID or not. For the purposes of this model, all street segments that were within 50ft of a BID boundary were considered falling within a BID (to allow for overlay errors in projection). I did also separate the street segments within 50m and within 100m of a BID (one or two streets out) for further analysis, but these were not used in the model.

The next variable I considered was citizen opinion on vending. Scholars like Loukaitou-Sideris and Ehrenfeucht have suggested that a factor in government action against vending is in fact the demand of middle-class/elite residents and business owners to get rid of vendors in their areas. In lieu of large-scale survey, I had to think of other ways to capture Manhattan-wide sentiments on vending, which would at the
same time not be pre-aggregated to any particular scale. I decided to use 311 complaint data on illegal vending as a proxy for citizen response to vending. This dataset has pre-set categories which people have complained about e.g., residential issues like heat, hot water, or public disorder concerns like noise, illegal street parking or physical disrepair such as potholes. Within the 311 dataset there is a category for ‘vending’, with a location of the reported incident. There were 24846 complaints against vending in New York, 13106 of them in Manhattan (Table 4 below). The idea for using 311 complaints comes from works that have used administrative complaint data to measure citizen engagement with the government as well as get a sense of spatial distribution of quality of life issues from public disorder to physical disrepair. The benefit of 311 data is that it gives researchers the flexibility to create their own aggregations, whether geographical or theoretical. The methodology used to distribute 311 call data points amongst street segments was the same as enforcement data points.

<table>
<thead>
<tr>
<th></th>
<th>New York</th>
<th>Manhattan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total 311 Complaints</td>
<td>10809108</td>
<td>2035072</td>
</tr>
<tr>
<td>Vending Complaints</td>
<td>24846</td>
<td>13106</td>
</tr>
</tbody>
</table>

*Table 4 Breakdown of 311 Calls*

Unfortunately, 311 calls did not come with any detail about the identity of the caller or the description of the complaint beyond the fact that it referring to a vendor. Thus I could not know who was making the complaint; a resident or a pedestrian, an employee or a business owner. However, the temporal and spatial patterning of the complaints further aids in creating a measure of the spatial inequity present in the private and public policing of urban informality. I was also able to get more information on the types of individuals who would complain against vendors through interviews with City Council offices and community board members and BID staff.

Since I could not test if richer residents were complaining more or pushing for higher enforcement, I decided to test for the sensitivity of enforcement to the socio-economic demographics of a neighborhood; i.e., do areas with richer residents and higher standard of living get more enforcement attention than those less

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well off? To capture this information, I initially attempted to use American Community Survey (ACS) 5 year estimates at the block group level for median housing income. However, this information was only available on the block group level, and assigning street segments values based on their larger block group would have been prone to errors. Thus, I decided to use the NYC Department of Finance’s assessed value of tax lots and buildings as a proxy for the economic demographics of the neighborhood. The more expensive the building and land, the richer the residents most likely. While the ACS estimates bound me to block group levels, the assessed value dataset was available at the individual lot level and thus allowed me to test different levels of geographical aggregations.

I also created a variable for commercial and residential density for each street using data from New York City’s PLUTO data set\textsuperscript{59}. The three data points used were estimates of gross built area of each building, commercial built area and residential built area. The former provides the square footage of built area of each building. The latter two provide estimates of how much built area in each building was allocated area for either land use, through the exterior dimensions of the portion of structure devoted to commercial or residential use. I then created a proportion of total built area being utilized for either land use.

In the second model, in addition to the variables tested in the street-segment model, I also added important internal BID characteristics which might have made a difference in their ability to call for state enforcement for instance: overall budget available, and proportion of budget spent on ‘public safety’. This decision was informed by works on BIDs\textsuperscript{60} as well as interviews with BID members which suggested that richer and larger BIDs had better access to the state, and thus had more power in pushing through their enforcement agendas. Literature on policy enforcement also suggests that state connections with interest groups aid enforcement outcomes.

**LIMITATIONS**

A major roadblock to this project was the lack of data I had on the number of vendors present on the streets of Manhattan. This directly impacted the representativeness of my model, since I could not judge if enforcement and complaint numbers were simply representation of actual vendor presence as opposed to political biases. With no pre available datasets, I chose three BID case study areas—namely Washington Heights, SOHO and Garment District, and decided to geotag vendor locations in these areas. I walked around these neighborhoods in 4 different seasons over the last year, to get a sense of their individual vending landscape. Vendor locations were recorded three times everyday: 9am-11am(Morning, 12pm-

\textsuperscript{59} New York City publishes the PLUTO dataset each year which contains land use data at the tax lot level.

2pm (Afternoon) and 5pm to 7pm (Evening). A vendor was geotagged each time he/she appeared in a location during the day, and this was added to the overall count of vendors.

This exercise also helped me visually understand the activities and projects each BID had undertaken in the area. However, I was still blind to patterns of vending in the rest of Manhattan. As a workaround, I decided to add a dummy variable to my dataset indicating whether the majority of built area (over 60%) in that street segment or BID was devoted to commercial or residential land use. Since vendors prefer to locate themselves near commercial areas which usually have higher pedestrian flow, this variable was used to proxy vendor presence. As a control for the models, it also ensured that my models compared similar areas and not primarily residential streets to commercial streets.
CHAPTER 3: VENDING POLICY IN NEW YORK

The history of New York City’s vending policy is well documented and does not need detailed exposition in this thesis. Licenses for street vending have been capped at the same number since 1979, when in an effort to clean up the streets, Mayor Edward Koch limited vending. There are 853 general merchandise vending licenses, 3000 food cart licenses and a 1000 seasonal food vending permits awarded through lottery between April and October. These licenses can be renewed for a small fee every two years, and allow vendors to locate anywhere in the city where vending is legally permissible. Very few licenses open up every year due to non-renewal, and there are thousands on the wait list. The asymmetry in supply and demand has led to a large black market of people illegally renting out their licenses to vendors. Other than food and general vendors, there are also two special categories of vendors: veterans and first amendment vendors (including artifacts like paintings, illustrations, photographs, and books). Veterans can obtain special licenses without a wait list and first amendment vendors do not need a license to vend on non-restricted streets. However, there are further sub categories within veteran licenses, and limits to where first amendment vendors can vend. All vendors get a ‘white license’ to be able to vend across New York City. However, veteran vendors get access to certain restricted streets with yellow licenses.

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64 There has been some controversy as to what counts as first amendment vending: e.g. Is it 1st amendment vending when a vendor is selling photographs taken and reproduced by someone else? Is distribution permitted, like book distribution? Some artists sell canvases, but also sell the frames. The frames are not 1st amendment permissible. Is performance art the same as art? While a discussion of legal definitions of vending is not within the scope of this thesis, for more discussion of the topic please see: Blake, Genevieve. "Expressive Merchandise and the First Amendment in Public Fora." Fordham Urb. LJ 34 (2007): 1049.; Testimony Of Irum Taqi On Behalf Of The New York Civil Liberties Union Before The New York City Council Committee On Consumer Affairs Regarding INT. 621, In Relation To The Regulation Of Vendors , http://www.nyclu.org/content/regulation-of-street-vendors; Manhattan Community Board 8, "Vendor Task Force Minutes", (New York City, 2012). http://cb8m.com/sites/default/files/0912%20Vendor%20Task%20Force%20Minutes.pdf

65 Gerson, “City opens Street Vending”.

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veterans get access to the profitable, otherwise restricted Midtown core with their blue license. This creates a strange hierarchy whereby if a blue license vendor leaves midtown he/she displaces a yellow or white licensed vendor who in turn cannot move to midtown to take the blue license’s place. There are 105 blue licenses handed out, and their value means blue-license veterans are ‘hired’ by vendors to be allowed into midtown. First amendment vendors can also vend on restricted streets if there is a veteran vendor on that street, as long as the veteran vendor arrives before the first amendment vendor. Other than licensing requirements, there are complicated rules governing where and when vendors can vend even with a license. Vendors cannot stand for instance: within 10ft of fire hydrants, bus stops, and crosswalks; within 20ft from building entrances; or on a sidewalk less than 12ft in width. Beyond these restrictions, streets in certain parts of mid- and downtown-Manhattan are closed off to vendors at particular times, with the restrictions varying block to block. For example, between East 46th and East 55th Street on Park Avenue vendors cannot vend Monday-Friday 9am to 6pm, but can vend anytime Saturday and Sunday. However, between 55th and 59th Street on Park Avenue, vendors can’t vend between 10am and 7pm on Monday-Friday. The most stringent of these regulations are in the midtown areas, earning the amalgamation of neighborhoods the title of “midtown gridlock”. In fact, it was the power of rich property owners from the area who had succeeded in convincing the government of closing off their streets from vendors. The Street Vendor Review Panel which was responsible for most of these closures is now widely criticized for its biased proceedings. Figure 3 shows time-based street restrictions in Manhattan with the darker color indicating the strictest regulations and pale pink indicating least strict regulations. The plain grey streets have no special restrictions on them.

