



# Strengthening Township Economies in South Africa: the Case for Better Regulation and Policy Innovation

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## Abstract

There is considerable policy interest in supporting township economies at present. This is important considering their history of marginalization and the extent of unemployment and poverty. However, the short-term injection of additional resources could simply leak out unless more conducive conditions are created for enterprises to grow and develop locally. The paper examines the framework of government laws, regulations and administrative procedures that inhibit township economic development. Inappropriate standards and onerous approval systems make it difficult for firms with growth aspirations and potential to formalize their operations and expand. The current situation oscillates between laissez-faire neglect and enforcement of punitive regulations, which creates uncertainty and opportunities for abuse. The paper concludes with some recommendations to create a more enabling environment, emphasizing the need for local experimentation and learning from reforms to different elements of the regulatory framework.

**Keywords** Township economy · South Africa · Informal sector · Regulations

## Introduction

The township economy is attracting a great deal of policy interest in South Africa, partly because of the persistence of concentrated poverty and the lack of economic transformation since democracy (The Citizen 2018; Ngcukana 2018; Majoko 2017; Gauteng Province 2014). In October 2018, President Ramaphosa accompanied

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investors to the country's most famous township, Soweto, to pledge government support for township enterprises, thereby affirming recent government commitments to transform "township and rural economies". In his Economic Stimulus and Recovery Plan, the President boldly announced a reprioritization of R50 billion in government spending towards the township economy and rural areas. He also promised to set up a township and rural entrepreneurship fund to expand existing projects and support new initiatives (EWN 2018).

Similar commitments have been expressed at the provincial level, particularly in Gauteng (Molele 2018). Premier Makhura maintains that revitalizing townships is essential for the long-term sustainability of the provincial economy. Gauteng's township revitalization strategy aims for local entrepreneurs "to produce everything that is possible within and around a township space" (Gauteng Province 2014, 14) and to account for at least 30% of Gauteng's GDP by 2030. In his 2018 state of the province address, Makhura claimed that public procurement spend on township enterprises increased from R600 million to R17 billion between 2014 and 2017, and the number of township enterprises doing business with government increased from 642 to 4182 (IOL 2018). Many development agencies, financial institutions, civil society groups and international organizations have also launched initiatives to support township economies (Majoko 2017; Omarjee 2016; Fin24 2016). The renewed interest is important considering damaging legacy of township marginalization and injustice under apartheid. However, an objective assessment of whether current initiatives will promote sustained township development is also important, bearing in mind the modest achievements of previous initiatives (the Special Integrated Presidential Projects, the Urban Renewal Programme and the Neighbourhood Development Partnership Programme). These schemes brought about visible improvements to many townships, but failed to make much difference to their underlying economic conditions (Rogerson 2019; Mseleni 2017; Geyer 2016; Rogerson 2016; Donaldson and Du Plessis 2011; Donaldson et al. 2013; Jürgens et al. 2013; Jürgens and Donaldson 2012; Todes 2013). Consequently, most township businesses remain small-scale and essentially survivalist in character, their productivity is low and they tend to circulate local resources rather than produce tradable goods and services (Fourie 2018; CSP 2018). Very few are engaged in value-added activities that serve wider markets, create decent jobs and generate higher incomes. There is a danger that current government initiatives will offer short-lived support without addressing the systemic barriers to progress. Money thrown at the problem could simply leak out. This is no substitute for a coherent strategy to tackle the root causes of township poverty and exclusion, and to create environments that facilitate enterprise formation and growth.

Many studies have examined the challenges faced by township enterprises, including limited access to serviced land and premises, deficient infrastructure capacity, inadequate human skills and capabilities, poor transport connectivity, unfair competition from established firms and restricted access to external markets (Mbanjwa 2018; Mseleni 2017; Mboniyane and Ladzani 2011; Ligthelm 2013; Jürgens and Donaldson 2012; Bradford 2007). However, the overarching theme of economic governance has been neglected, i.e. the framework of rules and procedures that conditions the environment within which township enterprises operate. This oversight needs to be corrected in the light of growing evidence that the regulatory framework is an impediment that disables rather than enables township enterprises (Harrison et al. 2018; BLSA and BUSA 2017; SLF 2016; Charman et al. 2013; Liedeman et al. 2013;

Charman 2012; Charman et al. 2012). Channelling public funds towards township businesses without creating a more conducive institutional environment will result in temporary benefits rather than sustained progress. This paper discusses the importance of establishing a more appropriate and supportive governance system for township economies. It emphasizes that there are policy levers and regulatory tools available within the government's control that could make a big difference to underperforming township economies. Many of these features are inter-linked and their cumulative impact can either serve to restrain township development or enable progress towards prosperity.

