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## Enforcement and compliance in Lima's street markets: the origins and consequences of policy incoherence toward informal traders

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World Institute for Development Economics Research

Research Paper No. 2005/16

## **Enforcement and Compliance in Lima's Street Markets**

The Origins and Consequences of Policy  
Incoherence toward Informal Traders

Sally Roever \*

April 2005

### **Abstract**

Almost twenty years have passed since researchers from the Institute for Liberty and Democracy in Peru showed how 'bad laws' impose disproportionate costs on those who choose formality. Although a multitude of conflicting regulations still precludes effective governance of informal trade in Lima, this paper argues that the sources of those conflicts are more diverse – though perhaps more tractable – than they might have been twenty years ago. Specifically, the paper identifies three sources of policy incoherence in Lima that contribute to persistent clashes between informal workers and policy makers: (1) the lack of definitional clarity in national and metropolitan-level legislation; (2) the absence of reliable mechanisms designed to resolve those definitional contradictions; and (3) a resulting lack of policy continuity over time within individual municipal administrations.

Keywords: informal economy, taxation, law, government policy

JEL classification: E26, H71, I38, K42

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## 1 Introduction

Almost twenty years have passed since researchers from the Institute for Liberty and Democracy in Peru identified a key source of poor people's decisions to work outside the bounds of the formal legal system: 'bad laws' that impose disproportionate costs on those who choose formality. The source of bad laws, they argue, is a redistributive tradition in Peru whereby economic and political organizations pressure lawmakers into granting favourable regulatory concessions without regard to potentially negative macro-societal effects (de Soto *et al.* 2002: 190). The resulting 'infinity of regulations' prevents informal workers from using their assets productively.

How can we explain unsuccessful efforts to integrate informal workers into the formal legal system two decades later? This paper argues that while a multitude of conflicting regulations still precludes effective governance of informal trade in Lima, the sources of those conflicts are more diverse – though perhaps more tractable – than they might have been twenty years ago. Specifically, the paper identifies three sources of policy incoherence in Lima that contribute to persistent clashes between informal workers and policy makers: (1) the lack of definitional clarity in national and metropolitan-level legislation; (2) the absence of reliable mechanisms designed to resolve those definitional contradictions; and (3) the resulting lack of policy continuity over time within individual municipal administrations. These policy contradictions damage trust between leaders of vending organizations and local government officials, which in turn precludes stable and effective governance of informal trade.

The evidence presented in this paper calls into question two alternative explanations of conflict between informal traders and policy makers in Lima. The first is that 'redistributive combines' – the term de Soto *et al.* (2002 [1989]) use to refer to interest groups that organize for the purpose of pressuring policy makers into making laws on their behalf – are directly responsible for bad laws. Specifically, they identify organizations of street vendors, which were strong politically and organizationally in the mid-1980s, as the culprits of bad policy toward informal traders. However, these organizations – most prominently FEDEVAL, the Federation of Street Vendors of Lima and Callao – became extraordinarily weak in the 1990s, losing their capacity for effective lobbying and losing their credibility among politicians across the ideological spectrum. Yet bad policy persisted throughout the 1990s, long after these groups disappeared as relevant political actors.

The second alternative explanation is that policy makers may simply favour the status quo. Street vending provides an outlet for thousands of workers who would otherwise be unemployed in Peru's depressed economy, and tolerating it may provide policy makers with a low-cost solution to the country's economic woes.<sup>1</sup> Yet national, metropolitan, and local level policy makers have repeatedly invested time and money into efforts to solve the problems associated with street vending, citing an urgent need to bring order to the city's chaotic and largely ungoverned streets. Were the status quo preferable, policy makers would not view street vending as such an urgent problem. Their repeated efforts to overcome these problems indicate another set of factors at work that contribute to the persistent conflict between street traders and local government officials.

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<sup>1</sup> Other scholars have recognized this incentive; see, for instance, Cross (1998: 4).

## 2 Defining the informal sector

One fundamental source of conflict between street traders and local governments in Lima is the ambiguous place that informal workers hold in the country's legal and administrative machinery. Policies that are intended to govern the use of public space for private commerce are based on confusing terms and conflicting definitions of individuals who engage in such activity.<sup>2</sup> Workers who fall under these definitions are legally subject to certain rights and responsibilities, but the lack of definitional clarity generates conflicts when workers attempt to exercise those rights and when governments attempt to enforce their responsibilities. Legal and administrative ambiguities in policy make enforcement difficult and compliance uncommon.

### 2.1 Policy definitions

Like academic definitions, most policy definitions include as attributes some combination of income, size, labour relations, and workplace to categorize these workers. However, major national and metropolitan level policies issued in the past two decades have used inconsistent labels and incomplete or conflicting definitional attributes. Policy definitions also fail to capture a sufficient range of conditions among so-called informal workers, so that many workers on the ground are excluded from the very types of regulations that are designed to govern them. The lack of clarity in these policy definitions has in turn made them relatively difficult to enforce.

Major national and metropolitan level policies intended to govern street commerce in the past twenty years can be divided into three general policy periods (see Table 1). During the first policy period, two major laws defined the legal framework for the governance of street commerce: the 1984 Law of Municipalities (Law 23853), and the 1985 Metropolitan Ordinance 002. The Law of Municipalities was the primary law governing the rights and responsibilities of municipal governments, and it clearly gave municipal governments jurisdiction over regulating and controlling street commerce.<sup>3</sup> The law further granted municipalities the authority to levy certain kinds of taxes, which in theory could have been used to tax the occupation of public space for street vending. However, the law did not provide an explicit definition of street vending, nor did it directly link any of those taxes to the exercise of street commerce. The law therefore granted local governments a clear jurisdictional mandate but a vague administrative framework for governing street trade.<sup>4</sup>

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<sup>2</sup> To be sure, academic definitions of the informal sector are not much clearer than policy definitions. For discussions of the various academic definitions, see, among others, Peattie (1987), Carbonetto *et al.* (1988), Portes and Schauffler (1993), Portes (1994), Roberts (1994) and Cross (1998).

<sup>3</sup> Title III, Chapter II, Article 68, paragraph 3 (*El Peruano*, 9 June 1984: 26248). The Spanish term *comercio ambulatorio* is translated here as 'street commerce' rather than 'ambulatory commerce' because in its common usage in Peru the term refers to all types of street commerce (ambulatory and otherwise). All translations of policy language in this paper are my own. I use the term 'street vendors' and 'street traders' interchangeably throughout.

<sup>4</sup> I use the terms 'municipal government', 'district government', and 'local government' interchangeably in this paper. Administrative units in Peru are divided into departments, provinces, and municipal districts, and it is the latter that have jurisdiction over street vending. There is also an entity called the Metropolitan Municipality of Lima, a sort of pseudo-metropolitan government that oversees the

Table 1  
Policy periods, 1984-2002

Policy period	Relevant policies	Date passed	Date published <sup>a</sup>
1984-1991	Law of Municipalities (Law No. 23853)	28 May 1984	9 June 1984
1991-1993	Metropolitan Ordinance 002	2 April 1985	17 April 1985
	Supreme Decree 005-91	25 January 1991	26 January 1991
	Ministerial Resolution 022-91	6 February 1991	7 February 1991
	Law of Microenterprises (Legislative Decree 705)	5 November 1991	8 November 1991
	Law of Employment Promotion (Legislative Decree 728)	8 November 1991	12 November 1991
1993-1995	Law of Municipal Taxation (Legislative Decree 776)	30 December 1993	31 December 1993
	Metropolitan Ordinance 082	26 May 1995	18 June 1995

<sup>a</sup> Laws, Decrees, Resolutions and Metropolitan Ordinances generally go into effect one day after being published in the country's official gazette, *El Peruano*.

