

THE TRANSFORMATION OF WORK: CHALLENGES AND STRATEGIES



Informal Workers and Collective Bargaining:

Case Studies from India, Georgia, Brazil, Liberia, and Uruguay



The Transformation of Work research series is produced by the Solidarity Center to expand scholarship on and understanding of issues facing workers in an increasingly globalized world. The series is a product of the Solidarity Center's USAID-funded Global Labor Program, which supports the efforts of the Solidarity Center and its consortium partners—the Rutgers University School of Management and Labor Relations and Women in Informal Employment: Globalizing and Organizing (WIEGO)—to document challenges to decent work and the strategies workers and their organizations engage to overcome those challenges.

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Acronyms and abbreviations

CMRR	Centro Mineiro de Referência em Resíduos
GTUC	Georgia Trade Union Confederation
ILO	International Labour Organisation
INSEA	Instituto Nenuca para o Desenvolvimento Sustentável
MCC	Monrovia City Corporation
MNCR	Movimento Nacional de Catadores de Resíduos Recicláveis
MOU	Memorandum of understanding
MTMWETU	Trade Union of Georgian Motor Transport and Motorway Workers
NAPETUL	National Petty Traders Union of Liberia
NGO	Non-governmental organisation
SBA	Small Business Alliance
SEWA	Self Employed Women's Association
SEWU	Self Employed Women's Union
WIEGO	Women in the Informal Economy: Globalizing and Organizing

Introduction and background

This paper presents the findings of a set of case studies of collective bargaining by informal workers in four different countries. The research was conceived by Women in the Informal Economy: Globalizing and Organizing and supported by the Solidarity Centre. A fifth case study, on domestic workers in Uruguay, was also commissioned but is not discussed in this paper, although there are some references to what organisation and collective bargaining for domestic workers might entail.

The specific objectives of the research were:

- to explore, and make a contribution to an understanding of, if, where, how and on what issues informal workers engage in collective negotiations (broadly defined), in different sectors of the informal economy and at different levels, and where the successes have been, where not and why.
- to produce readable case studies that can be used in negotiating skills training and workshops for informal workers.

Each of the case studies covered a different category of informal workers. Three of these groups – waste pickers, street traders and beedi workers (as an example of home-based workers) – are regular focus areas for WIEGO. The fourth case study, on minibus drivers in Georgia, took WIEGO into new territory and, in particular, a male-dominated group of workers.

The research papers were written by Vera Alice Cardoso Silva (waste pickers in Brazil), the Indian Academy for Self Employed Women, SEWA's research arm (beedi workers in India), Elza Jgerenaia (minibus drivers in Georgia), and Milton A Weeks (street traders in Liberia). All the researchers live in the countries in which the research was conducted. In two cases – India and Georgia – the researchers are employed officials of the worker organisations.

Each of the researchers was provided with a similar outline specifying the key questions to be discussed in the research report. The core of the researcher's task was to tell the "story" of one of more collective bargaining engagements by the specified set of informal workers. In addition to the story, the researchers were asked to provide background information about the country, the economy and the informal workers within it, and worker organisation.

The next part of this paper contains summaries of each of the four cases. These are included to provide the context for the thematic discussion that follows. The full research papers are available on the WIEGO web-site – www.wiego.org – as well as on the Solidarity Centre web-site – www.solidaritycenter.org. The four researchers were all living in the countries concerned at the time the research was done.

These four case studies cannot in any way claim to be representative of collective bargaining by informal workers. Nevertheless, the thematic discussion reveals that

there are themes that recur across the case studies. References in the thematic discussion to the very limited literature that exists on bargaining of informal workers reveal further echoes of themes. In part, the references in the literature are limited because strong organisation of informal workers is still uncommon. WIEGO and the Solidarity Centre hope that this research project will make a small contribution to expanding and strengthening such initiatives.

Summaries of case studies

This section of the paper summarises key points from the four case studies.

Waste pickers in Minas Gerais state in Brazil

In 2011, bargaining conducted in the Brazilian state of Minas Gerais resulted in the passing of the Recycling Bonus Law. This law established a monetary incentive to be paid by the state government to waste pickers who are members of a cooperative or workers' association. It is the first law in the country that authorises the use of public money for ongoing payments for work done by waste pickers. Provision of a monetary incentive aims to reduce loss of reusable materials.

There are no reliable statistics on the number of waste pickers in Minas Gerais. There are at least 119 waste picker cooperatives and workers' associations in the 34 municipalities of the metropolitan area of Belo Horizonte. However, the majority of waste pickers choose to work as independent workers rather than joining cooperatives or associations. Their main motivation seems to be economic - that individuals get more money if they sell recyclables directly to organised businesses. The unwritten terms of such contracts with businesses include the lending of carts and provision of space for sorting the recyclables. The payment is always in cash and immediate. One purpose of the Recycling Bonus Law is to encourage individual waste pickers to join cooperatives and workers' associations.

The leaders of waste pickers' movements who led the bargaining come from the associations. The waste pickers in Minas Gerais are part of a national movement, the Movimento Nacional de Catadores de Resíduos Recicláveis (MNCR), which has been active since 2001. The Minas Gerais movement has played a lead role in the organisation of the national movement and in presenting demands at federal and state level.

In the late 1990s and early 2000s, some municipal governments in Minas Gerais began contracting waste pickers' cooperatives as providers of service within the local management system of solid waste. In these cities, waste picker cooperatives became responsible for part of the management of the city waste. Their responsibilities were detailed in contracts. They were allowed to use the collected solid waste for recycling and selling in the private recyclable market.

The waste pickers had the support of the Workers Party and, in particular, of President Lula. From 2002 onwards, the federal government authorised the use of large amounts of public revenue for improving working conditions of waste pickers. Funds were allocated for buying of trucks and machinery for compressing waste and for the preparation of recyclables for the market, provision of loans for the construction or leasing of warehouses, and financing training of waste pickers in the use of new technologies.

The leaders in Minas Gerais took the opportunity created by a friendly political coalition in the state government since 2008 to introduce into the legislative agenda the debate over waste management policies, including waste picking as a job providing this service. This proposition was extensively advocated during the Waste and Citizenship Festivals in 2008, 2009 and 2010. The strongest support for the bill came from two sources: the non-governmental organisation (NGO), the Instituto Nenuca para o Desenvolvimento Sustentável (INSEA) and the Centro Mineiro de Referência em Resíduos (CMRR). The latter is an office created in 2008 by the government of Minas Gerais with the mission to support waste pickers.

In the House of Representatives, the waste pickers relied on the support of two representatives and their advisory staff, one belonging to the governor's party and the other belonging to the party of the President of the Republic. The full legislative process took only six months. It did not require any protests and demonstrations aimed at creating public support and pressure on the representatives.

In 2010 the governor asked his party to present the proposal in the House of Representatives. The party accepted his proposal. Debates and consultations took place in meetings called by the Director of the CMRR during the first half of 2011. The participants were waste pickers' representatives, representatives of INSEA, government officials responsible for environment regulation and the CMRR.

The main issue in the debate was the nature of the recognition to be given to waste pickers as providers of a service to the state. There were two contrasting positions. The one favoured by the waste pickers' representatives and their supporters from INSEA called for mandatory permanent contracts between local governments and waste pickers' associations. The second view, favoured by government, accepted that waste pickers must receive payment for their work. However they argued that, since the waste pickers already received payment in their commercial transactions, government should provide only an additional incentive or bonus. This interpretation prevailed in the negotiations.

A permanent Coordinating Committee was established to regulate the introduction and administration of the bonus. The committee's responsibilities included validation of registration of the cooperatives and associations as eligible recipients of the incentive. Waste pickers were represented on the committee but were in the minority. Waste pickers were comfortable with this arrangement because the Public

Office for the Defence of Individual and Collective Rights, which also had a representative, usually supported their position.

Beedi workers in India

In 2001, about 441,100 people were employed in beedi making in India. Although many beedi manufacturers are large enterprises, 90 per cent of beedi workers work from private homes. About 95 per cent of beedi workers are women and their earnings generally account for 45-50 per cent of their total family income.

The beedi industry is unusual in the “unorganised” (informal) sector because it is regulated by law. The Beedi and Cigar Workers Welfare Fund Act and the Beedi and Cigar Workers Act aim to protect the interests of beedi workers. Each state of India sets a minimum wage for beedi workers as a piece rate per thousand beedis.

The beedi laws were passed as the result of worker actions, most of which were conducted with leadership and support from the Self Employed Women’s Association (SEWA). SEWA was established in 1972 and in 2012 had about 1.3 million members in over 14 districts in ten states of India. It is the largest member-based organisation of women in the country. In 2012, its membership included 71,335 beedi workers.

SEWA’s interventions in the beedi industry date back to 1978, and in 1981 the Beedi Workers’ Organisation was established in Ahmedabad. In 1982, SEWA organised a general meeting of 5,000 beedi workers, with the then Finance Minister of Gujarat State attending. In 1983 SEWA submitted a report of this meeting to the state government in 1983. As a result, the government increased the price paid by factory owners to workers for beedis.

SEWA workers then established a cooperative society. The members of the cooperative submitted a memorandum to the Labour Commissioner of Gujarat State detailing their problems. After the State Labour Department had inspected the workplaces of the workers, their demands were accepted. Identity cards were issued. A factory owner who had retrenched 200 beedi workers, took them back and compensated the workers. He also agreed to give provident fund benefits to the 200 workers.

In 1985 SEWA was invited to be a member of Gujarat State Advisory Committee on Beedi Workers. The administrative office and health centre provided for in beedi welfare legislation were then established in Ahmedabad. From this year on workers and their children could access the services of a range of welfare schemes.

In 1987, the central government approved a project on housing for beedi workers in Ahmedabad. The Housing and Urban Development Corporation provided financial assistance, Ahmedabad Urban Development Authority provided land and the Beedi

Workers' Welfare Cooperative provided a subsidy. As a result, 110 women beedi workers received houses in 1993.

In 1988 the Gujarat High Court ordered the State Provident Fund Commissioner to carry out an assessment of the provident fund amount payable to the beedi workers. The commissioner arranged a meeting of 37 beedi factory owners and contractors to discuss implementation of the order. SEWA organisers assisted the beedi workers throughout the discussions. After the joint meeting provident fund payments of 497,790 rupees were made to 191 beedi workers.

Based on these achievements, organisation of beedi workers spread to other cities in Gujarat. In 1996, interventions spread beyond Gujarat after SEWA submitted a memorandum to the Labour Minister, Welfare Minister and Finance Minister at central government level. As a result, the central government fixed minimum wages and announced welfare schemes for beedi workers around the country.

In subsequent years further similar achievements were won in respect of, among others, increased pay for beedi workers, provident fund payments, housing, access to welfare schemes such as health and bursaries for children, and access to identity cards that allowed access to the various benefits. SEWA also organised savings and credit programmes and health camps for beedi workers.

In many of the activities, SEWA collaborated with both government and employers. The activities undertaken by SEWA when it started organising beedi workers in West Bengal in 2004 illustrate many aspects of its approach. In West Bengal SEWA undertook research into the socio-economic and work conditions of workers from 13 villagers together with the Labour Department of the state government and the Indian Tobacco Corporation. The research resulted in regularisation of working hours, uniform wage rates, and clarity about provident fund and benefits under various welfare schemes. More importantly, a local team was formed and SEWA members were provided with training on the significance of organisation, membership, understanding members' problems, their solutions and planning and monitoring. Three workers from Ahmedabad went to West Bengal to assist with awareness raising and training.

Throughout this time, SEWA guided the workers in bringing an end to the sale-purchase system in which factory owners bought beedis from the workers and no employer-employee relationship existed. In many cases they succeeded in achieving an employer-employee relationship, with identity cards being issued to workers and service conditions being formalised. On this basis workers then won higher wages, access to a provident fund and maternity benefits, among others.

In Madhya Pradesh SEWA's work also resulted in improvement of the situation of the contractors who work as intermediaries between beedi workers and beedi factory owners. Contractors provide raw material to beedi workers in their areas and then collect rolled beedis from beedi workers. It is their role to ensure that beedis received from the workers are of acceptable quality, make their bundles and then give them

to the beedi factory owner, who pays the contractors commission for their services. Since 2005, contractors have formed their own unions and have presented their demands to the beedi factory owners. The most common demand is for regular annual increases in the rate of the commission.

SEWA perceives government agencies and government schemes as providing a good base for collective bargaining. The strategy for negotiations is framed within the government rules and regulations. Similarly, projects and schemes announced by the government for workers are used to back up workers' demands.

Minibus taxi workers in Georgia

The Trade Union of Georgian Motor Transport and Motorway Workers (MTMWETU) is an affiliate of the Georgia Trade Union Confederation (GTUC). The union organises workers who are self-employed (with the status of "individual entrepreneur") and workers with informal jobs within formal enterprises as well as formal sector employees.

In Georgia, employees account for only 47 per cent of employed people. Transport is one of the sectors where informality is widespread, with high rates of self-employment, tax evasion and informality of labour relations over the last two decades. By 2010, between 18,000 and 20,000 people were employed in Tbilisi in the transport sector, of whom approximately 5,000 people were employed in the minibus sub-sector. Minibus drivers thus account for a major part of public transport in most Georgian cities.

During the Soviet period transport, like most other areas, was a government-run public service in Georgia. With the collapse of the Soviet Union, the municipal transport system also collapsed. The gap was filled by a self-employed sector that developed in an unorganised manner. The three cities covered in the Georgian case study illustrate bargaining over conditions for drivers when these cities tried to formalise the way municipal transport worked. The Tbilisi and Rustavi cases concerned privatisation of the minibus sector of public transport. Batumi concerned the municipality's attempt to nationalise (or municipalise) municipal transport sector by replacing the minibuses with normal-size buses, thereby cutting jobs.

The "vicious scheme" that existed prior to the reforms had a complicated multi-layered organisation, as follows:

1. The transport system within the cities was divided into several minibus routes.
2. The official "route operators" operated one or more routes for a specified period of time through winning formal tenders. In Tbilisi the route operators claimed that in the 1990s they (unofficially) paid for the permanent right to manage the routes, making them *de facto* "owners" of the respective routes.
3. The real "route operators" were the individuals who *de facto* managed minibus traffic under unofficial lease agreements with the route owners.

4. The route operators selected minibuses and their owners to work on the various routes. They informally collected monthly fees from the minibus owners and paid part of the money to the route owners.
5. In many instances the minibus owners were also drivers, while in other cases they employed drivers to drive their vehicles.
6. In many instances the route operators used their own minibuses on the routes managed by them.
7. No services (such as safety inspection, car repairing, spare parts) were provided to the minibus drivers by the other actors.

The drivers were left very vulnerable in this system, “feeding” all others above them, and exploited through semi-legal methods. In the above scheme, local authorities did not have a direct relationship with drivers, although indirectly they influenced the employment conditions of the drivers. Because the minibus system’s users are primarily poor people who cannot afford high prices, it was difficult to pass the exploitation further down the chain.

In Georgia, a self-employed worker who has the status of an individual entrepreneur has the right to freedom of association. Georgia’s Labour Code says that an employer is not obliged to bargain collectively even when this is demanded by a trade union. However, the Law on Trade Unions states that an employer is obliged to bargain with trade unions. The law refers only to those with “labour contracts” as counterparts for collective bargaining. However, in practice employers have never refused to bargain with others based on this phrasing. The Georgia workers are unusual in this respect as Bonner (2009) observes that informal workers generally do not have a recognised right to bargain.

In Tbilisi, the capital city of Georgia, the first memorandum of cooperation was concluded in July 2009 between the Unified Transport Administration of the Ministry of Regional Development and Infrastructure, MTMWETU and the League of Passenger Transport Operators. The main focus of the memorandum was safe, timely and quality transport of passengers, but it also covered regulation of work conditions and social dialogue. The three bodies established a permanent council as a platform for discussions of ways of addressing problems and challenges. A permanent board consisting of the heads of the three bodies was also established. The board meets twice a year unless there is need for an urgent meeting and can make recommendations on important issues such as labour disputes.

In September 2010 Tbilisi municipality issued a tender for the routes. This triggered initiation of collective bargaining and the formation of a local trade union of minibus drivers under the umbrella of the MTMWETU. The workers had previously resisted organisation, but quickly approached MTMWETU because they feared that the reform would result in their losing their jobs. Union activists from the municipal bus company, who were standard “employees”, assisted in organising the minibus drivers. The union was established within a single week and gave MTMWETU the mandate to represent it in the negotiations with the municipal government.

MTMWETU acted in alliance with the Christian democratic faction of the Tbilisi City Council, which was the party of the deputy speaker. Meetings held in the council, joint press conferences and participation in TV talk-shows strengthened the alliance and forced the municipal government to include the MTMWETU representatives in the Tender Commission.

The route owners and operators encouraged the drivers to go on strike. However, the drivers – led by the union – understood that the reform could result in more decent work and greater employment security. Nevertheless, MTMWETU did organise a protest rally in front of the mayor’s office in Tbilisi to secure the drivers’ rights and interests. After the rally the municipal government invited MTMWETU’s leader and the ad hoc committee of the drivers to negotiations. After a series of negotiations all the demands of the drivers were accommodated, including retention of jobs, medical insurance, working hours, paid annual leave, and safety conditions. It was also agreed that no matter which companies won the tender, they would conclude a collective agreement with MTMWETU as the workers’ representative organisation.

Despite relatively successful subsequent negotiations with the four companies, at a certain stage drivers again had to threaten to strike over who would bear the responsibility for routine maintenance and repair of minibuses as well as over wages. Through mediation that involved the GTUC and some senior government representatives, consensus was reached.

Ultimately, the trade union concluded memoranda of cooperation with the four companies which later resulted in signing of collective agreements. Subsequently MTMWETU succeeded in recruiting approximately 500 members (out of a total of 1,000 drivers) who subsequently paid union dues and actively participated in union activities.

The Tbilisi reform eliminated route operators and minibus owners from the system and substituted companies that had won a tender that obliged them to bring in new minibuses, select and employ the drivers, provide insurance (car accident, health care), operate and/or manage the routes, and provide safety inspections for a period of 20 years. The only legacy from the previous approach was that all drivers were formally registered as individual entrepreneurs (with commercial rather than labour contracts) and were responsible for taking care of the vehicle themselves.

Removal of the route owners and route operators resulted in many protests against the municipal government. The Tbilisi city council was also accused of encouraging monopolisation of city transport as there were rumours that all four tender-winning companies had the same owners registered off-shore. Route owners and route operators (who are small entrepreneurs and thus unable to engage in major investment) claimed that they had been deliberately side-lined. Nevertheless, the union supported the new scheme because of the advantages it provided for drivers.

Street vendors in Monrovia, Liberia

The Monrovia City Corporation (MCC) is the Liberian capital city's governing body and is responsible for running many of Monrovia's services. This is an especially daunting task as Liberia has emerged from many years of brutal war which left a legacy, among others, of poor infrastructure, education and development more generally. The MCC is headed by a mayor supported by a city council. Both the mayor and council are appointed by the president. When the president appointed the mayor in place at the time of the negotiations, she was given an explicit mandate to "clean up" the city and the city administration.

In 2009 traders were suffering from repeated raids by the City Police and the Liberia National Police. The police justified the raids on the grounds that traders were obstructing the free flow of vehicle and pedestrian traffic. They used a city ordinance from 1975 which outlawed selling of foodstuff on the street and also restricted hours for city markets. They did this despite the traders' argument that they were selling non-perishables and the ordinance therefore did not apply to them. The MCC and police also used a 1979 city ordinance that made it unlawful to trade without a permit that cost \$20. The second ordinance also said that the MCC had the power to determine where traders could sell their goods.

About 1,000 traders decided to march to the Monrovia City Hall to protest against the police raids. They presented a petition to the mayor suggesting that the parties should meet to see how the matter could be resolved. The mayor promised to work with them for an amicable solution and joined the traders in a solidarity march to central Monrovia.

The mayor and MCC then met with representatives of the traders. The trader team's mandate was verbally agreed during an informal meeting of approximately 1,000 members after the march. The main objective was to get the MCC to stop raiding the street vendors and seizing their goods.

At the meeting the MCC informed the traders that it would introduce a system where each trader would pay a US\$10 annual fee and be issued a license to operate on the street. The traders agreed to work with the MCC to implement this system. However, there was no written and signed agreement.

In a short period of time, more than 450 traders had paid the registration fee. Each trader was given an official receipt. However, no licenses were issued and after a short lull the police again started harassing the traders.

The traders protested and - because of the huge publicity - the president's office organised a meeting in which the president could hear the grievances. At the end of the meeting, the president suggested that the traders form a legal entity to negotiate

with the city government. She made a personal donation to assist them to do so. The traders then established and registered the Petty Traders Association.

The previous year another trader organisation, the Small Business Alliance (SBA), had been formed. The SBA was supported by an international non-governmental organisation (NGO), a local business consultant who provided pro bono advice, and the former Mayor of Monrovia. The MCC told the SBA that the City could not speak to two different groups. SBA's advisor therefore suggested that the two organisations merge and, after extended negotiations, they merged to form the National Petty Traders Union of Liberia (NAPETUL). The new organisation then registered with government.

The mayor's office informed NAPETUL that the MCC had identified a temporary site in central Monrovia where the vendors could trade. The MCC did not own the land but had negotiated with the land owner to allow the street vendors to use the site until a permanent location could be identified. NAPETUL initially expressed reservations about moving to a single location but the MCC insisted.

NAPETUL wrote to the mayor suggesting that the MCC and union enter into a memorandum of understanding (MOU) that would address all issues related to street selling, including licenses. When there was no response to the letter, NAPETUL submitted a draft MOU. The MCC called several meetings to discuss the draft but no agreement was reached.

NAPETUL again wrote to the mayor requesting that money from registration fees be used for the construction of market tables and for renting a site. It also asked the MCC to provide the promised toilet and storage facilities at the temporary site. After further delays, NAPETUL informed the mayor that its members would not move to the new site without an MOU being signed. The mayor responded that if the vendors did not move, she would instruct the police to raid and seize the traders' goods. This then happened and eventually the NAPETUL leadership was forced to encourage their members to move.

Three months after the move, NAPETUL was informed that its members would have to move again because the president's office had instructed the MCC to move the traders off the main thoroughfare. When the vendors resisted, the City Police forcefully evicted them. The MCC identified two alternative sites, but they were on the outskirts of the city and the traders rejected them.

NAPETUL then wrote to the president requesting her intervention. In response, the NAPETUL leadership and the mayor were invited to join the president for a meeting. By the end of the meeting, the president told the mayor to pay the vendors for their market tables that were broken by the police and to work out an amicable solution. The mayor then invited NAPETUL to further discussions in which the City Planning Director presented an updated plan on where street vendors would be allowed to trade. However, the negotiations again did not result in an agreement.

As the busy holiday season was approaching, the MCC then arranged a series of meetings between the police, NAPETUL and itself. A temporary arrangement was reached and the traders were given specific areas to sell their goods. It was agreed that the parties would meet again immediately after the holidays.

In January NAPETUL met with the mayor and her team to discuss the deadline that had been given for them to move off the streets. The meeting discussed the plan that NAPETUL had previously submitted. The mayor was not happy with the plan or with the fact that some of the petty traders had contacted the president's older sister to intervene on their behalf. In a newspaper article she was quoted as threatening to sue them.

The Liberia National Police subsequently took the lead in negotiating with the NAPETUL through ad hoc meetings. No minutes were kept of these meetings, but the relationship remained cordial. The petty traders remained on the streets in specified areas of the city. However, the MCC did not pay the vendors for the destroyed market tables and the licensing scheme was not reintroduced. The MCC said that the funds collected from the petty traders were being held in a special account and, once negotiations resumed, the MCC and the traders would agree on how the money would be used.

Discussion of themes

This section of the report discusses themes that emerge from the case studies. In addition to the research papers, the discussion draws on the limited literature that exists on collective bargaining of informal workers.

Defining informal

The main focus of the research was collective bargaining by informal workers. It is thus important to have a common understanding of the terms "collective bargaining" and "informal workers".

Discussions on informal workers often use the terms "informal sector" and "informal worker" interchangeably. The two terms do not, however, have the same meaning.

The informal *sector* is defined on the basis of the nature of the enterprise in which a worker works. The enterprise – and the work done in the enterprise – is defined as formal sector if the enterprise is registered for tax, incorporation or other purposes with the national government.

In contrast, informal *work* is defined on the basis of the nature of an individual worker's job, including their status in employment. All own-account workers (self-employed who work alone) are automatically categorised as informal, as are

employers who own and manage informal sector enterprises, and people who work as unpaid family members. In addition, employees are classified as informal workers if they are not registered with government, do not have secure jobs and are not covered by social protection benefits. This definition means that an employee working in a formal sector company may be an informal worker.

The definitions of both informal sector and informal work do not have neat boundaries. In particular, the degree of informality of work can be seen as a continuum from a worker who is unregistered, works on a casual basis and has no benefits and protection, through one who may be registered but does not have the full set of basic benefits and protection, to one who is registered and has full protection. As will be seen below, several of the case studies covered in this research involved workers bargaining to decrease the informality of their work.

Many people immediately think of self-employed people, and in particular own-account workers, when the term “informal” is used. This is in part a hangover from the definition of the informal sector. However, this conception does not fit all the case studies well.

- Most street traders fit neatly into this conception of informal work, although some traders may have employees or unpaid family members working alongside them.
- Most waste pickers are self-employed working on their own, or working as a member of a cooperative. Many may have unpaid family members working alongside them who are also informal waste pickers.
- The overwhelming majority of the beedi workers are home-based workers, who make beedi cigarettes in their own homes or homes of others, and then sell the beedis to contractors who, in turn, sell them to the factory owners. This description makes them seem like independent contractors. However, in reality beedi workers are in a very similar position to factory workers except that they have to provide their own premises. One focus of beedi workers’ struggles has been to gain recognition as employees of the large formal sector beedi factories.
- The minibus drivers in Georgia have commercial contracts and, in this sense, are independent contractors. However, in Tbilisi their collective bargaining resulted in their achieving conditions of work and status that are closer to that of employees.

The Georgia case merits particular attention as it illustrates the complex relationships that can exist, and how they affect workers’ rights and situation. The summary of the case study above describes the “vicious” system with its many layers and intermediaries. This type of situation not only means that each layer of the system extracts “rent”, reducing the share of the earnings that go to drivers. It also means that bargaining and negotiation is more complicated as there are so many different actors with whom to bargain. The important achievement in Tbilisi was that the union assisted the minibus drivers in being able to negotiate directly

with the large companies, with the municipality as an overseer, but excluding the route owners and operators.

In Batumi, a smaller town, most of the operators owned only one vehicle and were owner-operators. In this situation, the demands of the workers and union were different and the union's demands on behalf of workers paid more attention to ensuring that vehicles would be approved and routes allocated. The difference between Batumi and Tbilisi illustrates the fact that the nature of work relationships cannot be assumed, even within a single occupation in a single country. The Batumi example is similar to that described by Bonner in respect of pedicab and jeepney drivers in the Philippines. Bonner observes that while the Philippines setup means that the driver bears all the risk, for example if there are fewer trips, in general drivers and operators see themselves as having similar interests as they are "in fact ... both victims of the larger economic system" (Bonner, 2006: 19). The solidarity of drivers and operators is strengthened by the fact that most operators own only one or two vehicles, and most have a working or lower-class background.

Several of the case studies took place in countries with very high degrees of informality. In India, for example, the research paper notes that 93 per cent of the country's workers are "unorganised" (the Indian term used for informality). However, the paper also describes various forms of benefit and protection that have been won for beedi workers over the years, as well as legislation covering beedi workers that has been in place for several decades. The industry cannot thus be classified as 100 per cent informal or unregulated.

In Liberia, out of a total workforce of about 1.1 million people, only 170,000 (17 per cent) are employed in the formal sector. In Georgia, employees account for just under half (47 per cent) of employed people. Even if all the employees are formal, this leaves large numbers of people working informally. The paper identifies the transport sector as one of the sectors where informality is especially widespread, with high rates of self-employment, tax evasion and informality of labour relations over the last two decades.

The fact that a worker is informal does not mean that the worker should have lesser rights. The 2002 International Labour Conference resolution on Decent Work and the Informal Economy includes the following points:

- The ILO Declaration on Fundamental Principles and Rights at Work and the core labour standards are fully applicable to informal workers.
- The term "worker" is not restricted to those in an employer-employee relationship.
- Governments, worker and employer organisations, and the ILO need to extend the organisation and representation of informal workers (and employers).

Defining collective bargaining

Bonner (2009: 2) defines negotiation and collective negotiations or bargaining as follows:

Negotiation is the process when two or more parties meet each other to get agreement over the use or distribution of a particular resource, the granting of a right etc. In a negotiation each party seeks to advance their own interest. Negotiations can be between individuals or on behalf of a group. In workers' organisations we talk about collective negotiations or collective bargaining, meaning we negotiate for collective rather than individual interests.

The ILO defines "collective bargaining" as including "all negotiations which take place between an employer, a group of employers or one or more employers' organizations, on the one hand, and one or more workers' organizations, on the other, for: (a) determining working conditions and terms of employment; (b) regulating relations between employers and workers; and/or (c) regulating relations between employers or their organizations and a workers' organization or workers' organizations (ILO Convention No. 154)" (Minawa, 2012).

The ILO definition explicitly refers to "employers" on the one hand and "workers" on the other. The fact that the term "worker" rather than "employee" is used potentially widens the scope to include informal workers with other forms of status in employment, such as those defined as individual contractors. However, the term "employer" seems to narrow the interpretation. This definition, if strictly applied, would exclude many of the examples of collective bargaining covered in this paper. It would do so because in some cases the worker counterpart was not an employer. In particular, in some cases the counterpart was government.

Horn (2005) suggests that informal workers need to identify "the entity or authority most responsible for the issues over which they wish to negotiate" and that the identified entity then becomes the negotiating partner. Implicit in her formulation is that the negotiating partner may differ for different issues even for a single group of workers. She notes that in the case of street traders, they may well be required to negotiate with different departments of a municipality on different issues. In the Liberian case study of street traders, negotiation involved the municipality (primarily led by the mayor), the president who appoints the mayor, and the municipal and national police.

The ILO defines the term "social dialogue" to include "all types of negotiation, consultation or information sharing either among the bipartite parties in the workplace or industrial sector, or by tripartite partners at the national level, on issues of common interest" (Minawa, 2012: 4). Collective bargaining is seen as one form, but not the only form, of social dialogue. The term social dialogue to some extent better encompasses the case studies than the term "collective bargaining". Indeed, the Georgia report explicitly sees the case study as reflecting the labour

movement's attempts to strengthen social dialogue in the county. However, the case studies themselves focus primarily on collective bargaining rather than other forms of social dialogue.

Organisation of informal workers

In order to engage in collective bargaining, there needs to be a "collective" on the side of the workers. Workers thus need to be organised in some way.

The 1998 ILO Declaration on Fundamental Principles and Rights at Work recognises both freedom of association and the right to organise as fundamental rights and principles. All ILO member states are required to respect, promote and realise such rights and principles, regardless of whether they have ratified the relevant conventions. The rights apply to all workers except those in the armed forces and police and public servants engaged in government administration.

All the countries for which there are case studies are member states of the ILO. All workers in these countries are thus entitled to freedom of association and the right to organise. This entitlement exists - at least in theory - whether they are employees, self-employed or some other status in employment.

There are, however, often differences between theory and reality. Several of the case study countries have labour laws - including laws relating to organisational rights - that are problematic. For example, Liberia is still emerging from a protracted civil war and a long-debated Decent Work Bill has still not been passed by the national legislature. Even when this is in place, in its present form it will apply only to employees.

In Georgia, the collapse of the Soviet Union resulted in a reduction of protection for workers. What the case study report terms the "ultra-liberal" labour code contradicts both international conventions and the requirements of the European Union. The code also in some respects contradicts the earlier Law on Trade Unions. One particular impediment for collective bargaining is that the code prevents groups that consist of fewer than 50 workers from engaging in collective bargaining. This presents difficulty for the common form of organising in Georgia in which workers organise in smaller work-placed groups which come together into regional and national unions and ultimately the national federation.

In contrast to the Georgian example, Bonner (2006) notes that in Canada, labour law explicitly accords "dependent contractors" with the right to collective bargaining on the same terms as employees. In line with this, the National Automobile, Aerospace Transportation and General Workers' Union of Canada organises owner-drivers of trucks and includes them in bargaining units.

Beyond the legal context, Bonner (2009) points to a range of internal challenges that informal workers might face in organising and collective bargaining. These include

the difficulty of sustaining organising and paid-up membership. Problems with paid-up membership in turn mean that the organisation will have limited resources on which to draw. In Georgia, the agreement with the transport companies stipulated that the company would deduct union dues and transfer these to the union. This arrangement is likely only to be possible when there is a recognised employer-employee-type relationship.

Types of organisation

In the case studies, most of the worker organisations described themselves, either in name or self-description, as unions. The exception is the Brazilian waste pickers, who are organised in cooperatives and associations. In terms of size, the organisations range from SEWA, with 1.3 million members and hundreds of employees, to NAPETUL in Liberia, which has no paid officials.

Horn (2005) observes that while it is often easier for informal workers to join an association, rather than a union, associations do not usually have experience with collective bargaining. In addition, they may not have a strong tradition of member control. In such cases, leaders may negotiate on behalf of members without proper mandates and report backs. Associations may also not have the “fighting spirit” needed to defend their achievements. She suggests that alliances with trade unions and access to trade union education and training on collective bargaining and negotiation can assist in filling these. In most of the case studies, the unions established by the informal workers are affiliated to larger union bodies. This offers the potential for access to both education and training, and solidarity and support.

Moving on to cooperatives, Horn argues that while these organisations generally do not have a strong tradition or experience of collective bargaining, the principle of mutual accountability that underlies cooperatives forms a good basis for democratic and accountable collective bargaining. Cooperatives are also usually better developed administratively and institutionally. This places them in a better position to monitor agreements than the less formal associations.

The question of the type of grouping emerges clearly in the Brazil case study. This case study involves waste pickers, who are generally seen as self-employed. Two types of organisation exist – associations and cooperatives. The latter can only be established where 10 or more workers come together. The result is that associations are more common than cooperatives among waste pickers who in general prefer to work alone rather than coming together in groups. Indeed, the majority of waste pickers have, to date, chosen to remain outside of either of the two types of organisation. The bonus payment won in the collective bargaining in the case study will be paid only to workers who are organised in associations and cooperatives. Those in favour of organisation hope that the introduction of the bonus will encourage more workers to form or join associations or cooperatives. More generally, the waste pickers’ impact is strengthened by the fact that they are part of a

national movement of waste pickers, with the resultant opportunities for solidarity, experience sharing, and national presence.

