

**A Growing Space for Dialogue: the Case of Street Vending in  
Nairobi's Central Business District**

by

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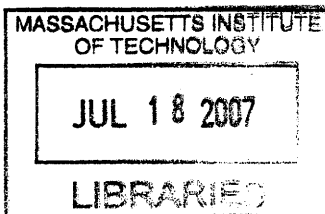
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## **ACRONYMS**

**CORDAID – Catholic Organization for Relief and Development AID**

**CGD - Center for Governance and Development**

**CRC – Corporate Renewal Center**

**ERSP – Economic Recovery Strategy for Wealth and Employment Creation**

**LATF – Local Authority Transfer Fund**

**LASDAP – Local Authorities Service Delivery Action Plan**

**KEPSA – Kenya Private Sector Alliance**

**KLGRP – Kenya Local Government Reform Program**

**NCBDA – Nairobi Central Business District Association**

**NARC – National Rainbow Coalition**

**NCC – Nairobi City Council**

**NESC – National Economic and Social Council**

**NISCOF – Nairobi Informal Sector Consultative Forum /Confederation**

**NTA – National Taxpayers’ Association**

**PRSP – Poverty Reduction Strategy Paper**

**UNDP – United Nations Development Programme**

**USAID – United States Agency for International Development**

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**Sheila Wanjiru Kamunyori**

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## **ABSTRACT**

The tension in Nairobi between the desired modernization of the city and the ongoing “un-modern” activity of street vending is replicated in many cities in developing countries, often pitting the city’s local government and formal businesses against street vendors. However, informal sector activities, such as street vending, provide sustenance for many citizens and contribute substantially to the economy. Therefore, for these cities to truly develop economically, it has become critical to understand how the local government, formal businesses and street vendors can work together. In Nairobi’s Central Business District, while on the surface the cat-and-mouse game still continues between the two sides over the tug-of-war for “modern” streets, a growing space for dialogue between the different parties is emerging. This dialogue space has brought street vendors in touch with policy-makers for the first time. This thesis explores the factors that have led to this growing space. Four associations emerge as key elements in linking the street vendors to the discourse on policy; one city-level formal business association, Nairobi Central Business District Association (NCBDA), one city-level street vendors’ association, Nairobi Informal Sector Confederation (NISCOF), one national level formal business association, Kenya Private Sector Alliance (KEPSA), and one taxpayers’ association, the National Taxpayers’ Association. Through these associations, two non-conventional conduits emerge through which street vendors express their needs: alliances with growth coalitions and the growing pertinence of the tax discourse in Kenya. While it is still early yet to determine the long term effectiveness of this space for dialogue, its emergence signals a positive change in the direction of the discourse regarding street vendors. It also shows that linkages between formal and informal businesses can go beyond economic terms, to include advocacy and other civic support.

**Thesis Supervisor:** Judith Tandler  
Title: Professor of Political Economy





## CHAPTER ONE: INTRODUCTION

The tension in Nairobi between the desired modernization of the city and the ongoing “un-modern” activity of street vending is replicated in many cities in developing countries, often pitting the city’s local government and formal businesses against street vendors. The resulting cat-and-mouse tussles in Nairobi Central Business District between street vendors on one side, and formal businesses and the local government on the other, are a manifestation of this tension. These tussles have existed at some level since British colonialists upgraded Nairobi to municipal status in 1905, but have increased in intensity since the late 1980s when a combination of retrenchment from the Structural Adjustment Programs and a downturn of the economy forced much of the working population into unemployment, and to “temporarily” switch to informal activities for sustenance. Nearly thirty years on, the various activities that constitute the informal economy are a permanent feature of the Central Business District’s economy: street-vendors and small-scale service providers<sup>1</sup> being the most common. City officials and formal businesses prefer to keep street vendors off the streets; the former because they want to maintain the look of a modern city and seeing vendors obstructing sidewalks is not part of that look, the latter because street vendors are unfair competition primarily because they do not have to pay tax or rent and therefore have higher profits margins so can afford to charge a lower price for their goods than formal shops.

However, while on the surface the cat-and-mouse game still continues between street traders and the local government and formal businesses over the tug-of-war for “modern” streets, on another level, a growing space for dialogue that is bringing in the

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<sup>1</sup> The most common street vending goods are retail clothing and accessories, and fruits and vegetables. Service providers in the CBD are newspaper vendors and shoe-shiners.

voice of the street vendor is emerging. Initiatives, such as the formation of the Nairobi City Council Stakeholders' Forum which consists of representation from formal businesses, the municipal government, street vendors, and other informal sector activities, are emerging, signaling a change in the discourse and a reorientation of the way street vendors are viewed. This thesis explores the factors that have contributed to this growing space for dialogue that is altering the essence of the discourse on street vending, looking particularly at the role of four associations in influencing the change in direction of this discourse: two formal business associations, Nairobi Central Business District Association (NCBDA) and Kenya Private Sector Alliance (KEPSA); one street vendors' and service-providers' association, the Nairobi Informal Sector Confederation (NISCOF); and one taxpayers' forum cum association, the Forum on Taxation and Accountability. In their quest for recognition and legitimacy, street vendors in Nairobi are using non-conventional methods to bring themselves closer to the policy making table; through the use of formal business associations linked to growth coalitions and the use of tax platform to make demands. While it is still early yet to determine the long term effectiveness of this dialogue, these opportunities for inclusion are a signal of the changes in discourse taking place at the national and local levels of government. With 50% of Nairobi's working population in the informal sector, 20-25% of whom are involved in street vending<sup>2</sup>, finding ways to advance the needs of street vendors is important as part of a larger economic development plan.

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<sup>2</sup> My calculation based on numbers from ILO source, Mitullah (2003), and Gichira (2006)

## Case Overview

Street vending is an income-generating activity where individuals sell their wares along streets and sidewalks to passing pedestrians and motorists. Street vending is one activity within the informal economy, the segment of a country's economy that operates outside the regulation and protection of the state. Also referred to as hawking, this activity is legal according to the by-laws that govern Nairobi City. However, while there is provision for street trading, another by-law, the General Nuisance by-law, is often used to supersede this provision. Created during the colonial administration, the General Nuisance by-law allows city inspectorates to arrest any individual that they deem is creating a 'general nuisance' in public spaces<sup>3</sup>. This by-law continues to provide the legal grounds on which city inspectors can harass street vendors; by claiming that they are a nuisance to the well-being of the public by obstructing the sidewalks and making a mess, the inspectors chase the street vendors off the streets (even when the vendors have paid their daily license), often arresting them and taking them to court.

In almost all cities, the Central Business District (CBD), also referred to as "downtown" or the "City Center," is the nucleus of the city; the business, commercial and government hub. Nairobi, a city of 3.5 million residents<sup>4</sup>, has a Central Business District of approximately 11 km<sup>2</sup>. Within this space, 6,000 street vendors with a daily capital stock worth US\$1 million<sup>5</sup> line the streets and alleyways selling their wares. High-end, multi-storied hotels are also located in this space (e.g. Hilton Nairobi and Serena Nairobi), including those famous due to their deep historical ties to the colonial period

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<sup>3</sup> This by-law was actually created in the 50s to protect the European and Asian housewives from being pestered by hawkers who used to come door-to-door selling wares (Werlin, 1975)

<sup>4</sup> Current estimate – Central Bureau of Statistics, Nairobi

<sup>5</sup> NCBDA (2003) survey. Exchange rate used: US\$1=KES 70 throughout this thesis.

(e.g. The Stanley). Many of the headquarters of the major multinational corporations and banks in Nairobi are located in this space (e.g. Barclays, Standard Chartered and I&M), many housed in the newly-constructed, glass-and-steel skyscrapers unique to this section of the city. The majority of Kenya's ministries and other government agencies are located in the CBD, as are the City Hall and local municipal offices.

Street vendors consistently return to the Central Business District (CBD) despite being continuously chased away by city inspectors. The CBD is the spatial location where they can find a market for their goods, often at a higher price than if they sold outside of the CBD which increases their profits, thus street-traders have identified the CBD as their preferred location for their economic activity. Relocations of street-vendors from the CBD have been tried by city officials, the most recent attempt in 2003, but the relocations are often not successful because the new locations have lower pedestrian traffic and/or customers with lower purchasing power than in the CBD. Therefore, despite the harassment from the city inspectors and the resulting high costs of being "a nuisance" if caught (costs incurred either through bribes or through losing their stock that gets confiscated if they are caught), vendors soon return to the CBD.

Informal sector activities, such as street vending, provide sustenance for many citizens and contribute substantially to the economy. At the city-level, then, resolving this tension between the desired modernization of the city and the "non-modern" activity of street vending is critical as part of a larger economic development strategy. In trying to "fix Kenya's shop window" to attract foreign businesses and investment, and to increase tourism, Nairobi's administration has been seeking the sleek, modern look that sends the signal that Nairobi can take care of its affairs. However, street vending and

other economic activities provide 70% of Nairobi's employment while 60% of Nairobi's population lives below the poverty line. For true economic development to take place, finding a solution that bridges this gap between modernization and development is needed.

Two national level actions have contributed to the macro level conditions necessary to including the voice of the street vendor. First, informed by multiple local surveys<sup>6</sup> as well as the 2005 National Economic Survey<sup>7</sup>, local and national governments have recognized the real economic value of informal sector activities. In 2001-2002, while the formal non-agricultural sector gained a net 3,500 jobs<sup>8</sup>, the informal sector provided an estimated 936,000 jobs (Economic Survey 2002, 2003). In 2005 alone, the informal economy contributed 18.4% of the country's GDP and employed 60% of the country's working population.<sup>9</sup> In 2002, a new ruling party, the National Rainbow Coalition (NARC), was elected into power and one of their first reform priorities was creating jobs for the 14.6% of unemployed working population of which 45% were unemployed youth (i.e. between ages 18-35). The sluggish economic conditions at the time of the 2002 elections were the key reasons that the KANU government was voted out. Economic growth from independence in 1964 to 1980 was 6%, dropped to 4.1% between 1980 and 1990, and dropped even further to a dismal 1.9% between 1990 and 2002 against a population growth of 2.9% (NESC 2003). In 2002 alone, the real GDP grew by only 0.6% (Economic Survey 2002). This stagnating economy which shrunk the

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<sup>6</sup> The Nairobi Central Business District Association, in association with USAID did a survey in 2003 which showed the economic contribution that street-vending played in the Central Business District.

<sup>7</sup> The 2005 Economic Survey showed that for every one job created in 2005 in the formal sector, 1,000 jobs were created in the informal sector. It also estimates the 2005 economic output of the informal sector to be 18.4% of GDP.

<sup>8</sup> lost 18,000 jobs in 2001 but gained 21,500 new jobs in 2002

<sup>9</sup> Economic Survey, Government of Kenya, 2005

private sector, plus the compulsory retrenchment of public sector employees because of the Structural Adjustment Programs, forced more of the working population into the informal sector. As part of their reform manifesto, NARC pledged to reduce unemployment by creating 500,000 jobs annually between 2003 and 2007. Past experience showed that the formal sector would not be able to generate this amount of new jobs every year between 2003 and 2007. Therefore, from the onset of their economic strategic plan, NARC recognized the role of the informal micro-enterprise in achieving its job creation goal. The strategy estimated that between 2003 and 2007 12% of the new jobs created (estimated 2,636,130 jobs) would come from the formal sector and 88% from small, informal business enterprises (Economic Strategy Action Plan 2003).