The paper draws on a careful review of existing evidence, an analysis of key policy documents and 18 semi-structured interviews with relevant stakeholders (NGOs, local government officials, academics, consultants, informal trading associations). The purpose of the interviews was to identify major regulatory obstacles to informal and township enterprises in cities and to discuss options for policy reform. A series of workshops was also held with city, provincial and national officials and other well-placed informants to discuss ways of strengthening township economies.

The paper is structured as follows. The next section briefly conceptualizes the township economy, describes its main features and outlines constraints to enterprise development. “[The Impact of Regulations on Township Enterprise](#)” discusses how current governance arrangements and administrative procedures impinge on township enterprises. “[Key Regulatory Barriers to Township Enterprises](#)” highlights key regulatory barriers and analyses how they complicate compliance and formalization. “[Conclusion](#)” concludes with some ideas about how to improve the situation.

## South Africa's Township Economies

### Conceptualizing Township Economies

The “township economy” generally refers to all the economic activities occurring in formally promulgated urban areas known as townships. This encompasses the production, distribution, exchange and consumption of goods and services. It is a spatial concept, unlike that of the informal economy, which refers to unregulated economic activities irrespective of their location. Township is normally used to describe neighbourhoods that were deliberately designed under colonialism and then apartheid to function as segregated dormitories supplying labour to economic centres elsewhere in the city. Nowadays, townships also refer to settlements developed through the democratic government's housing subsidy scheme (Reconstruction and Development Programme and Breaking New Ground). The large-scale RDP/BNG programme typically resulted in rows of small, free-standing houses on the urban periphery, located just as far from economic opportunities as their apartheid predecessors. One reason for this is that many RDP/BNG townships were built on land acquired during the apartheid era. Most of these post-apartheid townships have been equally marginalized economically and socially (SACN 2016; Philip 2014; NPC 2012). Nevertheless, it is useful to distinguish between townships established under the different governance regimes and to include informal settlements as well. Thus, three categories can be identified (Table 1).

**Table 1** Classification of township economies

Apartheid townships	Townships were created as “dormitory” settlements for black labour to serve white industries and employers in core urban areas. Business formation and ownership were prohibited, except for very basic activities. The township layout and infrastructure were designed for simple residential purposes. Examples include Tokoza (in Johannesburg) and Gugulethu (in Cape Town).
Post-apartheid townships	These have been shaped by the national housing programme, resulting in extensive sprawling residential settlements on cheap, peripheral land. Many RDP/BNG townships lack public facilities and social amenities. Examples include parts of Soshanguve (in Tshwane) and Delft (in Cape Town).
Informal settlements	Informal settlements can also be regarded as part of the township economy. Shacks have mushroomed on formally developed land (in existing townships, especially in the backyards of RDP/BNG houses) and on occupied land designated for other purposes. Examples include Diepsloot (in Johannesburg) and Kosovo/Philippi (in Cape Town).

### Common Characteristics

Although one should be very careful about over-generalizing because every township is unique in various ways, many townships have certain features in common (Mahajan 2014; McGaffin et al. 2015; Philip 2014; Rogerson 2019). This reflects their historical function and subsequent growth dynamics. Many of them share the following characteristics:

- Low investment in people, places and productive activities
- High levels of financial leakage and poor resource retention
- Restricted linkages with formal value chains elsewhere
- Poor economic infrastructure—banks, business services, logistics, serviced land, industrial areas, business parks, business incubators, etc.
- Low capacity networked infrastructure—electricity, water, sanitation systems, etc.
- Limited entrepreneurial traditions, business capabilities and vocational skills
- High population densities with many low-income households possessing low purchasing power
- High levels of unemployment, poverty and social ills (crime, drug misuse, gangsterism, xenophobia, stigma against private enterprise, etc.)
- Inadequate public facilities and social amenities (hospitals, schools, colleges, libraries, etc.)
- Unsupportive economic institutions and governance arrangements

Beyond this, townships differ significantly from each other with regard to their size, physical form, infrastructure services, social dynamics and so on. These differences matter greatly for their economic development potential (Harrison et al. 1997). Physical location is particularly important for various reasons. McGaffin et al. (2015) identify three categories of location (Table 2).

