

Towards a model framework for a local level collective bargaining system for street traders

Introduction

In many towns and cities across the world street trading is an important source of work and income for many poor people. In many towns and cities street traders have come together in unions, associations and other organisations to fight for better working conditions. In doing this, street traders are similar to many other types of workers who join unions to fight for better working conditions and wages.

For other workers, the unions often form part of established collective bargaining systems where worker representative meet on a regular basis with employers to negotiate about the demands. For many street traders there are no employers with whom to negotiate. Instead street traders will usually need to negotiate with local government (municipalities) because local government has the power to make decisions in respect of many of the issues that affect street traders. These issues include who can trade, where they can trade, if they must pay a fee, and what services they can expect to get from government.

Some street traders and their organisations have managed to negotiate with local government. However, usually this bargaining happens on a one-off basis only when there is a crisis. The local government may agree to negotiate after workers protest or make their voice heard in another way. But after the crisis has passed, the meetings end and in many cases what was agreed is not implemented.

This document sets out ideas on the type of collective bargaining system that street traders and their organisations should fight for. The ideas in the document come from research that was commissioned by Streetnet into collective bargaining experiences of street traders and their organisations in Brazil, Democratic Republic of Congo (DRC), India, Kenya, Malawi, Nicaragua, Senegal and Spain. The reports on the research can be downloaded from www.streetnet.org.za under "Resources".

The ideas in the document are *ideas* rather than *rules*. The ideas are offered as a set of principles aimed at establishing maximum accountability and transparency.

There are several reasons why you may not follow all the ideas.

- Firstly, a particular idea may not fit the particular situation of street traders in your city or country. Any collective bargaining system needs to fit in with the law, policies, politics and way things work in a particular place.
- Secondly, the ideas show what you may want to work towards. You will not achieve everything you want immediately. The important thing is to get a bargaining system or forum established. You must decide which of the ideas below are non-negotiable as a starting point. Once the forum is in place on the basis of the non-negotiable aspects, you can use it to negotiate further improvements in the way the forum operates.

- Third, the ideas are based on a forum that is set up especially for street traders. In some cases there may be reasons why a separate forum for street traders may not be possible or desirable. For example, in some places there may not be enough street traders for the local government to have a separate forum. In some places street traders may feel that they will be stronger if they negotiate in the same forum as other informal or formal workers.
- Fourth, in some cases the street traders will want to negotiate with other parties instead of, or together with, the local government. This will depend, among others, on the responsibilities of local government and other levels and parts of government in your country and city.

These and other reasons mean that the ideas in this document must be adapted to suit your situation.

Before you consider the detailed ideas...

Before you consider the detailed ideas for how the collective bargaining and forum should work, you need to get the local government to agree to discuss either:

- (1) setting up a forum with your organisation OR
- (2) improving an existing forum to make it work more effectively.

For StreetNet affiliates, this can also be done as part of the New Manifesto Campaign, in terms of which street traders are developing lists of demands to present to the municipality and other authorities. Setting up a negotiating forum is one such demand that is relevant in many cases. It will be the responsibility of each StreetNet affiliate to determine how best to fight for the negotiations forum they want.

You will need arguments to persuade the municipality that setting up a forum is a good idea. Some ideas for persuading local government are:

- Presenting evidence that shows that **street traders are an important constituency**, for example because of their big numbers. In some countries, there are enough traders for them to be an important voting bloc in elections. Evidence can include the number of members. If there is a survey of street traders, you can also show your members as a percentage of the traders.
- Presenting evidence of the democratic way in which your organisation works. You can use this evidence to show that the organisation speaks with the true **“voice” of street traders**.
- Emphasising that street traders are **hardworking people** who are trying their best to provide for themselves and their families.
- Highlighting that street traders deliver an important, convenient and affordable service to other people living in the city.