The placing of the informal sector into the center of the national economic recovery plan has contributed towards beginning the resolution of the conflicts that surround street vending. In the past, street vendors could react to policy that affected them only at the implementation stage as they did not have access to policy-makers during the formulation of the policies. When stakeholders do not have access to influence policies that affect as these policies are formulated, they react at the implementation stage (Scott, 1969). The skirmishes with the city officials on the streets of Nairobi are the physical manifestation of this reaction to policy. The city council has been reviewing its archaic by-laws as a means of removing regulatory barriers that obstruct business, for example creating the Single Business Permit which has replaced multiple business licenses with just one. At the national level, the Parliament is currently debating a Small and Medium Enterprises Bill which if passed, will create a governing

council that will oversee the regulation of all formal and informal small and medium enterprises<sup>10</sup>. In both these cases, the voice of the street vendors is being brought into the discourse, which is striking considering how in the past, whenever governments heard of street vendors, they “would not even consider talking to us”.

The second national level action that has facilitated the emergence of this dialogue space is the growing importance of tax to Kenya as a developing country trying to reduce dependency on aid by raising money domestically. NISCOF was invited to attend the first Stakeholders’ Forum on the National Taxpayers association and to be a member of the Interim Committee that spent the following six months designing the National Taxpayers’ Association. NISCOF used this Forum to express their willingness to pay tax if it meant they could then demand services from the government and city council.

### **Nairobi Informal Sector Confederation (NISCOF)**

The role of the Nairobi Informal Sector Confederation (NISCOF), an umbrella body of informal traders’ and service providers’ associations in Nairobi, has been striking because despite representing a marginalized<sup>11</sup> population, NISCOF has contributed significantly to the altering discourse. Registered in 2005, NISCOF currently has 23

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<sup>10</sup> The criteria for being a small and medium enterprise is having less than 50 employees, and street vendors are included; small is between 1-5 employees, and medium is between 6-50. The number of enterprises in this latter group is very small, creating the “Missing Middle” hole in Kenya’s economy. Sometimes the designation of “micro” is given to owner-only businesses, like street vendors, but this is not consistently used.

<sup>11</sup> By marginalized I mean a population that does not receive support or much attention from the national or local governments. I do not mean a population that is in the minority, in fact currently the informal sector accounts for 70% of the working population in Kenya. In an interview with Dr. Winnie Mitullah, I was struck by one of her closing comments which was refuting a statement I made about the need to formalize this activity: “What is so informal about 80% of the population?”

member associations representing approximately 15,000 individual traders<sup>12</sup>. An estimated 70% of NISCOF's members are street vendors, with the remaining percent made up by newspaper vendors, rubber stamp makers, watch repairers and other service providers that operate on the street. NISCOF's member associations are primarily locational, rather than sectorial, meaning that traders join based on the geographic proximity to their trading spaces. Its 23 member associations consist of members who operate in the same lanes. The associations, therefore, represent diverse trades, including retail clothing and accessories and food/catering.

Having access to the policy-making level of government is critical for street vendors to improve their working environment. Despite the role of ethnicity in determining the haves and have-nots in Kenya's society, class plays a bigger role than ethnicity in providing access to the state to influence policy. As a result, street vendors, as one of the lesser privileged economic groups, have very little access to the state. Therefore, in order to influence the formulation of policy, street vendors need an effective conduit to the policy-makers through which their input can travel. Street vendors must create city and national level alliances with "intermediary organizations that are respected by both street traders and other stakeholders like the government." (Mitullah, 2004, p. 23). NISCOF has been a key player because it has provided a convenient entry point into the street vendor population to two formal business associations. These business associations are influential due to the economic power of their members and they are part of growth coalitions at the local and national level.

At the national level, NISCOF is a member of the Kenya Private Sector Alliance (KEPSA). At a request from the government in 2003 for input from the "private sector",

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<sup>12</sup> NISCOF source



a group of 74 companies and associations came together and created first the Kenya Private Sector Forum, and then, in 2003, Kenya Private Sector Alliance. As the umbrella body for private sector associations and companies in the country, KEPSA contributes input at the national level into the formulation of policies. Due to this economic clout, KEPSA has gained a central place in the policy formulation for favorable business environments. Being able to use this influential and effective conduit has strengthened the voice of NISCOF as it provides input. Both NISCOF's chairman and secretary sit in the Informal Sector Board of KEPSA. The Vice Chairman of the Board is the NISCOF chairman.

At the local level, NISCOF interacts with the Nairobi Central Business District Association (NCBDA), an association that significantly influences the direction of Nairobi's City Council. NCBDA is a non-profit urban revitalization organization started in 1997 by private businessmen located in the CBD at a time when the Nairobi City Council was strapped of cash, rendering it dysfunctional and unable to provide municipal services, such as garbage collection. Since its inception, NCBDA's focus has been the regeneration of Nairobi, particularly the Central Business District, by providing financing and services to the City Council.

Through their participation at the Stakeholders' Forums on Taxation and Accountability, held between April and November 2006, NISCOF was able to provide a rarely-heard other side of the story regarding street vending and tax. Street vendors are often censored by formal businesses as unfair competition because they do not pay tax, and the inaugural Forum was the first time that the formal businesses and the Kenya Revenue Authority and the Ministry of Finance all got to hear now, through the costs of

being informal, street vendors do pay tax indirectly (for example, through paying bribes to city inspectors). NISCOF was clear that street vendors would be willing to pay tax, in return for guaranteed services (or at least the right to demand these services) and while there has been no occasion to test whether they would actually pay the tax, this assertion is surprising coming from street vendor representation.

### **My Research Journey**

I began my fieldwork in summer 2006 asking the question: what conditions have led the Kenya Revenue Authority (KRA) to perform better than other sub-Saharan African countries? Based on Mick Moore's hypothesis, that taxation plays a role in the formation and strengthening of state-society relationship, I wanted to understand whether KRA's increase in revenue collection stemmed from some level of reciprocal interaction with citizens. In connection to this, I also wanted to investigate whether the behavior of tax collectors towards tax-payers had any effect on the overall success of the Authority.

Investigating KRA was an oblique and slow task, primarily due to slow clearance procedures that I needed to pass before I could start interviewing employees. In addition, organizational-level sackings of mid-level employees at the Authority during my last two weeks of research created wariness of employees towards my questioning. Meanwhile, however, while doing research on the depth and direction of discourse on tax in Kenya, I unearthed an interesting story where street vendors, members of a marginalized part of society, were making requests to paying tax. Investigating further, I learnt that they saw tax as a bargaining tool to use with the government to demand services, in return for their

tax revenue and their very crucial vote. They felt that paying tax helped them “feel a part of this country, not just floating”.

I returned to Nairobi in January 2007 to explore in-depth this perception of tax from an unusual source. Through discussions with various street vendors, I began to observe evidence (stronger than the evidence through tax) of the state coming forward to negotiate with this part of society. This observation led me down the path to the topic that my thesis focuses on: that through one street vendors’ association, street vendors are using non-conventional conduits through which to have their needs articulated to policy makers.

## **Methodology**

This thesis is a result of two periods of research in Nairobi: June to August 2006, and January 2007. During the first of these field visits, I interviewed primarily former and current employees of Kenya Revenue Authority in a bid to find answers to my initial question on the factors behind the success of KRA.

When I returned in January, I focused primarily on interviewing street vendors in order to understand the motivations behind this desire by street vendors to pay tax. Through interviews and casual conversations with them, I better understood the social and political environment in which street vending operates. Both the street vendors and the formal businesses located in the Central Business District are represented by associations and I used these associations as my first points of contact. My primary informants during the five weeks were heads of various local hawkers’ associations in Nairobi. In total, I interviewed 17 chairmen of local associations, both in their capacity

as leaders of their communities, as well as hawkers. These associations belonged to two different umbrella associations – Kenya National Hawkers’ Association (KENAHA) and the Nairobi Informal Sector Confederation (NISCOF). Consequently, I interviewed the chairmen of these two umbrella associations. I had two separate group interviews with the Executive Committee of NISCOF: the CEO, the Secretary, the Program Coordinator and the Treasurer. Aside from hawkers, I also interviewed four more employees at the Kenya Revenue Authority (to find out their thoughts on taxing street vendors), one representative of KEPSA and NCBDA each, the Executive Director of Center for Governance and Development (CGD), and three local researchers who consistently do in-depth studies on street-vending in Nairobi.

All interviews were conducted in English, as many hawkers felt they needed to speak English with me (even when I tried to introduce Kiswahili as the language of conversation). In a few interviews, the use of English may have restricted the ability of the interviewee to fully express himself/herself. Initially, my interviews were semi-structured (i.e. without questionnaires) in order to understand the salient issues around which my research questions would be structured. Once these issues became evident, I generated more targeted semi-structured questions for the interviews that followed. In addition to interviewing the associations’ officials, I also interviewed a sample of individual members from each association to verify answers given by their officials.

In order to understand the evolution of the street vending social and political environment in Nairobi over time, I collected data from two sources. First, I interviewed a number of Kenyan researchers who have worked extensively on the informal sector in Kenya. Second, I used secondary data such as printed books, old newspaper articles

dating as far back as 2000 (the year that when NCBDA was founded) and city planning documents to add to this historical perspective.

As a participant observer, I attended three member meetings held by the umbrella associations: two held by KENHAHA and one held by NISCOF. I visited the KENHAHA representative of the CBD at his place of trading, as well as three of the trading locations of three NISCOF officials.

### **Organization of this Thesis**

The rest of this thesis is organized as follows: chapter two describe street vending within the context of Nairobi's Central Business District. Chapter three analyzes the first of the two non-conventional conduits through which NISCOF has been providing input into policies: the use of growth coalitions. Chapter four analyzes the second conduit: the current debate on taxation and how that has facilitated NISCOF's voice to be heard. Chapter five concludes with an analysis of two factors that have helped the elite and the government take supporting the street vendors more seriously.

## **CHAPTER TWO: NAIROBI CITY: STREET VENDING IN CONTEXT**

### **Nairobi in Context**

Nairobi, with a population of 3.1 million, is the largest city in East Africa and the 12<sup>th</sup> most populous city in Africa. Currently growing at an annual growth rate of 6% per annum (UN-HABITAT, 2002), this urbanization is more rapid than the African average of 4.7%. Nairobi was founded during the construction of the Mombasa-Uganda railway at the end of the 19<sup>th</sup> century. The land between Mombasa and Nairobi is low-lying savannah plains and only at Nairobi, 300 miles inland, does the land elevate to an altitude that water could be sourced and that the temperature was milder. Initially a construction stop-off point, the settlement grew as more colonial settlers arrived in Kenya and in 1900, the settlers established the first governing body of Nairobi, the Nairobi Township Committee.

The pre-independence racial segregation of Nairobi between the white colonialists and their African workers has been replaced by segregation along economic lines, which Africans cut across. The class divisions in Kenya's society are brought into stark relief in its capital city. Nairobi's space is segregated along economic lines, following the boundaries set by the colonial administration. Generally, in the western parts of the city are affluent suburbs where the white settlers lived before independence in 1963. Many of these suburbs still maintain their British colonial names, e.g. Westlands, Karen, the latter of which is still an enclave for second and third generation British Kenyans (those whose families stayed on after independence in 1963). By contrast, the eastern part of the city was initially demarcated by the colonial administration as the residential area for African

employees needed to provide services to the white population. These estates are now low-income ones, Umoja, Kayole, and Kahawa to name a few. Two of the larger slums in Africa, Kibera and Mathare, are located in this part of Nairobi housing between the two of them an estimated 1.5 million of Nairobi's 3.1 million residents (i.e. nearly one half of Nairobi's population). A growing middle-class since independence has necessitated the growth of middle-income housing estates in the south/southeast which line the highway to the airport, for example South B, South C and Nairobi West estates.