SEWA is a particularly interesting example in a discussion of type of organisation because it defies placement in a single category. SEWA's name categorises it as an association, but it describes itself as a "union" of workers from the "unorganised sector". The case study illustrates how it spans the two categories of "association" and "union". As an association, it brings together a very large number of different types of smaller groupings, ranging from self-help groups, to associations, unions, cooperatives, corporate entities and even a federation of cooperatives, among others. SEWA sees education and training of members as among its core strategies, with the intention that it "phase out" its own role over time as the smaller organisations become more self-reliant. Bonner (2006: 38) writes that SEWA has "pioneered creative approaches to unionism, challenging the conception of what a union should be and do." This is seen, in particular, in its two-pronged approach of "struggle and development". The case study illustrates how it engages with both government and employers in respect of both these strands.

The full Indian case study confirms that SEWA and the workers it organises engage in the full range of trade union activities, including strikes. Its activities can be broadly categorised in two streams (a) related to membership and (b) related to services to members. Membership-related activities include membership campaigns, awareness creation, perspective building (on benefits of membership and rights and duties of members) and capacity building. Service-related activities include support and facilitation in income generation, savings, wealth creation and social security.

The hybrid nature of SEWA and its sheer size mean that it is much better placed than smaller organisations to provide services and benefits to workers. The full case study includes several examples of where benefits related to housing, health and education were provided through SEWA combining its resources with those of government and/or the employers. The SEWA example suggests that names might be misleading, and it is – instead – practices that are important.

In Georgia the main actor on the side of the workers was the MTMWETU, an affiliate of the Georgia Trade Union Confederation (GTUC). The union bargains for and organises workers who are self-employed (with the status of "individual entrepreneur") and workers with informal jobs within formal enterprises as well as formal sector employees. This is possible because the MTMWETU's constitution and structure are flexible enough to allow for membership of any employee irrespective of the degree of the formality of his/her labour relations with the employer. Furthermore, the policy of the GTUC is to encourage its member sectoral unions to make it easy for informal workers, including those who are self-employed, to join the unions and enjoy representation and protection equal to those having formal employment relations with their employers. A similar openness to different types of workers allowed for NAPETUL, a union of self-employed traders, to affiliate to Liberia's Labour Congress.

The potential benefits from organising across status in employment were illustrated in Georgia when union activists from the municipal bus company, who were standard “employees”, assisted in organising minibus drivers. The workers in Batumi also benefited from the threat of a sympathy strike by minibus drivers in Tbilisi.

As seen above, most waste pickers resist organisation and only a small proportion are organised. In the past, minibus drivers in Georgia in Tbilisi and Batumi also resisted joining a union. They joined only when their jobs were under severe threat and they recognised that a union could assist them. One could argue that workers who are seen, and partly see themselves, as independent contractors rather than employees are less likely to organise. However, this is a simplistic argument. Thus street traders are for the most part independent contractors, but organisation of street traders is relatively common. A weakness of much street trader organisation is its splintered nature, with many small groups that struggle to unite. This could have created problems in the Liberia case where two organisations were formed to represent traders of non-perishables. However, with pressure from both the city (which wanted a single negotiating partner) and the advisor to one of the organisations, the organisations managed to negotiate a merger.

Despite the relatively small proportion of waste pickers who are members of associations or cooperatives, organisation among waste pickers in Brazil has been strong and sustained enough to make successful material gains as well as gains in terms of how waste pickers are seen. However, like Liberia, where it is mainly workers who perform union work, there is a tension for worker leaders between doing the union work and earning an income for themselves and their families. With employees, this tension can be solved by winning the right from employees for worker representatives to do union work during paid working hours. In some cases, unions also win the right to have full-time paid shop stewards. These options are not easily available for organisations of self-employed workers as there is no employer. The tension between time spent on union work and time spent earning an income increases when there are protracted negotiations.

In Minas Gerais in Brazil, this problem has been addressed by government agencies and NGOs providing a monthly salary for the “professional” leader through his/her participation in capacity building and other programmes financed by the government or NGO. The worker leader is required to complete some tasks related to the programme but also has time to perform duties related to the organisation. This system can only work well if the leaders continue to enjoy the trust of their fellow workers.

Where a union is chosen as the appropriate form of organisation for informal workers, the further question arises as to whether the informal workers should establish their own union or whether they should join a union which organises both formal and informal workers.

In terms of the second option, Bonner (2009) notes as an “external” challenge that formal sector unions are often not interested in informal workers, and do not provide consistent support. However, ongoing substantial reductions in union membership among “standard” workers as the numbers of the latter decline constitute an important reason why the global unions and their affiliates should organise informal workers. A further reason is to avoid employers and other authorities playing off one group against another. Elsewhere Bonner (2006) suggests reasons why unions might, nevertheless, resist organising informal workers. These include the argument that they are not proper workers because they are not employees, as well as the real practical difficulties in organising them.

However, Bonner (2006) highlights that some of the global unions – and especially those covering sectors where informal work is common – have recognised the need to organise informal workers, and encourage their affiliates to do so. She points, in particular, to the Union Network International (covering workers in skills and services), International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Association and the International Transport Federation. The Georgia case study is one example of what is reportedly a growing trend of unionisation among taxi and minibus drivers in Central and Eastern Europe at least some of which occurs under the auspices of unions that were established to organise formal workers.

In the other case studies, workers were organised separately from formal workers. Thus beedi workers were organised under the umbrella of SEWA, which explicitly describes itself as a union for workers in the “unorganised” sector. In this case, then, the workers were part of a larger entity that organised other types of workers virtually all of whom were informal. In other case studies the organisations were specific to the sub-category of informal workers. Thus street traders in Liberia had their own organisation, NAPETUL and waste pickers belonged to a large number of associations and cooperatives. In the waste picker case, these organisations work together at state and national level as the MNCR. In the case of Liberia, the small-ish trader organisation has affiliated to the national federation that brings together workers – many of whom will be formal workers – across many sectors.

Where – as with the transport union in Georgia – a union opens up membership to workers beyond the category of employee, the question can arise as to whether class interests might differ across members. This is especially the case if membership is opened to self-employed people who might employ others. Thus in Benin, the associations and federations that organise transport workers includes both drivers who rent or lease vehicles and owner-drivers. Membership includes a small number of owners of larger fleets who are closer to employers. The Ghana Private Road Transport Union has a similar mix of membership (Bonner, 2006).

Bonner (2006) points to the Self Employed Women’s Union (SEWU) of South Africa to provide an example of how unions might avoid major class-based tensions

between the interests of different members while not excluding small entrepreneurs. SEWU, which had a strong base among street vendors, allowed membership only to vendors with fewer than three employers. SEWU insisted further that both the “owners” and those working with or for her, including people working as unpaid family members, should join the union.

In the transport arena, Bonner observes that when unions focus on drivers, as they generally do, they may leave the most marginalised workers unorganised. In many cases the latter workers, who typically do jobs such as cleaning and directing vehicles, are “employed” (or paid) by the drivers, often on a casual and very informal basis. Bonner reports that both the Zambian and South African unions that organised drivers attempted to organise at least some categories of these more marginalised workers.

Bargaining counterparts

For every negotiation, there needs to be one or more bargaining counterparts. For formal workers, the obvious counterpart is the employer. The situation is more complicated for informal workers, for many of whom there is not an employer. Further, even where there is an employer, sub-contracting or other arrangements may mean that the legal employer does not have effective power to change what workers want changed.

To a large extent, the counterpart is determined by the issues to be negotiated (see next section). In the case studies, the main counterparts were:

- Brazil: The state government
- Georgia: The municipality and the large companies
- India: State and central government and beedi companies
- Liberia: The mayor and municipality, the national and municipal police and the president

In some cases the negotiations happened with several counterparts simultaneously. In other cases worker organisations needed to negotiate aspects separately with the different parties. For example, in Georgia initial negotiations were conducted with the municipality, but subsequently the union signed separate agreements with each of the four companies. In India, SEWA and the workers it organises have had to engage with a large number of different employers, state governments and government agencies. In some cases both government and companies have collaborated with SEWA on an issue, such as provision of housing.

The SEWA and Georgia case illustrates how the fact that workers are dispersed, in terms of location, who their employer is, and other factors, means that similar negotiations need to be repeated many times before all workers are covered. Where the worker organisation is affiliated to a national body and/or where national government has the power to determine how sub-national governments act on a particular issue, then there is much to be gained by engaging at national level to

ensure victories that cover a larger number of workers. However, the Georgia case study, in covering three cities, illustrates how a single solution might not be appropriate in all cases.

With domestic workers a serious challenge in identifying a bargaining counterpart arises from the fact that in most cases there is a single domestic worker working for a single employer. Rizio et al (2011) discuss four examples of what they term collective bargaining for domestic workers. The case studies are from Germany, Switzerland, France and Uruguay – our case study. In reality, at least one of the case studies – Switzerland – does not represent collective bargaining, but instead a system in which a government-established body proposes minimum wages and conditions.

One of the criteria for Rizio et al's case studies was that there was an employer bargaining group. The report notes that the Uruguayan employer group – like the German group – probably had a more favourable attitude to workers than would be the case in other sectors. It notes further that some observers feel that government and employer concerns about the welfare of workers probably played a greater role in achieving an agreement than the strength and activities of the union. To a much smaller extent a similar point might be made in respect of the beedi workers in India where it seems that SEWA placed emphasis on workers' vulnerability and appalling conditions to gain support from government for protection. The appendix to the Indian report details a case in which an employer attended the celebrations of victory (for the workers) after a multi-year court battle.

In Germany, collective bargaining for domestic workers dates back to 1955 and the bargaining partner at both federal and state level is the German Association of Homemakers. A report on a European trade union conference (Mather, 2005) observes that this association is not a "normal" employer body. However, the main weakness of the German system is that only about 1 per cent of all domestic workers in the country are covered.

In France, the collective agreement covers domestic workers who are employed by non-profit organisations and placed in private homes. For-profit domestic worker agencies, which in 2011 accounted for only 5 per cent of the market, are covered by the French Labour Code. While their coverage is small, they are seen as targeting migrant workers, who tend to be more vulnerable. The Uruguayan agreement explicitly gives foreign workers the same legal protections as Uruguayan citizens (Rizio et al, 2011).

The report on the European trade union conference (Mather, 2005) discusses the different union approaches that would be appropriate for domestic workers in different situations. Where care services are provided by government, local authorities are likely to be an appropriate partner for negotiations. Where domestic workers are employed through agencies, these agencies could be the bargaining counterpart. It is where domestic workers are employed by individual employers

that the challenges of collective bargaining. In this situation the report suggests that unions should use existing laws to defend workers and promote contracts.

However, the report also points to the examples of France, Belgium and Italy where bargaining of some sort with private household employers was possible. In the case of France, it cites the *Fédération Nationale des Particuliers Employeurs*, which represents about two million private employers. This organisation is not mentioned by Rizio et al (2011). In Belgium, there was no employers' body, but negotiations took place within the parity commission for building caretakers. In Italy, the union "invented" (Mather, 2005: 29) a partner when it found no employer body by persuading the federation of professional women housekeepers to act as the employers' association.

Issues to be negotiated

Horn (2005) observes that informal workers face the challenge of organising and fighting not only for improvements in their working (and living) conditions, but also for laws that recognise and protect them. Both elements are found in the case studies.

Bonner (2009) identifies the most common priority issues and organising challenges for different types of informal workers, drawing heavily on a workshop organised by StreetNet (an international network of street trader organisations) in Senegal to discuss collective bargaining and litigation strategies for informal workers. The table below extracts the issues and challenges noted in respect of street vendors (relevant for Liberia), home-based workers (beedi workers in India), waste pickers and recyclers (Brazil), transport workers (Georgia) and women informal workers more generally. The table also details the issues and challenges in respect of domestic workers, given that these workers are one of the focus areas for WIEGO's work.

Sector/group	Priority issues	Organising challenges
Street, market vendors and hawkers	Right and space to vend Facilities: storage, shelter, toilets, water Protection against police harassment Safety and security Competition: protection against bad effects Access to credit	Not regarded as workers by selves and others Controlled by politicians, "mafia" Fear of harassment by authorities, police Competition amongst selves and formal sector Time spent on organising means loss of income No forums for bargaining
Home-based workers	Equal income, benefits as factory workers Identifying employer End to exploitation by	Isolated in homes, invisible Time-double burden of work and home care Fear of losing work

	intermediaries Access to regular work Access to markets (own account) Access to credit (own account)	Restrictions imposed by religion, culture Children working Unprotected by labour law or disguised status
Waste pickers and recyclers	Access/right to recyclable waste Integration into municipal systems Work higher up the recycling chain Fair prices for recyclables Recognition and improved status Health and safety End to exploitation by intermediaries	Low status and self esteem Fear of losing work Fear/dependency on middlemen Competition amongst selves Time to meet means loss of income Child labour Not protected by labour law
Domestic workers	Recognition as workers Protection against dismissal, abuse Freedom of movement Freedom to change jobs (migrant) Less hours, more rest Better living conditions	Isolated and invisible in homes Fear of employers and losing jobs Dependency on employer for housing etc. Not protected by labour law Lack of time: long hours Fear of authorities (migrant)
Transport workers (urban passenger)	Access to routes and passengers Protection against harassment Health and safety/ accident protection Parking and facilities Petrol and spares prices and fares Competition-protection against bad effects	Mobility Competition between selves and formal sector Control by politicians, "mafia" Threats by employers Fear of harassment by police/ authorities Time for organising means loss of income
Women workers: all sectors	Safe and affordable child care Income protection during/after childbirth Physical security Sexual harassment protection Equal income for equal value work Access to higher income earning Work	Fear and lack of confidence Cultural and religious barriers Often in scattered locations Dominated by men in sector Lack of time Child care and home care

The case studies between them illustrate the large number of issues that may be the subject of collective bargaining by informal workers. The key issues for the different cases were:

- Brazilian waste pickers: Access to work, compensation
- Georgian transport workers: Wages, benefits, health and safety, security of employment
- Indian beedi workers: Status as employee, pay, provident fund, welfare
- Liberian street vendors: Right and location to vend, vending fees

The issues covered in the case studies do not encompass all the priority issues tabulated by Bonner. Further, some of the case studies describe negotiations over a single issue or set of issues at a particular time, whereas in other cases a broader range of negotiations is covered.

The Brazil and India case studies present an interesting contrast. Both case studies deal with a group of workers that has a long history of negotiations. In the case of India, in particular, beedi workers have organised for several decades. The India case study tracks the progress of organisation and negotiations for the beedi workers from when it started to date. In contrast, the Brazil case study describes only one recent aspect of the struggle of waste pickers in Belo Horizonte and the country more generally. This focus was chosen because other aspects of the struggles of waste pickers in Brazil have already been well documented (Dias, 2006; Dias and Fábio, 2008).

The aspect focused on in the Brazil case study is one into which the waste picker organisations put relatively little effort and the initiative was not fully supported by all who see themselves on the side of the waste pickers. Ultimately, the organisations did not feel it necessary to participate in, or attend, the debates in parliament because they knew there was no chance of achieving their preferred option, and they were confident that the second-best option would go through smoothly. The Brazil case study points out that this was one of several demands being pursued even over this single period. Separate teams working on each demand remained in contact with each other, but worked separately.

In the table above, one of the recurring themes across all types of worker except transport workers is recognition of their status as workers.

In two cases – Georgia (where it did, in fact, involve transport workers) and India – one of the issues was recognition as an employee. This was a key issue for these workers as by being recognised as employees these workers would be eligible for protection and benefits of various kinds. The victories of these workers did not necessarily definitely change how the workers were formally defined. In Tbilisi workers continued to have commercial rather than labour contracts. However, to the extent that the victories gained recognition of the “fuzzy” boundaries between employees and other workers, they could be regarded as advancing recognition of informal workers. This is especially so given that the workers in all three cases continued to work in the same way as before.

One of the most common topics for collective bargaining of employees is the issue of wages. This was also an issue for beedi workers where it concerned the piece rate. For workers who are nearer the category of independent contractors, instead of negotiating over wages, they may have to negotiate over the fees that they pay to the authorities for the “right” to work. This was the case for the street vendors in Liberia, and in Georgia where intermediaries paid fees for routes. In the case of the waste pickers in Brazil, the heart of their victory lay in the agreement that they would be paid a bonus based on the amount of waste collected. The introduction of a bonus represented recognition that the waste pickers deliver a service to the city. However, for some waste pickers the victory was seen as inadequate as their ultimate objective is that they should be contracted and paid by the city.

While informal workers are often considered as being outside of the tax net, this does not mean that they do not make payments to government associated with their work. In particular, as noted above, workers are often required to pay various forms of fees to government for the right to work legally. This is often the case for street traders who are, for example, required to pay for their trading site. In the Georgia case, operators were also required to pay for access to a route. For taxi drivers, there are payments such as license fees and fines, as well as a question as to who – driver or operator – pays for registration of the vehicle. Where, as is often the case, government imposes special taxes or other duties on fuel, the driver generally bears this cost. The fact that such taxes and duties exist is not something that drivers are in a good position to tackle on their own through bargaining. Instead, they can try to bargain as to who – they or the operators or companies – should cover the cost of fuel. In one city in Georgia, where government introduced new tests for vehicles, some of the demands related to the stringency of these tests, as well as a demand that the drivers and/or operators have representation on the overseeing body.

Bonner (2006) discusses organisation of informal transport workers in various countries. Many of the issues highlighted strongly resemble those found in the Georgia case. In the Philippines, for example, pedicab workers are not covered by the Labour Code because there is no clear employer-employee relationship. Instead the drivers generally rent the vehicle from the operator (owner) on a daily basis and are responsible for covering the cost of fuel and any fines or penalties incurred. This situation has similarities to that of Georgia’s minibus taxi drivers. One of the Georgia agreements benefited workers by specifying more clearly who was responsible for which expenses.

In Brazil, the bargaining demand was that waste picking be recognized as a service provided to government thus entitling the providers (waste pickers) to regular payment. This demand has been the main demand of the MNCR since 2001. In the case study the waste pickers are not seen even as independent contractors, as there is no individual contract with the municipality. However, the fact that the municipality has agreed to pay a bonus constitutes recognition that the workers provide a useful service.

Bonner (2006) highlights that one of the common problems facing informal workers is that they are excluded from social security. The India case study records how access to and payouts from the provident fund were the basis of repeated demands – and also victories – for the beedi workers. In this case, the provident fund was established by government and beedi workers were thus legally entitled to membership and benefit. However, many workers were denied access or cheated of full payouts. The India case study also illustrates access to other benefits, such as health care, housing and bursaries for workers' children. SEWA's size and its financial and other forms of strength enabled it to contribute, alongside government or the employer, to providing some of these benefits. For smaller, less established organisations this would generally not be possible.

From informal to formal

Some of the demands that are raised by informal workers in collective bargaining are, in essence, demands that their status be formalised.

The demand that workers be recognised as employees is an example of a demand that relates to formalising informal workers as, once recognised as employees, workers are likely to be covered by standard laws and protections, including in many cases social security. With street traders, a strategy that aims to have workers registered is, in essence, aimed at formalisation, but will not automatically give workers access to social security and other benefits. Further, it is likely to impose costs on workers, such as registration fees as well, perhaps, as costs related to meeting minimum standards. For the Brazilian waste pickers, the contracts with the cooperatives and associations providing for bonuses provide a form of formalisation but again require that specified standards are met.

The Brazil case study explains that the bonus represents one, but not the only, option for formal inclusion of waste picking in the government's policy on management of solid waste. Another option already in practice in Brazil is the signing of limited duration contracts through which municipal governments include waste pickers' cooperatives and associations in the local system of waste management. With this option, waste pickers become responsible for specified activities detailed in contracts binding cooperatives or associations directly to the municipal agency. These contracts must be respected by the provider of the overall service, a private firm or a consortium of firms. These firms also sign limited duration contracts with the local government for provision of the service. Whenever this arrangement prevails, waste picker cooperatives and associations are guaranteed access to recyclables.

Several of the negotiations described in the case studies result in greater regulation of workers and/or the industry. This is another aspect of formalisation. In Liberia, for example, agreement was reached that traders should register so as to secure licenses to trade in particular areas. The trader organisation offered to take responsibility for registering workers and maintaining the associated database.

In Brazil, waste pickers must join registered organisations to benefit from the bonus. In addition, the organisations must have a reliable system of recording the quantity and nature of the waste collected by each picker as this determines the bonus. The Brazil system places a new burden on the associations and cooperatives. The rules for the bonus stipulate that 90 per cent of the amount received from the municipality must be paid to waste pickers, but allows for the remaining 10 per cent to be used for other purposes. This money has often been used to strengthen the administrative systems within the associations and cooperatives. During 2012 alone, at least 59 cooperatives and workers' associations made changes in their administrative and management practices so as to meet the requirements for receiving the monetary incentive. The report suggests that these changes, in themselves, constitute an important gain for workers.

Strategies

Between them the case study worker organisations utilised a wide range of different strategies as part of, or to support, their collective bargaining efforts.

SEWA is the oldest of the organisations and the India case study covers a longer time and more engagements than any of the other papers. It is therefore not surprising that this case study shows the widest range of strategies. The case study emphasises that research is a recognised part of SEWA's strategy, especially when engaging in a new geographical area, with a new group of workers or on a new issue. The India case study is also the only one in which litigation features. This strategy will usually only be available to organisations with the necessary financial and other resources unless informal workers have access to affordable state courts or donor support.

The types of strategies available depend, in part, on the characteristics of the sector and the type of worker. For example, a strike is not as readily available as a weapon for self-employed workers as for employees. Indeed, in the case of the Liberian street traders, the MCC and police wanted the traders to stop working.

The India and Brazil case studies point to the importance of how issues are framed so as to elicit support from decision-makers. In India the demands of workers often appear to have been framed as welfare issues of poor women. This might have greater appeal to government and employers than more militant-sounding worker demands. In Brazil, the waste pickers' demands were linked with two political causes which emerge from the sustainable development debate. The first cause is promoting the social and economic inclusion of street dwellers and other categories of very poor people. The second cause is the struggle against use of incineration for solid waste management. The waste picker movement publicises these causes through the annual Waste and Citizenship Festivals.

The waste pickers also position their demand as one of recognising waste pickers as full citizens. In using various government systems as the basis for organising

collective bargaining, SEWA also implicitly or explicitly positions beedi and other informal workers as citizens with rights. Thus the India case study refers several times to how different groups of beedi workers got access to identity cards that, in turn, entitled them to various benefits.

A common strategy across the case studies is to demand written and signed agreements, whether at the individual or organisational level. Sometimes, as in Liberia, this strategy is developed only after organisations have learnt the hard way that unwritten agreements reached during a crisis may be ignored by the authorities once the crisis is passed.

At the individual level, as with other employees, written individual contracts provide informal workers with greater understanding and certainty as to their entitlements, and stronger legs to stand on to demand their rights. However, contracts can also impose heavy burdens on informal workers. Thus Bonner (2006) cites the example of transport workers in Benin whose contracts state that they must pay a regular fee, cover the costs of fuel and oil, and themselves take responsibility for minor repairs to the vehicle.

Outside assistance

Several of the case studies describe how the workers received assistance from various sources. This is especially necessary in cases where organisation is new and leaders and members have limited experience of organising, and where workers with relatively low education are engaging on issues that are highly technical and complicated. The need is heightened when the organisation has few, or no, paid officials.

In Liberia, a foreign NGO provided assistance to street traders in establishing the SBA which, despite its name (Small Business Alliance), had only street traders as members. Capacity building and other support was provided through this NGO and, at an earlier stage, by WIEGO. However, it was another grouping of street traders, the Petty Traders' Association, which led the march that set off the negotiations described in the case study. When the foreign NGO saw that government was engaging with the traders, it advised the SBA to join them. This resulted in the establishment of NAPETUL.

The case study emphasises the overall lack of legal and other advice available to NAPETUL, and that they needed to rely on their own limited negotiating skills and skills to develop a plan in respect of location of sites. However, the case study provides evidence of growing sophistication over time. In particular, after early unwritten agreements were not respected, the organisation started communicating in written letters and pushing for a written and signed memorandum of agreement.

Horn (2005) observes that very often agreements reached during a crisis are disregarded once the crisis has passed. The Liberian case study bears this out. The

likelihood of this happening is heightened when the agreement is not recorded in writing and signed.

The Brazil case study provides evidence of strong support from a relatively wide range of actors, including the church, environmental NGOs and academics. WIEGO has also supported waste pickers over the years. One of the early supporters from the Catholic Church later became the lead official of the government agency that dealt with waste picking in Belo Horizonte, providing a strong internal ally.

In the India and Georgia case studies the workers and their organisations could draw on assistance from the larger groupings to which they were affiliated – SEWA in India and GTUC in Georgia. In addition, in Georgia various NGOs provided (mainly legal) advice. In Batumi, when workers were included in a committee evaluating vehicles, the union requested that a professor be brought into the committee. This external expertise was seen as ensuring that the process would be more objective.

Horn (2005) observes that workers may turn to government or big business for assistance. However, this could undermine their independence and their ability to represent the interests of their members. In Tbilisi, Georgia actors higher up in the “vicious scheme” attempted to get the transport drivers on their side and against the municipality. However, the drivers decided that their primary interest – to protect their jobs – was better served by working with the municipality.

Gender

WIEGO, as its name implies, is particularly interested in women informal workers. The sectors for the case study were chosen with this in mind. Nevertheless, the case studies range from India, where the union is explicitly a union of women workers and the beedi industry is extremely female-dominated, to Georgia where virtually all minibus drivers are men. In the latter case, women account for 62 per cent of all members of GTUC affiliates, and a lower 11 per cent of members of the MTMWETU. However, most of the women members of the MTMWETU are employed in the formal sector.

Among Brazilian waste pickers there are more or less equal numbers of women and men both among the workers as a whole and among members of associations and cooperatives. In the negotiations covered by the case study, there were usually five women and four men representatives of the waste pickers. In this case, at least, the observation of the woman leader quoted by Bonner (2009: 5) – stating that men tend to become more active and push themselves forward when there are meetings with government leaders – was not borne out.

Women are estimated to account for approximately 60 per cent of NAPETUL’s membership, and the organisation consciously strives for gender equality. This is evidenced in the leadership of the organisation at the time of the case study in which

the national chairperson, treasurer and field coordinator were women while the co-chairperson, secretary general and assistant secretary general were men. A large percentage of street traders in Monrovia are single young women, most of whom are also single mothers.

Forums established

Collective bargaining often happens in an ad hoc manner, with meetings called as and when issues arise. In at least some cases – with Liberia as one example – public protests are necessary before the other party comes to the table. In other cases bargaining happens on a more regular basis, through established forums. Bonner (2009) notes that informal workers usually do not have permanent established negotiating forums. Nevertheless, the case studies provide several examples of relatively permanent bodies being established.

Horn (2005) observes that informal worker organisations can choose either to attempt to get existing labour regulation systems (such as forums) extended to cover them, or to have new systems established for informal workers. All the case studies involved creation of new forums rather than, as Horn discusses, cases where ways needed to be found for having informal workers properly represented as well as ensuring that their concerns are discussed and addressed in existing forums.

The Georgia case study provides examples of establishment of several different forums. In Tbilisi, very early in the engagement the municipality, union and large companies agreed to establish a permanent council which would be responsible for developing regulations and also serve as a platform for discussions of ways of addressing problems. A permanent board consisting of the heads of the three parties was also established. The board meets twice a year unless there is need for an urgent meeting, and its scope includes discussion of labour disputes.

At a later stage, the municipal government was persuaded to include the MTMWETU representatives in the Tbilisi Tender Commission. Here the worker representatives were fulfilling a more technical role, but one important for transparency purposes. Similarly, in Rustavi two union representatives (both drivers) became members of the commission which was responsible, among others, for assessing whether existing vehicles could become part of the new scheme.

In Brazil, worker representatives were included in the committee responsible for ongoing administration of the bonus rather than a once-off role such as that of a tender committee. Worker representatives do not constitute the majority of the members on the committee, but are comfortable with the composition as one of the government-related agencies that is represented usually supports them. The worker representatives also operate according to the general principle that they are not free to agree with proposals discussed in the committee without formal approval of the base members. The committee meets three times a month, placing a relatively heavy burden on representatives.

Accountability

All researchers were asked to describe how the worker representatives who engaged directly in the bargaining communicated with ordinary members, for example to get their mandates and to report back on progress (or lack of it). Such communication is especially difficult when workers are dispersed across scattered workplaces, with each workplace having a relatively small number of workers.

In Brazil, because of the variety of bargaining arenas, there are challenges even in communicating between those directly involved in negotiations as the leaders are seldom together in every negotiation. The challenge is exacerbated by the large number of associations and cooperatives. The strategy the worker leaders use to exchange information is, first, weekly meetings for themselves and, second, periodic meetings with individual waste pickers' cooperatives and workers' associations. They also make use of the internet to share relevant information, to ask for opinions and to call assemblies. The only regular mass meeting of all waste pickers - both organised and independent - is the annual Waste and Citizenship Festival.

In Liberia, the worker representatives received their first mandate through a verbal agreement in an informal meeting of approximately 1,000 members after the march. NAPETUL subsequently provided regular feedback to its members through calling meetings. However, the absence of clearly identifiable success in negotiations has resulted in some members questioning the ability of the union to represent their interests. The NAPETUL leaders recognise this risk and have tried their best to help members understand both what they have done and the challenges faced.

Politics

Bonner (2009) refers to the challenges of corruption and political manipulation of informal workers. Elsewhere (Bonner, 2006) she suggests that political manipulation and interference is especially likely when the workers are a relatively large and visible group, as is often the case for transport workers and street vendors. Opportunities for manipulation and bribery increase at election time when the positions for which politicians are competing are ones which give power to influence conditions and rights of workers. In Liberia, the (elected) president was open to the demands of street traders around election time, while the (appointed) mayor was sometimes less open.

Several other case studies illustrate how politics often plays a strong role in determining the nature and outcomes of collective bargaining of informal workers.

In Georgia, the collapse of the Soviet Union resulted in the collapse of municipal systems, and then decentralisation provided municipalities with municipal budgets. This provided the context in which the three cities initiated their attempts at privatisation or re-municipalisation of public transport. Meanwhile, the

government's desire to become part of European Union provided opportunities as government and employers were likely to be more attentive to the requirements of international agreements and pressure from the European Union, including requirements in respect of labour law.

Bonner (2009) also points to the challenge of sustaining gains and agreements when there are political or structural changes. The situation is especially complicated where the engagement is with local government as is often the case for informal workers. Complications can arise because of political tensions and differences between national and local governments. The Georgian case study took place during a period in which the United National Movement dominated the federal government, parliament and judiciary. With recent political changes, this is no longer the case.

Batumi in Georgia serves as an interesting example of the interplay between local and national. In Batumi, the drivers' strike ended within five hours as the initial stubbornness expressed by the deputy-mayor of Batumi and head of the government commission for implementation of the reform disappeared after the strong public statements of the Tbilisi minibus drivers about a possible sympathy strike. The sensitivity of the Batumi municipal government towards what might happen in Tbilisi reflected the fact that both these cities were under the control of the ruling party at federal level. So the decision to soften the stance vis-à-vis the drivers' union was made in the party head office in Tbilisi by the federal government.

As noted above, the case studies illustrate how, in the absence of national-level collective bargaining, demands need to be bargained for city by city and state by state. For both Georgia and Brazil the case studies highlight that worker organisations try to take advantage of opportunities for national government to set framework provisions that favour progress agreements at sub-national level. In Brazil, for example, the aim is to have a federal law that makes it mandatory for state and municipal governments to recognise waste picking as part of municipal systems of solid waste management.

The Brazil case study also illustrates how worker organisations can take advantage of national debates. In Brazil the waste pickers took advantage of the debates about citizenship rights. In this context, the struggle for the recognition of waste pickers as workers who perform a specialised service within the public system of waste management acquired strong political legitimacy. The waste pickers were seen as demanding to be recognised as full citizens, including in the realm of the economy. Their public claim was – and is – to be recognised as workers, and not as social outsiders or a source of disturbance in the routine of urban life.

Learning from others

The case studies in themselves provide evidence of how workers and worker organisations learn from each other. This is seen, for example, in Georgia where both

other municipalities and workers in other cities learnt from what had happened in Tbilisi. In India, SEWA consciously encourages workers learning from each other. In particular, when starting to organise in new areas it took beedi workers from those areas where it had already organised to raise awareness and help organise among the unorganised workers in the new area. In Brazil, the waste pickers at federal level have, over the years, built on the Belo Horizonte example. Further, while in 2012 the bonus was paid to waste pickers' cooperatives and associations in the metropolitan area of Belo Horizonte, in the second phase of implementation, it will be paid to cooperatives and associations in the remaining municipalities in Minas Gerais, thus potentially covering a total of 853 municipalities.

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CASE STUDY –MARKETING RECYCLABLES AND GETTING PAID BY THE GOVERNMENT: WASTE PICKERS AND COLLECTIVE BARGAINING IN MINAS GERAIS, BRAZIL

Vera Alice Cordosa Silva

The context

The collective bargaining that will be described below took place in Minas Gerais State, member of the Brazilian federation. The waste pickers are the informal workers at the center of the bargaining. The object of the bargaining is the demand that waste picking be recognized as a service provided to the State thus entitling the providers (waste pickers) to regular payment. Since 2001, this demand has been the main demand of the Waste Pickers' National Movement (Movimento Nacional dos Catadores de Resíduos Recicláveis) MNCR. As of today, there is no national law in Brazil stating that waste picking is an economic activity providing a service to the State.

There are informal records of waste picking in every state of the Brazilian federation. But there are not reliable and complete statistical data concerning the total number of waste pickers and their number in each of the 26 states of the Brazilian federation. Despite the existence of a national movement and of national leaders, there is no systematic information concerning the number of cooperatives and workers' associations in each state.

Since the 1990s the waste pickers' movement in Minas Gerais has become widely known for its initiatives in the advancement of waste pickers' demands. The leaders in the state promote annual events, the Waste and Citizenship Festivals, which attract diverse supporters of their causes in addition to the waste pickers themselves. The supporters of their causes meet in panels, workshops, exhibitions, plays and shows that are part of the festivals' programmes. They represent professional organizations (architects, urban planners, sociologists, anthropologists, economists, environmental engineers, lawyers) and non-governmental organizations engaged in promoting human rights and social justice. A number of professionals from show business join the festivals and help to call public attention to the waste pickers' causes. Among the supporters who played a decisive role in the original idealization of the festivals in the early 1990s is the Catholic Church, till today a strategic supporter of the waste pickers' causes in their political initiatives.

Summing up, when the collective bargaining that will be analyzed took place in 2011-2012, waste pickers, their work and their demands were well known among a diverse public and enjoyed the support of important intellectual, professional and political groups in Minas Gerais as well as in Brazil.

Summary of the bargaining achievement

The subject-matter of the case study is the passing of a state law establishing a monetary incentive to be paid by the state government to waste pickers who are members of a cooperative or workers' association. The payment is due at the end of a three-month period of work. The law was approved by the House of Representatives of Minas Gerais, Brazil, in November 2011. It became known as the *Recycling Bonus Law*. It is the first law approved in the country that authorizes the use of public money for ongoing payments for work done by waste pickers. The authorization represents one option for formal inclusion of waste picking in the state policy of management of solid waste.

