

## **Enforced informalisation: the case of liquor retailers in South Africa.**

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### **1. Abstract**

After a decade of unsuccessful efforts to migrate informal businesses to South Africa's formal economy there remains little understanding of the dynamics in this sector, especially as regards micro-enterprises. International literature discusses 'exit' and 'exclusion', holding that poor law enforcement is the reason for the persistence and growth of the informal economy. Through examining the informal liquor retail ("shebeen") sector, we demonstrate that enforcement actually produces informality in this sector. Illustrated with examples from one of our sites in Delft South, Cape Town, the article describes key aspects of shebeen business practice, including the responses to greater law enforcement. Notably, instead of closing shop or facing the hurdles of compliance, the great majority of shebeens continue to evade the law by downscaling their activities. This finding has implications, not just for liquor policy in South Africa, but for understanding both theories of formalisation and theories of the informal economy.

### **Keywords:**

informal economy, regulatory framework, unlicensed liquor retailing, exclusion, law enforcement

### **2. Introduction**

It has been estimated there are between 190,000-265,000 informal liquor retailers, or shebeens, in South Africa (Devey et al. 2003 – Labour Force Survey data; Charman 2006; Petersen & Charman 2010). Notably, the great majority of products sold in South African shebeens are legally manufactured by formal, regulated businesses (A&T Consulting, 2005).

However as the vast majority of shebeens operate without a state license and almost always in violation of various municipal zoning regulations and by-laws, they are both informal and illegal enterprises. Indeed, recently the Western Cape provincial government passed new liquor legislation that sets tough new criteria for the formalisation of alcohol retailing in the province, not least due a concern for the health and social impacts of alcohol abuse (see Charman, Piper & Petersen forthcoming a). Other provinces are pursuing a similar legislative process and since 2009 both the Western Cape and Gauteng have experienced intensified policing around liquor retail in economically poor residential areas where the great majority of these enterprises are located (Charman, Petersen & Piper forthcoming). Consequently, the policy implementation around shebeens offers a unique opportunity to gain insight into state enforcement around informal businesses and its impact on the South African economy.

Based on extensive evidence from across South Africa, and illustrated here through research in Delft South, Cape Town, we demonstrate how this attempt has resulted in enforced informalisation. Indeed since the legislation has taken effect, not only have few shebeeners migrated into the formal system, but the vast majority have remained informal enterprises, rather improving and developing new coping strategies to better evade law enforcement. In this context, the net result has been to criminalise a key livelihood, and worsen relations between police and shebeeners through ongoing raiding, confiscation and harassment. It has also created an environment conducive to corruption. In addition to offering new insights into a prominent enterprise, an important contribution given the ‘paucity of research on those enterprises that do exist’ (Neves & Du Toit 2012: 132), our argument sheds light on recent theories of formalisation. We show how, contrary to Kanbur (2009, 2012), the enforcement of new laws does not necessarily lead to formalisation or avoidance, but can lead to even more wide-scale and pernicious forms of evasion. In our view this is because of the failure of government to understand the cost-benefit analysis that shebeeners have undertaken to continue operating their businesses despite the new legislative environment. In this regard, we would also disagree with Gelb et al (2009), that the barrier of skills shortages serve as key reasons for the failure of business formalisation in South Africa – at least in respect of shebeens.

Indeed, through emphasising the centrality of formal law and policy, and its’ disconnect from the lived reality of people engaged in the informal economy, this paper speaks to global debates about the nature of informality. The historical role of the state in forcing black business out of the alcohol retail sector, and current initiatives now reinforcing this legacy, demonstrate that the enduring informalisation of shebeens, and its increasingly pernicious character, is a direct response to state actions.

### **3. Informality and Formalisation in Theory**

The notion of the informality, in its early articulation, focused on the presence of economic activities outside state regulatory frameworks. Hart (1973), for instance, characterised the informal sector (economy) as “unregulated economic enterprises or activities”. It is important to note that this paper focuses only on one form of micro-

enterprise, and while these are central to the informal economy, this is only one of many different kinds. In respect of the definition of micro-enterprises we note that the National Small Business Act 1996, and Amendment Act (26 of 2003) considers such to refer to businesses employing <5 persons, have a turnover of <R200,000 (\$28,571) and assets worth <R100,000 (\$14,285). Informal micro-enterprises are 'businesses that are not registered in any way... small in nature... and operated from homes, street pavements and other informal arrangements' (Statistics South Africa Labour Force Survey: March 2007). Small in size and relatively poor in business assets, informal micro-enterprises are characterised by their reliance on extended family networks to provide access to capital and labour often on terms that usually cannot be matched in the formal economy (Collins et al 2009). This aspect of informal self-employment in South Africa closely reflects evidence from Latin America (Perry et al. 2007).

The broader informal economy also includes informal forms of labour outside of microenterprises such as self-employment and forms of consumption - legal or otherwise. Generally the informal economy is typified by low entry requirements in terms of capital and professional qualifications; a small scale of operation; skills often acquired outside of formal education; labour-intensive methods of production and adapted technology. As Castells and Portes (1989:15) note, the most significant generalisations to be drawn about the informal economy are first, that the informal economy is universal, as similar arrangements are found in places at very different levels of development; second, that this sector is heterogeneous, as the forms adopted by unregulated production and distribution vary widely even within societies; and, third, that there has been an apparent increase of these activities in recent times.