### **Nairobi's Central Business District**

In almost all cities, the Central Business District (CBD), also referred to as "downtown" or the "City Center," is the nucleus of the city; the business, commercial and government hub. Nairobi, a city of 3.5 million residents<sup>13</sup>, has a Central Business District of approximately 11 km<sup>2</sup>. High-end, multi-storied hotels are also located in this space (e.g. Hilton Nairobi and Serena Nairobi), including those famous due to their deep historical ties to the colonial period (e.g. The Stanley). Many of the headquarters of the major multinational corporations and banks in Nairobi are located in this space (e.g. Barclays, Standard Chartered and I&M), many housed in the newly-constructed, glass-and-steel skyscrapers unique to this section of the city. The majority of Kenya's ministries and other government agencies are located in the CBD, as are the City Hall and local municipal offices.

The Central Business District (CBD) models the same class segregation pattern. The boundaries of the CBD are Uhuru Highway to the west, Haile Selassie Avenue to the

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<sup>13</sup> Current estimate – Central Bureau of Statistics, Nairobi

south, and the Nairobi River to the northeast, making it triangular in shape<sup>14</sup>. Using Tom Mboya Street as the dividing line, the “iron curtain,” the land parcels in the western parts of the CBD are more expensive and are the location of multinational companies, government offices and high-end hotels. Nairobi’s skyscrapers are found in this area. In contrast, most indigenous businesses are found east of Tom Mboya Street, as are all the long-distance bus terminals and markets. Most of these businesses are sole proprietorship and, aside from acquiring business licenses, they tend to function outside the regulation of the state. For example, not many of these businesses pay tax, although this is changing slowly as the revenue collection authority slowly but surely broadens its tax net.

Nairobi, one of eight provinces in Kenya, spans 680km<sup>2</sup> /260 miles<sup>2</sup> (Anyumba 2003). The municipal boundary is the same as the provincial boundary and for this reason, three types of governing bodies manage Nairobi. First, the provincial administration (as part of the Ministry of Local Government) headed by the Provincial Commissioner; second, the City Council which takes care of the municipality of Nairobi (as part of Local Authorities administration) headed by the Mayor, and thirdly, Parliamentary oversight through elected Members of Parliament. Provincial administration is broken down further into districts (of which there is only one in Nairobi) and districts are further divided into locations. Politically, Nairobi Province is divided into eight constituencies whose boundaries correspond to an administrative division, although the name of the divisions may differ from that of the constituency (this overlapping of political and administrative boundaries is not necessarily true in other

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<sup>14</sup> <http://www.city-data.com/world-cities/Nairobi-Getting-Around.html>  
(accessed April 7, 2007)



provinces). For example, the CBD is in Starehe constituency, one of the eight constituencies of Nairobi<sup>15</sup> and it is also in Central Division for provincial administration purposes. Finally for City Council administration, each division is further divided into wards; Nairobi has in total 55 wards, each ward headed by an elected councilor who represents the ward on the City Council.

Nairobi City Council, as the local authority responsible for governing the municipality of Nairobi (i.e. a municipal council) since its creation in 1919, does so through two bodies: the policy-making organ which is responsible for policy formulation, headed by the mayor and the technical or executive organ responsible for policy implementation, headed by the town clerk. The policy-making body comprises of councilors elected by residents of the 55 wards in Nairobi for a 5 year term to represent a ward. In addition, the Council has councilors nominated by the ruling political party; the nominated councilors cannot be more than one third of total number of councilors. Currently, there are 21 nominated councilors making the total 76 councilors. The mayor is elected by all councilors from the pool of elected councilors for a two-year term.

The technical/executive body is headed by the town clerk and run by chief officers, each responsible for one of the eight technical department (Madara 2003, NCC website). In addition, each ward has a ward manager who is attached to this technical arm of the City Council. The town clerk acts as the Chief Executive Officer. NCC governs using the Kenya Local Governance Act (Cap 265) which defines the roles and responsibilities of local government and specifies allowed sources of funding (Anyumba 2003).

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<sup>15</sup> The other seven constituencies are Makadara, Kamukunji, Langata, Dagoretti, Westlands, Kasarani, and Embakasi.

Politically, each constituency elects one Member of Parliament to represent them in Parliament during the General Elections held every 5 years. MPs are attached to national political parties.

**Table 6.15: CCN Departments and Service Delivery Responsibilities**

<b>Department</b>	<b>Delivery Responsibilities</b>
City Planning and Architecture	City planning, building control, land surveys, approval of building plans and control, subdivision of surveyed land, change of land usage, amalgamation of plots, advertising and billboards, enforcement and by-laws, and architecture.
Social Services and Housing	Community development, street families, sports, shelter (housing), recreation and welfare, markets (collection of cess, maintenance of markets).
Environment	General cleanliness of the city and its environs, beautification of the city, collection and removal of garbage, transportation and disposal of garbage, road sweeping, drain clearing, gulley emptying.
Town Clerk	Legal cases for the Council, valuation of Council properties, procurement, general cleanliness of city hall and annex, control incoming and outgoing calls and mail, minutes and printing for Council.
Engineering	Road construction and maintenance, construction and maintenance of primary schools, repairs of buildings including rental housing, street lighting within the city, construction and maintenance of clinics, fire fighting services, surveying, architects.
City Treasury	Revenue collection, payment to various departments, procurement for Council, maintenance of stores, budgeting and accounting.
Public Health	Curative and preventative services, dental services, ambulance services, city mortuary, maternity services, nutrition services.
Education	Pre-primary and nursery education, cleaning of schools.
City Inspectorate	Enforcing by-laws, prosecuting offenders, investigation of crimes, guard Council property.
Housing Development	Management of the Site and Service Schemes in Nairobi

**Source: World Bank, 2006**

## Who Are They and What Do They Deal With?: The Profile of the Street Vendors in the CBD

Within the CBD, 6,000 street vendors with a daily capital stock worth \$1 million<sup>16</sup> line the streets and alleyways selling their wares. The Socio-Economic Survey on Street Vendors in Nairobi's Central Business District carried out by USAID and NCBDA (discussed in the next chapter) determined that 55% of the respondents were between 25-34 years. The mean age for informal traders is 31.7. Most of the informal traders are therefore young adults in the most productive period in life. 69.5% are male as compared to 28.5% who are female. 98.2% of the vendors had some level of formal education with more than half (51.7%) having secondary (equivalent to Grades 8-12) level of education. 5.6% had post-secondary education.

### Goods stocked and traded by vendors in the CBD

Items	Percentage
Clothes, bags, textiles	48.8
Shoes	12.5
Vegetables, fruits, groceries, foodstuffs	12.2
Hardware, toys, assorted goods/mobile phones/accessories	11.7
Electronics	9.9
Utensils, household goods	2
Books	2
Cooked foods	1
Total	100

Source: NCBDA 2004

<sup>16</sup> This data from a 2003 survey conducted by the Nairobi Central Business District Association, in collaboration with USAID. Exchange rate used: \$1=Ksh 70. 6,000 vendors with a daily capital stock worth \$1 million seems a little unrealistic??

## Harassment, Enforcement, and Regulation

Street vendors work under extremely uncertain working conditions due to harassment from city inspectors which force them to keep their stock to a minimum. Hawking is legal according to the by-laws that govern Nairobi City as long as the vendor has paid a licensing fee (either a daily fee of US\$0.75 or an annual fee of between US\$45-75). However, while there is provision for street-trading, another by-law, the General Nuisance By-Law, is often used to override this provision. Created during the colonial administration, the General Nuisance By-Law allows city inspectors to arrest any individual that they deem is creating a 'general nuisance' in public spaces. Inspectors in Nairobi use this by-law to chase street vendors off the streets. Nairobi City Council Inspectorate, the *askaris*, is the closest to a police force at the City level. Currently a force that is 7,000 persons strong (NCC website), the Inspectorate is responsible for enforcing city bylaws and protecting Council property. Interestingly, they are also the same department responsible for licensing (NCC website).

Even though vendors are mandated to pay the 70cts (KES 25) daily licensing fee, this license does not protect them from the *askaris*. A common occurrence is when one set of city *askaris* come round after an earlier set has already been by providing daily licenses at US\$0.75 per vendor. When this second round comes by, they demand the "going rate" of US\$7.10. When the vendors tell them that they have already paid their daily fee, the inspectors response is "have you seen me here collecting your KES25?" Even when hawkers have gone through the difficult process of acquiring an annual license, there is no guarantee that this license will protect them. Every time there is a "changing of the guard" at the executive branch of the City Council, the person in charge

wants everyone to know that he is in charge; so he voids all licenses making the license becomes invalid even though the expiry date has not reached. There is no legal recourse for hawkers, yet they do not get refunds either.

Of all the hassles of being a street vendor, harassment by City officers is the greatest: “Enforcement is seen to take one format; confiscate and fine or simply confiscate” (NCBDA). When confiscated, hawkers are unable to get their stock back.

Even though hawkers are itinerant by definition many of them return to the same spot every day, unless the place becomes “too hot” i.e. the *askaris* return frequently over a short period of time. Like street vendors in many other cities, Nairobi hawkers employ look-outs to reduce their uncertainty and loss of stock. The look-outs relay information through a whistling system. More elaborate escape plans include a waiting taxi that whisks away the street vendors’ stock as soon as the look-out signals. Further, when in court the process of pleading not guilty is often too expensive for the vendor, and vendors often have no choice but to plead guilty. Choosing this option also means that vendors can get out of the judicial system faster and return to their businesses. Despite paying a fine, confiscated stock is not returned. Vendors cannot ask for their stock for fear of repercussions like being thrown back into jail.

Women and the disabled receive no special treatment. In fact contrary to other African cities, the majority of traders in the CBD are male. This inconsistent in composition is due to the harassment that women receive from askaris that due to their gender are worst off (author interview). While this vendor composition is unusually in Africa, where often men who are hawking are seen to be doing a “woman’s job”, an account of street vending in Hong Kong in the 70s shows that fewer women engaged in

the trade because they did not want to be harassed and thus earn shame in the community (Smart 1989).

Aside from harassment from the City Inspectorate, two studies showed that “the licensing laws and by-laws which are set up to control, prohibit or regulate various business activities were the single, greatest deterrent to entry into, and growth of businesses in the private sector, including street vending in Kenya” (Mitullah, p. 181).

The confusing and inconsistent by-laws that govern street trading mean that street vendors are often uncertain of their legal rights. For example, someone who is arrested has the option to post bail by law. However, vendors are not provided with this option and often has to stay in police stations until their case is taken to court.

Interestingly, Department of City Inspectorate performs the task of issuing the daily fee license and the task of enforcing the by-laws. Therefore, the same department both provides and removes the legitimacy to vend in a certain space, sometimes in the same day.

### **Allocation of Vending Sites**

The prevailing perspective that street vending is a temporary phenomenon has contributed to the neglect of local and national development planners in consciously integrating the subsector into the plan for development (Mitullah 2004, and someone else). Relocation attempts reflect this mindset in the planning of local authorities.

Between 1980 and 2005, 7 relocation attempts have been made by City Council (NCBDA 2004)<sup>17</sup>.

