

# REPORT

## STREETNET INTERNATIONAL MEETING ON COLLECTIVE BARGAINING IN THE INFORMAL ECONOMY AND LAWS AND LITIGATION STRATEGIES IN STREET VENDING SECTOR

Hotel Royal Saly, Senegal, 26 – 30 March 2007

Organised by StreetNet affiliates in Senegal:

- CNTS (Confédération Nationale des Travailleurs du Sénégal)
- SUDEMS (Syndicat Unique et Démocratique des Mareyeurs du Sénégal)

### **COLLECTIVE BARGAINING IN THE INFORMAL ECONOMY**

#### **Introductions**

See list of participants (*Annexure A*)

Participants introduced themselves to each other in pairs, and each participant introduced her/his partner to the meeting. Participants expressed the following expectations of the meeting:

- to gain a wider knowledge of laws in different countries affecting street vendors, and representation strategies of informal economy organizations;
- to learn more about collective bargaining;
- to exchange experiences with participants from different countries;
- to make links with traders from other countries;
- to understand the rights and responsibilities of workers in the informal economy;
- to unlock the potential for decent work in the informal economy;
- to take resolutions back to home countries.

#### **Challenges arising from the problems of negotiations and representation of workers in the informal economy**

##### **Problems facing street vendors and other workers in the informal economy:**

- Poverty;
- Crowding of public space;
- Evictions from public space;
- Oppressive bylaws;

- Lack of tolerance and understanding by authorities;
- Political interference;
- Conflicts caused by divide-and-rule tactics;
- Councils' refusal to register street vendors' associations;
- Harrassment of leaders of representative organizations;
- Lack of financial stability;
- Lack of social security and social protection;
- Neglect of the needs of women vendors.

**Problems encountered in collective representation of members in informal economy:**

- No legal framework;
- No institutional forums for negotiations;
- Lack of representation by women;
- Lack of continuity in Council structures (no follow-up after changes)
- Lack of availability of leaders (reluctance to take time off for fear of losing income)
- Difficult to sustain members' trust.

**Internal causes of collective bargaining problems:**

- Difficult to sustain representative organizations and paid-up membership;
- Ignorance of rights and responsibilities by informal traders;
- Illiteracy and lack of information;
- Lack of unity among street vendors and informal traders;
- Weak organizational structures;
- Lack of democratic practice in organizations;
- Lack of communication between leaders and members of organizations;
- Lack of transparency and accountability on part of leaders;
- Self-interest and lack of commitment of leaders;
- Short-term strategies in organizations.

**External causes of collective bargaining problems:**

- No employer-employee relationship;
- Lack of recognition and protection of rights in law;
- Regulations criminalising the occupation of public space;
- Undermining by public authorities;
- Difficult to gain access to authorities;
- Social attitude towards women and towards informal economy;
- Lack of interest by formal sector unions in the informal economy;
- Corruption;
- Political manipulation;
- Lack of capacity by local government to exercise control;

- Lack of continuity in local government after political or structural changes;
- Interference between different levels of government.

## **Day 2** (*Tuesday 27 March*)

### **Presentations on Collective Bargaining in the Informal Economy**

#### **1. Lameck Kashiwa**

The collective bargaining strategies of AZIEA with the local and national government of Zambia (see Annexure B)

This presentation showed the importance of street and market vendors being organized and speaking with one voice. It also raised issues around the relationship between street and market vendors, and what rights should come with the payment of market levies. Participants were interested to know more about the fast-track courts in Zambia, and whether these could be used in a positive way by the organisation. The intention of these courts was to speed up the process of “justice” but it has worked against informal traders. People are tried and sentenced in 30 minutes. Sentences involve community service for up to 6 months. As a result, these courts exist only in Lusaka – it has been difficult to establish them on Copper Belt where the organization is stronger.

AZIEA regards the Bill as a victory, but is fighting for improvement before enactment. The Bill gives too many powers to Minister – but recognizes the rights of organizations to elect their own leaders, gives rights to marketers to establish their own markets and recognises street vendors. Principle is self-government with Management Boards consisting of marketeers with representatives from other stakeholders such as local govt. and consumer councils. Market levies are supposed to be ploughed back into services for marketers. AZIEA is fighting for well-ordered markets (e.g. closing off streets) and have made a new submission to government on the Bill.

#### **2. Poornima Chikarmane**

Tripartite bargaining forums in the informal head-loading sector in India (see Annexure C)

In this marginalized and unrecognised sector, creative thinking is needed. Rag-pickers organized and did research to show how much they are saving the city on transporting waste, as well as health benefits – then demanded medical insurance which was agreed (even though they were not recognized formally). They successfully recruited the support of citizens and consumers for their demands.

They have a strong commitment to Satyagraha – peaceful methods of struggle.

Tripartite boards cover “head-loaders and other unprotected workers” so street vendors can be covered in practice. Responsibility for paying levies for own-account workers rests with themselves. KKPK is pressing for urban planning to look at needs of urban poor – so negotiated for a hawking area – and rented spaces as self-generating project to be able to use income to secure more land for other vendors.

### 3. **Choi In-Gi**

Collective bargaining as a means of consolidating gains made as a result of mass struggles of street vendors (See Annexure D)

KOSC has a strategy of mobilization and solidarity – but there is a problem of no signed agreements. Participants proposed that they should make their own records and get minutes signed with whatever is agreed, then treat this as a signed agreement. Another way of securing respect for agreements is to use media to publicise what has been agreed.

### 4. **Manali Shah**

The collective bargaining strategies of SEWA in relation to street vendors (See Annexure E)

SEWA has decided to change their strategy in response to Ahmedabad’s new “mega-city” approach – no more proactive and less reactive. They are focusing now on the implementation of National Policy on Street Vending in India – using Market Committees.

## **Day 3 (Wednesday 28 March)**

### **Basic elements of negotiations at different levels and forums**

Log-Frames were developed in groups identifying demands, negotiating partners and an appropriate level of negotiation for the different issues which need to be negotiated by workers in the informal economy (see Annexure F)

### **Collective bargaining as a democratic practice**

The following list of “DOs” and “DON’Ts” was developed by participants, based on their previous experiences:

<b>DO's</b>	<b>DON'Ts</b>
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<ol style="list-style-type: none"> <li>1. Negotiators caucus beforehand.</li> <li>2. Prepare what you are going to say.</li> <li>3. Favour dialogue.</li> <li>4. Remain faithful to mandate.</li> <li>5. Peaceful methods.</li> <li>6. Get agreements in writing.</li> <li>7. Meet members beforehand to get mandate.</li> <li>8. Respect meeting procedures.</li> <li>9. Be firm.</li> <li>10. Report-back to members.</li> <li>11. All members have responsibility to be part of decision-making.</li> <li>12. All members have access to information.</li> <li>13. Avoid corruption.</li> <li>14. Organise regular general meetings to give progress reports.</li> <li>15. Involve the members in supportive mass action.</li> <li>16. Get members involved in supplementary activities such as lobbying councillors.</li> <li>17. Transparency with any collection of funds – regular accounts to members.</li> <li>18. Take advantage of weaknesses of negotiating partners.</li> <li>19. Listen well.</li> </ol>	<ol style="list-style-type: none"> <li>1. Depart from members' mandate.</li> <li>2. Give false messages.</li> <li>3. Disrespect authorities.</li> <li>4. Adopt inflexible stance.</li> <li>5. Go alone to negotiations.</li> <li>6. Hoard information.</li> <li>7. Minimise mandated proposals.</li> <li>8. Be weak.</li> <li>9. Use violent methods.</li> <li>10. Choose who to work with.</li> <li>11. Impose individual opinions.</li> <li>12. Go into negotiations without a strategy.</li> <li>13. Go to negotiations without the agreement of all the street vendors.</li> <li>14. Sell out mandate or make deals.</li> <li>15. Accept corrupt practices.</li> <li>16. Make false promises.</li> <li>17. Bargain for own self-interest.</li> <li>18. Allow the other side to divide you.</li> <li>19. Change demands without mandate.</li> <li>20. Threaten the other party.</li> <li>21. Negotiate under the influence of alcohol.</li> </ol>
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20. Keep time.	22. Accept verbal agreements.
21. Revise mandate in case of uncertainty.	

### **Strengthening collective bargaining with pressure tactics**

A role-play depicting the occupation of municipal offices by a group of vendors was performed by a group of participants, followed by a lively discussion and critique.

#### **NEGATIVE CRITIQUE**

- Vendors were too aggressive with the Council officials who were being conciliatory.
- Vendors were too impatient, expecting immediate responses.
- Vendors were undisciplined and disrespectful of the Council officials.
- The negotiating team did not motivate their petition well, just presented it.
- Vendors' demands changed mid-stream (initially demanding trading sites – this changed to demanding a cancellation of the Council's unilateral levy increase)

#### **POSITIVE CRITIQUE**

- Mayor was very sympathetic to the vendors (on the one hand, this indicated that she remembered that she needed their votes – on the other hand it was unrealistic)
- Vendors were brave in resisting police harassment.
- Good spontaneous action by the vendors in marching to Mayor's office.
- Members sitting outside the Mayor's office while their leaders negotiated inside was effective pressure which helped to secure agreement.
- Vendors were careful to ensure that they got a written agreement.

Ultimately there was consensus that vendors' organizations should always promote dialogue. This means listening carefully to what government says when they are being conciliatory. But when they refuse to negotiate, then pressure tactics are used, such as:

- collective withholding of tax or levy payments;
- occupation of Council offices;
- media and press publicity;
- litigation in local courts or High Courts.

#### **Day 4** ( *Thursday 29 March* )

**Presentation by Arbind Singh** on the judicial system in India.

The state level of legislation which exists in India (between national level and municipal level) creates an extra level of confusion compared to African countries.

#### **How can the use of law help street vendors to further our rights ?**

This discussion produced the following responses:

**Senegal:** no law yet which helps vendors, but fishmongers (“*mareyeurs*”) have presented a draft law to the President which they hope will be passed.

**Uganda:** Approached the Minister to protect their rights.

**Kenya:** Nairobi street vendors applied pressure of not paying levies for two weeks, after which the Council agreed to provide cleaning facilities and water, with the support of the provincial authorities.

**Zimbabwe:** When govt. realised that informal traders were becoming part of the labour movement, they started referring to them as a political group, which caused problems for them. Then invoked Operation Murambatsvina and allocated their land to ZANU supporters. Mass action involving civil servants and other stakeholders is planned for legal changes (including reform of country’s Lancaster House constitution).

**Zambia:** New Market Bill recognising self-governance of markets by marketeers’ associations. ZANAMA used the courts to cancel levy increase on grounds that Council is not providing services to markets as required by law (60%). President intervened, as a result they attained two victories – respect for decentralized policy, cancellation of levy increase and establishment of Task Force. This has improved the legal situation of Zambian informal traders.

**Zambia:** Excessive cross-border traders border tariffs. Leaders used law to negotiate with Zambia Revenue Authority to reduce tariffs. They used to have long wait at border for goods clearance – but negotiated with border officials to reduce this.

**India:** Famous Manek Chowk case involving SEWA member Laxmiben being beaten up by local authorities in 1988. Precipitated taking of legal action after many years of failing to achieve results through negotiations. Resulted in stamped agreement for 323 vendors to work in Manek Chowk market, as fundamental constitutional right.

**Benin:** Nepotism in space allocation. Solved it by issuing new membership cards.

**Ghana:** No laws for informal traders or transporters. So they use pressure (negotiations, boycotting levies, media pressure) to solve problems.

**Guinee:** November 2006 police attacked vendors at their workplaces. Went to the President of the Republic, who authorized the women to go to the negotiation table, and they got their place restored to them.

**Malawi:** Council bylaws interfere with the work of informal traders, not compatible with Malawian constitutional rights to livelihood. Vendors were evicted in 2006. No laws specifically for workers in informal economy. But used the law to organize informal economy workers by pointing out their constitutional rights.

**Nepal:** Negotiate with police and city government. Agreement on night vending. So far their members have not been arrested for nuisance-related "crimes". NEST has never had to defend its members in law courts, so they have never tried legal options.

**Mexico:** New law for street vendors enacted in 1984 in Nuevo Leon after many years of struggle. Street vending allowed as long as there is no disturbance of public order.