As to the nature and causes of the informal economy, there are several theoretical approaches. Thus according to Meagher (1995:261) the neo-liberal economists of the 1950s and 1960s, and Marxist writers of the 1970s, shared the view that the informal sector consisted of traditional activities offering only bare survival on the margins of developing societies (Leys, 1973). Against this 'traditional legacy' view, dualist scholars saw the informal economy as a separate marginal economy not directly linked to the formal economy, providing income or a safety net for the poor (Becker 2004:7). Indeed, this view is not dissimilar to Thabo Mbeki's dual economy narrative of the late 1990s. The structuralist view cast the informal economy as linked, but subordinated to, the formal economy such that, for example, privileged capitalists aimed to subordinate petty producers and traders (Castells and Portes 1989). While sharing the structuralist view of the practical falseness of the formal/informal economic dichotomy, Roy (2005:148-152) argues that informality can be seen to be the expression of different sovereignties of spaces that are connected to each other economically. Following Agamben (1998:18), it is not the 'chaos that precedes order, but rather the situation that results from its suspension.' In a related, if more legal, vein scholars like De Soto (1989) see the informal economy as a rational response by micro-entrepreneurs to over-regulation by government bureaucracies; and a source of innovation and entrepreneurship rather than marginality.

While it is beyond the scope of this paper to engage systematically with this wide range of theories, our findings do speak to the notion of the intimate economic linkages between informal and formal business, given that the vast majority of products sold in shebeens are drawn from the formal economy. In addition, notions of rational cost-benefit analysis clearly inform the behaviour and self-understanding of shebeeners. The spatialisation of order with different rules applying to different parts of the city, and the over-regulation of the shebeen sector are all evident too. While it is not possible to generalise from the case of shebeens to other micro-enterprises in poor areas, and certainly not the informal economy more widely, there is a profound sense in which the existence and nature of the shebeen sector in South Africa is a consequence of politics and policy rather than economic marginalization or market-driven logics. At the end of the day it is instructive to remember that what remains in contention is not the nature of the products that are sold in shebeens (legally manufactured liquor), but rather by whom it is sold, and in what space.

This point brings us to the issue of formalisation – that is the process by which informal and sometimes illegal enterprises and activities can be brought into the formal system. The apparent persistence of informality in South Africa gained heightened political attention when, in the late 1990s, former President Thabo Mbeki referred to the notion of a second economy and the state responded in policies and programmes which sought to ‘migrate’ informal businesses across the formal frontier (Devey et al. 2006). After a decade, this migration has largely failed, with recent evidence suggesting that the informal economy has actually continued expanding (Wills 2009). How are we to understand this failure? Writing on the case of employment law in India, Kanbur (2009, 2012) proposes that the persistence of informality can be explained by the non-enforcement of regulations, especially in the case of enterprises that are non-compliant, evade the law and operate illegally. He argues that the challenge is largely one of enforcement. Assuming a context of informality, Kanbur conceptualises four possible positions as regards the standing of enterprises: A) compliant enterprises, B) enterprises that evade compliance, for example ignoring the law, C) enterprises that avoid compliance through adjustment so that the law does not apply to them, and D) enterprises that fall outside the regulatory framework.

Kanbur’s argument is that enforcement of informality compels those enterprises positioned in B to either become compliant (A) or to adjust their operations to avoid regulatory controls, in other words move to C position. However, in the case of shebeens in South Africa, the enthusiastic application of law in all our research sites caused very little migration of evasive shebeeners to compliance. It has also not resulted in avoidance, as this is not possible. Instead shebeeners have found increasingly covert ways to evade enforcement, including building the costs of stock confiscation and bribery into the running of the business. The reasoning is straightforward. As compliance is practically impossible for all but a handful of enterprises (primarily due to municipal land use regulations), most shebeeners choose to manage intensified law enforcement impacts on their business rather than go out of businesses altogether and lose their livelihood. The point for Kanbur, is that

his model only works, when the policy enforcement aligns with real-world incentives. This is not the case with shebeens and the law in South Africa.

#### **4. Informality and Shebeens in South Africa**

South Africa has a formal/informal economy divide similar to most developing economies, though particularly characteristic of the larger economies of Latin America. In this way South Africa is more like Latin America than other African countries as the formal economy is highly regulated and modernised, accounting for about 90% of the countries' gross domestic product and 60% of employment (Wills 2009). Devey et al. (2006) proposes that the informal economy accounts for 10% of all domestic economic activity, though discrepancy between labour force survey data and national accounts (see Wills 2009) indicates potential underreporting (Ligthelm 2006) indicates a lower figure). Informality provides employment and entrepreneurial opportunities to an estimated 25% of the labour force regarded as formally unemployed as well as additional opportunities for many of the under-employed.

Whilst the range and characteristics of informal sector workers has received careful analysis, the reasons why so many informal micro-enterprises remain small and informal are less clearly understood.

Also significant is that the scope and scale of informal micro-enterprises continues to grow in most developing countries and South Africa (Neves & Du Toit 2012; Sinha & Kanbur 2012). The reasons for continued growth of South Africa's informal economy and proliferation of micro-enterprises are poorly understood, and there remains a paucity of theorisation. One exception is the argument informal enterprises reflect low productivity (and low skills) and that this stands in the way of their formalisation (Gelb et al. 2009). In countries where the state is weak and formal institutions (including the financial sector) are poorly developed, as in the Least Developed Countries, the reasons why informal micro-enterprises remain informal are self-evident. Yet in developing nations, like South Africa, where the state is comparably strong and institutions well developed (and largely accessible and efficient) the answer is less obvious (Gelb et al. 2009). There remains a strongly held belief, among both economists and policy makers, that the strength of the disincentives must be considered, both in terms of the capacity of the state to implement regulations, and the severity of punishments for transgressors. Strong disincentives and rigorous enforcement (added to strong formalising incentives), it is held, have the potential to leverage a shift of informal micro-enterprises into the formal sector. However, as we shall demonstrate below, despite substantial police enforcement over the last few years, shebeens continue to evade the law. Disincentives, it seems, are not enough.