In response to the swelling ranks of street vendors in central Lima in the mid-1980s, the metropolitan government under Alfonso Barrantes passed Metropolitan Ordinance 002 in April 1985. Ordinance 002 was a comprehensive measure designed to govern nearly all aspects of street vending in the metropolitan area. It defines street commerce as an 'economic activity developed in *campos feriales*<sup>5</sup> or regulated areas of public space that provides services and/or sales of prepared, manufactured or natural products in direct form and on a small scale'. It then defines street vendors as 'workers whose capital does not exceed two UIT (*unidades impositivas tributarias*)<sup>6</sup> and who, lacking any labour relation with their suppliers, exercise street commerce individually in direct form and on a small scale'.<sup>7</sup> Based on these two definitions, then, street vendors are those who (a) work in regulated public spaces, (b) have less than two UIT of capital, (c) sell directly to consumers,<sup>8</sup> and (d) vend on a small (though undefined) scale (see Table 2).

The definitions set forth in Ordinance 002 are reasonably straightforward, and at least in theory provide a clear enough framework for district governments to distinguish between street vendors and non-street vendors in order to implement the ordinance. For much of the first policy period, local governments experimented with the enforcement of this policy, and some municipal governments were able to establish the basic

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downtown area (the district of Lima-Cercado) and that has the authority to generate ordinances that apply to all 43 municipal districts within the area of Metropolitan Lima.

<sup>5</sup> *Campos feriales* are a sort of fairgrounds, typically open-air markets, that are set up on government-owned property (usually the medians of large avenues) for the specific purpose of street vending.

<sup>6</sup> *Unidades impositivas tributarias* are income units that are used to calculate taxes and fees of various kinds in Peru.

<sup>7</sup> Title I, Article 3, paragraphs (a) and (b) (*El Peruano*, 17 April 1985: 34118).

<sup>8</sup> That is, they are not wholesalers, and they are not employees of wholesalers.

Table 2  
Policy definitions of microbusiness workers

Policy	Term	Attributes				
		A	B	C	D	E
Ordinance 002	Street Vendor	2 UIT	Regulated public space	No employer	Small	*
Supreme Decree 005	TAA	*	*	*	*	*
Ministerial Resolution 022	TAA	Municipality-defined maximum	*	*	*	*
Law of Microenterprises	PYME	12 UIT / 25 UIT	*	Maximum of 10/20 employees	*	*
Law of Employment Promotion	Informal Sector	CENIP-defined maximum	*	*	*	Internal
Ordinance 082	Informal Commerce	*	Regulated public space	*	Small	*

A = maximum income; B = workplace; C = labour relations; D = scale of enterprise; E = market; \* = not specified in policy.

administrative infrastructure to implement at least its core components.<sup>9</sup> After the 1990 election of Alberto Fujimori to the Peruvian presidency, however, the administration used its power to issue a variety of executive decrees, which added several layers of definitional ambiguity to the status of street vendors. These measures were largely efforts to implement market-oriented reforms to stabilize the economy,<sup>10</sup> but their hasty formulation complicated the efforts of district governments and created a set of conflicting incentives that made non-compliance among vendors more likely. Such non-compliance was pervasive during the second policy period.

The first of these measures was Supreme Decree 005 of 1991. Supreme Decree 005 was most likely designed as a political appeal to street vendors, who were thought to have supported Fujimori in large numbers in the 1990 presidential election. The measure's main stated purpose was to recognize the juridical quality of what it called 'autonomous ambulatory workers' (*trabajadores autónomos ambulatorios*, TAAs), though it provided no definition of that term.<sup>11</sup> The decree implies that autonomous ambulatory workers are the same thing as street vendors by referring to a national Law of Street Commerce that the administration had apparently planned to pass, but such a law never

<sup>9</sup> Other municipal governments, however, did not. An additional problem with policy in Lima, emphasized later in the paper, is the frequent failure of municipal governments to implement national and metropolitan level policies. Some municipalities attempted to enforce Ordinance 002 only to abandon it, and some selectively enforced parts of it, but others simply ignored it altogether.

<sup>10</sup> For more on these market-oriented reforms, see Cameron and Mauceri (1997) and Gonzales de Olarte (1998).

<sup>11</sup> Supreme Decree 005 was published in *El Peruano* on 26 January 1991: 93570.

materialized. A Ministerial Resolution (No. 022) issued as a follow-up to Supreme Decree 005 then required ‘autonomous ambulatory workers’ to maintain a maximum level of working capital to be determined by each municipality, rather than the two UIT limit established in Ordinance 002.<sup>12</sup>

Because the Peruvian constitution states that laws issued at a higher level of government take precedence over lower-level laws, it could be assumed that municipalities thereafter were to determine their own income ceilings for ‘autonomous ambulatory workers’ rather than following the limit established by Ordinance 002. Nonetheless, Supreme Decree 005 and Ministerial Resolution 022 provided no concrete policy measures for local governments to take with street vendors; they merely recognized vendors’ legal status. Municipal governments, lacking any clear indication of how the measures were to be implemented, rarely reacted to them at all. This inaction, in turn, tended to fuel street vendors’ claims of municipal abuse.

Nine months after issuing Supreme Decree 005, the Fujimori administration passed two additional laws that would contribute to the definitional ambiguities already present. The first of those was the Law of Microenterprises, passed on 5 November 1991. This law introduced the term ‘PYMES’ – the Spanish acronym for ‘small and microenterprises’ – into the country’s legal lexicon. It defined PYMES as firms with any organizational or administrative structure that engage in any kind of productive, commercial, or service activity, in which (a) the proprietor is also a worker; (b) the total number of workers and employees does not exceed 10 persons (for a microenterprise) or 20 persons (for a small enterprise); and (c) the total annual value of sales does not exceed 12 UIT (microenterprise) or 25 UIT (small enterprise). Because it does not specify whether PYMES must work in private space rather than public space, in theory any individual who qualifies as a street vendor under Ordinance 002 (or as an autonomous ambulatory worker under Supreme Decree 005) could also be considered a PYME under the Law of Microenterprises, as long as that individual did not have more than 20 employees – an unlikely scenario for virtually all street vendors.

The Law of Employment Promotion, passed three days after the Law of Microenterprises, was a comprehensive measure designed to stimulate job creation at the national level. Among other things, the law called on the Ministry of Labour and Social Promotion to create programmes aimed at productively converting ‘informal sector firms’ to formal sector firms by increasing their levels of productivity and their capacity to create additional jobs. ‘Informal activities’ are defined as those that ‘develop independently in the range of small and microenterprises ... and that engage mostly in commerce, services, small industry, construction and the manufacture of basic goods destined for the internal market’. The law makes reference to existing laws defining small and microenterprises, but adds that the boundary for maximum income levels should be set by the government agency CENIP, rather than municipalities. Again, this definition of the ‘informal sector’ could encompass street vendors, as defined by Ordinance 002; autonomous ambulatory workers, as labelled by Supreme Decree 005; and PYMES, as defined by the Law of Microenterprises.

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<sup>12</sup> Ministerial Resolution 022 was published in *El Peruano* on 7 February 1991: 94460.