### **Group work on different levels of law:**

There are different levels of laws in all countries: bylaws, Acts of Parliament (Central and State level, e.g. Police Act in each State) and the national constitution.

National laws generally contain constitutional rights for members in the informal economy, such as the socio-economic rights to livelihood and to trade. It was found that Malawi, Kenya, Zambia, India have similar provisions in their constitutions (but different Police Act provisions). Senegal was found to have a different legal set-up (where they have Decrees, but nothing covering street vendors) and Zimbabwe (where they have laws, but not covering street vendors). In Benin there is a State law for the formalization of the informal economy, and State laws about the use of public space as well as local laws. The constitution of Senegal gives the right to work, and regulates trade, but local legislation prohibiting encroachment of streets. Also in Korea the law prohibits street vending or encroachment of streets.

Vendors are everywhere affected by municipal laws. Participants from all countries have the same problems in this regard. In India, some street vendors use the receipts from fines they have paid over the years as proof of their existence as street vendors over a period of time (in the absence of occupational statistics) – it is the only official evidence of their work. In some



countries there are national (ministerial) decrees in terms of which state intervenes, or Decrees of Application of Laws e.g. regulating trade.

Leaders of street vendors' organisations must know policies, laws and constitution, and compare with other countries. Effective strategies are to lobby MPs (central and state level) and Councillors. If this fails we take cases in courts of law.

**Group work on how to make the law inclusive for organisations' members:**

Organise street vendors and then sensitise them about the laws and their rights as citizens.

Law is not just for jurists, but for all citizens. Everybody needs to know the law to avoid being a victim of the law. Ignorance of the law is never an excuse. Therefore street vendors (like all citizens) need to as much of the law as possible.

Organisations should get advice from lawyers and trade unions, and conduct legal awareness training. Pro-poor human rights lawyers can be invited to make presentations to street vendors. Legal education should detail positive and negative aspects of laws. Training should also involve police officers. Street vendors should also be encouraged to attend sessions of Parliament where legislation is being discussed.

Public forums, TV and radio forums about the law can be organized for lawyers, street vendors and their organization leaders. Media should also be used to create awareness among street vendors about the laws. Organise members to respect the law, while reinforcing organization on the ground.

**Day 5** (*Friday 30 March*)

**Group work on how to make our litigation strategies inclusive of all our members**

Take up cases according to necessity.

Members to decide about instituting litigation.

Documentations to be supplied to members about cases.

Advice must be taken from members on a regular basis.

Try to get injunctions (interim judgements) for interim relief.

Decisions to take up cases to be discussed with members first, including implications.

Defend court actions against us, and get members' opinions about how to do it.

Failure to consult can cause problems with membership base, particularly when we lose cases – sometimes costs are awarded against us.

Involve members in arguments to use in cases, briefing of lawyers.

Bring members to meetings with lawyers.

Regular general meetings for progress reports.

Get members to attend hearings, to show popular support for cases.

Pack the courts with members.

Get members to give testimony in court.

Publicise judgements.

Try to avoid long dragged-out processes.

Members to attend court hearings in mass – this impacts during judgement, gives impression to judge of the potential effect of a judgement against the members (makes the judge think twice before issuing judgement).

Convene information sessions to inform members about litigation in process.

Consult members about out-of-court settlements, and about terms of such settlements.

Raise funds for these strategies in very transparent manner, i.e.

- there must be an approved budget;
- receipts must be issued for any money collected;
- there must be a designated bookkeeper who issues regular reports;
- all payments must have supporting documents;
- regular reports must be made to members about the progress of the case as well as the expenditure and income.

Circulate pamphlets summarizing main points for concise information to members.

Involve members in all stages of making decisions about litigation strategies.

Involve members in case of conflict.

Organise general assemblies, dialogue, press publicity.

Ensure discipline among members – conform to rules and laws.

Leaders should be seen to do positive actions to gain the confidence of the members.

### **Legal aspect:**

While engaging in litigation activism according to these guidelines of inclusivity, organizations should at the same time:

- Fight for amendments of existing laws.
- Fight against bad laws or legal provisions.

### **Country comparisons and getting better laws enacted**

Presentations were made about two country case studies where there have been interesting developments regarding street vendors' laws and/or policy.

#### **NUEVO LEON, MEXICO**

A law has been introduced for the regulation of street vending in the state of Nuevo Leon, Mexico. This law covers fixed as well as mobile vending and informal work, defines their rights and obligations, and recognizes the associations to which they belong. The law has established a negotiating forum consisting of the vendors' associations as well as other stakeholders – and the Council is obliged to regulate informal trade in consultation with this statutory forum.

Now that they have this law for the regulation of informal trade, they are organizing for the establishment of social security for street vendors and informal traders – but this has to be done at national level.

#### **INDIA**

In India there is a National Policy on Street Vending, which specifies the rights of street vendors. NASVI (National Alliance of Street Vendors of India) assists street vendors' organizations in the different States of India to organize for the reform of State laws. They have also focused on promoting the reform the Police Act and Penal Codes which are widely used against street vendors, and getting the fundamental rights contained in the national constitution, which apply to street vendors' rights, to be specified in the laws. They are lobbying for an over-arching law specifically on street vending, with precedence over other legislation.

NASVI collects judgements relevant to street vendors, and keeps these in their Documentation Centre so that they can be easily available. They also produce legal documents which are easy to understand, and have translated the National Policy on Street Vending into the indigenous languages of India. They give copies of court records and judgements to members of their affiliate organizations, and publicise results of their litigation in the public media.

NASVI has engaged with lawyers in different states of India who have become familiar with the way the laws affect street vendors. They usually identify pro-poor and human rights lawyers to work with, and they invite them to workshops and meetings about street vendors' problems, send them all NASVI materials, and even invite them to join NASVI.

### **ELEMENTS REQUIRED IN NEW LAWS:**

Participating organizations resolved to fight for the adoption of new laws, or reform of existing laws, containing the following elements:

- recognition of informal workers (including street vendors) as workers, and recognizing their workplaces (e.g. the streets) as their places of work;
- specification of basic constitutional rights of informal economy workers (including street vendors) which are protected in terms of this law;
- formal recognition of the freely-chosen organizations of workers in the informal economy, and their elected representatives;
- statutory representation of workers in the informal economy at local Council level and at national/Parliamentary level;
- formal dispute procedures to be invoked when negotiations in statutory forums reach deadlock;
- clear definition of the role of different national Ministries in relation to workers in the informal economy;
- system of social protection for workers in the informal economy (including street vendors)

### **Developing simple litigation strategies for each country**

As a final exercise, all participants prepared a litigation strategy to be taken back to their organizations and discussed for implementation. Within three months (i.e. by the end of June 2007) all participants agreed to send progress reports to StreetNet about how far they have succeeded in implementing their strategies. These will be presented to the Second StreetNet International Congress which is scheduled to take place in Brazil in August 2007, as a follow-up report on the international meeting.

**Conclusions** (See Annexure G)

## Annexure: A

### Liste Participants

PRENOMS ET NOM		Organisation	PAYS
Manali Shah	F	SEWA	Ahmedabad, India
Lameck Kashiwa	M	AZIEA	Ndola, Zambia
Poornima Chikarmane	F	KKPK	Pune, India
Choi In-Gi	M	KOSC	Seoul, Korea
Arbind Singh	M	NASVI	Patna, India
Florence Lushika	F	AZIEA	Ndola, Zambia
Madeleine Tounkara	F	CNTG	Conakry, Guinee
Sandra Flores Jimenez	F	CTCP	Managua, Nicaragua
Gilberto Vazquez Muro	M	CROC	Mexico City
Peter Okello	M	KENASVIT	Nairobi, Kenya
Mwanda Chiwambala	M	MUFIS	Blantyre, Malawi
Jyotsna Rani Mishra	F	NASVI	Kolkata, India
Narayan Prasad Neupane	M	NEST	Kathmandu, Nepal
Kayongo Godfrey Nkaja	M	NUIEWO	Kampala, Uganda
Juliana Brown-Afari	F	StreetNet Ghana	Accra, Ghana
AbohChodaton Anastasie	F	SYNAVAMAB	Cotonou, Benin
Clarisse Gnahoui	F	USYNVEPID	Cotonou, Benin
Egnesi Zinyama	F	ZCIEA	Harare, Zimbabwe
Pat Horn	F	StreetNet Coord	Durban, South Africa
Nozipho Lembethe	F	StreetNet Admin	Durban, South Africa
Seyni Mané NDIAYE		CNTS Senegal	
Ngoné THIOUNE		CNTS	
Fatou THIOUNE		CNTS	
Annie DIOUF		CNTS	
Awa Sow MARONE		CNTS	
Fatou BA		CNTS	
Aminata SIDIBE		CNTS	
Sophie NDIAYE		CNTS	
Ibrahima DIA		SUDEMS Senegal	
Souleymane FALL		SUDEMS	
Fatou DIOP		SUDEMS	
Aïssatou NDONG		SUDEMS	
Mame Coumba SOW		SUDEMS	
Soda NGOM		SUDEMS	
Christiane TABAR		SUDEMS	

### LISTE DES TRADUCTEURS

PRENOMS ET NOM	
Madame SOUANE	Interprete Coréenne
Amadou BADIANE	Interprete Hindi

Aïssatou DIEYE	Interprete Espagnol
Aïssatou DIOP	Interprete Anglais
Septieme AKIBODE	Technicien materiel

### **LISTE DE L'ENCADREMENT**

<b>PRENOMS ET NOM</b>	
Fatoumatou Bintou Yafa Mangara	CNTS Senegal
Mamadou FALL	SUDEMS Senegal
Saliou NDIAYE	CNTS Senegal

### **LISTE DES FACILITATEURS**

<b>PRENOMS ET NOM</b>	
ElHadji MBENGUE	CNTS Senegal
Papa Badièye NGOM	SUDEMS Senegal

## **Annexure B**

### **AZIEA's Collective bargaining strategy**

#### **ZAMBIAN EXPERIENCE**

Mr Kashiwa Lameck- General Secretary - Alliance for Zambia Informal Economy Associations (AZIEA)

#### **A. Introduction**

My name is Kashiwa Lameck, General Secretary of the alliance for Zambia Informal Economy Associations, currently with 13 informal economy associations' affiliates. I'm also council member of the international committee of Street Net International.

On the personal level I have been involved in the informal economy as a market trader for the past 20 years though I worked for the mines for 12 years; I was retrenched in 2000.

#### **B. I have been invited to make a presentation on: *Collective Bargaining strategy of AZIEA.***

1. My presentation is structured around the following: 1. In the first part, I am going to trace the evolution of the phenomenon of the informal economy in Zambia. In giving this brief historical perspective, I will also attempt to link the development of the informal economy to the fortunes or indeed, misfortunes of the Zambian economy as a whole. I will discuss this under the socio-economic context in Zambia this is in order for the participants to understand the state of the economy of Zambia and how we have gotten to be where we are now.

2. In the second part of my presentation I will discuss with you some of the salient characteristics of the informal – economy and the conditions and constraints that informal economy workers are forced to contend with in their daily struggle to irk out a living. Lastly then I shall look at the prognosis or the way forward in this noble effort to organize workers in the informal economy and contribute to the uplifting of the lives of our people in Zambia.
3. Socio-Economic context of the Informal Economy in Zambia.

In discussing the concept and phenomenon of the informal – economy, forgive me if I will ignore academic conventions. I will avoid academic polemics and try to deal with more pragmatic issues.

As we are fully aware, the concept of the informal sector – and now informal economy - came into vogue in the early 70's under the ILO Employment programme studies in Ghana and Kenya (WEP). At that time it was noticed and recognized that the principal social problem in many developing economies was not unemployment per-se, but;

***"The existence of working poor struggling to produce goods and services without their activities being recognized registered or protected by public authorities".***

According to this notion, the informal economy was taken to cover those small – scale income-generating activities, which take place outside the official regulatory framework.