Interestingly, a township’s location in relation to the rest of the urban economy may change over time as cities expand and the structure of nodes and corridors alters. For instance, Soweto was very peripheral when it was originally established, but this has changed as the metropolitan area has grown and more diverse economic functions have emerged within it, such as retailing, entertainment and tourism. While better located

**Table 2** Classification of townships based on location

Core	Relatively well located but typically with some remaining physical detachment from the core urban economy, such as a major freeway, railway line or other barrier inhibiting accessibility. Examples include Alexandra (Johannesburg) and Langa (Cape Town).
Periphery	On the fringe of a city or town, or far from core economic nodes. Examples include Soweto (Johannesburg) and Khayelitsha (Cape Town).
Displaced	Beyond the edge of the city, yet residents still rely on the city to purchase goods and services and for employment. Examples include Orange Farm (Johannesburg) and Atlantis (Cape Town).

Source: McGaffin et al. (2015, p. 11)

townships generally have greater economic potential, close proximity to employment and social opportunities can produce other challenges, such as pressure on land and infrastructure resulting from in-migration and overcrowding.

### Scope and Scale of Township Economies

Township economies comprise a range of activities within different industry sectors. Some are conducted by large, formal companies, but most enterprises are small and informal. The most comprehensive data on township economies has been collected by the Sustainable Livelihoods Foundation, who have surveyed almost 11,000 township enterprises across nine sites in four provinces (SLF 2016). They have found that grocery, food and liquor services comprise 54% of all township businesses, followed by local services (34%), including hair salons/barber shops, traditional healers, mechanical/electrical repairs, recycling, churches and early childhood education (educare) centres. The minibus taxi industry also plays a vital role, reflecting the poor location of many townships and the paucity of formal public transport. In contrast, manufacturing makes up only 2% of all enterprises and they are rarely linked to wider value chains and external markets (SLF 2016). There are also illegal activities such as drug dealing, counterfeit goods, contraband cigarettes and sex work that are not reflected in these statistics.

Informal retail trade is the dominant activity, including street traders, spaza shops and shebeens (SLF 2016; Fourie 2018). Its scale suggests low barriers to entry and low start-up costs, as well as strong demand for convenience (daily top-up shopping). Products sold are almost exclusively produced by firms based elsewhere: maize meal, bread, milk, coffee, peanut butter etc. are all made by well-established conglomerates (CSP 2018). Township enterprises perform a complementary role in enabling formal retailers and wholesalers to access a growing segment of low-income consumers who have large collective spending power (Battersby et al. 2016). Formal retail chains have also invested in townships in recent years (Todes and Turok 2018; Battersby and Watson 2018; Greenberg 2010). Informal traders generally resent the expansion of supermarkets into townships because they can undercut their prices. Although measurement is difficult, evidence suggests that supermarkets have both positive and negative effects on informal traders, depending on the locational configuration and products sold (Battersby et al. 2016). A common criticism is that supermarkets are often situated in shopping malls, which exclude informal traders from their premises (Battersby and Watson 2018; Brown et al. 2018).

## Main Constraints Facing Township Entrepreneurs

Townships are challenging spaces for economic development and quite different to rural areas, despite the tendency to link them together in recent policy statements. President Ramaphosa mentioned townships six times in his ANC election manifesto speech in January 2019, each time alongside rural areas. This suggests a lack of appreciation of the distinctive obstacles and opportunities facing township economies. Previous studies suggest a range of barriers to the development of township enterprises, including the physical environment for business, human skills and capabilities, access to finance and business services, distance from affluent consumer markets, crime, insecurity and police harassment (Jürgens et al. 2013; Harrison et al. 1997; Crush et al. 2015; Fourie 2018; Rogerson 2019; Charman et al. 2017; SLF 2016; Mahajan 2014; Mboniyane and Ladzani 2011; Ligthelm 2013; Bradford 2007).

Many of these obstacles reinforce each other and compound the significance of any particular constraint. The result can be a vicious circle, which increases risk and discourages township enterprises from reinvesting to expand and to strengthen their capabilities over time. For example, many spaza shops and township service providers are deterred from stocking a wider range of products or trading longer hours by crime and xenophobic attacks. Better road layouts, street lighting, clustering of outlets and related infrastructure could alleviate these constraints. Township enterprises also fail to increase their incomes by investing to develop distinctive, higher value products and services. Instead they are caught up in a constant struggle to survive. The lack of adaptation and innovation also limits the product variety and choice available to local consumers. As a result, townships “continue to lurk on the margins of neighbouring urban core economies unable to attract formal private investment” (Rakabe 2017, p. 1).