In our view at the heart of this failure lie fundamental misconceptions about the reasons for informality. As the Latin American scholarship has shown, informality is not simply a case of either 'exclusion' by, or 'exit' from, formal market or state, though these processes must be carefully understood, but a 'multidimensional phenomenon', with business owners interacting with the state at different levels in different spaces and across time, resulting in a 'large grey area' between formality

and informality (Perry et al. 2007). To relate this to the preceding discussion, formalisation will also require getting the incentives right, so that the choice to go the legal route makes sense for shebeeners. It seems reasonable to conclude, that only when this is done, perhaps by making the barriers to formalisation less high, will enforcement start to follow the logic that Kanbur identifies.

South Africa has a well-established and internationally competitive liquor industry, manufacturing and marketing a range of liquor products (beer, wine, spirits and sugar fermented beverages) (A&T Consulting, 2005). Critically, in volume terms, the informal liquor market is considerably larger than the formal, accounting for approximately 90% of beer volume and 50% of standard wine volume sold annually (A&T Consulting, 2005). The formal liquor market, which includes all licensed outlets, comprising bars and taverns, retail stores, restaurants and clubs, developed historically to provide liquor to white persons and whilst now catering to all South Africans, the majority of licensed liquor outlets remain spatially located in commercial business sites and high streets in middle class (largely white) residential suburbs. The informal liquor market, in contrast, arose in response to the demand among black South Africans for access to liquor, and especially, within their sites of residence. Notably, the endurance of shebeens and their effectiveness in filling an unmet demand for liquor and recreational space in black townships (Rogerson & Hart 1986) provided the foundation for the growth of the South African Breweries into a corporate superpower.

Shebeens thus have their roots in the respective segregationist (c1920-1948) and Apartheid (1948-1994) era controls to manage black townships by keeping liquor out of these areas, or controlling supply to raise money for the administration of black areas (la Hausse 1988; Mager 1999). The informal liquor market was thus directly influenced by discriminatory racial laws that sought to reduce the number of venues where black persons could acquire liquor, and also the forms of liquor they could purchase. At the local level shebeens fulfil a role as both drinking establishments and public spaces in which people could meet and socially interact (Rogerson & Hart 1986; Charman, Piper and Petersen. forthcoming).

Most of the early shebeen owners were women (often single headed households) who sold liquor to sustain their families within the limited Apartheid labour market. Since these origins shebeens have served as potential business incubators for the accumulation of skills and as a vital income source, often run by “solid housewives and respectable men” (Nakasa, in Rogerson & Hart 1986). The entrepreneurial persistence of informal liquor traders, with profits relatively easy to accrue for those willing to endure the risks of police harassment and prosecution, has resulted in continuation of the shebeen activities into the present. Above all, as we demonstrate, the proliferation of many small, home-based, micro-enterprises selling liquor reflects the highly localised nature of demand, where people are neither able nor willing to travel outside of their neighbourhoods to obtain liquor.

After the fall of Apartheid, new regulations were intended to ‘normalise’ the liquor industry and bring shebeens within the formal regulatory framework. In 2003, a national liquor act was introduced (59 of 2003). The act placed the large scale

manufacturing and distribution of liquor under the jurisdiction of the national Ministry of Trade and Industry. However the regulation of retail trade is a provincial competency, with each province devising and implementing independent laws. Although provincial legislation must accord, in general terms, with the objectives of the national act, the act is ambiguous towards the position of shebeens. It merely expresses the need to provide opportunities in liquor retailing for historically excluded black entrepreneurs, whilst encouraging the extension of regulation to informal liquor retailing businesses. The act imposes no quantification to this position, which is significant as the national number of unlicensed liquor retailers certainly exceeds several hundred thousand (Charman 2006).

The regulation of shebeens presents a paradox. Their inclusion within the regulatory framework would allow for the enforcement of trading conditions, including restrictions on under-age drinking and poor employment conditions. Yet their regulation would require the acceptance of their spatial location, as most are situated in the heart of residential areas of economically marginalised communities, where land use is deemed residential and commercial activities are commonly not permitted. It would also acknowledge acceptability of businesses that some interest groups question, given their religious, ideological, or personal aversion to alcohol. The issue of the regulation of shebeens has been debated in the context of a moral panic, where access to alcohol has been presented as a harbinger of crime, violence and social conflict (Parry & Dewing 2006). It is not surprising, therefore, that all provincial governments have, with varying degrees of intention, all chosen to exclude shebeens from the regulatory framework, restricting licences to formal business. The Western Cape Provincial Government has gone furthest amongst provinces in attempting to eradicate shebeens believing that their exclusion from the regulatory environment will reduce alcohol supply within poor communities.