These activities are not necessarily performed with the deliberate intention of evading the payment to taxes or social security contributions or infringing any other registration or administrative provisions. We have and will continue argue that;

***"It is not so much that the poor are breaking the law but the law is breaking them"***

4. This apparent illegality arises mainly because these informal economy operators who in fact only venture into such activities, as a survival strategy cannot raise the huge sums of money required for registration and other administrative logistics. In our country Zambia, the poor would-be operator requires not less than \$200 to get the proposed Business licensed, registered by the authorities. This is in a country where the monthly wage is about \$50.0! It is these transaction costs, the cost of legality, which are simply too high and hence prohibitive! We further argue that the mere fact that some of these activities take place outside of the formal regulatory framework does not make them illegal. It is simply that these activities are not regulated by the state because the boundaries of state regulation are not universal and set in stone. They vary from one state to another.

In its household budget survey (HBS) conducted by the central statistics office (CSO, 1997) the Zambian government (GRZ) defined the informal – economy as:

***"Consisting of all subsistence farmers, all own – account workers and all employees in unlicensed and unregulated Business"***

5. As you may be aware there is a multiplicity of definitions and descriptions. From a policy point of view; we can argue that some definitions are more useful than others. Some people have actually argued that most of these definitions or descriptive categories are, at best, tautological statements. Being fully alive to this problem allow me to use an alternative definition and description of the informal economy as suggested by BIRCHALL (2001).

***"Units engaged in the production of goods and services with the primary objective of generating employment and income for the persons concerned".***

6. I find this definition more superior because it explains the economic rationale behind the existence of the informal economy in a given socio-economic context. The people who do not have access to formal wage employment find ways of surviving by dealing in local markets in whatever way they can. Consequently working in the informal economy is a rational economic decision motivated by the human need to survive. It is purely a survival strategy to which people are forced to resort due to economic hardships.

7. In Zambia, and probably in most other countries too, the informal economy and its dynamics are very closely correlated to the fortunes and misfortunes of the mainstream economy. Whereas other people have argued that the emergence of the informal – economy in Zambia could be traced back to the colonial times and the development of the mining, enclave economy predominantly in the copperbelt region of the country, its rise to prominence has come about with the coming to power of the MMD government of "free marketers" who embarked upon the wholesale but dangerously naïve liberalization and privatization economic reforms under the rubric of the now internationally discredited SAP. This renewed importance of the informal-economy is best illustrated by the fact that the Government established the so-called Vendors desk at State House and appointed a Deputy Minister to be in charge of Street and market Vendors affairs. This administrative unit was even referred to as the office of the president, which became almost untouchable by any authority except the president.

8. The 1980s could be said to have marked the turning point in the economic fortunes of the country. There were severe foreign exchange shortages and currency devaluations under the instigation of IMF /World Bank (SAP). Foreign exchange shortages led to, among other things, shortages of essential imported raw material, spare parts to continue servicing the manufacturing sector. There was industrial capacity under utilization with many firms operating at levels as low as 30% of their economic capacity.

Then came the new phenomenon of smuggling of so-called essential commodities and the subsequent rise of what was described as the "Black market". Indeed one could argue that this was the beginning of cross boarder trading and the globalization of the informal economy in Zambia.

### **C. Salient conditions/constraints faced by Informal Economy workers in Zambia.**

9. As you are aware, there have been several studies conducted on the various facets of the informal economy. These various studies seem to be unanimous in their



conclusions about the conditions and constraints that informal-economy workers operate under. Putting together the findings from these several studies (surveys), I have decided to discuss only a few conditions and constraints, which seem to have current relevance in our informal economy in Zambia.

- I. Lack of government policy on the informal economy and its development
- II. Lack of social security for informal economy workers
- III. Lack of representation in policy dialogue and decision making
- IV. Continued harassment from various types and levels of authorities (local authorities, Police, Zambia revenue authority, including party cadres of the political party in power).

10. As regards government policy, there seems to be no comprehensive policy framework outlining the goals of government objectives principles etc as regard this economy. This is notwithstanding the government's pronouncements about the importance of the informal economy in its fight against unemployment and high levels of poverty in our country.

The lack of legal protection and entitlement to social security is actually one of the characteristics used by government to define informal economy workers ***"These are employers and employees working in private sector enterprises with less than 5 employees and not entitled to paid leave and social security scheme"***.

#### **D. Collective bargaining efforts**

We have a diverse experience of negotiating with both central and local government on a variety of issues. After realizing that we were failing to pressurize and convince government to enact laws and formulate policies that are favorable to the informal economy workers because we were working separately and our voice was weak. In 2001 in October we took the initiative of forming an umbrella organisation called; the Alliance for Zambia Informal Economy Associations (AZIEA) to strengthen our voice of representation.

Bargaining with central government through the ministry of local government and housing is not systematic, but happens as when the burning issues arise, and the emphasis of the negotiations is to change laws including the market act which was passed by the British colonial government, and putting in place friendly police framework to the informal economy workers with the aim of making informal economy workers be part of the recognized, protected and represented workforce and enjoy the 7 labor core standards of ILO.

At central government level we negotiate with the ministry of local government and Housing, and sometimes request the intervention of either the Republican Vice President or the President himself.

**At local Government level:** We negotiate with councilors, towns clerks, State police commandants (Zambia Revenue Authority an agent of government whose responsibility is to collect Pay as You Earn from employees including informal workers) etc. Issues of collective bargaining on the local level are around levies, services as garbage collection, security and harassment.

One of the difficulties of bargaining both at local and central level is also the informality of negotiations, a lot of these negotiation sessions are not recorded because the forum as not taken as formal.

In pursuit of broader objectives of AZIEA, we have undertaken the following strategies in order to push for negotiations with local or central government officials or departments.

### **Education**

In order for our members to appreciate and understand our role as an organization, we conduct education programmes through seminars and workshops on the role of the association in society, roles and responsibilities of members in the organisation, effects of laws and policies on Markets and Street Vendors and ways and means of fighting for the repeal of such laws and policies.

### **Public meetings**

We hold public meetings to constantly brief and update members on issues of national importance. We invite government ministers, council officers to explain and clarify certain issues.

### **Lobbying and Advocacy**

- We try our best to lobby leaders we identify to be our allies both in government, Members of Parliament, Councilors and Town Clerks to take up and support our opinions on issues of the informal workers.
- We advocate for laws that are favorable to the informal economy denounce any government intention to suppress informal economy rights and freedoms as workers.

### **Demonstrations/ picketing**

We demonstrate in the streets to get sympathy from the public and use these demonstrations and picketing not to pay market levies to local authorities as a tool to force government to the negotiating table.

### **Injunction**

In one instance, we had no option but to seek court intervention after exhausting all complaint process channels as the local authority seem not reversing its decision on the increase of market levies.

### **Meeting Government officials**

We try our best in meeting ministers, permanent secretaries, Vice President, and the President to present our opinion on issues affecting us.

**Success cases:** In our struggle to change the law of the council that governs the market and street trading we managed to pressure government to take the bill to

parliament for amendments. Even if we are still contesting some clauses of the bill such as the composition of the market board.

For a long time, we have managed to shoot down the intension of councils such as Luanshya and Mansa to unilaterally increase levies when they have failed to provide services.

With the increase of our visibility, we are now able to secure an audience at any level and meet any one including the state President.

We have created a united front which is making government difficult to ignore.

The Zambia Revenue Authority has failed to penetrate markets and Streets to get the Pay as You Earn due to our strong intervention.

We are invited for seminars organized by government and to seat on some boards' e.g. District HIV/AIDS task force committee.

**Unsuccessful Cases:** We have failed to pressure government to abolish the fast track court.

We still negotiate at the mercy of those in authority. We are not backed by law.

Lastly, representation in policy dialogue and decision-making is one of the most frustrating conditions. Important decisions and interventions are made supposedly for our own good by those who claim to know what is good for us. As the saying goes, ***"there shall be nothing for us without us"***.

Accordingly AZIEA and WEAZ (Workers education association of Zambia) are currently engaged in dialogue with the national trade union movement through the Zambia congress of trade union (ZCTU) to establish strategic alliances and come up with strategic initiatives to organize informal economy workers, to educate them and create the requisite knowledge-levels and consciousness for solidarity. For instance AZIEA has taken up the ZCTU affiliation.

Harassment from the various levels of government and its agencies, arrests and detention of informal economy leaders and its members is something we live every day. The level of harassment is so inhuman and barbaric to the extent that the government has even established what it is calling ***the Fast Track Court*** that sits at Lusaka City Council premises and so far more than 200 street vendors have been arrested and prosecuted some fined and others sentenced 2-6 months just because, they want to earn a living.

We have revenue-collectors from the local councils, Zambia revenue authority, including even party cadres of the political party in power. At times our members are harassed for being associated with opposition parties. Our members loose their merchandize through confiscation and even theft by these people.

We are forced to pay fees, charges, levies which at the end of the day are not even used to provide infrastructure services for our people. The only time when the government recognizes and appreciates the informal economy workers is when it is

fighting its political battles with the opposition and during elections. Our vulnerable members are then used as instruments of violence and chaos by these selfish politicians for their own narrow selfish interests (to secure their political positions).

## **E. Conclusions**

From my short presentation, I hope we can draw the following conclusions:

- i. Though the phenomenon of the informal economy is relatively recent, it has moved to great prominence following the wholesale implementation of SAP in our country.
- ii. These SAP measures have resulted into a complete destruction of our economic base and thrown thousands of our people into the street as unemployed and destitute.
- iii. The majorities have found alternative survival strategies in the informal-economy, which has now grown to employ about 90% of the labour force.
- iv. Despite the importance of this economy, there is no definitive government policy on the informal economy, what role it is supposed to play and what should be done to harness its newly found great potential to provide employment, generate economic growth and reduce poverty in our country.
- v. Government believes that this informal economy is an aberration, a transient phenomenon that will disappear as the economy develops. It therefore looks at the informal-economy workers as a nuisance to be tolerated for the moment!
- vi. The trade union movement in Zambia is so far, not prepared to lead the way in organizing the informal economy workers because it thinks it is too costly a venture with limited benefits.
- vii. The onus is therefore on us, the informal-economy associations/organizations such as AZIEA and WEAZ to lead the way.
- viii. This fight against injustice, human poverty and deprivation, the fight for recognition etc needs our pro activeness and international solidarity and strategic alliance.
- ix. Collective bargaining is very difficult, more so in the informal economy, however, unity among the workers plays a crucial role in pushing local or central government officers to negotiate with us.
- x. Education also plays an important role in promoting common understanding of the contextual situation of the leaders and members, the processes of legal/policy formulated and the effects of such measures on the informal economy workers, and the need to provide intelligent responses and informed advocacy.

**I thank you most Sincerely,**

**A LUTA CONTINUA!!!**

## Annexure C

# Collective Bargaining

Poornima Chikarmane, KKPK, India

## Hamal Panchayat

It was the year 1956, when the *hamals* (head loaders) of Pune first struck work for 8 days to demand a raise in wages. "*kata band kard*" (boycott the weighing scale) was the unifying slogan and "*kata band dukan band*" (no weighing scale no shop/business) was the outcome. Excluded from the purview of the Shops and Establishments Act, 1948 hamals were not assured minimum wages; their hours of work were not regulated and they had no legal recourse under the Act. The shops, the warehouses, the markets could not function without them and all commercial activity ground to a halt. The *hamals* were collectively invited to the negotiating table and a settlement was reached- higher piece rate service charges for different commodities to be reviewed every three years. The *hamals* demanded a written agreement, signed by both parties and the traders refused to sign on the dotted line. The stalemate continued till the then Collector (Administrative head of the district) intervened. He wrote down the substance of the settlement in the presence of both parties and affixed his signature to it, in his capacity as the administrative head of the district. Neither of the parties signed the document but **a record was created and a new practice established as precedent**. From then on it was business as usual with a difference. The employer-employee relationship is often visualised in terms of polarities, positing the employer and employee in adversarial roles. **In this case both parties recognised the strength of the other and sought to define their ongoing relationships as mutually interdependent and beneficial long term partnerships that needed to be maintained and nurtured and that they had common interests in maintaining and enhancing business growth.**

They could have chosen otherwise. The *hamals* based on their capacity to paralyse commerce could have chosen to invoke the Industrial Disputes Act to demand "employee" status and prolong the imbroglio, just as the traders could have used their greater financial muscle to "break" the collectivisation of labour. Both bargained with a view to reaching an agreement keeping aside the ambiguous and contentious issue of determining "employer-employee" status.