A final policy relevant to street vendors was Metropolitan Ordinance 082, passed in May 1995,<sup>13</sup> which was designed to improve the cleanliness and hygienic standards for firms of all types within the metropolitan area. Its definition of informal commerce is ‘all commercial activities that take place without complying with requirements demanded by law’. It then states that both ambulatory commerce (street vending) and vending in buildings or fixed structures could be considered ‘informal commerce’, and contradictorily defines street vending as ‘the economic activity that takes place in public space, providing services in regulated areas, by selling prepared, natural, or manufactured goods directly to consumers on a small scale’.<sup>14</sup> The implication is that ‘street vending’ is at once illegal and yet authorized by municipalities, in that it takes place in regulated areas.

The policies presented in Table 2 thus add up to a confusing picture of what types of workers are subject to what laws. While the six policies use five different terms as labels, all are referring to essentially the same type of worker: someone who, in one way or another, sells things individually on a small scale. Notably, only one of these policies (Ordinance 082) makes any mention of illegality in its definition, though it does so in confusing fashion.<sup>15</sup> These definitional ambiguities provided a foundation for conflict on the ground because, as the next section will show, each law and corresponding term and definition for so-called informal workers implies certain rights and responsibilities that could not be smoothly exercised without clear definitions.

Moreover, many workers on the ground exhibit some, but not all, of the definitional attributes presented in Table 2. Take a hypothetical worker, for example, who fits all of the characteristics of a street vendor but who does not work in an authorized, regulated area. If the policy definitions above were applied strictly, that worker would be considered a PYME (because he falls under the income ceiling and has fewer than 10 employees) but not a street vendor (because he works on an unregulated street). This classification, however, would fly in the face of these policies’ intent; PYMES are considered ‘more formal’ than street vendors, and the motivation for passing the Law of Microenterprises was to stimulate the growth of PYMES, not unauthorized street vendors. Another hypothetical worker could vend on regulated streets but make 3 UIT annually; this worker would likewise qualify as a PYME but not a street vendor, even though she vends on a street where street vending is authorized. These conflicting definitions, therefore, become very difficult to enforce on the ground – first because they do not appropriately incorporate workers who bear some family resemblance to the definitions while not strictly qualifying, and second because they would require a Herculean effort on the part of municipal governments to decide who belongs to what category.

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<sup>13</sup> This is not to say that there are no other metropolitan-level ordinances or national-level laws that contain any mention of street vending. However, the six measures included in this discussion are the most significant ones during this period. All of these policies are cited in subsequent policy measures as antecedents, and informants who were interviewed for this project cited these six as the most important ones.

<sup>14</sup> Title I, Chapter III, Articles 35, 36, and 37 (*El Peruano*, 18 June 1995: 132478).

<sup>15</sup> Meanwhile, the country’s most famous study of the informal economy, *The Other Path*, equates informality with illegality.

## 2.2 Exercising rights and enforcing responsibilities

Not only are the policy definitions discussed above inherently problematic, but the rights and responsibilities outlined in each measure are relatively difficult to enforce. Each policy theoretically entitles some group of workers to certain rights or privileges, and/or imposes on some group of workers certain responsibilities or restrictions. Ordinance 002 was the most comprehensive of these. The measure granted street vendors three significant privileges: legal recognition for both individual street vendors and properly registered associations of street vendors; participation in a Mixed Technical Commission (*Comisión Técnica Mixta de Comercio Ambulatorio*, CTMCA), composed of municipal officials and representatives of vending organizations, designed to work out problems associated with street markets at the local level; and access to a Vendors' Assistance Fund (*Fondo Municipal de Asistencia al Ambulante*, FOMA), a social insurance fund intended to deliver services and benefits to licensed street vendors. In effect, these three concessions to street vendors represented a major political and legal advance on vendors' behalf, as they required municipalities not only to recognize and tolerate the existence of street vending, but also to negotiate with vendors through the CTMCA and deliver services to them through the FOMA.

In return, Ordinance 002 outlined a host of responsibilities and requirements for street vendors to meet. These requirements included obtaining a license (and paying an associated fee for that license); acquiring a health certificate; paying a daily tribute, called the *sisá*, for the right to use public space; obtaining special authorization for vending certain kinds of products (e.g. live animals and prepared food); maintaining their posts at a certain size and in a certain colour; wearing officially sanctioned uniforms; providing proof of origin for their merchandise; and vending only in authorized spaces. Sanctions for non-compliance were to be determined and enforced by the CTMCA of each district, which municipalities were required to establish in conjunction with leaders of vending organizations.<sup>16</sup>

Again, Ordinance 002 outlines in relatively coherent and comprehensive fashion a set of rights and responsibilities that should in theory be enforceable. However, several obstacles to its enforcement arose over the years. First, the capacity of municipal governments tended to fall short of that necessary to identify, classify, and authorize all individuals who sold merchandise in public spaces within district territory, particularly given the hazy definitional framework established in relevant laws. Without an adequate administrative infrastructure to issue and deny authorizations to all those entering, exiting, or maintaining street vending as an occupation, the remainder of the rights and responsibilities became difficult to enforce. Not only could vendors who did not meet all the definitional criteria for street vendors in Ordinance 002 claim to not be subject to its restrictions, but those charged with non-compliance could easily move to another part of the district, or to another district altogether, to avoid sanctions.

In turn, many municipal administrations simply ignored the requirement to form the CTMCA and FOMA. This non-compliance with the ordinance on the part of municipal governments themselves infuriated vendors, who in turn sometimes refused to comply

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<sup>16</sup> Organizations of street vendors were quite strong during this period, calling into question the conventional wisdom that so-called informal workers lack the capacity to organize (see, e.g., Jenkins and Leicht 1997).

with the ordinance's restrictions on the basis that the government was not holding up its end of the bargain. In particular, vendors had a good case for refusing to conform to sanctions for non-compliance that were not developed with the participation of the CTMCA. Likewise, municipal governments in some cases charged vendors for licensing fees and the *sisá* without delivering any services in return, on the basis that vendors did not comply with all of the restrictions outlined in the ordinance.

Subsequent measures added fuel to the fire of non-compliance. The rhetorical appeal of Supreme Decree 005 and Ministerial Resolution 022 to the legal and human status of street vendors emboldened them to resist municipal efforts to expel them from unauthorized spaces. Furthermore, by prohibiting the confiscation of merchandise and personal property from vendors found in non-compliance with municipal regulations, the decree took away an important incentive for vendors to comply, at least in theory. At the same time, that protection of vendors' merchandise was only applicable to authorized vendors, so that local officials in some cases could simply revoke authorizations for certain vendors and then confiscate their merchandise anyway.

The Law of Microenterprises and the Law of Employment Promotion further complicated the picture by granting PYMES and informal sector workers access to state programmes, again at least in theory. The former called on appropriate government ministries to provide entrepreneurial training and legal assistance free of charge to all those who qualified as PYMES – which, as stated above, could be interpreted to include street vendors. In addition, it prohibited municipal governments from requiring operating licenses or authorizations other than a particular kind of license established by national law, and required PYMES to keep accurate books. Without a clear demarcation of what constituted PYMES versus street vendors, however, this law left the door open for disputes over the applicability of each provision. Moreover, by implying that street vendors could be considered PYMES, it provided an incentive for vendors to remain informal, rather than encouraging them to formalize. The Law of Employment Promotion likewise grants informal sector firms access to administrative amnesties; entrepreneurial, technical, and professional training; and credit and funding programmes. These measures were designed to provide incentives for informal sector firms to convert themselves into formal sector firms, but again leaves room for disputes by providing hazy definitions of informal sector firms, autonomous workers, and small and microenterprises.

