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The Peddlers' Aristocracy: Social Closure, Path Dependence, and Street Vendors in São Paulo

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The concept of social closure introduced by Weber (1978) has been used to account for intergroup inequality in an array of social situations (Murphy 1984, Ramirez 2001, Weeden 2002). In its original formulation, social closure involves both symbolic and institutional categorizations, the "matching" of which reinforces unequal access to resources. Indeed, closure obtains when a social group whose members are regarded as distinct from other members of society becomes eligible (or ineligible) for specific opportunities by virtue of institutional – especially legal – provisions. The mechanics of closure have been explored at length in the neo-Weberian literature (Murphy 1984, Murphy 1988, Parkin 1974). And related strands of scholarship have explored the symbolic dynamics of closure, especially the construction of symbolic boundaries (Lamont and Fournier 1992, Lamont and Molnár 2002, Vallas and Cummins 2014). But few if any studies examine the redistributive implications of what might be called opening processes, that is, reforms in which institutional barriers protecting the advantages of privileged groups are torn down or "pushed off" to incorporate members of other social groups. As a result, closure theory alone fails to account for the common observation that unequal patterns of resource distribution persist in the post-reform period *along similar lines*.

This paper draws on new institutionalist theory to explain why and how unequal patterns of resource distribution achieved through social closure survive "opening" reforms. The new institutionalist scholarship emphasizes the allocative function of institutions, which define property rights in both the narrow and broader sense of granting access to resources. Moreover, institutionalists have established the path dependent character of institutional arrangements, whose features (and effects) tend to "stick" over time through extensive reform processes (Hacker 1998, Pierson 2004). Hence the proverbial legacy of past institutional regimes. The analysis below supports the expectation of continuity during opening processes. In contrast to the conventional understanding of the legacy as a product of inertia, however, I understand these processes as "hard fought battles" (Thelen and Steinmo 1992:9) in which former insiders have an edge. Indeed, during stable times, privileged groups accumulate the nontangible returns of social closure (information, influence, legitimacy, etc.). Later, when opening occurs, the same groups mobilize these assets to *construct* an unequal legacy. By considering nonelite groups such as the disabled and the elderly, I am able to flesh out the payoffs of social closure net of direct decision-making power in the course of the reform.

The paper draws on a case study of street vending in São Paulo, Brazil. In a city of 20 million, a group of disabled and elderly peddlers has retained control over the most profitable selling spots in the commercial heart of the city since the mayoral issuing of a Municipal Decree (MD) in 1953. The decree laid the foundations for social closure by granting the disabled and the elderly priority rights in the allocation of selling spots by the city. Yet the advantages enjoyed by the disabled and elderly as licensed street vendors lived on for six decades, through two major reform processes: (1) a self-proclaimed revolutionary municipal government that "freed the streets" for everyone, and (2) an iron-fist, hygienist administration that banned street vending citywide. The persistence of such advantages is noteworthy considering that street vending constitutes an informal economy where legal norms are loosely enforced and where physical skills play a crucial role in the (sometimes violent) competition for space and income (Cross 1998, Ledeneva 2006, Venkatesh 2006). How did a group inherently disadvantaged in the business of street trade maintain its privileges through reforms that expanded and later abolished the category of licensed street vendors upon which their advantages rest?

I argue that the stability brought about by the military dictatorship (1964-1985) ensured the path-dependent, self-reinforcing evolution of social closure. The privileged access to the benefits of licensed peddling in the downtown area thus evolved into a decades-long monopoly. And, during this time, the disabled and the elderly were able to accumulate intangible assets – e.g., legitimacy, information, and influence – on top of the material rewards to which they were formally entitled. When the rules of the game were rewritten in the wake of the Brazil's transition to democracy and, as a result, the able-bodied gained access to licensed peddling downtown, the disabled and elderly peddlers mobilized their intangible assets to ensure that certain old norms were transferred and other were redrawn in accordance with their interests. The result was a partial opening that preserved their relative advantage. Finally, when the category of licensed street vendor was abolished in the course of an aggressive campaign to eliminate street trade, disabled and elderly peddlers mobilized similar assets to stall the enforcement of adverse norms.

The paper begins with a theoretical discussion of structural approaches to inequality in which I introduce the new institutionalist perspective and lay out the contribution of this study. After recounting methods and data sources, I map out the institutional framework regulating street vending in São Paulo and tease out the resulting pattern of resource allocation, which favors longtime disabled and elderly peddlers. In the subsequent section, I trace the over-time construction of this social structure and analyze its resilience through two opening processes. The final section discusses the broader implications of the study for the understanding of intergroup inequality.