Although *hamals* operate from within the trading establishments, they are not paid by the shop owners and are therefore not their employees. They load and unload, fetch and carry for various consumers and vendors and are paid for the sale of their labour. The relationship between the establishment owner and the hamal is in the nature of "permission" to operate from the establishment. **The *hamals* did not seek to define their relationship with the traders.** On the contrary they asserted "We own our backs. No one owns us. We cannot be compelled to work".

The unionisation of *hamals* also brought in another change, **that of the union assigning *hamals* to the establishments.** Violation of this tenet by the employers was rare because of the threat of "*kata band*".

The working conditions at the time were horrific.....

<p>At the goods yard at the <b>railway station</b>.....</p> <p><i>Hamals</i> had to work in the closed, dark railway containers, jostling each other in the limited space, inhaling cement dust and chemical fumes and choking on them; and tripping on the uneven floors. There was no rest room, no toilets and not even drinking water. They paid a "handewali bai" (water women) to supply drinking water to them through the working day.</p>	<p>At the <b>grocery market</b>..... enormous loads of jaggery had to be carried on their backs. There being few sugar processing factories at the time all the jaggery was brought to the city. Often the jaggery was hot and dripping, and burnt their backs through the sacks that were meant to protect them.</p>
<p>The <b>vegetable and fruit markets</b> operated at night and the average weight carried was 100 kg. and still is for the most part, despite the ILO Convention that requires it to be less than 40 kg.</p>	<p>The condition of the women workers was even more abysmal.....mostly Dalits, they were not paid wages by anyone. They swept the establishment and collected the spilled grain which they had rights to and constituted their "wages".</p>

The modes of communication between union members were the information boards outside the larger warehouses around which the members could congregate. Typically hamals worked in tolis or gangs cemented by kinship or natal village ties. This enabled the strengthening of the network.

There were similar struggles afoot in Bombay as well, P. D'Mello had organised the dock workers and porters while Alvarez tried to organise the loaders at the railway station. The demand for legislative protection became more strident and in response to the pressure the Maharashtra government set up a committee to study the conditions of work of *hamals*.

What followed was the enactment of the Hamal Mathadi and Other Unprotected Manual Workers (Regulation of Employment and Welfare) Act, 1969, a historic and radical piece of legislation that was specifically intended to protect the thousands of labouring manual workers in insecure employments across the state. The salient features of the Act are outlined below.

### Scope

The Act purports to regulate the employment of unprotected manual workers such as *Hamal, Mathadi* etc., to make better provision for their terms and conditions of employment, to provide for health and safety measures where such employments require these measures; to make provision for ensuring an adequate supply to, and full and proper utilisation of, such workers in such employments to prevent unavoidable unemployment; for these and similar purposes, to provide for the establishment of boards in respect of these employments in the different areas of the state.

## Definition of Worker

The Mathadi Act defines the category of 'unprotected worker' as a 'manual worker who is engaged or to be engaged in any scheduled employment'. It further defines worker as, "any person who is engaged directly or through any agency, whether for wages or not, to do manual work in any scheduled employment and, ***includes any person not employed by any employer or a contractor, but working with the permission of, or under agreement with the employer or contractor,*** but does not include members of an employer's family" (*italics are by the author*).

For example a '*hamal*' who carries goods purchased by a customer from the establishment to the transport vehicle is paid by the customer or by the employer who recovers it from the customer.

## Definition of "work"

The 'nature of work' as defined by the Mathadi Act specifies operations and includes 'catching, collecting, sorting, packing, unpacking, loading, unloading, weighing, measuring, stacking, carrying, stitching, cleaning, filling or any such other work including work ***preparatory or incidental*** to such operations' (*italics are by the author*).

## Application

The Act applies to a list of scheduled employments specified in the Act and carried out in industries, factories, various commodity markets, shops and other establishments notified by the government in specific geographical areas. Those covered at present include grocery, iron and steel, railway yards and goods sheds, agricultural produce, timber, chemicals and fertilisers, goods transport, fishing, salt pans, metals (excluding iron and steel) and paper in all (but one) the districts of Maharashtra state.

The Act provides for inclusion of other employments in the schedule with suitable modifications as may be specified in the notification, if there is a demand from either the employers or the workers. Inclusion of employments is within the purview of the State Advisory Board.

## Key Provisions

i. Constitution of an Autonomous Statutory Board to compulsorily register workers and employers

Engagement of unregistered workers by unregistered employers is prohibited under the Act

There is also provision for multiple Boards for different markets/trades or single board in a geographical region. The single Board pattern is more common because it reduces administrative costs.

Entry into the sub-sector is regulated by the Board

ii. Tripartite structure with equal representation of the employers/traders associations, the trade unions of employees and the State. Members of both the Boards are nominated by the Maharashtra Government.

### **Advisory Body at State Level**

The Advisory Board is chaired by a Cabinet Minister with the State Labour Secretary as Member Secretary and comprises Members of the Legislative Assembly, Representatives of Employers Associations and Trade Unions of workers in equal proportion.

### **Local Boards**

Local Boards are chaired by the Labour Commissioner/Addl. Labour Commissioner. There is also special provision for a one man Board consisting of the Labour Commissioner/Addl. Labour Commissioner. Today, structurally, the tripartite mechanism does not operate in the local Boards. All the Boards are being run as one man Boards with the Government dragging its feet on the nomination of members. The State has no powers to interfere in the functioning because the Boards are autonomous. Functionally, such pressure that the unions exert is the only check on the unilateral powers enjoyed by the administrators.

iii. The Board functions as the "employer" only in respect of the Payment of Wages Act and the Workers Compensation Act

iv. Disbursal of wages:

Wages are deposited with the Board by the employers along with the levy. All transactions (collection and disbursal) are effected by cheque. The Board deducts the workers contribution and makes the wage payment to the worker.

v. Payment of levy by employers:

The levy includes the employers' contribution towards provident fund, paid leave, gratuity and other statutory benefits.

The rate of levy payable by the employers also varies from district to district and is negotiated depending on the bargaining strength of workers and employers within the statutory limit of 50% of the wages. The minimum levy across the State today is 25 % while the highest is at 48 % at the Jawaharlal Nehru Port trust. The proportion in which the levy is distributed across benefits also differs in each Board.

<p>The present rate for Pune is 30 per cent. This means that if a worker earns Rs.100 on a given day, the employer has to deposit a sum of Rs.130 with the Mathadi Board. The 30 per cent is distributed between employers' contribution to provident fund (12 per cent), Gratuity (7 per cent), Paid leave (5 per cent), holidays (5 per cent), Diwali 'bohari' (40 per cent), compensation (medical and insurance 3 per cent) and administration (2 per cent).</p>
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vi. Multiple employers:



Since traders do not require a constant number of workers, the Act allows for multiple employers and seasonal and casual work

vii. Payment on basis of work done (piece rate payment)

Wage rates (daily, monthly or piece rates) are determined by negotiations between the trade union and the employers. This allows for variability in wages according to diversities in each commodity market.

viii. Administration costs of the Board are defrayed through the levy payable by the employers. There is no absolutely financial burden on the government.

ix. Although the Act does provide for determination of wages, wage rates are negotiated between the trade unions and the employers associations and are sometimes higher than the prescribed minimum wage. Today there are written wage agreements that are printed and circulated. A Grievance Committee constituted jointly by the union and the employers associations is *suo moto* part of the agreement.

### **Judicial Resolution**

The Mathadi Act (as it is called) was applied to the Pune region in 1974 and the traders moved court. The due process of law is long and arduous and it was 1980 by the time the Hon. Supreme Court of India ruled in favour of the workers.

### **Other Legislations that have a bearing on the implementation of the Mathadi Act and the collective bargaining process**

Contract Labour (Regulation and Abolition) Act, 1970

Agricultural Produce Marketing Committee Act, 1963

### **Non-statutory private board in Pune**

In the three decades since its enactment, the Act has greatly benefited the workers registered under it. Till March 1995, 29 Boards had been established in the state with 1,62,838 registered workers and 53,086 registered employers (Hamal Mapadi Varta, 1995). Other states have tried to emulate the Act with lesser degree of success. Even within Maharashtra, the efficacy of the Act is directly proportional to the organised bargaining strength of the workers. The implementation has been difficult in districts where the trade unions have been weak.

Last stage is judicial resolution (labour court or arbitration).

### **Confrontation Choices**

#### **Hamal Panchayat**

- Creating precedents
- Legislation based collective bargaining
- Organisation

- Registration
- Identification

### **Kagad Kach Patra Kashtakari Panchayat**

- Creating precedents
- Precedent based collective bargaining
- Organisation
- Registration
- Identification
- State endorsement of identification
- Social protection

### **Annexure D**

## **COLLECTIVE BARGAINING OF KOREAN STREET VENDORS**

Choi In-gi, policy co-ordinator, KOSC, Korea

### **1. POLICY ON STREET VENDING OF SOUTH KOREAN GOVERNMENT AND MUNICIPALITIES**

#### **1-1. 1980s**

After the Korean War in 1950~1953 and the Industrialization by the Park Jung-Hee Military Regime in 1960s~1970s, street vendors increased by geometric progression. Refugees and peasants flooded into cities, find jobs and became street vendors.

During the 1980s, Korean street vendors suffered countless crackdowns by all kinds of enforcement authorities such as ward officials, municipal officials, police, crackdown parties, public and civilian services almost all of them are from gangsters. Especially fighting against the national crack down under the cloak of 1986 Seoul Asian Games, street vendors recognized that we should organize ourselves and after the struggles we began to organize the CSVFKs(City Street Vendors' Federations of Korea). The CSVFKs had fought to gain rights to live against government's suppression and participated in the protest of June and the Worker's Big Struggle of July & August in 1987, which is the symbol of democratization of Korea. And this protest enabled Korean street vendors depend their own rights to live against the regime's suppression under the cloak of 1988 Seoul Olympic Games. On 13th June 1988, the street vendors came together and held "Convention to Protest the Street Vendors' Right to Live". Thorough this convention, Korean street vendors confirmed their solidarity with the national-democratic movements of Korea and at last

organized the national organization, NFSVK(National Federation of Street Vendors of Korea, now 'KOSC') on October 1988.

Korean street vendors' struggles forced the Seoul Metropolitan city government to promote some measures: Free Flea Markets and Street Vending Boxes. But the city government promoted these unilaterally. Only few numbers of street vendors were able to trade and most of the Free Fleam Markets were located in isolated sites and were inaccessible to citizens..

More than 20 years we've fought for the recognition that street vendors are also the subjects of Korean Society. But still, Korean government and municipalities prohibit street vending in that street vendors use public spaces for private purposes , the stalls invade citizens' rights to move on the street. So they do not recognize street vendors' rights to live, to organize ourselves, and to represent.

### **1-2. 1990s**

In 1990s, South Korea becomes in prosperous condition. Informal economy look like decreasing and the unemployment rate stick to 3%. After introducing Local self government (autonomy) in 1990s, South Korean government did not introduce policies on street vendors and did not try to estimate until economic crisis in 1997. Rather, each local governments inherited evicting policies of South Korean government before and employed crackdown parties on street vendors mostly from gangsters just like Mafia (Italy), Yakuza (Japan) and etc. Before then, only municipality officers were able to evict street vendors. Against these crackdowns, many street vendors fired themselves to die or were killed, most of whom were disabled ones, just like Mr. Choi Jeong-hwan and Mr. Lee Deok-in in 1996, and Mr. Yoon Chang-yeong in 1999.

Only during late 1990s just after economic crisis in East Asia including South Korea when informal economy boomed after neo-liberal restructuring, the South Korean Government estimated street vendors to 1 million 850 thousands and fell back from promoting evictions.

### **1-3. 2000s**

There was no change in 2000s. The Seoul Metropolitan city government declared that it will decrease 30% in 2003, to 35% in 2004 and to more than 40% from total numbers of street vendors in Seoul city with no measures but crackdowns. It also introduced the incentive system to encourage local offices' crackdown on street vendors.

But, the Seoul Metropolitan city government began to recognize that eviction or crackdown is not a solution. Poor street vendors tries to trade on the street again and again, because there is no counter-ways of earning for families.

During mass crackdowns or developments, the Seoul Metropolitan city government tried to introduce the dialogue systems whether it is just for it , not for street

vendors. And also it visited Hongkong, Singapore, Japan, Taiwan, Paris, and etc since 2000 and declared to introduce Committee for Improvement of Street Vending on 27th February 2007.