The difficulty of adequately enforcing the various provisions of these policies created strong incentives for local governments to selectively implement only those portions of the policies that were (a) feasible and (b) advantageous. While municipal governments are undoubtedly handicapped by their meager budgets,<sup>17</sup> they also hold some coercive power over street vendors, and can therefore often get away with such selective enforcement. Street vendors, perceiving injustice, in turn become all the more likely to avoid complying with regulations, particularly when the likelihood of gaining concessions in return seems low. Moreover, any given street vendor faces a bewildering array of incentives that often contradict one another because of the definitional ambiguities present in policy measures. The result is a difficult cycle of non-enforcement and non-compliance that has perpetuated itself over time.

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<sup>17</sup> See Nickson (1995).

### 3 Pursuing a resolution: INDECOPI and the tax on public space

In principle, the country's legal system should provide some mechanisms for resolving these struggles over ambiguous policies. Indeed, in November 1992 the Fujimori administration created the National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI), to help adjudicate such disputes over commerce-related policies. The institution was designed to 'promote a culture of fair and honest competition in the Peruvian economy and to protect the different forms of intellectual property',<sup>18</sup> and one of its responsibilities was to rule on charges brought against state actors for interfering with free competition. In 1994 an enterprising group of street vendors attempted to resolve perhaps the most contentious issue for street vendors, the habit of municipal governments to levy a daily tax (the *sis*a) on their use of public space, by filing a case with INDECOPI. Though the vendors succeeded in getting INDECOPI to rule favourably on their case, in practice the resolution had little effect.

The dispute over local governments' right to tax street vendors for their use of public space stemmed from contradictions between the 1984 Law of Municipalities, Ordinance 002 of 1985, and a 1993 Law of Municipal Taxation. The Law of Municipalities authorizes local governments to administer five different kinds of tributes:<sup>19</sup> taxes (*impuestos*), tolls (*contribuciones*), user fees (*arbitrios*), licenses (*licencias*), and entitlements (*derechos*) (see Table 3). The first three – taxes (established by national law to finance municipal budgets), tolls (on benefits derived from public works projects, such as roads, bridges, and ferry crossings), and user fees (for public services such as street lighting, trash pickup, and park maintenance) – are fairly clearly inapplicable to street traders in their capacity as workers. That is, while they may be subject to paying taxes, tolls and user fees as members of the general public, they cannot be charged with paying them on the basis of their work as street vendors.

Table 3  
Municipal taxes

Law of municipalities	Applicable to vendors	Purpose
Taxes ( <i>impuestos</i> ), tolls ( <i>contribuciones</i> ), user fees ( <i>arbitrios</i> )	No	Contributors are taxpayers at large or users of municipal services or infrastructure
Licenses ( <i>licencias</i> )	Yes	Fees paid in exchange for specific authorizations, e.g. use of public space
Entitlements ( <i>derechos</i> )	Unclear	Fees paid in exchange for specific administrative services
Law of Municipal Taxation Property, real estate, automobiles, events, gaming, and non-sports-related public events	No	Contributors are property owners or participants in specific activities
Valuations ( <i>tasas</i> )	Unclear	Fees paid in exchange for specific administrative services

<sup>18</sup> Decreto Ley 25868, Ley de Organización y Funciones del Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual, published in *El Peruano* 24 November 1992.

<sup>19</sup> I use the term 'tribute' here as an umbrella term to refer to various kinds of monetary contributions from citizens to municipal governments, of which 'taxes' are one kind.

The fourth kind of tribute, a fee paid in exchange for a license, is charged for obtaining authorization for specific activities that should be regulated and controlled, for reasons of public interest. The law clearly states that municipalities can charge licensing fees in exchange for the occupation of public space. It also states that the administration of licenses for the use of public space in municipalities is subject to regulations established by the government of Metropolitan Lima. Thus, municipal governments should be able to charge street vendors for a license to use public space, as long as they do so in conformity with metropolitan-level ordinances – most importantly, Ordinance 002.

The fifth kind of tax, labelled here ‘entitlements’, is somewhat more ambiguous. The law states that municipalities may charge entitlement fees, or *derechos*, ‘in exchange for an administrative service that the Municipality provides for the use or exploitation of public or municipal goods’. The law further states that the amount to be charged for entitlements is to take into account the cost of the service provided. Street traders clearly use public space, and if public space is to be considered a public good, then municipalities could in theory charge vendors for this use. At the same time, the intent of the law is fairly unambiguously to generate the funds necessary to cover the administrative costs of allowing citizens to use a public good. Therefore, if a municipal government were to provide a service associated with the use of public space for street vending – for example, providing infrastructure for street markets, or helping administer the vendors’ social assistance fund – then the law would seem to permit charging street traders for this entitlement. By contrast, if the municipality does not administer any services associated with the use of public space, then it would seem that charging the entitlement fee would be inappropriate.

Indeed, Metropolitan Ordinance 002 a year later explicitly labelled the *sisa* – a daily payment for the right to occupy public space – an entitlement fee, implying that it was to be charged in exchange for some service. The ordinance further states that 50 per cent of the revenue generated through the collection of the *sisa* was to be used to fund programmes developed through the FOMA, the social assistance fund earmarked specifically for street vendors.<sup>20</sup> It does not state explicitly whether the other 50 per cent of *sisa* revenues is to be deposited in the municipal treasury, or whether it too should be used for services related to street vending. Nonetheless, it is clear from the ordinance that municipalities are required to use at least half of *sisa* revenues to fund the FOMA. Yet many local governments that have charged the *sisa* since 1985 have done nothing more than collect the fee and issue a small slip of paper in return that authorizes the bearer to vend in public space for that day.

The Law of Municipal Taxation, passed in December 1993,<sup>21</sup> dramatically changed the regime governing municipal taxation. This decree, which went into effect on 1 January 1994, redefined municipal governments’ ability to levy taxes and nullified the articles of the Law of Municipalities that established the five kinds of taxes described above. In their place, Legislative Decree 776 authorized six distinct types of taxes, none of which

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<sup>20</sup> In fact, the ordinance states that the FOMA should be funded with the revenue from the entitlements outlined in a previous article – that is, from both the *sisa* and the municipal license. In practice, however, municipal governments that have implemented the FOMA have generally funded it with 50 per cent of the *sisa* funds only.

<sup>21</sup> Decreto Legislativo 776, Ley de Tributación Municipal (published in *El Peruano*, 31 December 1993: 119929-119934).

seemed to have any applicability to street trading.<sup>22</sup> However, the law separately authorized the use of tolls and what it called *tasas*, or valuations, as fees charged by municipalities to fund public and administrative services. According to the law, municipalities may charge *tasas* for the private use of municipal property; operating licenses for industrial, commercial, or service establishments; parking; and ‘other licenses’ for anyone who engages in an activity subject to municipal control or oversight, as defined in the Law of Municipalities. The decree further states that *tasas* charged for the use of municipal property should not exceed the cost of administering the service that allows citizens to use that property, and that income generated through a *tasa* should be used exclusively to cover those administrative costs.<sup>23</sup> Finally, the law states that operating licenses must remain valid for a period of at least one year, and that license renewals should be automatic as long as (a) the zoning ordinances that allow for the operation do not change, and (b) the person requesting the operating license submits proof that they paid income tax.