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67 The average sidewalk width in Manhattan is 15ft, but sidewalks of less than 12ft are common in Downtown Manhattan around the Financial District. City of New York, “Lower Manhattan Pedestrianization Study”, 1997 (http://www.streetsblog.org/wp-content/uploads/2014/07/1997_DCP_LowerManhattanPedStudy.pdf)

68 “Mobile Food Vendor Regulations”, Community Board 6, http://cbsix.org/resources/mobile-food-vendor-regulations/

69 Devlin, “An Area that Governs itself”
However, according to vendors in the pre-2001 era, there was not a lot of enforcement of vending laws until Mayor Giuliani began a drive to regulate vending as part of his quality of life clean up in New York. Since then there has been an increase in the punitive actions taken by the city against vending. In 2006 the city increased the maximum fine for violations to $1000. Mayor Bloomberg also attempted to include in his annual budget an ‘army’ of lawyers to “track down [street vending] delinquents and make them pay" their outstanding fines.

By 2013 however, the tide seemed to be turning. Fines for street vendors were reduced by the city council, reversing Bloomberg’s veto to the legislation. Increasing numbers of elected officials are now supporting vendors with Council Speaker Melissa Mark-Viverito showing up to rallies. There have also been promises by members of City Council of upcoming ‘relief’ to vendors.

70 Most vending violations fall under a graduated penalty system that increases fines for each violation within a two-year period. This means a first violation brings a fine of between $25 and $50, the second between $50 to $100 and so on. In addition, the graduated system applies to vendors even if they are cited for separate offenses.


LEGISLATIVE AUTHORITIES

While the State and City legislatures are the only two bodies officially dealing with vending legislation, there are multiple advisory groups that influence this policy. The 59 New York City Community Boards (12 of them in Manhattan) can act in an advisory capacity to the City Council on local vending policies. These boards are voluntary organizations responsible for advising and making recommendations to the City for land use and budgetary decisions. Each board is comprised of 50 members, legally mandated to review land use, zoning and budgetary issues pertaining to their neighborhoods. While this role is completely advisory and no one is bound by the decision of the Community Board, proposals require a review by the Board before they can move forward. Thus, “by waiving, accelerating, or slowing down the pace of proceedings, community boards can have some direct impact” on particular proposals. Some Community Boards have formed special ‘vendor task force committees’ which review legislation pertaining to street vending, lobby for vending policy changes in their neighborhoods and act as representatives of the neighborhood in City Council hearings.

Business Improvement Districts (BIDs) play a similar role as lobbyists in vendor policies, but instead of being part of the legal city administrative process like community boards, they are private organizations. The first BID in New York City was established in 1984 (Union Square BID) and the newest one is the meatpacking district BID, which is still under consideration as of early 2016. Formed by a collection of property owners and merchants in the area, they raise revenue by taxing members according to the value of their property. BIDs are supposed to provide supplemental municipal services and their functions range from sanitation to public safety to branding and marketing the neighborhoods. There are 25 BIDs in Manhattan of varying sizes, illustrated in Figure 4 below. Budgets of BIDs vary according to the assessment of property owners in the area. Thus annual support for each BID can range from $50,000 to $11 million.

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74 Other than legislation related to veteran vendors, City Council deals with all street vending related issues.
76 Marcuse, Neighborhood Policy, 67.
While BIDs have no official or legal role in policy making, they are known to undertake extensive advocacy to get policies passed which are friendly to them. BIDs and merchant associations were particularly catalytic in closing off Midtown streets to vendors. According to Robert Walsh, the ex-chairman of New York City's Department of Small Business Services (SBS), “a lot of them (BIDs) have significant lobbying power since they can bring all the power-brokers to the table. Take the recent re-zoning the city had to do in the Grand Central area. We could not do it without Grand Central BID’s support.” However, while some BIDs have significant lobbying power, not all BIDs do as their sizes, budget and political influence varies greatly.

ENFORCING AGENCIES

This mish-mash of overlapping responsibilities affects the enforcement of vending regulations as well. No one agency is responsible for enforcing vending rules. An analysis of New York's dataset for enforcement reveals five different agencies as having handed out summons to street vendors between 2010 and 2015. These included the NYPD, Department of Transportation, Department of Sanitation, Department of Health and the Parks Department.

Vendors issued summons go to the Environment Control Board (ECB), which is an administrative tribunal in New York hearing cases on potential quality of life law violations in the City. The ‘Notices of Violation’ (summons) charge a person with breaking the various city codes related to environment, health or public safety. This thesis uses the

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78 Devlin, “An Area That Governs Itself.”
79 The Department of Small Business Services provides support services to help create an environment conducive to the growth and development of businesses. This includes start-up services, workforce development, neighborhood and commercial district investment. This department is the main liaison between BIDs and the City Government.
dataset of these summonses for its analysis. While a ‘summons’ is a legal notice, making the individual liable for a fine, it does not charge the recipient with a crime. Certain street vendors are also charged under the criminal court, it seems, but the magnitude of this is unknown since data is not available for it. However, it is estimated that the numbers are not significant\(^{81}\), since the only vending infraction the criminal court can process is selling goods without a license whilst the ECB handles that and all other vending infractions. It seems there is a lot of officer discretion in whether to hand a vendor without a license a criminal court or ECB ticket, with the ratio being around 7:1 (in favor of ECB) according to a police representative\(^{82}\).

There are of course numerous problems with the way street vending policy is being created, enacted and administered in New York. First, the policy itself is extremely complicated. It requires in-depth knowledge of the various vending laws and their multiple exceptions, which police officers likely do not have. These rules are also extremely technical. Vendors have been fined inordinate amounts of money for trivial infractions like being an inch too close to the curb. Such technical laws, while easy to create, are difficult to enforce in practice because the burden of proof is extremely high. Police officers are not likely to have measuring tapes by which they should measure the inch-by-inch movements of a vendor. This is why perhaps almost 50% of vendor summonses get dismissed in court. There is also too much discretion involved in implementing these laws, since there are multiple agencies each with their own personnel and guidelines.

Further, the process of policy creation is extremely opaque. It is unclear how much power each actor has in creating these polices or how much influence private organizations such as BIDs have on the process. This is especially worrying given the power asymmetry between vendors and the constituents these organizations serve. There is no representation of vendors in any of the policymaking bodies whether advisory or not. On the other hand, the main constituents of BIDs are property owners and merchants of the neighborhood. BIDs are only responsible to their Board of Directors, where property owners form the majority. Due to these qualifications, detractors accuse BIDs of having a regressive property-based voting system, which hurts residents, tenants and non-propertied denizens of the neighborhoods. This becomes problematic as BIDs pretend to be representative of the entire neighborhood when talking to the City. According to Mark Dicus of the SOHO BID, “It helps the City to hear one voice from us, the community.” Such power in the hands of BIDs is disconcerting, since they are essentially unaccountable to the neighborhood they impact. There is no oversight on BIDs or assessment metrics for judging their


performance once they are formed. This leads to a misalignment of incentives, since the BID manager only need service the narrow interests of his/her Board of Directors to keep the job. Further, BIDs are hardly ever dissolved for mismanagement, or negative impacts on the neighborhoods.

In the following chapters, data, maps and conversations will narrate the story of how this governance structure impacts the day-to-day functioning of street vendors in the city.

—

83 Robert Walsh,(ex-commissioner New York City Department of Small Business Services) in discussion with the author, August 2015.
CHAPTER 4: SNAPSHOT OF ENFORCEMENT

“The Police, they want to be chasing bad guys...they don’t want to be wasting time measuring a vendor’s table” Arnie- Vendor in SoHo

Critics of sidewalk vending have cited pedestrian safety, overcrowding of sidewalk space, health of consumers and economic concerns of brick and mortar businesses as concerns when pushing for increased regulation. Yet, none of these considerations have been able to create a uniform enforcement landscape across cities, as policing of vending laws is often patchy and inconsistent. The data from the Environmental Control Board (ECB) gives us a unique opportunity to study this landscape of vending regulation enforcement in New York City. Using geo-coded ticketing data, we can map out the scale, temporal signature and spatial patterns of enforcement. Each is important to better understand the priorities of urban governance in New York City.

While enforcement encompasses both formal and informal policing, this thesis only uses the measurable aspect of ticketing in its models. The assumption is that the number of tickets handed out would be in proportion to the unrecorded ‘warnings’, sweeps and verbal or physical cues given to vendors to make them leave.

SCALE

As mentioned earlier, there were 75510 tickets handed out in Manhattan for street vending violations from 2010 to 2015, with vending infractions being the 8th highest ticketed violations in the ECB dataset. To put these numbers into perspective, we can compare them to 311 calls being placed for illegal vending to indicate how strongly New Yorkers feel about illegal vending as opposed to other quality of life issues. As newspaper reports on New York being ‘over run’ by vending come in, it’s easy to feel street vending is taking over New York and is a prime issue concerning residents. This view was promulgated by Mayors Giuliani and Bloomberg as well as by Business Improvement Districts which couch their opposition to vending within the language of nuisance to pedestrians or decry the chaotic density of vending in New York. However, evidence suggests otherwise. Only 0.02% of the 311 calls from 2010-2015 in New York were placed to complain about illegal street vending. This number was slightly higher for Manhattan at 0.07.