Below are some of the cases and lessons to us.

## **2. NEGOTIATING COMMITTEE FOR EMPOWERING DONGDAE-MUN FLEA MARKET**

### **2-1. BACKGROUND**

The dongdaemun flea market is the countermeasure where the Seoul metropolitan city has guaranteed for street vendors to trade since the Restoration of Cheonggye-chon (stream) launched 1st July 2003, where about 900 street vendors are trading. He said that the city is going to study how to change the market into park and fashion complex in 2007 and begin redevelopment in 2008.

But, after national election, Mr. Oh Se-hoon, newly elected mayor of the Seoul metropolitan city, pronounced to demolish the Market and build the Park and the Fashion complex. It means that;

- The Seoul metropolitan city is breaking its promise to guarantee the street vendors' rights of livelihoods and support for the market to be one of the world well-known one.

- More than 2000 street vendors, half of whom working in the Market and other half around and near the Market, are going to lose their rights of livelihoods. The policy on street vendors are going to be getting worse since the plan of Seoul metropolitan city.

After facing mass struggles of street vendors and solidarity organizations, political pressure and media pressure, the Seoul Metropolitan city government promised to form bilateral dialogue committee between leaders of the street vendors and municipality representatives to discuss how to empower the Dongdae-mun Flea Market.

### **2-2. CONSTITUENTS**

Street Vendors: 1 representative of central committee of the KOSC, 5 representatives of Dongdae-mun Flea Market

Municipality Officers: The Chief of Constructing & Planning of the Seoul Metropolitan city government and those who are responsible for treating street vendors in the city government.

## **2-3. POSITION IN POLICY MAKING**

This committee is not formal. The representatives from the city government are continuously saying that it cannot form formal dialogue committee with illegal street vendors.

So, the decisions of the committee were unbelievable.

## **2-4. BRIEF SCHEDULES BY NOW**

- February, 2003: Seoul City pronounced to mass crackdown on street vendors.
- March, 2003: Street vendors in Cheonggye-chon street formed emergency struggle committee to achieve living rights.
- July, 2003: Launch of the Restoration Construction of Cheonggye-chon (stream).
- November, 2003: Mass crackdown on street vendors in Cheonggye-chon street by Seoul city government with 15,000 gangsters, riot police and municipal officers.
- December, 2003: Continuous negotiation and dramatic agreement to open Dongdaemun stadium for street vendors to trade.
- January, 2004: Opening of the Dongdae-mun Flea Market
- December, 2006: Formed the committee to empower the Market.

## **2-5. PROSPECT**

First collective bargaining with the Seoul Metropolitan city government was done from December 2003 to December 2006 on how to empowering the Flea Market. There were no formal decision or formal documents of agreements. And the representatives of the city government were changed. The city government did not try to empower the Flea Market on Covering the Market so that street vendors can trade whatever the weather is, Electronic Facilities, Propaganda and etc, but declared unilaterally to demolish the Market and make a Park and a Design Complex instead since 2004.

Second collective bargaining with with the Seoul Metropolitan city government has been done. Two meetings were held and dealt with the gap between the city government ("Demolishing the Market") and street vendors ("Achieving Rights to trade").

The Committee, formed during second collective bargaining, is better than before but have weakness. The city government is continuously saying that it will talk with street vendors only when street vendors accept the necessity of demolishing the Market and making a Park and a Design Complex. And there is another problem. The city government is trying to exclude the representative from the central committee of the KOSC. This means that the city government is trying to isolate the headquarter of the KOSC and to say that it is talking only with street vendors in the Market, not with the organizations of street vendors.

### **3. COMMITTEE FOR TOWER (BUILDING) OF STREET VENDORS IN GANGNAM-GU**

#### **3-1. BACKGROUND**

In 2003, Gangnam-gu office, Seoul, tried to evict 143 street vendors from Teheran Street, Yeoksam-dong, Gangnam-gu for more than 10 months, but failed. After then, the office declared to build or to buy a tower building for street vendors who were trading on the Teheran Street. This was possible to consider, because the Gangnam-gu office is most rich among the offices in Seoul Metropolitan city. The Gangnam-gu office formed the Committee to Promoting Tower of Street Vendors in Gangnam-gu with officers, street vendors, experts and etc like below.

#### **3-2. CONSTITUENTS**

14 (chairperson from vice-president of one the Universities, vice-chairpersons (1 from the office, 2 from elected members of the council of the office), 1 from the office, 1 teacher, 3 representatives from local NGO-Social movement organizations, 1 representative from merchants, 1 from the office, 2 from readers of the residents and 2 from representatives of street vendors.

#### **3-3. POSITION IN POLICY MAKING**

The committee is remarkable, in that it is formal and always discuss with and decide through formal documents.

#### **3-4. BRIEF SCHEDULES BY NOW**

- February, 2004: Meeting with representatives of the KOSC and officers of the office of Gangnam-gu
- March, 2004: The office made a project on building office-own towers and etc.
- July, 2004: The committee was formed.
- September, 2004: Research on "standards of street vendors, what to sell, and etc"
- March, 2006: The office has tried to introduce change what to sell by street vendors in the Tower and to introduce deadline of trading, rental payments and etc. unilaterally.

#### **3-5. PROSPECT**

The office is planning to buy new building (4 billion 600 million Won= 460 million USD) and has already bought the Tower (10 billion 700 million Won= 1 billion 70 million USD) to move in street vendors from the streets. And it is going to use the buildings to sell folk foods or agricultural products.

But unilateral trial to introduce rental payment and etc. by the office makes no more possibility to discuss.

#### **4. GENERAL**

There had also been many collective bargainings and dialogues on street vending between the municipalities and street vendors. But no more trial to enact laws or policies. Most of the Committees were informal and temporary.

Recently, the Seoul Metropolitan city government declared to introduce Committee for Improvement of Street Vending on 27th February 2007. According to the press release of the city government, the Committee is composed of municipal officers, members of the office council, experts, representatives of the residents, street vendors, other concerned persons and etc.(Total 15 persons) And the office is saying that it will move street vendors on the streets to the side streets and make Models of "Street Vending Streets", where street vendors can start the day's work only after 4 pm and undocumented, newly, and illegal street vendors are targets of crackdowns to the end.

#### **5. COLLECTIVE BARGAINING STRATEGIES OF THE KOSC**

First, to negotiate, the municipalities should stop employing crackdown parties or gangsters for crackdown on street vendors and abolish bad laws on eviction. Many of times, Korean municipal officers and municipalities broke their promises with street vendors. Who can trust in and how do we know if the municipalities are sincere at this stage.

Second, if democratic decision-making systems and procedures are necessary. If the negotiating committee is operating against our wills, we should make a decision if we should participate or not.

Third, the committee should not be biased towards government or municipalities. It should guarantee as many as opinions of street vendors themselves. And it should have power to make a decision and act.

Fourth, if we make an agreement, municipalities or street vendors should carry out it.

Finally speaking, whenever the municipalities try not to carry out their promises, we should organize struggles and act on the offensive to achieve our demands.

#### **6. AFTERWARDS**

It looks as if there are some changes in the strategies and the policies of the Seoul Metropolitan city government. But it is just beginning to change the eviction strategies or policies of before. And first of all, sincere negotiation and trust is needed.

## Annexure E

# Collective Bargaining: Strategies and tools adopted in SEWA for Street Vendors

Manali Shah, SEWA (Self-Employed Women's Association) India

Collective bargaining in terms of formal sector can be defined as: *Collective bargaining is "a process of negotiation between management and union representatives for the purpose of arriving at mutually acceptable wages and working conditions for employees"*.

Collective bargaining in the informal sector has a very broad meaning- while negotiating for street vendors we have to negotiate with ILO, WSF, WTO at the international level, Central Ministry of Labour Department and Urban development and Poverty Alleviation at the National Level and at Local level State level Ministry of Urban Development and Poverty Alleviation, municipal corporation, traffic police, shop keepers or residents and even lobby with the customers. The customers also play an important role in negotiations. In the current age, of world class cities, the customers are of different kinds and they come from different walks of life. Some are intelligent and from upper level, some come from the middle class. The vendors need to have good relationship with the customers which can later on come handy while negotiating with Municipal Corporation.

For e.g. Over than 300 vendor members vend in the natural market of Gridharnagar to Ghevar Complex road since last 25 to 30 years. The Estate Department of the Ahmedabad Municipal Corporation harassed these vendors by not allowing these vendors to vend there. Since last 10 days, every single day the trucks and officials of the Estate Department would come evict and confiscate and destroy the goods of the vendor members. SEWA tried its best to negotiate with Municipal Commissioner to allow them to sit and vend but it fell the deaf years. When ever we approached SEWA we were always told by AMC that they have received complains against vendors from nearby shops. SEWA had to change its negotiating techniques. The residents of that area who purchasing fruits and vegetables from the vendors since long were highly supportive to the vendors. SEWA thought of exploiting this goodwill. SEWA started a letter campaign wherein the residents of that area wrote the letters to the Muni commissioner as to why they want the vendors and that they support the vendors.

Thus Collective bargaining in informal sector is trade specific and can be defined for the particular trade.

Though the biggest challenge in front of Indian workers in the informal sector is that there are very few trade unions representing them and which can practice collective bargaining effectively. In fact all over the world there are very few statutory bargaining forums for the informal sector. And thus informal sector unions like SEWA have to create its own strategies and tools to practice collective bargaining at different levels, which have been learnt through experiences and trial and error



method. SEWA, as it believes in Gandhian philosophy believes that where there are no laws or legislations for the informal sector workers, collective bargaining is the best strategy adopted to work out the problems faced by them.

*Gandhiji believed that trade unions should be internally used for the reformation of workers as good citizens as also for defense against assaults from outside. And he believed that collective bargaining is like a moral institution for the improvement of the ethical behaviour, upholding the dignity of labour. And he also believed that sitting on one table, by the labourers and the employers, could solve all the issues of labour effectively.*

Some of the tools adopted by SEWA while carrying out collective bargaining for the street vendors are explained below:

**Negotiations:** For the street vendors, negotiations are done with, Police, Corporation, Residents, shopkeepers among the members and others. It is our first try to complete the issue through negotiation, that is SEWA leaders, organizers, area leaders and members, go to present the case of street vendors, explain the situation to the concerned party, gives room for hearing the case from the concern party and also listens to the street vendors side of the story and then tries to find a middle way to it, which is best suited to both the groups.

*For example : Jamalpur area-More than 1,000 street vendors sit on the stretch of the main road that leads to the bus terminal for the state transport. Naturally, this is a very busy road with lots of traffic through out the day. Traffic Police and Corporation were very against the street vendors to sit there and vend, and used to evacuate them now and then. Also, after riots in the city, many new street vendors from different parts of the city had started to come and vend on the lorries on the same road, blocking the road even more and making the traffic police angry all the more. And one fine day, they were all removed from that place and security AMC was put so that no body can sit on that stretch to vend.*

*SEWA leaders thus started to negotiate with the traffic police and the corporation officials and shopkeepers to not be strong and to allow the vendors earn their daily bread. After various rounds of meetings and negotiations Municipal Commissioner agreed to listen to the vendors' side and asked SEWA to find out a way in which it can manage the street vendors on that road, such that traffic as well as street vendors both are managed. Thus through market committee, where street vendors, traffic officials and shop keepers were part of it, this was made possible, while the members were continuously trained to be self disciplined and take care that no second line is made, which would block the road and hurdle the traffic. But the market committee was not successful. Therefore SEWA conducted a survey to see how many vendors sit their and vend for what timings. In the findings it came out that 911 vendors vend their in three shifts. As a part of this negotiation with AMC a trust was constituted that that will look that the vendors are sitting in one row systematically and the congestion is not created on the roads. AMC agreed to this proposal and the trust was formed. All the vendors of the Jamalpur area would become the members of the trust by paying Rs 100/-per month. The trust would appoint the security guards from the fund thus collected to see that the vendors do not cross the earmarked space and sit in one row without obstruction to the traffic. And incase they cross the space then a penalty of Rs 350/- is charged. The penalty fund thus collected is used for the welfare of the vendors. Just now six securities are*

*placed in the Jamalpur area and the charity commissioner had registered the trust. The Vendor leaders of the Jamalupur area run the trust. AMC, traffic police and the Vendor members are happy with this arrangement of the vendors.*

*But the municipal corporation all of a sudden constructed 300 vending spaces and wanted to shift the vendors there. The applications received for the 300 vending space were 1911. Also according to over survey there were 911 vendors and platforms where only 300 where would three hundred vendors go. The vending spaces were to be allotted through the Computer draw. If this type of allotment of vending space through computer draw were allowed then grave injustice would be done to the vendors who are really vend there and do not get the vending space. It was also see that many applications were received from the anti social elements. Also the vending spaces were not properly constructed. SEWA continuously held meetings with the Municipal commissioner to stop this draw and to develop the new system for allotment of the vending space. Made several representations to the Municipal and State authorities to stop this draw. A case was also filed. The allotment was scheduled for next day 10 in the morning and we were successful to stop the allotment at 12 in the night. At 12.00 in the night the municipal commissioner relented and the draw was cancelled. The problem of the Jamalpur area is also be included in the petition filed in the High Court.*

SEWA tries to bring about a solution, which is in favor of the members, but at times when the street vendors need to improvise the mannerisms and then SEWA leaders do guide them for the same. This is but a very time consuming tool, which requires building up a rapport and a lot of patience to deal with the situation.