## The Impact of Regulations on Township Enterprise

A neglected but integral aspect of the systemic constraints facing township economies is the governance regime that is the framework of rules and procedures that influence how enterprises operate (Charman et al. 2017; Turok et al. 2017; Charman et al. 2013; Charman 2012; SLF 2016). The current regulatory framework and administrative processes are in many ways unsupportive and inappropriate, which results in “enforced informality” (Charman et al. 2013). In other words, people who are already vulnerable are pushed into operating in the unregulated economy without formal protections and safeguards. It also results in uneven enforcement practices by government. This creates an environment of uncertainty, ambiguity and extra-legal social regulations, which poses higher risks and is not conducive to long-term investment to develop township enterprises and places. People struggle to access credit and are vulnerable to unfair or illegal lending practices which charge excessive rates of repayment. There are three broad shortcomings of the current governance framework.

## Inappropriate Norms and Standards

The first problem concerns the stringent and inappropriate norms and standards in South Africa's business legislation. These are based on high-income enterprises and environments, and are not adapted to the distinctive needs and circumstances of township economies. Unrealistic and prohibitively costly regulatory hurdles hamper business registration and formalization (Charman et al. 2017; Harrison et al. 2018). They favour larger businesses with the economic power to negotiate exclusive access to specially zoned land and business parks in and around some of the townships. Because of their limited financial capabilities, township entrepreneurs tend to rely on low-cost building materials and makeshift premises, including corrugated iron and zinc sheets, old shipping containers and rudimentary stalls. None of these complies with official building and zoning regulations, which excludes them from regularization and access to scarce space within shopping malls and other business sites. Failure to comply with these basic physical standards means that township enterprises are rendered illegal and subject to closure, curtailment, bribery or other forms of police harassment (Charman et al. 2012). Prominent examples are township educare providers who are excluded from receiving government subsidies and support for infrastructure and teaching materials because of they do not comply with official building and planning regulations (Harrison et al. 2018; Hartnack and Liedeman 2017). In a context of mass unemployment and inadequate educational facilities, one would expect a more permissive approach to be followed in order to make it easier for people to generate their own jobs and livelihoods, and to provide valuable pre-school facilities. An incremental approach would allow enterprises to progress towards meeting the required standard over time, rather than setting the bar so high at the outset that few can ever attain it.

## Cumbersome and Costly Approval Procedures

Compliance with many business laws and regulations imposes unrealistic costs on entrepreneurs and thus hinders formalization and growth. Small township enterprises are disproportionately burdened by onerous administrative procedures because they do not have the dedicated capacity of larger firms to deal with the red tape (Swanepol 2018). Township entrepreneurs often lack the requisite information and wherewithal to understand and deal with complex regulatory requirements (Malefane 2013; Mbonyane and Ladzani 2011). In addition, many lack the technical systems to submit documents effectively and timeously (Mbonyane and Ladzani 2011). A World Bank study in Diepsloot showed that almost 30% of informal enterprise owners listed permit requirements and business regulation as business constraints (Mahajan 2014). A survey of 414 firms in two municipalities in Free State province estimated that the total annual compliance costs were more than R80 million. When extrapolated to the total business population of the province, this amounted to R3.8 billion, equivalent to 2.7% of provincial GDP. The study established that 32% of surveyed firms engaged in informal practices and 26% consciously remained below certain income and employee thresholds because of the high compliance costs (ILO 2016). Charman et al. (2013) argue that hurdles related to registration and licencing are particularly important constraints on informal enterprises in the liquor sector.

## Uneven Enforcement and Self-Regulation

Inappropriate regulations and unwieldy procedures promote informality and poor enforcement by government (Harrison et al. 2018). Operating without consistent formal governance framework creates an environment of uncertainty and informal regulation that deters investment and growth, and favours certain more powerful groups in township communities—the “strong man” syndrome. This situation also allows some entrepreneurs to choose to operate informally for strategic reasons in order to avoid tax payments or minimum standards in employment conditions, or exploit opportunities in illicit trade or criminal activities. In cases where the state retreats from enforcing regulations, it foregoes the authority to govern spaces and prevent practices that are harmful to people and the environment. The original purpose of the regulations is lost and entrepreneurs forego the possibilities arising from formalization (such as access to formal value chains, government tenders and mainstream finance). While there are some benefits associated with communities regulating themselves, the absence of government is problematic in various ways because informal rules may be arbitrary and unaccountable, depending on who holds the balance of power. Township economic development is hampered by the oscillation between a laissez-faire approach of continuing neglect and the strict enforcement of existing laws and regulations. A better alternative would be an appropriate, enabling and developmental framework that allows for incremental and progressive compliance. Additional interventions could be targeted at township entrepreneurs with high growth potential to encourage formalization (Malefane 2013; Bradford 2007). This would result in tangible benefits to the firms (access to formal value chains and public procurement) and to the state (collection of additional tax revenues from compliant businesses). The next section discusses the most important regulatory barriers to township entrepreneurs.

