
RESEARCH ARTICLE

Post-Pandemic Legislative Transition Analysis in China's Metropolises: Street Vending between Prohibition and Legalization

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ABSTRACT

The governance of the street vendor economy has always been an important part of the social grass-roots governance. To stimulate the economy and ensure employment in the post-COVID-19 pandemic era, the Chinese government's policy towards the street vendor economy has transitioned from prohibition to legalization. This paper traces the three distinct historical phases of China's economic policy concerning street stalls in the 21st century, shedding light on the resistance encountered during the process of legalization. Subsequently, it uses policy comparative analysis to explain the legislative transition and the underlying reasons for these changes in three major Chinese metropolises: Shenzhen, Shanghai, and Beijing. The results show that the city's legislative turning and diversion strategies cannot achieve the expected effect. So the paper proffers suggestions for future policy-making. The suggestions include Person-centered place designation, flexible time, and rights protection policy.

KEYWORDS

China, post-epidemic, street vendors, urban governance, legislation.

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1. Introduction

1.1 Research Background

The Street stall economy is an important form of the informal economy, referring to merchants with no fixed place of business, no business license, no registered capital, and high mobility (Reid et al., 2010). Before the pandemic, viewed as a destabilizing force in urban settings, street vendors faced strict regulatory measures from both national and local governments pre-pandemic. However, the economic downturn induced by the pandemic has elevated the street stall economy's role in stimulating economic activity and supporting livelihoods. In May 2020, the Central Civilization Affairs Office issued a policy stating that roadside businesses, street markets, and mobile vendors would not be included in the assessment content for civilized cities (Li, 2020). Further emphasized by then Premier Li Keqiang in June 2020, the significance of this sector as a vital employment source and contributor to economic dynamism was acknowledged. However, in June 2020, the Beijing Daily stated that the street stall economy does not conform to the city's positioning in Beijing (Beijing Daily, 2020), and the topic of whether street stall economy is legal has attracted widespread attention and heated discussion in China.

1.2 Literature Review

Existing studies have extensively discussed the legality and governance strategies of mobile vendors. Research by Tangworamongkon (2014) suggests that mobile vendors, as a form of creative entrepreneurial activity, contribute to improving the well-being of both vendors themselves and the society as a whole. Therefore, from the perspective of social public interest, the operation of mobile vendors should be legalized. However, some studies argue that the operation of vendors occupying

sidewalks, roads, and other circulation spaces challenges urbanism concepts, leading to uncertainty in determining the legality of their operations (Tucker & Devlin, 2019).

In China, academic research on mobile vendors mainly focuses on issues of legality and whether their business activities can be legally conducted in substance. In terms of legality, some Chinese scholars advocate registering mobile vendors as individual business operators based on the principle of business freedom and employing flexible regulations for small traders (Cui, 2019). Regarding the substantive legality of business activities, some studies suggest that the lack of local legislation results in the absence of legal status for mobile vendors, and urban management processes often lead to the eviction of their business activities (Zhang & Mao, 2020). Therefore, it is necessary to consider how to coordinate and balance the business activities of vendors with urban public spaces from a public space perspective. Post-pandemic, the evolving governance strategies and legislative responses in cities like Shenzhen, Shanghai, and Beijing signify a shift, yet there's a lack of comprehensive analysis on these developments.

1.3 Problem Statement and Objectives

This paper aims to dissect the complexities surrounding the street stall economy's legalization, examining national and local legislative response. Then, by focusing on Shenzhen, Shanghai and Beijing, it seeks to answer the following questions: Has the attitude of large cities towards street vendors and the street stall economy changed after the pandemic? What is the trend of this change? What difficulties exist in the process of legislative turning and policy implementation? Finally, the paper will contemplate the rationality of local guidance strategies and summarize policy suggestions, in order to offer insights and policy recommendations for harmonizing street vending activities with urban public spaces, contributing to the sustainable development of urban economies.

2. Formalizing Street Vendor Legislation at the National Level

2.1 The Phase of Prohibition

During the 1980s, China's reform and opening-up led to rapid market economy development and urbanization. The labor force engaged in agricultural production was liberated from the land in this process, resulting in an annual influx of 10 million people from rural areas to cities. Non-agricultural industries have grown rapidly by taking over the surplus labor force from the agricultural sector. By 2023, China's urban permanent population has grown from over 100 million at the beginning of the reform and opening up to 900 million, accounting for 66.16% of the total population, up from 17.92% at the reform's onset (National Bureau of Statistics of China, 2023). Many of these agricultural migrants, alongside other vulnerable groups, became integral to the informal economy, particularly street vending, in large cities.