This policy stance rests on the assumption that policing can effectively reduce and eliminate informal liquor retailing. Between 1994 and 2009, official restrictions on unlicensed liquor trading were neither systematically nor rigorously enforced, with the authorities permitting shebeens to operate informally so long as the business operated responsibly without objection from the community (Charman, Piper and Petersen. forthcoming). The new Western Cape Liquor Act (No. 4 of 2008) greatly empowers the provincial government to intensify enforcement. This policy approach to liquor control has been closely observed by other provinces, who may implement similar measures to replicate the anticipated impact. As is shown below, to date this enforcement has been resisted and evasion continues, with the result that the story of shebeens is a story of enforced informalisation.

## **5. Shebeens in Practice: Insights from Delft South, Cape Town**

As part of a larger study on informal micro-enterprises in five sites in the Western Cape and two sites in Gauteng, shebeens emerged as the most common enterprise in townships and informal settlements. In what follows we describe the nature of shebeening through a casestudy from one of our seven sites, namely Delft South in Cape Town. While the details are case-specific the general patterns and key findings are consistent across all the sites in which we have conducted fieldwork. More

specifically, the research has revealed, firstly, the significant number of shebeens in each site, indeed in almost every site they constitute the most common micro-enterprise, usually followed by spaza shops and hair-care. The second key finding concerns a diversity and segmentation of types of shebeens, with the majority with trading less than 16 crates of beer (150 litres) a week. Third, were the linkages between shebeens, and not just the formal alcohol industry, but other informal enterprises that benefited from the presence of shebeens. Fourth, was the issue of licensing and police enforcement with only a small minority of larger shebeens even applying for licenses, but a widespread and often unpleasant experience of police enforcement. Each of these general points will be illustrated

## **5.1 Delft South**

Delft South is part of a social project housing development located on the periphery of the City of Cape Town. The area comprises a residential population of 44,827 persons (23,831 adults), living in 10,278 households<sup>1</sup>. About 61% of the working age population in Delft is not economically active. The Knowledge Factory data-set estimates that the monthly income per capita is R732, equating to an average household income of R2,928. Although the community of Delft is poor, most households occupy brick and mortar dwellings, whilst the community has a number of resources including parks (though most are in a state of disrepair), sports fields and facilities (several), libraries (two), health clinics (two), and a police station. Delft is spatially dislocated from formal business precincts of the city thus residents are commonly dependent on public transport to access employment or commercial enterprises. Delft South is home to a mixture of informal micro-enterprises providing services (such as hair care, car repairs) and trading goods (groceries, fast food, and clothing) – most of which originate from residential homes.

The researchers conducted a census of all micro-enterprises in Delft South. The research approach was to traverse the area, street by street on bicycles, to identify businesses and record their geo-spatial location. The research methodology is described in Petersen et al. (forthcoming). All businesses that were evident and in operation, through signage and confirmation from residents were surveyed. Wherever the researchers encountered liquor retailers, a formal interview was undertaken with the owner upon their consent. The researchers specifically sought to identify all liquor retailers through consulting with distributors and local informants. Among those identified, the research questions explored enterprise history and characteristics, staff employment, infrastructure investments and facilities, and law enforcement impacts. The research was undertaken in December 2010 and May 2011. The researchers mapped the distribution of businesses of different enterprise typologies to explore market dynamics and external influences.

We subsequently sought to explore the qualitative dynamics through engaging with business owners in focus group discussions. Study participants were identified

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<sup>1</sup> 1Data supplied by Knowledge Factory. The data is modelled on the 2001 census and 2007 community survey (StatsSA). It is possible that these figures under-estimate the actual population.



through consulting with known representatives of liquor traders from three communities in which the authors had previously undertaken research on informal liquor retailing. The research sites were Atlantis (a coloured, working class community), Khayelitsha (a black, working class community), and greater Delft. All sites have high unemployment (above 50% of working age adults) and pressing developmental challenges. The focus group discussions were conducted over four hours at community centres at each site and participants were required to discuss and comment on particular concerns for the future of their business, both verbally and nonverbally, through completing questionnaires and recording specific points on cards for displaying under thematic headings. Through group discussions, the researchers sought to investigate the nature of individual business (history, current size and scope) the multiplier impacts on other micro-enterprises, coping mechanisms to closures (and law enforcement experiences) and their capacity to pursue alternative economic activities.

### **5.2 Finding 1: The prevalence of shebeens**

The enterprise census in Delft South identified 818 micro-enterprises, of which 117 sold liquor. The majority (71%) operated as shebeens, selling liquor for either off-consumption or in on-consumption venues. We identified 18 spaza (grocery retail) shops that sold liquor and two micro-enterprises that brewed and sold traditional beer. Apart from spaza shops (190 in total), retail liquor businesses were the second most numerous business type in Delft South, representing 14.3% of all enterprises. This finding indicates that previous statistical estimations of the size of the informal liquor sector (accounting for 2.1% of selfemployment), using macro-data bases from StatsSA Labour Force Surveys are significantly under-reported (Wills 2009). Notably, in most of our other sites shebeens have been the most common form of micro-enterprise with spaza shops usually in second place.

### **5.3 Finding 2: The diversity and segmentation of shebeens**

Considering all surveyed liquor retailing businesses, the research found considerable enterprise diversity. As evident from Figure 1, the spatial distribution of the identified businesses is even throughout the research site. There is no evidence of enterprise clustering in specific localities, while the influence of infrastructure such as high streets on business location is minor; this topic has been addressed in a separate paper (Charman, Petersen and Piper. forthcoming). The key point is that this suggests a localised form of demand with most shebeens servicing residents living within walking distance.

