

GOLD VI

***Case-Based Contribution
to Chapter 9: Democratizing
GOLD VI Report on Pathways
to urban and territorial equality***

Urban development and participatory

governance: Learnings from the

co-creation of street vending ordinance

1787 in Lima

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Urban development and participatory governance: Learnings from the co-creation of street vending ordinance 1787 in Lima

AUTHOR(S)

Olga Abizaid, Ana Carolina Ogando

ORGANISATION NAME

WIEGO

CITIES/COUNTRIES IT COVERS

Lima (Peru)

CHAPTER

9: Democratizing

SUMMARY

Social dialogue between street vendor organizations and municipal governments can result in inclusive regulatory frameworks, which are essential for the creation of more adequate solutions in the management of public spaces as workplaces.¹ Moreover, they can promote greater urban equality as multiple stakeholders address and solve problems together. This case study will explore the channels for social dialogue between government authorities and street vendor organizations in Lima, Peru in the 2010s that led to the development of Ordinance 1787 on street vending. The case seeks to highlight how social dialogue can provide a path for upholding and reconciling informal workers' right to work in public space, and municipal governments' urban development goals.

Street Vending and Urban Development

In Lima, 57 per cent of the labour force is informal of which 24 per cent are street vendors.² Street vending has been a key source of livelihood for many workers in Lima. This is largely attributed to the failure of the import substitution model, the recurrent economic crises in the 1980s and the negative impacts on employment of structural reforms undertaken in the 1990s, which were all concomitant to significant flows of internal migration from rural areas to Lima in search of economic opportunities.³

For the Metropolitan Municipality of Lima, as the city grew, so did the pressures to manage street vending in public spaces, particularly in the Historical Centre. During the 1990s, the Municipality's approach to reducing the presence of street vendors from the downtown core was to promote the relocalization of street vendors organizations into new urban developments. However, by the 2000s, the municipality prioritized the fiscalization of street vendors over dialogue. **In Lima's downtown core, street vendors have been frequently subjected to harassment by public authorities, leading to evictions and confiscation of goods.⁴ Street vendors have also faced persistent stigmatization from the government, the media and public in general. These punitive practices have had**



several negative consequences for these workers to secure their livelihoods. The emphasis on fiscalization has prevented the local government from effectively managing public spaces.⁵ Consequently, the local government has also failed to recognize the essential role street vendors play in providing food security and services, particularly to the vulnerable segments of the population.

Against this background, and in contrast to stronger cohesion among street vendor organizations in the 1980s-1990s, street vendors' capacity to speak in a collective voice was also weakened throughout the 2000s.⁶

Street vendors in Lima play an essential role in providing food security and services, particularly to the vulnerable segments of the population
Source: Juan Arredondo/Getty Images Reportage

An Expanding City and the Need to Rethink Roles and Responsibilities

From 2011-2015, the Municipality of Metropolitan Lima's approach towards public spaces and street vending – still imbued by the objective to decentralize the city and promote economic growth on the outskirts – **recognized the heterogeneity in the composition of this sector. In addition, the municipality**

sought to promote street vendors' livelihoods, while ensuring mobility rights of other actors.⁷ **As a result, committed technical staff within the municipality saw a political opportunity to draft a new ordinance that would provide a long-term and more enabling regulatory framework on street vending.**

2. Instituto Nacional de Estadística, 2019

3. Interview with Guillermo Pérez Herrera, Advisor to WIEGO Focal City Lima, on February 8, 2020

4. Roever, 2016

5. During the 2000s, instead of a decline in the number of street vendors on the streets, Lima saw an increase in the number of peddlers with more precarious working conditions than before. See Aliaga Linares, 2018

6. In addition, leaders with opposing view created rifts leading to the split of the most representative street vendors organization – the Federación Departamental de Vendedores Ambulantes de Lima (FEDEVAL) – into new organizations like CONFIAR, Red de Mujeres, among others.

7. Interview with Helbert Gutiérrez, Deputy Manager of Economic Development in the Metropolitan Municipality of Lima at the time. February 10, 2020.

This political will was aligned with a series of long-held street vendor advocacy efforts⁸ for a fairer licensing system, municipal support for formalization, and greater access to social and legal protection.

The participatory process to draft Ordinance 1787 (2012-2014) was an important step for all actors to understand and accept the roles

and responsibilities they would each have regarding work in public spaces.