The second to last attempt in 2004 moved hawkers to Ngara, a former Asian suburb that is just outside the periphery of Nairobi's CBD. This relocation did not work because this location was highly undesirable due to the marginal location and there was not enough foot traffic for the vendors to make sufficient sales. In addition, the location was seen by some hawkers to be a location for "those who come from upcountry" (author interview).

In 2003 the latest relocation attempt was made. The Ministry of Local Government directed local authorities to set aside vending sites in urban areas for street traders. In Nairobi, 27 backlanes east of Tom Mboya Street were allocated (Mitullah 2004) with 4,500 stalls planned. However, the demand for stalls outstripped the supply as the number of vendors in these lanes is estimated to be 6,000 (NCBDA 2004) which led to confusion. Additionally, the sites have no infrastructure like running water or toilets, and the lanes are often not tarmacked. Despite this, this directive was welcomed by the vendors as a change from the norm of harassment. Discussions with hawkers during my fieldwork in January 2007, however, indicate that Nairobi City Council had begun to remove hawkers from these backlanes. The methods of harassment have been more subtle, ranging from refusing hawkers renewing their licenses (when the sites were allocated, traders were able to pay the annual fee rather than the daily fee of 25/-) for opaque reasons. Other ways of harassment include insisting that vendors stay inside their 2x2 ft space. Vendors are taking this as a sign that the NCC is about to revoke their use

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<sup>17</sup> In 1980s a relocation attempt was made to Mwariro Market, then Citi-stalls, then to the area between Kirinyaga Road and Nairobi River, then to Jogoo Road area next to City Stadium (Maziwa); then to back lanes and lastly to Ngara Market.

of the sites. The Nairobi City Council can easily revoke agreements like this because the agreed compromises never get recorded on paper (author interviews). As one vendor said “any agreement with the NCC is not documented on paper” (author interviews). It is therefore easy for NCC to backtrack on earlier agreements.

### **Political Expediency**

The different objectives between the political governing structure of Nairobi and the executive one sometimes leads to hawkers being used as the battle ground for asserting authority. The tension between councilors and city and ward managers becomes particularly salient in the situation of opposing removal of hawkers for political expediency. Councilors need votes from their constituents, many of whom are hawkers, they are reluctant to support the efforts of the technical arm to remove street vendors and risk becoming unpopular. However, the technical arm of the NCC need to remove them to achieve their objective (street vending is a highly visible activity) so removing them will contribute to the public perception that City Hall is doing its job. The salience of this issue was observed during interviews in the field. At the political level, the MPs and councilors are labeled by hawkers and the City Council as either “pro-hawker” or “anti-hawker”. Depending on the political clout of the MP, the fate of hawkers within the constituency will be determined. For example, in one constituency, Lang’ata, the MP is a strong opposition politician and “pro-hawker”; therefore the City inspectors cannot leave hawkers in that area alone. Needing the political will of the hawkers also means that cannot do much to regulate them (Werlin p 296).



Due to the different objectives of the politicians and local authorities, struggles for control of the area are not unusual. One major area of contention is the removal of hawkers; as councilors need them for votes, but the technical arm of the NCC need to remove them to achieve their objective. At the political level, the MPs are labeled by hawkers and the City Council as either “pro-hawker” or “anti-hawker”. Depending on the political clout of the MP, the fate of hawkers will be determined. For example, in one constituency, Lang’ata, the MP is a strong opposition politician and “pro-hawker”; therefore the city inspectors and provincial administration leave hawkers in that area alone. City councilors, too, play this protective role if they feel that protecting the hawkers is in their best political interest.

### **Land and Land-grabbing**

Land is an extremely sensitive and contentious issue in Kenya. Seen as the one reliable mechanism to accumulate wealth (in the absence of reliable capital markets), the quest for land accumulation has led to the phenomenon of “land grabbing”, i.e. the illegal transfer of public land to private ownership using political connections. In particular, land set aside for development of markets in the early plans for Nairobi City has been “grabbed”. This land-grabbing has led to the disappearance of most of the 55 markets allocated across the city. Ironically, most of vendors live in two estates on the outskirts of Nairobi’s CBD (about 10 miles outside), mainly Githurai and Kayole. Both areas suffer from land-grabbing which has pushed vendors from what would have been legitimate trading sites (according to the city’s Master Plan) to pavements along the roads. This relocation is dangerous to pedestrians who have to walk on the highway to

get past the vendors. However, due to the political expediency issue, vendors are not removed from these dangerous sites.

### **Vendors as a Source of NCC Revenue**

Unpaid revenues have put NCC in a crippling position since the late 1980s, together with rife stealing of public money. Since the late 80s and throughout the 1990s, little has been implemented by the Nairobi City Council due to fleecing of public money and political infighting that paralyzed Nairobi City Council. Reforms towards enforcing payment have provided the NCC with more money and this, one interviewee says is one of the reasons why the attitude towards street vendors is changing – whereas before the street vendors paid for the upkeep of City officials through bribes and fines, the reforms are proving legitimate sources of revenue helps to ease the urgency of the City officials to make money.

The cost of informal vending is high. While the 75 cts (25/-) a day is a little amount calculating that into an annual rate of approximately \$130 (9,125/=) makes this more than twice as expensive as paying the annual rate for the alternative vending options which is currently between \$45 and \$74 a year (3,200/= - 5200/-). City Council Inspectors, referred to as *askaris*, make an average of US\$28-42 a day in bribes<sup>18</sup>. Given that their monthly salary is about \$50, *askaris* make more than half their monthly salary in a day through bribes. Street vendors know the “going rate” (per confrontation) of an *askari*, currently US\$7.10 (KES 500), and those who can afford it set aside this amount at the beginning of the day. With these levels of revenue generating, it is not hard to see

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<sup>18</sup> Discussion with friends and relatives of city askaris

why despite the changing discourse to consider providing support to hawkers, there still are scuffles on the streets.

# **CHAPTER THREE: GETTING THE STATE'S EAR: THE ROLE OF FORMAL BUSINESS ASSOCIATIONS AND GROWTH COALITIONS**

This chapter analyzes how and why city and national level alliances have been formed with street vendors in Nairobi, opening up a growing space for dialogue between street vendors and formal businesses, and between street vendors and local and national governments. Three associations emerge as key elements in linking the street vendors to the discourse on policy; one city-level formal business association, one city-level street vendors' association, and one national level formal business association. The two formal business associations have a growth coalition relationship with the local and national governments; a growth coalition being an alliance that brings formal businesses and the government together to formulate and promote policies that foster economic growth. Collaborating with the two formal associations has enabled NISCOF, the street vendors' voice to be heard at policy-making level.

Section 1 describes the local level business association, the Nairobi Central Business District Association (NCBDA), while section 2 explores the formation and evolution of the Nairobi Informal Sector Consultative Forum/Confederation (NISCOF), the primary street vendors' association involved in these alliances. Section three describes the national level business association, the Kenya Private Sector Alliance (KEPSA). Possible reasons for formal business associations to include the street traders' voices as they influence policy through their respective coalitions are also explored. The reasons include getting influenced by donor thinking, redirecting their efforts to be in line with national government priorities, and the creating of a better organized street vendors'

fraternity which makes it easier for the formal business associations to access and interact with this group.

**Local Level Coalition: Nairobi Central Business District Association (NCBDA) and the Nairobi City Council (NCC)**

At the city level, formal businesses influence the activities and effectiveness of the Nairobi City Council (NCC) through the Nairobi Central Business District Association (NCBDA). NCBDA is a non-profit urban revitalization organization that was started by Sandy Vohra, the Managing Director of Sarova Group of Hotels, a franchised group of hotels whose parent company is based in the UK. Sarova currently owns eight hotels in Kenya, two of which are in the CBD. At the time of Vohra's appointment to the Managing Director position in 1996, the Nairobi City Council (NCC) was strapped of cash, rendering it dysfunctional and unable to provide municipal services, such as garbage collection and street lighting. Insecurity and crime (particularly muggings and purse-snatching), even in daylight, was at an all-time high, streets were littered with uncollected trash, roads, street lights, and other infrastructure were falling into disrepair, and homeless mothers and children roamed the streets begging for money. Businesses who could afford it, e.g. many insurance companies (e.g. Kenya Re-Insurance), consulting firms (Deloitte, PricewaterhouseCoopers) and donor agencies (World Bank, DFID), were moving out of the CBD and relocating into safer, cleaner, more affluent suburbs such as Westlands and Upper Hill.

As the Managing Director of Sarova, which owns two hotels in the CBD, Vohra was concerned about the effect of NCC's inadequate service provision on tourists'

perception of his company's hotels. In 1997, he convened a meeting of nine other businessmen all who had businesses located in the CBD. The businessmen were a mix of indigenous, Asian, and expatriate individuals, all with very large business fortunes located in the CBD. They, therefore, were also concerned with the deteriorating nature of this space, and they felt that as a group they could put pressure on the government to improve conditions. It took them two years to get registered as a non-profit making association and it was not until 2000 that they began operations. From these beginnings, NCBDA has grown into one of the major actors in determining the direction of Nairobi's development and it believes that it plays a critical role as the "private" in the private-public partnership between NCC and the private sector (author interview).

While Nairobi residents were dissatisfied with NCC's incompetence, they were also extremely suspicious of NCBDA's motives, observing the association as another vehicle through which "the elite" could control the administration and crowd out the poor<sup>19</sup>. However, two of NCBDA's first projects succeeded in garnering the support of the residents and more businesses. The first one was the rehabilitation of public toilets in the CBD which had become the home of homeless children, who would either rob public users or charge them a fee for using the facilities. Due to lack of money, the NCC did not maintain these toilets and they were very dirty due to lack of cleaning and flushing. The second project was the improvement of trash-collection in the city. In 1999, NCC collected 30% of the trash in the city, while in 2002 they collected 60% (NCBDA stats). Other city improvement projects that NCBDA has been involved since its inception include introducing a community policing programme in Nairobi (in 2001), landscaping and street lighting rehabilitation (since 2001), and most recently in 2005, raising

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<sup>19</sup> Article in The Standard, 1999.

awareness in slum areas of the obligations of local authorities to provide and/or facilitate services that are prioritized by residents<sup>20</sup>. Some of their activities have been supported financially by donors, for example CORDAID<sup>21</sup> funded the LASDAP awareness workshops.

While the Nairobi City Council initially resisted this intervention from NCBDA, their cash-strapped situation forced them to concede. According to the Memorandum of Understanding signed by the two bodies in 2000, NCBDA make plans which they share with the NCC who needs to approve them. NCBDA then provides the services and funding to implement the plans, the latter of which is private money that NCC cannot access directly (i.e. private donations as well as funds from donors like Ford Foundation and UN-HABITAT). NCBDA is allowed to work in two spatial areas. The first one, the inner core, is what was described earlier in this thesis as the more affluent section of the Central Business District. The second spatial area is “the CBD and its environs” which is not demarcated spatially but is assumed to include the entire space within the boundaries of the City of Nairobi (Anyumba 2003).

The association currently composes of hotels, insurance companies, banks and other service providers and its current membership of 80 has a collective financial base of close to US\$ 2.14 billion (KES 150 billion)<sup>22</sup>, which is about 18% of GDP.

Prior to 2003, NCBDA’s stance towards hawking was hostile. Interviews with hawkers remember that NCBDA bought a white Land Rover four-wheel drive in 2000 (which they labeled “the white NCBDA car”) into which City Inspectors bundled arrested

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<sup>20</sup> One of the components of the Local Government Reform Programme, which was started in 1999, is the Local Authority Service Delivery Action Plan that requires local authorities to seek input from residents on their priorities regarding service provision.