Another option already in practice in Brazil is the signing of limited duration contracts through which municipal governments include waste pickers' cooperatives and associations in the local system of waste management. This option implies the incorporation of waste pickers' cooperatives and associations in the municipal system of waste management. The prevailing pattern in most cities where waste pickers have been incorporated into the urban management of waste is a division of labour in which waste pickers are responsible for specified activities within the overall management of waste. These activities are detailed in contracts binding cooperatives or associations directly to the municipal agency in charge of the waste policy. The contracts must be respected by the provider of the overall service, a private firm or a consortium of firms. These firms also sign limited duration contracts with the local government for provision of the service. Whenever this arrangement prevails, that is, separate contracts within the same system of waste management, the privilege of access to recyclables is granted to waste pickers' cooperatives and associations.

The law under study brings in a new pattern of relationship between the government and the waste pickers. By providing for a monetary incentive linked to the commercialization of recyclables, the law aims at reducing the amount of loss of reusable materials and the reintroduction of raw materials into the industrial circuit. It does not regulate waste management as a whole.

According to the law, the amount of money each worker will receive is defined by the quantity and kind of recyclables he/she collects and then sells. The calculation of each one's production is based on daily records of production and commercial transactions covering 90 days (three months). The funds for the payment come from the state treasury. The total amount per year reserved for financing the incentive is determined by the state government, based on its investment priorities and fiscal capacity.

The law was well received by the majority of waste picker' leaders, public authorities and spokespeople for organizations which support waste pickers' associations in their struggle for recognition in the economic, social and political spheres. They saw the law as representing real progress towards full recognition of waste picking as the provision of a service **within** public structures of solid waste management and not something peripheral. Among the waste pickers, some critics of the law emphasize the limits of the recognition, given the conditions attached to granting of the monetary incentive. These critics highlight, for example, that the law does not establish a specified percentage of the state budget to be allocated for this purpose; that it does not change rules prevailing in the market of recyclables (this market undervalues some kinds of recyclables and the buyers are free to choose from whom they

buy); and that it does not secure protection and prioritization for waste picking against incineration as the approach to solid waste management.

To better understand the bargaining process that led to the passing of the law as well the criticism it received, some information concerning the political organization of waste pickers in Minas Gerais is provided below.

The organization of waste pickers in the state of Minas Gerais

There are no reliable statistics estimating the total number of waste pickers in Minas Gerais. The number of members in the majority of registered cooperatives varies between 20 and 30. Membership rarely exceeds 50 people. Only one cooperative has had more than a hundred members. Among workers' associations the number of members is seldom larger than 10. The difference between these two forms of organization is that the law regulating cooperatives requires a minimum of 10 members for registration purposes; this rule does not apply to associations of workers. Another difference is that within associations the workers are not bound by the principles of solidarity in respect of the division of labor and monetary income. In Minas Gerais, there is no clear predominance of one sex within cooperatives or associations.

The reasons why waste pickers choose to organize under the form of worker association are primarily practical. A number of people decide to share the work. They decide which territory to cover daily. This decision is based on their knowledge of localities within the city where waste picking brings good results. Members also share knowledge of personal networks through which each member of the group secures privileged access to sources of waste (for example, condominiums, small businesses, public offices). Given the territorial dispersion of these personal networks, the number of people in a group tends to be small, not enough to form a cooperative.

Despite the lack of information concerning the total number of waste pickers, it is known that the majority of them choose to work on their own and do not join cooperatives or associations. These are independent workers. The main reason for choosing this option seems to be economic, that is, the individual gets more money, on a daily basis, if he/she sells recyclables directly to organized businesses. In this case, seller and buyer are usually bound by some sort of informal contract. The unwritten terms of such contracts include the lending of carts, the provision of space for sorting the recyclables and, in some cases, the negotiation of different prices for different solid waste items. The payment is always in cash and immediate. Given the variation in the individual monetary income between members of cooperatives and workers' associations, waste pickers' leaders note that there is a trend of diminishing numbers of organized waste pickers. One purpose of the law under study is precisely to change this trend by encouraging the individual waste pickers to join cooperatives and workers' associations; for those who are already members, the monetary incentive is presented as a bonus that will increase the income already secured through routine work.

There are at least 119 cooperatives and workers' associations presently functioning in Minas Gerais within the metropolitan area of Belo Horizonte (34 municipalities). The leaders of waste picker movements come from those associations. There is no formal representation of the independent waste pickers. However, when acting at the political level, the movements

present their causes and demands for the group as a whole and not only for the organized workers.

The waste pickers' movement in Minas Gerais is part of a national movement, the Movimento Nacional de Catadores de Resíduos Recicláveis (Waste Pickers' National Movement – MNCR), which has been active since 2001. This state movement has played a lead role in the organization of the national movement. The contribution of leaders coming from Minas Gerais was essential in the shaping of the demands of waste pickers presented to the federal, state and municipal governments across the country. The first initiatives towards political organization of waste pickers in Minas Gerais date back to the middle of the 1990s. In the early days, the Catholic Church provided organizational and financial assistance to waste pickers, men and women, who accepted the challenge of leading fellow workers in the struggles for citizenship rights. The movement became politically visible mainly through promoting a yearly event in Belo Horizonte, capital city of Minas Gerais, the Waste and Citizenship Festival. In Brazil, waste was already a prominent topic in the political agenda of governments and of scientific and social organizations. In the 1990s, many social thinkers and environmentalists were building arguments linking solid waste management to the ideal of sustainable development. In this wider context, the waste picker movements acquired legitimacy and ample support.

In 2003, waste picking was formally recognized as a job in the National Register of Professions and Jobs. From 2002 onwards, the federal government authorized the use of large amounts of public revenue for improving working conditions of waste pickers. Funds were allocated for programmes and projects aiming at buying of trucks, buying of machinery for compressing waste and for the preparation of recyclables for the market, provision of loans for the construction or leasing of warehouses, and financing training of waste pickers in the use of new technologies for treating solid waste and preparation of recyclables for the market.

In the late 1990s and early 2000s, some municipal governments in Minas Gerais began contracting waste pickers' cooperatives as providers of service within the local management system of solid waste. This was the case in Belo Horizonte, Itaúna and Contagem, for example. In these cities, waste picker' cooperatives became responsible for part of the daily management of the city waste. Their responsibilities were detailed in contracts. They were allowed to use the collected solid waste for recycling and selling in the private recyclable market. In the three mentioned cities the contracts have been regularly renewed till today.

In this favorable political context, the waste picker movements at the national level and within states and cities were empowered. The friendly political environment persists till today, and is especially evident at the national level of politics. Since the late 1990s, the waste picker' leaders and their supporters (urban planners, environmentalists, the Catholic Church, and promoters of human rights and of the principles of the solidarity economy) have taken up the opportunity to organize and publicize a political agenda built with the active participation of member-based organizations (cooperatives, worker associations, state and municipal forums of waste picking and of the solidarity economy). An important priority in this agenda is that waste picking be recognized in a federal law as the provision of a service within the municipal system of solid waste management and that it be recognized in state laws that define guidelines for governmental contracts with private providers of waste management services. If such a law is federal, its provisions become mandatory for state and municipal governments.

Presently, this demand is linked with two political causes of the waste picker national movement. The first is the defense of waste picking as the best strategy for promoting the social and economic inclusion of street dwellers and other categories of very poor people. The second is the struggle against use of incineration for solid waste management. In this context, waste picking is presented as a virtuous policy of social inclusion as well as of advancement of the ideal of sustainable economic growth.

The national leadership of waste pickers stresses the strategy of promoting waste pickers' demands at lower levels of political organization, that is, the state and the municipality. Following this directive, the leaders in Minas Gerais took the opportunity created by a friendly political coalition in charge of the state government since 2008 to introduce in the legislative agenda the debate over waste management policies, including waste picking as a job providing this service. This proposition was extensively advocated during the Waste and Citizenship Festivals in 2008, 2009 and 2010. The strongest support in the political dealings leading to formalizing the demand into a bill to be discussed in the House of Representatives came mainly from two sources: the non-governmental organization, the Instituto Nenuca para o Desenvolvimento Sustentável (Nenuca Institute for Sustainable Development– INSEA), and from the Centro Mineiro de Referência em Resíduos (Reference Center on Solid Waste of Minas Gerais – CMRR). The latter is an office created in 2008 by the government of Minas Gerais with the mission to accomplish two objectives: the first, to offer administrative and organizational support to waste pickers in Minas Gerais; the second, to act as linkage between their organizations and the state government. Worth mentioning here is that the Center's executive director since 2008 is a former member of the Catholic Church's organization that was instrumental in the initial mobilization of waste pickers in Belo Horizonte. The Church's initiatives culminated in the creation of the first waste picker cooperative in the state, one that is still the largest and best organized, the Cooperativa de Catadores de Papel e Materiais Recicláveis (Paper and Recyclables Pickers' Cooperative – ASMARE).

In the House of Representatives, the waste pickers counted on the support of two representatives and their advisory staff, one belonging to the governor's party (Brazilian Social Democratic Party), and the other belonging to the party of the President of the Republic (Workers' Party). This parliamentary support was important both in the presentation of the bill and in the negotiations of the voting procedures that followed. The deliberative process, from the initial phase, when the bill was included in the voting agenda, until the last debate and final voting, took six months, from June to November 2011. This short span of time for the whole legislative process is quite unusual. The approval of the law without opposition is another indication that the matter enjoyed a great deal of legitimacy among the formal political elite within the state (party leaders, governmental authorities and people with influence in the formation of public opinion). It did not require massive protests and demonstrations aimed at creating public support and pressure on the representatives.

Antecedents of the Recycling Bonus Law: how the problem of economic and social identity of waste pickers has been treated in Minas Gerais, 2008-2012

One fundamental problem facing waste pickers in Minas Gerais and elsewhere in Brazil is related to their identity as workers and to the nature of the job they perform. This problem may be summarized as follows. Waste picking is an economic activity allowing individuals to earn money. But the work they do falls within the scope of the responsibilities of public authorities, that is, the management of the city/town waste. The items waste pickers collect

are recyclables, that is, they have commercial value and may be sold in the market. Waste pickers do not cover the full range of waste management, but their picking has an economic meaning that was recognized long before the contemporary debate centered in the ideal of sustainable development became global.

Nowadays, in Brazil, work relations are part of political debates about citizenship rights. In this context, the struggle for the recognition of the waste picker as a worker who performs a specialized service within the public system of waste management acquires strong political legitimacy. The waste pickers demand to be recognized as full citizens, including in the realm of the economy. They claim to be workers, and not social outsiders or a source of disturbance in the routine of urban life. According to documents and manifestos that are circulated in the events promoted by the national, state and municipal waste pickers' forums, waste picking must be recognized as one modality of solid waste management. As a consequence, the waste picker must be recognized as one of the providers of this service within municipal structures of waste management. This is the fundamental demand of waste pickers at the national and local levels of political bargaining. It incorporates the view of the waste picker as a formal worker and of waste picking as a formal component of solid waste management. Given this assumption, local governments should pay waste pickers for providing part of the service in municipal systems of waste management.

This demand assumes that the governments must accept that any solid waste management policy should incorporate waste picking and recycling as non-negotiable components. Presently, there is no broad consensus over these principles as starting points for the introduction of draft laws at each level of government. In this context, the law approved in Minas Gerais may be seen as a step that furthers the waste pickers' demand.

The description of the present economic conditions of waste picking in Minas Gerais helps in understanding the divergent opinions among the waste pickers about the meaning of the law: does it represent a success or is it somehow a diversion in the ongoing struggle for true empowerment of the waste picker as a specialized worker?

Present conditions of waste pickers' organization in Minas Gerais

This group of informal workers is divided into two sub-groups, the independent workers and the organized workers (members of cooperatives or workers' associations).

Governmental programmes aiming at the betterment of living and working conditions of waste pickers target the organized workers. The direct beneficiaries are cooperatives and workers' associations, never individuals as such.

The individual waste picker beneficiary of public policies/programmes is primarily identified as a street dweller, someone who is vulnerable and needs to be protected by the State. There are programmes aiming at helping street dwellers find places to live and at registering them in social assistance initiatives. Some of them encourage the person to become a member in a waste pickers' cooperative or in another kind of association based on the principles of the solidarity economy.

Despite ongoing financial and other support by governments and non-profit organizations, most cooperatives and workers' associations still lack basic administrative and organizational capabilities.

In a growing number of municipalities cooperatives and workers' associations are signing contracts with the local government investing them with total or part of the responsibility in the management of urban waste services. The local government provides trucks, warehousing space and equipment for preparing and compressing the recyclables for the market. The assumption behind the contracts is that the waste pickers are able to organize the service and adequately provide it. However, this capacity is not always fully present, justifying arguments of governmental people at the local level who are against this option and in favor of incineration. Worth noting here is that this kind of cooperation has seldom been justified by its coherence with the ideals of sustainable development. The promotion of social inclusion by means of economic inclusion is the reason most emphasized by governmental authorities and politicians who favor this policy.

The leaders who represent the waste pickers in local, state and national movements come from organized waste picking. All of them have worked in the picking, in the sorting of recyclable items, in the compressing or preparation of the items for selling and in the administration of the cooperative as a unit of production. They are knowledgeable about every phase of the picking and recycling process. When their fellow workers elect or appoint them as their representatives in different political events and decision-making processes, their connection with the routine work changes. While performing the representative role, they are absent from the daily tasks. They stop contributing directly to the work that generates income for the group.

In Minas Gerais, as a means of granting political support to the waste picker movement, it became common practice in governmental agencies and in non-governmental organizations to provide for a monthly salary for the "professional" leader (man or woman) through his/her participation in programmes financed either by the government or by non-governmental organizations. Since the 1990s, these programmes became a very important strategy of public support aiming at empowering the waste pickers as a category of specialized workers. The programmes are planned activities devised to improve waste pickers' capacity both in the use of recycling technologies and in the management of the recycling process in cooperatives and in workers' associations. The implementation of the planned activities utilizes a participatory methodology. This learning approach allows for the participation of waste pickers acting as instructors and tutors in workshops and special classes. This participation requires accomplishing activities detailed in the programme within whose staff the waste picker is incorporated as a salaried member. But this situation also allows plenty of time for each leader to take care of duties related to his/her representation role. The leader is free to return to the "line of production" anytime. When this happens, he/she must cease participation in governmental programmes as well as in those coordinated by non-governmental organizations.

According to waste pickers' leaders who were interviewed, the assumption of the leadership role is generally connected with the following circumstances: the mobilization of the group for collective action and the need to identify a spokesperson for the group in collective bargaining. In this context anyone who is able to clearly formulate the demands of the group and is trustworthy is designated as the group's representative in dealings with external actors, the government or other. The "mandate" may be revoked by the assembly of members if trust is broken.

This kind of relationship is not simple. The person who assumes the role of leader ceases for a time to be a full co-worker in the daily tasks of waste picking. There is no rule stating that the cooperative or association should guarantee a monthly payment for the member who assumes the role of representation. This role is generally time-consuming, including participation in meetings that last more than one day, sometimes held in localities far from the cooperative's or association's territory. The leader does not lose close connection with the member-based work community. But he/she is forced to engage in a very different daily routine that prevents, for example, division of the day into two parts, one dedicated to the waste picking routine, the other dedicated to the obligations derived from the representation role. This is the context that led governmental and non-governmental supporters of waste pickers to devise an alternative means of income for the leaders while they are away from the work routine. From this perspective, the representation could be seen as a "paid" function but the person performing the function must enjoy the trust of his/her fellow workers permanently.

Depending on the number of issues/bargaining processes that are part of the movements' political agenda, the leaders divide among themselves the tasks relating to following different decision-making processes that may happen simultaneously. Because of the variety of bargaining arenas, the leaders are seldom together in every negotiation. The strategy they use to exchange information is, first, weekly meetings for themselves and, second, periodic meetings with individual waste pickers' cooperatives and workers' associations. They also make use of the Internet to share relevant information, to ask for opinions and to call assemblies. The only regular mass meeting of the whole group of waste pickers – organized or independent – is the annual Waste and Citizenship Festival, generally held in September.

Presently, there are three relevant collective bargaining processes ongoing in Minas Gerais. The first relates to the definition of the rules of implementation of the monetary incentive created by the law approved in November 2011. The second relates to provisions of a state law that will regulate the participation of private businesses in solid waste management within the state territory. (Here, the waste pickers' movement aims to prevent the inclusion of any provision granting full autonomy in planning to the private provider of the service which would allow for incineration and the exclusion of recycling.) The third bargaining process relates to overcoming legal obstacles which presently prevent the installation in Belo Horizonte of an industrial plant for the production of raw materials made out of recyclables. Twenty-five cooperatives plan to work together in the operation of the plant. The initiative will allow waste pickers to move up in the economic chain from collecting and processing recyclables to the production of raw materials for industries.

The present case study deals only with the collective bargaining related to the recognition of waste picking as part of the management of the service of collecting solid waste in the state of Minas Gerais.

Collective bargaining aiming at defining the economic identity of waste picking

There is no doubt that presently, in Brazil, there prevails a very positive view of waste picking and its role in the economy. This positive view is extended to waste pickers no longer being seen as outsiders and their activity being recognized as a job. This development is clearly related to the growing acceptance among Brazilians of the ideals summed up in the idea of *sustainable development*. However, the individual waste picker may not be concerned about the wider political struggle concerning the options for the final destination of waste.

Instead, the organized waste picker is concerned with waste picking both as a source of income and as part of public systems organized to manage solid waste.

In Brazil, this concern is presently translated into two demands: first, that a federal law includes waste picking as a permanent component of municipal systems of solid waste management; second, that waste picker organizations have a voice in the planning of state and municipal policies of solid waste management. The second demand is justified by the fear that the option for incineration may prevail without safeguards for recycling. The problem affects the whole group of waste pickers, organized or independent.

The bargaining process

As noted above, the leaders of waste pickers at the national level favour state and local initiatives promoting waste pickers' demands whenever this strategy is advisable and possible. This has been the case in Minas Gerais since 2008, when the state government decided to implement a variety of policies aimed at the empowerment of social groups generally identified as *the poor*. Among them were the waste pickers. However, when compared to most other groups of poor people, the waste pickers have already reached a higher level of economic and political organization. Many of them work in cooperatives and workers' associations. They debate their problems and formulate their demands in organized movements and forums. In Minas Gerais, since 2008, the state forum has become the most important political actor connecting waste pickers' cooperatives and associations with public authorities. With the support of a non-governmental organization, the INSEA, the forum began to use the annual Waste and Citizenship Festival to promote debates concerning the recognition of waste picking as a service provided within municipal systems of waste management. According to this view, waste pickers' cooperatives and associations must be paid for services provided to the state.

With the support of the Reference Center on Solid Waste (CMRR), a governmental agency, the idea of a state law gained supporters among governmental authorities and politicians. The bargaining process began when the governor, in 2010, asked his party to present the proposal in the House of Representatives. The party accepted his proposal. This set in motion the bargaining over the provisions of the law in respect of waste pickers in Minas Gerais. Debates and consultations took place in meetings called by the Director of the CMRR during the first half of 2011. The participants were waste pickers' representatives, people from the INSEA, people from governmental agencies in charge of environment regulation and people from the CMRR. All these people already had ample information about the routines of waste picking and its connection to the market of recyclables.

During this period, the number of women representatives of waste pickers slightly exceeded the number of men (generally five women and four men). There are no written records of these meetings. Most of the time, they were called by people from the CMRR together with people from the INSEA. The meeting place was the CMRR premises, a very spacious and well equipped area in Belo Horizonte, belonging to the state government.

The main issue in the debate was the nature of the recognition to be awarded to waste pickers as providers of service to the State. There were two contrasting positions. The one favoured by the waste pickers' representatives and their supporters from INSEA called for full recognition of waste picking as a service provided by specialized workers to the State. This principle would mean that permanent contracts binding local governments and waste pickers' associations should be mandatory. Opposing this view, the one favoured by the government,

argued for limited recognition of waste picking as service provided by waste pickers to the State. The state government accepted that the waste picker must be paid for the work he/she performs. But they argued that, since the waste pickers are already paid in their commercial transactions in the recyclable market, any extra monetary gain coming from money transfers authorized by the State would be an incentive to waste pickers to continue to provide the service. This interpretation prevailed in the negotiations.

In the writing of the bill which would be voted on by the House of Representatives, the decisive contribution came from the governmental people. The waste pickers' representatives therefore did not consider their own presence necessary or strategic in the legislative sessions during which the law was discussed (second half of 2011). They came to the conclusion that the government would not accept the radical proposition that the waste pickers' movements favoured. The law was approved on the 22nd of November, 2011, without opposition or any major debate in the House or in the press.

During the bargaining process, the waste pickers' leaders did not produce written records or reports. The information for the members of cooperatives and associations was transmitted by the usual means, that is, local assemblies in cooperatives and internet messages. It is worth pointing out that this bargaining did not arouse any great enthusiasm or mobilization among the organized waste pickers. According to the leaders who were interviewed, many waste pickers still do not believe that the government will really "keep the promise" of reserving money every year for the monetary incentive. But the majority are happy about the possibility of getting more money without the need for extra work. The approved law became known among them by the name proposed by the government, the Recycling Bonus Law. It is a bonus because the payment comes as a reward for the commercialization of recyclables that has already generated income for the individual waste picker through commercial transactions.

The main points of the state law no. 19.823/2011 can be summarized as follows:

- it authorizes the state government to reserve a certain amount of money each year to be distributed among waste pickers' cooperatives and associations as payment for providing commercialization of recyclables;
- the amount reserved may vary, depending on the yearly priorities the government establishes for the state budget and the available monetary reserves in the state treasury;
- the recipients of the payment are cooperatives and workers' associations who will receive the money after every three months of work undertaken;
- to receive the bonus, the cooperative or association is required to demonstrate that it is in good standing in every legal and administrative aspect of its organization;
- the amount of money to be transferred every three months to each cooperative or association will be calculated according to rules to be determined by a permanent Coordinating Committee (see below);
- the allocation of the money for each recipient will follow the general rule according to which 90 per cent will be distributed to waste pickers based on their monthly

commercialized production and 10 per cent will be used to finance items or activities the assembly of members find relevant to improve the organization and administration of the cooperative or association.

The justification of the law reads as follows:

The institution of the recycling monetary incentive aims at promoting the reintroduction of recyclable materials in regular processes of production through the incentive to reduce the squandering of natural resources and energy, in the setting of a major priority, that is, the economic and social inclusion of waste pickers.

The phrasing reveals the wider political meaning of the law. The social purpose (social inclusion of waste pickers) is stressed as the *major priority*, rather than the ideal of sustainable development which includes recycling. Also, the law is not explicitly presented as an answer to the demand for recognition of the waste picker as provider of service to the state. Rather, the waste picker is presented as a worker who, by providing a service which public authorities must provide by force of law, deserves a bonus in addition to the payment obtained in commercial transactions not regulated by the state, that is, which are realized in the private realm.

Collective bargaining centered on the implementation of the law

The Recycling Bonus Law determined that implementation of the law should proceed according to rules approved by a Coordinating Committee. The establishment of this Committee and its responsibilities were defined in a governmental decree, signed by the state governor on June 4, 2012. In contrast to the law, the decree connected the monetary incentive with the state policy for the management of solid waste, designed in the state law no. 18.031, approved in January 2009. Taking into account the principles stated in this law, the decree presented the incentive as a means of minimizing discarded waste, thus contributing to reducing what in the decree was called “environmental pressure”. The priority of promoting socio-economic inclusion of waste pickers is not referred to in the decree. The main provisions of this document are detailed below.

1 –It establishes the composition of the Coordinating Committee: one representative of the Secretaria Estadual do Meio Ambiente (Environmental Agency of the Government of Minas Gerais – SEMAD); one representative of the Fundação Estadual do Meio Ambiente (Environmental Foundation of Minas Gerais – FEAM, a governmental agency attached to the SEMAD responsible for providing research data required for the formulation of environmental policies in the state); one representative of the CMRR, three state-wide representatives of the waste pickers; and one representative of the Ministério Público Estadual (Public Office for the Defense of Individual and Collective Rights of Minas Gerais – MPE). This composition of members would place the waste pickers in minority in any voting except that the MPE usually sides with the citizens, many a time against the government;

2 –It details the responsibilities of the Committee, as follows:

a) to define the rules for the implementation of the monetary incentive;

b) to validate the registration of every cooperative and association in the list of eligible recipients of the incentive;

c) to define procedures for monitoring the correctness of the use of the incentive by each cooperative and association;

d) to create incentives for the functioning of a network for sharing information and experiences related to waste picking helping to bring together cooperatives and associations throughout Minas Gerais.

This Committee is also in charge of monitoring administration and managing procedures by means of which each cooperative or association will register the production and the commercial transactions of the individual waste pickers who are the final recipients of the monetary incentive.

The set of responsibilities assigned to the Committee indicates that it is a permanent governmental structure. It is presided over by the Director of the FEAM, who is also responsible for the calling of meetings, for recording the debates and for making public the decisions to be enforced.

After its establishment in July 2011, the Committee defined its decision-making agenda and schedule of meetings. Since then, it has met three times a month. In these meetings it has taken forward the bargaining process over the rules for the implementation of the monetary incentive in line with the first responsibility listed above.

Bargaining the rules regulating the procedures for the implementation of the monetary incentive

The first rule was not a matter of dispute. It defined the procedure for the identification of cooperatives and workers' associations eligible for receiving the incentive. The decision was: make a public announcement about the incentive through mass media, asking cooperatives and associations to request registration. In the first year (2012-2013), only cooperatives and associations within the metropolitan area of Belo Horizonte would be eligible (34 municipalities). The reason for this restriction was presented by governmental people. They emphasized the idea that the first year should be taken as a learning period for both the government and the waste pickers' associations. They also emphasized the fact that waste picking is not yet a widespread practice in the majority of the 853 municipalities of Minas Gerais. The waste pickers' representatives agreed with this temporary restriction.

The second rule gave rise to some dispute. It dealt with the period of time for which the cooperative or association would be granted good standing status within the government controlling agencies responsible for the registration of businesses and tax records. The waste pickers' representatives' proposal was: where problems were identified in the cooperative or association (for example, in relation to implementation of administrative procedures required for the daily registration of the individual production actually sold in the formal recyclables market or the regularizing of tax payments due to municipal, state or federal governments) the payment of the monetary incentive would be approved before the full completion of the list of legal requirements. The waste pickers' representatives lost on this issue. The approved procedure repeated the requirements written in the law. However, the Committee agreed that the CMRR and the INSEA should provide assistance to cooperatives and associations in their efforts to overcome administrative problems and debts with fiscal authorities in the shortest period of time possible.

The next issue on the Committee's agenda was the definition of the unit of measurement and the criteria for the pricing of different kinds of recyclables. At this point in the deliberation, the Committee agreed that there were technical issues affecting the pricing that might be better evaluated if they had the help of professionals in recycling and recyclables. This led to the establishment of a task group in charge of presenting pricing criteria for the recyclables to be included in the list of items eligible to receive the monetary incentive. The group included the waste pickers' representatives and invited professionals who were not Committee members but were staff in governmental agencies. The professionals were an engineer from the CMRR staff, a statistician from the FEAM and a lawyer from the staff of the SEMAD.

This group agreed on the use of the metric ton as reference unit for calculating the payment due for quantity. However, the pricing of different kinds of recyclables was an issue: should the pricing simply follow the market practices? Or should the pricing be used as a means of compensation for conditions that, in the eyes of waste pickers, appear as unfair when the amount of work required for picking and preparing specific kinds of recyclables is compared with the price paid in the market? The issue centered on the expected influence of the monetary incentive on the waste picker's behaviour. If the main justification for the bonus is to add social value to waste picking and to encourage waste pickers to remain in the job and to encourage street dwellers and unemployed people to join waste pickers' cooperatives and associations, then the list of recyclables eligible for the benefit and the respective price should follow the logic of the market. That is, the idea of using the monetary incentive to compensate for lower prices paid for specific recyclables in the market should be rejected.

In the debate, the waste pickers' representatives defined the basic assumption that, in their view, should guide the deliberation. It was presented as follows: the definition of recyclables in the list guiding the distribution of the monetary incentive must take into account what waste picking really is in the daily routine of waste pickers. This assumption led to the identification of the items that are collected and the conditions of access to them. Are they abundant or rare? Are they regularly or irregularly found? Do they have high or low value in the market?

During the meetings, the task group accepted the descriptions of the real experience of the waste pickers as the guideline for their recommendations to the Coordinating Committee. The waste pickers were thus the members who decided the composition of the list of recyclables defined as eligible for calculation of the individual share of the monetary incentive. The recyclables so defined are: paper, plastic, glass and scrap metal. Given this list, the waste pickers also favoured the rule for pricing allowing for compensation in the face of unfairness in the market. The result of this option was fixing higher prices for the two items less valued in the recycling market, that is, scrap metal and glass. If measured in terms of metric tons, these two items require greater effort from waste pickers in the routine work of collection. (It is worth mentioning that the separation of waste by kind is not a widespread practice among urban dwellers in Minas Gerais, thus making waste picking more work-intensive for the individual waste picker.) The monetary bonus then adds a real incentive for picking less valued and more work-intensive recyclables. The Coordinating Committee approved the rules recommended by the task group.

After defining the basic operational rules required for the implementation of the law, the Committee is currently discussing procedures for monitoring the routine functioning of the monetary incentive. This routine involves interaction between governmental agencies, cooperatives and workers' associations. The number of the latter is expected to grow in the

coming years. In light of the expected evolution, the government representatives are mainly concerned with formal and bureaucratic procedures. The waste pickers' representatives are concerned with the uncertainty about the amount of money reserved for the incentive. They fear that it may even be stopped on the argument of budget restrictions. They propose procedures that strengthen the commitment of the state government to the protection of waste picking. They are also aware of the danger implicit in the legal autonomy granted to municipal governments to enter into contracts with private concerns, allowing them to plan the management of urban waste without the inclusion of recycling practices.

At the time of writing (November-December 2012), the Committee agenda includes deliberation on long-term planning. The issues under consideration are described below.

Organization and management of cooperatives and associations

The representatives of the government stress the need to improve the organizational and management skills of the people in charge of accounting, administration and supervision of the different functions in the "line of production" (waste picking, sorting recyclables, preparing them for marketing, the commercial transactions proper). The waste pickers' representatives agree that some degree of professionalism is required to transform waste picking into a really competitive and lucrative economic activity. But they insist on calling attention to a strong individual motivation in the choice of waste picking as a source of income, that is, the amount of freedom it allows the individual. This freedom is obviously curtailed whenever waste picking is organized as a "line of production". The waste pickers' representatives insist that each cooperative or association must define and promote its own organizational project respecting decisions made in assemblies of members. According to this view, any monitoring rule designed to establish external control over the functioning of the work process must first be debated by the assembly of members. The waste pickers' representatives are not free to agree with proposals discussed in the Committee without formal approval of the base members.

It is worth mentioning here that waste pickers' leaders recognize that the role they play is not easy or simple. They note that there are cooperative or association leaders who are too authoritarian, who keep relevant information for themselves, who lose legitimacy but who continue to present themselves in different forums as representatives of base members. There are even some cases of leaders who are dishonest in their dealings with the collective money. Given their relationship with the leaders of cooperatives and associations who are entitled to speak for the assembly of members, the waste pickers' representatives in the Committee are very careful when asked to discuss procedures that may interfere in the routine and practices of each cooperative or association.

The completion of organizational requirements for receiving the monetary incentive

This point is related to procedures established in the Recycling Bonus Law as legal requirements that each cooperative or association must comply with in order to receive the monetary incentive. These are: a) daily registration of the volume of production of the individual waste picker; b) daily registration of commercial transactions of recyclables traceable to individual waste pickers; c) daily registration of individual production by kind of recyclable. These registrations are part of the routine administration of the cooperative or association and require professional capabilities which are not generally found among waste

pickers. When the law requires these procedures, it implies not only new people in the work process, but also new costs that may diminish the individual monetary gain, even if only temporarily.

Since the law reserves 10 per cent of the total amount due to the cooperative or association on the basis of the recorded commercial transactions, the waste pickers' representatives favour using part of the money to cover these new costs. Another proposal focuses on the use of part of the money to pay municipal, state and federal taxes and labour tributes, some of which are related to the cooperatives or associations as such, and some of which are related to the individual worker. Both proposals are being discussed in cooperatives' and associations' assemblies at the time of writing. The Committee is acting mainly as a consultative body clarifying legal and administrative issues brought to their attention by the waste pickers' representatives.

The government representatives already know that the amount of money reserved for the monetary incentive in 2013 will be larger than the amount approved for 2012 (roughly US\$ 1.6 million in 2012, expected US\$ 2.3 million in 2013). It is expected that 59 cooperatives and associations in the metropolitan area of Belo Horizonte not included in the 2012 distribution will achieve legal good standing status in 2013, thus practically doubling the number of beneficiaries. The inclusion of cooperatives and workers' associations outside the metropolitan area will require a new process of registration. The Committee does not have yet a timetable for this procedure.

It was agreed that, in this first phase of implementation, that is, the second half of 2012, the three-month time span for calculating the distribution of the incentive among waste pickers will not be met because of challenges in setting up the system at the overall level as well as within individual associations and cooperatives. The 2012 monetary incentive will be paid in two installments to 61 cooperatives and associations in good standing, the first on December 20 and the second on January 30. As noted above, there are 59 cooperatives and associations preparing themselves for receiving the monetary incentive in 2013.

One item still pending in the agenda of the Coordinating Committee is the planning of the extension of the monetary incentive to all 853 municipalities organized in Minas Gerais. In this discussion, the government will be concerned about the need to increase the amount of money reserved yearly to fund the monetary incentive as the number of recipients grows. The waste pickers' leaders who participate in the Committee are meanwhile concerned to keep the funding of the Recycling Bonus as a permanent monetary gain for all cooperatives and workers' associations in Minas Gerais.

The Recycling Bonus Law: the meaning of this political decision for waste pickers

As already mentioned, there are different opinions about the reach and meaning of this law. Depending on the aspect one chooses to highlight, the law is either deemed a real success in the betterment of waste pickers' working and living conditions or a setback in the struggle for full recognition of the waste picker as a provider of services to the state that must be acknowledged and regularly paid.

For those who speak for the government and for those who agree with the normative interpretation of workers' rights that prevailed, the law represents a real progress in the empowerment of waste pickers. This group justifies its opinion on economic and cultural

grounds. From the economic point of view, they stress the value of the extra income which will increase the consumer power of the waste picker's family. From the cultural point of view, they insist that the law stimulates better working practices promoted by the workers themselves, without intrusive outside interference. According to this view, it is unfair to say that the monetary incentive will promote "political accommodation" among waste pickers. For the supporters of the positive view, the movements that bring them together in the struggles for economic and social recognition will not be weakened in Minas Gerais simply because waste pickers living in the state are recognized as workers who merit extra payment for work done. It is irrelevant if this payment comes in the form of a bonus rather than in the form of direct payment.