Inequality as a product of social closure

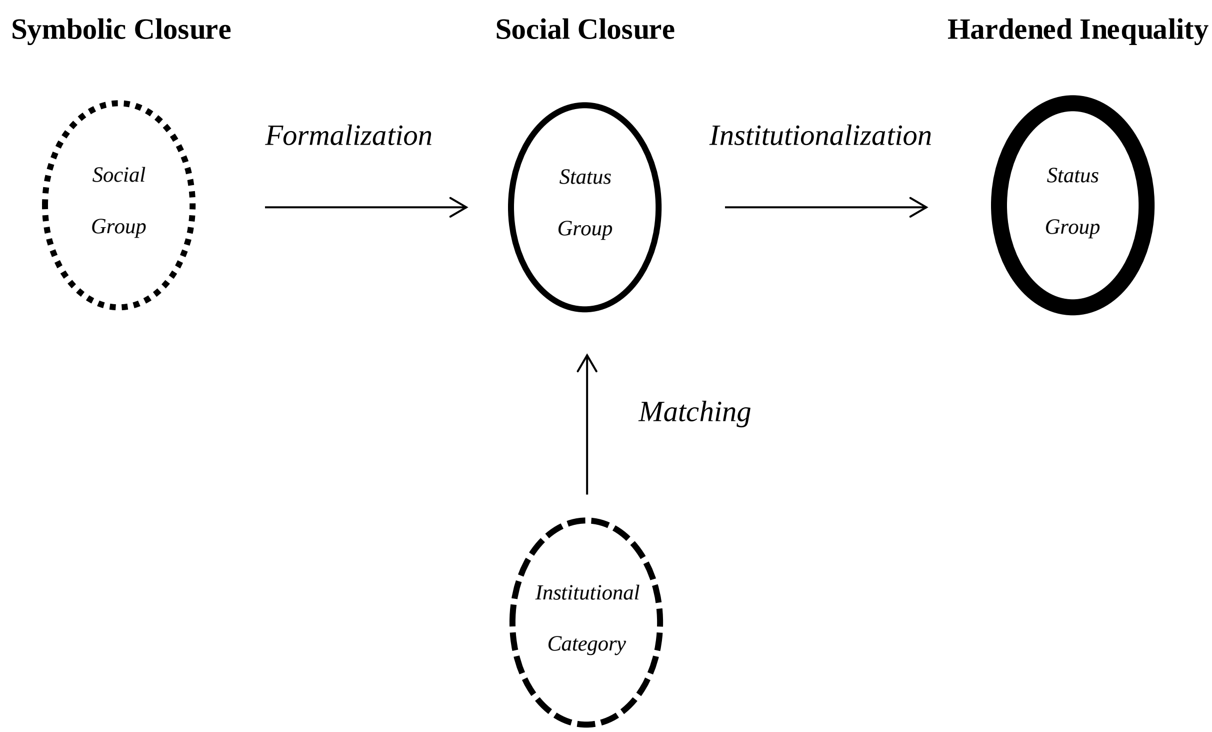
The mechanics of closure

Structural theories of inequality emphasize unequal access to resources among bounded groups or classes. While the Marxist scholarship focuses on exploitation, which entails the direct appropriation of resources from the labor of others (Wright 1997), the Weberian approach revolves around the concept of "social closure." In this view, members of privileged groups capture a disproportionate amount of societal wealth because they bar others from opportunities to produce and/or obtain certain resources (Collins 1979, Murphy 1984). In economic terms, the privileged access to resources achieved through social closure generates a rent, that is, a level of revenue above expected revenue under conditions of perfect (market) competition (Sørensen 2000, Weeden 2002).

As conceptualized by Weber (1978: 43-6, 339-48), social closure has two mutually reinforcing dimensions. These can be analytically distinguished as symbolic and institutional closure. To legitimize (and thus secure) their socioeconomic prerogatives, elites and other privileged groups make claims to a distinctive symbolic status. The concept of "aristocracy" epitomizes such assertion of a difference of essence hinged on virtue and blood. Such symbolic construction is facilitated, moreover, by the presence of widely recognized physical and/or phenotypical differences between groups – e.g., sexual or racial differences. However, because the boundaries thus asserted are neither clear-cut nor definitive, they require "work" and "maintenance" to be sustained over time (Lamont and Fournier 1992). In fact, stabilizing these boundaries – that is, transforming symbolic boundaries into social boundaries (Lamont and Molnár 2002) – is a foremost concern of the privileged groups, and various mechanisms are employed to this end (Bail 2008, Wen 2005). Much of the recent literature on symbolic boundaries has focused on cognitive and discursive mechanisms of symbolic closure such as stereotyping and stigmatization. In doing so, however, this literature has moved away from the institutional mechanisms of closure epitomized in Weber's emphasis on the legal monopolization of economic opportunities.

Yet institutional barriers erected by legal and other formal norms offer additional safeguards on the holdings of privileged groups. In effect, formal norms define sets of ranked institutional categories (e.g., citizen, resident, visitor, and illegal immigrant) and stipulate the conditions of access to, as well as the rights and obligations associated with membership in, each of these categories. As such, the institutional framework regulates the allocation of resources and constitutes a key dimension of the stratification system. As Tilly (1998) points out, moreover, the matching of unequally endowed institutional categories with symbolically defined social categories is a key mechanism in the production of durable inequality. The pervasive effects of such "matching" on long-term intergroup inequality are observable, for example, in the experience and aftermaths of apartheid South Africa or the Jim Crow South. In Weberian terms, the matching of symbolically defined social groups with institutional categories is a way of formalizing closure.

Figure 1: The Process of Closure



Yet neither Weber, nor Tilly, nor neo-Weberian scholars committed to closure theory have paid much attention to the impacts of changes in the institutional framework enacting closure. While suggesting that "organizational innovations" are an effective way to combat durable inequality, Tilly (1998: 36) falls silent on the mechanics of such innovations and the unfolding of their effects on the distribution of resources. On the other hand, scholars like Parkin (1974) and Murphy (1988) posit closure as a sociological given whose institutional forms vary according to the economic system in place (e.g., from the estates system to credentialism in modern capitalist societies). Yet the process of transformation remains unexamined, along with its potential redistributive effects.

By contrast, the over-time allocative effects of institutions and institutional change is a foremost concern of the new institutionalist literature, especially (but not only) in its historical variant. The "codified rules of the game," as Pierson (2004) puts it, define property rights and thus allocate resources (North 1990). Moreover, institutional norms are self-reinforcing by virtue of an array of mechanisms including increasing returns, irretrievable investments, cognitive sunk costs, and so on (Arthur 1989, Mahoney 2000, Thelen and Steinmo 1992). It follows that a social group embedded in a privileged institutional category will see its advantages increase or at least consolidate over time in the absence of exogenous shocks or internal disruptions. Alongside the material rewards provided by the institutional framework, the cumulative nature of privilege implies that other, less tangible resources will flow (Bourdieu 1986). These include nonmaterial forms of capital such as social networks, political influence, information, and so on. And the stability of institutionalized privilege also pays symbolic dividends: it reaffirms the belief among insiders (and outsiders) that things are the way they should be or could not be otherwise.

The outcome of reform

This paper seeks to explain the distributive outcome of reforms that put an end to social closure. More specifically, it seeks to understand why redistribution in such instances is partial at best. By definition, reforms are top-down modifications of formal norms undertaken by power-wielding agents. As such, reforms have the potential "open up" a group theretofore protected by closure. Two types of reforms, in particular, threaten the holdings of privileged groups: (1) reforms that relax conditions of access to privileged institutional categories (e.g., the marketization of nobility titles), and (2) reforms that abolish privileged institutional categories (e.g., the instauration of a republic of equal citizens).