<sup>21</sup> Catholic Organization for Relief and Development AID (CORDAID) based in the Netherlands.

<sup>22</sup> Exchange rate used: US\$1=KES 70.

hawkers and transported them to the Courts, where they were charged with illegal hawking i.e. without a license. However, NISCOF says that part of this hostility stemmed from the way that hawkers conducted themselves, being willing to be the cover for purse snatchers. The creation of NISCOF showed NCBDA that hawkers were able to conduct themselves in an orderly way (author interview). This change in stance was also supported by a change in the chairmanship of NCBDA in 2000 from a chairman who was hostile towards street vending to a chairman who was willing to try something other than chasing them off the streets. Since this change in chairmanship, NCBDA has clearly positioned itself on the side of street vending which is evident in all their literature (their surveys, position papers, brochures, etc). Their message has been that street vending as an activity “should not be seen as a problem” but as one with great potential; if organized better, it can coexist with formal businesses (who see vending as unfair competition), city operations like traffic management (as hawkers are often accused of causing traffic jams), and the environment. In addition to suggesting alternatives like weekend markets in the CBD, NCBDA has sponsored City officials to visit South Africa so that city officials can learn how other municipalities organize street vending.

Why has NCBDA been willing to engage with street vendors, and ready to advocate for them? Their financial base allows them to have enough clout to influence the actions of Nairobi City Council (Madara 2003) and it is therefore interesting to note that they are willing to use this clout for street vendors. Three factors may have contributed to their stance. First, in order to remain relevant to Nairobi City, NCBDA needed to look around and observe what was going on. In particular, they noted that every time there was a prolonged offense by city inspectors to keep street vendors away



from the CBD, there was a spike in petty crime (NCBDA Position Paper, 2004). This relationship underscored for the NCBDA the importance of street vending for sustenance and influenced them to change their position from one of confrontation to one of considering options that allows street vendors to continue to earn their sustenance.

Secondly, working with the various donors (Ford Foundation, USAID, UNDP and CORDAID, to name a few) who funded their projects, NCBDA has been exposed to at least one (perhaps more) of the current development paradigms: “good governance” which emphasizes participatory approaches to decision-making, with the importance of stakeholder input paramount. According to this paradigm, good governance is essential to the development process as it is all-inclusive: providing input and giving governance to all residents. One project undertaken by NCBDA (started in 2003) was a venture funded by USAID under their “Appropriate Governance for Informal Trading” program. USAID’s working assumption that the street traders needed to be provided with institutional support may have influenced NCBDA’s way of approaching the street vending problem. This project culminated in a socio-economic survey of street vendors in the CBD, and also in the inception of NISCOF.

Thirdly, NCBDA does not like its prevailing image as an elite-only institution. This image makes its projects hard to sell to Nairobi residents and makes them unpopular, as residents believe that they are working to exclude everyday citizens from the city. To fight this image, NCBDA has opened its membership to “small and medium enterprises” and explicitly draws attention in brochures and its website as “an inclusive institution” that works with citizens at all economic levels. They also cite their work with

street vendors, NISCOF in particular, as proof that they work with all residents of Nairobi.

The direction of the development of Nairobi's Central Business District has been primarily influenced by NCBDA. Through this influence, NCBDA has been working to change the mindset of the Nairobi City Council about street vending. In addition to the survey they undertook with USAID, they also sponsored city council officials to go to SA and observe how cities like Durban and Johannesburg have organized their street vending. South Africa's programmes to support and mainstream the informal economy have become models on which other African countries are modeling their inclusive policies for street trading (Mitullah 2004: p 22). The city officials came back "shocked" at how street vending could be effectively done (author interview). This advocacy for alternative solutions to street vending through political and economic elite has brought the voice of the street trader close to the policy-making table.

In 2006, the Nairobi City Council (NCC) formed the NCC Stakeholders Forum to help build relationships between the informal sector and the regulatory arms of government. There is also a Nairobi City Council Partnership Board that is supposed to create the same opportunities for dialogue but between the formal sector, the informal sector and the local government. The Stakeholders' Forum at the city level is the first attempt by local authorities in Nairobi to engage citizens and communities living in their jurisdiction. Prior to this, there were no legal or administrative structures that facilitated this participation (Madara p 3). The City Council has been reviewing their by-laws that have changed little since colonialism (pre-1963) and through this Forum, the City Council requested input from all sectors on the review of their by-laws. NISCOF has

participated in the review process of by-laws that are used by the City Council Inspectorate to harass the hawkers and small businesses<sup>23</sup>.

### **National Level Coalition: Kenya Private Sector Alliance (KEPSA)**

At the national level, formal businesses have created an alliance, the Kenya Private Sector Alliance (KEPSA), which, as the “single voice for the private sector”, provides input into national level policies and reforms that are related to improving Kenya’s business climate. KEPSA was born out of the Private Sector Forum which was a group of 74 associations that came together in 2000 to provide input for the Poverty Reduction Strategy Paper process that was taking place at that time (Wanyama p 13). The Poverty Reduction Strategy Paper (PSRP) was a new condition that was required by borrower countries to access new concessionary lending of IMF and World Bank and Kenya, as a country in need of one of these loans, had to formulate this Paper in 2001. Part of the conditions for the loan was that the PRSP process was to be participatory, encouraging input from all levels of society. While certain sectorial business associations were very strong, e.g. the Kenya Association of Manufacturers, the private sector in general had no forum through which to present common grievances. Thus, when the request from the government for input from the “private sector” as one body, a group of 74 companies and associations hurriedly came together and created the Kenya Private Sector Forum. After the PRSP process was over, the 74 companies and associations recognized the value of voicing the concerns of the private sector as one voice and they decided to expand their representation to include all of the private sector. Another

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<sup>23</sup> Particularly one law, the General Nuisance Law, which can be used to arrest anyone for any action if Inspectorate determines that the action is a nuisance to the public.

request, in 2003, by the new NARC government, for another round of private sector input into another Strategy paper further galvanized the Private Sector Forum to finalize the creation of the more inclusive representative body<sup>24</sup>. KEPSA was formed on March 12, 2003 with the mission of being the umbrella body for private sector associations in the country, and to provide a single inclusive voice for the private sector in public policy dialogue. Cross-cutting issues addressed by KEPSA include insecurity of persons and property, limited access to credit, overregulation and unfair competition and high taxation levels. Its mission, to “seek integration of the private sector as an equal partner with government in economic policy formulation,” serves its role as a partner in the growth coalition well. Membership into KEPSA is both through the associational level, where associations pay an annual fee of approximately US\$71 (5,000/-) and at the corporate level which has three statuses – Silver, Gold, and Platinum – each which pay US\$1,714 (KES 120,000/-), US\$3,400 (KES 250,000) and US\$15,000 (KES 1 million) respectively. KEPSA currently has x associational members and y corporate members.

Due to the membership of KEPSA, the Alliance has a strong voice which the government keenly listens to. This influence is evident as over 95% of the proposals put forward by KEPSA during the input gathering stage of ERSP were incorporated into the Paper. For example, the Ministry of Local Government and the Ministry of Finance have been aggressively reforming business licenses. To date, over 700 licenses have been abolished with another 1,200 under review. For the next fiscal year 2007/08, it has been proposed that 424 additional business licenses be abolished (Daily Nation Online,

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<sup>24</sup> This second Strategy Paper, the Economy Recovery Strategy Paper for Employment Creation and Wealth Generation (ESRP), was formulated when the new government came into power. They were seeking to create a ‘local’ strategy since the PRSP was driven by the IMF and World Bank. The ERSP had the concept of private-public partnerships as an integral part of the strategy, hence the request for more input from the private sector.

accessed May 9, 2007). Being able to use this influential and effective conduit has strengthened the voice of NISCOF as it provides input. Both NISCOF's chairman and secretary sit in the Informal Sector Board of KEPSA, and the Vice Chairman of this Board is the NISCOF chairman.

Why has KEPSA been willing to engage with street vendors, and been ready to advocate for them? Certainly, the focusing by the NARC government to include the informal sector as part of the private sector has influenced KEPSA's stand.

At the launch of the ERS, the president, while talking about the goals of the ERS (to generate 500,000 jobs a year, added:

“For us the private sector begins with the farmer in the countryside, and the *Jua Kali* artisan along urban streets. This extends to the captains of industry, located in various parts of the country.” (transcript of President's speech at the launch of ERS).

Interviews with a cross-section revealed three possible reasons that KEPSA has continued this theme of inclusion of the micro, small and medium enterprises. Firstly, this inclusion may be to maintain the strength of the coalition. Specifically, if the government's focus over the next few years is on the micro-and small enterprises, KEPSA can remain central as the focal point of the coordination. Secondly, because the fortunes of KEPSA are so far ahead of those in the informal sector, they do not view these micro enterprises as any near- or medium-term competitive threat. They can therefore be benevolent towards them. In addition, the markets for goods and services from Kenyan sources are growing as more trading bloc and regional markets are formed. In this view, there is “enough of the pie for everyone.” (author interviews).

As KEPSA is in sync with the government's discourse on SMEs as the promise of Kenya's industrialization potential (and influences it in through input at the Ministerial level), it is small step to include the voice of the street vendors, through NISCOF. This national level access to policy-making is striking particularly because, where before the street vendors were "they were shouting from far away" (quote from interview with NISCOF Chair), NISCOF feels that membership in KEPSA has allowed street vendors to contribute to the policy-making from much closer.

Two major events (one ongoing) are often cited as the biggest evidence of this change in discourse at the national level. One is the decree of Muthurwa Market in December 2006 by President Kibaki. Muthurwa Market is a piece of government land, 6.6 acres in size, in the Central Business District near the major long-distance bus terminal, Machakos Bus Terminal. The decree by the President of this piece of land in the CBD for hawkers, even more valuable because of its proximity to an area of high pedestrian traffic, has been well-received by NISCOF. The second ongoing event is the Small and Medium Enterprises (SME) Bill, currently in Parliament. The SME bill, once enacted into law, will facilitate the establishment of the SME Council which aims to regulate and support the small and medium enterprises. Here, the advantage of having an organized street vendor association is evident. Because the SME Council is supposed to oversee all formal and informal businesses between 1-49 employees, regardless of capital, NISCOF has highlighted differences between more established micro-enterprises that may fit the criteria and street vendors— for example they put forward their argument on why micro, macro and small businesses should be measured by capital or turnover and not by numbers of employees. For example, a jewelry shop that hires one other

employee because the trade of jewelry is not a high-paced one that requires more than two sets of hands (the owner and the employee). However, the turnover of the jewelry store determines different interventions for them versus another 2 person outfit selling handkerchiefs on the side of the road<sup>25</sup>. It is striking that this type of input was able to be put forward by the street vendors themselves. This is an example of access to the policy-making rather than the policy implementation level.