Figure 1

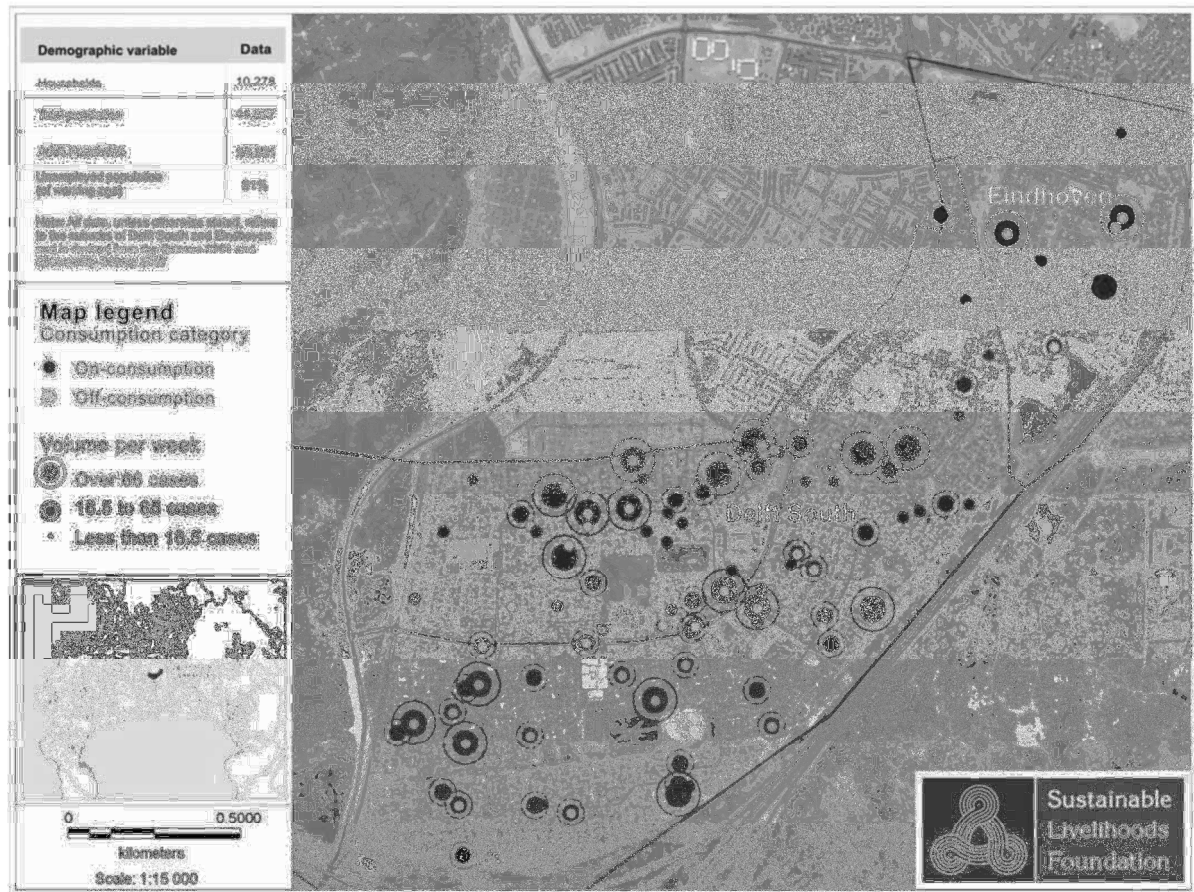


Figure 1: Distribution of businesses selling liquor by category and volume of sales, Delft South and Eindhoven, May 2011

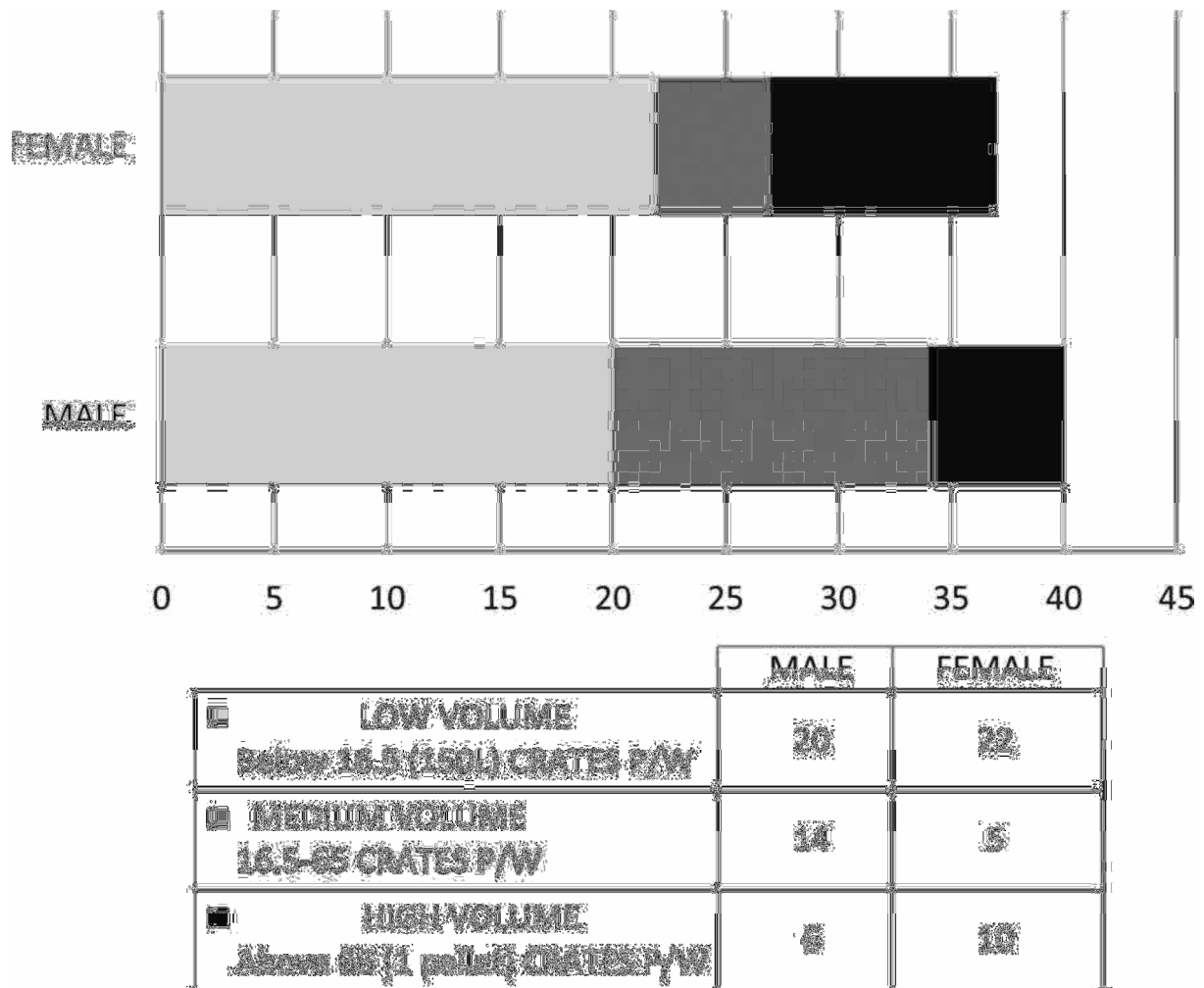
In terms of retail types, about two thirds (65%) of the shebeens permit the consumption of liquor on the premises, while the remainder sell on a take-away or 'koop and loop'<sup>2</sup> basis.