- Countering the perception that street traders are a nuisance, or even criminals, and pointing out that street traders' presence on the streets means that there are many extra eyes to discourage other people from committing crime.
- Emphasising that street traders are **citizens and residents who need services** (such as waste removal, water, child care facilities), including services that help them to be successful in earning money.
- Pointing out that providing for street traders in an organised way that meets street traders' needs will assist with achieving better, more participatory, **urban planning**.
- Noting that when street traders' business improves, this can increase the **local government's revenue**, for example through fees charged.
- Noting that working with street traders and their organisations in a regulated way will **reduce corruption** because everyone will know what the rules are and how they are meant to operate. This will, among others, free up police to spend time on other tasks rather than on harassing street traders. It will also reduce the likelihood of violence among street traders.
- Arguing that an established bargaining forum that operates according to good rules will result in local government having a **reliable counterpart that provides an effective channel of communication**. An established bargaining forum will increase **participatory democracy**.

Your case with the local government will be stronger if you have strategic allies.

- The **first** set of allies is other organisations that represent or are working with street traders. This can include unions and other membership organisations as well as non-governmental organisations that assist street traders.
- The **second** set of potential allies is municipal workers and their allies. One argument you can use with municipal workers is that if the municipality agrees to provide more services for street traders, this may create more municipal jobs.
- The **third** set of allies is people who can support you on technical issues. This can include academics, lawyers and people and organisations that know about human rights.

When you have convinced the municipality...

Once the municipality has agreed to establish a new forum or improve an existing forum, you need to negotiate on what the forum will look like. As discussed above, the following are *ideas* to consider when drawing up a proposal for the municipality. You do not need to follow all the ideas when you first set up the forum.

- The negotiation forum should have clear written terms of reference. The scope of the forum's discussions should include laws and by-laws, rules for registration, nature and duration of licenses, location of markets and sites, allocation of sites and duration of tenure, fees and rentals, policing, hygiene, other services and infrastructure to be provided by the local authority, the responsibilities and rights of traders and the local authority, policy in respect of fines and penalties and elimination of all forms of discrimination against particular categories of traders, such as foreigners, young people or women. Parties to the forum must also be able to put additional items on the agenda as they arise.
- The forum should, wherever possible, have decision-making and not only advisory powers. Its main purpose should not be confined to information sharing.
- The status, powers and decisions of the forum must be made known to other relevant actors. In particular, the police must be informed about decisions taken and must face penalties if they act in a way that goes against the forum's decisions.
- The forum should be as inclusive as possible of ALL the street traders who are selling goods and services in the municipality's public space. It is never desirable for such forums to represent an "in-group" (for example, only those with permits, or only those who have official registration) at the expense of those who are more marginalised in the sector. Such practices can create elitism and increase divisions between street traders on the ground. The street traders' representatives in the forum can then become compromised by being used by the municipality in divide-and-rule tactics.
- The negotiating forum should have a regular schedule of meetings, with dates and times agreed in advance. There should also be provision for any of the negotiating partners to request additional meetings when urgent issues arise.
- Meetings should be held at a time and venue that are convenient and safe for all categories of street traders, including women with domestic responsibilities.
- If the chairperson of the forum is a representative of the local authority, the deputy chairperson should be a trader representative, and vice versa.
- Forum members should receive a request at least three weeks before each meeting asking them what items should be put on the agenda of the meeting.
- Representatives should receive an agenda and related papers at least two weeks before each meeting so that they have time to consult and discuss the issues with members.
- Written minutes should be recorded for each meeting of the forum, and approved at the following meeting. The party responsible for producing the minutes should be required to circulate draft minutes for comment and suggested revisions within one week after the meeting happens.

- Adequate time must be allowed between meetings to allow for report backs and mandate-seeking by representatives among those they represent.
- All agreements reached should be written and signed by all parties to the agreement. Copies of the agreement should be provided to all parties.
- The forum should receive regular written and oral reports on implementation of all agreements.
- The forum should submit regular written reports to the elected municipal councillors.
- Street traders' representatives should be provided with facilities for reporting back to their members. Such facilities could, for example, include a meeting venue or use of public space, loud hailers, and use of notice-boards.
- Membership of the forum should include, at the least, the local authority and the traders. Other relevant parties, such as formal businesses, transport operators, private security firms and trade unions may also attend for particular meetings of sessions depending on the scope of issues discussed in the forum.
- The local authority should be represented by officials who are sufficiently senior to commit the local authority to agreements and who are properly mandated to enter into binding agreements on behalf of the municipality. The local authority should also be represented by officials with the necessary technical expertise and knowledge of the situation and system in respect of traders. The latter could include the police and/or other officials responsible for safety and security, labour department officials, urban planners, and officials who deal with traffic and health.
- Traders should be represented on the negotiation forum by independent organisations that they themselves establish.
- Both parties should have the right to bring along technical advisors when specific issues on which the advisors have knowledge are being discussed. These advisors should have speaking powers, but not voting powers.
- The trader organisations should ideally be registered. However, this should only be required if the registration system for organisations is not unnecessarily onerous in terms of cost, information requirements, other requirements, and duration of the process. The system should not exclude credible representative organisations.
- Trader organisations represented on the forum should be membership-based, have a constitution, enforce the constitution, and have a specified geographical area of operation based on its membership.