The timeline below summarizes key turning points, including advances and setbacks, that have defined the regulatory framework for street vending.

Timeline: Advances and Setbacks in Frameworks for Street Vending in Lima

1985: Municipality Promulgates Ordinance No. 002-85/Metropolitan Lima

- Recognizes street vending as an occupation and allows street vendors to use public spaces for livelihoods.
- Creates mechanisms to promote the strengthening of organizations and sets up a fund to finance social protection for vendors.

1996-2003: Municipality Successfully Negotiates Relocations of Street Vendors Groups

- Recognizes the heterogeneity amongst vendors, identifies groups that had accumulated enough capital to move out of the streets and creates a negotiated path for formalization.⁹

2006-2007: Street Vendor Organizations Propose Changes in Vending Regulations

- Street vendors push demands for municipal support towards formalization and access to public spaces for more vulnerable groups.

2012: Municipality of Metropolitan Lima Presents Draft of New Ordinance to Street Vendor Organizations

- The municipality initially prioritizes a less onerous licensing system in order to concentrate on more strategic themes such as formalization.

2012: Street Vendors Set Up the *Coordinadora Metropolitana del Comercio Popular*

- Street vendor organizations (CONFIAR, Red de Mujeres and FEDEVAL, among others) create a separate space for collective debate, dialogue and consensus-building to articulate their positions on the ordinance in a unified voice.

⁸ Several of these proposals were brought forward to the administration of Luis Castañeda without success (2003-2010). Pérez Herrera, 2018

⁹ Pérez Herrera, 2014

2012: Municipality Launches Large-Scale Consultation to Inform the New Ordinance

- Six consultations are convened in different areas of the city with participation from over 180 street vendor leaders from 22 local municipalities.¹⁰
- The municipality presents the draft ordinance with street vendors providing detailed feedback during the consultations and in written submissions afterwards.

2012-2014: Municipality Convenes the Mesa Técnica del Comercio Ambulatorio with Street Vendor Organizations

- The municipality chooses a format that enables broad representation of street vendors. The Mesa has the mandate to finalize the draft of the ordinance and ensure its implementation by developing legal guidelines that will delineate mechanisms for implementation. All actors meet on a weekly basis.

2013: The Administration's Position in the Municipal Council Is Weakened After Recall Vote

- The impeachment process against the mayor delays the review of the ordinance in the municipal council. Although the mayor remains in office, 20 of the 39 members of the council are revoked, jeopardizing the strength of the commitment to passing the ordinance. To obtain support from incoming councilors, some concessions are made.

2014: Municipality Promulgates Ordinance 1787, A Progressive Framework Law

- Calls for the establishment of Technical Tripartite Committees (actors involved include: municipality, street vendor organizations, and the community) to decide on the use of public spaces and promote the gradual transition to formalization for street vendors that are in the position to do so.
- Preference in the awarding of licenses to most vulnerable groups, particularly women heads of households.
- Extended validity of licenses to provide greater legal certainty for vendors.
- Calls for street vending regulations within Lima to be consistent with the rights outlined in the ordinance.

2015-2016: Incoming Administration Reverses Approach Towards Street Vending

- Previous mayor returns to office and reverts to a punitive approach to street vending, including the promulgation of Ordinance 1933 of 2016, which amends Ordinance 1787 by reducing the duration of vending licenses to one year.
- The Technical Tripartite Committees, among other strategic points from Ordinance 1787, remain valid, but there is no political will to implement them.

10. Nolasco, 2012

Assessing the Participatory Norm-Setting Process

This case presents important lessons¹¹ on how enabling and countervailing factors impact the ability to sustain innovative participatory processes and social dialogue with multiple stakeholders.

Enabling Factors

- **Political Will from Local Government:** Key government actors in the leftist administration were committed to promoting economic development through citizen participation.
- **Network of Allies to Support Street Vendors:** A network of technical staff, allies from labour and support organizations and municipal actors – all with a history of working with street vendor organizations – provided an informed view of the challenges street vendors face. These actors were also fundamental in leveraging opportunities for dialogue and building trust among all stakeholders.
- **Unity of Worker Organizations:** Street vendor organizations were willing to work together. Despite fragmentation and tensions among the organizations, the Coordinadora was able to articulate the organizations' demands in key sections of the ordinance, particularly in the earlier stages of consultation and the Mesa.