Facing a dual dilemma of displacement and lack of rural support, these migrants become the mainstay of the informal economy in large cities. Besides migrants, street vendors also intersect significantly with other vulnerable groups (disabled individuals, low-income populations, veterans, etc.). Initially, for social order and operational safety, the 2003 'Measures for the Investigation and Banning of Unlicensed Operations' often led to a ban on street vending.

2.2 Legislative Protection Phase

As shown in Table 1, after 2011, street vendors gradually gained legal status at the national legislative level. In terms of formal legality, the Regulation on Individual Industrial and Commercial Households implemented in 2011 no longer required street vendors to register as individual industrial and commercial households, and the commercial legal status of street vendors underwent a transition from mandatory registration merchants to free registration merchants. In terms of substantive legality, as long as the business matters of street vendors are within the permitted scope stipulated in Article 3 of the 'Measures for the Investigation and Banning of Unlicensed Operations' implemented in 2017, it is permissible.

2.3 Spatial Expulsion Phase

Despite legal recognition, street vendors face challenges. Firstly, considering the varying realities in different regions, the Regulations on Individual Industrial and Commercial Households (State Council, 2016) stipulate that the management methods for vendors without fixed business premises are determined by the provincial, autonomous region, and municipal governments according to local conditions (Yan, 2017). However, in practice, there is a lack of relevant regulations issued by provincial governments, and local urban management departments have considerable interpretive power over the legality of local street vending operations. Secondly, street vendors need to trade goods in densely populated areas, inevitably occupying public facilities such as roads, squares, and underground passages (Zhang & Wu, 2014). This leads to conflicts between the business activities of street vendors and the 'Urban Road Management Regulations' issued by the State Council and local normative documents (State Council, 2019). Street vendors continue to employ subtle resistance strategies while interacting with urban management law enforcement officers.

Why do street vendors, despite being socially vulnerable and deserving legal protection, struggle to attain legitimate status? This paper posits that the main barriers to legalization are threefold:

2.3.1 Mitigating Safety Risks

Many street vendors make a living by selling food. Due to low costs, there are safety risks associated with the cost of food ingredients and procurement channels. The preparation process is prone to environmental contamination such as fumes and dust, leading to poor hygiene. Additionally, the accumulation of ingredients in confined spaces poses a risk of cross-contamination (Liu et al., 2014).

2.3.2 Avoiding Disordered Competition

Shopkeepers, who face higher costs due to rent and utilities, may find their business activities in conflict with street vendors (Tafti, 2019). This conflict arises not only from the competition created by vendors selling similar goods but also from the shopkeepers' perception of street vendors as a negative factor affecting the overall layout of the commercial area.

Vendor competition is influenced by two factors: Spatial Dominance: Profit-driven street vendors aim to occupy limited high-traffic and convenient areas. They operate at roughly fixed times and locations, creating a spatial dominance pattern. Newcomers may unintentionally invade existing street vendors' territories and face rejection (Li, 2020).

Homogeneous Competition: Due to a lack of external guidance, street vendors sharing the same area tend to sell homogeneous products, which is not conducive to cooperation and complementarity among vendors.

2.3.3 Government Performance Disruption

In addition to potential traffic disruptions, disorganized street vendors occupying roads, crosswalks, and commercial plazas in a disorganized manner, not only cause potential traffic disruptions but also generate waste, damaging the city's appearance and cleanliness. Therefore, their operations hinder local initiatives like "cultural creation" and "sanitation creation" thereby negatively affecting government performance. Moreover, the high mobility of the street economy further complicates government management, making tasks such as tax collection (Martínez et al., 2017) and safety incident accountability challenging.

2.4 Significance of Local Legislation in Metropolises

Table 1. National-level legislation on street vendors

Phase	Name of Law	Content	Hierarchy of Law
Prohibition	Measures for Investigating, Punishing and Banning Unlicensed Business Operations (01-06-2003)	No entity or individual shall engage in unlicensed business operations in violation of laws and administrative regulations.	Administrative Regulations
	Regulation on Individual Industrial and Commercial Households (04-16-2011)	The measures for the administration of vendors without fixed business premises shall be made by the people's government of a province, autonomous region or municipality directly under the Central Government in light of the local actualities. The following business activities are not under the scope of unpermitted and unlicensed business operations:	Administrative Regulations
Legislative Protection	Measures for the Investigation and Punishment of Unpermitted and Unlicensed Business Operations (08-06-2017)	(1) An entity or individual sells the agricultural and sideline products, and daily necessities at the place and time designated by the local people's government at or above the county level, or an individual utilizes his or her own skills to engage in labor service activities for the convenience of people which do not require any permit according to the law. (2) An entity or individual engages in business operation not requiring any permit or registration under the provisions of the laws, administrative regulations, and decisions of the State Council.	Administrative Regulations
Spatial Expulsion	Regulations on Administration of Urban Roads (2011 Revision)	The following acts are prohibited in the vicinity of urban roads: (1) occupying or digging urban roads without authorization; (6) installing billboards or other hanging objects on bridges or road lamps without authorization; (7) other acts that may damage and take up urban roads.	Administrative Regulations