- Representation of traders in the forum could take various forms, depending on the nature of trader organisation in the area. If there is a limited number of organisations and the membership size of the organisations does not differ substantially, each organisation should be entitled to one representative. If there are many organisations, the system of choosing representatives needs to be democratic. This could happen through all organisations agreeing to form a coalition in which representatives to the forum are chosen. A similar system of choosing representatives will be needed if some of the organisations focus on union-like issues while others focus primarily on other issues, such as savings schemes, and do not have the necessary skills for negotiation. In designing the system of representation, thought must be given as to whether all groups – especially marginalised ones – will have a voice. Such groups could include women, youth, undocumented traders, foreigners, particular religions, particular ethnicities, particular castes, and people with disabilities.
- Each year, each organisation represented on the forum must provide proof of their credentials according to criteria agreed on by the forum.
- Each year the parties to the forum should reconfirm who will represent them in the forum.
- Representatives should not be paid for attending forum meetings, but may have costs such as transport covered. Serving as a representative should not bring any personal financial benefit.

Monitoring and enforcing implementation of agreements after establishing the forum...

Once you have reached agreement on the form of the forum and how it should work, you need to monitor to ensure that it works well, and according to what was agreed.

There are two levels to what must be monitored.

- **Firstly**, you must monitor whether the agreed operating rules of the forum are being followed. For example, you need to ensure that the forum meets regularly, that the representatives of local government and traders all attend regularly, that agendas are prepared and distributed on time, and that minutes are properly kept.
- **Secondly**, you must monitor whether agreements are being reached in the forum (on issues such as licenses, sites, fees, services and so on) and if the agreements are being implemented.

For the second level of monitoring, all traders covered by the agreement should be encouraged to be part of the monitoring. To allow this to happen, all stakeholders – including all traders – must have a copy of the signed agreement. If necessary the agreement should be translated into the languages spoken by the street traders. If the agreement is very long and in difficult legal language, a shorter simpler version should be

developed that contains all the most important clauses. The municipality should pay for the translation and for making enough copies of the agreement so that all traders can have one.

If all traders have copies of the agreement, they can then monitor that the agreement is respected by being properly implemented. As soon as somebody suspects that the agreement is not being properly implemented, they can report this to the street trader leaders or the street traders' forum representatives. If the problem is not resolved within one or two days, a special meeting of the forum should be called to correct the problem before it gets worse. In each regular meeting of the forum there should also be an item on the agenda where representatives can report on the cases of non-implementation that have been reported since the last meeting.

Finally...

This document presents ideas on how you can establish or improve a collective bargaining forum for street traders. It is up to you to decide how you use and change these ideas. But in all cases there are likely to be five important steps in achieving a well-functioning collective bargaining forum, namely:

1. Build strong and democratic organisation among street traders
2. Convince the municipality to establish a forum
3. Negotiate the rules of how the forum will function
4. Engage in collective bargaining
5. Monitor and enforce implementation.

These steps will not follow neatly one after the other. In particular, you are likely to move backwards and forwards between 3, 4 and 5 as you try to improve how the forum functions and as you bargain for new agreements on key issues facing street traders.

Collective bargaining for street traders is relatively new, and it is important that street trader organisations around the world learn from each other. Please keep Streetnet informed about what you and your organisation are doing. Tell us about both the achievements and the challenges by emailing **coordinator.streetnet.org.za**