Waste pickers' leaders are divided in their evaluation of the meaning of the law. There are those who consider the implementation of the monetary incentive to be another success in the list of achievements of the waste pickers' movement at the state level. There are others who see the law as a setback when the larger political background is taken into account.

The first group has in mind primarily the routine of the work of the waste picker. It is hard work for very low pay. Better living conditions for the waste picker and his/her family are usually related to the engagement of every family member in some productive activity. It is very common that the whole family participates in the picking, dividing work and domestic tasks among themselves according to the family's needs. Waste pickers' leaders who applauded the passing of the law agree that the monetary incentive is a concrete gain in the individual income that does not have a negative influence on the waste picker's commitment to the movement's major cause. This cause is, as already explained above, the struggle for the recognition of waste picking as a permanent component of public systems of solid waste management and the waste picker as a provider of this service.

The second group prefers to call attention to the wider political context of the debate concerning available models for organizing solid waste management in urban areas. For them, the future of waste picking in Minas Gerais will be decided at this level of decision making. They ask themselves: will political authorities favour incineration without restrictions or will they favour some model of waste management that preserves a place for recycling? To this group, the Recycling Bonus Law may be understood as a governmental strategy aiming at neutralizing waste pickers' opposition to the ongoing negotiations coordinated by the state government geared towards the formation of municipal consortiums for waste management. These negotiations bring together people from the state government, representatives of municipal governments, waste pickers' representatives and representatives of the private sector specialized in solid waste management.

The state government is promoting municipal consortiums as an economic solution for the provision of efficient solid waste management in small and medium size towns. One issue in the negotiations is precisely the degree of autonomy to be granted to private companies in the choice of solid waste management technologies that they will use. Some waste pickers' leaders fear that the preference for incineration might prevail. In this context, the mobilization of the whole group of waste pickers, organized and independent, is deemed strategic. The leaders who criticize the Recycling Bonus Law fear that the monetary incentive – for them a mere palliative for the low income derived from waste picking – might demobilize the waste pickers at a time when political mobilization is crucial to preserve the long-run future of waste picking in Minas Gerais.

In the short run, according to opinions of waste pickers and of the majority of waste pickers' leaders, the law brings positive gains in addition to the increase in income of the individual. New administrative practices will improve working conditions. The motivation for improving efficiency in the use of equipment and of techniques in every phase of the recycling process will increase. The "production line" will run more smoothly.

Concluding remarks

Summing up the characteristics of the collective bargaining leading to the passing of the Recycling Bonus Law, one may conclude that:

- a) there was no major mobilization of the full group of waste pickers;
- b) the idea of conceding a monetary incentive to the marketing of recyclables was an adaptation of a different idea, defended by the waste pickers' movements, that is, the idea of payment for service provided by waste pickers to the state. This idea was mainly elaborated in Brazilian social movements;
- c) the waste pickers' leaders participated in every phase of the deliberative process, but the lead role in the definition of the final conception of the law was played by representatives of the government;
- d) given the fact that the first phase of the implementation took longer than expected to be completed (January-August 2012), as yet there have been no payments to cooperatives or workers' associations for provision of the service of marketing recyclables. Consequently, as yet, there are no data available for calculation of the financial impact of the monetary incentive on the individual and family income of waste pickers. (It is worth mentioning that the production data already processed by CMRR staff [December 2012] indicate that the impact will be significant for most of the cooperatives and workers' associations that will receive the monetary incentive. Some of them will receive the equivalent of US\$ 100,000.);
- e) during 2012, at least 59 cooperatives and workers' associations in the metropolitan area of Belo Horizonte introduced changes in their administrative and management practices in order to meet the legal requirements for receiving the monetary incentive. According to the members, the changes are a real gain for the working conditions of the whole group, in addition to the expected increase of income resulting from the monetary incentive.

A very general conclusion is that, for the individual waste picker, every advantage earned for the category of waste pickers in dealings with public authorities is a demonstration that collective bargaining must be supported, even if he/she thinks that the actual burden of the political representation should fall on someone else's shoulders.

APPENDICES

I – INTERVIEWS

1 – Maria Madalena Rodrigues Duarte Lima (waste pickers' representative in the Coordinating Committee for the Implementation of the Recycling Bonus Law). Interview date: November 7, 2012.

2 – Gilberto Warley Chagas (waste pickers' representative in the Coordinating Committee for the Implementation of the Recycling Bonus Law). Interview dates: October 10 and November 5, 2012.

3 – José Aparecido Gonçalves (Executive Director – Reference Center for Recyclables of Minas Gerais – CMRR). Interview date: November 26, 2012.

4 – Luciano Marcos Pereira da Silva (Executive Director – Nenuca Institute for Sustainable Development – INSEA). Interview date: September 19, 2012.

5 – Vanúzia Gonçalves Amaral (Director – Municipal Agency for Urban Waste Management/Recycling Division – City of Belo Horizonte). Interview date: September 25, 2012.

6 – Maria do Rosário de Oliveira Carneiro (Legal Consultant – National Center for the Defense of Human Rights of Street Dwellers and Waste Pickers). Interview date: September 27, 2012.

7 – Janice Pereira de Araújo Carvalho (CMRR technical staff). Interview date: November 26, 2012.

8 – Júlio Jader Costa (Member of the Research Group on Solidarity Economy – Federal University of Minas Gerais). Interview date: September 28, 2012).

II – DOCUMENTS

1 – Minas Gerais. Law no. 19.823, approved on November 22, 2011. (It authorizes the state government to reserve public revenue for the payment of a monetary incentive to waste pickers – Recycling Bonus Law).

2 – Minas Gerais. Governmental Decree no. 45.975, signed on June 4, 2012. (It defines procedures for the payment of the monetary incentive authorized by the state Law no. 19.823; it establishes the composition and responsibilities of the Coordinating Committee in charge of the implementation and monitoring of the Recycling Bonus Law).

3 – CMRR Reports: 2008, 2009, 2010 Waste and Citizenship Festivals.

4 – Forum Estadual Lixo e Cidadania (State Waste and Citizenship Forum). *Manual para organização e negociação dos serviços – sistemas de coleta seletiva com a participação dos catadores*. Belo Horizonte: CMRR, 2011.

5 – Governo de Minas Gerais/ Secretaria de Estado Extraordinária de Gestão Metropolitana (Government of Minas Gerais/ Special Agency for Metropolitan Planning and Management). *Prioridades de Gestão para as Regiões Metropolitanas de Belo Horizonte e do Vale do Aço* (Management Priorities for the Metropolitan Areas of Belo Horizonte and of the Steel Valley).

6 – Governo de Belo Horizonte/ Gabinete do Prefeito, 2011. Projeto de lei regulamentadora do serviço de limpeza urbana e de manejo de resíduos sólidos em Belo Horizonte. (Government of Belo Horizonte/ From the Mayor's Office. Proposal of bill regulating the management of urban waste and of recyclables in Belo Horizonte).

(Note: this case study is still in draft form. A final version will be sent in March)

COLLECTIVE BARGAINING BY WORKERS OF INDIAN UNORGANIZED SECTOR - STRUGGLE, PROCESS, ACHIEVEMENTS AND LEARNINGS

BY

INDIAN ACADEMY FOR SELF EMPLOYED WOMEN

[1] The Context

This research paper attempts to review and analyze experiences of the Self Employed Women's Association (SEWA), a membership-based organization (trade union) of women from the unorganized sector in India. The main focus of the paper is on highlighting the SEWA strategy for using collective bargaining for decent work, just compensation and worker welfare. Experiences in organizing the beedi* worker women from the states of Gujarat, Madhya Pradesh (MP), Rajasthan and West Bengal in India are used to explain the SEWA intervention strategy, the process of collective bargaining and achievements.



Map showing locations of collective bargaining initiatives of SEWA beedi workers

In addition to SEWA documentation studies and other secondary data, focus group discussions of beedi worker women were arranged at three locations in Ahmedabad. Forty-five women participated and provided data on the history, status and achievements with regard to the unorganized sector of beedi industry in the region (**Appendix I**).

*Beedis are indigenous cigarettes smoked by the lower middle class and the poor sections of the country.

The paper begins with a brief review of the Indian unorganized sector and issues related to women workers. This is followed by an overview of the unorganized segment of the Indian beedi industry and an introduction to SEWA. The second part of the paper provides the chronology of SEWA interventions in various states, mainly in Gujarat, since 1978. This section provides an idea of the struggle of the unorganized beedi workers, the process of collective bargaining and achievements. The concluding part of the paper attempts to summarize the SEWA strategy focusing on organizing and capacity building for effective collective bargaining.

It is expected that the experiences and conclusions will be useful to readers from anywhere who are interested in understanding how successful effective bargaining can be achieved by workers themselves through establishment of their own organizations and capacity building.

[2] Indian Unorganized Sector

The unorganized sector in India is broadly characterized as consisting of units engaged in the production of goods and services with the primary objectives of generation of employment and incomes to the persons concerned. Home-based workers, street vendors, agricultural labourers and miscellaneous help providers constitute the unorganized sector of the economy. These units typically operate at a low level of organization with little or no division between labour and capital as factors of production and on a small scale. Home-based workers are engaged in the making of products like incense sticks, candles, kites, fireworks, home decoration material, etc. Street vendors include vegetable sellers, fruit merchants and handcart pullers selling toys, garments and miscellaneous household items. The labourers category consists of farm labour, those engaged in agro-product processing in homes, household aids, etc.

The unorganized sector provides income-earning opportunities for a large number of workers. In India 93% of the workforce obtain their livelihood from the unorganized sector. Beedi making and related operations is one of the major unorganized occupations in India.

[3] Indian Beedi Industry and the Unorganized Workers

The beedi industry is one of the largest employers of workers in India after agriculture, handloom and construction, yielding an average of 1,310 million person-days of employment per year. As per the Annual Report of Ministry of Labour, Government of India, 2001, the beedi industry is estimated to provide employment to 441,100 people in the country.

Although the large beedi manufacturers are large enterprises, the actual production is carried out by small unorganized units. Most of the production of beedis is undertaken either in homes or small work sheds. Ninety per cent of beedi workers are home-based. Thus production of beedis is widely dispersed and often shifts from place to place.

95 percent of beedi workers are women. For them, beedi is an important source of income that constitutes an average of 45 to 50 per cent of the total family income. This shows that the unorganized sector of the Indian beedi industry has a tremendous socio-economic significance in employment generation in India.

In the Indian unorganized sector, the beedi industry is among the few trades which are regulated by law. The Beedi and Cigar Workers Welfare Fund Act and the Beedi and Cigar Workers Act are there to protect the interests of beedi workers and resulted from worker action. The minimum wage for beedi workers is fixed as a piece rate per thousand beedis. In Gujarat the piece rate is linked to the dearness allowance (DA), which is further linked to the price level changes in the Indian economy. The DA revisions are announced by the Government of Gujarat every six months.

[4] About SEWA

SEWA is a trade union of women workers in India's informal economy. SEWA was founded in Ahmedabad in the state of Gujarat. The organization was founded by Ms Elaben Bhatt in 1972 with the main goal of organizing informal economy women workers for full employment and self reliance whereby they would obtain work security, income security and food security at the household level. The organization is guided and managed through Gandhian philosophy.

As a strategy, SEWA guides and assists members in creating their own organizations such as self-help groups (SHGs), associations, unions, cooperatives, corporate entities and other suitable types of organizations. SEWA builds their capacities in managing these organizations and in working towards achieving their goals through collective bargaining and associated activities.

Activities of SEWA are broadly categorized in two streams; (a) related to membership and (b) related to services to members. Membership-related activities include membership campaigns, awareness creation, perspective building (on benefits of membership and rights and duties of members) and capacity building. Service-related activities include support and facilitation in income generation, savings, wealth creation and social security.

Today with a membership base of 1,325,752 women in over 14 districts in Gujarat and nine other states of India, SEWA is the largest member-based organization of women in the country. With a history of initiating formation of international organizations of women like HomeNet, StreetNet and WIEGO, SEWA has carved out a well-respected niche for herself globally.

In 2011, SEWA's membership included 71,335 beedi workers. Of this total, 55,000 belonged to organizations based in Gujarat. This included 15,000 beedi workers from Ahmedabad, the birth place of SEWA. Traditionally, most of the beedi workers make beedis at homes and sell to factories on a piece-rate basis. A few factories provide beedi-making facilities to workers in the factory premises.

[5] Collective Bargaining at SEWA

The origin of SEWA lies in the need for collective bargaining. Towards the end of the 1960s, there existed a trade union of textile mill workers of Ahmedabad. It was founded by Mahatma Gandhi as Ahmedabad Textile Labour Association. Members of this Association included women textile labourers. These women members had several issues related to wages, work environment, the particular needs of women workers, childcare facilities and gender bias. The Women Wing of the Association felt that their needs and demands were not seriously

attended to by the Association and tried very hard, but unsuccessfully, to convince the senior leaders of the Association of this. As a result, women members of the Association felt neglected and disheartened. The result of this conflict was the birth of SEWA.

After her inception in 1972, SEWA also organized *Chindi* workers and helped them in collective bargaining for obtaining cotton strips and cuttings which were scrap from the textile mills. Today, SEWA has created member-based organizations of agricultural labourers, vegetable vendors and other street vendors, home-based workers engaged in making of incense sticks, garments, candles, kites, fireworks, etc. In addition to building their organizations, SEWA has built their capacities in collective bargaining including various stages of this process. This includes campaigns for awareness creation, organizing rallies, making representations before various judicial and governmental authorities, organizing conferences and round tables and various initiatives from an advocacy perspective. All this is done by SEWA through training programmes, workshops and exposure visits. In this process, SEWA also guides the members in use of technology like computers, internet, mobile phones and SATCOM (satellite communication).

[6] Building Collective Bargaining Capacities of Beedi Workers – SEWA Intervention

SEWA's interventions in the beedi industry date back to 1978 when a poor beedi worker Chandabibi from Patan (see the map for location) approached SEWA for help in her struggle with her employers. She was a representative of beedi workers who were earning 4 rupees per day and whose employers did not issue a proper identity card to them. They did not have proper employee status and were not entitled to any healthcare support from the hospital set up by the State Labour Welfare Department or to any other employee benefits. Chandabibi also complained about working and living conditions of beedi workers like herself.

SEWA's intervention started with this incident and moved on to become a long drawn-out battle. To begin with, SEWA organized a general meeting of women beedi workers of Patan and assisted in formation of their trade organization. This was followed by the formation of Beedi Workers' Organization in Ahmedabad in 1981. Thanks to this organized, collective effort, the time at which the beedi was delivered to women was changed from night hours to evening hours. A dispensary was also started for the beedi workers in Ahmedabad.

SEWA made use of research and helped the beedi workers in advocacy initiatives. In 1982, a general meeting of 5,000 beedi workers was organized in the presence of Mr Sanat Mehta, the then Finance Minister of Gujarat State. A report of this meeting was submitted by SEWA to the state government in 1983. As a result, the price available to workers for sale of beedis to factory owners was increased by the government. A cooperative society of beedi workers was formed by the SEWA workers as their own initiative. The members of the Cooperative submitted a memorandum to the Labour Commissioner of Gujarat State detailing their problems. After the inspection of the places of work by the State Labour Department, the demands of workers were accepted. Identity cards were issued. A factory owner Mr Laxmandas, who had retrenched 200 beedi workers, took them back and also gave compensation to the workers. He also agreed to give provident fund benefits to those 200 workers.

Recognition of the efforts of organized beedi workers came in 1985 when SEWA was invited to be a member of Gujarat State Advisory Committee on Beedi Workers. Under beedi welfare legislation, their administrative office and health centre were then established at Ahmedabad. From this year on all welfare schemes were availed by large number of workers and their children. As a result, 1986 marked the beginning of a new era in the history of unorganized sector workers' struggle. A national workshop was organized by SEWA on the status of unorganized sector beedi workers and issues affecting their employment and security. This workshop was held at Ministry of Labour, Government of India and was attended by tobacco workers from Kheda area, representatives of workers' organizations from the states of Gujarat and Karnataka, leading social workers, the Labour Minister of Gujarat State and the Joint Secretary of the Ministry of Labour.

In 1987, Government of India approved a project on housing for beedi workers in Ahmedabad. The Housing and Urban Development Corporation (HUDCO) provided financial assistance, Ahmedabad Urban Development Authority (AUDA) provided land and the Beedi Workers' Welfare Cooperative bridged the gap through subsidy. As a result, 110 women beedi workers got houses in 1993. More generally, issues of the beedi workers drew the attention of the Government of India. The Gujarat State Legislative Assembly took this issue up for discussion and national level data collection on the beedi workers was started by SEWA. Organizations of beedi workers were started in Palanpur and Vijaypur cities of Gujarat with assistance from SEWA in 1989. These workers were issued identity cards for the first time.

During 1991-1993, SEWA organized campaigns for standard wage rates for beedi making in all the factories situated in Gujarat State. A group insurance scheme for beedi workers was also initiated by SEWA during this period.

This intervention took its national shape in 1996 when the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) organized a national meeting of beedi workers and a memorandum was submitted to the then Labour Minister, Welfare Minister and Finance Minister at the central government level. As a result, minimum wages were fixed and several welfare schemes were announced by the central government for the benefit of beedi workers.

The year 1998-99 provided a unique experience in collective bargaining for the beedi workers. Gujarat High Court ordered the State Provident Fund Commissioner to carry out an assessment of the provident fund amount payable to the beedi workers. A joint meeting of 37 beedi factory owners and contractors was arranged by the commissioner for discussing the process of implementing the High Court Order. Throughout the discussions, SEWA organizers were assisting the beedi workers. (The SEWA organizers include local team leaders and activity coordinators who provide guidance and support to the unorganized workers and members in organizing activities, theme-based campaigns and collective bargaining initiatives. These organizers are employees of SEWA.) As a result of the joint meeting, the commissioner passed the order for paying provident fund payments of 497,790 rupees to 191 beedi workers.

Throughout the collective bargaining process, SEWA was guiding the organized workers in bringing an end to the sale-purchase system in which factory owners were buying beedis from the workers and no employer-employee relationship existed. A research-oriented approach was adopted to understand the mechanism of provident fund calculations, payments

and record keeping. For this purpose, visits were made by the SEWA research teams to Solapur and Pune cities of Maharashtra State and a meeting was held with the Labour Minister of Karnataka State.

In 2001, 15,000 beedi workers of Gujarat went on strike when the employers refused to settle issues pertaining to minimum wages, provident fund and workers' welfare. In this year, SEWA Mahila Housing Trust, the housing arm of SEWA organization, took the lead and collaborated with Gujarat State Welfare Board, SEWA Cooperative Bank and Ahmedabad Urban Development Authority (AUDA) in construction of 110 homes for beedi workers.

In 2002, 12 beedi workers who suffered during the communal disturbances were given work of quilt stitching with SEWA support. This provided them with an income for sustaining their livelihoods. In 2003-04, a public meeting of 2,000 beedi workers from Ahmedabad and various towns from the north of Gujarat State was organized by SEWA for discussing and preparing an action plan for issues related to wages, new employment opportunities, bonus and restarting the work.

In 2004, SEWA initiated efforts for organizing beedi workers in Murshidabad District of West Bengal. To begin with, SEWA undertook joint research in 2005 in collaboration with the Labour Department of the State Government of West Bengal and Indian Tobacco Corporation. The two agencies were interested in doing some work for the welfare and development of the beedi worker women. The study covered 170 women from 13 villages of the district. Data were collected on the socio-economic conditions and work-related status of the women beedi workers.

The research found that the workers were getting between 31 and 37 rupees for 1,000 beedis while the minimum wage rate in West Bengal was 41 rupees. The contractor would usually reject around 250 beedis that were taken but were not counted in the work done. Provident fund payments were being deducted but no one knew where the provident fund amount was going.

As a part of awareness creation, three women connected with beedi workers in Ahmedabad went to Murshidabad. They explained details of the Beedi Workers' Welfare Act and various schemes for scholarships to children, maternity support, identity card, insurance, sickness compensation, etc. The research-based initiative resulted in regularization of working hours, uniform wage rates, clarity on provident fund and benefits under various welfare schemes. More importantly, a local team was formed and the members were provided with training on the significance of organization, membership, understanding members' problems, their solutions and planning and monitoring. In the beginning, 1,141 beedi workers involved in beedi making were organized. Subsequently in 2005, the SEWA Murshidabad Team set a target of 5,000 members.

SEWA always uses research as a base for action in other initiatives for informal sector workers. SEWA's approach in the State of West Bengal provides a good example.

The year 2007 brought a happy end to the 23 years long struggle of beedi workers in Ahmedabad. In 1983, 174 beedi workers of Jivraj Beedi Works (JBW) had filed a suit for a provident fund in the Office of Provident Fund Commissioner, Gujarat State. On November 6, 2007 each of the 174 beedi workers got 1,500,000 rupees as their provident fund payout. This was a long drawn struggle showing the power of collective bargaining, determination

and patience on the part of beedi workers; and the role played by SEWA. The detailed case study is given at **Appendix II**.

In 2009, SEWA started organization of beedi workers in the city of Ajmer in Rajasthan State. Out of 10,000 beedi workers in the city, 2,200 formed their organization under the guidance of SEWA. When the workers' organization was formed, they were getting 45 rupees per 1,000 beedis. Thanks to the effective collective bargaining with the factory owners, the rate was increased to 52 rupees and then to 60 rupees. In December 2010, the rate was increased from 75 to 80 rupees per 1,000 beedis. Moreover, the workers are now linked by the Rajasthan State Government with beedi welfare schemes of the government. The employers have also issued identity cards to the workers.

[7] SEWA Initiatives for Informal Sector Beedi Workers in Madhya Pradesh (MP) State

Madhya Pradesh (MP) is a state where *Tendu Patta** are available in huge quantities from the forests in the state. Thus, beedi making is an age-old occupation and an established industry in the state.

SEWA started her activities in MP by forming SEWA-Madhya Pradesh (SEWA-MP), the trade union in Indore in 1985. As the first step, meetings were organized at community level and awareness was created among the workers about the Beedi Act in MP. Later on, capacities of the beedi workers were built through conducting training camps and organizing Sammellans (conferences).

The year 1987 was full of achievements by SEWA-MP. An agitation demanding identity cards for the beedi workers was started. A memorandum was sent to the then Chief Minister of MP with copies of the memorandum sent to the Central and State Labour Ministers. Through this campaigning, 1,300 beedi workers were given identity cards which entitled them to all the benefits and legal protections provided under the State Laws. Scholarships and uniforms were also distributed to the children of the women beedi workers by government.

In the same year, two beedi factories that had declared a lock-out were reopened and 500 women beedi workers got re-employment and logbooks to record their daily attendance and the number of beedis made by them, as a result of an appeal filed by SEWA-MP to the then Labour Commissioner of MP. A hospital was started by the State Government of MP for beedi workers.

In 1988, State-wide measures were taken in the interests of the women beedi workers. Employers and contractors were asked by the State Labour Department to issue identity cards and logbooks to all the women workers. The State Welfare Department agreed to print application forms of all the welfare schemes in the local language. The trade union started savings and a credit programme for the women beedi workers and organized eight training camps. Scholarships were distributed by government to 135 children of beedi workers.

* Leaf of *Diospyros Melanoxylon*. These leaves are picked up by tribals in the forests of MP. For making beedis, these leaves are soaked in water, tobacco powder is filled and then the leaves are rolled and tied up with cotton threads.

In 1989, SEWA initiated formation of a Beedi Workers' Credit Cooperative Society under the State Cooperative Law. The wage rate was increased by 3.50 rupees per 1,000 beedis. One thousand, two hundred workers received provident fund money which was due to them from the office of the Provident Fund Commissioner. Four hundred women received training in beedi making and scholarships were given to 200 children of the beedi workers. Six health camps were arranged where 300 children of beedi workers were given free polio vaccines by the State Health Department. The activities and achievements continued. In 1990, 335 beedi workers received training. Fifteen women beedi workers got maternity benefits.

Between 1991 and 2008 SEWA-MP enlarged her geographical spread. Initiatives were taken for organizing beedi workers in the districts of Ratlam, Sanawad, Chhatarpur and Khandwa. The normal activities like meetings, trainings and representations continued. All this resulted in increases in wage rates, regaining of employment and receipt of overdue provident fund amounts. Awareness campaigns called "Tendu Patta Campaigns" were organized in the tribal areas where the Tendu leaf collectors were living. They were organized through widespread use of media including posters, pamphlets and audio cassettes. Altogether 48,219 Tendu leaf collectors from eight districts participated in the awareness meetings. A total of 37,487 Tendu leaf collectors participated in the campaign for collection cards that gave them registration and identity as Tendu leaf collector workers. A conference of beedi workers and Tendu leaf collector women was organized at Indore on International Women's Day in 1989. As an important achievement, rallies were organized in Khandwa District for resolving accommodation problems of beedi workers. As a result, a beedi worker colony was constructed by the State Government of MP where 250 families got accommodation.

During 2006 and 2007, the Tendu Patta Campaigns were taken up in 10 different region of MP. This resulted in substantial awareness about the rights of Tendu leaf collectors and laws affecting their interests. Three hundred and forty collectors got their identity cards. In Bundelkhand District, a mobile dispensary was started by the State Government of MP as a response to the demand from Tendu leaf collectors.

SEWA's initiative in MP is not just limited to beedi workers. Contractors who work as intermediaries between beedi workers and beedi factory owners have also benefitted from the organized effort guided by SEWA. As per the prevailing practice, contractors provide raw material to beedi workers in their areas and then collect rolled beedis from beedi workers. It is their role to ensure that beedis received from the workers are of acceptable quality, make their bundles and then give them to the beedi factory owner, who pays the contractors commission for their services.

Since 2005, contractors have also formed their own unions. A contractor Nageshbhai narrated his experiences showing how he presented the demands from contractors before the beedi factory owners. These demands mainly included raising of the commission rate and a systematic annual increase in the rate.

[8] Achievements, Learnings and Conclusion

In her history of nearly 35 years of organizing beedi workers, SEWA has been instrumental in achievements that have made an everlasting impact on the work and lives of workers from the informal sector. An employer-employee relationship has been established, identity cards are issued and service conditions are formalized. Apart from increases in wage rates and implementation of provident fund rules, undesirable practices in work measurement have

stopped. This had resulted in more just compensation to workers. More importantly, beedi worker women have received maternity benefits, access to better healthcare facilities and several welfare benefits.

These achievements have also provided learning opportunities which should be of interest to other organizations of poor home-based workers and employees particularly in developing countries. These are summarized below.

- Collective bargaining by itself is not the goal. It is a skill-based organized effort and a powerful tool that leads to poverty alleviation and women's empowerment.
- Workers from successful unions have a significant role to play in enhancement of unionized efforts. Such workers can directly contribute to improving effectiveness of collective bargaining and capacity building.
- Effective collective bargaining is not just limited to employees' initiatives. Employers and government officials also have a role in this process. Therefore, their education and exposure assume equal importance. Achieving this is a real change.
- It is necessary that organizations in the roles like SEWA provide handholding support to workers' organizations and then withdraw from the scene in a phased manner.
- Initiating collective action in an unknown territory should be seen as a normal feature in collective bargaining. And therefore winning confidence of the beedi worker women and their families becomes key to success.
- Involvement of government officials and political leaders is a complicated issue and workers have to gain knowledge and skill in their involvement.
- For sustainable collective bargaining, it is necessary to sustain motivation and interest in the process of negotiations. From this perspective, it is necessary that leaders are developed from the grassroots level workers.

[9] Summing Up

Data provided by women beedi workers in focus group discussions and the situations prevailing in states of MP, Rajasthan and West Bengal provide ample evidence of the struggle of the poor working women from the unorganized sector. The case study of Jivraj Beedi Works provides a good example of the struggle, the process of negotiations and achievements of the organized workers.

SEWA experience has shown that beedi workers' struggle is not just limited to wages, working conditions and welfare. An effective intervention can ensure decent work, full-time employment and building of income and savings. Secondly, this struggle is not just limited to beedi factory owners and workers. Suitable government policies, their efficient implementation and support of workers' family members also contribute considerably to reducing conflicts.

According to SEWA ideology, collective bargaining calls for organized effort of workers supported by proper guidance from a facilitator institution. Experience has shown that creating organizations of workers must be the first step, followed by their capacity building through trainings, workshops, exposure visits, seminars and conferences. Apart from bargaining skills and processes, the capacity building initiatives focus on understanding of SEWA ideology, need to follow Gandhian values and leadership development.

SEWA experience also shows that research helps in understanding the dynamics of a local situation. The strategy for organizing workers and for collective bargaining must be based on research findings. In Gujarat, Patan triggered the initiative through one beedi worker, Chandabibi. Proper understanding of the situation was gained through exploratory research. In Murshidabad, a formal survey was conducted before developing the strategy for organizing. Experience has also shown that local leaders must be identified and involved in conducting the research and in post-research initiatives. In this context, the practice of organizing general meetings of all workers has helped in identification of local leaders and their involvement in planning and implementing collective bargaining initiatives. This has also assisted in ensuring maximum participation of the workers' community. Focus on awareness creation campaigns has equally helped in maximizing community participation.

SEWA has always perceived government agencies and government schemes as a base in efficient collective bargaining. The strategy for negotiations is framed within the government rules and regulations. Similarly, projects and schemes announced by the government for workers are used for justification of workers' demands.

Finally and most importantly, throughout the process of intervention planning and implementation of collective bargaining, SEWA's direct bargaining demonstrates perfect role clarity. Meetings are organized and negotiations are planned by workers themselves. Representations before government officials and various agencies are also managed by workers. SEWA organizers provide guidance and build workers' capacities on various dimensions of collective bargaining. This also underlines the need and relevance of worker education, trainings, skill building and exposures.

APPENDIX I

DETAILS OF FOCUS GROUP DISCUSSIONS WITH BEEDI WORKERS

Focus group discussions were organized at three locations in Ahmedabad viz. Vadaj, Noble Nagar and Ansooya Nagar on September 26, 2012; September 28, 2012; and October 1, 2012 respectively. The group discussions were attended by 45 women beedi workers and contractor women from various locations where home-based beedi making is being done. These workers and contractors have been associated with SEWA in organizing beedi workers since 1978.

In addition to experience in collective bargaining process in Gujarat, many of them have visited other states for the purpose of organizing beedi workers and assisting in collective bargaining. The issues discussed mainly focused on the past scenario in Gujarat, history of collective bargaining, challenges faced, and achievements. Those with experience in other states were asked to provide information on the intervention and outcome. Similarly, contractor women provided information on their experiences as a link between beedi factory owners and beedi workers.

APPENDIX II

JIVRAJ BEEDI WORKS: BEEDI WORKERS' STRUGGLE OF 23 YEARS FOR RECOGNITION AS EMPLOYEES

Jivraj Beedi Works is a relatively large beedi manufacturing and marketing organization located in Gomtipur area of Ahmedabad City of Gujarat. In 1983, beedi workers of Jivraj Beedi Works (JBW) filed a suit for a provident fund in the office of the Provident Fund Commissioner. One hundred and seventy-four beedi workers were trying to prove that there was an employer-employee relationship. The workers did not have any evidence to prove their claim. JBW owner took back the logbooks he had issued to workers. But one worker woman was not at home and therefore still had her logbook which became significant evidence in the case.

First of all, the case proceedings took place in the office of the Provident Fund Commissioner. The workers could not prove an employer-employee relationship. SEWA assisted the workers in filing an appeal in the Gujarat High Court in 1989. During this period, a change was made in the Provident Fund Act and the case was transferred to Appellate Tribunal in Delhi. Here the employer-employee relationship was established and the Provident Fund Commissioner issued an order to calculate and determine the amount. One thousand, two hundred workers received provident fund money which was due to them from office of the Provident Fund Commissioner. In 1998, JBW filed an appeal in Gujarat High Court. The High Court set aside the appeal and ordered provident fund calculations as per the Delhi Appellate Tribunal. An amount of 479,960 rupees was ordered but the concerned workers filed an appeal on March 18, 2007. SEWA and JBW jointly came to an agreement. Accordingly, JBW deposited 479,960 rupees in the provident fund. The Beedi Trade Committee of SEWA calculated the amount of 1,020,040 rupees on the basis of the duration of work and number of beedis made by the concerned 174 beedi workers. This was a mammoth exercise and interestingly, the owner of JBW also joined in the process of calculations and accepted the amount determined by the Committee. He was so happy that during the celebrations, he announced (1) his intention to give one of his buildings in the Gomtipur area of Ahmedabad for training of beedi workers and (2) declared a revised wage rate of 50 rupees per 1,000 beedis; which was an increase of six rupees per 1,000 beedis.

It took 23 years to prove the provident fund claim of the workers. At last on November 6, 2007 the 174 beedi workers got their provident fund payments of 1,500,000 rupees. The unique feature of the celebration in SEWA was that the owner of JBW himself attended the celebrations along with his family members. This incident shows the power of collective bargaining, determination and patience on the part of beedi workers; and the role played by SEWA.

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Collective bargaining among transport workers in Georgia

by Elza Jgerenaia, Georgia Trade Union Council

Introduction

Background and focus of the study

The collapse of the Soviet Union in mid-1991 profoundly changed the world's politics as well as economic and social dynamics. Of all the former Soviet republics, Georgia suffered most severely from the collapse of the Soviet Union. Several political revolutions and a tough geo-political situation prolonged the economic crisis, and by 2003 the country had sunk to its lowest level – political, economic and social – in modern times. After years of stagnation and political cataclysms, Georgia tried to turn itself around by launching a radical economic and political reform programme starting in 2004. After the 'Rose Revolution' of 2003, the Georgian government made an unequivocal choice to liberalize the economy with fundamental changes made to existing social policies.

These developments inevitably affected workers in Georgia. The new ultra-liberal labour code adopted in 2006 greatly contributed to informalization of labour relations. Among the many shortcomings which put Georgian labour legislation into obvious conflict with ILO fundamental standards, the rights of an employer to conclude unlimited verbal contracts with the workers, a discriminatory hiring-firing system and a diminished role of collective bargaining further promotes precariousness of employment. However, currently, the country is part of an EU Eastern Partnership Agreement and the new government has pledged to build democracy and development.

This research paper gives an overview of the situation regarding collective bargaining in the road transport sector in Georgia. The main actor on the side of the workers is an affiliate of the Georgia Trade Union Confederation, the Trade Union of Georgian Automobile Transport and Highways Workers. In addition to covering formal sector workers, the union bargains for and organizes workers who are self-employed (having the status of individual entrepreneur) as well as those who have informal jobs within formal enterprises. The main counterpart in social dialogue on the employer and the government side are the private companies that operate and manage the municipal transport in large cities and the municipal governments which have the power to influence the working conditions of transport workers.

The research focuses on three recent cases of collective bargaining in the public transport sector of the three largest municipalities of the country. The Tbilisi case is the main focus while the Rustavi and Batumi cases are of a supplementary character to illustrate how labour activism in one city may ignite similar actions in other places. All three case studies present a description of collective negotiations between the minibus drivers (who account for a major part of public transport in all three cities), the route operators (now mostly formal enterprises that encompass both self-employment and informal employment types of labour relations)

and the municipal governments. The labour and economic relationships in this triangle have been and largely remain of an informal nature.