As institutionalists point out, reforms are only effective if they occur during critical junctures, that is, moments of increased uncertainty usually brought about by exogenous shocks (Capoccia and Kelemen 2007, Mahoney 2000). The outcome of critical junctures is by definition not predictable. Even then, however, contingency is not total. While some structural constraints are relaxed, others are not. And the remaining constraints limit the options available for reform and restrict the scope of change (Hacker 1998). It would therefore be misleading, despite such structural forces, to depict path dependence as a matter of pure institutional inertia. In fact, the stickiness of previous arrangements during reform periods is often mediated by the efforts of power-holders with a vested interest in the status quo. If, as North (1990: 7) claims, "rulers device property rights," then they will only allow changes that minimize their losses. On the other hand, veto players who have the legal or practical ability to disrupt the reform process (e.g., unions) are likely to use their powers if the changes do not favor them (Immergut 1992).

This study builds on the above scholarship and supports the thesis of continuity. I argue that opening processes are moments of *active opportunity hoarding* through a struggle for the definition of the institutional framework. That struggle, however, is biased in favor of formerly privileged groups who accumulate "soft assets" – including symbolic, political, and informational capital – during stable times. They then mobilize these assets to secure advantageous institutional outcomes as well as, by implication, high material returns. This is what I referred to earlier as the construction of the legacy. Finally, when privileged actors lose control over the redefinition of institutional norms, soft assets can be used to stall enforcement.

The context of closure

Street vending belongs to the realm of economic activity known as the informal economy, one in which legal norms are, by definition, loosely enforced (Castells and Portes 1989, Fernández-Kelly and Shefner 2006). Studies of informal economies like Venkatesh's (2006) *Off the Books* or Hacher's (2011) *Sangre Salada* thus point to something of a might-makes-right scenario in which power-wielding agents exploit and take advantage of weaker players with little if any regard for legal norms (see also Cross and Peña 2006). When formal norms are taken into account, they are seen as having mostly negative effects such as imposing obstacles to business development (De Soto 1989), serving the extortion purposes of corrupt law-enforcement agents (Cross 1998), and/or enhancing uncertainty by creating contradictory mandates (Fernández-Kelly and Shefner 2006). At the same time, students of street vending recognize that some institutional provisions such as the granting of licenses create hierarchies within the field (Bromley 2000, Cross 1998). Moreover (and crucially), while some norms are routinely transgressed, others are strategically enforced. Enforcement or lack thereof is neither random nor neutral. Despite structural limitations associated with state capacities (Centeno and Portes 2006), enforcement is often applied or withheld in a targeted fashion at the behest of dominant players inside and outside the field (Ledeneva 2006). And the material and immaterial assets bestowed upon privileged groups serve precisely to channel enforcement. In this regard, political connections and access to information are two critical assets (Cross 1998, De Soto 1989, Holland 2014). As we shall see, social closure favors the accumulation of these assets even in an informal environment like street vending.

Methods

This paper develops a single-case, processual analysis of the construction of the social structure of street vending in the megacity of São Paulo over the last 60 years (Ragin 2004). During one year of fieldwork, I carried out more than 80 semi-structured interviews with actors from different fields and analyzed around 180 newspaper articles and legal documents. Most of the quantitative data (scarce, scattered and not always reliable given the informal nature of the field) used below were drawn from official records provided by authoritative informants or found in the public domain. The list of interviewees includes 10 high- and mid-ranking city officials spanning 5 administrations, 8 leaders of street vendors' associations, 3 police officers, 2 representatives of formal business groups, 2 NGO workers, 2 city councilmen, a lawyer, a judge, and more than 50 licensed and unlicensed street vendors. Interviews lasted between 30 minutes and 2 hours. In some cases, up to 5 interviews were conducted with the same key informants. Alongside the interviews, I attended more than 30 meetings between street vendors, street vendors' leaders, government employees, and/or NGO workers.

Access to key informants was achieved through various channels including formal requests to speak with public figures, referrals from other interviewees, encounters at meetings, and contact during fieldwork. Interviews with state officials provided insights into the reasons behind policy decisions, the political forces at work, as well as the intended and unintended results of adopted policy measures. In an effort to map out the evolution of the institutional framework over the last half century, I resorted, concurrently, to archival research and analysis of municipal ordinances, decrees, newspapers articles, and official reports.[1] Documentary and interview data were triangulated in the reconstruction of policymaking processes. Interviews with street vendors provided information on the working conditions and strategies used by different categories of peddlers to enhance their revenue as well as on the street-level politics regarding the distribution of spots and peddling opportunities.

Street vending hierarchies in São Paulo

In 2009, São Paulo had an estimated 100,000 street vendors (Pamplona 2013). While a host of circumstances affect the volume and the value of sales – from the type of merchandise sold to the marketing skills of the vendor – the main asset for which peddlers compete is the "pitch" (or selling spot) known natively as the "*ponto.*" A selling spot does not realize its full income-making potential unless it is stable, that is, unless its holder or "owner" (*dono*) can occupy it for relatively long stretches of time without running the risk of losing her wares to, or being chased out by, competitors or regulators. Key to achieving stability is the possession of a street vending license. Despite being a "precarious title" that can be canceled or revoked by city officials, a license constitutes a legal recognition by the state that the

[1] Of particular utility were the digitalized records of debates, public hearings and voting patterns on municipal bills dating back to the 1950s in São Paulo's city council.

holder has the right to practice street trade at a given location.[2] As of March 2012, the date of the last official tally before all standing licenses were revoked, only 1,157 of the more than 100,000 peddlers of São Paulo held a valid street vending license. Licensed peddlers set up a stall at the address specified on their license and trade in products ranging from garment, shoes, and bags to packaged foodstuffs.

By contrast, peddlers who do not possess a license work "on the run" (*na correria*), constantly dodging police officers tasked with patrolling street vending. When unlicensed peddlers are caught by police officers, their wares are confiscated. But the person is neither fined nor detained and charges not are brought against her. Unlicensed peddlers thus keep moving, often in clusters, from one corner or sidewalk to another. Contrary to licensed street vendors, who often seat back and chat while awaiting the next customers, unlicensed peddlers are constantly touting their products to passersby, especially in crowded commercial areas. In addition to enduring continuous psychological pressure, unlicensed peddlers are unable to sell high-value goods or to accumulate large stocks given the permanent risk of apprehension. Furthermore, the imperative of constant mobility compels them to work with light and small products such as cheap electronics, cell phone accessories, or water bottles.