The median length at which the enterprises were in business was 5.5 years, indicating significant longevity for those that survive start-up. Business ownership is divided roughly equally between men (52%) and women (48%), although more women tend to occupy the high volume category of shebeen while the men occupy more the medium volume category.

In sum, there is some evidence for the popular notion of the 'shebeen queen' but only in the high volume category. This is illustrated in Figure 2, showing the position of women business owners across the three different businesses sizes discussed below.

Figure 2

<sup>2</sup> Literally, 'buy and walk'.



**Figure 2: Informal liquor retail businesses by gender and enterprise size (beer sales-volume turnover), Delft South**

In order to differentiate shebeens by size, the researchers used beer sales in volume or weekly turnover. All the identified businesses sell bottled beer, though fewer sell Flavoured Alcohol Beverages (FAB) (94%), spirits (78%), wine (74%), and illicit concoctions (56%). Using the unit of a crate of beer (750ml x 12), the researchers disaggregated the businesses into three categories: one, businesses that sold less than 16.5 crates per week (equivalent to the maximum level of liquor that an individual may possess under the new liquor act); two, businesses that sold between 16.5 and 65 crates, which we considered mid volume sales; and three, those selling above 66 crates, a volume benchmark at which liquor retailers could, once licensed, receive direct deliveries from liquor manufacturers. This is equal to one pallet of beer as carried by a forklift truck.

This categorisation reveals that the majority of shebeens, 58%, sell less than 16.5 crates of beer per week and are thus potentially much closer to being able to avoid the law than other enterprises, were the law to be relaxed on other grounds like land use zoning. Of the remaining 42% of shebeens, half (21%) are medium volume retailers and half (21%) are high-volume retailers. This differentiation reveals the common folly of lumping all shebeens together as the same kind of enterprise simply on the basis of their informality. What the statistics suggest is that most people run shebeens from a position of poverty and earn a modest living, while a significant

minority could potentially be seen as entrepreneurs and successful business people. This differentiation has direct implications for policy making in the sector.

The scale of investment in liquor businesses and their leverage capacity was measured through four proxy indicators. We found that 64% of shebeens had branded fridges, 25% had a pool table, 23% had cable television and 12% had juke boxes. Branded fridges highlight strong linkages between informal liquor retailers and formal liquor marketing businesses.

Eighty percent of licensed, on-consumption, venues in our sample had at least two of these indicators. These figures indicate that the majority of on-consumption venues do not conform to the stereotypical image of a tavern (pub); instead, most provide no form of entertainment, but merely offer a publicly accessible drinking space where drinking of liquor occurs. Whilst enterprise formalisation does enhance the capacity of informal liquor traders to invest within their business and secure services from formal businesses, our findings show that these investments are not preconditions for business success.

#### 5.4 Finding 3: Shebeen linkages and multiplying effects

The economic significance of shebeens should be seen, not only in the linkages to formal alcohol manufacturing, but also in the context of business multipliers. According to a wide range of respondents, shebeens were widely held to benefit spaza and house shops (which sell cigarettes and soft drinks), fast food retailers and butchers (selling meat for street barbeques), recyclers (whom collect non-refundable glass bottles) and car-washes. According to respondents from our focus group, who typically ran much larger businesses, their enterprises had strong multiplier impacts on other informal enterprises and individuals. The participants (taken altogether) considered that the multiplier impact was greatest (in descending order) on spaza shops, ice suppliers, recycling businesses, car wash businesses, braai (barbeque) meat stands, house shops, wholesalers, hairdressers, informal financial lenders, neighbours, liquor wholesalers, butchery shops, phone shops, fast foods, private garages (for stock storage), street traders, security services and cigarette vendors.

