

Informal workers strategise to win rights

At a recent international conference in Senegal, delegates focused on the plight of street vendors and informal traders worldwide. **Pat Horn** reports on strategies discussed for winning a better deal for informal workers.

The informal sector is organising. A key sign of this was a pow-wow involving representatives of street vendors and informal traders from 14 countries outside the Senegalese capital of Dakar in March. They came together to develop a protocol for collective negotiations, laws and litigation strategies for this sector of the informal economy.

The delegates came from organisations of street vendors and informal traders in Benin, India, Ghana, Guinea, Kenya, South Korea, Malawi, Mexico, Nepal, Senegal, South Africa, Uganda, Zimbabwe and Zambia. The four-day meeting was hosted by StreetNet's two affiliates in Senegal, CNTS and Sudems.

A key focus and central issue for informal traders was how to press their demands when dealing with the authorities.

NATIONAL EXPERIENCES

Describing the Zambian experience, Lameck Kashiwa of the Alliance of Zambian Informal Economy Associations (Aziea), emphasised the importance of street and market vendors organising and speaking with one voice when taking on the national government and municipalities.

Kashiwa also touched on the issue of relations between street and market vendors, and the rights which should come with the payment of market levies. Informal traders in Zambia have been on the receiving end of 'fast-track court,' allegedly created to speed up the administration of justice and which convict 'offenders,' typically in a 30-minute process. These courts exist only in the Zambian capital of Lusaka on the country's Copper Belt. Where Aziea has more muscle it has been difficult to establish them.

However, there has also been progress in improving traders' rights in Zambia. Although it confers excessive powers on the minister, a new Bill recognises the rights of informal traders' organisations to elect their own leaders, gives rights to marketeers to set up their own markets and recognises street vendors.

Central to this process, Kashiwa said, was self-government through management boards consisting of marketeers and representatives of other interested parties, including local government and consumer councils. Market levies, he believes, should be ploughed back into services for traders. Kashiwa said that Aziea's aim was to establish well-ordered markets, for example by closing streets, and it had made a

submission to the government on the Bill to this effect.

The theme of organisation and collective bargaining for improved rights was also central to a presentation at the conference by Poornima Chikarmane, an informal sector organisation based in Pune, India.

Rag-pickers in Pune combined forces and carried out research on the savings for local authorities, and the health benefits for residents, of their waste transporting activities. They then demanded and won medical insurance even though they were not formally recognised.

Using Gandhian Satyagraha (non-violent methods of struggle), Poornima mobilised consumers to support its demands. It also succeeded in entrenching the use of head-boards to protect head-loaders and other unprotected workers.

Anothmanali Shah told the conference how another Indian movement, Sewa, had adapted its collective bargaining strategy in response to the city of Ahmedabad's new 'mega-city' policy. Using marketing committees, Sewa was now focusing on the implementation of India's new National Policy on Street Vending, which specifies the rights of street vendors.

Collective bargaining as a way of consolidating gains achieved through mass struggle was the theme of a presentation by the Korean Street Vendors' Confederation (KOSC). However, it emerged that the confederation has no signed agreements with the authorities. In response, delegates strongly recommended the keeping of independent records and the signing of the minutes of



Street vendors from 14 countries meet earlier this year in Dakar to discuss collective bargaining and legal strategies for this informal sector (Pat Horn on the far right)

agreements to give them legal force. Another way of securing respect for agreements was to use the media to publicise what had been agreed.

BARGAINING ISSUES

From the conference, a number of common problems emerged in collectively representing the interests of workers in the informal economy. Typically, a legal framework and institutional forums for negotiations do not exist. Women are often not represented, while the lack of continuity in local government after political or structural changes frequently means that reforms are not followed up. Finally, movements suffer from a lack of leaders. People are reluctant to take time off for organisational work for fear of losing income.

Underpinning such deficiencies are organisational weaknesses and a general lack of understanding of the rights and responsibilities of workers in the informal economy. External problems include the fact that informal sector movements are not formally recognised and lack the protection of legal rights. They are often undermined by the authorities and weakened by social prejudice against female informal workers. Other stumbling blocks are corruption and manipulation by politicians.

The Senegal conference focused on the problems faced by informal traders, for which negotiation strategies have to be devised. They included the allocation of trading

sites, evictions from the streets and harassment by the authorities, unilateral increases in levies and taxes, the registration systems for informal trades, and the lack of social security for workers.

The right approach, delegates heard, was the formulation of a specific demand for tabling in negotiations. As there is usually no employer-employee relationship in the sector, a suitable negotiating partner with the necessary decision-making powers must be identified, to whom the demand is made. In addition, potential allies must be identified and lobbied to support street vendors' demands. These include consumers, city residents, trade unions and human rights organisations.