**Lobbying and advocacy:** This is another very important tool adopted by SEWA for collective bargaining. This is adopted again at various levels to bring pressures to resolve the issue in favour of street vendors. SEWA is associated with informal sector workers from such a long time and therefore has built up a rapport at Local, State and Central level, which enables it to try out various alternatives and work out the best option for the workers. For example, When National Policy had to be formed, SEWA was lobbying at the National level with various government officials, so that they understand the issue of street vendors and accept the proposal for the Policy for the street vendors. At this point of time it was felt by SEWA that the vendors in other parts of the country also faced the similar problems and all the unions were fighting for the same cause individually. If they fought collectively then it would make a great impact at the central level. That is why SEWA initiated a net work of vendors' organizations called NASVI. Thus through NASVI a collective demand to form Policy for the street vendors of India was put forward, which was accepted after lots of advocacy with the concerned departments. Now we have the National Policy for street vendors... State of Orissa and Madhya Pradesh had already adopted the National policy of street vendors and formed the Sate policy and earmarked the vending Zone and while I was leaving for Senegal, I just heard the great news that State of Uttar Pradesh has also enacted the state policy based on the National Policy for Street Vendors.

SEWA struggles to implement the Sate policy based on National Policy for Street vendors in Gujarat. For this SEWA adopted different of strategies.

Firstly SEWA lobbied with the Principal Secretary, Urban Development and Poverty Alleviation department, State of Gujarat. The Principal Secretary was quite positive.

He sat with SEWA and drafted the State policy. But then due to change of Government, the Principal Secretary was shifted to other department. The New principal secretary was not so co-operative. The state policy is already drafted and pending for signature, the new secretary despite of SEWA's vigorous struggle refuses to put his signature.

SEWA then tried a different angle, When the central Minister of Urban Development and Poverty Alleviation approached SEWA, we lobbied with her, Had a public hearing in the New Delhi and lobbied with the minister to issue circular to all State level Urban Development and Poverty Alleviation Departments to adopt the National Policy in their states.

We also lobbied with the AMC and a scheme was framed and Rs 2 hundred millions were allotted for the vendors. A committee was constituted by the AMC in which SEWA was also a member. But this committee did not work due to high political pressure.

And as the last part of our Strategy we filed Public Interest Litigation, in which we were quite successful.

*SEWA filed a PIL (Public Interest Litigation) in the High Court of Gujarat on behalf of its members, seeking*

- 1. To set right the injustice being done to them and*
- 2. To stop, for once and for all, the constant violation of their rights- fundamental, constitutional and legal.*
- 3. To ensure that the national policy of street vendors, created in 2004, is implemented by the Gujarat state government and*
- 4. To see that the AMC exercises its power to grant licenses in favor of the street vendors.*
- 5. To setup town vending committees*
- 6. To refrain AMC from forcibly evicting street vendors*
- 7. To avoid eviction unless urgently needed*
- 8. To involve affected vendors in planning and implementation*
- 9. To declare natural markets as vending zones*
- 10. To make changes in Jawaharlal Nehru Urban Development Mission keeping in mind the street vendors*

*And on the day of hearing, when the whole court room was jam packed with the street vendors from all the areas of the city, Judge asked all the counsels if they agreed that this was an issue where both parties needed to sit down and talk; they all agreed. He then stated that, in the mean time, **the vendors should be left alone.***

*There was a moment of stunned silence in the court room. Then, advocate of the AMC protested, citing the large number of vendors in the city (46000) and saying that it was impossible to let them sit where they wanted. But the judge's response was final as he waved a hand and cut off advocate of respondent mid speech. "N-O. No No-one shall be disturbed."*

*The Judgment was unprecedented in that it was a blanket stay order-it applied to all the areas. No longer did SEWA have to fight areas by areas; the High Court of Gujarat had judged that, pending a mutually satisfactory compromise between the parties, all the vendors were not be disturbed.*

Thus, lobbying and advocacy at times is done from Bottom to top level and sometimes from Top to Bottom level.

**Dissemination of information through rallies/ leaflets/ videos/ memorandums/ mass meetings :** This is another and very effective way of collective bargaining adopted by SEWA. Rallies, Mass meetings, *dharnas* are some of the tools which put a great impact on the opposite party for negotiation, and also maintain the Gandhian values adopted by SEWA. They give a very clear picture of the collective strength of the informal sector to the other party.

Last year, the Ahmedabad Municipal Corporation was very unfair to the street vendors and was harassing them a lot by not letting them sit and vend peacefully. It was *Diwali* - new year Indian festival time, one of the peak seasons for Street vendors to earn. After much persuasion when the Corporation officials refused to support the vendors, it was decided by the leaders of the street vendors in SEWA that leaflets should be distributed among the citizens as well as leaflets should be stuck on each and every wall of the corporation, such that public vote can be gather like this. And surely the impact of this dissemination of information served as boon for street vendors, wherein they through the support of the citizens as well as politicians, could vend properly.

**Market studies:** Sometimes what cannot be communicated verbally, the data speaks well and describes well. And therefore, market studies are very important and it plays a very vital role while collective bargaining is done at any level.

Therefore, when SEWA had started to negotiate with the Department of Urban Development and Poverty Alleviation in Gujarat to adopt the National Policy here, a detailed market study was conducted. This study provided data like how many markets are there in Ahmedabad city, how many vendors are dependent on this work, what is their contribution in the daily economy of the city, which are the Natural markets, Complete mapping of the vendors as to where they sit, how they sit and what they vend was done. This study document proved to be a very clear and precise information provider that helped while negotiating for the street vendors with Municipalities and Governmental departments.

For doing such types of surveys and studies SEWA takes the Help of the technical person. For e.g. to make a study on the natural market SEWA took help of the students of Centre for Environment Planning and Technology.

**Legal Cases:** In India there are no laws at all and if there are laws they are very obsolete and can hardly solve the issues faced by the street vendors these days. Therefore the struggle goes on forever. For this SEWA files two types of cases.

If it is involving the large number of people and livelihood of the large number of vendors is at stake and the matter requires the policy change then the case is filed by SEWA in the higher courts of Law. E.g. PIL mentioned above.

SEWA also files small cases in the lower authority for individuals and if the issue is for particular area for e.g.

#### ***Metropolitan case***

*SEWA has obtained the order from the Supreme Court and High Court for 500 vendors of five areas of Ahmedabad city stating they have a right to vend in these areas and cannot be evicted. The Metropolitan Judge refuses to consider this order and charged a fine amounting to Rs. 100/- per complaint. Mostly summons issued on the vendors are in a mechanical manner in the sense that police knows name of the vendor once and then issues summons without going to the vending space to see whether the vendor is causing any obstruction. SEWA tried to intervene the problem. But the Judge refused to hear the explanations of SEWA saying that we do not have any locus standi. In fact according to High Court and Supreme Court order SEWA has every right to represent the vendor members in the court of law. SEWA filed the exemption application from appearing in the court before the metropolitan Judge. The case is pending before the metropolitan court. As the case involves a complicated law point the judge refuses to hear the case. On every hearing the SEWA's counsel and the vendor members as well as SEWA's organizer remains present but the judge refuses to hear the case and gives date.*

The cases done for the street vendors in past by SEWA on behalf of street vendors prove a very strong base for collective bargaining. Whenever street vendor/ vendors in SEWA bring a complaint, it is registered in the Legal Cell of SEWA and the leaders try to resolve the issue through primary negotiations with both the parties. But when negotiations do not work at all, Leaders decide to file a case in the court and SEWA assists them in the process. Moreover, the High Court of India in its order has allowed SEWA to represent street vendors in any court. Generally the small, scattered cases are beneficial to large number of street vendors. And these scattered or small cases have formed a background for Public Litigation in High Court of Gujarat for implementation of National Policy for street vendors in Gujarat.

Again, while negotiating for the adoption of National Policy in Gujarat, such cases form a background for further discussion and argument. It also forms a source of learning, which helps while practicing collective bargaining.

Legal cases are helpful to the street vendors in two ways, one that specific case can be used for many vendors and two a case that involves large number of street vendors or more areas where they vend. For example the Public Interest Litigation filed on behalf of street vendors by SEWA.

*At times SEWA has to change its strategies all together. For example even though the High Court has issued an order regarding not disturbing the street vendors and let them vend peacefully, the AMC is trying its best to harass the street vendors. Irrespective of this order the eviction continues and now more frequently, though in the Bombay Police Act it is clearly mentioned that the confiscated perishable items should be returned back to the owner immediately, it so happens that after confiscation the Godown officer is either not present at the Godown or else the forms are not made available to us. Sometimes in the name of "Gaurav Path" – wider and better roads with foot path for pedestrians, parking spaces, sitting arrangement at interval for people or "Nirmal Gujarat" – beautiful, clean and contemporary Gujarat or "Megacity" or The Chief Minister of Gujarat the Street vendors are harassed the most.*

*As a result of which SEWA has to work in its full capacity to struggle to provide justice to the members. Thus it is always not possible to struggle at all the fronts at a time by SEWA also. As the times are changing the issues of vendors are also changing as so are the parties against which SEWA has to struggle. Moreover it could be a strategy of AMC to keep SEWA occupied in such matters and instigate SEWA to take reactive steps, which can sever as evidences against SEWA. And so*

- SEWA has decided not to take reactive steps rather let AMC do what ever it is doing, which again can help to form records and evidences of their misbehavior and illegal acts against the street vendors.*
- Dealings with AMC should be done in accordance with the National Policy for Street Vendors.*
- Instead of informing the AMC regarding the atrocities and they turning deaf ear to it, the High Court will be kept in picture for the same.*
- Market Committees should be formed and initiated in all the areas.*

The vendor women members of SEWA had saved their right to live and carry on business. There were tears in the eyes of many and smiles on the faces of all. The prayers of 46,000 street vendors had been answered.

**F. National/international networks:** These networks in past have been very effective for collective bargaining. Through international networks it is possible to bring about pressure to resolve the issues of the street vendors, which are nation specific or which concern the vendors all around the world. For example: since the Commonwealth Games are coming up in New Delhi in the year 2010, all the street vendors are being evacuated from there in the name of security. Now there is need to lobby for these street vendors at the international level, which is only possible through international collective bargaining through an international network like Street Net International. Similarly World bank and WTO are providing funds and inputs for building roads, over bridges, bus stands etc. But poor vendors are not considered in the process. Their livelihood is at stake. At such a time the international nets works like ILO, ITUC etc are helpful in taking the issues of the vendors forward.

**G. Social Dialogue with Authorities to provide insights to the issues:** As a tool many a time's officials from various departments are invited to SEWA to provide

them insight about the issues of informal sector workers. In past SEWA has invited Mayor of the city and other Corporation officials to visit SEWA so that they understand the street vendors and become sensitive to their issues also. At times they are also invited to educate street vendors in the Workers' Education Classes, Legal trainings and other trainings carried out in SEWA Again officials from labour department are also called upon to provide information to the street vendors regarding Identity Cards and Social Security, which are applicable to all workers of informal sector including the street vendors.