84 A SoHo vendor in conversation with the author, March 5, 2016.
In terms of monetary value, Manhattan tickets summed up to $3,477,5765 in levied fines to vendors from 2010-2015. This rate of ticketing averages a 1000 tickets a month handed to Manhattan street vendors alone with each ticket averaging to around $500. For a vendor with expected earnings on a good week of $300, this would be an excessive burden. Perhaps, this is why only around 10% of these tickets were ever actually paid.

With such a low recovery rate, the City could only justify investing resources in policing vendors if their infractions were markedly impacting the quality of lives of New Yorkers. However, most of the vendors were being cited for issues which seemed particularly trivial e.g., for vending within 10ft of a bus stop, subway or sidewalk, items not being under a cart, or vending on a sidewalk that was less than 12ft in width. I also included any health code violation which could be directly related to a street cart or vendor—which came up to 2% of the tickets. Table 5 lists the top 10 vending violations represented in the ticketing dataset.

<table>
<thead>
<tr>
<th>Violation</th>
<th>Percentage of Total Tickets</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vending within 10ft of a bus stop, subway or sidewalk</td>
<td>25.27%</td>
</tr>
<tr>
<td>Items not under cart</td>
<td>15%</td>
</tr>
<tr>
<td>Vending in place time prohibited</td>
<td>14.36%</td>
</tr>
<tr>
<td>Display license in visible location</td>
<td>9.51%</td>
</tr>
<tr>
<td>Vending on sidewalk less than 12ft</td>
<td>8.17%</td>
</tr>
<tr>
<td>Vending without permit or license</td>
<td>5.62%</td>
</tr>
<tr>
<td>Table/Stand next to display window</td>
<td>5.15%</td>
</tr>
<tr>
<td>Display of merchandise on sidewalk or use of improper stand</td>
<td>2.11%</td>
</tr>
<tr>
<td>Cart touching or leaning against building</td>
<td>1.92%</td>
</tr>
<tr>
<td>Health code violation</td>
<td>1.80%</td>
</tr>
</tbody>
</table>

*Table 5 Top 10 Vending Violations in Manhattan*

Ticketing however, did not automatically mean a vendor was found guilty of the offense. The ticketed vendor is summoned to the ECB and his/her fate is decided after a hearing. A judge then decides if the ticket stands up to legal scrutiny or to be dismissed. If the vendor is charged with the violation in court, he/she is then liable to pay the fine. However, there is no mechanism of making the vendor pay dues. Further, 50% of all cases heard were dismissed due to evidentiary or drafting weaknesses. One street vendor I interviewed shrugged when he told me he had received 3 tickets the previous week, confident that the tickets would be dismissed before he would enter the court.

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85 It was not possible to sort through the data and separate the more generic health violation tickets by type of food establishment, which is why I did not include them.
TEMPORAL

Street vendors interviewed suggested that they attempt to not vend in the winter months of January-March since bad weather reduces pedestrian traffic in those months. This is also consistent with my fieldwork during all four seasons, as well as with the sharply falling 311 calls for illegal vending in the winter months. Thus one would expect enforcement to fall significantly in winter months and increase in summer months.

Enforcement, however, stayed relatively consistent over all seasons with June getting 7083 tickets whilst February got 5519 tickets; a change of just 23%. Compare this to the change in 311 vendor complaints which see an increase of 200% between February and June. (Refer to Figure 6 below)

![Figure 5 What happens to a ticket?](image)

![Figure 6 Aggregated monthly vending infraction ticketing trends in Manhattan 2010-2015 (left) Aggregated monthly 311 calls for vending in Manhattan 2010-2015(right)](image)

We can also develop an hourly signature for enforcement (Figure 7). 1-2pm are the most common times for complaints. While this makes sense since more vendors are out during lunch time, it is important to

37
remember that vending patterns also differ from area to area. In Washington Heights, for example, vendors are out from 11am until the evening, without any real change in their numbers. However, in the Garment District vendors spike at 9am, afternoon and lunch and then consistently fall till evening. This is an interesting pattern given it is in the evening when regulations allow vendors to locate on most Midtown streets. Thus, higher enforcement cannot always be attributed to a high number of vendors present.

Figure 7  Aggregated vending infraction tickets per hour in Manhattan from 2010-2015 (top)
Aggregated 311 calls tickets per hour in Manhattan from 2010-2015 (bottom)

Figure 8 charts out the yearly pattern of vending tickets written out from 2010-2015. While 311 calls and enforcement both fall till 2014, enforcement drops far more sharply than 311 calls. The yearly drop in ticketing was an average of 10% from the previous year while the change in 311 calls till 2014 was around 0.9% from the previous year. This changes in 2015, where 311 complaints are the highest yet, whilst
This change in enforcement is perhaps the most interesting, since falling enforcement is contrary to what was expected at the start of the study, given that it seemed the state was otherwise becoming more and more belligerent. However, multiple factors can explain this change. First, we need to consider the validity of the data. These enforcement numbers are only for violations summoned by the ECB, which deals with most quality of life infractions in New York. However, this dataset does not account for tickets written for the criminal court. While a majority of tickets are written through the ECB for vending, we cannot discount the possibility that criminal court tickets might have increased significantly over the last few years.

Even without the criminal court data, however, this pattern does not seem surprising. In an interview, Greg Kettles—a lawyer who works on vending regulations—commented that most cities go through a cyclical phase when it comes to perceptions on street vending. Currently, more and more cities are beginning to see it as something to be embraced, for diversity. As ideas of urbanism change, with more ‘walkable’, ‘vibrant’ cities coming into vogue overriding the modernist ideas, vendors are becoming an acceptable part of the cityscape. Portland has already successfully integrated street vendors in its urban landscape, and even cities like LA notorious for a harsh ban on vending are now considering policy changes. Whether this fall in enforcement is a shift in priorities for New York, or just a blip, is yet to be seen.

Another aspect of this pattern is the change in politics of New York. The last three mayors of New York, Giuliani, Bloomberg and DeBlasio have all been successively less stringent on street vending. When Bloomberg came into office there was hope that he would be supportive of vendors since his policies were
pro-small businesses. However, Bloomberg in his later years became a harsher advocate of quality of life issues like his predecessor Giuliani.\textsuperscript{86} By 2013 however, there were rifts apparent in the direction of Bloomberg's policy and City Council's.\textsuperscript{87} While in 2006 Bloomberg's city hall increased fines to 1000 for vendors but in 2013, the city council reduced these to 500, in the process voting to over-ride Bloomberg's veto.\textsuperscript{88}

The new mayor, DeBlasio has also shown more sympathy to vendors\textsuperscript{89}. In fact the City Council Speaker Melissa Mark Viverito has regularly attended vendor rallies and promised a reform in the law.\textsuperscript{90} There are already talks of 'relief for vendors' being discussed by the city council. \textsuperscript{91} This might have translated into lower enforcement by the city.

SPATIAL

A more stark variation in vending is the spatial distribution of enforcement, shown in Figure 9. As is evident, the magnitude of enforcement varies across Manhattan neighborhoods. Hotspots are visible across Downtown, SOHO and Midtown, but lessen in intensity as we go further north. A comparison of residential and commercial streets indicates an even wider disparity: residential streets\textsuperscript{92}, were getting 8% of the enforcement and commercial streets 92%.

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92 Streets with more than 60% of built space marked as residential
Figure 9 Enforcement per street segment in Manhattan 2010-2015 (left)
311 calls per street segment in Manhattan 2010-2015 (right)
A consideration in this disparity might be that enforcement follows presence of street vendors, and it could be argued that commercial street segments had 92% of the vendor share. While we do not have any numbers of street vendor presence for all of Manhattan, we can proxy their presence through 311 call complaints for vending. Figure 9 above visualizes each 311 call made complaining about vending in Manhattan from 2010-2015. Patterns of calls do not follow patterns of ticketing, though, since 311 calls are mostly concentrated near the southwest corner of Central Park and Broadway. 311 calls are also more diffuse than enforcement, with a more equal spread of 311 calls in different blocks, whereas the map of enforcement displays fewer hotspots, and greater disparity in magnitude in between high and low enforcement areas. In terms of land use, residential streets—even with low enforcement—accounted for 36% of Manhattan’s vending-related 311 calls compared to the 64% attributed to commercial streets.

Further, in 3 neighborhoods I collected vendor density data that can shed light on whether enforcement necessarily follows vendor presence. In fact, in my three case study neighborhoods, vendor presence and enforcement were completely inverted. Washington Heights had the highest per-day vendor presence, followed by SOHO and then Garment District (Figure 9 below). On the other hand, when it came to enforcement, Garment District and SoHo both outstripped Washington Heights by around 400% as shown by Figure 10.
So how do we explain this spatial variation?