Having eliminated municipal governments’ ability to levy entitlement fees such as the *sisa*, the Law of Municipal Taxation seemed to grant them the ability to establish a fee that would serve the same purpose as the *sisa* through the establishment of *tasas*. However, the law also contained several mechanisms designed to eliminate barriers to free trade within the country, part of the Fujimori administration’s broader market-oriented reform strategy. For example, Article 61 stated that municipalities would be prohibited from charging *tasas* for the use of streets, bridges and other infrastructure, and that they could not levy fees that would ‘impede free access to markets and free commercialization within national territory’. This article therefore created an important ambiguity with regard to street vendors. On the one hand, municipal governments seemed to have the authority to charge fees for annual operating licenses, which could be applicable to street vendors. On the other hand, the law seemed to imply that municipal governments did not have the authority to charge a *tasa* for the daily use of public space, as they had with the *sisa*.

Without the authorization to charge the *sisa*, it became unclear whether municipal governments were still obligated to enforce the parts of Ordinance 002 that relied on the income the *sisa* was supposed to generate, most importantly the FOMA. At the same time, many municipal governments continued to charge vendors the *sisa* even after the Law of Municipal Taxation revoked their authority to do so. The *sisa* thus became a central source of conflict between vendors and municipal governments; vendors argued that they should not have to pay it if the municipality failed to deliver any services in return, and municipal governments argued that vendors should have to pay it regardless for their use of public space.

Faced with the inconsistent application of Ordinance 002 and the Law of Municipal Taxation, the United Front of Informal Workers of the District of Pueblo Libre (FEDITAPUL) presented to INDECOPI on 23 August 1994 a denunciation against the City Council of Pueblo Libre<sup>24</sup> for violating Legislative Decree 776.<sup>25</sup> The authors of

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<sup>22</sup> These were taxes on property, real estate transactions, automobiles, events, gaming, and non-sports-related public events.

<sup>23</sup> Title III, Chapter II, Articles 68, 69 and 70.

<sup>24</sup> Pueblo Libre is a small municipal district in central Lima.

the denunciation argued that charging the *sis*a and establishing a costly fee for a health certificate violated the principles of free and open competition, as established in the Law of Municipal Taxation. INDECOPI, which had not previously ruled on either issue, accepted the case.

The resolution issued by INDECOPI seemed to deliver a victory to street vendors by declaring the *sis*a illegal. The resolution stated that the collection of the *sis*a in the district in question took place without any sort of service delivery on the part of the municipality, which violated the Law of Municipal Taxation's definition of *tasas*. INDECOPI further ruled that restrictions on the freedom to market products outlined in the Law of Municipal Taxation could apply to either formal and informal commerce, and that creating bureaucratic restrictions and charging people to exercise rights (in this case, the constitutional right to work) constituted clear violations of that provision. Although the Law of Municipalities does give municipal governments the power to regulate areas in which street commerce exists, INDECOPI argued, 'at no point does it signal that this power includes the right to levy charges of any kind'. Finally, though the same Law of Municipalities grants municipal governments the authority to impose *tasas* in certain cases, in no case can they create such charges without the express legal authorization to do so.

In theory, the INDECOPI resolution should have brought to an end the practice of charging the *sis*a for the right to use public space. In practice, it did not. Although INDECOPI's rulings are distributed to the relevant national-level institutions for enforcement, the municipal practice of charging street vendors the daily *sis*a continued in many jurisdictions after 1995.<sup>26</sup> Lacking a resolution, a coalition of leaders of street vending associations attempted a second route to new legislation in 1998 by developing a draft Law of Street Commerce and submitting it to the national Congress. Though a similar effort in 1994 had failed,<sup>27</sup> the 1998 draft legislation called for the formation of a new national-level agency, comprised of representatives from various government ministries, municipalities, and vending associations, to rationalize the country's treatment of street vendors.<sup>28</sup> Like previous laws, it contained measures that would clarify municipal governments' authority to govern street vendors and mechanisms to bring street vendors under the aegis of national institutions, most notably the tax and social security systems. However, like the 1994 measure, the bill did not make it far enough into the legislative process to be voted on by the full congress.

#### **4 Applying policy at the local level: the case of La Victoria**

The ambiguities in policy described above, and the absence of a reliable way to resolve them, have created the foundation for extremely unstable policy at the local level in Lima. The following discussion explores policy instability in one district, La Victoria,

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<sup>25</sup> The information presented here is based on INDECOPI Case File No. 121-94/CLC.

<sup>26</sup> INDECOPI Resolution No. 027-95 was passed on 26 July 1995.

<sup>27</sup> Proyecto de Ley 1985/94-CCD. The draft bill's declaration of new street vending legislation as a national priority had the support of the Ministry of the Presidency, MITINCI, the metropolitan government of Lima, and the Chambers of Commerce, but lacked enough political support in the Congress to get passed.

<sup>28</sup> Proyecto de Ley 4387/98-CR.

over the course of three administrations (1992-2002). La Victoria is a large, poor, centrally located district that houses the city's largest wholesale and retail markets, along with its dynamic garment district, Gamarra. As such, it has a densely concentrated commercial area with thousands of street vendors and microentrepreneurs. While it is not representative of all districts in Lima, its policy problems are emblematic of other large, centrally located districts.<sup>29</sup>

In the ten years beginning in 1992, the municipal government of La Victoria passed no fewer than 74 new policies related to street vending (see Appendix 1).<sup>30</sup> The sheer volume of regulations attempting to govern street trade is not only impressive, it also suggests that policy makers' first preference is not simple negligence or maintenance of the status quo. Yet many of these regulations are not published, making their diffusion difficult in practice. Those that are published in *El Peruano* sometimes are not published until up to a year after they are passed. Moreover, street vendors' low socioeconomic status means that very few of them are likely to purchase and read the country's official gazette to check for new regulations; rather, they are dependent on leaders of vending organizations to present and explain the content of new policies. These difficulties are exacerbated when new policies are issued on average once every six to eight weeks. It is not surprising, then, that many street vendors do not adapt their behaviour to the frequently changing rules of the game.

The policies listed in Appendix 1 exhibit two other characteristics that help explain problems with enforcement and compliance at the street level. First, many of these policies are quite particularistic and ad hoc. Examples of particularistic policies include measures that declare street vending illegal on individual streets; grant legal recognition to individual associations of street vendors; establish rules only for vendors of certain products; and call for the eradication or relocation of a single kiosk, stand or stall, oftentimes in response to a complaint from a resident or shopkeeper. Thus, they are not regulations designed to impose order on the sector as a whole; rather, they are intended to respond to individual problems as they arise.

This hotchpotch of particularistic policies has a couple of important consequences. On the one hand, vendors who are negatively affected by these policies – for instance, a policy prohibiting them to vend in front of a particular house or store – can simply move to another street, creating the same problem in a different place. While they may be merely shifting the same problem to another location, in doing so these vendors are paradoxically in full compliance with the policy that caused them to leave.

On the other hand, some of these policies grant important benefits to individual vendors or associations of vendors. For example, Ordinance 050 of July 2000 grants special

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<sup>29</sup> For more on Gamarra, see Ponce Monteza (1994) and Sulmont Haak (1999).

