

Business Bill: Target trade policies not people

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The recently published Licensing of Businesses Bill issued by the Dti for comments stands as a testament to political short-sightedness and dysfunctional governmental coordination. In giving in to the pressure of small but powerful groups of business operators, it is sending a dangerous message to those who think resorting to violence and playing on electoral anxieties is a way to further their agenda in democracy. Not only will the Bill fail to address the core issues it claims to tackle—improved regulation of business licensing—but it may well trigger a range of slippery mechanisms that the Dti is ill-equipped to control. Instead of accepting to scapegoat foreign business operators, the Dti would accomplish more by reviewing its own performance in regulating and stimulating small business across our country's impoverished communities.

As some commentators noted (Crush, *Business Day*, 16 April 2013; Le Roux, *Politicsweb*, 17 April 2013), the Bill pays lip service to its potential consequences on the food security of poorest communities, increased harassment of traders at the hands of the police and local authorities, and the immediate blow it may deal to an already fragile sector, that of regional cross-border trade.

What very few commentators have so far ventured to explore is what the proposed Bill reveals of the Dti's response to political pressure. In introducing so many impractical clauses, indifferent to the capacity challenges faced by Home Affairs, SAPS, and municipalities, the Bill raises serious questions regarding the degree to which proper governmental consultation and coordination has taken place. But it may well be that the real motive behind the Bill was more to respond swiftly to mounting lobbying pressure than to legislate responsibly.

This is largely because the Bill relies on a trifecta of false assumptions: that South Africa has a functional immigration policy; functional police services; and functional local authorities. While the challenges faced by all three separately regularly hit media headlines, there is also ample evidence of their problematic combination in dealing with foreign traders.

Bureaucratic incompetence and corruption within Home Affairs offices responsible for issuing business permits, abuses of migrants by local authorities in the implementation of municipal by-laws, dominant xenophobic sentiment among business owners' associations, and the absence of dispute resolution mechanisms have for instance been documented in several reports of the African Centre for Migration & Society, at Wits University, and a range of other research organisations.

Calls for evictions of foreign traders, caps on numbers of foreigners authorised to operate in designated areas, and a toughening of immigration and border control, by organisations such as the Greater Gauteng Business Forum, often relayed by ANC local representatives, have clearly made their way up the governmental machinery. First in ANC policy documents discussed throughout 2012 culminating in the Mangaung resolutions. Then in Cabinet and down to the Dti.

The irony is that this Bill comes after a decade of Government's procrastination over implementing the ambitious industrial policy articulated by... the Dti itself and protecting its infant industries in a sustainable manner, including in adopting protectionist measures on imports. Support structures to grow and professionalise South African SMMEs and adapt financial institutions to their needs have been seriously lacking.

Instead of taking into consideration the complexities coming with the regulation of local trade in volatile and vulnerable communities, and adopting a prudent and inclusive approach, the Dti has preferred to expedite an inconvenient matter in a crude manner. And to surrender to the pressure exerted by a small but powerful constituency of politically connected entrepreneurs.

The risk in this exercise of legislative amateurism is that it could rapidly backfire. Communities deprived of cheaper staple foods and basic products, workers laid off by foreign entrepreneurs, and South African business owners themselves won't take long to realise that this Bill does nothing to concretely regulate massive imports, price cartels, abuse of dominance from certain monopolies, let alone their ability to access credit, or sharpen their skills. They will be further disillusioned with Government's ability to respond to their daily needs.

There is still room for the Dti to avoid creating more chaos if it cares enough to engage relevant stakeholders, among civil society organisations, academia, and communities, as well as government departments at the coal face of local level business regulation, a vital activity for millions of people in South African society and the region.

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