The three cases have similarities but differ in terms of the policies adopted and implemented by the city governments. While Tbilisi and Rustavi cases are clearly about privatization and re-privatization of the minibuses sector of public transport, the Batumi case is primarily about the attempt of the municipal government to nationalize (or municipalize) the municipal transport sector by replacing the minibuses with buses of normal size, thereby cutting jobs. Although currently the privately-owned minibus sector continues to co-exist alongside municipality-run public transport in all three cities, a swing towards one or another direction can be expected at any time as federal and local governments have as yet no clear policy in this regard.

Study objective and methodology

The Georgian case study forms part of a multi-national study of collective bargaining experiences in different countries in respect of various groupings of informal workers. In the case of Georgia, the focus is on transport workers. In particular, the study focuses on the experiences in the three cities of Tbilisi, Batumi and Rustavi. It describes the history and process of collective bargaining, and the results achieved to date.

Both desk-based and fieldwork methods were used for the study. In terms of desk-based, the relevant legislative regulations were identified. In addition materials from various public and non-governmental organizations and various internet sources were analyzed.

For the fieldwork, a list of relevant individuals was developed. Interviews with these individuals provided a further source of information.

The work was planned and implemented in four stages, namely preparatory work, field work, processing of results, and analysis and report writing.

Elza Jgerenaia, the Georgia Trade Union Confederation's (GTUC) Economist, supervised preparation of the methodology and general organization of the study, and was also responsible for processing of the information and report-writing.

Support was provided by the leaders of the GTUC and the Trade Union of Georgian Motor Transport and Highways Workers as well as their staff members. The representatives of the state transport administration, respective municipalities and political parties also made important contributions.

The list of persons interviewed, their positions and organizations/institutions is included as an appendix to this paper.

General information about Georgia's population, economy and politics

Georgia covers an area of 97,000 km² (a little smaller than Belgium and Netherlands taken together). To the west the country is bounded by the Black Sea and to the north and south by the Larger and Lesser Caucasus Mountain Range. To the south Georgia is also bounded by east Turkey, to the southeast by Armenia, and to the east by Azerbaijan.

Georgia was previously part of the Soviet Union. The Union collapsed in 1991 after an attempted putsch by orthodox Communists who attempted to restore the pre-perestroika period. Subsequent economic transition has been difficult everywhere in the former Soviet Republics as the transformation of the command economy into a market economy proved to be more difficult than expected. In the case of Russia, GDP fell by almost 50 per cent in the first seven years of transition, while inflation sky-rocketed to a four-digit figure in 1992. The industrial recession was more severe than during the Nazi invasion. Similar problems were experienced in Ukraine, Moldova and the Caucasian Republics, including Georgia.

Shortly after regaining its independence, which marked an end to seventy years of a one-party political system, Georgia saw a surge of political activism in the country. Subsequently over 150 political parties formally registered with none of them seriously committed to advocating for workers' rights. Despite the fact that all six parliaments (before the last parliamentary elections of October 2012) formally were multi-party, Georgia has never experienced genuine separation of powers. The country has always been run in an autocratic way by a strong President who simultaneously ran the ruling party enjoying an absolute/constitutional majority in the parliament and decisively influencing the judiciary.

The cases described in the present study refer to the period of unlimited and thorough domination of the United National Movement (UNM) over the federal government, parliament and judiciary. Furthermore, the UNM has been in charge of all (without exception) local governments and controlled all the governors of the regions.

The situation has significantly changed after the last parliamentary elections which brought in an opposition coalition, the "Georgian Dream", consisting of five parties (none of them having been represented in the previous parliament) to the government. Although this has marked a new beginning for Georgia's democracy, the political situation became even more complicated as the current President, who announced that he had moved to the opposition, still has one more year in office and is able to effectively leverage the country's political life right up to dissolution of parliament, and also holds control over most of the judiciary (especially the Supreme Court). Municipal governments in Tbilisi, Batumi and Rustavi as well as in other cities also remain under UNM control.

Due to an extremely confrontational attitude towards each other, the two political forces so far have been unsuccessful in translating the factual and legislative diarchy into an effective cohabitation. The situation is further aggravated by the fact that in the last elections the Christian Democrats, the most popular opposition party among the minority faction in the previous parliament, did not achieve the 5 per cent threshold to qualify for the country's highest legislative authority. Nevertheless it enjoys representation in most of the local governments, including all three cities discussed in this paper.

Key population and demographic indicators for Georgia are as follows:

- **Population:** 4,300,000
- **Cities:** The capital city is Tbilisi (1,200,000 residents), with other main cities being Kutaisi (235,000), Rustavi (159,000) and Batumi (136,000).
- **Urbanization rate:** between 55 and 60 per cent.

According to the national statistics bureau, Georgia's gross domestic product (GDP) in the second quarter of 2012 was GEL 6,384.1m while GDP per capita was GEL 1,419.4. The real

annual GDP growth rate was 8.2 per cent. The table below shows the GDP growth rate and GDP per capita in US dollars for the years 2007-2012.

Table 1: GDP 2007-2011

Year	Growth rate	GDP per capita (USD)
2007	12.3	2,314.6
2008	2.3	2,921.1
2009	3.8	2,455.2
2010	6.3	2,623.0
2011	7.0	3,215.4

The sectoral breakdown in terms of contribution to GDP shows the following picture, and illustrates the relative importance of the transport sector, which is the focus of this paper:

- Industry – 16.6%
- Trade – 16.6%
- Public administration – 11.7%
- Transport and communication – 11.5%
- Agriculture – 8.6%
- Health care and social assistance – 5.9%

Overall, the Georgian economy developed positively following the 2003 Rose Revolution. However, the best reflection of the economic situation in the country is provided not by various business ratings but by statistical information that confirms that the economic situation of Georgian citizens is difficult. Even according to official data 20 per cent of the Georgian population lives below the poverty line, and 60 per cent lives below the average consumption level.

The challenges for the poor are increased by the fact that Georgia is a country with a small and open economy and is largely dependent on imports. For example, in 2010 and 2011 the value of imports of foodstuff was five times higher than the value of exports. Further, the Georgian market is entirely dependent on imported fuel. As a result, an increase of prices on the global market has an immediate impact on Georgia's market. The above-mentioned products are especially sensitive for the Georgian economy, since all consumers need foodstuff, including those below the poverty line, and the expenses incurred on them represent a significant proportion of consumer expenditure. In 2007-09, for example, food accounted for 43 per cent of consumer spending, and in 2010-11 for 38.8 per cent. Increases in fuel prices affect virtually all sectors of the economy, and also directly or indirectly affect the standard of living of the population. The fuel price is of particular importance to the transport industry.

Labour market and union profile

The GTUC is an umbrella for 19 sector unions and 3 regional trade union federations, as follows:

Regional federations:

1. Adjara Trade Union Federation
2. Abkhazia Trade Union Federation
3. Tskhinvali (South Ossetia) Regional Trade Union Centre

Trade unions:

1. Aviation Workers' Trade Union
2. Architecture, Construction and Building Material Industry Workers' Trade Union
3. Georgian Energy Workers' Trade Union
4. Self-employed Workers' Trade Union
5. Communication Workers' Trade Union of Georgia
6. Metallurgy, Mining and Chemical Workers' Trade Union
7. Metro Workers' Trade Union
8. Trade Union of Service Sector, Local and Communal Services Workers of Georgia
9. Oil, Gas and Coal Distribution Workers' Trade Union
10. Education and Science Workers' Free Trade Union
11. Trade union of Railway Workers
12. Trade Union of Georgian Automobile Transport and Highways Workers
13. Trade Union of Naval Transport and of Fish Industry Workers Confederation
14. Public Servants Trade Union of Georgia
15. Agriculture Workers' Trade Union
16. Sport Workers' Trade Union
17. Footballers' Trade Union
18. Health, Pharmaceutical and Social Care Workers' Independent Trade Union
19. Artists' Trade Union

At the end of 2012 the total number of members affiliated to the GTUC was 176,547, of whom woman accounted for 109,852 (62.2 per cent), those under 35 year for 26,752 (15.1 per cent). The issue of participation of women in the decision making process, especially in the ordinary board of the Georgian Trade Union Confederation, is address in the regulations in the sixth item of article 13, which provides for the right of women to have three members in a deliberative vote. In the membership of the representative organ of the board of Confederation, of 26 members, six are woman – nearly a quarter of the total number. Of the two deputy heads of the GTUC, one is a woman.

The table below shows women's membership for the different branch organizations of the Federation:

Table 2: Total and women's membership of GTUC affiliates and branches

Name of branch organization	Union members	Women			
		Women	% of total	<35 years	% of total
Adjarian Trade Union Confederation	8,145	4718	57.9%	2,034	43.1%
Abkhazian Trade Union Confederation	394	162	41.1%	36	22.2%
Aviation Workers' Trade Union	448	218	48.6%	178	81.6%
Architecture, Construction & Building Material Industry Workers' Trade Union	1,557	236	15.1%	71	30%
Georgian Energy Workers' Trade Union	3,509	621	17.6%	266	42.8%
Self-employed Workers' Trade Union	389	195	50.1%	46	23.5%
Communication Workers' Trade Union of Georgia	2,084	1,061	50.9%	528	49.7%
Metallurgy, Mining and Chemical Workers' Trade Union	4,511	1,144	25.3%	363	31.7%
Metro Workers' Trade Union	1,662	485	29.1%	45	9.2%
Trade Union of Service Sector, Local and Communal Services Workers of Georgia	5,170	3,953	76.4%	1,086	27.4%
Oil, Gas and Coal distribution Workers' Trade Union	2,243	286	12.7%	90	31.4%
Education and Science Workers' Free Trade Union	99,731	79,175	79.3%	16,852	21.2%
Trade Union of Railway Workers					
Trade Union of Georgian Automobile Transport and Highways Workers	7,145	800	11%	500	62.5%
Trade Union of Naval Transport and of Fish Industry Workers Confederation	3,791	589	15.5%	404	68.5%
Public Servants Trade Union of Georgia	4,569	1,786	39%	839	46.9%
Agriculture Workers' Trade Union	5,200	2,200	42.3%	1,090	49.5%
Sport Workers' Trade Union	1,425	361	25.3%		
Footballers' Trade Union	113	20	17.6%	2	10%
Tskhinvali Regional Trade Union Centre	267	198	74.1%	81	40.9%
Health, Pharmaceutical and Social Care Workers' Independent Trade Union	11,284	9,078	80.4%	2,204	24.2%
Artists' Trade Union	7,077	3,833	54.1%	696	18.1%

According to statistical data for 2011, the economically active population (workforce) numbered 1,959.3 thousand. Of these, women accounted for about 915.6 thousand, 46.7 per

cent of the total workforce. Of the workforce, employed people amount to 795.3 thousand, of whom hired employed (employees) amount to 297.9 thousand, 47.1 per cent of the total amount. Self-employed women are about 493.2 thousand, 62 per cent of total employed women, while hired employed women account for 37.5 per cent.

Unfortunately, women are more often than men employed in positions with low wages and low revenue. The level of women's average wage is thus substantially lower than men's, as seen in the table below.

Table 3: Male and female salaries and wages by sector

Economic sector	2011 Average wage: 636.0 Lari			II quarter 2012 Average wage: 723.9 Lari	
	Women	Men	Differences	Women	Men
Average wage	460.2	771.1	310.9	518.1	890.0
Agriculture	336.3	407.9	71.6	424.4	750.8
Industrial of mountainous extract	551.9	876.2	324.3	616.4	899.2
Manufacturing industry	392.7	629.0	236.3	470.4	736.0
Electricity, gas and water production and distribution	846.5	884.1	37.6	875.9	897.9
Building, construction	513.7	753.7	240.0	683.7	1,043.2
Trade, domestic sector	402.0	662.8	260.8	454.8	814.8
Hotels and restaurants	292.2	437.2	135.0	380.4	533.7
Transport and communication	686.2	933.2	247.0	714.4	1,055.0
Financial activity	1,120.1	1,762.4	642.3	1,228.8	1,714.8
Public administration	1,030.6	903.2	127.4	992.9	1,036.9
Education	299.2	389.8	90.6	329.9	430.7
Health care and social security	444.3	765.5	321.2	502.9	899.9
Community and social services	423.9	599.7	175.8	499.6	777.5

Unemployment in Georgia is at a record high when compared to other CIS countries at 15.1 – 13.1 per cent for females and 16.7 per cent for males (www.geostat.ge). Traditionally, the unemployment rate for women is lower than for men. The main reason for this is that many women who are not employed are classified as housewives. In 2011, the urban unemployment rate was 26.5 per cent while the rural rate was 6.5 per cent. These rates were lower than in the period 2008 to 2010, but higher than the rates in the period 2005 to 2007.

The majority of Georgia's population is economically and socially vulnerable. Polarization of income has transformed once one of the wealthiest republics of the Soviet Union into one of the most volatile states. As noted above, according to official data, more than 50 per cent of the population is on the verge of poverty.

The Gini index, which measures the extent to which the distribution of income (or, in some cases, consumption expenditure) among individuals or households within an economy deviates from a perfectly equal distribution, in Georgia, was reported as 40.8 in 2011, according to the World Bank. According to the rating, among the 143 countries in the world Georgia holds the 111th place, lower than many countries in Africa and South America.

In Georgia among those who are listed as employed, the majority are self-employed. This category is largely concentrated in agriculture, where productivity levels are low. The majority of jobs in the private sector, and especially those in services, are of a precarious nature, unstable, short-term and often informal. This is especially the case in relation to street trade, hotel, casino chains, transport and construction in the capital city Tbilisi and major regional principal cities. There are sharp differences in the standard of living between the regions, cities and rural areas, while mountainous regions rely on self-subsistence. According to official census data, 15-20 per cent (out of 4.5 million) of the population lives abroad.

The informal sector accounts for more than 60 per cent of employment in Georgia according to independent experts. Informality is widespread not only in agriculture, but also in transport, services and construction. Transport has been particularly vulnerable to self-employment, tax evasion and informality of labour relations over the last two decades.

The GTUC is the only trade union federation in the country. As noted above, the GTUC affiliate, the Trade Union of Georgian Motor Transport and Highways Workers, covers the transport sector. In addition to covering formal sector workers, the union bargains for and organizes workers who are self-employed as well as those who have informal jobs within formal enterprises. The transport union has 7,148 members, approximately 10 per cent of whom are women employed in the informal sector.

Labour legislation and regulations

The documents that provide the legal basis for labour relations in Georgia include the Constitution of Georgia, ratified ILO conventions, the Labour Code, the Law on Trade Unions, and the Law on Gatherings and Manifestations.

Article 30(4) of the Constitution safeguards labour rights and provides for fair remuneration, safe and healthy conditions of work, and appropriate employment conditions of minors and women.

Georgia has ratified the 1948 Convention on Freedom of Association and the Right to Organize (no. 87, ratified in 1999)¹ and the 1949 Convention on the Right to Organize and Collective Bargaining (no. 98, ratified in 1993)² alongside other labour conventions. The International Labour Organization's Committee of Independent Experts has several times provided recommendations to the Government of Georgia³ in respect of modifications to the Labour Code and other legislation in order to bring them in line with Conventions 87 and 98.

In addition, in 2005 Georgia ratified and partially adopted the European Social Charter⁴, a Council of Europe treaty which guarantees social and economic human rights.

¹ http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---

² http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_gb_297_lils_6_en.pdf

³ 2008 and 2010 ILO Committee of Experts provided recommendations to the government on the necessity to enter modifications since Georgian legislation does not correspond to key principles of these conventions <http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=25&chapter=4&query=general+repo>

⁴ http://www.coe.int/t/dghl/monitoring/socialcharter/default_en.asp

However, the Law on Trade Unions⁵ that was passed in 1997 has not been substantially modified subsequently, while the Law on Collective Bargaining Agreements and the Law on the Rule of Regulating Collective Labour Disputes that were passed together with the Law on Trade Unions were abolished in 2006, leaving gaps in legislation. The Law of Trade Unions declares the freedom to form and join trade unions. Trade unions are allowed in public as well as private institutions, with the exception of certain categories relating to law enforcement bodies. Article 12(2) states that an employer is obliged to bargain with trade unions with the purpose of reaching collective bargaining agreements. Article 11(2) states that an employer is obliged to provide information to trade unions at least two months in advance about expected downsizing of staff and/or expected worsening of employment conditions.

A trade union can be founded as an independent legal entity on the initiative of at least 50 individuals (Article 2(9)). Trade unions can form primary organizations at enterprises that are guided by the by-laws of the trade union. Where there are at least 15 members, the primary organization may elect a trade union leader who will serve a representational function. Where the number of members is less than 50, trade unions can exist only as a sub-unit of a larger association. In such case it may not be a legal entity and cannot independently conclude collective bargaining agreement. Only the higher-level organization can sign such agreements.

Article 13, paragraph 3 of the Law on Trade Unions stipulates that an individual person working for a specific company/organization and having a labour contract with an employer as well as an individual entrepreneur can form and/or join a trade union of their choice. Although the Labour Code mentions only the organization of the employees who work under “labour contracts” as counterparts for collective bargaining, in practice there has been no refusal to date by the employer to bargain with others based on this phrasing. The most widespread reasons on the side of the employer for avoiding collective bargaining are general unwillingness to recognize a union citing the Labour Code’s ambiguous provisions in terms of the employer’s obligation to enter into bargaining with the union as well as questioning how representative the union is.

The Labour Code was adopted in May 2006. This Code has been criticized for significantly limiting the rights of employees and trade unions and because it was adopted without due consultations with the trade unions. Further, the Code is contrary to the ratified conventions. Despite the demands put forward by GTUC, ILO, the European Union (EU) and others, the Code’s provisions have not been modified. Further, amendments to the Constitution in December 2010 changed the status of the Labour Code from a regular law to an organic law. This means that votes of more than half of all members of parliament (MP) will be needed to amend the Code. The Code is especially important for this study as it covers employees working in the informal sector giving them the same protection, rights and freedoms as the workers who have a formalized labour relationship with their employers. Unfortunately neither the Labour Code nor any other piece of legislation provides definitions for the formal and informal sector or employment. Even the Law on Employment, which was abolished in 2005, was silent about informality of labour relations and the informal sector as such. It distinguished only between the employed worker and the self-employed person. The latter was defined as a person working in his/her own enterprise or household for the purposes of receiving profit or family income (in the form of money or in kind/non-cash).

⁵See Parliamentary Bulletin of Georgia #15-16 1997.

Therefore, the current labour code applies to all types of employees working for private employers no matter in which sector. A self-employed worker who has the status of an individual entrepreneur (the most common practice) may also enjoy freedom of association and the right to bargain collectively as already mentioned above. Anticipating the discussion below, it should be stressed that this very provision in the Law on Trade Unions gave the Trade Union of Georgian Automobile Transport and Highways Workers a free hand to organize minibus drivers who formally are mostly individual entrepreneurs.

Articles 37(d) and 38(3) are the main weak points of the current Labour Code in that they enable an employer to terminate a labour contract without giving a warning or/and explanation.

The Code allows for the conclusion of collective agreements but is not sufficiently specific about regulation of such agreements. The Code defines a collective bargaining agreement as an agreement between an employer and any group of employees that comprises more than two members. An employer is not obliged to bargain collectively even when this is demanded by a trade union. The role of trade unions in collective bargaining is not defined and the bargaining may be done by any worker representative. This is contrary to Article 4 of ILO Convention 98.⁶

Article 25(3) of the Georgia Law on Trade Unions provides for deduction of trade union subscriptions by the employer and transfer of this money to the trade union account in line with a collective agreement. If the collective agreement is terminated unilaterally by the employer, this obligation falls away. Employers can, by blocking the collection of membership contributions, financially weaken the trade unions.

Article 49 of the Labour Code recognizes the right of workers to strike but Article 51 imposes a number of limitations. For example, an employee may not strike in a case where the employer downsizes staff provided the employee had been warned in advance about possible dismissal. A strike must be preceded by a warning, as a result of which for 14 days the parties should attempt to reach agreement through negotiations. The Law does not explicitly determine the procedures for these negotiations. If as a result of exchange of written notices, agreement is not reached, one party is authorized to apply to court or for arbitration. This then restricts the right to strike. Further, the duration of a strike is limited to 90 days and strikes are not allowed where they can cause harm to the public.

In addition to purely legal aspects, practical deregulation of management by the state has also resulted in the failure to protect labour rights. The abolition of labour inspection has created a gap in terms of controlling employment conditions. There is no registration of unemployment, and no unemployment benefits system. No specialized courts or mediation institutions are in place for the consideration of labour disputes.

The Code is also contrary to EU standards and the European Social Charter⁷, of which Georgia has ratified Articles 2, 4, 5, 6, 26 and 29. Article 2(1) is breached because an employed individual may agree to an agreement that will not limit the maximum working

⁶ILO Committee of Experts 2010 conclusion about the implementation of Convention 98 by Georgia http://www.ilo.org/global/standards/WCMS_123515/lang--en/index.htm

⁷Ratified under the Parliament of Georgia July 1, 2005 Decree# 1876

hours. Article 4(2) is breached because employer and employee may agree on unlimited overtime. Further, the Labour Code does not ensure additional payment or compensatory leave for overtime. Article 4(4) is contrary to the Charter because preliminary warning to an employee in case of his/her dismissal is not prescribed. Article 5 is breached because an excessive number of members is required for founding a trade union. Further, employment contracts can specify that the person may not join a trade union. Article 6(2) is breached because an employer may unilaterally ignore a collective bargaining agreement and because concluding of collective agreements is not encouraged.

In addition to legislation directly related to employment relations, the success of social dialogue depends on the quality of the protection of overall civil rights and freedoms in the country. This has been deteriorating over time through an increase in legal and practical restrictions of political and civil rights.

Social dialogue at international level

The ILO has been cooperating with the government, GTUC and employers over years in order to bring labour legislation in line with international standards. In addition to the ratified conventions, the European Neighbourhood Policy Action Plan envisages “continuous efforts to ensure that standards stipulated in the European Social Charter are realized, protection of trade unions rights and compliance with universal labour standards in accordance with the ILO conventions ratified by Georgia”.⁸ Further, inclusion of Georgia in the Generalized System of [Trade] Preferences with the European Union (GSP+) requires that the country should be fully compliant with the key principles of ILO labour standards.

These international obligations, along with the ratified conventions, create the framework in which the EU, ILO, US Department of State and other international organizations should be treated as the main proponents of social dialogue in Georgia.

Yet the 2010 Report on the Implementation of the European Neighbourhood Policy⁹ confirms ongoing gaps in the Labour Code, despite minor agreed – but not yet implemented – amendments to the Code in respect of social dialogue, at the same time as pressure on trade unions has increased. Similarly, the US Department of State Annual report about the situation with human rights is explicitly critical of the lack of protection of labour rights in Georgia and labour legislation.¹⁰ The resolution adopted by the European Parliament on conclusion of a free trade agreement notes that the Government of Georgia should ensure that Georgia’s labour legislation is brought in line with Conventions 87 and 98, and efforts to support the development of non-discriminatory social dialogue should be strengthened.¹¹

Laws and regulations in the transport sector

The Ministry of Economy and Sustainable Development of Georgia develops and implements state policy relating to transport. There are also several legal provisions that regulate transport in the country. These include the Law on the Management and Regulation of Transport,

⁸ http://gurkanates.com/index.php?option=com_content&view=article&id=8&Itemid=18

⁹ http://ec.europa.eu/world/enp/documents_en.htm

¹⁰ <http://www.humanrightshouse.org/Articles/16050.html>

¹¹ <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2011-0374&language=EN>

which sets out the legal and organizational basis for the management and regulation of transport throughout Georgia.

The various technical regulations are listed in the June 9, 2011 N 1-1/883 Order of the Minister of Economy and Sustainable Development, while the development and approval of subsequent orders is the responsibility of legal entities falling under the Ministry. In terms of land transport, the development of technical regulations is the responsibility of the Terrestrial (Land) Transport Agency.

Local government is also responsible for regulating passenger transport in the territory of the respective municipality:

The Organic Law on Local Self-government, permits charging the service provider associated fees in relation to regular transport of passengers. All local governments across the country are governed on the basis of this law except for in Tbilisi where the Mayor is elected directly by residents of the city. The Mayors in other cities are elected by the City Councils. Tbilisi Local government is run on the basis of a separate law, the “Law on Capital City”.

- Determination of the amount of the service fee paid by providers to the municipality and the payment process. This is done on the basis of tender announcements and related procedures.

Reforms in recent years have aimed to formalise the transport sector. The reforms include stricter tax administration, renovation of parking spaces for buses (including minibuses), and regulation of the contractual system. However, despite these reforms, the situation has not changed substantially, especially in Batumi and Rustavi, where management of minibuses has not been brought under the municipality and transport remains privately owned and managed.

City-based case studies of collective bargaining in the transport sector

Background

For 20 years minibuses have been the main form of transport within the three cities of Tbilisi, Batumi and Rustavi. The economic collapse that began in the early 1990s, ethnic conflicts promoted by Russia, and armed civilian standoffs (including civil war in the capital city) resulted in a deep and all-encompassing crisis of public administration all over the country. Public services became ineffective with many public officers deeply involved in corruption. This caused an absolute collapse of municipal services, including municipal transport. The gap in respect of transport services was filled by a self-employed sector that developed in an unorganized manner. Due to the weak buying power of the population and the lack of demand for quality services it was mostly second-hand minibuses from Turkey and Germany that became the key means of transportation. In addition, dilapidated Soviet-produced minibuses from the 1980s were still in use.

In this situation city transport traffic routes were established spontaneously and in an unorganized way. Initially private individuals transported passengers in minibuses they owned, either driving themselves or using hired drivers. In the late 1990s, when there was relative stability in the country, federal and municipal governments managed to introduce some order in passenger transport, through the measures described above. However, due to

widespread corruption and oligarchic capitalism, transport operated largely as part of the shadow economy (for example, without payment of tax). Up until at least 2010, labour relations were based on informal self-employment. The so-called minibus passenger transport system that developed posed effective competition to municipal transport services such as the Metro and large buses. The buses are all owned and run by the municipality, while trolley buses and trams had by this time already been abolished by the Tbilisi government.

Against this backdrop, the change of the government in 2003 (following the so-called Rose Revolution) and the successful government policy of fighting against corruption and instituting order gradually reached municipal transport. Given the increase in local budgets with moves to self-government, cities started to introduce new regulation mechanisms, spending more on improving city infrastructure and renewal of the transport fleet (buses of various seating capacity). In Tbilisi and other large cities these became major reforms.

However local (and federal) government attempts to bring more transparency and accountability to the cities' transport systems confronted a "vicious scheme" that had been taking root for almost two decades. This approach was found in almost every large city of Georgia, including in Kutaisi, Rustavi and Batumi.

The scheme can be described as follows:

8. The transport system within the cities is divided into several minibus routes.
9. After having won formal tenders announced by the municipal government/s, separate legal entities (route operators) manage one or more routes for a specified period of time – usually 1-2 years.
10. In Tbilisi the route operators claim that in the 1990s they unofficially paid for the permanent right to manage the routes, making them *de facto* owners of the respective routes. For this reason, and also to differentiate the various actors, it is better to refer to them as "route owners".
11. The real "route operators" are the individuals (physical persons) who *de facto* manage minibus traffic under unofficial lease agreements with the route owners.
12. The route operators select minibuses and their owners to work on the various routes. They also informally collect monthly fees from the minibus owners and pay over part of the money to the route owners.
13. In many instances the minibus owners are also drivers, while in other cases they employ drivers to drive their vehicles.
14. In many instances the route operators use their own minibuses on the routes managed by them.
15. The only (but still fake in that they are not followed in practice) formal relations in this scheme are those between route owners and minibus owners (and owner-drivers).
16. No services (such as safety inspection, car repairing, spare parts, etc.) are provided to the minibus drivers by the other actors. Moreover, at some point in recent years drivers were asked to do their own bookkeeping, which usually meant that they needed to contract and pay an accountant. This measure partly formalized the business and labour relationships in this sector but increased the financial and administrative burden of drivers.

All the personnel, apart from a few employees in the route operation offices, are men.

It is clear that the driver is the most vulnerable in this system, “feeding” all others above them – the minibus owner, route operator and route owner. This is an upside-down pyramid-like scheme with the driver at the base exploited through semi-legal methods. At times drivers publicly expressed discontent with their labour conditions, but their protests would have no result. Because of the informal nature of the relationship, and despite strong attempts, it was difficult to unionize the drivers. The main problem was the lack of a concrete employer who could serve as a common target for collective actions. Local authorities did not have a direct relationship with drivers, although indirectly they influenced the employment conditions of the drivers.

Reforms implemented in Tbilisi eliminated route operators and minibus owners from the system and substituted companies who have won a tender that obliges them to bring in new minibuses, select and employ the drivers, provide insurance (car accident, healthcare), operate and/or manage the routes, and provide safety inspections for a period of 20 years. The only legacy from the previous approach is that all drivers are formally registered as individual entrepreneurs and are responsible for taking care of the vehicle themselves in terms of repairs, spare parts and other running expenses. Thus despite all the changes in the direction of greater formalization, the drivers remain self-employed to some extent. Many registered as sole proprietors and started paying taxes according to this status.

Removal of the other two groups of actors – route owners and route operators – caused a lot of tension and many protests against the municipal government. Furthermore Tbilisi city council was accused of encouraging monopolization of city transport as there were rumours that suggested that all four tender-winning companies had the same owners registered in an off-shore area. Batumi and Rustavi have not yet brought about similar changes but there are plans for this to happen in the near future.

The reforms occurred against a background of developing social dialogue in the sector. The first memorandum of cooperation was concluded on July 27, 2009 between the Unified Transport Administration of the Ministry of Regional Development and Infrastructure, the MTMWETU and the League of Passenger Transport Operators. The League of Passenger Transport Operators represents the route owner companies and is seen as being close to the authorities.

In terms of this memorandum the social partners deemed it advisable to develop relationships to resolve the problems in the area of passenger motor transport. The focus of cooperation was safe, timely and quality transport of passengers in order to meet the demands of consumers. The three bodies formed a permanent Council which serves as a platform for exchanging opinions and information on ways of addressing the problems and challenges. Further, under the memorandum agreement was reached about the refinement of the technical regulations governing motor vehicle passenger carriage and the creation of effective mechanisms for practical implementation of the provisions of laws and regulations.

A significant aspect of the agreement was the creation of a permanent joint consultative board. The main task of this board was the development of recommendations to identify and resolve problematic issues in the sector. The heads of the Agency and the League along with the President of the MTMWETU constitute the board. The board meets twice a year unless there is need for an urgent meeting. It can come up with recommendations regarding important issues such as labour disputes.

The memorandum paid special attention to regulations safeguarding the employment and health of employees (primarily drivers), skills development, professional training and in-service development, minimum conditions for work and rest hours, establishment of legal, stable, socially-oriented relationships between employees and employers, ensuring social dialogue, conclusion and enforcement of collective agreements, as well as smooth functioning of auto stations.

Tbilisi

By 2010, between 18,000 and 20,000 people were employed in Tbilisi in the transport sector, among whom approximately 5,000 people were employed in the minibus sub-sector.

The process

In September 2010 Tbilisi municipality issued a tender aimed at the reform of transport. Information about the tender triggered the initiation of collective bargaining and the formation of a trade union of minibus drivers under the umbrella of the Motor Transport and Motorway Employees Trade Union (MTMWETU). This was possible because the MTMWETU's constitution and structure are flexible enough to allow for membership of any employee irrespective of the degree of the formality of his/her labour relations with the employer. Furthermore, the policy of the GTUC (to which MTMBWETU is affiliated) is to encourage its member sectoral unions to make it easy for informal workers, including those who are self-employed, to join the unions and enjoy representation and protection equal to those having formal labour relations with their respective employers.

Fearful of losing their jobs, the drivers – who had for a long time avoided unionization – quickly approached the MTMWETU for help. The MTMWETU immediately responded and launched a campaign against the municipal government demanding greater transparency and respect for the drivers' job security. The union activists from the municipal bus company played a key role in organizing the minibus-drivers. Finally, within a period of one week the Primary Union of Tbilisi Minibus Drivers' was set up and the MTMWETU was given the mandate to represent the drivers in the negotiations with the municipal government.

In order to focus public attention on the problems of the drivers, the MTMWETU decided to act in alliance with the Christian-democratic faction of the Tbilisi City Council, namely with the vice-speaker of the Council who represents the above-mentioned party. Meetings held in the Council, joint press-conferences and participation in TV talk-shows strengthened the alliance and forced the municipal government to include the MTMWETU representatives in the Tender Commission.

This moment marked the final split between the interests of the drivers on the one hand and the route owners and route operators on the other. The latter, recognizing the possible loss of their places (and privileges) in the existing scheme, tried to use the drivers to avert or at least postpone the reform. They tried to instigate the drivers to go on strike and paralyze transport in the city. The drivers, who had been exploited by the "vicious scheme" for many years, were smart enough to identify the real intentions of their former "employers" and did not strike. Their memories were still fresh enough to remember the attempt of the "employers" to prevent them forming a union. Backed by some radical political forces, the route owners and route operators tried to rally against the government but without the participation of drivers their protest was not successful.

Besides the motives noted above, the drivers – led by the union – understood that the reform could bring more decent work and greater employment security. They needed to fight to save their jobs and wages and to try to improve working conditions. It was clear that they could achieve this only by acting together as a union.

Most political parties focused mainly on preventing monopolization of the sector. This approach was the result of rumours that all the companies participating in the tender enjoyed support from both the federal and municipal government. The tender was about long-term outsourcing of municipal minibuses transport which required that participant companies invest heavily and completely change the fleet of vehicles within one year (bringing in 1,250 new minibuses in 2011), urgently address safety conditions and so on. In this process, route owners and route operators (who are small entrepreneurs and thus unable to engage in major investment) claimed that they had been deliberately sidelined.

The trade union shared the concern over the possible monopolization of the sector, but retention of 100 per cent of jobs for those already working as drivers was its main objective. In order to influence the city authorities (which enjoyed strong backing from the federal government) to have the relevant clause on job retention included among the conditions of the tender, the MTMWETU requested the GTUC to intervene. The GTUC support, coupled with assistance from the Christian-Democratic party, played an important role. Nevertheless the MTMWETU had to organise a protest rally in front of the Mayor's office in Tbilisi to secure the drivers' rights and interests. After the rally the municipal government invited MTMWETU's leader and the ad hoc committee of the drivers to negotiations. After a series of negotiations all the demands of the drivers were accommodated, including retention of jobs, medical insurance, working hours, paid annual leave, and safety conditions. It was also agreed that no matter which companies won the tender, they would conclude a collective agreement with the MTMWETU as the workers' representative organization.