Countervailing Forces

- **Political Instability:** The impeachment process against the mayor in 2013 halted political momentum around the ordinance. Without a majority in the new council, the municipality had to make concessions on the content of the ordinance, one of which included a reduced role for the municipality to support street vendors transitioning to formality.¹²

- **Events in La Parada Lead to Mistrust:** Mistrust in dialogue with the municipality ensued after street vendors working outside the wholesale market of La Parada were caught in the crossfire between wholesale market vendors and the police during the municipal operation to relocate the market which resulted in violent confrontations in 2012. The municipal technical staff went to lengthy efforts to restore confidence in the process of drafting the ordinance.

- **Divisions Among Worker Organizations:** Tensions among street vendor organizations increased during the two-year negotiation process with the municipality and organizations began to push for individual organizational demands, over shared ones. By the end of the two-year process, *La Coordinadora* had lost its ability to speak as one collective voice, weakening street vendors' position in negotiations.

- **Insufficient Engagement from Local Municipalities in the Process:** Although invited to the consultation, only a few local municipalities engaged in the process and those that did were not active. This created obstacles for the implementation of the ordinance, given their key role in the management of public spaces.

- **Political Timing:** Throughout the process, both parties lost sight of political timelines for passing legislation. The lengthy deliberation process around the ordinance's text did not account for a shifting political environment. Additional delays in the approval process within the municipal council resulted in a missed opportunity to create precedents in the implementation of the ordinance, such as the establishment of the Technical Tripartite Committees in the local municipalities.¹³

11. The following points are based on semi-structured interviews conducted in 2019 with 3 former municipal government officers, 2 street vendor allies and 7 street vendor leaders.

12. Pérez Herrera, 2014

13. Interview with Carmen Vildoso, Manager of Economic Development in the Metropolitan Municipality of Lima (2011-2014), on February 9, 2020.

Key Takeaways

Although the implementation of the most progressive elements of the ordinance has not yet materialized to date, **the legal instrument – and the process that led to it – are perceived by street vendors organizations as essential in the defense of their rights and the right to work in public spaces.**

The process of drafting the ordinance served to build the capacities of street vendor organizations around norm-setting processes. The active participation of the municipality's legal team was important in terms of providing workers the support needed to collectively reflect on and discuss norms that affect their livelihoods. The methodology and accessible language used to explain legal and political processes served to empower workers and guarantee more channels to access information. This outcome outlives the ordinance in that it provided workers with skills needed for participating in other similar processes, and the legal knowledge to use the ordinance to contest local municipalities' actions.¹⁴

Working collaboratively in the context of this joint space was fundamental to generate buy-in amongst all stakeholders from the beginning. However, insufficient engagement with/from local municipalities in Lima – who are the entities responsible for the implementation of the ordinance and especially officers responsible for the economic development portfolio – has limited the application of the ordinance and the positive impacts that could result from it.

Processes for social dialogue, like the Technical Tripartite Committees, need to be institutionalized with clear mandates for operation and deliberation independent of shifts in government administrations. The participation of street vendors, members of the community and municipal officers in these committees would serve to build trust amongst stakeholders in the short to longer term; value local grassroots knowledge for problem-solving; and create a better understanding of street vending among municipal cadres. **These principles and mechanisms can help guarantee the sustainability of participatory governance processes and the implementation of outputs that can ultimately lead to inclusive approaches to urban issues.**

14. Although not used extensively yet, street vendors have used Ordinance 1787 to contest attempts to limit street vending in zoning regulations. For instance, street vendors relied on Ordinance 1787 to file a complaint against the local municipality of Carabayllo for attempting to establish a ban on street vending in the entire municipality. The Tribunal's sentence in 2016 ultimately secured vendors' rights to trade. Example taken from Pérez Herrera, 2018

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In particular, the present paper has contributed to Chapter 9 on “Democratizing”, which focuses on the challenges and opportunities for local and regional governments in implementing meaningful participatory processes, and democratizing decision-making, unpacking asymmetries of power and the underpinning trends affecting processes of democratization. The chapter explores how local and regional governments can promote more egalitarian, participatory and democratic processes, giving voice to marginalized groups of society, minorities and other groups, and thus contribute to urban and territorial equality.

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