Phase	Name of Law	Content	Hierarchy of Law
	Regulations of Beijing Municipality on City Appearance and Environmental Sanitation (2016 Revision)	No unit or individual may occupy urban roads, overpasses and underpasses for pedestrians and other public places without authorization to stack articles or set up stalls thereby affecting city appearance and environmental sanitation.	Local Regulation

Local governments in China have significant legislative autonomy over street vendors. Large cities, as hubs for many migrants, have more street vendors and must balance vendors' livelihoods with social order. This study reviews local legislative documents in Beijing, Shanghai, and Shenzhen, analyzes post-pandemic legislative changes in large city vendor management, and explores potential citizen-centered approaches.

3. From Prohibition to legalization: The Legislative Shift in Managing Street Vendors in Large Cities

3.1 Shenzhen

In 2023, Shenzhen revised and passed the Management Regulations of Shenzhen Special Economic Zone City on the City's Appearance and Environmental Sanitation. Compared to the version revised in 2019, the new version demonstrates a more inclusive attitude towards street vendors. As shown in Table 2, the original Article 21 of the Regulations restricts the operating space of street vendors with prohibitive norms, stating "It is prohibited for shopping malls and stores to sell or operate beyond their doors or windows." The new Article 17 modifies the wording, stipulating "Malls and stores that sell and operate beyond the outer walls of doors and windows should comply with norms." This reflects a trend towards limited deregulation of street vendors.

Building on the original Article 22 of the Regulations in Table 2, which prohibits unauthorized occupation of city roads and their sides, pedestrian overpasses, pedestrian tunnels, and other public places for the placement of items, setting up stalls, and selling goods, the new Regulations add an exception that "street offices can delineate vendor operating locations based on the principles of convenience for the masses, reasonable layout, and orderly supervision". This authorization norm allows street offices, which have an information advantage, to adapt to local conditions in setting up and managing vendor operating locations.

3.2 Shanghai

As shown in Table 2, regulations of Shanghai Municipality on the Administration of City Appearance and Environmental Sanitation (2022 Revision) are not much different from the 2018 Vision in terms of prohibitive norms. Regulations state that Units and individuals are prohibited from occupying, without approval, roads, bridges, pedestrian overpasses, underpasses, or other public places to set up stalls for business, peddle commodities, and heap up commodities, which affect city appearance and environmental sanitation. In this Municipality, business operators in the buildings (structures) on the two sides of the roads or around squares are prohibited from doing business outside of their doors, windows, and exterior walls without approval.

The new Regulations (2022 Revision) are based on the original Regulations (2018 Amendment) and clarify that the district people's government can demarcate certain public areas for business activities, "The district people's government shall organize the formulation of specific plans to specify the area, time and business form for the business activities of the stalls and outside of the doors, windows and exterior walls as well as specify the main entities responsible for city appearance and environmental sanitation and the requirements for administration, all of which shall be made known to the public."

The new Regulations (2022 Revision) further authorizes township people's governments to designate areas for farmers to set up stalls to sell self-produced agricultural products based on local conditions. In terms of penalties, the new Regulations (2022 Revision) increase the upper limit of fines from 500 yuan to 1,000 yuan.

3.3 Beijing

In June 2020, while the street stall economy was booming across the country, the Beijing Daily, which represents Beijing's official attitude, published a commentary article "The street stall economy is not suitable for Beijing" and was reprinted on the official website of the Beijing Municipal Urban Management Committee. The article believes that Beijing, as the country's capital, has political significance and represents the country's image. Street Stall vendors is considered a business activity that is not conducive to creating a livable environment and damaging to the country's image, that is, "We should not and cannot develop economic forms that do not align with the strategic positioning of the capital city and are detrimental to the creation of a harmonious and livable environment."