KEPSA also engages with the government through Ministerial Stakeholders Forums (MSFs) that are created in each ministry as an organ of partnership between .sectors/sub sectors and the ministry. Through these forums, NISCOF's voice has been heard at the policy-making level. In particular, the Ministry of Local Government and the Ministry of Labor and Human Resources, two ministries that are critical in determining the working conditions of street vendors<sup>26</sup>, have stakeholder forums that NISCOF can then put forward their requests. Because the input comes forth as "KEPSA thinks this", credibility is added to street vendors' input. Through KEPSA, street vendors have been promised by the Ministry of Local Government the allocation of 10 new markets and the upgrading of those that are already in existence, all in the CBD and the surrounding environs. Considering that the biggest priority of vendors in the CBD is appropriate work sites, this will be a major positive change, if implemented. KEPSA displays the milestones achieved for street vendors, like the planned rehabilitation of markets, on its website, itself a striking thing, considering its audience of largely formal businesses.

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<sup>25</sup> This example was given to me in an interview with a NISCOF member.

<sup>26</sup> The Ministry of Local Government directs the actions of the Nairobi City Council, and the Directorate for Small and Micro Enterprises is in the Ministry of Labor and Human Resources.

Working directly with NISCOF, KEPSA has been supporting and funding some capacity building workshops for NISCOF members. While some of the associations in the CBD have been seen as “briefcase” associations, KEPSA works with NISCOF because it feels that it is a credible association. NISCOF members attend monthly meetings at KEPSA and a consultant has been hired by KEPSA to oversee this section of their membership.

### **Nairobi Informal Sector Consultative Forum /Confederation (NISCOF)**

The primary reason given by NCBDA, KEPSA and other formal businesses why they have began engaging with street vendors now is that they, the street vendors, have become organized now and there exists a key entry point through which street vendors can be accessed. NISCOF on its end believes that their solidarity through numbers has been part of the reason that some improvements in their working environments have been promised, for example, the allocation of land. Thus, from both sides of the alliance, the role of NISCOF in altering the discourse towards being more inclusive is significant.

Three key actors have been very important for formation and evolution of NISCOF: USAID, NCBDA and a social business enterprise called Corporate Renewal Center (CRC). In 2003, NCBDA with USAID funding began a two year study with the objective of identifying the demographic and economic qualities of the street vendors in the CBD “and its environs<sup>27</sup>”. This project came under USAID’s “Appropriate Governance Structure for Informal Trading” Program whose aim was to “support institutions that can promote governance and democracy in Kenya”. The first step in

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<sup>27</sup> It seems that the spatial area of Nairobi as a unit of analysis is rather fluid, with most references citing either the full provincial area or the CBD as units of analysis. The phrase “and its environs” may be an attempt to find a medium between the two areas.



devising a governance system for street vendors in Nairobi, the study was directed at understanding the characteristics of those employed in this trade, with the intention of providing policy recommendations (NCBDA Survey 2003). A consultative forum of street vendors was formed to facilitate discussion between street vendors and NCBDA. At the time, its name, Nairobi Informal Sector Consultative Forum, indicates that the function of the organization was to be a platform on which vendors and those conducting the survey could consult on issues related to the USAID project. However, at the time of my fieldwork in January 2007, Nairobi Informal Sector Confederation was more commonly used in brochures and among vendors and partners. This change in names suggests a change in function towards its current role as an umbrella association for street vendors' associations in the CBD. As most street vendors' associations are location-specific, many have the same name as the lane onto which they were relocated by NCC in April 2003.

The NCBDA/ USAID program ended in December 2005<sup>28</sup> and, as a consultative forum, the function of NISCOF became obsolete. For the following months after this, vendors who had participated in NISCOF did not want to disband, yet they did not have a place to meet or an agenda through which to direct its actions (author interviews with NISCOF and CRC).

Soon after, a social entrepreneurship venture called Corporate Renewal Center (CRC) agreed to incubate NISCOF for a period of 3 years. CRC was seeking a "niche" after their initial idea of providing alternative organizations; restructuring mechanisms for large corporations was not being well received by the target audience. After some rethinking, they realized that they could fill a gap providing linkages between street

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<sup>28</sup> Citipower, NCBDA Newsletter, April 2005

vendors and organizations that wish to work with them, specifically donors and the private sector. CRC is a small Kenyan-run business of 5 employees. They receive no donor funding. CRC is currently incubating NISCOF, and pays for the rent of NISCOF offices. They also have been paying, since 2005, for NISCOF leadership to attend multiple training workshops on leadership, strategic planning, team building, and resource management, to avoid management and organizational shortcomings that could cripple NISCOF. The strong sense of solidarity in the leadership, despite being from diverse tribes, may be a result of this training.

NISCOF is now officially an umbrella body of informal traders' and service providers' associations in Nairobi. Registered in 2005, NISCOF currently has 23 member associations representing approximately 15,000 individual traders<sup>29</sup>. Because NISCOF is an umbrella association, membership to NISCOF is at an association level; the members are themselves associations, organized primarily locationally, rather than sectorially, meaning that traders join based on the geographic proximity to their trading spaces. The associations, therefore, represent diverse trades, including retail clothing and accessories and food/catering. Almost every association is organized by lane of trade and the names of the associations often reflect the name of this lane.

NISCOF does not represent all street traders in the Central Business District "and its environs". Given that estimates of street vendors in "CBD and its environs" is between 65,000-100,000, and that NISCOF's membership is now 15,000, NISCOF represents about 15%-23%. Firstly, other national and sub-national street vendors' associations compete for membership in this important geographic area; Kenya National Hawkers' Association (KENAHA) and Vendors' Federation of Kenya (VEFEKE) are the

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<sup>29</sup> NISCOF source

two main competitors in the CBD. Secondly, NISCOF has had to overcome a credibility gap among the street vendors in the CBD, as some street vendors are suspicious because NISCOF evolved from NCBDA-related activities. NCBDA was initially hostile towards street vendors, pushing action that focused on sweeping vendors off the streets.

NISCOF's registration in 2005, despite its formation in 2003, is an indication of how long it has taken to broaden its support base. Thirdly, some of the leaders at NISCOF's initial committee split away and created another association due to leadership wrangles. Similarly, not all of NISCOF's members are from the CBD. In fact, given that its total membership is 15,000, and that their survey counted approximately 4,000 members in the CBD, the majority of the members come from outside the CBD. NISCOF has chosen to include these non-CBD members because, although they do not suffer from city inspector harassment, they do suffer some level of harassment from the administrative police. In addition, including them increases the numbers of NISCOF, which increases their strength and potential leverage.

In addition to organizing street vendors in Nairobi, NISCOF is the Nairobi's associational member of the Kenya National Alliance of Street Vendors and Informal Traders (KENASVIT), an umbrella organization of street vendors' associations throughout Kenya. The origins of KENASVIT are rooted in research conducted between 1998 and 2000 by the Institute for Development Studies (IDS), Kenya, on street vending in Kenya. The research revealed that street vendors and informal vendors lacked the capacity to organize themselves so IDS Kenya, with Dr. Winnie Mutullah at the lead, organized a workshop that brought together informal vendors from Nairobi, Mombasa, Eldoret, Kisumu, Machakos, Nakuru, and Migori. The workshop, held in 2002, resulted

in the formation of KENASVIT. Since 2002 KENASVIT has been organizing its membership, and they finally registered at the Attorney-General's office in April 2006. KENASVIT currently has association members in 7 urban centers (from Nairobi, Mombasa, Eldoret, Kisumu, Machakos, Nakuru, and Migori) and is working to grow representation throughout Kenya.

NISCOF has a few features that are unusual for a street vendors' association in Kenya. First, their administrative structure includes a recruitment position whose mission is to extend its membership "until we represent all street vendors in the CBD and its environs<sup>30</sup>." This recruitment is done through discussions at individual trader level and at association level<sup>31</sup>. Second, NISCOF carries out elections every three years for the Secretariat. The Secretariat takes this level of democracy very seriously. Third, throughout the two years they have been together, they have attended many workshops on leadership, strategic planning, and team working. They are extremely proud of these two aspects and see them as what puts them ahead of other street vendor associations. For one, many street vendors' associations do not use elections to choose their leaders<sup>32</sup>. Also, not many street vendors' association leaders have the opportunity to gain such valuable organizational skills. This training has motivated them to, for example, carry out their own enumeration of street vendors of the CBD. They carried out the survey without any outside help from donors or the coalitions. While the NCBDA survey had more resources and therefore, perhaps more thorough, the Secretariat felt strongly that they needed to take another one that would effectively eliminate the "opportunists" – street vendors who did not usually trade in the CBD but because they thought they may

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<sup>30</sup> Interview with NISCOF officials

<sup>31</sup> Initial interview with NISCOF officials.

<sup>32</sup> Hence the term "briefcase associations" used by KEPSA earlier.

benefit by being counted in the NCBDA/USAID study, moved into the area for the period of the survey. This “free-loading” is one reason why the numbers in the survey carried out by NISCOF are lower than the NCBDA survey. This latter has 6,000 vendors in the CBD while NISCOF’s survey reported 3,775.

Fourth, NISCOF has also produced a newspaper, “The Vendor”, and the first issue was in November 2006. Funded by CRC, the objective of this newspaper is to provide a conduit through which information can be exchanged between NCBDA and NISCOF. The Vendor costs US\$0.14 which CRC believes is cheap enough for street vendors to buy. NCBDA is responsible for distributing the newspaper to their members. In addition to transferring knowledge between the two, NISCOF plans to use the sales from the newspaper as a source of revenue<sup>33</sup>.

Fifth, the range of services offered by NISCOF to its members, and to street vendors in general, are one step past the norm of providing access to micro-credit. While they do provide access to micro-credit, they also approach their major challenges - access to safe, appropriate worksites – in a different manner. While there is still advocacy work involved in having land allocated to them, NISCOF also is working to minimize the negative effects of not having permanent sites by making available insurance to protect the wares (author interview). Discussions with NISCOF determined that the target hawker population can put aside 65cts (KES 40) a day for insurance premium, which amounts to approximately \$19.50 (KES 1,200) a month. It is estimating that hawkers earn an average daily profit between \$1.40-\$14.30 (author interview). The insurance will provide them confidence to buy more stock which should increase their profits. One

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<sup>33</sup> At the time of the interview, NISCOF had not yet been able to distribute the newspaper as it was still undergoing “government clearance”, a process that every new media publication must go through to.

hawker said that “it is not a bad business, the only problem is having the money to buy the stock in the morning.”

The biggest insurance provider for cooperatives, CIC, has created micro-insurance products that are beginning to sell to the informal sector. Interestingly, one of these products is insurance against demolition of their kiosk and goods by the local government. The risk of losing everything at a moment’s notice is one major reason given by hawkers on why they do not dare grow their business. In addition, once someone’s stock has been confiscated/demolished, the community around them (e.g. the other hawkers on that street) has an obligation to contribute to helping them start over (a social obligation – an informal norm that dictates you must help. This also goes for funeral expenses as well, if a family member of a hawker dies). This reduces the chance of hawkers to save). Also, because funerals are not uncommon due to 1) health issues like HIV/AIDS, malaria, etc and 2) “family member” means more than just immediate or even extended family.

This product was introduced after discussions with NISCOF, with CRC working as the intermediary who put the two in touch. The CIC (the insurance company) is confident that this coverage/product (and others like health micro-insurance) can be sustainable given that hawkers are so many. NISCOF’s role as providing the entry point for two-way transfer of knowledge has been key in this initiative. UNDP provided the seed capital to start this project (author interview and UNDP Project document) and CIC has set aside US\$12 million to cover liabilities that arise from this coverage.

Lastly, NISCOF's membership spans across ethnicity. While the membership is primarily Kikuyu (the population of street vendors' in the CBD is 65% Kikuyu), its Secretariat has representation from other tribes. NISCOF has been conscious about making sure all tribes are welcome and do not consider themselves ethnically based (author interviews).