The next chapter dissects enforcement data, overlaying it with various socio-economic variables to test what makes a difference when it comes to enforcement decisions.
CHAPTER 5: BID-DING FOR PUBLIC SPACE

“It is not surprising that the wealthy and powerful would prefer to govern themselves without interference from everyone else. What is surprising is that a democracy is willing to let them.”  

Pedestrians, bus terminals, scaffolding, sidewalk cafes, street furniture, newspaper stands, all jostle for space on the 12,750\textsuperscript{94} miles of sidewalks of New York. For critics, adding street vendors to the mix is the last straw. Iris Weinshall, the city’s transportation commissioner contends that sidewalks were only built “for a certain level of service,”\textsuperscript{95} which presumably stops at sidewalk vending.

From the multitude of users of this space, why are sidewalk vendors chased off the sidewalk when other forms of commercial activity are not? More importantly perhaps, why are vendors only excluded from certain sidewalks but not others? Reviewing the rates of ticketing for vending across Manhattan reveals significant variation in enforcement even when accounting for high number of vendors or 311 complaints for vending.

While literature on vending has discussed this inconsistency in enforcement of vending, there has been little empirical work on weighing the influence of different factors on the policing of vending. Uneven enforcement of vending regulations across Manhattan is a chance to reflect upon how the city distributes its resources and whose voice it believes worthy of being listened to. This chapter does just that, by teasing out the variables at play, and the magnitude of their effect, when it comes to enforcement. In doing so it demonstrates that Business Improvement Districts are not always the Big Bad Wolves they are made out to be\textsuperscript{96} but are simply reflective of the exclusionary impulses ingrained within the urban governance schema of New York.

EVALUATION OF BIDS

BIDs have generally been blamed for attempting to regulate and privatize public space whereby they are

\textsuperscript{93}Kohn, Brave new neighbourhoods, 68


\textsuperscript{96}See the work of Ryan Devlin, Anastasia Loukitau-Sideris, Schaller, S., and Modal, Steel, M, and M Symes, Margaret Kohn.
able to exclude any activity that does not conform to their idea of "clean and safe". Theories on street vending\textsuperscript{97} have ascribed stringent regulations to the power held by Business Improvement Districts, and criticized these organizations for promoting exclusionary urbanism. The impact of BIDs on vending enforcement is considered strong enough for vendors to congregate in areas between/right outside BIDs largely because "the levels of enforcement and harassment are often lighter here than in BID territory." \textsuperscript{98} However, this claim has never yet been tested empirically.

For their part, BIDs have done little to dispel the notion that they contribute to inequitable access to public space. Business Improvement Districts have imitated the environment of the suburban shopping mall as well as its management structure and emphasized safety and tidiness "to make visitors feel secure and happy so they'll spend money and come back." To this end they have been known to chase out homeless people, lobbied extensively for stricter public space regulations and developed informal relationships with the police. According to one BID Director, "while we don't have deep relationship with the community here [the BID neighborhood] we do have a really good relationship with our precinct."\textsuperscript{99}

An initial analysis of ticketing (Figure 12) in Manhattan does support the idea that BIDs play a large role in determining the fate of vendors. The numbers for 311 calls and tickets written in BID areas are completely skewed. Normalized for street segment distribution, enforcement was 20 times higher in BID street segments than non-BID commercial streets and 311 calls were 8 times higher.

The rate of ticketing across Manhattan streets is also indicated in Table 6. Streets which were within a BID (i.e. fell within or on the boundary of a BID) had a rate of ticketing at 13.5 per street segment. This rate keeps falling the further away from the BID boundaries.

<table>
<thead>
<tr>
<th>Location of Street Segment</th>
<th>Ticket/street</th>
</tr>
</thead>
<tbody>
<tr>
<td>Within BID</td>
<td>13.5</td>
</tr>
<tr>
<td>Within 50m of BID Boundary</td>
<td>3.69</td>
</tr>
<tr>
<td>b/w 50m and 100m of BID boundary</td>
<td>1.93</td>
</tr>
<tr>
<td>beyond 100m of BID Boundary</td>
<td>0.78</td>
</tr>
</tbody>
</table>

\textit{Table 6 Enforcement on street segments at varying distances from BID boundary}

\textsuperscript{97} See note 91
\textsuperscript{98} Devlin, An Area that Governs Itself
\textsuperscript{99} In conversation with the author, December 2015
These results are in line with the fears theorists have had about the increasing power of BIDs to manage the spaces in their neighborhoods. It is, of course, problematic that unelected, private urban management organizations like BIDs can have such a strong influence on the livelihoods of an entire community (street vendors). BIDs have been known to lobby extensively against vending, as well as generate resources for higher enforcement. One BID director I interviewed took their lobbying role in stride: 'It helps the City to hear one voice from the neighborhood."

However, the picture becomes more complicated as intra-BID trends are analyzed. It seems not all BIDs get the same level of enforcement. There is in fact, a 200% difference in enforcement between the top policed BID (5th avenue) and the lowest (Lower East Side BID). This difference is represented in Figure 13 and Figure 14. Spatially, the BIDs in midtown and Financial District are more likely to have higher ticketing (normalized for area) than the ones in uptown.
Figure 13 Difference in Enforcement within BIDs
Clearly BIDs are then but one part of the equation. Perhaps the question that should be asked is not whether BIDs control enforcement or not, but what factors lead certain BIDs to be successful in controlling their streets than others.

REgression model

To understand the relative impact of each variable in the overall enforcement landscape, I ran two Ordinary Least Squares regression models: one street-based and one BID-based.

The variables included in the street-model were chosen after a review of the literature and have already been discussed in the methodology section. I detail the expected result of each variable below:

**BID presence:** This is a dummy variable indicating whether the street is in a BID or not. I expect this to be a highly significant positive variable.

**Commercial activity:** Commercial streets are said to attract more street vendors and thus attract more.
enforcement) since vendors prefer areas with heavier foot traffic. Thus, we should expect commercial density to have a positive relationship with enforcement. Another aspect of this relationship is retail density. Shop owners in New York have long decried the impact of vending on their profits. Recently, the grocery chain Gristede’s owner contended fruit stands have been costing the company $7,000 per week in produce sales.  

Citizen response: Measured through 311 complaints, I expect enforcement to rise with complaints since the government is likely to respond more in areas where a higher number of people are bothered by street vendors.

Economic profile of a neighborhood: This is measured by assessed land value/sq. ft. I assume this to have a positive effect as well since ‘richer’ neighborhoods probably have more power to get their desired enforcement outcomes. It might also be the case that richer neighborhoods have more anti-vending sentiment and thus desire more enforcement.

The street segment model (table 7) has 3 types: a model including all streets, and two models looking at commercial and residential streets separately.

```
<table>
<thead>
<tr>
<th></th>
<th>(Total) e/100m</th>
<th>(Commercial) e/100m</th>
<th>(Residential) e/100m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adjusted R²</td>
<td>16.97</td>
<td>17.78</td>
<td>12.18</td>
</tr>
<tr>
<td>F</td>
<td>0.000</td>
<td>0.000</td>
<td>0.000</td>
</tr>
<tr>
<td>311/100m</td>
<td>0.159***</td>
<td>0.154***</td>
<td>0.284***</td>
</tr>
<tr>
<td>(0.000)</td>
<td>(0.000)</td>
<td>(0.000)</td>
<td></td>
</tr>
<tr>
<td>BID</td>
<td>0.027***</td>
<td>0.026</td>
<td>0.008</td>
</tr>
<tr>
<td>(0.001)</td>
<td>(0.067)</td>
<td>(0.373)</td>
<td></td>
</tr>
<tr>
<td>Land_Value</td>
<td>0.382***</td>
<td>0.383***</td>
<td>0.121***</td>
</tr>
<tr>
<td>(0.000)</td>
<td>(0.000)</td>
<td>(0.000)</td>
<td></td>
</tr>
<tr>
<td>N</td>
<td>18548</td>
<td>6551</td>
<td>12780</td>
</tr>
</tbody>
</table>
```

Standardized beta coefficients; p-values in parentheses
* p<0.05, ** p<0.01, *** p<0.001

*Table 7 Street Segment based OLS Model Results*

Land value and 311 calls having a positive and significant relationship with enforcement across all street

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types, as expected. However, the first thing to note is that the most important variable across the models is not presence of a BID, but assessed land value. Further, 311 calls have a higher impact (measured by the beta co-efficient) in residential streets than in commercial streets. The effect of BIDs stops being significant in residential areas, and are barely significant in commercial areas. Assessed land value has more impact in commercial streets than in residential streets.

It is also worth noting that even though both 311 calls and assessed land value variables were significant, they hint at two different impulses. 311 calls are meant to be a tool to democratize governance where by anyone can contact and get attention from the City, so seeing this as a significant variable should be cause of celebration. Studies have found 311 to be a popular tool amongst urban residents across socio-economic demographics, so our dataset is likely not biased due to the propensity of making a call of one class. However, the assessed land value variable, which measures how ‘wealthy’ an area is, pulls our analysis in the opposite direction. This might indicate that it is in fact richer neighborhoods which are making more 311 calls and thus, being listened to. A 311 call is made when a need for government intervention is perceived. Neighborhoods that do not view vending as a concern would not be participating in the 311-complaint milieu. So the strong positive relationship of 311 calls needs to be seen in context from the demographics of those calling in.