Therefore, while many large cities have revised new versions of the “Regulations on the Management of City Appearance and Environmental Sanitation” to allow street vendors, Beijing still prohibited any unit or individual from occupying urban passages, pedestrian bridges, pedestrian underground crossings and other public places to pile materials and set up stalls without authorization" to avoid affecting the urban environmental sanitation and overall image, according to Regulations of Beijing Municipality on City Appearance and Environmental Sanitation (2020 Amendment)

Table 2 reveals that compared with other large cities, Beijing imposes significantly greater penalties on mobile vendors. Those who violate Article 35, paragraph 1, may be ordered to make corrections, their illegal gains and illegal property confiscated, and they may be fined not less than RMB 500 but not more than RMB 5,000. The lower and upper limits of fines are higher than those in other large cities.

On January 2023, Beijing Municipal Commission of Development and Reform Commission and the Beijing Municipal Commerce Bureau jointly released the "Implementation Plan for Clearing Hidden Barriers and Optimizing the Consumption and Business Environment" to conduct projects in key business districts. The district government should coordinate and organize relevant departments to delineate the location and time of the projects. Business categories and other detailed rules are essentially to facilitate shopkeepers to carry out business activities, and there is no other indication for street vendors.

Table 2 legislation on itinerant vendors in large Chinese cities before and after the epidemic

City Name	Before/After Pandemic	Name of Law	Content	Hierarchy of Law
Shenzhen	Before	Management Regulations of Shenzhen Special Economic Zone City on the City Appearance and Environmental Sanitation (2019 Vision)	Article 21: It is prohibited for shopping malls and stores to sell or operate beyond their doors or windows.	Local Regulations
	After	Management Regulations of Shenzhen Special Economic Zone City on the City Appearance and Environmental Sanitation (2023 Vision)	Article 17: Shopping malls and stores to sell or operate beyond their doors or windows should comply with specifications	Local Regulations
Shanghai	Before	Regulations of Shanghai Municipality on the Administration of City Appearance and Environmental Sanitation (2018 Amendment)	Paragraphs 1 and 2 of Article 25: No unit or individual person shall occupy any road, bridge, pedestrian overpass, underpass or other public places for the purpose of pitching stalls, doing business, and hawking goods, thus affecting the city appearance and environmental sanitation. No unit or individual person shall occupy any road, bridge, pedestrian overpass, underpass, or other public place to pile goods, affecting city appearance and environmental sanitation. Paragraphs 1 and 2 of Article 21 retain the contents of Paragraph 1 and Paragraph 2 of Article 25 of the 2018 Amendment.	Local Regulations
	After	Regulations of Shanghai Municipality on the Administration of City Appearance and Environmental Sanitation (2022 Revision)	Paragraphs 3 and 4 of Article 21: In case of need, the district people's government may...to delimit certain public areas for business activities. The town/township people's governments may...delimit certain public areas in the countryside for such business entities...to sell farm and sideline products they have produced.	Local Regulations
Beijing	Before	Regulations of Beijing Municipality on City Appearance and Environmental Sanitation	Article 35 No unit or individual may occupy urban roads, overpasses and underpasses for pedestrians and other public places without authorization to	Local Regulations

City Name	Before/After Pandemic	Name of Law	Content	Hierarchy of Law
		(2016 Amendment)	stack articles or set up stalls thereby affecting city appearance and environmental sanitation.	
	After	Regulations of Beijing Municipality on City Appearance and Environmental Sanitation (2021 Amendment)	Retain Article 35, paragraph 1, of the 2016 Vision.	Local Regulations

3.4 Legislative Trend analysis for Street Vendors in Large Cities

3.4.1 Formalomorphism: Legalization Through Formalization

Shanghai and Shenzhen are showing varying degrees of liberalization towards street vendors. Local regulations are either amending the original prohibitions or authorizing lower-level governments to flexibly establish vendor locations based on actual conditions. Compared with the prohibitive regulations in local regulations before the epidemic, the direct expulsion of street stall vendors, new regulations follow the formalomorphism (Cross, 2000). For street stall vendors who violate relevant regulations, the penalties have been increased.

3.4.2 Limited Deregulation Favoring Urban Interests and Vendor Profits

Major cities are transitioning from prohibition to limited deregulation of street vendors, reflecting the government’s consideration of vendor interests. Despite this, regulations still explicitly prohibit business activities in public spaces where vendors tend to gather spontaneously, to avoid affecting the urban aesthetics and social order. While cities like Shanghai and Shenzhen have implemented authorization norms, they lack detailed guidelines. After the implementation of the new regulations in Shenzhen, the streets do not know how to reasonably delineate the vending area and how to supervise after the delineation. The regulations have authorized the streets, but the streets find it difficult to take specific actions due to considerations of not harming the overall interests of the city.

4. Insight and Inspiration of Diversion Policies

Legislative shifts in major cities reveal a predominant prohibition stance towards street vendors, with limited deregulation guiding them into government-designated areas for regularization. Existing studies indicate that many of these guided areas fail to achieve their intended effects due to inherent tensions between the guiding strategies and the operational activities of the vendors (Huang et al., 2019).