<sup>30</sup> The actual number of policies passed during this period is undoubtedly higher. Appendix 1 shows the results of a search for policies conducted during fieldwork in 2001 and 2002; for the sake of presentation, some of the less relevant policies were omitted. Informants (including leaders of street vending organizations and municipal officials) were asked to identify policies related to street vending during each of the three administrations, and once identified, a search for the text of each policy was undertaken. However, some municipal policies are never published in *El Peruano*, and the municipality does not keep complete records of the policies it passes. Without such an archive it was impossible to determine the exact number of policies issued during this time period. I am confident, however, that the most important policies of that time period are included in the Appendix.



authorizations to shoe shiners and vendors of quinoa, sodas and candy, herbal drinks, and magazines and newspapers. Leaders of vending associations in each of these product categories considered the ordinance an important political victory, and as a result distanced themselves from other associations in the district that did not enjoy the same privileges. This policy therefore had a divisive effect on vendors who otherwise would share a common interest in beneficial legislation for the whole district.

While the absence of a coherent legal framework is not the only cause of this improvisational approach to policy, it is undoubtedly an important contributor. With clearer definitions and rules, municipal governments would be more capable of applying any single ordinance uniformly across district territory and across different groups of vendors. Without such policy clarity, many local governments make policy reactively, acting only when pushed in a manner that solves individualized problems but not the broader source of those problems.

A second subset of policies from Appendix 1 is dedicated to the difficult struggle of enforcing Ordinance 002 of 1985. The rise and fall of the ordinance's implementation over time illustrates the type of controversy that results from ambiguous policy antecedents. Although this ordinance had never been fully implemented in the eight years since it was issued, the government of La Victoria under Mayor Carlos Camaaño signed a pact in August 1993 with the three major street vending federations in the district – FEDITAV, CUTASPA, and FEBAINVIC – agreeing to establish the FOMA. Mayoral decree 092-93, issued on 10 September 1993, officially authorized the establishment of the FOMA for the district of La Victoria, to be funded with revenues from the *sisa*.<sup>31</sup> In line with the broad goals outlined in Ordinance 002, the objective of La Victoria's FOMA was to provide social assistance, channeled through the municipality via a governing board made up of city and vendor federation representatives, to street vendors in exchange for their payment of the *sisa*.

Representatives of the street vending federations who served as the first directors of the newly constituted FOMA chose health care as their first priority area for delivering social services to street vendors. Using *sisa* revenues, the directors rented a building on a street near central Gamarra and in it established a small-scale health clinic that was to provide basic medical services for vendors who paid the tax. Among other activities for the FOMA in 1994 and 1995 were assisting the municipality with trash collection, conducting a census of street vendors in the district (which estimated the vendor population to be over 11,000), developing a new licensing programme for vendors, establishing a legal consultancy, and running cleaning campaigns and social activities.

Energized by the municipality's long-awaited implementation of Ordinance 002, street vendors involved in the FOMA appeared to have established the basis for an enduring

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<sup>31</sup> A previous mayoral decree from June 1993 indicates that a CTM in the district already existed. The latter decree, No. 023-93-ALC, identifies new members of the commission from both sides. However, the pact signed by MDLV and the vending federations on 18 August indicates that the CTM had not been meeting regularly, in that the pact calls for 'the immediate re-initiation of meetings of the CTM in a serious and formal manner'. The pact also indicates that the municipality had been charging the *sisa*, but using a private firm to collect it from the vendors each day, a practice to which the vendors objected. The absence of comprehensive records in the municipality makes it difficult to ascertain whether the FOMA had also existed prior to Camaaño's tenure as mayor. The records available do indicate that the official authorization of street vending associations in the district had been regular practice since a 1986 city council agreement recognized them as legitimate.

and cooperative relationship with the new mayor. However, the implementation of Ordinance 002 in La Victoria ultimately created more problems than it solved. Though vendors initially agreed to it, the collection of the *sis*a as a daily fee for the right to use public space for private commercial gain developed into a central component of the controversy.

The *sis*a generated a significant amount of income for the district government. A 1993 municipal record of income for the month of December, for example, shows that the *sis*a contributed over 38,000 *nuevos soles* to the municipal treasury that month (about US\$18,000) – a considerable sum for a poorly funded district government. Control over the funds became hotly contested between vendors and the municipality, neither of which had a solid financial base otherwise.<sup>32</sup> The mayor's first approach to collecting the *sis*a was to authorize, through a mayoral resolution, the contracting of four individuals to collect the daily fee from street vendors in authorized areas of the district. Each individual was to earn a commission of up to 1 per cent of the amount of *sis*a revenue they collected from vendors each week.<sup>33</sup> A subsequent mayoral resolution added 54 more collectors, and changed the commission to 20 per cent of *sis*a funds collected each month or 15-day period.

Although no records are available to indicate how effectively this system functioned on the ground, two of its characteristics are notable. First, the development of commissions as a percentage of funds collected obviously creates an incentive for collectors to expand the number of vendors from whom they collect, which could lead to competition between individual collectors over certain geographic areas of the district.<sup>34</sup> Second, without knowing how many vendors there were in the district and where they were located, the city would have no way to ensure that collectors were delivering the full amount that they collected to the municipal treasury. Therefore, the system created a strong incentive for collectors to skim profits off of the amount they collected before delivering the revenue to the city and collecting their commissions.<sup>35</sup>

Three months after authorizing these individuals as collectors, a new mayoral decree shifted responsibility for the administration of the *sis*a to the directors of the FOMA.<sup>36</sup> The decree's language suggested that part of the mayor's motivation was to expand the opportunities for street vendors themselves to participate in the process, and a subsequent resolution indicated that the FOMA directors had demanded the ability to fire any collector who did not carry out his or her duties faithfully. Like the previous system, however, this one did not last long. Within four months, the city council called an ad hoc meeting to discuss the behaviour of the FOMA directors with regard to *sis*a

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<sup>32</sup> Municipal governments in Peru historically have had one of the weakest financial structures of any country in Latin America (Nickson 1995: 237-249).

<sup>33</sup> Notably, the one woman among the collectors was given a commission 30 per cent lower than the commission for the male collectors.

<sup>34</sup> For example, an area with a high density of street vendors would produce more income in a smaller amount of time than an area where vendors are fewer in number or more dispersed.

<sup>35</sup> This is not to suggest that the collectors necessarily took advantage of these incentives; there is no evidence available to evaluate them one way or the other. However, in a district as poor as La Victoria, the incentives for cheating are extremely strong.

<sup>36</sup> This may suggest that vendors complained about the control that individual collectors named by the municipality had over the funds that were supposed to be destined for the FOMA.

collection. On 9 August 1994, the city council passed an accord stating that the FOMA directors had not delivered a single budgetary report to the municipality, and as a consequence the officers of the municipal treasury had no way of overseeing the delivery of *sisas* funds. The council therefore approved another shift in responsibility for the administration of the *sisas*, this time from the FOMA directors to the municipal Accounts Receivable office. Another accord passed on the same day called for the creation of an Evaluation Commission to investigate the FOMA's management of *sisas* funds.