From an analytic standpoint, to hold a license is to comply with an institutional norm and, consequently, to belong to the distinct institutional category of "license-holder" (*permissionário*). Aside from granting holders the privilege of stability and, thereby, enhancing their profit rates, a license offers a set of psychological rewards such as comfort and tranquility in the conduct of business as well as a very relative but genuinely experienced amount of prestige. (License-holders and state authorities commonly refer to unlicensed peddlers as "the irregulars," "the clandestine," or "the illegals.")

Not surprisingly, therefore, licenses are hard to obtain. As described in the following section, the rules for obtaining a license have changed significantly over time. Yet the predominance of the disabled and the elderly among "the licensed few" in downtown São Paulo has not. Again, in March 2012, 43% of license-holders were classified as "disabled" (*deficiente*) or "elderly" (*sexagenarios*) while the remaining 57% were classified as "able-bodied" (*fisicamente capaz*). According to data from the last census, less than 34% of the total population of the city of São Paulo falls in either category.

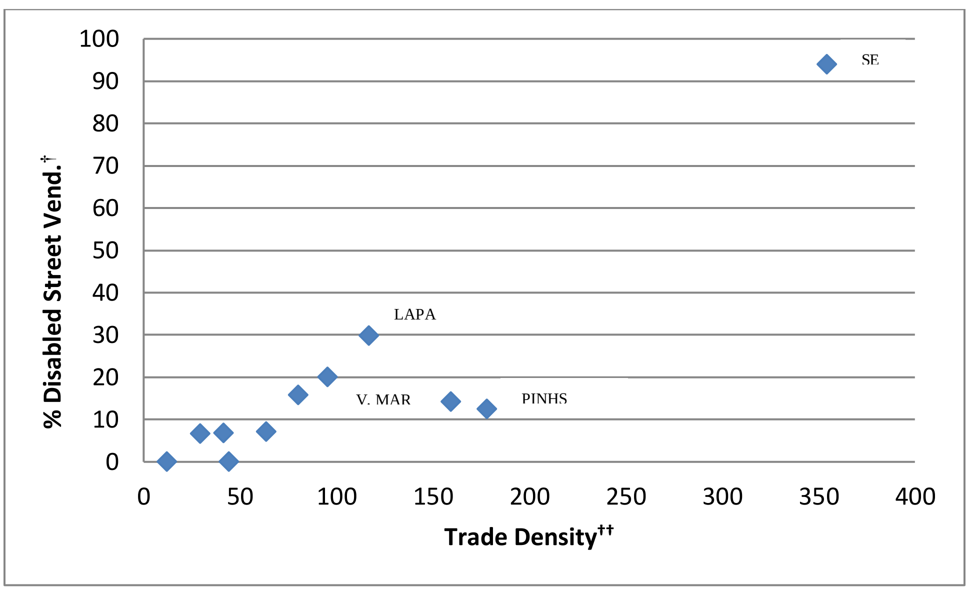
As important as the stability of the selling spot is its location. All other things being equal, the closer a spot is to "the flux" (i.e., the stream of potential customers), the more profitable it is. A street vendor with a spot at the heart of a commercial neighborhood in São Paulo can earn as much as 8 times the minimum wage. A spot on a street with high foot-traffic but where most passersby are commuters instead of

[2] Municipal Law 11039.

purposeful buyers is less profitable. The latter, however, is still preferable to a spot in a desert side-street or in a residential, peripheral neighborhood referred to as "the ridge."

Street vendors are extremely reluctant to share information about their income. In the absence of selling spot-level data on exposure to potential customers, ethnographic and historical evidence must be combined with available data sources on commercial activity to map the field and assess the relative position of disabled and elderly peddlers. In this regard, the commercial geography of São Paulo has changed substantially over the last 20 years. The rising income of the working classes in the eastern outskirts of the city (*zona leste*) coupled with infrastructural development led to a decentralization of retailing. A large informal marketplace of around 300 street vendors thus developed in the peripheral district of São Miguel Paulista. And other street markets in middle-class, residential neighborhoods (e.g., Lapa) have remained vibrant. Historically, however, the downtown district of Sé has been the commercial heart of São Paulo and still hosts the largest street market in town. According to data published by the city of São Paulo, Sé also had the highest density of commercial establishments among all districts with licensed street vendors as of March 2012 (see Fig. 2).

Figure 2: Percentage of Disabled Street Vendors Against Commercial Activity by District in São Paulo[*]



[*]Only licensed street vendors are considered. Only districts with street vendors registered as of March 2012 are shown on the graph.
[†]Statistics about percentage of disabled street vendors were calculated based on official records obtained during fieldwork.
[††]Number of commercial establishments per square kilometer based on data from the *Sumário de Dados 2004, Prefeitura de São Paulo*.

The district of Sé (top-right-hand corner in Fig. 2) had only 116 licensed street vendors in March 2012, when all street vending licenses were canceled or revoked by the mayor (see below). Of these 116 street vendors, 94% were classified as disabled and the remaining 6% were classified as elderly. At the end of the research for this study, in August 2014, the number of licensed street vendors authorized to work in the district had gone up to 480 thanks to an interim court order that stayed the execution of the ban. Of these 480 peddlers, 66% were either disabled or elderly. A closer look at the within-district distribution corroborates the relative advantage of disabled street vendors while putting a check on the risk of an ecological fallacy. Indeed, by all accounts, big business downtown is concentrated in the street 25 de Março – the "darling of all peddlers," as a street vendor once put it – where massive retail and wholesale trade of cheap consumer goods – many of them smuggled or imported from Asia – takes place on a daily basis. According to an internal survey conducted by the local storeowners' association, the total value of sales for the year 2013 surpassed 7 billion USD. Around 95% of the licensed spots on this street are occupied by disabled and elderly peddlers. As a bonus perk enjoyed by disabled and elderly street vendors in the district of Sé and in this district alone, they are allowed to leave their stalls by 1pm while letting their assistants look after the business.