Seven companies expressed an interest in the tender and four were announced as winners. The four winners were widely seen as belonging to a big business grouping (operating in telecommunication, construction) close to the then ruling party. Tbil Line, Ltd won two lots, while Tbil Care, Ltd; Capital Group, Ltd; and Public Car, Ltd each won one lot.

Despite relatively successful negotiations with the four companies, at a certain stage drivers had to threaten to strike. This was necessary because of disagreements over the responsibility of companies for routine maintenance and repair of minibuses as well as over wages. Fortunately, through intensive mediation that involved the GTUC and some senior government representatives, consensus was reached and industrial action was averted.

The cooperation of the trade union with the Christian-Democratic Party proved to be successful as demonstrated by creation of a united front for safeguarding the jobs of drivers. Drivers were also offered assistance by various non-governmental organizations (NGOs), mainly in respect of legal advice. Nevertheless, the trade union was the most important form and means for collective advocacy for and representation of workers' rights and interests even though the drivers' employment was mainly informal and in some cases not fully in line with the law.

Previously drivers could not be united due to the lack of a common employer and because the municipal government avoided taking responsibility for their working conditions. The reform

was largely successful in addressing these gaps and the investors, in the form of the winning companies, became the genuine and responsible employers while the municipal government was shown to be the body directly responsible for the process and monitoring transport traffic, with the capacity to intervene on either side to promote compliance with policies and labour standards.

Ultimately, the trade union concluded memoranda of cooperation with the four companies which later resulted in the signing of collective agreements. With its flexible structure and constitution allowing drivers with any type of employment to affiliate, subsequently MTMWETU succeeded in recruiting approximately 500 members (out of a total of 1,000 drivers) who currently pay union dues and actively participate in union activities. The majority of the drivers are registered as individual entrepreneurs and have commercial contracts (rather than employment contracts) with the employer.

Memoranda and collective agreements

On April 8, 2011 the four winning transport operator companies concluded a cooperation memorandum with the Trade Union of Transport and Motorways Workers. The main objective of the memorandum is the retention of drivers of minibuses. In addition to the need to remain employed, the drivers need trade union assistance in another important issue – the threat that all will be required to pay the same fee, GEL 20 a day, while daily income from lines differs significantly. Because of this variation, the drivers' demand is for differentiated fees, and this was included in the agreement.

On December 24, 2010, a further agreement was signed between the Tbilisi Transport Company, Ltd and the MTMWETU. Key items of the agreement were as follows:

- safeguarding the employment and health of employees
- skills development, professional and in-service training
- creation of norms in respect of work and rest hours
- establishing just, law-based relations between employees and employers
- ensuring social dialogue, conclusion and implementation of collective agreements.

The memorandum of agreement was signed by Mr Lavrenti Alania, President of the MTMWETU and Mr Levan Koplataze, Director General of the Tbilisi Transport Company, Ltd. The official signing ceremony was held at the central office of the Tbilisi Transport Company where the parties agreed to discuss the issue of re-employment of 300 drivers laid-off as a result of previous waves of reorganisation.

On February 1, 2011 a cooperation agreement was signed between MTMWETU and Capital Group, Ltd. The agreement obliged the company to give priority to those working at the time of the announcement of tender when employing drivers, as well as to consider professional development of drivers and driving experience. Under the same agreement the employer was obliged to move away from verbal employment contracts and conclude written contracts with employees that clearly reflected the work schedule of drivers and their rights and obligations. The parties also agreed to design activities to refine the social partnership system, and conclusion of a collective agreement between Capital Group and MTMWETU.

On the same day a mutual agreement memorandum was concluded between Tbil Car, Ltd and the MTMWETU and a joint collective agreement between Tbil Line, Ltd and Public Car, Ltd and the MTMWETU.

On January 9, 2012 a collective agreement was signed between Sakavtotransporti Branch, Ltd, and the MTMWETU. Under this contract the employer agreed to enter into a labour contract with each driver, and that these contracts would disallow forced labour or discrimination. The anti-discrimination provision was important because discrimination based on union affiliation as well as on political preferences is widespread in Georgia. The agreement also stated that labour contracts with employees would not be terminated without approval of the transport trade union. The parties further agreed that members of the trade union employed at the company would pay a monthly membership fee equal to 1 per cent of the salary.

Batumi

Early spring 2012 the Batumi Municipal government decided to follow the example of the Tbilisi municipality and reform its city transport service. This was not a copy-paste exercise as Batumi is the capital of the Ajara Autonomous Republic and enjoys some independence in deciding on policies and institution-building. The Batumi government came up with a plan to reduce significantly the number of minibuses in the city and substitute them with large buses. The reform also aimed to reorganize existing minibus routes to adapt them to the new circumstances. It aimed, further, to oblige the route owners to renew the vehicle fleet by either bringing in totally new minibuses or repairing the existing ones. The city government made it clear right from the beginning that it would not take care of the drivers who would lose their jobs.

As in Tbilisi, the MTMWETU became actively involved in the process through its branch affiliated in Ajara, which is part of the Ajara Trade Union Federation (ATUF). As a regional structure of the GTUC, the ATUF leadership as well as the MTMWETU's branch union were given extensive information about the experience of Tbilisi case and also given advice on relevant action.

There have been several unsuccessful attempts in the previous two years to get Batumi informal transport workers to join the union. This time, with the minibus drivers facing an imminent threat to their jobs and income, it was much easier for the MTMWETU to organize them. The unwillingness of the municipal authorities to engage in dialogue with the drivers increased the MTMWETU and ATUF's role in mobilizing drivers to form a united front and focusing public attention on the issue. Within a few days an absolute majority of the drivers (almost 300) signed union cards and developed a list of demands. In parallel a process of voting for engaging in industrial action was launched. The strike took place on April 5, 2012 and substantially paralyzed the movement of transport in Batumi. Only the municipal buses did not join the strike. The following demands were presented to the Mayor of Batumi.

1. The municipal government's decree regarding the time-frame for repairing or bringing in new vehicles should be extended and defined reasonably. Thus evaluation of the vehicles' compliance with the new safety conditions should be postponed by three months.
2. Route operators, owners and drivers should retain their jobs for at least three years. This would allow them to pay bank loans related to business operations and avoid bankruptcy.

3. The minimum number of points identified as a passing grade to prove fitness of the vehicle should be reduced from 23 to 15.
4. Lottery should not be used as a method for reorganizing and reallocating routes and minibuses should remain operating under the existing schemes unless there was mutual agreement between the parties.
5. Routes # 20, 31 and 8 that were abolished unilaterally by the municipal government should be restored.
6. The number of vehicles per line should remain the same.

Many of the above demands relate to vehicles, and may seem to be in the interests of the route operators/owners as much as those of the drivers. This is so because in the case of Batumi, the interests of the drivers and route operators/owners were closely interconnected. If the latter lost, the drivers also would be under the threat of unemployment. Further, Batumi is a small city with fewer minibuses operating. Almost all the drivers own their vehicles and are similar to route operators in the other cities. Therefore an absolute majority of the drivers are self-employed (individual entrepreneurs) and take care of the vehicles themselves.

The strike came to an end within five hours as the initial anger and stubbornness expressed by Mr Jemal Ananidze, the deputy-Mayor of Batumi and head of the government commission for implementation of the reform, in a TV interview, changed after the strong public statements of the Tbilisi minibus drivers about a possible sympathy strike. The sensitivity of the Batumi municipal government towards what might happen in Tbilisi reflected the fact that both these cities (as well as all other municipalities across the country) were under the control of the United National Movement (UNM), the ruling party at federal level. So the decision to soften the stance vis-à-vis the drivers' union was made in the UNM's head office in Tbilisi by the federal government.

This was an extremely important moment. Solidarity forced the Batumi government to retreat and not only satisfy the demands of the drivers, but also invite two representatives of their union to participate in the work of the Commission as observers with the right to speak and express opinions. Over the next four weeks agreement was reached on several issues, as follows:

- The limitation on the height of vehicles (there are different types of minibuses that differ in terms of height, length, passenger capacity, colour, etc.) was abolished and rules in respect of appraisal and grading of vehicles were modified.
- January 1, 2014 was established as the date defining the period for holding a tender to privatize the whole municipal transport of Batumi.
- The minimum number of points for a vehicle to qualify was lowered from 23 to 18 and existing vehicles were prioritized for assessment. Only if current vehicles were disqualified, would vacancies be publicly reported and available for outsiders.
- The routes # 20, 31 and 8 would be restored.

- Assessment of the vehicles would be postponed for 1.5 months to give route owners enough time to repair them.
- Every vehicle would be able to undergo preliminary inspection at the municipality garage and receive relevant prescriptions and timeframe for fixing deficiencies.

With these amended rules, all 670 vehicles qualified and met the new conditions set out by the Commission.

Despite the fruitful cooperation, the relationship between the municipal government and the union remained tense. The parties could not agree on a number of important issues, including defining the types of new vehicles and use of a lottery to redistribute the drivers on different lines. It was obvious that for a small town like Batumi the reform was poorly prepared and planned and subsequently unpopular. Therefore in mid-June 2012 the Batumi City Council voted for postponement of the rest of the reform, without identifying a new date. It is clear that this decision again came from the UNM's head office as by May the parliamentary election campaign had entered its decisive phase with the opinion polls suggesting that the opposition was gaining the lead over the ruling party. By postponing the reform, the ruling party tried to avoid further loss of its popularity. Nevertheless, without the MTMWETU-ATUF-GTUC concerted action and strong union solidarity, the lives of 670 drivers and their families would have been very negatively affected.

Rustavi

In February 2012 Rustavi municipality announced a tender to re-check the fitness of the minibuses for the carriage of passengers. The process was much better prepared and organised than in Batumi. The MTMWETU's main concern was the lack of transparency and doubts that the assessment would be done objectively. To ensure sufficient publicity and exclude subjectivity in the local government's approach, the MTMWETU put forward demands that its representatives be included in the work of the government's commission.

Unlike in Batumi, the MTMWETU had established a local union branch back in 2010. This made it easier to convince the local authorities of the usefulness of cooperation with the union. The government accepted the demand and two union representatives (both drivers) became members of the commission. The same commission was also responsible for evaluation of the vehicles. In response to a demand of the MTMWETU, the local government also invited a professor from the Automobile Transport Department of the Tbilisi State Technical University to observe the process. As a result the tender went smoothly. All existing route operating companies had their fitness to the new conditions confirmed and qualified successfully. All 800 drivers retained their jobs.

Collective agreements with all operator companies were the added values of the process. Even those who had been refusing to negotiate and engage in dialogue with the drivers now decided to adopt a more constructive approach. This change resulted from the union's effective work, demonstration of its capacity to mobilize if necessary and its professionalism in dealing with complex issues.

A collective agreement covering the period February 25, 2012 to February 25, 2017 was signed between Sovrak, Ltd and the MTMWETU. This agreement was based on the Laws of Georgia on Trade Unions, the Labour Code and ILO Conventions 87 and 98. In terms of this

agreement, Sovrak, Ltd undertook to submit to the trade union one calendar month in advance a letter on any reorganization planned by the company. The company also undertook to provide full information about the protection of labour, safety and other issues. Further, a paragraph on membership fees prescribed how deductions would be made and money transferred on a monthly basis to the Trade Union account. The parties also agreed that they would not allow any form of forced labour and discrimination against the employees (mainly drivers) working on minibuses.

In February 2012, a collective bargaining agreement was signed between Rustavi Municipal Motor Transport Enterprise, Ltd and the MTMWETU covering the period February 25, 2012 to February 25, 2017. Another agreement, covering the same period, was signed between Transit 2009, Ltd and the Trade Union of Motor Transport and Motorways Workers of Georgia.

Currently 600 drivers out of 800 in Rustavi are members of the union.

The example of all three cities demonstrates that in Georgia informal transport sector workers are offered adequate facilities and services by the union that provide them with effective representation and protection. The unions have been actively involved in all the processes from the beginning to the end and provided information to every driver about the tender criteria and the challenges and problems they would face. The unions demonstrated sufficient maturity, knowledge and flexibility to understand, share and respond to the needs of the informal transport workers.

Conclusions and recommendations

Based on the situations describe above, Tbilisi and Rustavi are clearly successful examples while Batumi was an unsuccessful case. The challenges experienced in Batumi provide a clear indication of the then government's anti-union tactics. There has been political change since at federal level, but the next municipal elections will take place only in May 2014. While there are some changes taking place in some municipalities with city council members leaving the UNM and thus helping the Georgian Dream coalition to take over the local governments, in Tbilisi, Batumi and Rustavi the UNM remains strongly in control. Effective cooperation will thus need to be established with the new leadership of the city in order to resolve the problems.

The study has highlighted the importance of collective contracts for the improvement of labour rights and standards of employees in Georgia. Collective bargaining in Tbilisi and Rustavi had a positive outcome, in accordance with the Labour Code of Georgia, the Law of Georgia on Trade Unions, ILO Conventions 87 and 98 and European Social Charter provisions. This occurred despite the fact that the minibus transport sector was largely informal and many drivers were self-employed.

The lessons learned from the cases described above will assist transport workers in municipalities which have not yet opted for reforms. By replicating the successful steps and activities of the unions in Tbilisi and Rustavi, the drivers in other towns can effectively oppose ill-designed reforms and claim their rights. The paper shows that the union movement in Georgia is mature and knowledgeable enough to provide proper representation and effective protection to informal workers. Based on the example of the MTMWETU it is safe

to say that there is potential for other unions to grow and unite informal workers from other sectors under the union umbrella. Solidarity and mobilization of workers in the informal sector can be as effective as with formal sector workers. Targeted and well-planned actions are possible only when workers are organized. Skepticism over whether unions can effectively organize informal workers seems exaggerated as the cases above clearly demonstrate that success depends only on the union's ability to be proactive and willing to disregard skepticism.

Appendix: Persons interviewed

1. Mr. Lavrenti Alania - President of Trade Union of Georgian Automobile Transport and Highways Workers
2. Mr. Gigla Jebashvili - Head of “ Tbilisi Minibus” Ltd
3. Mr. Akaki Jaxadze - head of the department of transport service, Tbilisi Municipality,
4. Mr. Jaba Samushia - Vice-Chairman, Tbilisi city assembly
5. Mrs. Ketevan Saluqvadze – Head of Transport Policy Department, Ministry of Economy and Sustainable Development of Georgia
6. Mr. Giorgi Akhvlediani – MP, political leader, Christian democrat
7. Mr. Kakha.Nikuradze - Head of Transport Agency, Ministry of Economy and Sustainable Development of Georgia
8. Mr. Davit Japaridze - Deputy Mayor, Self-governing city of Rustavi
9. Mr. Djemal Ananidze – Deputy Mayor, Batumi City Hall
10. Mr. Irakli Petriashvili - President of Georgian Trade Union Confederation (GTUC)
11. Mr. Gocha Aleksandria – Vice President of Georgian Trade Union Confederation (GTUC)

WIEGO

Case Study

Collective Bargaining Negotiations Between Street Vendors and City Government in
Monrovia, Liberia

Milton A. Weeks

11/22/2012

A case study of the collective bargaining negotiations undertaken from 2009 to 2011
between the petty traders union and the Monrovia City Corporation administration

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1. The Context

Liberia is located in West Africa and is bordered by Sierra Leone, Guinea and Cote D'Ivoire. The country is made up of a total of 111,369sq km divided into 15 sub-divisions referred to as counties and its capital is Monrovia. Liberia is one of Africa's oldest nations, having declared its independence on July 26, 1847. The official language is English and the country is rich in natural resources including iron ore, rubber, diamonds, timber and gold. However, 80 per cent¹² (2000 estimate) of its citizens live below the poverty line. It has a total population of about 3.9 million people.

The country and its people experienced a bitter civil war which led to the death of an estimated 250,000 people or about 7 per cent of the population at the time and many thousands more fled the fighting between 1989 and 2003. In the latter year an interim government was installed and took the country to free and fair elections in 2005. Through the elections Madame Ellen Johnson Sirleaf became Africa's first female head of state. Mrs Sirleaf was re-elected for a second six-year term in 2011.

The conflict left the country in economic ruin and overrun with weapons. Even now, nine years after the end of the conflict, the capital has very limited mains electricity and running water. Corruption is rife in government but also in the private sector and unemployment and illiteracy are endemic

Since the end of the civil crisis and the installation of the democratically elected government, Liberia has experienced relative but fragile peace and stability. Most of the infrastructure of the country was destroyed during the years of conflict and economic and social progress has been slowbut positive. Protection of civil rights has become a top-of-the-agenda issue and numerous civil society groups have sprung up to advocate for people's rights. The rights of workers have improved but a long debated Decent Work Bill (which focuses on the rights of employees) has still not been passed by the national legislature.

The city of Monrovia consists of several districts, spread across the Mesurado peninsula, with the greater Metropolitan area encircling the marshy Mesurado River's mouth. The historic downtown, centered around Broad Street, is at the very end of the peninsula, with the major market district, Waterside, immediately to the north, facing the city's large natural harbour. Northwest of Waterside is the large, low-income West Point community. To the west/southwest of downtown lies Mamba Point, traditionally the city's principal diplomatic quarter. South of the city center is Capitol Hill.

The population of the capital Monrovia has ballooned since the end of the civil crisis. Many Liberians migrated to the capital city seeking refuge as the fighting around the country intensified. Most of these have not returned home and a city that was built for a population of 300,000 inhabitants now has a population of over one million, containing 29 per cent of the total population of Liberia. This has put significant strain on the resources of the city to cope

¹²CIA World Factbook

with this population explosion and the attendant issues that have arisen including garbage collection, water and sanitation; traffic control and congestion; housing; and crime.

Map of Liberia with identification of the capital city, Monrovia.



Monrovia lies geographically within the political subdivision referred to as Montserrado County, but is administered separately. The city is governed as a metropolitan city called Greater Monrovia District. Monrovia is the cultural, political and financial hub for the entire country.

The Monrovia City Corporation (MCC), established in 1973, is the Liberian capital city's governing body and is responsible for running many of Monrovia's services. The MCC is headed by a mayor, appointed by the President of Liberia and supported by a city council, also appointed by the President. The current mayor is Madame Mary Broh. MCC has stated that it is dedicated to the task of revitalizing Monrovia and taking it into the future as a clean, green and progressive capital city. The city government has been actively involved in promoting the cleaning of the city; initiating “green” projects; construction of a new landfill for secondary waste collection and decongesting the city centre.

The informal sector of Liberia's economy is very large. The majority of Liberians work in the informal sector. According to Core Welfare Indicator Questionnaire (CWIQ) 2007, out of an estimated 1.1 million workforce just 170,000 are employed in the formal sector.

The National Petty Traders Union of Liberia (NAPETUL) was established in November 2009 with the objective of “interceding and advocating for the social and economic emancipation and rights of all street sellers in Liberia and to inject into them the spirit of awareness, self-esteem and self-actualization.” Members of NAPETUL are engaged in the sale of ‘dried goods’ (non-perishables) including shoes, hand bags, slippers, cosmetics, clothing and electronic goods. They hawk their wares on major streets. Most do not have permanent structures from which they operate. Some use wheel barrows or set up a table on sidewalks and street corners. Perishable goods including foodstuff are sold in open air markets by marketers grouped under a separate organization, the Liberia Marketing Association (LMA).

Membership of NAPETUL, estimated to be about 3,000 is comprised of both Liberians and non-Liberians. NAPETUL strives for gender equality amongst its membership. This is evidenced in the leadership structure of the organization in which the national chairperson, treasurer and field coordinator are currently all women while the co-chairperson, secretary general and assistant secretary general are men. Many of the members of NAPETUL are single young women; most of whom are also single mothers. NAPETUL estimates that roughly 60 per cent of its total membership is female.

Over 50 per cent of NAPETUL's members are youth, many of whom lost their parents, sponsors and guardians during the civil crisis. As a result, these youth have decided to engage in street vending, petty trading and hawking as a means of ensuring economic survival. As many were very young when they lost their parents or guardians, and had no sustainable source of income, they were unable to pursue higher education or vocational training and this is evident in the level of education of the average member.

Many thousands of Liberian youth are also former combatants from the civil crisis. According to NAPETUL, of the over 40,000 petty traders only 1 per cent are college graduates or college drop outs; a little over 50 per cent have some level of high school education while about 45 per cent are elementary or junior high school students or dropouts. This is not surprising as according to the World Bank (World Development Indicators database) the average years of formal schooling of Liberians over the age of 15 is only 2.5 years.

Starting in 2009, NAPETUL leadership engaged the Monrovia City Corporation in collective bargaining to protect the rights of the NAPETUL membership. The initial negotiations involved the leadership of the two organizations that later joined to form NAPETUL. These were the Small Business Alliance (SBA) that was formed in 2008 (and which, despite the name, is made up entirely of street vendors) and the Petty Traders Association (PTA) formed in 2009.

The Mayor of Monrovia, Madame Mary Broh, is a no-nonsense administrator appointed by the President of Liberia to head the city management. She had previously successfully held a number of 'tough' public assignments. She initially came to public limelight when she was appointed by the President to head the Liberia Passport Office in the Ministry of Foreign Affairs. She effectively cleaned up a highly corrupt and inefficient passport office and won wide acclaim for her effectiveness. Subsequently she was appointed deputy managing director for administration at the National Ports Authority (NPA) and again was applauded for cleaning up the corrupt and inefficient operations of the NPA, especially at the Freeport of Monrovia. When the President appointed her to head up the Monrovia City government, it was with the express mandate to clean up what had become a very dirty, unhygienic, congested and generally poorly run city administration. By 2009, she had achieved significant success in cleaning up and giving a facelift to the City Hall and started developing a waste management system for the city and instituting various other innovative initiatives to improve the city's image. Her stated objective was to take Monrovia into the future as a 'clean, green and progressive capital city'.

2. The Background

What would later become the Petty Traders Union of Liberia entered into collective bargaining negotiations with the Monrovia City Corporation in 2009 following repeated raids on its members by the City Police and the Liberia National Police. The police had said the raids were due to the petty traders selling on the sidewalks and roads of Monrovia which was resulting in obstruction to the free flow of vehicular and pedestrian traffic.

Many of the petty traders were young women who had invested all of their savings in the few goods that were being sold by them on the streets. With the confiscation of these goods, many had essentially lost all of their savings and assets and were literally destitute.

A group of petty traders, numbering about 1,000 men and women, decided to march to the Monrovia City Hall to protest the police actions. At the City Hall, the petty traders presented a petition to the Mayor suggesting that the parties should meet to see how the matter could be amicably resolved. The suggestion for collective bargaining negotiations was thus instituted at the initiative of the petty traders who felt they were being unduly harassed and incurring significant losses.

Meanwhile, in an attempt to build governance structures for street vendors, the Small Business Alliance (SBA), headed by Seyon Tweh as its chairperson, had been working with a local business consultant who provided pro bono advice; the former Mayor of Monrovia who served as SBA's board chair; and the international NGO, Realizing Rights, which was represented in Liberia by Armah Gray. Realizing Rights was founded in 2002 by Mary Robinson, former President of Ireland (1990-1997) and former United Nations High Commissioner for Human Rights (1997-2002). Realizing Rights activities in Liberia focused on promoting the Decent Work agenda and greater job opportunities for the most disadvantaged.

The group that initially marched on City Hall did not include the SBA leadership but was an independent group of traders which subsequently became known as the Petty Traders Association. When the group of traders arrived at the City Hall, they met with the mayor, Madame Mary Broh. In response to the concerns raised by the traders, the mayor promised to work with them for an amicable solution and she immediately joined the traders in a solidarity march to central Monrovia to demonstrate unity of purpose. This was the start of a complicated and on-going period of negotiations between the traders and the city government.

The crux of the MCC position regarding the petty traders selling in the streets was based on what was then an obscure old city ordinance from 1975 entitled Monrovia Ordinance No 1 (Revised).

The City Government of Monrovia Ordinance No 1 (Revised) states:

“NOW THEREFORE, it is ordained that effective November 15, 1975:....

....SECTION 2 (a) No selling of foodstuff on the street, sidewalk or through government offices within the city shall be permitted. Items affected by this ordinance include such edible as: oranges, bananas, corn, cassava, peanuts, sugarcane, avocados (butter pear), coconut, candy, cigarettes, chicklets, fish and other sea food, etc. Anyone found guilty of violating this provision shall be subject to a fine of not less than \$200.00 for each offence.

(b) The Monrovia City Corporation shall have the sole responsibilities for, and to ensure the proper collection and disposal of garbage within the limits of the city of Monrovia, so as to enhance not only the beautification and orderliness of the city, but also for conducive sanitation and healthy environment, food and water condition for its residents in accordance with municipal regulation on public health and environmental safety law.”

Also, Section 4 states,

“The City Government shall bear the responsibility of cleaning sidewalks and streets ONLY. Any owner, lessee, or occupant found violating this provision shall be subject to fine of not less than \$100.00 and not more than \$250.00.”

It seems that the first sentence was intended to mean that the city government alone bore this responsibility.

Section 11 states,

“To further enhance the cleanliness of the City Markets, marketers shall be allowed to operate from 6 A.M. to 6 P.M. Mondays through Saturdays, [but] selling on Sundays in various markets in the City is strictly prohibited. Violators of this provision shall be subject to a fine of not less than \$100.00 and not more than \$200.00 for each offence.”

Although the ordinance appeared to focus on the selling of foodstuff on the streets, the MCC in its interpretation extended it to include any form of selling on the streets. In addition, the MCC stated that the street sellers were depositing a lot of trash on the streets and were contributing to the continuing decline in the cleanliness of the city. As MCC was responsible for cleaning the city streets, MCC’s reasoning was that if the street hawkers were contributing to the filthy streets then it could remove them in order to ensure cleaner streets. The traders countered that the ordinance did not apply to selling of non-perishables. The traders also said they were prepared to oversee the cleaning of the streets at the end of a work day instead of having the MCC be responsible for the cleaning.

In addition, a 1979 city ordinance (Ordinance No. 3) entitled “An Ordinance Making it a Misdemeanor for Hawkers or Peddlers and Petty Traders to do Business Within the City Limits of Monrovia Without Securing Business Permits from the Monrovia City Corporation” was also applied by the Monrovia City Corporation in its dealing with the street vendors.

Section 2 of Ordinance No. 3 states:

“That from and immediately after the passage of this Ordinance:

- (a) It shall be an unlawful business practice for hawkers or peddlers and petty traders to do business within the City limits of Monrovia without securing permits at \$20.00 each from the Monrovia City Corporation.
- (b) Any hawkers or peddlers and petty traders found engaging or attempting to engage in the offering of their goods or wares for sale to the public without permits shall be guilty of a misdemeanour.
- (c) Any hawkers or peddlers and petty traders found liable of the offense shall be subject to a fine of not more than \$50.00.”

Section 3 states:

“The Monrovia City Corporation reserves the right to approve or to deny the locations hawkers or peddlers and petty traders shall offer their goods or wares for sale to the public.”

3. The Bargaining Action

The traders' march on the City Hall led to an initial meeting between the petty traders and the City Management at the Monrovia City Hall. The Mayor called the meeting after she received the petty traders at City Hall on the day of the march. The petty traders were led by Abel Jones as Chairperson of the Petty Traders Association (PTA). Other members of the team included Comfort Doryen, Co-Chairperson responsible for Mobilization; Daoula Kamara, Christian Obi and Cecelia Teah, the latter three being non-office bearers of the PTA. The membership of the PTA negotiating team was agreed at an informal meeting of the PTA after the march. The MCC team was led by the mayor, Mary Broh and included the then special advisor to the mayor, Abraham Ganeoh; consultant to the mayor, Mr Frank Krah and one of the directors of the MCC, Ms Fasih. The PTA negotiating team's mandate was verbally agreed during the informal meeting of approximately 1,000 members after the march. The singular objective was to get the MCC to stop raiding the street vendors and seizing their goods but the traders did not approach the meeting with a formal defined objective or document.

At the meeting the MCC informed the petty traders that it would introduce a vendor license system whereby each petty trader would pay a US\$10 annual fee to the MCC and be issued a license to operate on the street. The US\$10 fee was below the \$20 stipulated in MCC Ordinance No. 3. The petty traders were very happy with this development and agreed to work with the MCC for its immediate implementation. There was no written document signed by the MCC and the traders on the outcome of their meeting. The traders were excited that they had made progress in their discussions with the MCC and did not pursue any documentation of the decisions.

At the end of the meeting, Abel Jones met with a throng of reporters who were awaiting the outcome of the meeting with the Mayor. He confirmed to the press that the traders had agreed to work with the MCC and informed them of the decision reached regarding the introduction of a vendor license system.

The very next day the traders began to register. The mayor told the traders that in line with MCC Ordinance No. 3, the MCC City Planning Director would demarcate zones to facilitate the registration process as licenses were issued for specific areas. A total of five zones were identified for demarcation. These were (i) Central Monrovia to City Hall; (ii) City Hall to Nigeria House (Old Road) in Sinkor; (iii) From Central Monrovia to the Freeport; (iv) Freeport to St Paul Bridge and (v) Freeport to Double Bridge. The demarcations were quickly completed and registrations begun.

The MCC appointed Ms Fasih to serve as Director of the Vendor Registration Programme. Fasih served as primary liaison with the traders and established teams from the city government that went out into the streets of Monrovia to register the street vendors. This

registration process only applied to street vendors as those traders in the open air markets were registered separately by the Liberia Marketing Association. Each trader was issued an official receipt by the MCC but no licenses were ever issued. In a short period of time, a total of over 450 traders had paid the registration fee to MCC totalling in excess of US\$4,500.

Despite these developments, after a short lull, the Liberia National Police and the City Police once again started harassing the traders on the streets and seizing their goods. The reason for the resumption of the police action and seizures is still not clear. Traders said they were surprised by the police action especially since they had already started to pay the registration fees to the MCC.

The situation quickly deteriorated and there was a loud outcry from the traders. Subsequently, a meeting was arranged with the President of Liberia, Madame Ellen Johnson Sirleaf, to discuss the grievances of the traders. The meeting was initiated by the president's office because of the huge publicity that accompanied the police action against the street vendors. At the end of the meeting, which was held on Randall Street in the Central Business District (CBD) of Monrovia, the president suggested that the traders get together and formalize themselves into a legal entity to negotiate with the city government. At the end of the meeting, the president made a personal donation of US\$200 plus L\$14,000 (approximately US\$430 in total) to assist the traders formally incorporate and register as a legally registered organization. As a result, the Petty Traders Association was formally registered, headed by Abel Jones as chairperson. Abel, although himself a street trader, also served as the Beauticians' Union President. His vice chairperson was Comfort Doryen who would go on to become the first Chairperson of NAPETUL. Doryen, like all other leaders of the organization, was also herself a trader as the organization has no full-time officials.

Meanwhile, Armah Gray of Realizing Rights had suggested to the Small Business Alliance that it consider merging with the PTA into a union to have a more effective voice in promoting their cause. This followed a situation whereby the SBA, which also had a membership entirely made up of petty traders, had heard of the efforts of PTA and had also attempted to advocate for petty traders with City Hall but the city leadership said they could not be talking to two different groups at the same time.

Finally, after numerous negotiation sessions between the SBA and the PTA, agreement was reached to merge into a union. To this effect, a letter was written to the Minister of Foreign Affairs on November 23, 2009 declaring that the Small Business Alliance was evolving into the National Petty Traders Union of Liberia. The letter was addressed to this ministry because, despite its name, one of the functions of the Ministry of Foreign Affairs is to oversee the incorporation of all organizations and institutions in the country. (Organizations must be incorporated before they can be registered.)

The board that was established was made up of members of both the SBA and the PTA with Comfort T. Doryen (former Vice Chair of the PTA) as chairperson; Seyon L. Tweh (former Chair of SBA) as vice chairperson; Charles W. Konnah (former Vice Chairperson of SBA) as secretary and Helen Z. Walker of PTA as treasurer.

The mayor's office contacted NAPETUL and informed the union that the MCC had identified a temporary site in central Monrovia where the vendors could safely hawk their wares without impeding traffic or causing congestion. The mayor suggested that in the interest of reaching a cooperative settlement, the vendors should move to the identified area,

a vacant plot of land located on Broad Street in the Central Business District, as soon as possible and that NAPETUL monitor its members to ensure compliance. The site was deemed “temporary” because the city government did not own the land but had negotiated with the land owner to allow the street vendors to use the site until a permanent location could be identified. NAPETUL members initially expressed reservations about moving to one centralized location but the MCC insisted that the relocation be pursued. Some NAPETUL members found the proposed arrangement attractive as they hawked their wares near the proposed location. Others, who were further away, were not as receptive. All of these discussions were verbal, back and forth, between MCC officials and the NAPETUL leadership.

NAPETUL with advice from Armah Gray had by now realized that there was a need to begin to document its negotiations with MCC. NAPETUL, in an effort to exhibit to the MCC a cooperative posture, wrote to Mayor Broh on November 28, 2009 informing her that the union had established a task force to help the MCC in coordinating the activities of vendors in the city as of early January 2010. The union confirmed that a data base would be put in place for membership registration. NAPETUL also suggested that the MCC and the union enter into a Memorandum of Understanding (MOU) that would address all issues related to the street selling and resurrect the vendor license scheme that had been earlier launched and in the process establish a more reasonable annual license fee for the vendors.

When they did not receive a formal response from the mayor, NAPETUL wrote another letter to the mayor on December 8, 2009 in which it thanked the mayor for the temporary site that had been identified for its members along with the promise from the MCC for the provision of mobile toilets and storage facilities. The letter also suggested that the further negotiations lead up to the signing of an MOU between the MCC and NAPETUL.

A Memorandum of Understanding (MOU) was drafted by NAPETUL and submitted to Mr Frank Kraah, the MCC IMPAC¹³ Project Coordinator and senior advisor to the mayor for his consideration. Mr Kraah had by this time become the focal person at the MCC on the street vendors issue as Ms Fasihah had resigned from the MCC to work for the United Nations Development Programme. A meeting was called by Mr Kraah to discuss the draft MOU but no agreement was reached and the MOU was not signed but negotiations continued through a number of meetings between the two entities.

When there was again no response, NAPETUL wrote another letter to the mayor on December 15, 2009, this time to request that the vendor registration fees that were collected by the MCC be used for the construction of market tables and for renting a site for the vendors to use. The union also asked the MCC again to provide the promised toilet facilities and storage facilities for NAPETUL’s members.

There followed a lull in the frenzy of negotiations and letter writing as the holidays came and went. The vendors returned to the streets and the city and police temporarily backed off.

Eventually, towards the end of the first quarter of 2010, another meeting with the street vendors was called by the mayor and her team. At this meeting, the mayor again informed the

¹³The Improved Primary Solid Waste Collection in Poor Communities of Monrovia known as the MCC IMPAC Project is an initiative funded through a commitment of US\$5 million from the Bill & Melinda Gates Foundation to the MCC under its Global Program for Inclusive Governance.

union that she had identified a space in Monrovia's CBD where she wanted the vendors to move to hawk their goods. NAPETUL informed the mayor that its members would not move to the new site without an MOU being signed that clearly outlined all conditions that were to be attached to the move. NAPETUL leadership stated that given the experience of the first time the mayor had suggested the vendors move and what NAPETUL perceived as the lack of cooperation of the MCC in facilitating the move, they were hesitant to trust the MCC would be cooperative this time around.