We can explore this relationship further (Figure 15). Breaking down calls and ticketing by assessed value of street segment shows the disparity in 311 calls, as 62% of vendor complaints came from the top two quartiles of land value. This analysis demonstrates that wealth of individuals, and economic demographics of the neighborhood clearly impact what is considered “acceptable use of streets, parks, and building stoops.” Wealth also leads to differing “levels of access to the public decision-making process” since almost 83% of enforcement comes from the top two quartiles of assessed land value. We already saw in the previous chapter that overall enforcement does not neatly follow the patterns of 311 calls, so even if poorer neighborhoods call in to get their complaints registered it is likely that they won’t be heard.


103 Schaller and Modal, Contesting Public Space, 394
Within Business Improvement Districts these manifestations of exclusionary urbanism are amplified even more. I decided to test enforcement in BIDs for the same variables as the street segments, and also added variables on BID’s internal characteristic such as overall budget and percentage of budget spent on public safety or security.

Interestingly, in the BID model, 311 calls did not seem to matter anymore. The only three variables that explained enforcement were retail area, proportion of budget spent on public safety and assessed land value. Out of these only assessed land value was significant at a 99.9% significance level.
ANALYSIS OF RESULTS

In considering the uneven enforcement of vending regulations, these models give us insight into whose conceptions of space and visions of the neighborhood are being privileged.

While opinions of retailers and residents (through 311 complaints) were important in separate models, assessed land value consistency trumped any other variable in all the models. This was true even outside BID areas. Thus, it might not be BIDs whose voice is being heard, but that of richer property owners through BIDs. As noted by writings on BIDs, their structure "give(s) a disproportionate voice to property owners" by "reinstating property based voting systems in the election of BID officials."

These variables indicate that richer BIDs with higher assessed land value, more resources to devote to clearing out streets, and greater motives to undertake this endeavor are more likely to garner more attention from the state in terms of enforcement.

311 calls did matter outside BIDs but since calls numbers disproportionately favored ‘richer’ residential areas, this was hardly a democratic outcome. Once within BIDs however, explanatory power of 311 calls became insignificant. This might be because most retailers/business owners within a BID find it easier to complain to a BID directly than go through the 311 route. It is already clear that residential streets account for more 311 calls than commercial streets so if 311 calls aren’t a factor in BIDS then governments are likely not responding to residents. Residential representation in BIDs is not low (40% of BID street segments are residential) but their power likely is, since the constituency of BID managers is not principally residents, whether rich or poor.

Another element of influence was retailers. The variable for retail density above is a reflection of how BIDs are also constrained by their own demographics. For instance, BIDs with higher proportion of retail businesses were getting higher enforcement. Retailers of course, have long rallied against vending, since vendors are seen as posing unfair competition to brick and mortar businesses. Thus, BIDs with higher retailer presence are more likely to get more complaints, and thus be pressed to take greater action against vending. While this level of anti-vendor sentiment is likely similar irrespective of BID membership, retailers in a BID would have a higher voice since BIDs provide an avenue for complaint and resolution. What this all amounts to, according to Mallett (1994: 281), is that “businesses have bought the right to say what should and what should not happen.”

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104 Kohn, Brave New Neighborhoods, 68
should not happen on public streets," this 'buying' coming in the form of the payment of a self-set assessment on district property.\textsuperscript{106}

What needs to be evaluated then, is whether street vendors are also as intrinsically 'valid' a form of commerce as brick and mortar businesses. If the only difference in 'legitimacy' comes from taxation, the city could potentially rectify that by changing their policy of how vendors 'pay' for using the sidewalk space. However, if these biases emerge from definitions of 'legitimate' commerce which do not encompass street vending, the issue deserves greater scrutiny.

The power of BIDs is also constrained by their own priorities and the money they had available to spend on public safety. BIDs who value 'public safety' and spend higher proportion of their budgets on it are able to garner more enforcement. BIDs that feel vending is a higher problem will likely give more attention to it and thus, use their relationships with the state towards clearing out the streets. This clearly indicates that BIDs have an impact on enforcement by not just lobbying for it, but also by their ability to surveil the neighborhood. For instance, according to the President of the Times Square BID, while "10,000 teeny-boppers" on the sidewalks of Times Square were "great", vendors were "unacceptable."\textsuperscript{107} In an interview with the security director of a large Midtown BID, I was told vendors needed to be kept off the streets as they brought with them unsanitary conditions. Similarly, in the words of an ex-Director of the NYC Small Business Services "the 5th avenue guy plays a heavy role on keeping his area vendor-free. Look at his budget. What’s he spending a million dollars on? Keeping people off the streets". On the other hand, an interview with the Director of Washington Heights BID, (which does not have a specific component for public safety in their budget) noted that they don’t chase vendors off the streets because their constituency likes them. These differing sentiments map perfectly onto the level of enforcement in each BID.

This model indicates an interesting relationship between the state and BIDs. On the one hand BIDs are labeled as private, and celebrated (or criticized) for replacing the state. However, on the other hand, a BID’s success depends significantly on their relationship with the State. BIDs cannot keep their streets clean of vendors if the State does not respond to their enforcement needs. In fact, according to an interview with the Ex-Commissioner of Small Business Services, all some BIDS do is "spend most of their time forging a relationship with local precinct. If you asked the head of 5th avenue BID how does he spend his day...[the answer is:] courting the police"?


\textsuperscript{107} Lueck, "At Crossroads".
Thus, it would be unfair to place undue blame on BIDs for their role in chasing out street vendors from their public spaces since 1) Not all BIDs are willing/able to do that 2) While BIDs are important, they seem to simply provide an organized platform to exclusionary impulses of the city and residents. While working on these models, I was reminded of Jane Jacobs’s comments on the ‘dangers’ of cars, equally apt if we replace ‘automobiles’ in the original quote with BIDs: “[BIDs] are often conveniently tagged as the villains responsible for the ills of cities and the disappointments and futilities of city planning. But the destructive effect of [BIDs] are much less a cause than a symptom of our incompetence at city building.” 108

CHAPTER 6: CULTURES AND CONTEXT

Who is orderly and who is disorderly depends on who is doing the defining.\(^{109}\)

A stroll down St. Nicholas Avenue between 181\(^{st}\) and 179\(^{th}\) street in New York, will have you brushing past empanadas sold out of shopping carts, iced fruit-lollies stacked in an Elvis themed scooter and fresh seafood laid out in the boot of a van. The standardized silver Halal carts and hot dog stands, so common a sight in Midtown and lower Manhattan, will be nowhere to be seen. At my first visit to these streets, this diversity of modes of vending in Washington Heights both surprised and intrigued me. I was forced to consider whether there was a story to be told beyond the power of commercial actors and land values. How were these diverging street and sidewalk uses constrained and shaped by the local cultural, economic and social milieu of the neighborhood? And, in turn, how did they inform enforcement outcomes? While the models in the previous chapter had helped me understand the role commercial value of an area plays in determining levels of enforcement, I now wanted to explore the role of a 'sidewalk culture' in this story.

To navigate this maze better, I decided to undertake ethnographic observation in 3 Business Improvement District areas: 1) Washington Heights 2) Garment District 3) SoHo (shown in figure 16 below). In these neighborhoods I also recorded the temporal and seasonal shifts in vending activity in these areas, by geocoding vendor locations. The case study BIDs were chosen to provide variation in location, economic activity and social composition. Another axis of difference was the level of enforcement: SOHO was at the top of enforcement numbers, Garment District was in the middle and Washington Heights was in the bottom quartile.

\(^{109}\) Taylor, Ralph, “Broken windows or Incivilities thesis” in *Encyclopedia of law enforcement*, ed. Sullivan, Larry E., Marie Simonetti Rosen, Dorothy M. Schulz, and María R. Haberfeld, eds. (Sage Publications, 2004), 33
How do these neighborhood profiles translate into varying enforcement outcomes? There has been a lot of work done on how individuals perceive and experience the city differently. Disorder, for instance, is not taken as an objective state anymore but instead is considered "constructed, variable" and, some scholars argue, "biased against lower class culture. Sampson in his 2004 study found that, all else equal, neighborhoods with higher level of African Americans were considered more disordered/dangerous by urbanites. His conclusion was that perceptions of disorder are filtered through "a reasoning based on stigmatized groups and disreputable areas." Other scholars have commented on how preferences in urban living are mediated through class, race and social status. Zukin writes about the central role of aesthetics and visual symbols in packaging a lifestyle for particular classes in the city. This idea is echoed in Donald Trump's letter to John Dearie, then-chairman of the

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111 Harcourt, Illusion of Order.


state Assembly Committee on Cities, when he likened allowing vendors on 5th avenue to turning "one of the world’s finest and most luxurious shopping districts [into] an outdoor flea market, clogging and seriously downgrading the area." Similarly, Duneier argues that tolerance of pedestrian congestion varies between neighborhoods since it is a “a cultural phenomenon.” All these preferences, judgments, desires and discomforts can then merge to create a landscape of permissible and impermissible sidewalk activity. In the three neighborhoods I studied, this landscape differed wildly.