In short, on the streets of São Paulo, a group of disabled and the elderly enjoy both the privilege of stability and the privilege of centrality. They control the most valuable spots and, as a result, capture a larger than average share of the spoils. They form the privileged strata of the street vending economy. How and why things came to be so, and have remained so, is a historical question whose roots date back to the early 1950s, when the elderly and the disabled were granted by the city government marginal advantages in the street vending business. The following section dissects this historical process and shows how the social structure that emerged in the wake of these measures endured through multiple city administrations with radically different policy orientations, from lax governments that "freed the streets for everyone" to repressive regimes that tried to wipe out street vendors altogether.

The structuring of street vending

Upon his inauguration as mayor of São Paulo in 1953, Jânio Quadros set out to regulate street vending following a period of relative neglect (Bertolli 1989). Quadros's initiative was at least partially motivated by pressures from storeowners, who have traditionally regarded peddlers as disloyal competitors and an urban nuisance (Bromley 2000). During his first year in office, Quadros issued six Municipal Decrees (MD) on street vending. The first of these decrees, MD 2201, banned street vending from the downtown area, the commercial heart of São Paulo. By the same token, MD 2201 established the rules for the allocation of spots beyond the central region. The disabled were given preference, followed by the elderly, “those with a large offspring,” married people, and finally bachelors staying with host families. Yet any adult person had the right to apply for a spot. Probably in response to supply problems resulting from the downtown ban, subsequent decrees created exceptions, first for sellers of lottery tickets, then for mobile fruit vendors (Bertolli 1989). A later municipal decree subdivided the city into sectors (some of which impinged on the foreclosed downtown area) and established a system of rotation among licensed vendors, limiting the occupation of each spot to two weeks in an effort to spread the benefits of centrality more evenly. The last of the six decrees exempted the disabled and the elderly from the rotation system, thus guaranteeing them a stable hold on their spots. Albeit real, the advantages thus achieved by the disabled and the elderly were relative insofar as other social groups could also hold a license and/or trade downtown. Moreover, they were precarious: MDs are lower-order regulatory instruments that can be easily overturned by other MDs at the discretion of subsequent mayors or overridden by Municipal Laws (ML, *Lei Municipal*).

In fact, under Quadros’s successor, pressures from storeowners against street vendors intensified. Using their political influence inside the city council – which, in Brazil, has legislative powers – storeowners’ associations pushed for a ban on street vending for *all* social categories. Although the bill did not delimit a specific area, it targeted mostly the downtown area and was approved by the council in 1957. That same year, however, the city council passed a new Municipal Law (ML 5440) which was put forth by the mayor himself. Claiming it would be “inhumane” and “contrary to Christian values” to remove the disabled and the elderly from the downtown spots which they already occupied, the bill called for an exception for these groups while granting them tax exemptions. Given the precedence of Municipal Laws over Municipal Decrees, this law became the overarching norm for policymaking in street vending for more than three decades thereafter.

In 1964, a military *coup* placed Brazil under a military dictatorship. Draconian law-and-order legislation was adopted across the country restricting freedom of movement and criminalizing the “unproductive” occupation of public space as “loafing” (*vadiagem*). In capital cities like São Paulo, the mayors were appointed by the military regime itself. Policy towards street vending followed a top-down logic, alternating between the cancelation of all licenses and efforts at sharpening and tightening regulations. On the whole, however, the framework established by ML 5440 prevailed, guaranteeing a monopoly over licensed peddling to disabled and elderly street vendors located in the downtown area. Although licensed had to be periodically renewed, another MD (MD 14396) dating from 1977 introduced a *seniority rule* by which street vendors with the most time on the streets had priority in the selection of their spot.

The rights granted to the disabled and the elderly led to their organizing into an association, the ABRADEF, which later branched out into another association, the UNADEF. When a working group was established by mayor Mario Covas in 1983 with the task of designing a lasting policy for street vendors, representatives of disabled and elderly peddlers were invited to the table. Not surprisingly, the decrees that came out of the working group reserved fixed spots in the central district to "seriously disabled" street vendors while authorizing spots beyond that area for other disabled and elderly peddlers. The able-bodied were only allowed to circulate in the outskirts with so-called "human-propelled carts." Despite a continued tug-of-war between the city and the peddlers, this arrangement held under the second administration of Janio Quadros, between 1986 and 1989, following Brazil's return to democratic rule in 1985.

On the whole, the 35-year-long period that began with Quadros's first mayoral administration before the 1964 *coup* and ended with his second administration after the return to democracy was not unusual in the oscillation between repression and concession that characterizes policy toward street vending across the Global South (Bromley 2000, Cross 1998). Two interacting factors, however, made it a defining period in the structuring of the field. First, this period opened with a concession of special rights to specific social groups, thus setting a policy precedent and incentivizing the organizing of these groups. Second, almost two thirds of that period unfolded under a repressive military regime. As a result, during all those years, the political system was impervious to potential demands by other constituencies, especially the able-bodied, who were compelled to work in the outskirts of the city or in the shadows, running from law-enforcement. This situation was to change dramatically following the election of Luiza Erundina, the Workers' Party candidate for mayor of São Paulo, in 1988.

1st Reform: Expanding Boundaries (1989-1993)

As a national industrial hub, the city of São Paulo has received a massive inflow of rural migrants from the poor, predominantly Black northeastern region of Brazil known as the *Nordeste*. For long, street vending was a niche for *nordestinos* who could not find or gave up on factory work. As predominantly dark-skinned outsiders in a marginal trade, these migrants faced hostility from the notoriously conservative local elites. In this context, the unexpected coming to power of Erundina, a social worker from the Northeast belonging to the leftist Workers' Party (PT), gave rise to two diverging interpretations among the public.[3] For the socioeconomic elites, it meant chaos. For the working classes, especially for those who had immigrated from the Northeast, it meant freedom. And so, in a climate of nationwide

[3] Interview with party member and city official, February 2014.

expansion of civil liberties coupled with high unemployment rates and economic depression, the streets "exploded" with peddlers.[3]

As recounted by Aldaiza Sposati, the top public official in charge of street vending policy at the time, the PT leadership was worried about potential attempts by conservative sectors to sabotage the government and brand it as incompetent. The two strategic areas where a boycott was expected were trash collection and street vending. In both sectors, city officials were aware of the need to impose order and show results. At the same time, it did not take long before demands from groups of able-bodied peddlers theretofore working without licenses in the outskirts of the city made themselves heard, and these demands found echoes among radicalized groups within the ruling party.