The multiplier influence obviously varies across these categories and within businesses providing these services, though the research confirms that the scale of the economic impact of informal liquor retailing correlates to business size, and in particular, on-consumption venues. This is important because one of the main coping strategies that these entrepreneurs intend utilising to minimize the risks of law enforcement is to downscale their visibility, turnover and reorganise the business, with clear negative implications for secondary consumption. Drawing on previous work that claims that shebeens have a multiplier effect on other businesses of a least 1.1 (Petersen and Charman 2010:106) this means that in Delft shebeens potentially supports a minimum of 129 additional businesses. In this site then, shebeens and their linked businesses constitute at least 30% of all identified microenterprises.

#### 5.5 Finding 4: Licensing and enforcement

Notably, of the 117 shebeens in Delft only 13 (11%) had obtained liquor licences and are legal taverns. A further 19 shebeeners had applied for liquor licences at the time of the fieldwork. Notably, 41% of all liquor retailers had made specific efforts to obtain a license, but the majority had not. Those businesses that had not applied for liquor licences included: a) newly established enterprises as well as those operating for less than 2 years (30%), b) poorly capitalised businesses, and c) businesses with a low volume turnover. In contrast, (i) long established traders whose (ii) business growth had enabled them to invest in the enterprise and raise sales volumes had (iii) generally received some level of industry or professional support in the liquor licence application process. Without this support (both financial and technical), the level of exclusion would undoubtedly be much higher. Hence, once again, a clear distinction emerges between a small number of big liquor business that are formalised and the vast majority of smaller liquor business that remain outside the law and policy.

The sharpest evidence for this contrast is that 75% of the high volume outlets have obtained liquor licences, yet only 20% of medium volume outlets had licenses. Indeed only 50% per cent of the mid volume outlets had even applied for licences. This would indicate that enterprise size is relevant to formalisation, and that the incentives to formalise become more real when a business is doing more than 66 creates a week and when, for example, direct deliveries would then improve efficiency. However, at least half of the identified high and medium volume businesses whose turnover is sufficient to warrant formalisation have chosen to remain informal and unlicensed. This statistic is important because enforcement is happening in Delft. Thus a remarkable 73% per cent of the respondents reported raiding by the police at least once over the preceding year, and on-consumption establishments were more severely targeted by law enforcement. Notably, the raiding of shebeens was consistent across all three enterprise size categories, showing that small volume traders carry as much risk as larger volume business of being subjected to arrest and prosecution, despite their differential impact of social and economic life of Delft. Of those raided, 91% were compelled to cease trading for a period of time, though all restarted their business within the same year.

These figures suggest that law enforcement is a blunt, indiscriminate and ineffective tool to eradicate informal liquor retailing in Delft. Respondents spoke frankly of their experience of police raids. Sixteen reported that they had been raided and closed 'many times', but refused to cease trading (Delft South, respondents 10, 15, 16, 17, 21, 25, 36, 44, 46, 50, 56, 66, 68, 69, 70, 75). Police raids resulted in confiscation of property (pool tables and fridges) and stocks of liquor, the issuing of fines (up to R1500), and alleged thefts of takings. Delft South respondent 54 had been raided more than eight times and closed down more than five times, but vowed to continue trading. She remarked: 'I have never been robbed by locals [people in the community] but has been robbed by the government through criminals wearing the badge of the police'. Another respondent, 70, reported having been raided 24 times, philosophically reflecting: 'I know it is their duty to raid me once a week but it is also my duty to survive'.

She explained that she had ‘no choice but to continue [trading] because I am unemployed and need to find a source of income. This business is the only way I can put bread on the table and I don’t care if the business is legal or illegal I have a disabled child that depends on me. I am tired of the raids and want to get a liquor licence, but the condition of the licence demotivates me from applying’. One respondent (74) saw no particular obstacle from having been raided and temporarily closed; saying that despite these risks her business ‘was going well’.

Some respondents had endeavoured to secure informal agreements with the police, though soon learnt that this did not guarantee immunity (Delft South respondent 26). There was little sense in formalising, argued one respondent, because government expectations ‘are not only stupid but undermine the reasons that people have gone into shebeening [sic] in the first place, to make money’ (Delft South, informant 34). In contrast, some participants spoke of their endeavours to formalise by investing in lawyers (between R4000-R8000) and other service providers to guide their application through the necessary channels (Delft South, respondent 37, 50). In the case of some of the smallest businesses, their entry into the liquor market was forced upon them by the failure of their spaza in competition with newly arrived immigrant shop keepers (Delft South, respondent 14) (see Charman, Petersen & Piper 2012).

In order to survive, several of these spaza enterprises had resorted to selling liquor. There was a general complaint that whilst informal liquor businesses sell a formally manufactured and legal product, they are raided and their businesses harassed, whilst drug dealers who sell illegal products are ignored. As one Delft respondent (25) argued ‘we feel like criminals, but people who sell drugs and dagga (marijuana) have more freedom’ (also Khayelitsha respondents 21, 26). Police corruption and favouritism in the application of the law was a reoccurring theme in each of the focus group discussions; as one respondent put it (Atlantis, 11) if you ‘know them then it’s ok, but if you don’t then you will be fucked up’. Or said more politely, ‘police have been very partial to specific traders with whom they have “dealings”’ (Atlantis respondent, 43). Amongst the Khayelitsha focus group cohorts, 62%

had personal experience of either police corruption or police theft. The reported high incidence of police corruption possibly explains why shebeens are able continue operations despite the policing risks. Notably, 34% of Khayelitsha respondents said that they would simply ignore the law and continue trading as before.