The mayor responded that if the vendors did not move off the streets, she would have the police raid the vendors and seize their goods. When the vendors still resisted the move, the police began to institute raids and seize the goods of the vendors. The MCC then required the vendors to pay US\$50 each to get their goods released from impoundment. The MCC relied on the provisions of City Ordinance No. 3 which specified a fine of \$50. This action put a lot of pressure on the NAPETUL leadership to follow the mayor's instructions and eventually the NAPETUL leadership was forced to encourage their members to move.

Between May and June 2010 over 350 of NAPETUL's approximately 3,000 members¹⁴ registered to move to the Walker Field location on Broad Street in Monrovia's CBD. Another site on Johnson Street was also subsequently identified by the MCC to accommodate some of the street vendors. NAPETUL leadership said they did not agree to this move but rather were forced to do so. Once again, there was no MOU signed to govern the terms of the move. Essentially browbeaten into submission, NAPETUL wrote a letter to the Monrovia City Police on July 12, 2010 to inform the MCP that it had established a task force to work with the city to regulate vendor activities in the streets of Monrovia. Despite what NAPETUL believed was a reconciliatory move, the police continued to raid the vendors and seize their goods as many had not moved to the identified site.

After being at the Walker Field site for only three months, NAPETUL was informed that its members would have to move again as the site was not appropriate for them to be situated. Both City Hall and NAPETUL confirmed that the president's office had instructed the MCC to move the street vendors from this location because it was not appropriate for them to be situated on the main thoroughfare of the city, Broad Street. In addition, the owner of the property had started coming to the vendors asking for rental payments for use of the property. NAPETUL informed the landlord that it was the Monrovia city government that had authorized them to use the empty space. However, the MCC told the vendors they had to move again. When the vendors resisted, the City Police moved in and ended up breaking all of the market tables that were being used by the vendors and forcefully evicting them. NAPETUL was told by MCC that there was land in the city of Brewerville, a small town on the outskirts of Monrovia. An additional site identified was on the highway that led out of Monrovia to the Roberts International Airport. The vendors rejected these options as being too far out of the city. The official response that was conveyed verbally to NAPETUL by MCC was that the government did not have land in the city to make available but would look around to see if some could be located. But NAPETUL complained that even the other less controversial site on Johnson Street that the MCC had identified was also still being raided and the vendors were being harassed by the police.

As a result, NAPETUL took the extreme move of writing directly to the President of Liberia on July 21, 2010 to request her intervention to stop the MCC from continuing the raids on its

¹⁴NAPETUL has about 3,000 members.

members and seizure of their goods. In the letter, NAPETUL reminded the president that she had financed the establishment of the group through her personal contribution and implored her to intervene “following several attempts to abide by the agreement reached with Madam Broh...” In response to the NAPETUL letter, the Minister of State for Presidential Affairs and Chief of Office Staff invited the NAPETUL leadership and the mayor to join the president for a meeting on August 19, 2010. The meeting was subsequently postponed due to the president’s scheduling conflicts but the meeting eventually took place on August 28, 2010 in the president’s office.

The president listened to both sides and tried to explain to NAPETUL leadership the challenges that the mayor was facing to decongest and keep the city clean. However, she agreed that it was not necessary to have broken the tables and used force. She asked the two groups to work together as it was in everyone’s interest to avoid conflict. By the end of the meeting, the president told the mayor to pay the vendors for the market tables that were broken and work out an amicable solution to stop the raids and seizure of the vendors’ goods.

A few days after the meeting with the president, Mayor Broh invited the NAPETUL leadership to a meeting with the visiting Mayor of Freetown, Sierra Leone. This was interpreted by the street vendors as an attempt by the mayor to extend an olive branch to them following the meeting with the president. At the meeting with the Freetown mayor and in the presence of the Monrovia mayor, NAPETUL’s leadership sought to find out from the mayor how his city was handling the issue of street vendors. During the discussion the Freetown mayor confirmed to NAPETUL and Mayor Broh that vendors in Freetown have rights which the city ensures are not trampled upon. NAPETUL used the Freetown mayor’s comments as ammunition to press the Monrovia city government to stop the harassment of the street vendors.

Following the meeting with the president and the meeting with the Mayor of Freetown, the mayor invited NAPETUL to resume discussions on how to come up with an amicable solution to the street trading problem. In the meeting called by the mayor, the mayor and the City Planning Director presented an updated plan on where street vendors would be allowed in the city. Despite the goodwill on both sides, the negotiations did not result in an agreement and the talks eventually broke down.

As the year drew to a close and the holiday season approached, the city government and the Liberia National Police, represented by the deputy director for operations, Col. Al Karley, again engaged NAPETUL. In a letter to NAPETUL Col. Karley stated that the intent was to “arrange its street vendors orderly so as to create space for the free movement of pedestrians and vehicles within the city limits”. In response, NAPETUL wrote a letter to Mayor Broh on December 20, 2010 in which it unconditionally accepted to cooperate and specifically proposed the areas where its members were concentrated that would be cleaned up. The letter did not however provide any specific details on how NAPETUL intended to comply with the MCC’s insistence on the removal of petty traders from the city streets.

In response to the NAPETUL letter, a series of meetings were organized by the MCC between the MCC, the police and NAPETUL. As a result, a temporary arrangement was worked out whereby the petty traders and street vendors were given specific areas on identified streets to sell their goods. It was further agreed that immediately after the holidays, the parties would meet again to review the plan and come up with a more long term and sustainable arrangement. The temporary arrangement was implemented and significantly

reduced the congestion and avoided further confrontation between the parties during the holiday season. Some suggested that the relatively soft approach adopted by the authorities was due to the upcoming presidential elections in 2011 because the president could not afford to antagonize the petty traders as she needed their votes. This, of course, was just speculation.

On January 10, 2011 the petty traders met with Mayor Broh and her team to discuss the deadline that had been given for them to move off the streets. During the meeting between the MCC and the vendors the plan submitted by the petty traders to the city was discussed despite the fact that the street vendors' proposal that was submitted did not specifically present a plan for the transition of the traders from the streets to designated locations.

Apparently the mayor was not happy with the plan submitted by the petty traders nor with the fact that some of the petty traders had apparently contacted the president's older sister and confidant to intervene on the petty traders' behalf. In a newspaper article dated January 20, 2011, the mayor discussed the lack of understanding between the petty traders and the city corporation. The mayor was quoted in the article as saying, "I don't have time for those stupid people. They think by telling the president's sister and threatening not to vote will make me afraid of removing them from the street? That's a lie. I will make sure I remove them through the court process." According to the news article, the petty traders were to submit to the city "a structural plan." But according to Mayor Broh, "the group sent something that really annoyed her."

No evidence has been located to suggest that the mayor went ahead with her threat to sue the petty traders to get them off the streets. Instead, the temporary arrangement that had been put in place for the previous holiday season was maintained and the Liberia National Police took the lead in negotiating with the NAPETUL. The Inspector General of Police has subsequently on a number of occasions written to NAPETUL to invite its leadership to meet with the police to review the arrangement of street vendors on designated streets. There is no set schedule or agenda for the meetings which are called by the police as and when it deems necessary. No minutes have been issued from these meetings that were held at the National Police Headquarters on Capitol Hill. NAPETUL officials have, however, confirmed a generally cordial relationship with the police in all of the meetings held.

As at the time of writing, the situation still remains unresolved as the petty traders remain on the streets (not just the sidewalks) in certain concentrated areas of the city. However, based on the agreement with the police, certain streets have been designated specifically for use by the petty traders and these are also being actively used by certain street vendors. The police still make intermittent raids on the petty traders when they are found on streets not designated for their street peddling. The MCC has not paid the vendors for the destroyed market tables that had been previously agreed to. The vendor licensing scheme has not been reintroduced to date so the traders have not been asked to pay any new fees. Mr Kraah of the MCC has confirmed that the funds collected by the MCC from the petty traders were still being held by the MCC in a special account and once negotiations resumed, the MCC and the traders would agree on how the funds would be used.

4. The Achievements

The achievements of NAPETUL from the collective bargaining have been few and far between. It is obvious that the leadership is much more aware of the need for informed negotiations. But Chairperson Doryen is the first to admit that they still need a lot of help in strategizing in preparation for negotiations.

NAPETUL's governance structures have also improved and its members are much more aware of their rights. Comfort Doryen feels that part of the reason for the failure in reaching agreement with the MCC was also due to a personality clash between the mayor and the former chair of the predecessor to NAPETUL, Petty Traders Association, Seyon Tweh. Although NAPETUL still faces challenges in dealing with the mayor, the relationship is a lot more cordial than it was previously. Tweh was a lot more militant in his approach in dealing with the MCC and the mayor responded in kind.

The Mayor of Monrovia on the other hand appears to feel that NAPETUL's members exhibit lawlessness and therefore she has to "fight fire with fire." Another way of putting it is that because of what she perceives as the intransigence of the petty traders, she has to use more forceful means to achieve her objective of making Monrovia a cleaner, less congested capital city. The Mayor has made tremendous progress in cleaning up the city and has made progress in most areas but the street vendors remain a serious unresolved issue. There appears to be an air of exasperation because of the amount of time that has elapsed without being able to resolve this issue. The mayor's senior advisor, Mr Frank Krah acknowledges that the city government is aware that the issue of street vendors will not go away and that the MCC will have to reengage the NAPETUL. He expects the MCC will do this early in 2013.

NAPETUL on the other hand feels that the mayor lacks interest in the concerns of NAPUTEL and its members. This is the only source of income for these young people at present. They cannot just stop hawking their wares and find an alternative source of income. Many of them have been street vendors all of their young lives. They are fighting back because they do not have an immediate alternative. NAPETUL seems to feel that the mayor is only interested in implementing her objective without considering how it affects the vendors themselves. NAPETUL points to the better working relationship with the Liberia National Police in reaching compromise.

Part of where NAPETUL went wrong was due to their lack of negotiation skills. In the early days of their collective bargaining negotiations, the leadership took a lot of what was said and agreed at face value. There were no minutes of meetings; there were no follow-up letters to document what was agreed and as a result there was difficulty in structured follow-up to the negotiations. This is all understandable given the limited education and experience of the leadership of the union. All of the leadership of the union are petty traders themselves. They have natural leadership skills but no actual experience in negotiating skills or strategy development.

The off and on approach to addressing the problem may have also contributed to the failure of the collective bargaining. It appears that as the holiday season approached, the objective of finding a solution to the street vendors' problem became more intense for the MCC and the police. The sustained push to find a permanent solution appeared lacking. This may be due to political considerations as well. There is no doubt that the government recognizes the political clout the street vendors have, given their numbers. The mayor may be less concerned about this as she is appointed and not elected, but her political bosses may be a bit more circumspect. As a result, when there has been a strong push by the city government and a

pushback by the vendors, the national government has cautioned that negotiations must continue to avoid getting to a breaking point. These prolonged intermittent negotiations have worn down the negotiating parties.

In addition, the NAPETUL leadership was not proactive and instead proved more reactive to events as they occurred. Most of the meetings that were held were initiated by MCC who would set the agenda as to what was to be discussed. NAPETUL did not have legal counsel or advice and the leadership relied on their limited negotiating skills. NAPETUL did and still does provide regular feedback to its members through calling meetings but the lack of clearly identifiable success in negotiations is resulting in some members questioning the ability of the union to represent their interest. The NAPETUL leadership has said it recognises this risk and has intensified its interaction with the rank and file to ensure they have a full appreciation of the efforts being made. To further the objectives of NAPETUL, the leadership has now registered the union with the Ministry of Labour and has taken membership in the Liberia Labour Congress in 2012.

5. Appendices

The appendix lists those interviewed; documents consulted; relevant laws and regulations as well as any relevant agreements.

List of persons interviewed:

<u>Name</u>	<u>Institution</u>	<u>Position</u>
Comfort Doryen	NAPETUL	Chairperson
Delux Fahnbulleh	NAPETUL	Secretary General
Nelson P. Kpeh	NAPETUL	Asst. Secretary General
Theresa Niypon	NAPETUL	Treasurer
M. O. Fidelis	NAPETUL	Asst. Treasurer
G. William Peters Street	NAPETUL	Block Leader/Mechlin
Seyon Tweh	Small Business Alliance	Former Chairperson
Charles Konah	Small Business Alliance	Former Co-Chairperson
Frank A. Krah Mayor	Monrovia City Corporation	Senior Advisor to the
Prince B. Boyenneh	Monrovia City Corporation	Former Legal Counsel

Caroline Page

Monrovia City Corporation

Environmental Director

Masa Thabafre

Monrovia City Corporation

Sanitation Director

Documents Consulted:

City Government of Monrovia Ordinance No. 1 (Revised)

City Government of Monrovia Ordinance No. 3

NAPETUL letter to Minister of Foreign Affairs dated November 23, 2009

Articles of Amendment of the Articles of Incorporation of National Petty Traders Union of Liberia

NAPETUL letter to Mayor Broh dated November 28, 2009

NAPETUL letter to Mayor Broh dated December 8, 2009

Proposed MOU between MCC and NAPETUL

NAPETUL letter to Mayor Broh dated December 15, 2009

Letter from Deputy Minister of Commerce & Industry to NAPETUL dated February 4, 2010

NAPETUL letter to Monrovia City Police dated July 12, 2010

NAPETUL letter to President Ellen Johnson Sirleaf dated July 21, 2010

Letter from Minister of State for Presidential Affairs/Chief of President's Office Staff to NAPETUL dated August 9, 2010

MCC letter to NAPETUL dated September 23, 2010

NAPETUL letter to Mayor Mary Broh dated December 20, 2010

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National Chronicle Newspaper, Vol. 16, No. 200, Thursday, January 20, 2011, Page 8, "Mary Broh Threatens to Sue Petty Traders"

NAPETUL letter to Mayor Broh dated March 12, 2011

Letter from Director, Liberia National Police to NAPETUL dated December 6, 2011

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Informal workers and collective bargaining: Uruguay-a case study

Case Summary: Domestic workers in Uruguay

The Sindicato Unico de Trabajadoras Domésticas (SUTD) was established in 1985 when democracy returned to Uruguay and the ban on union activity was lifted. However, the SUTD was not very strong in the first 20 years.

In 2004 the Frente Amplio won the presidential and congressional elections. The party's election campaign emphasised economic growth, decent employment and social justice. When the new president took office, he announced in his inaugural address, that his government aimed to create a wage council for domestic service.

In November 2006 Law 18.065 was adopted by the Uruguayan legislature. The law gave domestic workers the same basic labour rights as other workers. The law also said that there must be a wage council for domestic service.

The wage council for domestic service was eventually created in July 2008. The government had three representatives, and the workers and employers each chose two representatives and two substitutes.

The SUTD chose the worker representatives. The union was growing strongly over this period. Between 2005 and 2011 union membership more or less doubled, and branches were created in 11 of Uruguay's 19 departments.

Employers were represented on the wage council by the Liga de Amas de Casa, Consumidores y Usuarios de la República Oriental del Uruguay – the housewives league, which had been established in 1995. When the Liga accepted government's invitation to represent employers of domestic workers, they said: "We accept this challenge with a view to constructing something new. We propose to act with openness, eliminating hierarchies, and promoting agreements that protect the legitimate interests of all parties". The Liga requested technical assistance and training from the Ministry of Labour and Social Security. The SUTD meanwhile received assistance from the national labour federation, the PIT-CNT, to which they were affiliated.

The domestic work wage council met for the first time in August 2008. The SUTD presented a list of 13 demands which had been formulated after consultation with workers from different parts of the country and discussed in the union assembly. They proposed a minimum wage of UYU8,500 pesos (US\$410) per month, which was an increase of almost 150 per cent on the existing wage. The Liga proposed a minimum wage of UYU4,260 – a 7 per cent wage increase for the lowest-paid workers. This was similar to the government's recommendations.

There were about 10 bargaining sessions over two and a half months of negotiations. The delegates from the SUTD were sometimes accompanied by other union members who provided moral and political support from outside the sessions. Throughout this period the SUTD delegates also discussed the negotiations in the

weekly commission meetings and broader assemblies. At the end of the negotiations, many of the SUTD demands were included in the collective agreement but most were amended in some way. The monthly minimum wage for the rest of 2008 was fixed at UYU4,260.

On November 10, 2008, the government, employer, and worker delegates signed the first collective agreement for domestic service in Uruguay. It was also the first such agreement in Latin America. The agreement applied to all domestic workers and their employers throughout the country.

In line with the agreement, the wage council met during 2009 and 2010 to sign periodic wage adjustments and to discuss other issues. One of the most contentious issues was the SUTD proposal that domestic workers get paid when taking time off to do union work. This was important for the SUTD because workers in other industries get paid union leave. It was especially important because the SUTD does not have any full-time staff. Instead a core group of members, all of whom continue to work as domestic workers, plan and carry out activities through three commissions or secretariats.

Eventually government suggested that a fund be set up through the Banco de Previsión Social (Social Security Institute) to which all employers of domestic workers would contribute so that workers who did union work could be paid. The SUTD and Liga agreed to the proposal, but the Liga did not respond when the SUTD submitted a draft law providing for this.

Negotiations for the second agreement began in August 2010. The negotiations lasted four months in which time 14 meetings were held. The SUTD presented 14 demands, some of which were new, while others were from the 2008 list. The Liga eventually only accepted (at least in part) four of the demands. There was serious conflict over the issues of union leave, wage categories and wage increases.

After nearly three months of negotiation, the SUTD distributed leaflets in the residential neighbourhoods, criticising the President of the Liga for “starving” domestic workers. The employers demanded an apology and that the government present a proposal that would be voted on. After discussing the situation in its national assembly, the SUTD decided not to attend the next bargaining session. They sent a formal protest and demanded an interview with the President, the Minister of Economy and Finance and the Minister of Labour and Social Security. The Liga then submitted an offer that exceeded the SUTD’s expectations, including a 37.6 per cent wage increase for workers at the lowest pay level. The SUTD accepted the offer immediately, but there was still some disagreement regarding the duration of the agreement. In the end, the agreement covered a period of two years, as demanded by workers. In December 2010 the second collective agreement was signed.

COLLECTIVE BARGAINING AND DOMESTIC WORKERS IN URUGUAY

Mary R. Goldsmith

The context

An overview of Uruguay

Uruguay is located on the southeastern Atlantic coast of Latin America, sharing borders with Brazil to the north and with Argentina to the west. With a total area of 176,215 km² and a population of 3,286,314, it is one of the smallest countries in the region. The overwhelming majority (94.6 per cent) of its inhabitants reside in urban areas; 40 per cent live in Montevideo, the nation's capital. Approximately 7.8 per cent of Uruguayans identify (at least partly) as Black or of African descent, and 4.8 per cent as indigenous. Uruguay's population is rapidly ageing (more than 14 per cent is 65 years of age or older), which is particularly relevant to the issue of care work.¹⁵ With an average of 8.5 years of schooling and a literacy rate of roughly 98 per cent, the nation has one of the highest levels of education in Latin America. Regionally, it ranks third in the United Nations Development Programme's (UNDP) Human Development Index, and second in the Gender Inequality Index.¹⁶

Uruguay is a constitutional republic. With the exception of the period of military rule between 1973 and 1985, it had been governed since independence (1828) by two parties the Colorado (Red) and the Blanco (White, or as it is officially called, Nacional),¹⁷ until 2004 when the Frente Amplio (FA, Broad Front) won the presidential and congressional elections. The FA, a leftist coalition party¹⁸ founded in 1971, ran a campaign that emphasised economic growth, decent employment and social justice. Tabaré Vázquez who took office as president in 2005, sought justice for the poor, the workers, and the victims of the military dictatorship (Buquet, 2008: 266-270). The FA also won the following presidential election with José Mujica as its candidate. Overall during the two FA administrations, there has been generally a good relationship between the government and the Plenario Intersindical de Trabajadores-Convención Nacional de Trabajadores (PIT-CNT, Inter-union Assembly of Workers-National

¹⁵ Instituto Nacional de Estadística (INE, National Institute of Statistics), *Uruguay en cifras*, 2012, <http://www.ine.gub.uy/biblioteca/uruguayencifras2012/uruguay%20en%20cifras%202012.asp>, consulted January 12, 2013.

¹⁶ The Human Development Index takes into account life expectancy at birth, mean and expected years of schooling, and gross national income per capital. The Gender Inequality Index is calculated on the basis of maternal mortality, adolescent fertility, educational attainment, and labour force participation.

¹⁷ The Partido Colorado has usually been considered more liberal and urban-based, and the Partido Nacional, more conservative and associated with the Catholic Church and the defence of large landowners. However during the last two decades of the twentieth century both moved to the centre right, downplaying ideology in favour of pragmatism.

¹⁸ The Christian Democrat, Socialist and Communist Parties, with other leftist groups formed the original basis for this coalition.

Convention of Workers)¹⁹ the nation's only labour federation; however recently this has cooled a bit as the labour central has been critical of Mújica for not continuing the social programmes initiated by Vázquez (Pintos, 2012, 226-227).

Uruguay is a middle-income country²⁰ with lower poverty rates and less income inequality than most other countries in the region. It underwent one of the worst economic crises in its history beginning in 1998. This peaked in 2002 when the unemployment rate rose to 17 per cent. Although the economy improved and there was a reduction in unemployment between 2003 and 2005, real wages continued to fall. The FA government immediately implemented measures against unemployment and in favour of better working conditions. Income inequality began to decline in 2007, a trend which continues to date. This is related to the increase in the general minimum wage that applies workers not covered by sector- or occupation-specific measures and periodic wage adjustments,²¹ the return of collective bargaining, the strengthening of unions, and the implementation of redistributive fiscal reforms in 2008 (Alves, et. al, 2012) .

The gender gap in labour force participation has narrowed. During the first trimester of 2006 the labour force participation rate was 42.8 per cent for women and 65.2 per cent for men. By 2011, women's participation in the labour force had increased dramatically, reaching 51.3 per cent by 2011, though it still remained lower than that of men (71 per cent). At the beginning of 2006, the unemployment rate was 16.2 per cent for women and 9.2 per cent for men. By 2011 this had dropped to 7.7 per cent for women and 4.1 per cent for their male counterparts.²²

Uruguay does not have a general labour law nor labour code. Instead, the labour legislation consists of a series of laws referring to specific workers and topics. Uruguayan labour law is guided largely by jurisprudence (Ermida Uriarte 2006). There was no specific labour law for domestic workers until quite recently. In 2006, the government adopted Law 18.065. This defines domestic work "as that performed in a household by a person in a dependency relationship in order to provide care and housework to one or various persons or one or various families, without these tasks resulting in a direct economic profit for the employer". It sets a minimum work age of 18 years and recognizes domestic workers' rights to an eight-hour work day, 44-work week, nine-hour rest period during the night for live-in workers, rest periods during the workday, a 36-hour weekly rest, tripartite negotiation both of wages and job categories, and severance pay after 90 days of work, additional compensation in the case of dismissal during pregnancy, the issuing of a payslip, unemployment insurance, labour

¹⁹ The PIT-CNT was founded in 1983 with the merger of the Plenario Intersindical de Trabajadores and the Convención Nacional de Trabajadores. It is guided by the principles of radical internal democracy and independence from the State and parties; it operates as an assembly, not a rigid organization.

²⁰ The GNI PPP per capita is US \$13,242, United Nations Development Programme, Human Development Report Profile for Uruguay, <http://hdrstats.undp.org/en/countries/profiles/URY.html> Consulted January 6, 2013.

²¹ The general minimum wage and adjustments for those groups of workers that are included in wage councils are established through tripartite negotiation. For those groups of workers who are not included in wage councils, the executive branch establishes a general minimum wage and wage adjustments that apply nationwide.

²² Instituto Nacional de Estadística (INE, National Institute of Statistics), *Uruguay en cifras 2012*, <http://www.ine.gub.uy/actividad/empydesemp2008.asp?Indicador=ecl>, consulted December 30, 2012.

inspection, and a choice between private and public health institutions for medical care.²³ Finally, it states that domestic workers will have the same general labour and social security rights as enjoyed by other workers. In June 2007, the regulatory Decree 224/007 was issued. In addition to defining the terms of Law 18.065, it explicitly excludes rural domestic service personnel (referring basically to domestic workers who are employed by the owners of farms and ranches); elevator operators, doormen and janitors of apartment buildings; and private chauffeurs. It provides for overtime pay, paid sick leave, the right of live-in workers to food and lodging, and the right of employers to deduct a maximum of 20 per cent from wages for room and board and a maximum of 10 per cent where only meals are offered.

Domestic workers have long been entitled to social security in Uruguay. They have had access to disability, old age and survivor pension since 1942, maternity benefits and family allowance since 1980, and medical coverage and sick pay since 1984 (Pugliese and Santos, 2010: 4). In 2008, domestic workers were incorporated into tripartite collective bargaining with the creation of a specific wage council for this occupational group. In 2009 the Banco de Previsión Social (BPS, Social Security Institute) implemented an innovative publicity campaign to raise awareness about domestic workers' rights and to increase their registration for social security. Some of the most outstanding examples of this campaign were information pamphlets (aimed at employers) in the form of tags to hang on the doorknobs of employers' homes, with the message "The domestic worker in this house is enrolled in the Social Security Institute", television spots ("Desorden" won the Balero de Bronce), and socio-dramas on buses (Ferrari and Vence, 2010). In 2010 and 2011, labour inspectors visited over 9,000 homes to find out whether domestic workers were registered for social security. The inspectors requested documents, but did not enter into the households.

In recognition of these policies, Uruguay was chosen by the ILO as a model for good government practices regarding domestic work. On June 14, 2012 it became the first country to adopt ILO Convention 189 "Decent work for domestic workers".

Domestic Workers

Approximately 17 per cent of all employed women in Uruguay are domestic workers.²⁴ This figure has remained fairly constant since the 1990s (Ministerio del Trabajo y Previsión Social, 2011). It is the most common occupation for women, followed by office work and retail sales.

Over the period between 2006 and 2010, there was an increase in the number of persons employed in domestic work. In 2006 and 2010 there were respectively 105,572 and 120,164 domestic workers. This was consistent with the overall growth rate of the female labour force. Thirty-seven per cent of domestic workers live in the capital Montevideo, 15 per cent in the adjacent department of Canelones, five per cent in Maldonado, a department on the Atlantic coast and home to the beach resort Punta del Este, and the other 43 per cent in the

²³ See Blofield (2012) for a description of the legislative reform process.

²⁴ All of the authors consulted referred to three categories of domestic workers that are registered by the Encuesta Continúa de Hogares (ECH, Continuing Survey of Households): child caregivers, persons who care for the sick in private households, and domestic personnel (cooks, cleaners and general domestic workers). Batthyány uses data from 2010, however she excludes the caregivers from most of her calculations, consequently the description of domestic workers in this report refers largely to 2006 (Espino y Amarante, 2008) and 2009 (MTSS 2011) studies that use data for all three categories of domestic workers.

remaining 16 departments. This distribution coincides largely with that of the general population (Batthyány, 2012: 19).²⁵

Almost 99 per cent of all domestic workers are women.²⁶ In 2006, 12.8 per cent of domestic workers identified as black or of African ancestry, whereas this was the case for 7.7 per cent for the population as a whole. In that same year, domestic work accounted for 29.3 per cent of all employed black women. Slightly fewer than 2 per cent of domestic workers declared that they were of indigenous ancestry. There are also a small, but undetermined, percentage of women who have migrated from Peru and Bolivia to work in domestic service because wages are much higher in Uruguay than in their home countries. Domestic workers of African and indigenous ancestry face additional discrimination in Uruguay and migrants are even more vulnerable than local workers to exploitation and human rights violations.

Domestic workers tend to be older than other employed women; 21 per cent are 55 years of age or more, 26 per cent are between 45 and 54, 22 per cent are between 35 and 44, and only 31 per cent are 34 or younger. Roughly half have completed at best their elementary education. In 2006, 43.9 per cent lived under the poverty line, and by 2010 this had dropped to 24.9 per cent. As impressive as this might be, the poverty rate for domestic workers is double that for other employed women.

In 2010, 10.1 per cent of domestic workers were caregivers for the sick, 15.3 per cent were child caregivers and 74.6 per cent were cooks, cleaners and general domestic personnel. It is important to underscore that it is the experience of most workers that occupational categories are not treated with such precision on the job, which means that they are often burdened with additional tasks with no extra pay.

In 2009, almost one half of domestic workers were employed for 20 hours or less per week, whereas about one out of ten worked 44 or more hours. Caregivers for children and the sick tend to have much longer workweeks. Despite this, they generally earn less than other domestic workers. In 2006, the average monthly wage for domestic workers was 44.9 per cent that of other employed women. By 2009 the percentage had fallen to 42.2 per cent. However, the gap between domestic workers' and other employed women's hourly wages shrank dramatically. In 2006, the average domestic workers' hourly wage was 55.5 per cent of that of other working women, and by 2009, this had risen to 68.4 per cent. Differential changes in the total number of hours worked by domestic workers and other employed women explain this.

Domestic workers on the whole work fewer hours than other women in the labour force. This difference increased over this period; therefore overall, they had lower monthly earnings. At the same time however, their hourly earnings improved, probably at least in part due to the increases negotiated through tripartite collective bargaining in 2008. There is regional variation in wages and working conditions. Workers outside Montevideo tend to earn less and have longer hours than those elsewhere. There are still cases of women who earn approximately one third of the minimum wage and work from dawn until dusk.

Approximately 63,000 domestic workers are registered with and pay into social security. Since 2006, the number of domestic workers who make contributions has increased by 45.6

²⁶ The low percentage of men who are domestic workers can be attributed at least in part to the exclusion of chauffeurs and gardeners from the statistical estimates and from the law.

per cent, largely due to the BPS media campaign. Still there is a very high evasion rate, and as at the time of writing only about half of domestic workers make social security payments.

In 2009, only 14.4 per cent of domestic workers received holiday pay and 51.4 per cent a yearly bonus. Surprisingly 46.4 per cent did not believe that they had a right to a yearly bonus. In sharp contrast, 97.8 per cent of those workers who paid into Social Security believed that they were entitled to a yearly bonus.

Background of domestic workers' organizing in Uruguay

In 1964, domestic workers started to meet in various parishes in Montevideo, encouraged by progressive clergy of the Catholic Church.²⁷ This served as the groundwork for the Asociación Nacional de Empleadas de Casa Particular (ANECAP, National Association of Private Household Employees) that was founded three years later, in 1969, by domestic workers who belonged to the Juventud Obrera Católica (JOC, Young Catholic Workers). Initially, some of the more militant participants collaborated closely with organized labour, the Convención Nacional de Trabajadores (CNT, National Convention of Workers). The domestic workers' group within the CNT disbanded when the military took over the government in 1973 and prohibited union activity.

ANECAP continued to operate, however a technical team assumed leadership of the association which was restructured as a service-oriented organization, offering temporary shelter, workshops, a library and a savings and loan association. The Grupo Madre Dinamizador (GMD, Dynamizing Mothers' Group), an ad hoc group of domestic workers that included many of the older leaders of ANECAP, played a role in planning and evaluating ANECAP's activities, and acted as a link between the technical team and the membership base. Although several ANECAP members proposed forming a union, the technical team and even some of the participants in GMD opposed this because they did not consider this to be feasible at that time.²⁸ Nonetheless in 1975, with the support of the Asociación Sindical Uruguaya (Uruguayan Union Association), they formed the Asociación Laboral de Empleadas del Servicio Doméstico y Afines (ALESA, Labour Association of Domestic Service and Related Employees), which later expanded its area of intervention to the provinces.²⁹ These developments were possible because, although union activity was prohibited, the workers used other forms of organization such as associations. In 1981, professional associations (named labour organizations when they were formed by workers and which even could negotiate with employers) were granted legal status (Ley 15.137 Asociaciones Profesionales).

²⁷ Nora Pacheco, "Historia del Sindicato Único e Trabajadoras Domesticas", Montevideo, SUTD-PIT-CNT, 2010, p. 2. During the 1930s and 1940s there were precedents for domestic workers' organizations: Iris Cabral, an Afro-Uruguayan activist and herself a domestic worker, organized the sector as well as demanding their right to unionization, pensions and workplace safety. In the 1940s, a group of domestic workers tried to form a mutual aid society and fought for the extension of labour rights to domestic workers. As far as could be ascertained, there is no relation between these early organizations with those that emerged later.

²⁸ Suzana Prates, "Organizations for Domestic Workers in Montevideo", in Chaney and Castro, *Muchachas No More*, 1989, pp. 282-284.

²⁹ Pacheco, 2010, p. 4.

With Uruguay's return to democracy in 1985, the ban on union activity was lifted and the Sindicato Unico de Trabajadoras Domésticas (SUTD, Sole Union of Domestic Workers) was founded. At one point, it was said to have 2,000 members. Although only a small percentage of domestic workers were active in the union, those who were gained confidence in themselves as women and workers (Rostagnol, 1988:36). The SUTD participated in the founding congress of the Confederación Latinoamericana y del Caribe de Trabajadoras del Hogar (Conlactraho, Latin American and Caribbean Confederation of Household Workers) in 1988.³⁰ The union's spurt of activity was short-lived, as it then entered a 15-year period in which it was dormant. Ojeda Rodríguez (2010) believes that the government's lack of policies in response to domestic worker's demands was a factor that contributed to the decline of the union. Workers and researchers mention other factors as well, such as workers' reluctance to join the union for fear of reprisals by employers and health and family problems of the leaders.

Nonetheless, during the following years, various reform bills to extend domestic workers' rights were presented to congress by legislators from the Frente Amplio.³¹ None of these initiatives was successful, because there was neither enough support from legislators nor enough political pressure by domestic workers.³²

A New Phase for the SUTD

In 2002, Mariselda Cancela,³³ a lawyer who would later collaborate pro bono with the SUTD, and other members of the Gender Department of the PIT-CNT, Uruguay's only labour federation, began to organize domestic workers, who along with rural agricultural workers were the two groups that were still excluded from the right to a 44-hour work week and 8-hour work day. She played a key role in the [PIT-CNT] campaign to involve domestic workers in drafting a list of demands that they planned to present to the Frente Amplia for their inclusion in the FA's platform for the upcoming presidential elections. Cancela describes the snowball technique that they used in the PIT-CNT:

We talked with the domestic workers we knew and they told us where to locate others; some of these came to the Gender Department to work on the campaign and contact the wives and relatives of members from the PIT-CNT. We leafleted in the markets, near the churches in residential areas around Montevideo, like Pocitos, Punta Gorda, and Carrasco, where we knew a lot of them worked.

This laid the groundwork for the inclusion of domestic workers in the platform of the Frente Amplia (FA, Broad Front) and the reorganization of the SUTD in 2005, which is described further below.