The challenge faced by city administrators was compounded, moreover, by the absence of an established framework of urban governance. A new national constitution had been adopted a year earlier, in 1988, and the division of tasks and attributions among the different levels of government had yet to be defined and implemented. In fact, the so-called General Law of the City (*Lei Geral das Cidades*), which establishes the legal prerogatives and duties of city governments, was not passed until 1990. As one district administrator put it, "the rules of the game were in the making." And so, at the local level, the norms of urban governance had to be "invented" in a context marked by improvisation and fire-fighting.

The first step taken by the new administration to stem the rising flow of street vendors was to distribute tickets to all peddlers found on the streets on the fourth day following Erundina's inauguration. Ticket-holders were then registered with the city and allowed to apply for a license. As it turned out, the distribution of tickets occurred during a holiday period when many longtime peddlers had gone back to their homeland in the Northeast. Their complaints prompted the city to issue a new call by which licensed *and* unlicensed vendors who could produce proof of their longtime involvement in street trade (i.e., notices of confiscation, testimony from reliable witnesses, etc.) would be added to the database.

Tickets did not amount to licenses. The purpose of distributing tickets was to take stock of the growing population of peddlers. After this information was collected, legislation still needed to be crafted to determine who could sell legally, when, and where. Various stakeholders were invited to the table, including representatives from the longstanding organizations of disabled and elderly peddlers as well as informal leaders of able-bodied peddlers who emerged more or less spontaneously at the time to voice their demands. Negotiations carried on for six months through a series of heated meetings. An attendant recalls one of the meetings:

> One of the able-bodied would say: 'We are all equal. We all have the right to work.' A furious disabled man would reply: 'Oh yeah, you think we are equal? Why don't you come here, let me

> poke out your eye, let me break your arm… Let's see how equal we are.' (…) That meeting ended at the police station.[4]

In the account offered by one of the longstanding leaders, the leadership of the disabled and elderly peddlers understood that things had to change. The question was how big a share of the (licensed) market they would have to surrender. As it happened, this was also a matter of heated debate within party ranks. The chief negotiator on behalf of the mayor at the time, who was also a social worker, saw the streets as the "worst place" for the disabled and the elderly to be, given pollution, traffic, and related health hazards. And yet, as she points out, "they [the disabled and the elderly] had been there for a long time. They had that right, and they saw themselves as entitled to that right." Following a month of negotiations and internal debates, state officials settled on an arrangement encapsulated in MD 27660, issued on February 22, 1989. According to the decree, two thirds of the spots would be given to the disabled and the elderly while one third went to the able-bodied. The disabled and elderly were also given priority in the selection of spots, and the seniority rule was maintained. Finally, a consultative body called CPA, which was composed of a host of actors representing the state, street vendors, business interests, and other sectors of civil society, was established by that decree with the function of deliberating on decisions affecting street vendors at the local level.

The struggle pitting the disabled and the elderly against the able-bodied during this reform period was, at first, a struggle for the definition of the broad institutional framework. After that framework was defined, the focus of the struggle shifted to the implementation. Despite the quotas for licenses established in the decree and the consultative role granted to the CPAs, the power of issuing and canceling licenses was left in the hands of district administrators who delegated such tasks to their subordinates. In the downtown district of Sé, where the most profitable spots were located, the struggle to define "the who, the when, and the where" of street vending was particularly intense. The limited staff could hardly cope with the mass of unlicensed peddlers and many inspectors hired under previous administrations were suspected of corruption.[5]

Access to officials with decision-making powers thus became a key asset for street vendors. For their part, city officials were looking for civil society partners to help them police the streets. As Cross (1998) notes, resource-wanting state authorities tend to rely on leaders of street vendors' organizations to implement their policies. In the recollections of a city employee, the larger the number of street vendors that a given leader could mobilize, the more the city would be willing to engage in negotiations with her. Many associations of street vendors flourished in this context, some of which had but a handful of followers.

[4] Interview with Aldaiza Sposati, Jan. 2014
[5] Interview Rubens Possati, chief regulator of street vending in Sé, Nov. 2013.

Once more, in this scenario, longstanding organizations of disabled and elderly peddlers had an edge. As legitimate interlocutors with a large and established following, leaders of these organizations briefed local officials on attempts by other groups to "occupy" the streets." "In order to evict the newcomers, we had to ally ourselves with the established ones," a district administrator explained in an interview.[6]

In the midst of this urban drama, storeowners did not sit idly by. Having lost their influence over the executive branch, they resorted to the city council. In 1989, councilman Bruno Feder, whose party, the PL, represented the interests of local commercial elites, put forth a bill aimed at setting limits to what Feder describes as "urbanistic terrorism" (i.e., the uncontainable spread of street vendors across the city).[7] While drawing largely on the decree issued by the Erundina administration, the bill introduced a two-year expiration date for licenses and established the mandatory requirement of having lived in São Paulo for 7 years to be eligible to hold a license. The bill, which prompted mass protests by street vendors, was vetoed by the mayor but eventually approved by the city council with the absolute majority needed to override the veto. Organized street vendors' leaders, however, drew on their political influence to pressure Feder into submitting another bill "correcting the previous one." The second bill, which was also approved by the council, reestablished the seniority rule and rescinded the requirement of 7 years of residence in São Paulo.

At the end of Erundina's administration, the able-bodied had gained access to the category of licensed street vendors, crossing the threshold of both stability and centrality.[8] But the disabled and the elderly had secured their advantages on both counts. They still enjoyed the privilege of stability through quotas on licenses, and they preserved the privilege of centrality through priority rights in the selection of spots coupled with the maintenance of the seniority rule. Finally, the practical challenges of policy implementation gave them an additional edge: they developed ties to party and state officials, thus building up political capital.