The future of the FOMA appeared to be safe in December 1994, a little over a year after it was created, despite the controversies over the *sisas* revenue. Mayor Caamaño approved a set of new regulations for the FOMA in December, which not only authorized the FOMA's continued operation but also expanded some of its areas of responsibility. However, a mayoral decree issued on 15 March 1995 suspended the *sisas* on the basis that residents were complaining about overcrowding on sidewalks, and that the municipality had a responsibility to establish order and security in the district. Meanwhile, vendors likewise accused the municipality with malfeasance; the country's leading newspaper, *El Comercio*, ran an article quoting a leader of one of the vending organizations that the municipality had failed to transfer any resources collected through the *sisas* to the FOMA.<sup>37</sup>

Subsequent policy measures called for the creation of a new commission to investigate the FOMA and an external audit of the FOMA's use of *sisas* funds. The audit, conducted by a private firm later that year, revealed further discrepancies with the management of FOMA funds. The district's Control Office issued a letter dated 4 October 1995 to the FOMA Vice President that the Department of Revenue had not received any deposits of *sisas* funds since January of that year. The same office established an investigative commission to evaluate in greater depth the use of *sisas* funds on the part of FOMA directors, leading to a series of requests for documentation and an inventory of FOMA property, along with an increase in the level of suspicion and mistrust between FOMA directors and other bureaucrats within the municipal government. Another measure called for the replacement of the *sisas* with a new *tasa* to be charged for vendors' use of public space. This last measure, passed in August 1996, partially brought the municipality's tax regime in line with the 1993 Law of Municipal Taxation, which had negated the municipal right to charge the *sisas* (though the Municipality of La Victoria went on charging it for roughly two years anyway). Finally, a city council resolution passed in December 1996 recommended disbanding the FOMA, and thereafter the municipality's daily charge for the use of public space was not reciprocated by the delivery of any services.

The difficulty in implementing Ordinance 002 in La Victoria is emblematic of the broader problems with public policy toward street vendors in Lima. The ordinance attempts to establish comprehensive guidelines that should in theory benefit both street vendors and local officials by stabilizing and normalizing the relationship between the two sides. Yet in practice the ordinance became unenforceable in La Victoria for a host of reasons. First, the ordinance relied on the effective collection of the *sisas* to fund services for street vendors; without the proper administration of *sisas* funds, the ordinance could not work. Yet attempts by both municipal officials and vendor leaders

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<sup>37</sup> 'Ambulantes consideran que pago de 'sisas' les da derecho a trabajar en la vía pública', *El Comercio* 26 March 1995.

to administer those funds resulted almost immediately in controversy. Second, the municipal government lacked the capacity to effectively monitor a very fluid population of workers. To enforce the ordinance to the letter, district governments would have to develop a thorough and accurate registry of vendors, keep unlicensed vendors out of unauthorized areas, adequately distinguish between complying and non-complying vendors, and punish the latter effectively. The municipality of La Victoria was at no point able to accomplish those goals. Third, the Law of Municipal Taxation's abolition of the *sisá* left Ordinance 002 without a financial base, which caused controversy once the municipality decided to comply with that Law.

Perhaps most fundamentally, the particular actors involved could not iron out the details of implementing the policy in order to make it work. While in principle none of these controversies *had* to derail the effort to implement Ordinance 002, the policy left a great deal of negotiation and improvisation up to the actors involved. Once it became clear that the ordinance in its entirety would not be adequately enforced, actors on both sides had little incentive to faithfully adhere to the rules. With policy ambiguities so pervasive, the incentives for defection were simply too strong to resist. The general lack of compliance on both sides quickly soured the relationship between vendor leaders and local officials, and as the next section will show, this lack of trust still plagues relations between vendors and the government at a more general level.

## **5 Policy incoherence and the path to formalization**

Without a stable and coherent regulatory framework, street traders and government officials in Lima exhibit a tremendous amount of mistrust toward one another. Both leaders of vending organizations and policy makers interviewed for this project view the other side as intransigent antagonists, and neither side is willing to believe that the other will faithfully hold up its end of any bargain. Street traders' mistrust of politicians and political parties further suggests that they are unlikely to resolve their problems through political means. Yet interestingly, this mistrust does not seem to translate into an unwillingness to formalize. When asked what they understood by 'formalization' in a 2003 survey,<sup>38</sup> most vendors equated formalization with owning or renting an off-street commercial space, and most said that they thought they would be better off formalizing than they would remaining in the street. These results suggest that converting informal traders into more formal business enterprises may not be an altogether intractable goal.

One of the most prevalent complaints among leaders of street vending organizations is what they call the 'constant improvisation' on the part of local government officials, as was the case with implementing Ordinance 002 in La Victoria. For some, the frustration comes from the unequal treatment of different groups of vendors. 'Ordinance 002 recognized us, gave us a voice', explained one leader in an interview, 'but until now the authorities haven't treated us all equally. If they had treated us all the same, the entire sector would be better off'. Others argued that the government's inability to apply

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<sup>38</sup> The survey was directed by the author and implemented by a team of 13 local interviewers and a field coordinator in June 2003. The team interviewed a total of 454 street vendors and microentrepreneurs at three research sites in Lima: the Caquetá commercial conglomerate in the district of San Martín de Porres; the Polvos Azules commercial center in downtown Lima; and Gamarra, the garment district located in the district of La Victoria. The sample was drawn from an original sampling frame constructed by enumerating vending posts in the 10 days prior to the commencement of interviews.

sanctions evenly across different groups of vendors means that some get away with cheating the system, for example by vending adulterated or stolen goods at lower prices. Others identified the instability of policy over time as their biggest frustration with government officials. ‘They tell us one thing one day, and something totally different the next’, complained one, ‘It gives us the attitude of “I know you’re going to deceive me, so I’m going to deceive you first”. They cannot be trusted’.

This unwillingness to trust the authorities also appears in the attitudes and behaviour of street traders in general. Vendors interviewed in the 2003 survey exhibited tremendous skepticism about both politicians and political parties. Sixty-five per cent agreed with the statement that ‘politicians decide whatever they want and there is nothing I can do to influence them’, and 76 per cent agreed that ‘politicians don’t care what people like me think’. This level of skepticism was also evident in their responses to questions about problem-solving behaviour. While 36 per cent reported that they had participated in protests or demonstrations in the past five years to express their demands, less than two per cent said that they had attempted to contact party officials. Finally, more than 55 per cent said they either detest politics or do not have any interest in politics. These results suggest a substantial disjuncture between street traders and the formal political system.

Yet this disjuncture does not mean that street traders’ first preference is to avoid formalization. Curiously, street vendors exhibit much more agreement over what ‘formalization’ means than policy makers or academics do over what the ‘informal sector’ means. Table 4 shows that the most common understanding of formalization among street traders is the acquisition of an off-street locale, either rented or owned, from which to sell their merchandise. Other common meanings of formalization included having a license or being registered with the authorities; having some savings; having a tax identification number; belonging to an organization or being unified with others who also engage in street vending; and being safe from expulsions. Interestingly, more than a third of the vendors interviewed (37 per cent) had attempted their own formalization efforts. Perhaps most strikingly, 85 per cent reported that they thought they would be better off formalizing than they would remaining in the street.

Table 4  
Meanings of ‘formalization’ to street vendors

Meaning	Per cent of total mentions
Owning an off-street locale	45
Renting an off-street locale	18
Having a license or municipal authorization	12
Having savings	9
Having a tax identification number	6
Being a member of an organization	3
Being safe from police expulsions	2
Having access to credit	1
Having lower costs of doing business	1
Getting help from the municipality	1
Having social security	1
Having a greater investment in merchandise	1

Source: 2003 Microbusiness Survey. The first five alternatives were response categories included in the wording of the question, and the remainder were volunteered by respondents. The question allowed for multiple responses.

## 6 Conclusion

The evidence presented here suggests that although the problem of ‘bad laws’ still plagues the informal sector in Peru, its sources are perhaps more tractable than they were twenty years ago, when rent-seeking pressure groups were much stronger. Existing laws governing street commerce use conflicting and ambiguous definitions that do not adequately capture the range of conditions found on Lima’s streets. These ambiguities in turn produce a dizzying array of conflicting incentives for those who may seek to formalize their work. They also provide the groundwork for a host of conflicts once actors attempt to implement these policies on the ground; without an adequate legal foundation, actors on both sides can argue indefinitely about who should have to comply with what law. Municipal governments’ ad hoc efforts to respond to these conflicts reduce trust between government officials and leaders of vending organizations, which in turn produces a tremendous amount of cynicism and apathy toward the formal political system among street traders. These conditions suggest a difficult cycle of non-enforcement and non-compliance.