A considerable number of respondents in the Delft and Atlantis workshops said that if the state enforced business closure, they would respond by engaging in criminal activity such as selling drugs (8% overall). In both communities there is an established drug culture with apparent growing demand for crystal methamphetamine. For some, this intention is not theoretical, as an Atlantis respondent (13) reflected: ‘when I moved to Atlantis from Elsie’s River I sold drugs. I went to prison for seven years. Now I have a [legitimate] business and I apply for a liquor licence, but government puts obstacles in my way’. For most respondents, the need for economic survival was their paramount consideration, not that people particularly desired to sell drugs, but that drug dealing was seen as an option given

that there is ‘no other work’, ‘factories are closing’, ‘I am too old for other work’ and ‘foreigners are taking away our business’ (respectively Atlantis respondents, 6, 23, 41 and 40).

The main coping response, as emerged from the workshop and confirmed in the Delft South field research, was to downscale enterprise size, operate with a smaller turnover and reduce trading hours to minimize risk impact. Twenty five of the 32 participants at the Delft focus group reported downsizing their turnover, some by as much as 90% of volume sales. This downsizing also affected the kinds of liquor sold with a decrease in high value/volume stock items, and reduced the number of employees. They also reported ordering stock in smaller quantities but more frequently. The loss of employment opportunities is significant because these larger size businesses are providers of informal employment. Among the three cohorts of focus group respondents, informal liquor retailing business in Delft, Atlantis and Khayelitsha provide full-time work (on average) to 3.7, 3.2 and 3.1 workers per business respectively. If the size of the shebeen sector is as large as thought, then these larger informal liquor traders (20% of the total) potentially account for 150,000 direct jobs across South Africa. The re-organisation of supply chains is also noteworthy. The strategy of purchasing small volumes, through increasing the frequency of purchases, has been one of the main risk reduction measures among small volume shebeens, enabling the enterprise to rapidly recover from police raids and stock confiscation. But for larger businesses, this strategy would prevent them from forging business relationships with formal enterprises to obtain direct delivery or bulk discounts, for example. The outcome of these evasive coping responses is the deepening of informality, whereby small businesses operate clandestinely, separated in business from the formal sector and increasingly attracted to informal supply chains and products. The Western Cape’s documented growth in illegally produced alcoholic concoctions is evidence of these trends.

## 6. Conclusions

Kanbur’s (2012) notional idea that informality endures due to a lack of enforcement simply does not apply in the case of informal alcohol retailing through shebeens in the townships and informal settlements of South Africa. As illustrated by the example of Delft South in Cape Town, and confirmed by our findings in six other research sites across the country, substantial policing has neither induced substantial numbers of shebeens to become licensed or substantial numbers to avoid the law. Instead, the vast majority of shebeens have embraced more subtle tactics of evasion, including treating state enforcement as a necessary, if evil, business cost. To put it another way, the informal economy in alcohol exists because of state policies – it is a case of enforced informalisation.

The reason for this, we would suggest, is the failure to align law and policy with the reality of the lived economy in poor communities. Although in theory shebeens could formalise, the current legal requirements are too stringent for the vast majority of traders whose small turnover and modest profits do not justify the direct and indirect

costs of navigating a complicated formal system for licensing. This larger group simply accept that their business activity and livelihoods will likely undergo increased police harassment. The costs of stock confiscation, fining and corruption simply become (unpredictable) business expenses, which are managed through evasive strategy and tactics. For a small minority of large-scale entrepreneurs, formalisation appears to offer greater incentives and they are thus more likely to apply. However, it is notable that despite the greater likelihood of compliance by larger shebeens, and their more significant economic and social impact, reports of police raiding in this site were consistent across enterprise type. The blunt and undifferentiated application of enforcement confirms the main intention of policy is to close shebeens altogether rather than formalise them.

There are also indirect but obviously harmful consequences to enforcement, not least of which is the criminalisation of poor people trying to make a living; the inclination of those who can no longer run shebeens to turn to more obviously criminal activities; and the creation of conditions for corruption by, and of, police officers. Indeed, instead of reducing informality the current approach seems more likely to enhance it while breeding more criminality, thus achieving a “perfect storm” of unintended consequences. Quite simply, the intentions and outcomes of enforcement are diametrically opposed in a context where relations between the state and the poor in South Africa are at their lowest ebb since 1994, as illustrated by the rising wave of militant and violent action by communities and miners over the last year.

Lastly, the diversity of shebeens reminds us that the notion of the ‘informal’ is a residual conceptual category, and that there are potentially significant divisions between those who could be seen as successful business people or entrepreneurs and those who operate in a more ‘survivalist’ or marginal way. This suggests that a policy framework and practice is possible that distinguishes the ‘entrepreneur’ from the ‘survivalist’ and looks to include the former in the formal system while allowing the survivalist to avoid criminalisation. If correct, this analysis suggests that informality in the shebeen sector is, in significant part, a political and policy issue, and that even if these policy issues were addressed, around at least half of the shebeener population would likely remain operating in survivalist mode in the absence of more meaningful opportunities, and continue trying to run their small businesses under the state’s radar. To put the point more bluntly, you cannot solve the ‘shebeen problem’ through a policy approach based on law enforcement.

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