1993-2005: Business as Usual

For two decades after the end of the Erundina administration, the field of street vending did not undergo major overhauls. The institutional framework in place, which favored the disabled and the elderly in both direct and indirect ways, was worked on by the established leadership of street vendors to accrue marginal benefits. Some elite blending did take place. In the mid-1990s, the association representing the disabled peddlers allied itself with a group of licensed, able-bodied street vendors from downtown and founded the

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[6] Interview with the author, February 2013.
[7] Interview with Bruno Feder, November 2013.
[8] Some able-bodied had managed to obtain licenses downtown through informal relations with city officials.

Union of the Licensed. The Union achieved legal recognition and became the official representative of street vendors in the city.

The established leadership was far from hegemonic, however. Unlicensed peddlers had proliferated under the Erundina administration and some had coalesced into associations or gangs that exerted *de facto* control over specific areas. Yet the apparent chaos was not tantamount to total anarchy. Indeed, two investigations carried out by two special city council investigatory committees (*Comissão Parlamentar de Inquérito* or CPI in Portuguese) in the mid- and late 1990s disclosed a large network of bribe-taking and extortion involving state agents ranging from street-level inspectors to a state congressman. Street vendors were among both the victims and the participants. As described in the committee's reports and testimonial evidence, city officials collected weekly bribes from peddlers to allow them to work at particular spots, printed and sold false licenses, embezzled wares apprehended from peddlers, and charged unlawful fees to return merchandise to its owner, among a wide array of other crimes. At the head of these giant extortion systems known as the bribes' mafia or the inspectors' mafia – which also extended to established formal businesses – were, according to the official reports, powerful politicians who controlled specific "districts" where they appointed administrators who obeyed their purpose. Part of the money collected served to finance electoral campaigns. Although the scandal made waves and led to retaliatory action by the mayor, who threaten to relocated all peddlers inside enclosed markets, the benefits enjoyed by the disabled were never in question. As the wife of a longtime disabled peddler explains: "The law belonged to the disabled."[9]

Far from ushering a new opening, return of the Worker's Party to power in 2001 strengthened the hand of the established leadership. Although policing was relaxed and many unlicensed peddlers took out to the streets, only a fraction of new applicants were granted a license. The same official who, in the past, had been at the frontline of tough negotiations street vendors' leaders was appointed as coordinator of street vending policy across the city. By then, he had endorsed the "conservative" agenda of the established leadership of the Union of the Licensed, with whom he had developed personal ties. Through access to the deliberative bodies called CPAs, established leaders allied themselves with representatives of storeowners to obtain the eviction of some of their peers and competitors. In the words of a storeowners' representative who played an active role in the negotiations, only "the upper crust" (*a crema*) of the licensed peddlers remained. Former affiliates complained in interviews about how, by sitting at the CPAs and having access to city officials, the "aristocracy of the disabled" was able to punish non-affiliates or dissenters and benefit the ruling clique. At the end of the 2004, there was an estimated 5,500 valid street vending licenses.

[9] Interview with the author, February 2014.

2nd Reform: The Prospect of Extinction (2006-2012)

In 2004, the Workers' Party lost the city government to Jose Serra, a member of the center-right PSDB party with close ties to business elites. A year later, Serra ran successfully for governor of the state of São Paulo, leaving his vice-mayor Gilberto Kassab in his place. An iron-fist politician with hygienist values of urban development, Kassab immediately undertook to "clean out" the city. In 2006, the Kassab administration pushed for a controversial project entitled "Clean City," which forbade billboards and other outdoor forms of advertisement citywide. According to many street vendors, pressures to evict them intensified and inspections grew more frequent, leading to the cancelation of many licenses. In the mayoral elections of 2008, Kassab was elected for another four-year term.

Kassab was also a vice-president of São Paulo's largest association of storeowners, the ACSP. Drawing on his political and personal ties to the head of the state government – including his former mentor and fellow ACSP vice-president Afif Domingos, who was then vice-governor of the state of São Paulo – the mayor signed an agreement with the military police – a police force operating under the helm of the state government – according to which the city would hire off-duty military police officers to patrol street vending. Concurrently, high-ranking retired military police officers were appointed to the head of all district administrations, where policy toward street vending is implemented, as well as to the head of the Secretaria de Coordenação das Subprefeituras, where citywide policy guidelines are drawn. After these steps were taken, the campaign against street vendors – which street vendors describe as an attempt at "extermination" – continued unabated, reaching its peak in May 19, 2012, when all standing licenses were revoked in a series of decrees and administrative acts.

In the run-up to this final blow, two separate networks made attempts to counter the policy. On one side was the Union of the Licensed, which relied on its political patron, a PT council man, and resorted to "informal politics" (Cross 1998) to lobby the city government for restraint. Until the threat of total extinction materialized in the decrees of May, however, these actors refrained from staging major street protests. On the other side, an NGO with a small team of lawyers and urban geographers who had articulated a forum of street vendors staged small demonstrations. In March 2012, news broke that a public defender had obtained a Temporary Restraining Order (TRO) forestalling the eviction of a concentration of street vendors in a neighborhood of the outskirts of the city. The NGO lawyers reached out to the public defender and, together, filed a class-lawsuit on behalf of all street vendors affected by the policy citywide. The case was assigned to the same judge, who granted another TRO containing a stay of execution on the eviction of licensed street vendors whose licenses had been canceled or revoked across the city. The city government filed an appeal with the president of the state Justice Tribunal (JT), was granted the appeal, had its appeal overturned by a colleague of the president of the JT whose decision was, in an unprecedented turn of events, itself overturned by the president of the JT himself, and eventually lost its appeal after a collegial body of 25 JT magistrates upheld the TRO issued by the lower-court judge.[10]

By then, the Union had abandoned its lobbying strategy and began organizing protests. At one protest, which was also attended by the participants of the forum set up by the NGO, 7 disabled peddlers chained themselves to posts in front of the Justice Tribunal. In the original court order, however, the judge had set a cut-off mark at 2012, which meant that only those street vendors whose licenses had been revoked or cancelled in 2012 were allowed to return to the streets. All others would have to wait until the case was ruled or the parties reached a settlement. A conciliation audience was set up between the city and the plaintiffs to which other stakeholders were invited, in particular the leadership of the Union of the Licensed. After 8 months of negotiations, however, the group had failed to reach an agreement. And so, two years on, the TRO was still in force, and only those whose licenses had been canceled or revoked in 2012 were legally entitled to work.