## Key Regulatory Barriers to Township Enterprises

There is a range of by-laws, regulations and procedures that inhibit township enterprises from operating legitimately and obtaining the associated benefits. This section considers the most prominent constraints on the basis of key informant interviews and secondary evidence. The coverage is not comprehensive because there may well be other regulatory hurdles that only become apparent through more detailed research. An important theme emerging is that many of these obstacles are inter-dependent, in that difficulties obtaining one type of permit or approval prevent others from being obtained.

### Property Ownership and Registration

Most regulations focus on the business owners. It is their responsibility to provide all the necessary documents and to meet the statutory requirements of running a business if they want to formalize its operations. For instance, people applying for re-zoning of land from residential to business use or land-use approvals for a new building or an extension require proof that they own the property concerned. Proof of ownership is a crucial first step in the complex process of formalization. However, many township



entrepreneurs do not possess their title deeds or have a claim on the property on which they operate. This arises partly because of severe delays in registering RDP/BNG properties at the Deeds Office (Urban LandMark 2011). In addition, many households renting backyard dwellings or living in informal settlements have no prospect of ever being able to formalize an enterprise, simply because the land they occupy belongs to someone else. This legal requirement is patently unwarranted and unfair.

Another major problem in many townships is the mismatch between the layout and extent of each property in the official register (the cadastre) and the reality on the ground. This is because many structures, boundaries and access routes have emerged over time (through informal practices and arrangements) that bear little or no relationship to the official records (Charman et al. 2017; Hornby et al. 2017). This prevents the granting of title deeds when properties are bought and sold. The process of establishing and proclaiming new townships in the Deeds Office is also critical to granting title deeds. In recent years, this process has been governed by three different laws—Provincial Ordinances, the Less Formal Township Establishment Act and the Development Facilitation Act. This has created enormous complexity and required different processes and systems to be followed. It has been compounded by capacity constraints in municipalities and Deeds Offices, and parallel systems governing traditional (tribal) land in many peri-urban areas that have added to the legal uncertainties. A serious problem has arisen in many RDP/BNG projects from the failure of public authorities to complete the township establishment and related statutory routines required to convey title deeds because of the pressure to meet delivery targets. The result is a twisted procedural knot that is very difficult to unravel. A more systematic analysis is required to better understand the pervasiveness and full consequences of these problems before clear solutions become apparent.

### **Land-Use Management**

At the moment the land-use planning system does not serve our development needs or realities. It does not recognise the centrality of economic activities of people in townships. It treats townships as residential settlements but they are commercial areas and spaces of investment (NGO 1, Cape Town).

The land-use management system is another major challenge. Pressure on land and organic township development has resulted in workplaces, public spaces and private homes becoming intertwined and physically inseparable (Charman et al. 2017). Home-based enterprises are the obvious example. Township entrepreneurs often employ multiple livelihood strategies on the same site, which contradicts the requirements of official zoning schemes and land-use plans for keeping different activities separate. Although mixed land uses create more integrated, compact and vibrant places, they contravene zoning regulations, which are often a pre-condition for other permits and licences. Formalizing an informal business requires a change in land-use rights or rezoning, which is a complex, slow and costly process that few people understand. Lack of appropriate zoning and land-use rights can prevent entrepreneurs from obtaining a business licence, formal credit, government assistance and contracts from

other businesses. Non-compliance can also expose entrepreneurs to threats from municipalities and other public authorities. Businesses such as bars or taverns require the owner to obtain a consent use (municipal permission to operate a specific land-use on a site) in addition to general zoning rights to obtain liquor licences (Charman et al. 2013). The ultimate effect of operating in limbo is to inhibit business investment and growth.

No enterprises in the townships are completely legal because of the land-use restrictions. There is no pathway for a person to formalise a business and lots of legal opportunities for municipalities to harass (NGO 1, Cape Town).

The Spatial Planning and Land-Use Management Act (SPLUMA) (No. 16 of 2013) replaces all the previous land-use planning legislation. It strengthens the planning powers of municipalities and mandates them to use land-use management tools to redress spatial injustice and to promote social and economic inclusion. This offers interesting opportunities for new ideas and approaches to be introduced through municipal by-laws. For example, new zoning schemes could allocate special rights to particular locations, which could regularize existing informal practices in townships. Municipalities could also use new zoning schemes to support the integration of informal enterprises in new shopping malls, public transport nodes and public spaces in more affluent areas. Yet SPLUMA has also been criticized for reinforcing a codified land-use management system and perpetuating restrictive zoning controls in townships. It might be better to eliminate zoning altogether to allow for the spontaneous mixing of land uses, or to experiment with different approaches and compare their effectiveness. The inherent limitations of zoning schemes are illustrated by the following example. The City of Cape Town introduced new municipal by-laws in 2015 in accordance with SPLUMA that permit house shops in areas zoned as Single Residential 2 (most townships). However, the permission is subject to certain conditions including having a separate structure from the house for trading, and no area used for trading should open into a bedroom or toilet. It also limits their opening hours on Mondays to Saturdays from 7 am to 9 pm and on Sundays and public holidays from 8 am to 1 pm (Gastrow and Amit 2015). These conditions are still relatively stringent since they render 70% of spaza stores in the city illegal, according to the Western Cape Informal Traders Coalition (Battersby et al. 2016).