At the same time, however, the vast majority of street traders express a willingness to formalize. Moreover, previous efforts of street vending associations to improve their working conditions suggest that the potential for building strong organizations capable of negotiating stable accords with local authorities remains promising. Certainly the problem of bad laws is partially rooted in the country’s history of pervasive corruption and rent-seeking behaviour, but the problem of harnessing the entrepreneurial potential of informal workers for the sake of economic development remains urgent enough to warrant a more serious consideration of specific institutional sources of policy incoherence. More coherent policy could reduce the incentives for remaining informal.

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Appendix 1:  
Street vending policies in La Victoria, 1992-2000

Policy Number	Date	Summary
A.C. 001-92-CM	3/2/92	Prohibits vending on certain streets
R.A. 1307-92-ALC	8/25/92	Negates pact with vending associations on three streets; calls for vendors' immediate eradication
D.A. 015-93-ALC	5/10/93	Prohibits vending on certain streets
Edicto 001-93	5/20/93	Creates new tax to fund security force
R.A. 0253-93-ALC	5/25/93	Calls for relocation of one kiosk
D.A. 023-93-ALC	6/4/93	Calls for restructuring of CTMCA
Ord. 005-93-LV	6/8/93	Prohibits vending on certain streets
A.C.020-93	8/9/93	Prohibits sale of certain foods on streets of La Victoria
R.A. 1060-93-ALC	8/25/93	Recognizes individual vending association
D.A. 092-93-ALC	9/10/93	Establishes FOMA and <i>sis</i> a
D.A. 093-93-ALC	9/10/93	Sets contribution levels for <i>sis</i> a; restricts size of posts
D.A. 102-93-ALC	9/28/93	Establishes <i>sis</i> a for kiosks
Ord. 009-93-LV	10/12/93	Authorizes sale of food in tents
R.A. 1238-93-ALC	11/9/93	Names <i>sis</i> a collectors and establishes commissions
R.A. 1239-93-ALC	*	Names new <i>sis</i> a collectors and changes commissions
R.A. 1459-93-ALC	*	Recognizes individual vending association
*	*	Names new <i>sis</i> a collectors and changes commissions
R.A. 0041-94-ALC	1/13/94	Calls for immediate eradication of 4 kiosks
D.A. 004-94-ALC	2/9/94	Shifts responsibility for collecting <i>sis</i> a to FOMA
*	6/10/94	Approves new regulations for FOMA; negates D.A. 092-93
A.C. 020-94	8/9/94	Suspends payment of salaries to FOMA members
A.C. 021-94	8/9/94	Shifts responsibility for collecting <i>sis</i> a to Municipal Treasury
A.C. 022-94	8/9/94	Calls on FOMA representatives to return paid salary
A.C. 023-94	8/9/94	Establishes Evaluation Commission to investigate FOMA
R.A. 2205-94-ALC	8/15/94	Calls for immediate eradication of vendors at one location
R.A. 1663-94-ALC	10/6/94	Authorizes one company to install kiosks around district
D.A. 0033-94-ALC	12/7/94	Raises level of <i>sis</i> a contributions and reduces commissions
D.A. 0045-94-ALC	12/23/94	Authorizes FOMA to enact cleaning campaign
D.A. 0046-94-ALC	12/23/94	Calls for reordering of street commerce by eradicating vendors without current licenses
D.A. 0047-94-ALC	12/26/94	Approves new regulations for FOMA
D.A. 0048-94-ALC	12/26/94	Approves new regulations for CTMCA
*	*	Calls on CTMCA to conduct registration campaign
R.A. 0274-95-ALC	2/28/95	Recognizes representatives of one vending federation
R.A. 0275-95-ALC	2/28/95	Recognizes representatives of one vending federation
D.A. 0020-95-ALC	3/15/95	Suspends payment of <i>sis</i> a



Policy Number	Date	Summary
D.A. 0046-95-ALC	5/22/95	Prohibits vending near Parque Canepa; authorizes only vendors deemed indispensable to district
R.A. 0427-95-ALC	7/31/95	Calls for immediate eradication of various kiosk and cart owners
R.A. 1737-95-ALC	8/28/95	Calls for expulsion of vendors occupying storefront garden
A.C. 006-96	1/19/96	Establishes new Commission to investigate FOMA and CTMCA
A.C. 029-96	5/9/96	Calls for new regulations of FOMA and external audit; shifts responsibility for collecting <i>sisá</i> to complete muni. control
A.C. 034-96	5/20/96	Calls on CTMCA to develop new vending regulations
A.C. 045-96	5/22/96	Rejects complaint filed by vendors regarding A.C. 029
Ord. 001-96	8/22/96	Creates new <i>tasa</i> to be charged to vendors; negates <i>sisá</i>
A.C. 065-96	8/22/96	Approves new regulations for street vending throughout district
Ord. 003-96-MDLV	8/22/96	Outlines new regulations for street vending
R.A. 0904-96-MDLV	11/15/96	Outlines administrative reorganization of municipal government
Edicto 001-96	12/23/96	Establishes new organizational structure of municipality
A.C. 106-96	12/31/96	Recommends disbanding FOMA in light of elimination of <i>sisá</i>
D.A. 033	4/16/97	Creates special municipal commission to devise new strategy for formalizing vendors
D.A. 048	6/18/97	Prohibits vending on certain streets
A.C.039-97	6/23/97	Prohibits vending on certain streets
D.A. 004-97-ALC	10/2/97	Declares beginning of new project to reorder Jiron Gamarra, including expulsion of street vendors
Ord. 002-99-MDLV	1/6/99	Redefines municipal tax regime; negates all previous <i>tasas</i>
Ord. 004-99-MDLV	1/6/99	Establishes framework for funding security force; duties include collection of daily payment from street vendors
Ord. 005-99-MDLV	1/6/99	Redefines time frame for charging operating licenses
Ord. 014-99-MDLV	1/28/99	Approves new regulations for issuing operating licenses
Ord. 015-99-MDLV	1/28/99	'Formalizes' street commerce in the district
Edicto 001-99-MDLV	1/28/99	Creates new municipal office to oversee street vending issues
A.C. 016-99-MDLV	3/19/99	Declares urgent situation in area of wholesale and retail markets
Ord. 018-99-MDLV	3/19/99	Establishes tax incentive for vendors who formalize
Ord. 028-99-MDLV	7/23/99	Establishes sanctions and fees for various acts of non-compliance
Ord. 033-99-MDLV	10/15/99	Establishes rules for applying above sanctions
Ord. 035-99-MDLV	11/23/99	Names special zone around wholesale and retail markets; prohibits occupation of public space in that zone
R.A. 0578-00-ALC	6/21/00	Authorizes vendors on sidewalks around one commercial center
Ord. 047-00-MDLV	6/22/00	Approves new comprehensive regulations for area around wholesale and retail markets
Ord. 045-00-MDLV	6/22/00	Approves formal legal text for above regulations
Ord. 050-00-MDLV	7/14/00	Grants special authorization to vendors of certain products
Ord. 054-00-MDLV	11/30/00	Approves new regulations for authorized vendors

\*In some cases only drafts of policies missing policy numbers and dates were available.