It is noteworthy that the actors who filed the lawsuits and obtained the TRO which, as everybody now agrees, ensured the survival of street vendors as an occupational category ("*salvou a categoria"*), are committed to broad ideals of expanding the "right to the city" and promoting decent work for all marginalized categories, licensed and unlicensed, disabled and able-bodied alike. The NGO workers, moreover, were involved in a political struggle with the organization representing the disabled and elderly vendors. In sum, the plaintiffs' goal was not, by any means, to protect the interests of licensed peddlers alone, and even less to preserve the market dominance exercised by organized disabled and elderly peddlers.

And yet the (provisional) outcome of the judicial battle was to increase, in relative terms, the number of disabled and elderly street traders peddling legally. Although the decision by the judge to set the cut-off line at 2012 was independent from the interplay of political forces in the field, the fact that the disabled and the elderly were among the last survivors of the campaign to eliminate street vending, especially in the downtown area, was not random. The meetings between the leadership of disabled street vendors and city officials, while ineffective at curbing the broader agenda of "extermination," were part of an *economy of favors* by which state authorities made concessions to specific individuals based on personal requests.

[10] The city unsuccessfully filed an appeal with the *Superior Tribunal Federal*.

In fact, the district administrator developed personal ties with the political patron of the peddlers. And, in that district at least, the disabled and the elderly were thus "spared" until the *coup de grace*.

In short, the latter period witnessed an attempt at extinguishing street trade by abolishing the institutional category of licensed street vendor. As a city official recently put it, from the standpoint of the city, "peddlers no longer exist." As legal peddling came to the brink of extinction, so did, by implication, the majority share held by the category disabled and elderly peddlers. The disabled and the elderly had lost the struggle for the definition of the institutional framework. Yet the links forged between them and local politicians provided them with another asset, political influence, which they could mobilize punctually to ensure their individual survival and their survival as a minority among the targeted group. Consequently, although the policy took a large toll on street vendors as a whole (some of whom reportedly died or killed themselves out of despair) and many disabled and elderly peddlers suffered major losses, the social structure of the field and the privileges held by its elite remained unaltered.

Discussion

This paper accounts for the resilience of intergroup inequality through two reforms that challenged a scenario of social closure. In the first case, the boundaries of the institutional category enforcing closure, namely, the category of licensed street vendors, were revised to include members of social groups hitherto left aside. As shown above, the result was a *partial* opening through which the privileged groups, the disabled and the elderly, maintained their relative advantages. They did so by ensuring that certain norms contributing to social closure were transferred – i.e., the seniority rule – or redrawn in favorable terms – i.e., a legal monopoly became a system of quotas. And they obtained this outcome because the social categories who benefit from social closure accumulate intangible assets (or forms of capital) that allow them to shape the course of the transition. These assets are called hidden assets to the extent that they are not explicitly allocated to them by prevailing institutional norms but, rather, derive from the situation of privilege associate with closure. The second reform examined above simply abolished the category of licensed street vendor by revoking all standing licenses and banning street vending citywide. This amounts to the second, more radical form of "opening." But, then again, the intangible assets allowed the elite of disabled and elderly peddlers to stay afloat until a court order stopped the enforcement of the ban.

As with any theoretical argument, some caveats apply to the foregoing discussion of the impact of social closure on long-term intergroup inequality. First, not *all* members of the privileged social groups benefit from social closure. As noted above, some disabled and elderly street vendors were manipulated (if not exploited) by others. Second, in spite of the resilience observed in opening processes, some members of the incorporated social groups did gain access to better opportunities than other members the "old guard."

These empirical complexities follow, in part, from the existence of intracategorical hierarchies and inequality, both among the disabled and the able-bodied. Although the limited scope of this paper prevents us from discussing how such within-group inequalities played out, it is conceivable that skilled able-bodied street vendors would achieve higher rewards than low-status disabled peddlers after the first opening process (and even before then). But such variation does not invalidate the theoretical argument of this paper. A group of disabled and elderly peddlers did remain among the best rewarded street vendors in São Paulo for several decades. Yet the variation evokes another potential caveat, which concerns the blurriness (if not the) of the categorical boundaries based on which I have attempted to explain resilient patterns of resource distribution. Categories being constructions created and imposed by rulers, analysts, or the dominant groups – the argument goes – they should be the target of social analysis and criticism rather than its tools (see McCall 2005). In the present study, the problem is compounded by the fact that I have not only relied on native categories (licensed and unlicensed, disabled and able-bodied) but also, in a way, added a layer of relativity by categorizing these categories into "institutional" (if they allocate material resources and opportunities) or "symbolic" (if they affected representations). I am aware of the overlap between both types – as mentioned earlier, being a licensed peddler has symbolic implications – as much as I am aware of the porousness between the underlying categories – despite legal criteria, who is and is not "disabled" will always be a subject of controversy. And yet, notwithstanding the epistemological issues involved, I hope to have fleshed out the utility of using both analytical and native categories to account for concrete outcomes. Some people with severe physical impairments did manage to hold on to some of the most lucrative selling spots in São Paulo for a long time and through far-reaching reforms.

Despite the myth of a democratizing global society in which explicitly exclusionary norms are dying out, understanding the institutional mechanics of social closure is still relevant today. For one, societies and social settings with explicit rules of exclusion against women, ethnic groups, religious groups, and other collectivities abound. Moreover, even in the supposedly liberalizing Western world, the legacies of social closure continue to shape patterns of inequality in the present. The analysis above offers some hints at the causes. For example, in South Africa (a case that closure theorists like to cite), the stubbornly high levels of interracial inequality in the aftermaths of the apartheid regime have called into question the commitment and competences of the current ANC leadership. Notwithstanding the potential influence of these factors, the theory developed here invites attention to the ways in which the current institutional regime – which maintained key norms of the previous regime such as the distribution of private property and debt service obligations – came about during the transition period, and to the bearing that some assets accumulated under apartheid might have had in the process.

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