CASE STUDIES

Washington Heights

While Washington Heights itself is a large neighborhood, the BID only spans a 29-block area within it: along 181st Street from Amsterdam Avenue to Fort Washington Avenue, Broadway between 179th and 182nd street and St. Nicholas between 179th and 183rd street. The area has a rich and culturally diverse history, with immigrants accounting for nearly half of its population. 2/3rd of this foreign born population are from Dominican Republic, making Washington Heights the largest Dominican concentration in New York. It is also considered one of the more economically deprived areas within the city, with more than one-quarter of families having household incomes below the federal poverty level in 2013.

Economically, the area depends on small business and retail trade with ¾ of the businesses in the area having fewer than 5 employees. Retail also is not very high-end, but mostly small grocery and all-purpose convenience stores. In terms of vendors, Washington Heights had the highest density and one of the lowest enforcement rates. According to a vendor I interviewed, "everything goes in Washington Heights" when it comes to vendors.

SoHo:

SOHOs profile is a lot more ‘upscale’. It is a majority-white area, and almost 75% of the population hold a


118 Density was calculated as number of total vendors divided by square-footage of occupied streets.
bachelors or graduate degree. Residents mostly work in managerial positions, and the influx of such tenants has made SOHO one of the most expensive real estate areas in the country. The economic base is mostly high-end retail trade of items like apparel and accessories. In terms of enforcement of vending rules, SOHO had one of the highest numbers, and also was not far behind Washington Heights in terms of number of vendors present.

**Garment District:**

Located in the eastern part of Midtown, the neighborhood was originally called the ‘Fashion District’, due to the large presence of apparel and clothing manufacturers in the area. It has undergone major transitions and is now mostly home to offices of TAMI industries (tech, advertising, media and information). With only 7000 residents in comparison to 106,650 employees, it is definitely a more commercial than residential area. The BID is nestled in what is called ‘the gridlock of Midtown,’ due to the presence of highly regulated BIDs next to each other, and thus benefits from the security of regulation from all sides. Enforcement was in the mid-tier echelons, but vending numbers were low.

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These variegated neighborhood contexts contribute to the creation of enforcement of vending regulations in three key ways: 1) impact on the sidewalk culture 2) influence on BID positions on vending 3) development of unique vending patterns.

**SIDEWALK CULTURE**

The streetscapes of Washington Heights resemble a large fair. The neighborhood teems with vendors, with something being sold in every possible nook and cranny. Sidewalks are shared freely, and almost every shop has their wares set up on the sidewalk in front of their shops. There was little distinction between the private property of the shop and public property of the sidewalk. According to the BID Director of Washington Heights, the Dominican immigrants settled in Washington Heights, and brought their own method on commerce to the neighborhood. Used to street markets, shared sidewalks and little regulation of what could or could not be sold on the streets, they recreated their experiences in the streets of New York. Thus, you can see fruits, food, makeup and even undergarments being sold to crowds of people clearly used to

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121 Garment District NYC Brochure, http://garmentdistrictnyc.com/media/filer_public/63/4c/634cebe7-3ec2-44a9-9b02-bc735daa6c4d/gd_broker_brochure_final.pdf
shopping from the sidewalks for their day-to-day needs. Claims over the sidewalk are not physically demarcated (i.e., there are no barriers set up between the sidewalk space of one shop versus the other). In fact, as shown by the images below, sidewalks are shared between brick-and-mortar businesses as well as between shops and vendors. Unfortunately, I was unable to interview shopkeepers in the area to understand their perspective on these disputes, but from the physical set up there seems to be less consideration of who ‘owns’ any particular piece of the sidewalk. In case of a dispute, it is also likely for the actors involved to settle things informally, as opposed to involving the police.

Figure 17 Sidewalk sharing in Washington Heights: Grocery Store merchandise ‘stored’ in front of the Dentist's office
Figure 18 Shoppers enjoying wares on display in Washington heights

Figure 19 Diversity of vending: sewing, jewelry and fruit next to each other
On the other hand, Garment District and SOHO have much more standardized experiences. The sidewalks are, in comparison, much clearer. Shops routinely put out planters, bollards and even chain-link fences to demarcate their piece of the sidewalk space. This idea of ownership over sidewalk space perhaps stems from the government's injunction that abutting property owners are responsible for the maintenance of the sidewalk. There was no sharing of sidewalk space between shops, such as in Washington Heights. If retailers jealously guard their sidewalks from other shopkeepers, then they are also likely to not let vendors set up in front of them. On interesting exception concerns the role of art vendors in SOHO. Interviews and secondary research indicates that some retailers are more than happy to have art vendors set up in the vicinity since their presence attracts more people to the streets. The same courtesy was not extended to any other kind of vendor. This act is in keeping with the movement towards what Sharon Zukin calls the “symbolic economy” which is based on “inter-related production of cultural symbols” such as history, art, food, and fashion. SOHO’s history of artists’ lofts is now part of its mythology and allure, even though the artists have long been priced out of the neighborhood. Further, the Garment District and SOHO attract the kind of demographic (young, managerial and technical urban professionals) which has over time displayed a preference for consuming what Margaret Kohn calls "simulacra of the city: a tableau or spectacle, something to be enjoyed visually but not experienced kinesthetically: the city without its smells, sensations, or dangers." These individuals would likely consider unregulated street vending on sidewalks unappealing but funk art on the sidewalks of SOHO would appeal to their desire for an 'authentic' SOHO experience. Through cooperation with the odd art vendor in SOHO or the promotion of warehouses and a 'button and needle' monument in the Garment District(Figure 20), these individuals can be provided with the opportunity to consume a curated, historically out of context urban space, without any of the 'dangers' of the neighborhood's industrial or working class past.

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123 Zukin, “Urban Lifestyles”, 826
124 Kohn, Brave New Neighborhoods, 65
BID DECISIONS

It is interesting to see how the neighborhood’s culture was reflected in policies and actions of BIDs. It is known that BIDs “routinely exclude sources of discomfort for their patrons.” However, if the patrons’ sense of discomfort does not derive from street vendors, there is little sense in BIDs hounding street vendors. The Director of Washington Heights BID illustrated this tussle well. She had originally come into the BID being anti-illegal vending but now in her own words she “works with them since [her] constituents don’t mind.” Unlike other BIDs she did not call the police to carry out raids, nor did she report vendors often. The only concern with vending she has now is more managerial than philosophical: the high density of vendors on St. Nicholas Avenue.

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125 Kohn, Brave New Neighborhood, 11
126 This is the main thoroughfare in Washington Heights. Most vendors in the neighborhood are clustered along this avenue.
On the other hand, the Garment District and SOHO BIDs are a lot more anti-vending. Both BIDs admitted that retailers and property owners both complain about vending (even if it is legal) all the time. The Garment District BID member called vending a 'hugely vexing issue,' being clear that while they could not move legal vendors, they had partnered with different State agencies to undertake regular sweeps of the area. The district is undergoing a ‘rebranding’ phase to attract new tenants and thus aesthetics are important for it. In a bid to divorce themselves from their manufacturing past, any element that is ‘visually unappealing’ has been renovated-- from old newspaper stands to potholes to waterlogged plazas. Unfortunately, vendors and the homeless were also considered a part of this visual disorder. The employees in this area were also mostly from ‘TAMI’ industries and with enough eating options nearby, were unlikely to visit vendor for their daily needs.

The SOHO BID, similarly, was formed for the express purpose of, in the words of the director, "managing the sidewalk, keeping it orderly and clean." They are the only BID I talked to that undertook a vendor analysis to understand where illegal vendors were vending. This might be due to the high-end retailers and large property owners present in the neighborhood, worried about aesthetic disruption, competition and a danger to their property values if too many vendors show up.

**VENDOR PATTERNS**

These elements also led to a completely different vendor profile in each area I visited. Low enforcement and a relatively more acceptable culture of vending, led Washington Heights vendors to be a lot more resistant to seasonal changes. In the summer, which was the peak vending season, the afternoon saw 41 vendors in Washington Heights, 25 in SOHO and only 13 in Garment District. After September however, these numbers began to fall in SOHO and Garment District but vendors in Washington Heights still flourished. This is exemplified in the numbers from my last round of observations in March, where vending still had not jumped back after the winter slump in most places. In fact, vending was at an all-time low in both the Garment District and SOHO, even more so than in December. The number of vendors in Washington Heights however, were 5 times those in SOHO and around 9 times higher than those in Garment District (Figure 21 below).
Figure 21 An Average day for vending in each season²²⁷

There was also more innovation evident in Washington Heights. There was a much wider variety of wares on display with everything from fruit, to makeup, to all sorts of home-cooked Dominican food. Vendors were

²²⁷ This aggregation shows geotagged vendor locations for all three times of the day in each season. The total number of vendors was averaged for the number of days readings were conducted over.
also tapping into seasonal demand: hand-churned ice cream and cold juice in summers, hot chocolate in winter, Habichuelas Con Dulce in March (a popular Easter drink in Dominican Republic). Perhaps, the lower risk of vending and unstandardized vending vehicles lowered the cost of setting up, allowing more individuals to participate in this economy. On the other hand, in the Garment District and SOHO, the fear of enforcement means vendors have to factor in potential tickets to the cost of doing business, making a vending stall less sustainable.