Of equal importance is determining the correct level of negotiations – whether they should be conducted with national or local authorities – and whether talks should be bilateral or in multiparty forums involving a range of interested parties.

To ensure that negotiations are democratic, members of organisations must be involved in collective bargaining through general meetings where negotiators report back and receive mandates.

When negotiations fail, other tactics can be used as a resort to force concessions from the authorities. Chief among these are the collective withholding of taxes or levy payments, the peaceful

occupation of municipal offices, the use of the media to generate publicity, and litigation.

What traders must convey to the authorities is that all decisions about street vendors must happen after proper negotiations with their democratically elected representatives. Where there are no negotiating forums, traders must create these in consultation with unions and street vendors' organisations.

LAWS AND LITIGATION STRATEGIES

Litigation comes in two forms: defensive and proactive. It is generally a last resort after collective negotiations have failed or broken down.

In most countries, citizens' rights are protected by national constitutions. But as a rule, there are no laws providing for the recognition and protection of informal economy workers, including street vendors. At the same time, general laws are often used against street vendors, so that their organisations have to defend members' rights in court.

Proactive litigation is intended to promote the rights of street vendors through carefully selected test cases which establish favourable precedents.

The conference agreed that in all litigation by organisations, it is vital to involve ordinary members at every level. Members must decide collectively which cases to fight, in full knowledge of all the

implications of legal action. They must agree on which lawyers to use – it is generally wise to use lawyers known to sympathise with the poor – and which arguments to use in briefing them.

Delegates recommended that members should participate directly in court cases by giving evidence as witnesses and attending court hearings in large numbers, to impress on the judges the serious implications of the case for them and their families.

In regular meetings, and through the media, in pamphlets or bulletins in local languages, members should be kept informed on the progress of the case and told of the outcome. Meetings are also vital to discuss what strategy to adopt after judgement has been handed down, and to consult members before out-of-court settlements are reached

NEW LAWS AND STRATEGIES

The Senegal conference was told of important new laws affecting the rights of informal sector traders in various countries

India, for example, has introduced a new approach to the treatment of street vendors known as the National Policy on Street Vending. Helping in the enforcement and application of the policy is the National Alliance of Street Vendors of India (Nasvi). It assists vendors' organisations in India's many states to organise for the reform of state laws, to promote the reform of the Police Act and Penal Codes widely used against street vendors, and to extend the fundamental rights enshrined in the national constitution to street vendors, through appropriate legislation.

Nasvi collects all judgements relevant to street vendors, keeping them available in its documentation centre. It also produces legal documents designed to be understood by ordinary people, and

has translated the new street vending policy into India's indigenous languages. It distributes copies of court records and judgements to its members and publicises the results of litigation in the mass media. The organisation engages with lawyers in the various states of India who are familiar with how laws affect street vendors.

New legislation regulating street vending has also been enacted in the Mexican state of Nuevo Leon. It covers fixed and mobile vending and informal work, defines workers' rights and obligations and recognises their associations. The law establishes a statutory negotiating forum comprising vendors' associations and other interested groups, which local authorities are obliged to consult in regulating informal trade.

Strengthened by the new legislation, organisations are now mobilising at national level for social security for street vendors and informal traders.

Constitutional law is a key weapon in the battle for informal traders' rights. The constitutions of countries like Ghana, Uganda, Zambia, South Africa and Nepal guarantee the right of citizens to earn a livelihood, while India's constitution guarantees the rights of citizens to trade.

Labour rights and social protection are usually defined in national laws, but in countries like Mexico and India, states may have different statutes governing these issues. In most countries, such legislation has yet to be extended to workers in the informal economy.

The spatial regulation of informal trade is usually administered through municipal bylaws, which are often administered in violation of street vendors' constitutional rights.

The organisations which took part in the Dakar conference resolved to fight for the adoption of

new laws, or the reform of existing laws, to improve the lot of informal workers.

Central to such legislative reform are the following:

- the recognition of informal workers, including street vendors, as workers, and of the streets as their legitimate workplace;
- the specification of informal workers' basic constitutional rights, which are protected in law;
- the formal recognition of the freely chosen organisations of informal economy workers and their elected representatives;
- the statutory representation of informal economy workers in local councils and at the national level;
- dispute procedures, which informal workers can invoke when negotiations in statutory forums reach deadlock;
- the definition of the role of different national ministries in their dealings with informal sector workers; and
- the social protection of workers in the informal economy.

The conference devised strategies which participants will implement on returning to their various countries, and all delegates agreed to send progress reports to StreetNet by the end of June this year on what has been achieved. These reports will be presented at StreetNet's International Congress in Brazil in August. LB

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