Firstly, from an economic perspective, the fundamental reason for street vendors to adopt a mobile strategy is profit (Igudia, 2020). Street vendors operate at locations and times that maximize revenue and minimize risk, based on potential consumer preferences, habits, and purchasing power. However, diversion area policies require vendors to operate within specific areas, limiting their ability to adjust their operations flexibly, thereby affecting their profits.

Secondly, many street vendors choose this work due to its flexible hours and convenience, allowing them to earn extra income in their spare time. However, diversion policies require vendors to operate long-term, imposing storefront-like standards on their operations, thereby restricting their time flexibility and forcing them to abandon their primary occupation or vending side job.

Thirdly, normalization suppresses the autonomy of street vendors. The products sold in the diversion areas are determined by government planning, which prioritizes social stability over market logic. Consequently, the products offered by vendors in these areas often fail to meet market demand. Coupled with the costs of rent and management fees, this leads to low overall benefits. Meanwhile, non-regulated vendors in the surrounding areas, with their ability to meet market demand and lower costs, may further encroach on the profit margins of the diversion areas.

In summary, although it is necessary for local governments to adopt diversion strategies to maintain the overall social order, this strategy cannot effectively solve the governance problems caused by street stall vendors in the long term. This paper believes that optimization can be carried out from the following three aspects:

Firstly, creating proper areas based on people instead of forcing street vendors into areas. Investigate the gathering points spontaneously formed by street stall vendors in the city, and transform the gathering points into diversion areas by comprehensively considering factors such as the vendors’ wishes, product types, and location of the previous gathering points to transform these points into diversion area.

Secondly, adopt a flexible regulatory approach for vendors within the diversion areas (Devlin, 2011). Local governments need not require vendors to operate government-designated products in specific areas long-term, but can flexibly arrange their time for legal business activities. Local governments ought to adjust the fee level and management strategy for street vendors based on local price levels, vendor income, and changes in human traffic.

Thirdly, further refine legislative details, establish the basis for delineating diversion areas, and identify regulatory and responsible entities. Implement local regulations on the limited deregulation policy for street vendors, and provide channels for vendor rights protection in the details to safeguard vendor interests.

5. Conclusion

Street vending, a significant component of the Chinese informal economy, has been a major source of employment. However, prior to the pandemic, these vendors were often viewed as a source of urban instability, leading to their prohibition through legal measures enacted by national and local governments.

In the 21st century, before the COVID-19 pandemic, the Chinese government implemented several policies towards street vending. These policies can be categorized into three phases: Prohibition Phase: Characterized by the implementation of the 'Measures for Investigating, Punishing and Banning Unlicensed Business Operations' law. Legislation Protection Phase: During this phase, the 'Regulation on Individual Industrial and Commercial Households' was enacted in 2011, which no longer required street vendors to register as individual industrial and commercial households. This led to a transition in the commercial legal status of street vendors from mandatory registration merchants to free registration merchants. Spatial Expulsion Phase: This phase was marked by conflicts between the 'Regulations on Administration of Urban Roads' and local normative policies with the business activities of street vendors. These policies were primarily enacted due to concerns about food safety risks, disordered competition, and potential disruption of government performance in the context of the street stall economy.

In the post-pandemic era, cities like Shenzhen and Shanghai have shifted their policies from outright prohibition to legalization of street vending. This transition reflects the government's strategic consideration for economic revitalization and the protection of the interests of street stall vendors, who form a significant part of the informal economy.

On the other hand, Beijing continues to maintain stringent control over street vendors, demonstrating a more conservative approach towards the informal economy. Local governments have been employing diversion strategies to maintain social order. However, these strategies often fall short in effectively addressing the long-term governance issues posed by street vendors. This is largely due to the high mobility requirements of street vending, which makes it challenging for such strategies to be fully effective.

Recognizing these challenges, it becomes evident that there is a need to further optimize the diversion strategy. This could include setting up designated zones for street vending based on population distribution, adopting a more flexible control approach that can adapt to the dynamic nature of street vending, and improving legislative details to provide a more comprehensive and effective regulatory framework. By doing so, it paves the way for a harmonious coexistence between the street stall economy and urban management. It allows for the recognition and integration of street vending into the urban landscape, while also ensuring that the interests of all stakeholders are taken into account. This balanced approach not only contributes to economic revitalization but also promotes social equity and inclusivity in the urban environment. Ultimately, it underscores the importance of adaptive and inclusive urban governance in the face of changing socio-economic dynamics.

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