### **National Building Regulations**

Officials use building regulations to shut down fruit and vegetable stands at intersections (Senior official 1, City of Cape Town).

The National Building Regulations and Building Standards Act 103 of 1977 as amended (in terms of which the National Building Regulations, SABS 0400, have been developed) prescribes another set of unsuitable regulations for informal enterprises and township contexts. Many of its norms and standards related to fire safety,

ventilation and building structures are too rigid and demanding considering the resources available to such enterprises. Structures have to be built out of brick or timber, unless they have an Agrément Certificate (and NBHRC approval) or “fit for purpose” design.

People cannot formalize their businesses if their premises are constructed out of corrugated iron, zinc sheets, homemade bricks or other unconventional materials. Enterprises operating out of old shipping containers also fall foul of these standards. Many social enterprises providing valuable community facilities and welfare support, such as children’s nurseries and educare centres, cannot receive government support as a result (Charman et al. 2017). The way forward may be to allow exceptions to the regulations in certain circumstances and permit an incremental approach to adoption. Small-scale enterprises could be incentivized to upgrade their premises progressively over time as their viability improved and resources became available.

### **Business Act and Business Amendment Act**

The Business Act (No. 71 of 1991) is the main legislation regulating business activity and stipulates the types of firm that need a business licence. In some respects, it was a progressive piece of legislation that recognized informal enterprises for the first time. The Act was a step forward in changing the situation under apartheid when black people were generally not allowed to trade in cities. Street vendors were growing rapidly in the early 1990s, causing concern among formal shop owners whose businesses were affected. The Act was therefore amended to try and manage this by giving municipalities greater power to supervise and control where informal trading was permitted. Trading without a licence or outside designated places became illegal (SERI 2011). Trading in public parks, near government buildings, places of worship or buildings declared national monuments was automatically restricted, despite their attractiveness to informal traders because of the large footfall and potential customers. Many other countries seem to have a more permissive approach. “People want to sell fruit and vegetables near hospitals but legally they are not allowed to do so” (Informal traders association, Johannesburg).

The Act also requires municipalities to consider the impact of restricting existing street traders and to consult them accordingly. However, this does not seem to have made much difference to municipal decisions. “There could be far more trading opportunities in the city, but councillors are very conservative. They try to limit trading. The local community in these areas often have a conservative mind-set as well” (Senior official 1, City of Cape Town). The needs of informal traders are also routinely subordinated to professional ideals about urban design, traffic flow and aesthetics, and opportunities to lift people out of poverty are lost. The Act could encourage more dialogue and interaction between different interest groups to raise awareness and negotiate more opportunities for township entrepreneurs to sell their goods and services in better-off areas.

Overall, it appears that many municipalities have applied the Act in a conservative way, especially in central cities and affluent suburbs, thereby limiting trading opportunities and even criminalizing informal traders (Crush et al. 2015; SERI 2011, 2015). The interpretation and implementation of the law seems to be a bigger concern than the law itself. Municipalities tend to ignore the Act in the townships, which creates a

laissez-faire environment and reinforces the divide between townships and over-regulated suburbs.

## Business Licences

It takes 9 or 10 layers of regulation to become a formal enterprise, which is costly and takes time (Academic, Bloemfontein).

Different government departments do not work together effectively because they have different responsibilities. This creates a web of legislation and procedures that cannot be transcended (NGO 1, Cape Town).