![Figure 22 Diversity of vending modes: Shopping carts and vans](image)

In terms of products sold, SOHO had a lot more art and accessories than the Garment District did where food carts were ubiquitous, interspersed with fruit and general vending. This makes sense since the Garment District is a commercial area where people are primarily interested in lunch or breakfast options. This is also perhaps why Garment District had the highest number of vendors in the morning, but this number fell considerably as the day went on (from 52 in the morning to 13 in the afternoon and evening). The opposite was true for SOHO and Washington Heights where vending started off slow in the morning and picked up speed as the day progressed (shown in figure 23).
While influence of commercial power-brokers (not just BIDs) in the City is important for determining the fate of street vendors, this power also often works within the framework of a contextually dependent culture of sidewalk use. That is not to say this culture cannot be changed, but only that recognizing the intricacies

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128 Since summer is the peak season time, I chose this season for the time of day visualization. Morning, afternoon and evening vending numbers were averaged for the number of days repeated readings were taken over.
of street vending in each neighborhood is important towards passing more equitable policies related to sidewalks. There is a plurality of opinions and uses of vending beyond what the property owners, merchants and residents of SoHo or 5th Avenue want. The city however, is presently adopting the voice of one or two 'priority' neighborhoods in Midtown and Downtown, for its overall anti-vending policy.

Don Mitchell in his book, The Right to the City, discusses Lefebvre’s concept of the city as ‘oeuvre’- "a work where all citizens must participate" to create new modes of living by struggling over the space of the city the terms of access to public realm and rights of citizenship. Out of this struggle the city can then emerge as a collective project. However, current policies of the City give ascendancy to specific individuals over the collective. They obfuscate the diversity in ethics of public space use, definitions of public disorder and, more fundamentally, ideas of what even counts as a shared space on the 12,700 miles of sidewalk territory in New York City. This struggle for the sidewalk, is not just a question of policy, but of what Mitchell calls "the full, adequate and self-directed representation of oneself or of a group" on a given space.

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129 Mitchell, Right to the City, 18.
130 Mitchell, Right to the City, 34.
CH 7: POLICY RECOMMENDATIONS

While not as grand as the more popular urban spaces of squares, plazas and parks, the humble sidewalk has long provided city dwellers avenues for leisure, commerce, work, shelter and civic engagement. Given its importance and the various claims over it, the conception of the sidewalk now needs to be reimagined. What is the primary use of the sidewalk? Who gets priority over it? How does a city balance the ordering and accessibility of a public space? "If city dwellers cannot enjoy a basic minimum of decorum in downtown public spaces" Robert Ellickson argues, "they will increasingly flee from these locations into cyberspace, suburban malls, and private walled communities." Enforcement of street vending regulations then becomes not just a technical matter, but one of politics; of whose voice and whose ease matters to the city.

Through cartography and datasets, the previous chapters have attempted to understand how the priorities of a few in urban governance have become the priorities of a City. I was able to undertake empirical analysis of the distorted power enjoyed by certain socio-economic groups to push for their own policy agendas. However, due to the richness of data available, I was also able to argue for the importance of neighborhood context in determining this power. Furnished with a more dynamic understanding of vending landscape and the neighborhood specific market for vending that exists, we can now evaluate the city’s current policy. While the aim of this thesis is not to give definitive answers to policy questions, it provides broad brushed guidelines the city can consider in any reform of vending it may consider.

EVALUATION OF CURRENT POLICY

Having examined the environment in which enforcement outcomes unfold, we can now briefly consider the policy questions implied throughout this work: should street vendors be considered ‘public disorder’ to be regulated and capped? Any policy impacting public space should weigh out, ideally, the costs and benefits to a wider public. We can start by reviewing the arguments presented against street vending. During my interviews with BIDs and City Council offices the most common complaints were: Property owner hates

131 Jacobs, The Death and Life of Great American Cities, 238
132 Kohn, Brave New Neighborhood, 131
vendor because of aesthetics. They've built a beautiful building, and then it gets a vendor in front of it"; "they [vendors] leave a filthy mess [boxes, produce, grease] which impacts retailers"; "residents hate the smoke [from the generator or cooking] and noise that comes up to their windows". These concerns seemed to transverse across vendors, irrespective of type, wares on sale etc. According to literature and newspaper reports, there have also been concerns with pedestrian safety, overcrowding of sidewalks and unfair competition to retailers.

Most of these issues cited are not intrinsic to street vending and can easily be resolved through more effective regulations. Smoke for instance, can be dealt with by incentivizing vendors to using better energy sources, instead of noisy generators. Health and sanitation concerns can be resolved by giving vendors letter health grades, but also ensuring the policy standards are not impossible to reach for street vendors. This system would also resolve the ‘unfair competition' cry from retailers, since vendors would be being held to better standards. By simplifying rules, and understanding vendor needs better we can create a better vending environment.

Further, under the current policy structure not only are these health, space and noise issues not being addressed, but precious city resources are being used in a fruitless chase of inches, and trashcans under carts. A study by the Independent Budget Office found that in fiscal year 2009, the city spent about $7.4 million on street regulation and enforcement of vending laws. This is a large sum to be spent on laws that are so complicated even the Police Commissioner admits to not understanding them. In fact, 50% of tickets heard get dismissed in court due to incorrect drafting, evidentiary problems or spurious citations.

One should also consider why 'competition for retailers' is enough of a reason for the City to penalize vendors. First, it is unlikely that vendors and retailers have the same customers, given that their price points, merchandise on offer and target markets are different. Even if vendors do pose a threat to retailers, policy should consider whether there is a way to make this competition fair to both brick and mortar businesses as well as vendors? Arguments of competition are not factored in when other retailers open up

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133 Director of a BID in discussion with the author, August 2015.
134 Director of planning of a Midtown BID in discussion with the author, August 2015.
135 Staff member of City Council Dan Gardonick’s office in discussion with the author, December 2015.
136 The Independent Budget Office (IBO) is a publicly funded agency that provides nonpartisan information about New York City’s budget to the public and their elected officials
138 Lee, “Street Vending”.
139 Lee, “Street Vending”,
shop next to each other, so requiring vendors to ‘rent’ the sidewalk it might alleviate economic concerns of surrounding businesses. As long as vendors and retailers are held to equitable health, sanitation and taxation standards there seems to be little reason why both should not be allowed to operate in the same space. However, currently vendors are not seen as legitimate economic/commercial actors, which results in the needs of retailers gaining precedence over theirs.

The City then needs to weigh the remaining two concerns: pedestrian safety and urban aesthetics. The latter has already been discussed and dismissed given how widely the parameters vary from person to person. It becomes more trivial when weighed against the far greater discomfort of the vendors’ need for livelihood. Especially since vendors are often immigrants or low-skilled workers with little choice in employment opportunities and not enough capital to start up another business. Vending is not easy: the hours are long and conditions are less than ideal. People with a multitude of other options hardly choose to become push-cart vendors. As Sean Basinski, Head of the Street Vendor Project explains “When it rains and snows you get wet, you don’t have a bathroom to go to, you don’t get to roll down the gate at night, and you have to push your cart all the way to a garage, which, by the way, you do pay rent on.” These difficulties are compounded by the complications of starting up a vending business in New York. The City has effectively forced vendors into a black market to obtain a license, where costs of a license can go up to from $8000 when--if legally available--it costs $60. License holders fly in from all over the world to renew their license every 2 years, since renting them out in the black-market is so lucrative. One vendor I interviewed joined the military just so he could get a veteran license.

As for pedestrian safety, while it is an important concern, the City must reevaluate its understanding of the needs of the pedestrians it seeks to ‘protect’. People are often not looking for just functional mobility, “traversing a safe space to get from point A to point B” when they are walking. Instead they are active and potential consumers of the urban environment. In fact, studies have shown that pedestrians take into account better retail, leisure and consumption opportunities in their route choice calculus--instead of the straightest, shortest or most functional route. If anything, vendors provide more ‘eyes on the street,’ adding to the feeling of safety in lesser populated areas. Testament to how attuned to their surroundings vendors are, the Time Square Bomb Plot in May of 2010, was foiled by a vendor who had noticed the

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140 “The Big Question: How Can We Reconcile Street Vending With Pedestrian-Friendly Sidewalks?”, Informal City Dialogues, April 1, 2013, https://nextcity.org/informalcity/entry/the-big-question-how-can-we-reconcile-street-vending-with-pedestrian-friend

abandoned car and alerted the authorities.¹⁴²

Not only do the current policies provide few benefits; they also actively impede innovation of street vending beyond the usual halal carts and hot dog sellers. Having little or no capital, vendors tend to follow proven formulas that offer predictable fare in areas where enforcement and risk of ticketing is high. After a walk round in Washington Heights, I realized how diverse vending stalls could be with the all kinds of Dominican treats on offer. Vendors are a chance to show off the diversity in New York, an opportunity for them to bring their diverse cultural backgrounds to the streets of New York. If cost of entry and risk of business were lowered, then more people would be willing to risk bringing out more innovative products. With the rising interest in walkable cities, ‘fine-grained’ urbanism, and more diverse urban landscapes, this diversity can be used to create such vibrant public spaces and attract footfall. Given how mobile vendors are, they could move from area to area depending on the needs to the place, and thus provide more tailoring services to the neighborhoods.