Thus SEWA has to keep on changing its strategies according to the issues and problems. For e.g. in the Manek Chowk case, the Supreme Court suggested us to shift all the vendors to the terrace of the fruit market. But as the part of the strategy we agreed but made the counter condition that the infrastructure like lift, bigger stair case, electricity, toilets drinking and washing water facilities, storage and shade should be provide. It was a part of the strategy to make the good will. And this strategy formed the foundation for us for current Manek Chowk plan mentioned below.

Currently SEWA also had to change its strategy, for e.g. we are going in for the mega city, bigger malls, streets, over bridges, and contemporary Ahmedabad. Over slogan "Two Baskets worth of Place would not hold in these days of India Rising instead now we will have adopt a slogan emphasizing on livelihood.

We will have to also change over reactive strategy. We will now have to form a new strategy of lobbying with AMC only for Implementation of National policy. The issues of eviction and confiscation of goods will be dealt by the leaders of that area by Developing market committees and taking help Corporator and residents and customers.

Our new strategy for solving vendor problems is as follows...

In spite of the Order made by the Gujarat High Court, Ahmedabad Municipal Corporation especially the Central Zone is not at all regarding it.

**Currently the vendors face the following problems:**

The eviction vans keep roaming in the areas continuously, without any "Panchnamas" they take away the vegetables, fruits and other equipments of vending. Also it is mentioned in Clause 273 of the BMPC Act that the captured perishable items have to be immediately given back to the owner. But when we go to the *godowns* for this they do not have forms for it and after much effort when we go back to the *godowns* it is evening and the godown is closed and by next day the items are of no use at all. Also only partial amount of captured items are deposited in the *godowns*, the remaining is disbursed among the officials, there is lack of communication from higher to lower authorities in Municipal Corporation, as per the Nirmal Gujarat and Megacity plans the vendors do not look good on the main roads and impede the beautification of the city, therefore an approach ha been adopted to evict all vendors from the main roads. Certain roads in the city are declared under "Gaurav Paths", which are like "Drawing rooms" to the Municipal Corporation. And the poor people do not look good in posh drawing rooms; therefore they should not be sitting on those roads. There should not be a single vendor on the way of Chief Minister's road to Airport, because it is the matter of shame for the officers of that

zone. As per the Megacity drive the roads in the city are expanding and bridges are being constructed and thus the vendors sitting on the sides of these roads have to vacate the place till the time the bridge or the road is completed. Or else they either have to shut down their business for the time being or have to sit on one side of the road or on the cross roads. And while doing this if they go on the other side of the road and if there are residences on that side then they do not let them sit there and vend otherwise if there are shops then the shopkeepers do not allow them. In any situations the street vendors have to face hardships and have to struggle at each point. And if they stand on the cross roads then the rickshaw *walas* standing there do not allow them to stand there and there also the vendors have to struggle. As a result of which the traffic jams happen and then the vendors are blamed and they again have to struggle with the traffic police.

The result of all this is that the existing natural market from years breaks down and the vendor's income reduces and their business completely stops. In the natural market all types of vendors like vegetable, fruit, cutlery, eatables sit there and that is how they can attract more customers. This is like a traditional "Mall" for the poor self-employed people. The only difference is that they do not have any fixed structure or shop. Its like a common traditional natural market, which if broken no longer attracts the customers and as a result of which the incomes of the vendors reduce drastically.

#### **Struggle with different Stakeholders:**

Usually we come in direct struggle with the residents, Police (Khakhi and Traffic), Godown officials, Eviction officers, Municipal Corporation, and other higher ups. And we have to deal with all of them together which are but obviously very tiring and difficult. Thus the situation is like "fire fighting" and full of struggle and we become reactive. End Result we can not work in depth with members, leaders and committees. Municipal corporation strikes on the quality of the fruits also. For example, they blame vendors to be injecting saccharine in it and therefore do not allow them to vend as it affects the health of the citizens and invariably Municipal corporations complain is that vendors do not maintain cleanliness.

#### **SEWA Strategy:**

The issues of the vendors have not remained as they have been before like the harassment of the Today the issues are of various types, at various levels and even the parties have changed. Government has started working on Mega city, Nirmal Gujarat, Clean Gujarat and is trying to bring about developing changes in the city, but all these efforts are done without any participation of poor workers or keeping in mind these citizens.

Government is seeking foreign funds which are only possible if they "beautify" the city. Therefore the vendors are pushed off, hit hard and their items are crushed or captured. And where ever this is happening SEWA is trying hard to stop it..... moreover now eve the residents have also come against the vendors. That means the list is increasing Police (Khakhi / Traffic), Municipal Corporation, Residents, Anti-social elements and so on. And they all know that every little thing that will happen and "SEWA" will be there to stop it. Till now SEWA has been at the receiving end.... this has to changed.



**Local Strategy:**

Members of Vendors should be given in-depth information about SEWA and training of SEWA's values. And they should learn to imbibe these values in their business also.

These days this jargon "Gaurav Path" is much heard. "Gaurav Path" means Proudful path- but for corporation it means "evict all". Therefore we have to make an indepth study many citizens apart from vendors are unemployed because of this path All these years we have been saying slogan of "Two baskets" for our vendor members but now that we are changing the strategy and the situation too has changed so much there is need to change the slogan also. Now our slogan will be something regarding employment and how the poor vendors try to earn honestly by working so hard. Most important all the markets should form Market committees, and the rules and regulations of the committees should be decided and the members of the market committee should decide its implementation mechanism according to the values of SEWA. It is important that the leaders are so strengthened that small issues can be focused to them and they can deal with the situations themselves. Special trainings regarding the cleanliness and its effect on the business of the vendors should be explained to the members. Tests should be done to quality check the vegetables, fruits and other eatables. The market committee should regularly work in coordination with local corporators, residents, Police, AMC, zonal offices and should try to sort out the problems. To manage cleanliness in the markets, SEWA's cleaner members should be linked with them. Campaign should be started to get change the *opinion* of local residents, customers, shop keepers, corporators keeping in focus that they can approach the Municipal Commissioner as well as Chief Minister. Linkages with shop # 40 of SEWA should be strengthened. Such that items, which are cheaper priced, are made available to the members, schemes like free transportations and other free schemes should be included here.

**Legal Strategies:**

SEWA was very reactive and has immediately intervened when the Central zone issue happened. We should not do so again. Municipal Corporation might be using this strategy to instigate us to react and use this evidence against us in the court. This really can damage our case. We should consult our lawyer and prepare the list of fruits vegetables taken by authorities and present it to court. Details regarding eviction of items without "Panchnamas", condition of the items that were confiscated and the other atrocities of the Municipal Corporation should be taken down. And use these details as evidences in court against Municipal Corporation. Otherwise High Court can also say that why did we not come to the Court when all this was happening, why were we applying so desperately in the corporation. Most importantly we should now deal with the Corporation keeping in mind National Policy. We have always been very reactive and our role has been that of "Fire Fighting", as a result, of which we have not been able to work on the implementation of the National Policy. But now onwards we have to work harder on National Policy..

**Using the Press:**

We should utilize the media by advertise and write an article in newspapers that SEWA is giving training for the cleanliness campaign. Also After the leaders in each area have strengthened their relations with the local Corporators, residents etc, a

delegation of 10 people which will include media, corporators, SEWA's representatives, vendors and others from each ward should visit the Municipal Commissioner to explain the situation of their area. And should also bring to his notice in this manner that the High Courts Directives are not adapted and Corporation bye laws are not regarded at all. The Participatory approach as mentioned in the National Policy is not implemented.

### **Summing up:**

National Policy should be focused and SEWA should work harder on formation as well as implementation of the City Policy. SEWA should be play the passive role in the field for at least 4 months. The grass root, campaign team and market committees should be strengthened and the surveys of the market and situation there should be done through them. As per the Courts Directives, special team of planners should be kept to design market plans in partnership with vendors. The ready plans should be discussed with Police (Traffic/ Khakhi), officials of AMC and other relevant departments and then the plans should be submitted to the Court. Evidences against Corporation should be collected. High Court should be informed regarding the atrocities of the Corporation on the members. Market Committees should be formed and strengthen in each market. Slogan should be changed. In depth study regarding the unemployed should be carried out by professional institutions in all the areas where new roads or bridges are coming up At the local level cleanliness campaign among the members should be taken up seriously and quality check of the items of the vendors should be done regularly. Relations with Local Corporators should be strengthened. Timely use of press should be done.

According to the new Phase, SEWA takes help of Post graduate students and the school of Planning now and then to initiate an alternative plan for sitting arrangements of these street vendors such that they are able to vend peacefully as well as do not cause any hindrance to any body. During the planning it is also kept in mind that maximum number of street vendors can take advantage of the same as well as all the space is completely and properly used. In the first phase Manek Chowk is included.

### ***Schematic plan for Manek Chowk Area:***

*Manek Chowk in the heart of Ahmedabad Old City is one of the liveliest areas., it accommodates hundreds of different activities and supports livelihood of more than 1000 people. Not all of these activities happen in formal shops but there are number of people who are earning their breads in this area by doing various activities to compliment this market activities e.g. water fetching for shops, cleaning of shop fronts, tea stalls and so on. The vegetable vendor sitting here has seen through many changes and developments in this area as they are sitting here from generations now. Majority of these vendors buy their vegetables from other wholesale market in Jamalpur, they get their customers from here.*

*Due to heavy traffic, extension by shopkeepers, unorganized parking, as well as irregular vending activities, the area is quite chaotic and congested through out the day. Though it is only in the night when most activities are subdued, one realizes the vast space of the street.*

*Some of the Problems here are:*

- *The traffic moves on two sub-streets created due to existing buildings and though both of them are dedicated to vehicular traffic, it is confusing how the traffic actually moves and gets trapped in bottlenecks created by the building spaces and other activities.*
- *There is no space dedicated to people walking. Since there are so many people coming to this area for shopping, it is essential to provide some space to them.*
- *Since there is no defined space for vending, and due to lack of self discipline, vendors site haphazardly.*
- *The shops in the area extend out on the footpath. This is linked with the issue of pedestrian movement too.*
- *Vehicles of shop owners, customers and others are parked everywhere and parking comes up to the middle of the street.*
- *The traffic will be restricted to one of the sub-lanes only, as marked in the plan. This gives access to peripheral roads on one hand and also creates clear movement without blockages. The road-width proposed is the same as between two buildings at narrowest point. In measures, it is minimum 5 m (15+ ft.) .*
- *The other sub-lane on the north side is proposed to become pedestrian. Minimum width of pedestrian path is 2m (6+ ft.).*
- *Vendors are proposed to be placed between these two sub-lanes. Due to this, their location will not create obstruction to any of the shops and also they will get the advantage of pedestrian movement.*
- *With rearrangement of pedestrian and vending spaces it needs to be seen if the shops will be adversely affected. With new proposed plan, the shops on pedestrian side will have rather more access to people who are walking by.*
- *The main impact is on the vehicles parked in the area. The proposal will accommodate most parked vehicles in much organised parking spaces*

At present such efforts are going on for 9 different and most crowded areas in the city by SEWA and the Town planner from CEPT. These plans will then be discussed at length with the Town planners in Municipal Corporation of Ahmedabad city, officers of Traffic and regular Police and other officers so concerned. Their suggestions and comments will be welcomed and accordingly changes in plan will be done keeping in mind the benefit of the street vendors.

Similarly, in accordance to the National Policy, the Municipal Corporation of Ahmedabad city has also allotted 8 plots as alternative space for street vendors, where in they have to be shifted. And plans for placing these street vendors are also prepared simultaneously, to be approved from AMC.

Again the approach adopted by SEWA while planning proper sitting arrangements for the street vendors is through integrated services like proper place for clean drinking water, water facility for other usages, proper sanitation, storage place etc. which can enable the street vendors to access the basic amenities.

Currently we have negotiated with the Estate and City Improvement officer who agreed to the plan. We also had a discussion with the lawyer of the respondents'

regarding the issues of Gaurav path, eviction and confiscation of the wares, and Schematic plan of Manek Chowk.

The Lawyer of the Respondent showed a positive approach towards the problem and told us to file the Civil Application in Hon'ble High Court of Gujarat regarding Schematic plan of Manekchok. He also assured us that he will support the Civil Application.

Currently the Civil Application for Schematic plan of Manek Chowk is filed and waiting for hearing....