The process of obtaining business licences and permits is generally cumbersome and costly. Different departments and entities are responsible for different aspects of business licencing, which adds to the confusion and delay. The intricate rules and procedures could usefully be simplified, streamlined and made more transparent. Some municipal trading policies and by-laws allow street trading without a business licence. However, the Business Act lists many activities that do require a licence, including the sale of prepared meals, other food, health and entertainment services:

- Item 1: Sale or supply of meals or perishable foodstuffs<sup>1</sup>
- Item 2: Provision of certain types of health facilities or entertainment<sup>2</sup>
- Item 3: Hawking of meals or perishable foodstuffs

The application requires documentation that many township entrepreneurs find it difficult to supply, such as proof of a permanent residential or postal address, residence permit and identity document. Different government entities also have to be consulted to get their endorsement, including the departments of land-use planning, environmental health, fire, police service, National Liquor Board and other legal authorities. Enterprises that prepare food also have to get a permit from the municipal engineering department to comply with regulations about the disposal of industrial effluent. Poorly aligned administrative processes and fragmented institutions create unreasonable delays and frustration. One solution would be to create a one-stop shop in each township to coordinate different public entities and integrate their systems, thereby greatly improving accessibility and responsiveness to entrepreneurs.

<sup>1</sup> Perishable foodstuffs include milk, meat, fish, fruit, vegetables and food that have to be refrigerated.

<sup>2</sup> This includes businesses that (a) provide Turkish baths, saunas or other health baths; (b) provide massage or infrared treatment; (c) provide an escort service; (d) involve gambling, snooker or billiards; (e) conduct a nightclub or discothèque; (f) a cinema or theatre; and (g) conduct adult premises.

## Health and Safety Regulations

Health and safety regulation is problematic. The criteria are too stringent, which translate into restrictive by-laws. You are not allowed to make fire in certain areas, but people love braai stands and roasted chickens in the streets (Senior official 2, eThekweni Municipality).

Health and safety regulations often impose exacting conditions on informal enterprises. People selling food need to comply with the general hygiene requirements for food premises and the transport of food regulations R962 of 2012, promulgated under the Foodstuffs, Cosmetics and Disinfectants Act of 1972. Township entrepreneurs are required to apply for a certificate of acceptability from the municipal environmental health department, which sends an inspector to visit their premises. The Act sets out strict norms and standards for transporting, displaying, handling and storing food. Municipal by-laws concerning the use of fire and occupational health and safety prohibit meat slaughtering outdoors and preparing meals on open fires. Yet, this is a popular and profitable activity in the townships. As a result, the by-laws are generally ignored. There must scope to review some of the more stringent regulations and allow greater flexibility and exceptions where the risks of harm are low and conditions warrant a more pragmatic approach.

## Pollution, Noise and Tobacco Regulations

These regulations are completely out of touch with the realities of township life and culture (Tavern association cited in AlgoaFM 2014).

Several other laws are much more feasible in central cities and suburbs than in townships. This is partly because space standards are more generous in the suburbs and make it easier to separate anti-social activities like smoking. They include:

- Tobacco Products Control Amendment Act (Act 12 of 1999) and Tobacco Products Control Act 1993
- Air Pollution Regulations (in terms of the National Environmental Management: Air Quality Act, Act 39 of 2004)
- Noise Control Regulation under section 25 of the Environment Conservation Act, 1989 (Act 73 of 1989)

Township entrepreneurs are highly critical of the anti-smoking laws, which state that, “No smoking is allowed in a public enclosed or partially enclosed space, unless it is a designated smoking area. Currently no more than 25% of any premises may be allocated to the smoking area.” This is a serious constraint in small restaurants, bars and taverns without the luxury of having sufficient space for separate areas. Such establishments are not supposed to allow customers to smoke, but many of them want

to do so. They cannot get a licence without expanding their premises, which is unaffordable. The laws also prohibit cigarettes from being sold individually, despite being a common practice among street traders and spaza shops. A new set of regulations developed by the Minister of Health proposes a smoking ban in all indoor areas, any drinking or eating area and within five metres of windows and doorways. This has provoked a strong reaction from tavern owners, who argue that townships simply cannot comply, which means that they will all be breaking the law. Once again, laws and regulations are applied indiscriminately without considering their feasibility in the townships.

### **National Road Traffic Act**

The focus of the road authority is on mobility. They are concerned with movement. They refer to the Road Traffic Act (Senior Official 2, City of Cape Town).

Regulations are there to stop congestion on sidewalks, but no-one asks how wide they should be. If you look at it from another perspective the requirements become different (NGO 2, eThekweni Municipality).

The National Road Traffic Act (No. 93 of 1996) prohibits informal trading along many roads, including any public road outside an urban area. Within urban areas, trading is prohibited on roads within five metres of any intersection, or within 180 metres of a level crossing or any road traffic sign denoting a blind corner. Yet, intersections are popular places to trade because of the passing customer traffic and growth potential. Municipalities also cannot allow trading areas alongside provincial roads without the province's approval.