## **Conclusion**

Growth coalition theory argues that the direction of development of urban centers is primarily influenced by the different elites who come together to influence the direction of policies within the city. In addition, the political elite and presence of "influential bourgeoisie" must support growth coalitions for them to work (Brautigam et al, 2002). Both NCBDA and KEPSA are good examples of *working* growth coalitions because, not only do they have very strong relationships with the respective levels of government, but they are made up of the elite of Nairobi's private sector which, as a result of their collective financial clout, are able to get the ear of the state. That they have gone a step out of the norm and used their influence to provide a conduit through which street vendors can put forward their demands to policy-makers is striking.

## **CHAPTER 4: MAY I PAY TAXES, PLEASE: THE ROLE OF TAXATION IN HEARING STREET VENDORS' VOICE**

Whether there is a link between taxation and government accountability is still under debate. While taxation can provide the space within which the state and society interact in a reciprocal relationship (Moore 1998), increased taxation by the state in itself does not guarantee that the state will consequently become more transparent. Regardless of this, NISCOF has taken the link between being taxed and being able to demand for services seriously. At the first Stakeholders' Forum on Taxation and Accountability, held on April 4<sup>th</sup> 2006, NISCOF, representing KENASVIT, attended together with representatives from Kenya Revenue Authority (KRA), the private sector, Parliamentary representatives (MPs), donors and other NGOs such as Action Aid. The day-long Forum had 67 participants.

The idea of the Forum was spearheaded by Centre for Governance and Democracy (CGD), and funded by the Britain's development agency, Department for International Development (DfID). CGD wanted to bring different parts of the tax-paying public into a discussion with the agencies within the government responsible for tax policy and tax collection (both Kenya Revenue Authority and Ministry of Finance were in attendance). CGD's objective was to explore mechanisms through which citizens in Kenya could demand accountability from government regarding how their taxes were collected and used.

The impetus of CGD to begin consultations on this topic of taxation and government accountability was grounded in the growing awareness by citizens of what tax is *supposed* to do for them, i.e. to provide services, which has been fueled in



particular by the devolution of the Constituency Development Fund (CDF). This Fund is a *carte blanc* transfer of funds from the central government to the constituency level, and its purpose is to support participatory budgeting at that level. NGOs and some MPs have been diligent about making sure that citizens know that they are in charge of deciding what happens to this money. While the results of this participatory budgeting have been mixed (some constituencies have not completely devolved decision-making to the citizens), the corresponding awareness contributed to CGD's belief that having this Forum was a worthwhile venture.

The first Stakeholders Forum was striking because it was the first time that the formal businesses and the Kenya Revenue Authority (KRA) and the Ministry of Finance all got to hear from street vendors their tax story. Representation from "civil society" was divided into the formal private sector, the informal private sector, and the voluntary or non-governmental sector. Each section had multiple presentations about their thoughts on taxation and the link to government accountability and the provision of services. Firstly, one of the representatives from the informal sector demonstrated, using calculations, that the amount of bribes that the informal sector paid to the local authorities is much higher than what they would pay if they paid taxes<sup>34</sup>. Given this, the representative encouraged those from the government in attendance to strengthen their capacity to tax the informal sector as both parties stood to gain; the former from increased revenue, and the latter from having a legitimate position to demand basic services, e.g. working toilets in the marketplaces. In addition, NISCOF representatives shown how paying the daily license fee of US\$0.75 (which amounts to \$130 a year) to

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<sup>34</sup> During my interview with this representative, I learnt that he has worked with two professors/researchers based at universities in Nairobi who had helped him through the process of figuring out how to do the comparison.

City Council was more expensive than if they were paying the annual fee (compared to \$45-\$74). Their case was that street vendors and other informal sector workers do pay tax and provide revenue to the local authorities, only that they pay in non-conventional ways and these unconventional means do not provide them with the legal standing to demand services that a direct tax would. Therefore, paying tax would be to their advantage.

The first forum recommended the formation of a National Taxpayers Association (NTA) as the most appropriate mechanism to demand accountability from the government. Representing KENASVIT, NISCOF was chosen to be on the Interim Stakeholders' Committee that worked through the implementation of the NTA. Of the 13 members of the Interim Steering Committee, 2 represent the informal sector and KENASVIT (through NISCOF) is the only representation of street vendors<sup>35</sup>. Interestingly, Kenya Revenue Authority asked to be a part of this Interim Committee, which indicates that they, too, realize how the leverage tool that tax provides has strong potential.

NISCOF's advocacy to pay tax stems from two reasons. Firstly, they believe that paying tax will place them squarely as citizens of the country. They feel that the formal sector, particularly those that were sitting in that Forum, wondered what those who did not pay tax (and who they considered unfair competition) were doing in the room. So paying tax will provide a sense of ownership and self-fulfilment and dignity. Secondly,

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<sup>35</sup> The remaining 11 members are Ecumenical Centre for Justice and Peace (an NGO with inter-religious base), Kenya Human Rights Commission, Institute of Economic Affairs (a research institute), Kenya Association of Manufacturers, Transparency International-Kenya, University Academic Staff Union, Kenya Alliance of Residents Associations, Central Organization of Trade Unions, Institute of Certified Public Secretaries of Kenya, and Kenya Revenue Authority and the Parliamentary Service Commission as observers.

and more importantly, they feel that paying tax provides them with a leverage, a legal cover, which they can use to legitimately demand for services. Their requests for services are not big ones; for example, NISCOF feels that the City Council should provide public toilets in the parts of town where the hawkers are currently located. This idea may have sprung from the most recent relocation of CBD hawkers to back lanes that have no water or sanitation facilities.

NISCOF may have incorporated the idea of paying tax as leverage from several sources. In the Kenyan context the awareness of this linkage of between taxation and accountability has been heightened by the introduction of the Constituency Development Fund (CDF), which has raised fiscal awareness at the grassroots level. Increasingly the public are making greater accountability demands. Firstly, the CDF, a highly publicized government initiative has affect hawkers more than most other constituents in Nairobi. The CDF has a website that documents the members of the CDF committee in each constituency (headed by the Member of Parliament of that constituency, and the councilors – where relevant – being members), and how the money has been allocated to various projects. This same information is published in the main circulating newspaper, Daily Nation, once a week. A recent newspaper report on the best and worst constituency re: the CDF reflected badly on the MP and he was really embarrassed. Secondly, they got the idea to pay tax from two sources which underscore the spillover effects of working across these alliances. KEPSA echoes the same rhetoric about paying tax as a responsible citizen, which indicates that NISCOF may have gotten the idea from them. In addition, IDS works with CGD and in fact the Forum facilitator was an IDS affiliate. This may indicate why NISCOF was called to the Forum. As mentioned

earlier, there seems to be knowledge of which organizations to target, so NISCOF is getting a good name as the association to go to.

This willingness of NISCOF to pay taxes is in opposition to De Soto's legal definition of the informal sector, commonly called the legalist definition, which describes those involved in informal activities as choosing to live outside of the state's regulation. It follows then that these same people generally do not support policies that the government implements "that seek to control and tax these activities" (Widner 1991). This is shown to be untrue in the case of the street vendors in NISCOF, because they are arguing that they already pay tax and would be happy to have a simplified tax system if this means they can then get services. This reciprocal relationship, the fiscal social contract<sup>36</sup>, can be viewed as the foundation of a relationship which facilitates bargaining and negotiating between the state and society's diverse interests (Moore 2005).

The discourse on using tax as a leveraging tool can only have been possible due to changes at the national level on the urgency of collecting and maintaining high levels of tax revenues. KRA and the Kenya government have been conscientious about increasing their domestically generated revenue, and consequently decreasing reliance on foreign aid. Since 1998, foreign aid has amounted to an average of 4.9% of GDP in Kenya (Cheeseman and Griffith 2005). This foreign aid to GDP ratio is considered low with aid constituting over 20% of GDP in other sub-Saharan countries; examples include Guinea-Bissau: 37.3%; Sierra Leone: 28.7% and Malawi: 26.2% (Cheeseman and Griffith 2005). The new budget structure will reduce occurrences of unplanned budget shortfalls when aid committed by donors is not subsequently disbursed 2004/05-2007/08 Budget Strategy Paper). The government has explicitly reported that it is actively pursuing a strategy to

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<sup>36</sup> Phrase borrowed from Moore 2005.

substitute domestic debt with external debt (Public Expenditure Review 2004 pp 13), and knowing that it can take only limited advantage on domestic borrowing<sup>37</sup>, there has been a shift towards broadening the tax net as a way to get more money. In Kenya, therefore, tax revenue collection has taken on new significance. Tax was one of key reform areas of new government upon election in 2002.

With the Treasury's emphasis on shifting the source of their revenue from external foreign aid to domestic sources, the story of the taxation and accountability in a reciprocal relationship is playing out. KRA, Treasury and the Ministries have developed a willingness to listen to how they can address the needs of citizens. For example, almost every Ministry has set up a stakeholder's forum that solicits input from the public. As indicated earlier, KEPSA has representation with the Ministry of Labor and Human Resources' Forum and the Ministry of Local Government Forums. These Forums are allowing taxpayers to voice how they believe their tax money should be used.

One more Stakeholder Forum on Taxation and Accountability was held in July 2006, and based on the work done by the Interim Committee, the National Taxpayers Association was officially inaugurated in November 2006. Its structure consists of two levels of lobbying and advocacy: first, at the constituency level where issues particular to the constituency will be tackled, and use of tax money within the constituency will be monitored. The second level is at the national, where issues that are common to all, e.g. transport infrastructure, will be tackled. The challenge will be to mediate the diverse interests in a fair fashion.

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<sup>37</sup> Government borrowing in the private financial market has adverse macroeconomic effects such as increases in domestic interest rates and potential instability of the banking sector (in the event of payment defaulting).

How tax is collected and used has become a major campaign platform in the lead-up to the upcoming 2007 General Elections, the first time tax has been mentioned in any political campaign. This underscores the way that tax has become a major issue. Therefore, these initial demands of NISCOF to pay tax are a critical first step to providing street vendors with an effective bargaining tool which will become more effective if the current taxation discourse in Kenya evolves to form a stronger reciprocal state-society relationship.

## CHAPTER FIVE: CONCLUDING THOUGHTS

This thesis has been a surprising case of a street vendors' association, the Nairobi Informal Sector Consultative Confederation (NISCOF), using two types of non-conventional conduits through which to articulate their needs: growth coalitions and taxation. These two conduits also illustrate two surprising, yet effective, ways that the formal sector has been an important link to street vendors in Nairobi.

For NISCOF to use the growth coalition conduit, two formal business associations, KEPSA and the NCBDA, have been key actors. They use their economic clout to strengthen and add credibility to NISCOF's voice. The national level discourse on street vending and other SMEs has become more positive for two reasons: economically, the government needs to create jobs to reduce unemployment and improve economic growth. Politically, the government promised these jobs (and a healthy economy) as part of its campaign reform platform. In order to be re-elected, they must deliver these jobs. KEPSA is happy to go along with this discourse because its members do not consider street vendors as competition in the medium term. In fact, immediate benefits of incorporating NISCOF's voice into their "single private sector voice" include having power in numbers (NISCOF brings with it 15,000 members) and keeping themselves even more relevant to the government as the latter seeks to figure out conduits through which to access the micro-enterprises. NCBDA has realized that "hawking just won't go away" and that in fact, if suppressed, worse negative effects are felt in their CBD space, namely spikes in petty crime like handbag snatching. They are therefore willing to advocate for a more permanent solution that does not suppress the hawking trade. Where previously, any symbiotic linkage between the formal and informal sector

has been described in economic terms, e.g. how formal businesses hire informal vendors to sell their wares on the streets or how informal businesses can get included into vertical global value chains, this growth coalition conduit show that the symbiotic relationship can go beyond economic terms, to include advocacy and other civic support.