The city already undertakes such place making activities when they allow companies to rent out sidewalks for corporate displays¹⁴³ and when they create plazas and outdoor farmers markets. Vendors can be a key part of this landscape if they weren’t forced to all sell similar things or require huge capital outlays even to get a license.

The existing regulatory landscape also prevents the city and individual vendors to benefit from the vending market. Instead, a lot of the value is captured by license holders who simply by virtue of having acquired these licenses in the past, continue to profit off them through the black market. This means control of and profits from precious vending space continue to be monopolized by a few individuals.

RECOMMENDATIONS

What would better vending governance structures look like? In light of the discussions in this thesis, vending policy needs to be representative, holistic, dynamic and localized.

Representative: In any policy discussion, there needs to be space for representations of vendor voices. Whether this is through a taskforce or a survey of vendors, policy needs to be responsive to the needs of vendors. It needs to take into account the multitude of ways they use space, not create undue costs for


them and understand how seemingly unconnected sidewalk policies can have a toll on them. For instance, changes in sizes of street furniture (e.g., a bus stop) or new installations impact vendors by limiting the spaces they can legally vend in. Further, policies made for vendors have not taken into account the unique culture of each sidewalk and neighborhood. Vendors choose to locate in particular areas through a significant factor such as pedestrians, friendliness of area to vendors, safety from enforcement, nearness of their storage garage, availability of sidewalk space etc. It is telling that while vendor licenses allow vendors to locate anywhere in the city (other than restricted areas), vendors still prefer to operate out of a single, fixed place. Vendors in my interviews reported various strategies to ‘protect’ their spots including hiring homeless individuals as guards, arriving earlier than the competition and leaving their carts overnight. Thus, treating all space as replaceable by carting vendors off to ‘special markets’ or asking them to move to another street does not always work. Understanding how vendors behave and use space is important for developing responsive policy, and representation of vendors in these policy discussions is an essential step towards this aim.

Dynamic: Having studied the ebbs and flow of vendor footprints on different streets in different times, it is clear that static licensing makes little sense for street vending. Vendors hardly use a sidewalk space for the entire day, nor should they—given the constant fluctuations in their consumer market. This market varies not just by season and time of day, but also by area. Thus, vendors should only be charged for the space they use, when they use it. What is the use of a vendor having a license for months he/she doesn’t use them? Sidewalks are a precious resource and should be treated accordingly. An innovative policy might be to follow Indonesia’s example whereby vending is legalized and all vendors pay a fee to reserve an area on the sidewalk. They open themselves up to health checks and other government oversight, and tax collectors roam the streets everyday collecting the daily space usage dues. In the US context, while an army of tax collectors might not be feasible, there could be meters similar to parking meters, which allot sidewalk space to vendors. Carts could then only be set up in allowed spaces, and vendors would only pay for the area and time they utilize. This would more efficiently share limited sidewalk space between multiple vendors, and decrease congestion where vendors try to ‘save spots’ by setting up their carts before they’re even needed.

This policy would also help break the monopoly on vending space that license holders currently possess, and allow the City to profit from their sidewalk space being used. Further, it would ensure there is a more appropriate and dynamic valuation of precious vending space in various parts of the city.
**Holistic:** The preferential treatment of Midtown and Downtown Manhattan also needs to be revisited. While having specific block-by-block policies is a good move, exceptions for Midtown and Downtown were originally granted without any heed to their impact on surrounding neighborhoods, or a reflection on the merits of the arguments. By artificially restricting vending space in Midtown and Downtown Manhattan through time-based restrictions mentioned earlier, vendors spillover to neighborhoods that have less resources for regulation or different views on vending. In my interviews, the problem of these neighborhoods not doing their part in shouldering the vendor traffic kept coming up. The impact of vending policies for one neighborhood spills over to surrounding areas since neighborhoods are not self-contained islands. Thus, exceptions granted for Manhattan hurt areas with lower resources for enforcement and regulation. The city then needs to undertake a city-wide review of vending policies to correct past piecemeal efforts that only looked at a handful of streets in isolation.

It is also important for the City to push important stakeholders like BIDs, property owners and merchants to have more of a stake in the revision of vending laws. If anything, granting richer property owners desired exceptions makes vending ‘not their problem’ and thus reduces their incentive to participate in any reform. BIDs in this case can play an important role if pushed to do more since they can bring to the table multiple powerbrokers, according to the Robert Walsh. Their incentives need to be re-aligned towards the larger neighborhood and community, not just their Board of Directors. In the past this has been done by creating special grants for BIDs that initiate projects with positive community impact.

**Localized:** Apart from a handful of street-based restrictions (created due to politics, not merit), the policies in New York treat the City as a blanket space with similar restrictions applying wholesale everywhere. However, each locality has a unique vending culture, vending needs and opinions. What works for Midtown
does not necessarily work for Washington Heights, which doesn't work for SOHO. Vendors are mobile, should ideally have a low-cost entry and can be used to provide better services to neighborhoods if they're allowed to move freely without fear of undue harassment and enforcement.

One policy, championed by scholar Greg Kettles, would be to legalize vending everywhere and have localities opt out of the 'legal zone' by proving a threat to pedestrians by the physical presence of vendors. While there are significant practical implementation barriers to this (e.g., what is a neighborhood? Who decides if a pedestrian is safe or not? How do we prevent power politics from seeping in to this structure? etc.), thinking of policies in a more localized way could be the way forward. With increasing use of technology in governance, a simple digital poll of residents and employees of the area could be conducted to understand their concerns against vending. For those with little to no-access to such technology, mail, telephone polls or representative community organizations can be employed. The idea is, in essence, to bring more voices to the table instead of fewer as well as to prevent the silencing of voices that benefit from vending. This exercise would, one can hope, also raise the bar for what acceptable arguments for opting out are (ideally ones with more merit than 'vending is ugly', or it's a 'nuisance.').

FINAL REFLECTIONS

My aim in writing this thesis was not just to review uneven enforcement, but to lay bare the increasing socio-economic segmentation of public space access. Through this exposition, this thesis provides an avenue for broader social and political questions: should socio-economic status determine your role in public decision making; whose voice should weigh more in sidewalk policy; how should a city leverage data to develop policies which align with public interest as well as market realities?

Sidewalks are meant to fulfill public space functions of equality and democracy. But they lose this meaning if certain parties are allowed to filter them based on their own conceptions of 'nuisance.' It is this form of privatization that worries Margaret Kohn. For her, privatization is not just the burgeoning of private entities seeking to commodify "public" space\(^{144}\) but instead it is the impetus to control: the idea of "My home is my castle," of "privacy and sovereignty.\(^{145}\) The City clearing out street vendors from areas of expensive property and richer residents legitimizes this desire and reifies particular notions of acceptable sidewalk use. While in the case of street vendor enforcement it may not be BIDs who exclusively "place constraints on the negotiation of public space and notions of citizenship,"\(^{146}\) there are still unbounded levels of privatized

\(^{144}\)Kohn, Brave new Neighborhoods.

\(^{145}\)Ibid, 5.

\(^{146}\)Schallet and Modan, "Contesting Public Space", 394
control over one of the most ubiquitous forms of public space we have.

Each sidewalk, though, is part of a larger neighborhood culture formed through the interaction of its residents, pedestrians, vendors, employees and property owners. By allowing those with wealth and resources on their side to inscribe their own values on the sidewalks of the city, to the exclusion of all others, we risk losing the diversity of public space cultures prevalent in New York as evident from my fieldwork (even in just three neighborhoods). This thesis has been an exercise in navigating this process of inscription in the battle for the sidewalk. An empirical analysis of enforcement allowed me to weigh the relative influence different stakeholders had in creating their desired urban landscape. Contrary to dominant discourse, I found that Business Improvement Districts were not central in increasing enforcement against ‘inappropriate uses of public space’ such as street vending. While BIDs are important, it seems they are only a vessel for and reflection of the increasing desire for privatization of public space held by the city and some of its residents. It is the culture of the merchants in Midtown, the residents in Park Avenue, the shoppers in SOHO who have determined the direction of the City’s public spaces. What ties them all together is the wealth and resources they bring to the city.

The life of the sidewalk sees the daily vagaries of urban life, in all their topsy-turvy, jostling glory. Losing this precious public space for the aesthetic pleasures of a few, would indeed be a tragedy.