These regulations cause regular evictions and dislocation. For example, informal traders in the City of Mbombela had their roadside stalls next to the R40 highway demolished by SANRAL in October 2016 because this contravened the Act. There was no consultation between the municipality, the informal traders and SANRAL to avert this. Pledges were made subsequently to provide suitable infrastructure for traders close to where they were relocated. However, the traders simply rebuilt their stalls in the same location and began selling goods again (Hazyview Herald 2016). The message is that to avoid conflict and mistrust, procedures need to be laid down in advance to encourage meaningful engagement between the different interests to formulate more constructive and inclusive outcomes. It will not happen automatically or just by decree.

### **Conclusion**

Current government initiatives to support township economies are important considering their history of marginalization. However, the short-term injection of additional resources could simply leak out unless more conducive conditions are created for

enterprises to grow and develop locally. The regulatory framework is an important aspect of the township economic environment. Inappropriate standards and onerous approval procedures currently inhibit the formalization and expansion of many township enterprises. It is very difficult for firms with growth aspirations and potential to do so because of the stifling effects of bureaucratic obstacles and regulatory hurdles. Some township activities are inherently survivalist in character and benefit from being informal and below the radar screen. However, other businesses are disadvantaged by a regime that discourages them from saving and reinvesting to develop and grow their operations. Many of them want to be considered legitimate and would be willing to pay taxes in return for greater security and better support services. The current situation oscillates between *laissez-faire* and enforcement of punitive regulations, which creates uncertainty and opportunities for abuse. Three current shortcomings require attention: unrealistic standards, unwieldy procedures and uneven enforcement.

The first step on the road to improvement is to undertake a more detailed and systematic analysis of the constraints facing township enterprises. This should not simply identify the laws, regulations and administrative processes that stifle growth, but examine the specific aspects that are most problematic and seek to prioritize their relative importance. The analysis should take into account the benefits as well as the costs of regulations in order to strike the right balance for the township context. It should also assess the cumulative effects of these procedures and the interdependence between each element of the system. The exercise should include detailed consultations with entrepreneurs, business associations and other organizations with a stake in the success of township economies.

Many of these laws and procedures are national in scope, but impact disproportionately on township environments because of their distinctive conditions and unfortunate histories. Therefore, there is a strong argument for treating townships as a special case without having to embark on the long road of rewriting legislation. The idea would be to introduce a series of experiments to test the impact of reforming different elements of the regulatory framework and to learn from the experience. Once these reforms had been thoroughly assessed through practical experience in different contexts, it would be possible to consider spreading the demonstrable successes to other areas and organizations, and scaling up the lessons to national legislation and administrative procedures.

In some townships, the focus of the experiment might be on adjusting particular norms and standards to assess what difference this makes. An incremental approach would allow enterprises to progress gradually towards the required standard as their capabilities and resources improve. In a second group of townships, the emphasis might be on altering administrative procedures through simplification or streamlining. Better coordination could be achieved by creating a one-stop shop in each township where entrepreneurs could access all the services they require and complete all their regulatory approvals. The focus in a third group might be on shifting bureaucratic attitudes and mindsets to be more positive about enabling and supporting enterprise. Local offices could offer advice, training and hands-on support to facilitate business registration. Collaborative projects with civil society and business organizations could develop multi-lingual materials, guidelines, checklists and templates that explain the procedures and take applicants through the necessary steps to becoming a formal enterprise.

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## Appendix. List of interviewees

In order to guarantee anonymity and confidentiality, names of interviewees and organizations are not made publicly available. The list below contains the type of expert interviewed, the type of organization and date of interview.

	Type of interviewee	Type of organization	Date
1	Academic	University, Bloemfontein	30.1.2017
2	Academic	University, Cape Town	31.1.2017
3	Founding member	NGO 1, Cape Town	1.2.2017
4	Management	Informal Traders Association, Johannesburg	2.2.2017
5	Consultant	Consulting Company, Johannesburg	3.2.2017
6	Researcher	University, Johannesburg	7.2.2017
7	CEO	NGO 2, Cape Town	8.2.2017
8	Academic	University, Johannesburg	20.2.2017
9	Researcher	NGO 2, Cape Town	22.2.2017
10	Senior staff	NGO, Johannesburg	24.2.2017
11	Senior official 1	eThekwini Municipality	27.2.2017
12	Senior staff	NGO 1, eThekwini Municipality	27.2.2017
13	Senior official 2	eThekwini Municipality	1.3.2017
14	Founding member	NGO 2, eThekwini Municipality	9.3.2017
15	Senior official 3	eThekwini Municipality	23.3.2017
16	Senior official 1	City of Cape Town	4.4.2017
17	Consultant	Consulting Company, Cape Town	6.4.2017
18	Senior official 2	City of Cape Town	16.5.2017

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