## Annexure F

### LOGFRAME: Basics of negotiation

<b>Issue/problem</b>	<b>Negotiating demand</b>	<b>Negotiating partner</b>	<b>Expected outcome</b>
Registration system	Identity cards for street vendors	Municipal authorities	Recognition and registration of street vendors
Trading sites	Authorisation to occupy suitable sites on streets	Municipal authorities	Authorisation to use public space
Land for trading sites	Land to be allocated to street vendors in natural market areas	Relevant land authority	Allocation of land for informal trade, use to be determined in consultation with vendors' organizations
Access to market sites	Cheaper rates for sites in markets	Municipal authorities	All informal traders to have rights to sites in markets – redistribution of market sites to accommodate all
Evictions – general	Authorisation to occupy public space	Local and national govt.	Authorisation through municipal bylaws
	Authorisation to occupy private space	Land owners	Rental agreements with land-owners
Eviction during Modernisation	Involvement of vendors in decisions on site allocations	National and municipal authorities	Return of displaced vendors pending agreements reached in spatial

			allocations
Harrassment	Stop harassment	Police and all authorities	Respect for human rights of vendors
Loss of goods	Return of confiscated goods	Authority which confiscated goods	Return of goods and authorization to continue selling
Taxes / levies	Regulation of taxes / levies	Local and National govt.	1.Regulated taxes / levies 2.Rates agreed with vendors' organisations
	Reduction of taxes / levies	Municipal authorities	1.Reduction of taxes / levies 2.Rates agreed with vendors' organisations
Social protection	Access to social protection	National government	National social protection to be extended to cover street vendors
Involvement in Consultations	All decisions regarding street vending be taken with street vendors' participation	Local and National govt.	Establishment of negotiating forums for all decisions involving street vendors
Provision of services	Storage space, shelter, water, toilets, electricity, lighting, child care, security and cleaning services	Municipal authorities	Services provided for agreed rates /levies
No implementation of laws (or no laws)	Enactment of negotiated bylaws, and implementation of laws	Municipal authorities	Negotiated bylaws Implementation of laws by authorities
Political interference	No political interference	Local and National govt.	Respect for the political freedom and democratic rights of all street vendors

## LOGFRAME: Different levels of negotiation

<b>Issue/problem</b>	<b>Negotiating partner</b>	<b>Forum/level of negotiation</b>	<b>Expected outcome</b>
Recognition	National govt. and TU centres	Forums involving government and trade unions	Recognition of representative street vendors' organizations in negotiations
Registration	City govt.	Local forums	Study then establishment of system creating records through licence, identity card indicating site & occupation
Negotiating forums	City govt.	Multi-partite stakeholders' forum including ward/zone reps, street vendors and neighbourhood markets reps	Creation of negotiating forums at different levels (neighbourhood, ward, zone and for the whole municipality)
Participation in decision-making	Local govt	Multilateral forums involving all stakeholders	1.Return of evicted vendors to trading sites  2.Improvement of conditions of work
Consultation with street vendors	1. National Govt.  2. Local govt.  3. Police	1.Govt. Ministry concerned  2.Regional & departmental authorities  3.District commander of Police	Constant involvement of vendors in decisions involving them, and respect of their human rights
Public space and authorization for vending	Local authorities	1. Bilateral between street vendors and municipal authorities  2. Multipartite forums with policy-makers, TUs, council officials	Authorisation to occupy public space, and vending zones allocated

		and vendors	
Space for vending: less congested	Local government	Local (bilateral)	Different kinds of markets (night markets, different days, etc.)
Space for vending: inner city	Urban development dept.  Planning authority  City/traffic police	Local/state/national forums involving different stakeholders	Reservation of vending zones in city development plans  Amending existing plans, or new plans
Space for vending:  Site and service	City govt. and Planning authority	Local bilateral and forums involving different stakeholders	Sunday markets, flea markets, new experimental markets
Access to markets	Municipal and market owners	Multi-lateral forums involving Council officials, market owners, vendors	Affordable access to sites in markets
Taxes	Local govt.	Bilateral with local govt. Policy-makers and Councillors	1. Reduction of taxes  2. Reasonable taxes  3. Negotiated tax increases  4. Clear and simple payment systems  5. Improvement of conditions of work
	National govt.	National govt. bilateral negotiations	Contribution to formalization of street vendors' work
	TUs and councils	Bilateral meetings with trade unions and decentralized authorities	Regulation of taxes
Stop harrassment	National & local govt.	National and local govt. and police	Respect for human rights of street vendors

	Local authorities and Police	Local forums involving police (local officers & police chiefs) and municipality	<p>1. End of harassment</p> <p>2. NO MORE BRIBES</p> <p>3. Return of confiscated goods</p> <p>4. No physical harassment</p> <p>5. Improved relations with police</p>
Bribes	Own members (internal)	Meetings with members to persuade them to demand their rights instead of paying bribes	Refusal by vendors to pay bribes
Fines – demand receipts	Police	Bilateral negotiation with police	Improved relations with police
Operating norms	Police and City govt.	Local forums involving police and City govt. with vendors' organisations	Mutually agreed operating norms
Policy and law	<p>1. National and/or state level govt.</p> <p>2. Local govt. for municipal policy</p>	<p>1. Tripartite or multipartite policy forums</p> <p>2. Municipal policy forums or local Council Executive Committees</p>	<p>Commission of new law</p> <p>Report on status of street vendors</p> <p>Draft policy – final policy</p> <p>Review of laws</p> <p>Amendment or new law</p>
Social Security and Social Protection	Ministries concerned, e.g. Dept. of Welfare	Meetings with national or state (depending on country) departments	New laws and establishment of Board Health and medical needs covered
Income-generation	Govt. and NGOs	Multilateral forums involving trade union	Vendors able to improve their



training		educators and NGOs involved in training	incomes
Economic empowerment	Govt, Banks and Micro-finance institutions	Ministry concerned (govt.) Managerial level (banks and micro-finance)	Affordable credit available to street vendors
Cleanliness and security	Council and national Govt.	Security/police and cleaning services of council or Govt.	Improved conditions of life and work

## **Annexure G:**

**STREETNET INTERNATIONAL MEETING ON  
COLLECTIVE BARGAINING IN THE INFORMAL ECONOMY AND  
LAWS AND LITIGATION STRATEGIES IN STREET VENDING SECTOR  
held near Dakar, Senegal, 26 – 30 March 2007**

## **CONCLUSIONS**

### COLLECTIVE BARGAINING IN THE INFORMAL ECONOMY

1. Problems encountered in collective representation of members in informal economy:

No legal framework;

No institutional forums for negotiations;

Lack of representation by women;

Lack of continuity in Council structures (no follow-up after changes);

Lack of availability of leaders (reluctance to take time off for fear of losing income);

Difficult to sustain members' trust.

2. These problems are caused by internal factors such as organizational weaknesses and the lack of understanding of workers in the informal economy about their rights and responsibilities as workers, and by external factors, including the following:
  - Lack of recognition and protection of rights in law;
  - Undermining by public authorities;
  - Social attitude towards women and towards informal economy;
  - Corruption;
  - Political manipulation;
  - Lack of continuity in local government after political or structural changes.
- 
3. Collective negotiation strategies were devised to deal with the following common problems (among others):
  - Allocation of trading sites;
  - Evictions from the streets;
  - Unilateral increases of levies or taxes;
  - Harrassment by authorities;
  - Registration system for informal economy trades;
  - Social security for workers in informal economy.
4. For each problem, a **specific demand** is constructed for presentation in collective negotiations.
5. In this sector there is usually no employer-employee relationship. Therefore for each demand, an appropriate **negotiating partner** is identified, i.e. the party to whom the demand will be presented and who has the necessary authority to make decisions about the issue. There may be different negotiating partners which have to be approached for different demands, depending on which authority is responsible for each issue (e.g. municipality in regard to allocation of trading sites, police in relation to confiscation of goods, etc.).
6. In addition, **potential allies** were identified who could be lobbied to support the demands of the street vendors, e.g. consumers, residents of the city, trade unions and human rights organizations.
7. For each demand, it was determined what **level of negotiation** would be most appropriate, i.e. local level negotiations with different municipal structures, state or national level negotiations. It was also determined where bilateral negotiations should be engaged in, and where multipartite forums involving different stakeholders would be more appropriate.

8. To ensure democratic negotiation processes, members of our organizations have to be involved in all collective bargaining processes through general meetings for the collection of mandates, and regular report-back meetings about the progress in the negotiations.
9. Where negotiations do not succeed, methods of pressure which are regularly used in this sector, as a last resort, to pressurise the authorities to agree to collective demands are the following:
  - collective withholding of tax or levy payments;
  - occupation of Council offices;
  - media and press publicity;
  - litigation in local courts or High Courts.
10. The central message to all authorities is that all decisions about street vendors should be taken in the context of proper negotiations with their democratically elected representatives. Where forums for such negotiations do not exist, these will need to be put in place in consultation with the unions and street vendors' organisations.

## **LAWS AND LITIGATION STRATEGIES IN STREET VENDING SECTOR**

### **DEFENSIVE LITIGATION**

In most countries, the national constitution protects the rights of all citizens, including street vendors. However, in most countries there are no laws for the recognition and protection of workers in the informal economy, including street vendors. Although there may not be laws specifically governing and regulating street vending, other general laws (such as police laws) are often used against street vendors.

This means that street vendors organizations often find themselves having to defend their members' rights in defensive litigation.

### **PROACTIVE LITIGATION**

Street vendors can, however, also proactively institute well-selected test cases to establish favourable litigated precedents which can help to promote the rights of other street vendors. Litigation is usually used as a last resort after collective negotiations to achieve the same result have failed or broken down. Cases should be taken up according to necessity – sometimes the organization has to try to get injunctions (interim judgements) for interim relief in very desperate situations.

In all litigation undertaken by organizations, members need to be fully involved at all levels, including:

- members decide collectively about which cases to lodge in the courts, after being fully aware of all the implications;
- members agree which lawyers to use, and which arguments to use in briefing them – usually it is wise to use lawyers with a known reputation for taking up cases in favour of the rights of the poor;
- members give evidence as witnesses in court cases; members attend court hearings in their numbers to impress on the judges the seriousness of these cases for them and their families; regular meetings convened to report to members on the progress in the cases, and to decide on the next strategy after the final judgement;
- always consult members before making any out-of-court settlements; produce pamphlets or bulletins in local languages summarizing the process of the cases, for circulation to members;
- publicise judgements in the media; sometimes funds have to be raised for these strategies.

## **LEGAL REFORM**

The constitutions of countries like Ghana, Uganda, Zambia, South Africa and Nepal guarantee the rights of their citizens to earn a livelihood. The constitution of India guarantees the rights of its citizens to trade, and in India there is a national policy on street vending. Labour rights and social protection are usually defined in national legislation, but in countries like Mexico and India, different states may have different legislation governing these issues – but in most countries this legislation has not yet extended to workers in the informal economy. Spatial regulation of informal trade is usually administered through local government bylaws. Sometimes these bylaws are administered in contravention of the constitutional rights of the street vendors.

Participating organizations have resolved to fight for the adoption of new laws, or reform of existing laws, containing the following elements:

- recognition of informal workers (including street vendors) as workers, and recognizing their workplaces (e.g. the streets) as their places of work;
- specification of basic constitutional rights of informal economy workers (including street vendors) which are protected in terms of this law;
- formal recognition of the freely-chosen organizations of workers in the informal economy, and their elected representatives;
- statutory representation of workers in the informal economy at local Council level and at national/Parliamentary level;
- formal dispute procedures to be invoked when negotiations in statutory forums reach deadlock;
- clear definition of the role of different national Ministries in relation to workers in the informal economy;
- system of social protection for workers in the informal economy (including street vendors).

Participants from all the countries have developed a strategy which they will start to implement on returning to their country. All participants will send progress reports to StreetNet by the end of June 2007 as to the progress they have made in implementing the strategy they developed at this meeting. These progress reports will be presented to the International Congress of StreetNet in Brazil in August 2007 as the follow-up report on this international meeting.

**COUNTRIES REPRESENTED:**

Benin

India

Ghana

Guinee

Kenya

Korea

Malawi

Mexico

Nepal

Senegal

South Africa

Uganda

Zimbabwe

Zambia