NISCOF is also aware of the growing importance of tax in Kenya, and has added its voice to the resulting increase in public discourse about tax. Specifically, NISCOF has been articulating its desire to pay taxes, because they believe that they can use their payment as leverage for improved services. The Forum on Taxation and Accountability was a useful platform on which the formal businesses and government agencies, including KRA, heard the rarely-told other side of the “unfair competition” story, a story where street vendors are accused of having more favorable business conditions because tax does not eat into their profits and because by being out on the street, the customer ultimately gets to them before they get to the formal business shop. By using these two non-conventional platforms, NISCOF’s voice has been brought closer to the policy-maker which, while it is still early yet to determine the long term effectiveness of this new proximity, does signal that policy makers are willing to listen.

Further, this study also uncovers underlying dynamics whose application can be useful beyond this study. The first dynamic is the spillover effects that may have taken place as a result of the same elite being members of both KEPSA and NCBDA. The second dynamic is the contribution of donors to this change in discourse and how, while their actions have made the state push back in resistance, at the local level these actions have also contributed to providing the participatory space necessary for the emergence of associations like KEPSA, NISCOF and NTA.



## Spillover Effects

The stagnant Kenyan economy over the past two decades and cumbersome business regulation requirements (only now being modified and removed) have contributed to the dearth of medium to large indigenous businesses. Under these conditions, small businesses have been unable to grow. The small number of medium to large businesses together with Nairobi's 50% contribution to the national GDP (Sarzin, 2005) makes a situation where not only do all the business elite base themselves in Nairobi, but most have membership in both NCBDA and KEPSA.

As can be seen in the table below, three of the four industries where the two members overlap are service industries; that is, tourism, insurance and advertising. Due to the nature of the products in service industries, the transfer of knowledge and other spillover effects tend to be more easily transferred through the professionals in the respective industries. Additionally, the flow of new ideas between the two associations do not need to go very far as both associations share many of the corporate members.

**Table Comparing NCBDA and KEPSA**

<b>CHARACTERISTICS</b>	<b>NCBDA</b>	<b>KEPSA</b>
Origins	Registered in 2000; formed to put pressure on government to improve service delivery in Nairobi.	Registered 2003; formed to enable private sector-wide input into the ERS at national level. Grew out of Private Sector Forum, a taskforce put together to consolidate input for the PRSP process.
Mission statement	To making the City of Nairobi a great place to invest, work and enjoy.	Through constructive dialogue, engage the government in the formulation and implementation of pro-growth policies that maximise Kenya's competitiveness and create wealth.
Slogan	"Nairobi the choice of Africa, Clean, Secure, Vibrant - Home for	"In Pursuit of An Enabling Business Environment, Policies and Laws for the Large as well as

	All” “Nairobi – Improvement Through Action”	the Micro, Small and Medium size Enterprises.”
Types of association to organization	Partners – two categories <ul style="list-style-type: none"> <li>• Corporate</li> <li>• Small and medium (non-corporate)</li> </ul>	Membership – 4 categories <ul style="list-style-type: none"> <li>• Sector associations.</li> <li>• Sector federations.</li> <li>• Multi-sectoral thematic organisations.</li> <li>• Corporate as support members.</li> </ul>
Number of members	80 corporate; 6 small and medium	23 sectorial/multisectoral institutions; 29 associations; 161 corporates;
Governing Structure	Governing Council only	Governing Council; Board of Directors
Industries/sectors represented on the Governing Council	Insurance, tourism, advertising, manufacturing	Manufacturing, tourism, co-operatives, IT, agriculture, transport, micro-finance institutions, insurance, commerce, SMEs, banking, financial and capital markets, physical infrastructure, health, <i>matatus</i> (informal transportation), employers, trade and industry
Professions represented on the Governing Council	architecture, urban planning, land economist, media, public relations, legal/lawyer, police	Architecture, legal, media, accountancy, marketing

This overlap in membership may contribute to the changing discourse that has brought street vending into the dialogue space. KEPSA’s focus is on growing and strengthening the private sector of which street vendors are a part, albeit a minor part. NCBDA, on the other hand, need to maintain a clean, modern looking city to serve the markets that their services target. These two objectives can be solved by the same single solution: providing appropriate worksites for street vendors. From KEPSA’s perspective,

these businesses will have a greater chance of growing from micro-size to larger, and therefore increase the size of the private sector. The street vendors will then be in controlled sections of the city which helps keep Nairobi looking orderly, which fulfills NCBDA's goal.

### **The Dual Paradox of Donors**

Sanyal (1991) coined the phrase “antagonistic cooperation” in describing how NGOs, donors and government in Bangladesh grudgingly cooperated despite strong perceptions of dislike for each other's way of implementing projects. In this study, two similar scenarios of grudging symbiosis is displayed between donors and the national government. The first one is seen when taking the efforts of the national government to implement economic strategies that make it more independent from donors, specifically, the turning inwards for domestic sources of revenue through increased tax collection and the replacement of the PRSP by the ERS, and comparing this with the progress of NISCOF, KEPSA, NCBDA, NTA in bringing street vendors, a marginalized segment, into a discourse with policy makers. These four associations have progressed the way that they have due to the intervention and support of donors in the organizing of the street vendors; for example, USAID in funding the NCBDA survey that triggered the creation of NISCOF in 2003, CORDAID who funded the team building and other training needs of NISCOF staff, and UNDP who have been crucial in funding the micro-insurance initiative. Without these donors, NISCOF may not have gotten to where it has now in terms of conducting itself as a growing business association serving the needs of the vendors, and also being a primary advocate of the street vendors to the national and local

governments. Therefore, while at the national level, there is a turning away from donors in search of greater financial independence, at the micro level, the financial support of the donors has made these positive changes for street vendors possible.

The second scenario displays on one hand, the World Bank and IMF donors forcing the Poverty Reduction Strategy Paper on the Kenyan government as a conditionality for concessionary loans. Part of the condition was that the PRSP would be prepared based on input from a wide cross-section of society. This top-down approach to development (i.e. the loan conditionality imposed by the World Bank and the IMF) introduced and enabled the penetration of the participatory process into the state's policy-making process for the first time in Kenya, i.e. the introduction of a bottoms-up approach. The introduction of this participatory space has enabled NISCOF, KEPSA and NTA to emerge as advocates of their respective constituents. These two scenarios add a dimension to Sanyal's concept of antagonistic cooperation: that sometimes the state and donors do not know that they have been antagonistically cooperating.

## SELECTED REFERENCES

- Anyumba, G. (2003). *Planning for Crime Prevention: The Case of the City of Nairobi*. Pretoria: SaferAfrica.
- Bates, R., & Kruger, A. (1993). *Political and Economic Interactions in Economic Policy Reform*. Cambridge: Blackwell Publishers.
- Brautigam, D., Rakner, L., and Taylor, T. (2002). Business Associations and Growth Coalitions in Sub-Saharan Africa. *Journal of Modern African Studies*, 40(4).
- Chen, M. (2005). Rethinking the Informal Economy. *United Nations University WIDER Research Paper*. No. 2005/10.
- Craig, D. (2003). Poverty Reduction Strategy Papers: A New Convergence. *World Development*, 31(1), 53-69.
- Cross, J. (1998). *Informal Politics: Street Vendors and the State in Mexico City*. Stanford: Stanford University Press.
- Government of Kenya. (2004). *Economic Recovery Strategy for Wealth and Employment Creation*. Nairobi: Government Printers.
- Hart, K. (2005). Formal Bureaucracy and the emergent forms of the informal economy. *United Nations University WIDER Research Paper*, 2005/11.
- Heller, P. (2000). Degrees of Democracy: Some Comparative Lessons from India. *World Politics*, 52, 484-519.
- Horowitz, A. (1993). Time Paths of Land Reform: A Theoretical Model of Reform Dynamics. *The American Economic Review*, 83(4), 1003-1010.
- House, W. (2006). Nairobi's Informal Sector: Dynamic Entrepreneurs or Surplus Labor? *Economic Development and Cultural Change*, 32(2), 277-302.
- Ishengoma, E., & Kappel R. (2006). Economic Growth and Poverty: Does Formalization of Informal Enterprises Matter. *GIGA Working Papers*, 20.
- Krueger, A. (1993). *Political Economy of Policy Reform in Developing Countries*. Cambridge: MIT Press.
- Liedholm, C. & Mead, D. (1999). *Small Enterprises and economic development: The dynamics of micro and small enterprises*. London/New York: Routledge.
- McGee, T. (1973). *Hawkers in Hong Kong: A Study of Planning and Policy in a Third World City*. Hong Kong: Center for Asian Studies, University of Hong Kong.

- McKee, D. (1991). *Schumpeter and the Political Economy of Change*. New York: Praeger.
- Mitullah, W. (2003). Street Trade in Kenya: The Contribution of Research in Policy Dialogue and Response. *Paper Prepared for Urban Research Symposium on Urban Development for Economic Growth and Poverty Reduction*. Washington, DC.
- Mitullah, W. (2004) A Review of Street Trade in Africa. *A Review Commissioned by Women in Informal Employment Globalising and Organising (WIEGO)*. Cambridge: Kennedy School of Government.
- Olofsgard, A. (2003). The Political Economy of Reform: Institutional Change as a Tool for Political Credibility. *Background Paper to World Bank 2005 World Development Report*.
- Patrick, D., Els, H. and Wanyama, F. (2005). The Emergence of Multilevel Governance in Kenya. *Leuven Interdisciplinary Research Group on International Agreements and Development*, Working Paper 7.
- Rodrik, D. (1996). Understanding Economic Policy Reform. *Journal of Economic Literature* 34 (1), 9-41.
- Sanyal, B.(1988). The urban informal sector revisited: Some notes on the relevance of the concept in the 1980s. *Third World Planning Review* 10(1), 65-83.
- Sanyal, B. (1991). Organizing the self-employed: The politics of the urban informal sector. *International Labour Review* 130(1), 39-56.
- Sanyal, B. (1991). Antagonistic cooperation: A case study of nongovernmental organizations, government and donor's relationships in income-generating projects in Bangladesh. *World Development* 19(10), 1367-1379.
- Sarzin, Z. (2006). The Impact of Morbidity and Mortality on Municipal Human Resources and Service Delivery: An Analysis of 3 African Cities. *Africa Region Working Paper Series*, 100.
- Scott, James C. (1969). Corruption, Machine Politics, and Political Change. *American Political Science Review*, 63(4), 1142-1158.
- Shiverenje, H. (2005). What happened to the PRSP in Kenya? The Role of Politics. *PLA Notes*, 51, 27-31.
- Smart, J. (1989). *The Political Economy of Street Hawkers in Hong Kong*. Hong Kong: Center for Asian Studies, University of Hong Kong.

Werlin, H. (1975). *Governing an African City: A Study of Nairobi*. New York and London: Africana Publishing.

Widner, J. (1991). Interest Group Structure and Organization in Kenya's Informal Sector: Cultural Despair or a Politics of Multiple Allegiances? *Comparative Political Studies*, 24(1), 31-55.