As mentioned above, in 2004 the left won the presidential election for the first time in Uruguayan history. When Dr Tavaré Vázquez took office on March 1, 2005, he announced in his inaugural address, that his government aimed to create a wage council for domestic

³⁰ Unpublished directory of participants in the first congress of the Conlactraho, 1988.

³¹ Mariselda Cancela, interviewed by author, November 26, 2012.

³² Almost all legislators spoke from an employers' standpoint, arguing against the law because of the "exceptional" nature of domestic work or that it would be counterproductive because it would result in massive firings or workers' loss of the "benefits" that they had. Merike Blofield, *Care Work and Class. Domestic Workers' Struggles for Equal Rights in Latin America*, University Park: Penn State Press, 2012, pp. 111-112.

³³ Cristina Otero, interviewed by author, November 26, 2012.

service.³⁴ During the next five years of his administration, a series of labour laws were approved that reinstated rights and practices that had been suspended by prior governments.³⁵ For example, the Tripartite Wage Councils recommenced activities for the first time in almost 15 years. The Frente Amplia encouraged unionization so that workers could defend their rights, and decent work was considered an important pillar of social inclusion. Eduardo Bonomi, the new Minister of Labour and Social Security publicly stated, “I am aware that the balance must be inclined one way or the other and I have decided to take the side of the workers” (Pinto: 23).

Many of the women garment workers who lost their jobs during the 1998-2002 economic crisis, sought employment in domestic work. According to Burgueños, et.al, (2011) several of these brought their union expertise in the Sindicato Único de la Aguja y Ramas Afines (Union of Needle Trades and Related Industries), to domestic work and tried to construct a new kind of labour relations, quite different from the feudalistic relationship that had characterized domestic service in much of Uruguay. Many of the other domestic workers had started in this occupation as young girls, in exchange for room and board. Current domestic workers recall that their mothers were often expected to sleep on the floor or eat leftovers from their employers’ plates. However, even then, not all workers were submissive, Graciela Espinoza, one of the current leaders of the SUTD, remembers an incident in which her employer in the late 1980s asked her to hand wash an enormous basket of laundry just as she was getting ready for her day off. Graciela, not one to mince words, told her employer that he should be better organized and as a special favour, she would wash one change of clothes. Needless to say, she was out of a job a few days later.³⁶

Some of the former militants from the Sindicato Único de la Aguja y Ramas Afines were invited by the Gender Department of the PIT-CNT to help revive the SUTD. Cristina Otero, Matilde Castillo, and Nora Pacheco, former garment workers, joined forces with María Salas, María Estebán and a few other women who had been in the SUTD during the 1980s, to rebuild the organization. There already was a network of domestic workers who had been contacted during the presidential campaign by the Gender Department, many were the partners of members of the Sindicato Unico de la Construcción de Uruguay (SUNCA, the Sole Union of Construction in Uruguay), which would later be an important ally to the SUTD, providing them with space to meet and even making financial contributions.

By mid-2005 the SUTD was active again, both internationally and nationally. A delegate attended the ILO seminar about migrant labour and domestic work in December 2005. The domestic workers and trade union activists who participated issued the Declaration of Montevideo, which called for recognition of the value of domestic work, respect for domestic workers’ rights, and the inclusion of their demands in the agendas of labour unions and federations. Two representatives also went to the fifth congress of the Confederación Latinoamericana y del Caribe de Trabajadoras del Hogar Conlactraho congress in Lima in 2006.

The union members played an important role in the campaign for legal reform for domestic workers, which would grant them the same rights as other workers. The new labour law for domestic workers was drafted by the Comisión Tripartita para la Igualdad de Oportunidades

³⁴ Cited by Graciela Mazzuchi, “Labour Relations in Uruguay: 2005-2008”, ILO, 2009, p. 50.

³⁵ Thirty-nine laws were approved during Tabaré Vázquez’ presidency (Pinto, 2012: 12)

³⁶ Graciela Espinoza, interview by author, November 23, 2012.

y el Trato Igual en el Empleo (CTIOTE, Tripartite Committee for Equal Opportunity and Treatment at Work), with the participation of the MTSS, Instituto Nacional de las Mujeres (INAMU, National Women's Institute), PIT-CNT and la Cámara de Comercio e Industria (Chamber of Commerce and Industry). The law was based largely on previous legislative proposals. The members of the union stated that they were not consulted initially regarding the content of the law and that later their suggestions were often ignored. The political climate was favourable for such reform. Law 18.065 was adopted by the Uruguayan legislature on November 27, 2006.³⁷

The representatives of domestic workers and their employers

The Sindicato Único de Trabajadoras Domésticas is the only membership-based organization that represents domestic workers in Uruguay. There are a few NGOs – notably Cotidiano Mujer and Casa de la Mujer de la Unión – that have projects aimed at empowering domestic workers. Further, former members of the union have created the Agrupación María Goretti for the dissemination and promotion of domestic workers' rights. However, all of these groupings recognize that the only representative per se of domestic workers is the union.

The SUTD is an occupational based union. All members must be employed in domestic service. If a member changes to another line of work or retires, she must withdraw from the union. The same criterion operates for members who participate in any commission or secretariat. The women argue that full-time activists lose touch with the day-to-day reality of work life. There is consensus that it is morally and politically incorrect for leaders to leave their jobs and dedicate themselves exclusively to the organization. All members must pay dues, however they also must contribute to the unity and development of the union, respect the decisions of the assembly, vote in elections, and discharge assigned responsibilities, which many members consider more important obligations than the payment of dues. Currently there are over 1,300 members, of whom slightly over 700 pay their dues regularly. The union's membership has roughly doubled over the past six years. It has campaigned to create branches outside Montevideo and they now have local branches in 11 of Uruguay's 19 departments. This has broadened the base numerically, socially and geographically, although the majority of the members are from Montevideo.

The union's objectives include the defence of domestic workers' rights and interests; better working and living conditions; the creation of a more just society, with work opportunities for all; and solidarity and unity, not just between domestic workers, but all workers. According to its statutes, the union should maintain its autonomy from the government, political parties, employers, and religious groups.

The SUTD does not have formal hierarchies and there is neither a general secretary nor a president. For at least seven years (2005-2012), the core group of members planned and carried out their activities via three commissions (organization, communication, and finance). This structure has since been modified somewhat because the statutes which were revised in November 2011, call for a general secretariat, composed of seven secretariats (organization, propaganda, finance, public relations, health and hygiene, acts, interior, each with two

³⁷ See Blofield (2012) for a description of the legislative reform process. Mention of the SUTD's role in this is made in "Proyecto que regula el trabajo domestico", *El país*, March 6, 2008 http://historico.elpais.com.uy/06/03/08/pnacio_205188.asp
Consulted January 20, 2013.

members) and a fiscal commission (six members). The general assembly is the highest authority of the union.

Recently they have tried to expand their membership and to forge a more democratic structure. In November 2011 they convened a national meeting in order to revise their constitution, and in October 2012, they held elections for the first time in the union's history. They now have a secretariat as described above. There is almost equal participation in the secretariat by members from the capital and by those from the other departments. The secretariat meets weekly in Montevideo and once a month they try to hold a meeting with delegates from the departments.

Since 2006, they have held four national meetings, which include members and non-members. They have commemorated August 19, Domestic Workers' Day, since 2009, with a panel or celebration that attracts extensive press coverage.

The union's activities are coordinated from the office in Montevideo. On Fridays they provide legal aid for members. Typically, 30 to 40 women appear during the course of the afternoon. Each is interviewed by a member of the secretariat, and, if their case warrants it, is referred to a legal team from the national university. While the women wait, they discuss union news, changes in the laws, and their own personal situations. The members of the secretariat lay out snacks, cookies, and coffee, aware that many of the women will not have eaten. Almost all union business is conducted during the week rather than over weekends. The exceptions to this are the national meetings that are held on Sundays.

The union is an affiliate of the PIT-CNT, where they have a small office, which is simply furnished. They have a printer and a computer. Although the PIT-CNT allows them to use their phone, almost all of the members of the Secretariat have mobiles that never stop ringing.

The PIT-CNT also allows them to use its auditorium for the assemblies and larger meetings and other rooms for the legal aid clinic. The PIT-CNT and the Instituto Cuesta Duarte (the research and training centre associated with the PIT-CNT) provide them with advice and guidance throughout the year. They help them calculate the demands for the wage increases and the PIT-CNT leaders accompany them to the collective bargaining meetings. A representative from the SUTD participates in the Gender and Diversity Secretariat of the PIT-CNT. The relationship with the PIT-CNT has, however, not always been smooth. A few SUTD members have had grievances with PIT-CNT members who are their employers. And once in a while, a member of one of the PIT-CNT refers to the domestic workers in a derogatory fashion. In 2010 there was a rift between the SUTD and the PIT-CNT because the federation sent the head of the Gender Commission, not a member of the SUTD, to the 99th International Labour Conference [that was to discuss domestic work] on the grounds that the members of the SUTD lacked experience. The SUTD members, who had spent months preparing for the conference with the support of the ILO, were furious. The incident did not go unnoticed by the feminist movement. The PIT-CNT was publicly criticised for their classist, paternalistic, and sexist attitude. The following year two members of the SUTD attended the 100th International Labour Conference that adopted ILO Convention 189, Decent Work for Domestic Workers.

Nonetheless, undoubtedly the PIT-CNT is the SUTD's main political ally. In addition the SUTD receives support for their legal aid service from the law faculty of the Universidad de la República through an agreement with the Social Security Institute.

On the side of the employers, the Liga de Amas de Casa, Consumidores y Usuarios de la República Oriental del Uruguay was founded in 1995. The Liga forms part of the Unión Intercontinental de Amas de Casa y Consumidores (UNICA, the Intercontinental Union of Housewives and Consumers), the Confederación Iberoamericana de Amas de Casa (CIAC, Ibero-American Confederation of Housewives) and the Federación de Amas de Casa, Consumidores y Usuarios del MERCOSUR (Federation of Housewives, Consumers and Users of Mercosur).

The Liga originally had two objectives: to dignify women as housewives and to defend consumers' rights. The Liga has disseminated information regarding the contribution that housewives make to society and has fought for their rights to a pension (which are recognized in the neighbouring countries of Argentina and Brazil). The Liga carries out consumer education and promotes and protects consumer rights. Since 2008, the Liga has a third objective, namely the representation of employers of domestic workers in the tripartite wage councils. The Minister of Labour invited the Liga to participate in the specific wage council for domestic workers. This is a large responsibility, given that approximately nine per cent of all households hire a domestic worker (Amarante and Espino, 2008; 70). The President of the Liga, Mabel Lorenzo de Sánchez, has recognized on numerous occasions that this was a tremendous challenge, because neither she nor other Liga delegates to the council had experience in labour relations, though they were employers of domestic workers. Mabel Lorenzo de Sánchez attended the 99th and 100th International Labour Conferences. By then she was one of the few delegates to have expertise in collective bargaining with domestic workers as an employer. Currently her organization disseminates information on employers' rights and obligations and provides legal advice to employers on a broad range of issues, such as how to write out a payslip, how to calculate wage increases, and how to resolve labour conflict.

The stark contrast between the offices of the SUTD and the Liga is eloquent. The Liga has a spacious two-storey office, with a large meeting room in the basement, located in the centre of the city, with computer and telephone. The walls are covered with photos and news clippings that tell the story of the Liga.

Both organizations have copies of the Convention 189 that they proudly distribute.

The inclusion of domestic service in the Wage Councils and the tripartite negotiation of the first collective agreement (2008)

Until 2008, there were two channels for setting wages in Uruguay: tripartite negotiation in the Consejos de Salarios (Wage Councils),³⁸ and for those occupational groups that did not participate in the Wage Councils, presidential decrees. The minimum wage was introduced in Uruguay in 1969 and was set by presidential decree. Domestic workers were explicitly excluded from the minimum wage until 1990 when for the first time a minimum wage was set for them by an executive decree. The decree set one minimum wage for Montevideo, and a lower one for the rest of the country. Both minima were slightly higher than the national general minimum wage. The decree permitted employers to deduct 20 per cent from wages if housing and food were provided to the workers, and 10 per cent if only meals were provided (Mazzuchi, 2009, pp. Decree 1534/969 and Decree 246/90). The Frente Amplio eliminated

³⁸ The tripartite wage councils were established were established in 1943 (Ley 10.449)

these geographic differences between the minimum wages for domestic workers in order to promote greater social and economic equality.

It wasn't right that women outside of Montevideo earned a pittance, and to make matters worse, typically when a worker finished cleaning her employer's house, she had to go clean the mother's house for the same wage.³⁹

Yet, even after the adoption of Law 18.065 (2006) and the enactment of Decree 224/ 007 (2007), which stipulated that domestic workers' wages should be established through tripartite negotiations, wages continued to be set through presidential decree in 2007 and 2008. The minimum wage for domestic workers in July 2006 was set at UYU3,000 (US\$135) per month or UYU15 (US\$.68) per hour. By February 11, 2008 the minimum monthly wage had increased to UYU3,550 (US\$160) per month and by the hour to UYU18 (US\$.81).

The SUTD rejected the establishment of their wages via presidential decree because this was reminiscent of the period of the dictatorship. They demanded their right to tripartite negotiation like other groups of workers. Cristina Otero recalls

We went to the Ministry of Labour time after time, and sat there hours on end, waiting for a response: when were they going to convene the wage council for domestic workers. It was our right. I remember sitting there in the waiting room on a Christmas Eve. We wanted them to convene the councils and were willing to do whatever we had to.

The primary obstacle to forming a wage council for domestic service was the lack of an employers' organization. Initially the Chamber of Commerce was to participate in the negotiation. However they later declined because they did not feel that they represented the employers of domestic workers.

The Minister of Labour and Social Security, Eduardo Bonomi invited the Liga to represent the employers of domestic workers on the Wage Council. The membership discussed this in a special assembly convened on July 7, 2008. The majority approved this proposal and in its acceptance letter to Bonomi, the Liga stated "We accept this challenge with a view to constructing something new. We propose to act with openness, eliminating hierarchies, and promoting agreements that protect the legitimate interests of all parties".⁴⁰ They underscored the complexity of this challenge, given that their membership base included not only employers of domestic workers, but also domestic workers themselves, in addition to persons who were not involved in the domestic service relationship. From the onset, they requested technical assistance and training from the Ministerio de Trabajo y Seguro Social (MTSS, Ministry of Labour and Social Security) in order to grapple with tripartite negotiation.⁴¹

Each occupational group has its own particular tripartite wage council. The wage council for domestic service was created on July 7, 2008,⁴² and because it was the 21st council to be formed, it was named the Grupo 21 (Group 21). As in the case of most other wage councils,

³⁹ Cristina Otero, interview by author, November 21, 2012,

⁴⁰ Letter directed to the Minister of Labour and Social Security, Eduardo Bonomi, by Mabel Lorenzo de Sánchez, July 9, 2008.

⁴¹ Surprisingly there was very little press coverage of the negotiations. However, the decision by the Liga de Amas de Casa, Consumidores y Usuarios to participate in the Wage Councils was the subject of various newspaper articles.

⁴² Decree 326/008.

http://archivo.presidencia.gub.uy/web/decretos/2008/07/999_26%2006%202008_00001.PDF, Consulted January 5, 2013.

each party names three to four delegates. The government has three representatives: the council President, Nelson Loustaunau (Deputy Minister of Labour and Social Security) and two full delegates Ximena Ruy López and Andrea Badolati. The SUTD chose as its delegates Cristina Otero and Mariela Burlón Rodríguez and as substitutes, Matilde Castillo and Nora Pacheco. Mariela Burlón Rodríguez had been employed most of her life as a domestic worker, and as mentioned earlier, the other representatives were former activists of the needleworkers' union. The Liga de Amas de Casa selected its president, Mabel Lorenzo de Sánchez and Nelly Costa to represent them, and Maribel Alvarez and Eliana Vidal as substitutes. All were employers of domestic workers. Mariselda Cancela provided legal advice for the SUTD. The Liga also brought a lawyer for the first few sessions.

Although theoretically any changes in the composition of the delegations should be communicated formally to the MTSS, in practice there is some flexibility. Given that none of the worker delegates are still members of the SUTD, the union has sent its current leaders to represent them in negotiations, and has been allowed to do so. However, the fact that there has been no change in the list of delegates that appears on the MTSS website does sometimes generate confusion within the press, given that the former members of the SUTD are often contacted for their opinions about tripartite negotiations.

The government played and continues to play a lead role in the negotiations. Each year the Ministry of the Economy and Finance and Ministry of Labour and Social Security prepare general guidelines for all of the wage councils concerning the duration of agreements, the criteria for wage increases and periodic adjustments, and the time line for wage adjustments. These written recommendations set the framework for the wage councils (Mazzuchi, 2009). The workers and employers negotiate taking into account these guidelines. They may, however, also introduce other issues regarding salaries, labour conditions and benefits. The MTSS convenes and presides at the meetings and in the case of deadlock can call for a vote.

The wage council for Group 21 met for the first time on August 19, 2008. The SUTD presented a list of 13 demands that had been formulated after consultation with workers from various areas of the country and discussed in assembly:

1. Domestic Workers' Day, August 19 is a paid legal holiday.
2. Workers cannot be fired because they demand that employers comply with Law 18.065, register them in social security, or pay them legally stipulated wage increases.
3. Paid five day leave for marriage; time off in the case of a family death in accordance with general law for workers; two days leave with pay for studies; paid leave for adoption on the same terms as for maternity leave. A worker who is breastfeeding is entitled to spend half her working hours (with full pay) on breastfeeding.⁴³
4. Seniority pay: one per cent extra for each 2 years.
5. Employers will provide two sets of work clothes per year.
6. Employers should provide decent work conditions, free of moral and sexual harassment, respecting the worker's right to intimacy, and protect her physical and psychological integrity.
7. Specification and separation of tasks: equal pay for equal work.
8. There should be freedom of association and union leave. If the worker agrees, there should be deduction of union dues by the employer. There should be a right to hold

⁴³ Government employees have this right; women who work for private enterprise are entitled to two hours per day for breastfeeding.

meetings at work, after hours. There should be paid union leave of 150 hours per month for union delegates.⁴⁴

9. No pay differences between workers who carry out the same tasks in the same household.
10. Compensation for reduction of hours of work.
11. Overtime pay in accordance with terms for other workers.
12. Equal opportunity and treatment, no distinctions nor exclusion on the basis of sex, race, colour, sexual orientation, religion, in accordance with current legal provisions (ILO Conventions 100, 111, and 156; Law 16.045,⁴⁵ Social and Labour Declaration of Mercosur).⁴⁶
13. All parties agree to negotiate in good faith, to provide the other with the necessary information relating to the issues, and to seek a just and equitable agreement.

The SUTD proposed a minimum wage of UYU8,500 pesos (around US\$410) per month, an increase of almost 150 per cent, given that the minimum monthly wage for domestic workers at that time was UYU3,549 (US\$170) or UYU18 per hour. In addition they used a wage-scale approach, asking for a 4 per cent increase for those women already earning between UYU8,501 and UYU9,500 (US\$411 and US\$459), and two per cent for those earning more than UYU9,500 (US\$460). These proposals were well above the government guidelines regarding wage increases, however the SUTD justified their demand on the basis of the decrease in the real value of domestic workers' wages. Workers contend that their own experience contradicts the government figures for inflation and cost of living adjustments: *By the time we finish negotiations, the wage increase is already undercut by the rise in prices. I see how electricity, gas, milk go up, not just once, but three or four times. So the wage adjustments proposed by the government are never nearly sufficient.*⁴⁷

At first, the Liga explicitly rejected seniority pay, equal pay for equal work and union leave, and accepted, at least in part, six of the demands (the commemoration of Domestic Workers' Day, that grievances regarding an employer's lack of compliance with the law could not serve as grounds for dismissal, the provision of work clothes, compensation for reduction of hours, and overtime pay). The Liga proposed a minimum monthly wage of UYU4,260 (US\$205), a seven per cent wage increase for workers earning up to UYU5,000 (US\$242) and four per cent for those earning more, which was similar to the government recommendations. The Liga proposed a written contract, health certificate, payslip, formality on both parts, and legal and technical assistance from the Minister of Labour and Social Security and the Social Security Institute.

Almost a month into negotiations and after consultation with its members and the PIT-CNT leadership, the SUTD presented a revised platform of demands. It deleted the demands for leave for adoption, family death and study, given that these already were included in other laws that at least in theory covered domestic workers. They added a demand for full pay

⁴⁴ The recently issued Law 17.940 "Freedom of Association" (January 10, 2006) guaranteed workers the right to freedom of association and paid union leave. It was supported by the FA government and was consistent with the position that strong unions were fundamental to achieving compliance with the labour laws and broadening human and labour rights.

⁴⁵ Law N° 16.045 (adopted in 1989) prohibits all discrimination that violates the principle of equal treatment and opportunity for both sexes in any sector.

⁴⁶ There was a general trend in Uruguay to include anti-discrimination clauses in collective agreements. Half of all collective agreements negotiated in 2008 included a clause of this type (Mazzuchi, 2009, p. 42).

⁴⁷ Matilde Castillo, phone interview by author, January 26, 2013.

during maternity and sick leave (higher than that stipulated for other workers). They eliminated the demands for the specification and the separation of tasks and equal pay for equal work, and introduced others related to particular tasks, work conditions and related wages, such as compensation for night work, care for sick persons and the elderly, additional pay if there were several very young children in the household, and a bonus for work carried out in a different location (when the employer's family goes on vacation). Given the relatively small wage increase offered by the Liga, which was supported by the government, the SUTD demanded that employers provide live-in workers with food and lodging, and live-out workers with meals, and that no wage deduction be made for these. They also included a detailed description of the work clothes that the employer should provide in an attempt to insure their adequacy and quality. They proposed the creation of a tripartite commission to discuss job categories and related wages. They deleted the equal opportunity and negotiation in good faith clauses. They maintained the rest of the demands from the original platform.

Each of these demands had special meaning to the SUTD. They used a wage-scale approach in order to benefit particularly those women with the lowest wages, most of who lived outside Montevideo. The designation of August 19 as Domestic Workers' Day had a dual significance for the workers: acknowledgement of the Sindicato Unico de Trabajadoras Domésticas and recognition of domestic labour.⁴⁸ They were vehement about their right to union leave not only because it was their right as with other workers, but also since it would allow them to build their union both numerically and politically.

Over the two and a half months of negotiation, the Group 21 held approximately 10 bargaining sessions, all in the morning, and each lasting approximately one and a half to two hours. These were held in the Ministry of Labour and Social Security, in an area designated specifically for collective bargaining. The rooms are quite small, with very poor ventilation. Other union members for moral and political support, who waited outside the sessions, occasionally accompanied the delegates from the SUTD. This served also as a show of political clout to the government and employers. The meetings were not open to the public or press. Typically each session focused on one or two issues. The SUTD presented a written platform whereas the Liga did not. The proceedings were coordinated by the representatives from the MTSS, one of whom later filled in a very short form by hand recording the minutes of each session. These reports were for administrative purposes and were not discussed with the worker and employer delegates. Occasionally between sessions, there was communication via phone and e-mail to exchange proposals and counter-proposals. Throughout this period the SUTD delegates discussed the negotiations with their commissions that met once a week and convened assemblies.

We invited members and non-members to the meetings. It was very important to invite domestic workers who were not in the SUTD, so that they open up their minds. They needed to know why a union is such an important tool and that we must be united and present a common front.

Most of the SUTD demands were negotiated and many of them were included in the collective agreement, most with amendments. For example, the monthly minimum wage for the rest of 2008 was fixed at UYU4,260 (US\$206),⁴⁹ roughly one half of the level proposed by the SUTD. This in turn affected the salary scales and adjustments projected for this same

⁴⁸ Matilde Castillo, interview by author, November 21, 2012.

⁴⁹ Article 3.

period as well as for 2009 and 2010.⁵⁰ A one-off bonus was introduced into the agreement, to offset the limited wage increase.⁵¹ After some debate, employers acceded to seniority pay (but at a lower rate than that demanded by the union), and August 19 as a paid holiday.⁵² The provision of work clothes and equipment (but with no description) by the employer at no cost to the worker, overtime pay, a bonus for working at a location other than the normal household (though the amount remained undefined) and compensation in the event of a reduction in the number of workdays or hours were included.⁵³ A special tripartite commission was set up to analyse the issues of union leave, a written contract, and job categories.⁵⁴ The agreement incorporates the principle of equal opportunity and treatment,⁵⁵ and the commitment of the parties to create decent working conditions,⁵⁶ to build social awareness about the need to formalize domestic work, and to implement initiatives to disseminate this agreement, a concern displayed by workers and employers alike during the negotiation.⁵⁷ Overall, the workers did not encounter a great deal of opposition by the employers during the negotiation. However, this was in part because many questions, such as additional compensation for night work, care of the elderly or children, categories of work and union leave were left for future discussion.⁵⁸

On November 10, 2008, the government, employer, and worker delegates signed the first collective agreement for domestic service not only in Uruguay, but also in the entire region of Latin America. Effective until June 30, 2010, one of the most important features of this agreement is that it had national jurisdiction and applied to all domestic workers and their employers, regardless of whether they are affiliated to the SUTD and the Liga de Amas de Casa.⁵⁹

During 2009 and 2010, in accordance with the first collective agreement, the wage council of Group 21 met to sign periodic wage adjustments and to discuss a written contract, work categories, and union leave. The SUTD and the Liga had different priorities: the first, union leave, and the second, the written contract. In the first session they discussed the employment contract. The employers asked for a standard employment contract, with very concrete details regarding tasks, requirements and penalties (for example, repercussions for worker's absences and late arrival). The workers also proposed a fairly simple individual contract with the names of the worker and the employer, the total number of working hours, and the tasks that the worker was hired to perform. However they argued that it was necessary to address the issue of the written contract in conjunction with that of work categories and related wage scales. They also considered that while a contract would be useful at the point of job entry, it was unnecessary for women already working. This position was taken, as union members were concerned that a written contract could be used to their detriment. There was no further discussion of the contract or work categories by this tripartite commission.

⁵⁰ Articles 4 and 6.

⁵¹ Article 5

⁵² Articles 9 and 20.

⁵³ Articles 18, 15, 14, and 12.

⁵⁴ Article 11.

⁵⁵ Article 16.

⁵⁶ Article 10.

⁵⁷ Article 8.

⁵⁸ Cristina Otero, interview by author, November 21, 2012.

⁵⁹ Article 2.

In July 2009, the SUTD presented a proposal for union leave that called for 200 hours per month with full pay for workers who had to fulfil union responsibilities. The proposal was that the SUTD would distribute this time among its membership. The Liga de Amas de Casa responded that in order to deal with this issue (or for that matter, any other), it required legal advice from the MTSS. It reminded the MTSS that it had made this same request as far back as May 2008. The MTSS declined on the basis that it was not within its functions to provide legal advice for employers. When this situation continued, the SUTD protested against the Liga, arguing that this seemed to be a pretext for not addressing the real issues at hand. Given the lack of progress, negotiations were suspended in September 2009. Finally in March of 2010, when the tripartite commission was reconvened, the Liga stated that its membership did not consider the SUTD's proposal regarding union leave viable. In response, the MTSS explored options regarding how to organize and finance union leave. They suggested that a fund be set up through the Social Security Institute to which all employers of domestic workers would contribute, and not simply those whose workers had union responsibilities, thus distributing this expense. The SUTD and Liga agreed to the MTSS's proposal. Later the SUTD submitted a draft of the law that such a proposal required. However the Liga did not respond to this.

The bargaining process of the second agreement (2010)

On August 20, 2010, negotiation of the second agreement began. This lasted four months and included 14 meetings. As in 2008, all of these were held in the MTSS following the same protocol. There was almost no variation in the composition of the worker, employer, and government delegations. The main leader of the SUTD, Cristina Otero, had abandoned the union in late 2009, therefore Nora Pacheco, Mariela Burlón, Matilde Castillo, and occasionally Adela Sosa and Graciela Espinoza, negotiated on behalf of the SUTD. The delegates for the Liga de Amas de Casa and the MTSS remained unchanged.

The delegates from the MTSS presented the executive branch guidelines for the wage council negotiations in July 2010. These recommendations included: a three- to five-year duration for agreements; annual wage adjustments based on projected inflation and other macroeconomic considerations that would promote "distribution of the fruits of economic growth" and guarantee the stability of real wages. These would be complemented by later corrective measures that would take into account real inflation and any reduction in purchasing power.

The SUTD presented a platform of 14 demands, some of which were new, while others had formed part of the list of demands that had been submitted during the negotiation of the first collective agreement in 2008.

1. A worker who is breastfeeding should be able to dedicate half her working hours (with full pay by her employer) to breastfeeding.
2. Employers should pay full wages during maternity or sick leave.
3. For work performed between 10 p.m. and 6 a.m., 25 per cent additional pay.
4. Employers must pay domestic workers 120 per cent of their net wages during their holiday.
5. Bonus of 10 per cent additional pay for not missing any workdays.
6. Payment of full wages to the worker in the event that an employer decides to suspend the workday.
7. Employers may deduct one per cent of wages for meals and lodging.
8. Employers must give 10 days' notice to workers prior to dismissal.

9. The parties agree that domestic workers require training. They will promote conditions that will favour domestic workers' participation in training courses.
10. The organization of a bipartite Committee for Safety and Health aimed at the prevention of risks in the household caused by repetitive tasks, stretching and bending, carrying heavy loads, exposure to heat sources (stove, iron, etc.) and the use of sharp objects (knives, etc.), the handling of toxic cleaning products, prolonged exposure to dusts, and the use of electrical appliances.
11. The organization of a tripartite Committee for Occupational Health for domestic workers will be organized.
12. Payment by employers of transport and other per diem expenses will be considered when calculating holiday pay, leave and severance pay.
13. The parties agree to comply with Decree 291/07 for the purpose of appointing delegates to Occupational Safety Committees.
14. None of the provisions set forth in this agreement may be used to undercut the conditions of domestic workers, as individuals or a group.

The SUTD fought for its platform (particularly demands 1 through 6 and 12), but the Liga eventually only accepted (at least in part) four of the demands: additional pay for night work (but at a rate of only 15 per cent), full pay to the worker when the employer suspends the workday, the creation of a tripartite committee for occupational health and that none of the provisions in the agreement could be used to undercut workers' conditions. All of these were included in the second collective agreement.

Union leave and wage categories were still on the bargaining table so the SUTD did not include them in their platform. There was serious conflict over these and the issue of wage increases. In fact the first session of negotiation took a sour turn when the Liga stated that since 95 per cent of all employers have only one domestic worker, domestic workers do not have the right to union leave. Therefore they rejected the proposal of any law in support of union leave for domestic workers. During subsequent meetings the Liga modified its position. Consistent with its priority of the avoidance of any disruption in the home, the Liga representative said that they would accept union leave for workers employed in households with at least two other co-workers so that they could redistribute the workload. The SUTD vehemently opposed this on the grounds that Law 17/940, which guarantees the right of all waged workers to union leave, makes no mention of a minimum number of workers. Exasperated by these comments and the lack of headway regarding union leave during the past two years, on September 15 the SUTD took union leave off the bargaining table and demanded that the MTSS present a law to congress establishing the mechanisms for implementing union leave for domestic workers. The government voted in favour of this proposal and the Liga abstained on the grounds that it needed legal advice.

The SUTD expected to make progress regarding job categories. On September 6, 2010 they submitted a detailed proposal for 14 categories of workers, with varying degrees of specialization, experience, knowledge, and different monthly wage levels.

- Common cleaner (UYU7,000, US\$338): Domestic worker responsible for general household cleaning.
- Bedroom cleaner (UYU7,000, US\$338): Responsible exclusively for cleaning bedroom area.
- Childcare provider (UYU7,000, US\$338): Care and cleaning of children. Does not carry out any other household tasks.

- Care provider for the elderly (UYU7,700, US\$372): Responsible for bathing, administering meals, and caring for the elderly. Does not administer medication.
- Caretaker of grounds and house (UYU7,700, US\$372). Employer should also provide housing and food for worker and her/his family.
- Common cook (UYU7,700, US\$372): Carries out standard food preparation.
- Cleaner, type 1 (UYU8,400, US\$406): Planning and execution of cleaning, washing, ironing, and simple cooking, which involve some decision-making.
- Maintenance worker (UYU8,400, US\$406): Carries out general maintenance, including painting, electricity, and plumbing.
- Housekeeper, category 2 (UYU9,700, US\$470): Household administration, including the planning and execution of cleaning, washing, ironing, simple cooking and childcare and care of adults.
- Housekeeper, category 1 (UYU12,000, US\$580): Responsible for all household administration, including management and supervision of personnel for domestic tasks.
- Specialized cook (UYU13,000, US\$628): Preparation of meals for persons with special dietary needs.
- Cook of meals for various days (UYU13,000, US\$628): Prepares and packs various meals for storage in freezer.
- Cook for social events and family gatherings (UYU100, US\$4.83 per hour): Plans menu and cooks meal.
- Cook of international cuisine (UYU15,000, US\$725): Planning, cooking and presentation of meals.

They also demanded that in the event a person carries out several activities, she should be paid according to that with a higher salary.

The employers objected to the idea that only some categories of workers made decisions. Instead they argued that all household workers to some extent make decisions. The Liga was responsible for presenting a counter-proposal, however they did not, once again with the argument that they needed legal orientation. Consequently further discussion of categories was postponed.

There was heated discussion regarding the wage increases and later adjustments for the different wage levels. The SUTD demanded a retroactive wage increase of 18 per cent for the period of July 1 to November 30, and a similar one for the following seven months. The government proposed two 15 per cent increases and the Liga two of 12.5 per cent, which was below the general government guidelines. The workers were willing to consider the government proposal if additional demands from their platform were accepted. During the following months, despite various proposals by the government, the Liga did not budge regarding its proposal.

Almost three months into negotiation, the SUTD decided to distribute leaflets in the residential neighbourhoods, criticizing the President of the Liga for being tight-fisted and “starving” the domestic workers. This was aimed at undermining her image among employers and to pressure the Liga to come up with a more reasonable offer. Instead, the employers demanded an apology and that the government present a proposal that would be voted on. The MTSS attempted to ease the tension, indicating that the SUTD’s actions were normal in politics. The Liga demanded that the government submit a final proposal and take a vote. The SUTD after discussing the situation during its National Assembly, decided not to

attend the next bargaining session because they knew that if a vote was taken, they would lose. They sent a formal protest in rejection of the government proposal and demanded an interview with the President, the Minister of Economy and Finance and the Minister of Labour and Social Security.

On December 6, the Liga submitted an offer that exceeded the SUTD's expectations. Effective from December 1, 2010 to June 6, 2011, this consisted of a 37.6 per cent wage increase for those workers at the lowest pay level, 26.6 per cent for those at the second level and 13.7 per cent for those earning the highest wages. The Liga considered this more feasible than paying a large lump sum for retroactive wage increase from July 1, 2010 to January 1, 2011. The SUTD accepted the offer immediately, however there was still some disagreement regarding the duration of the agreement. The Liga proposed three years (in accordance with the government guidelines) and the SUTD two years. Given that the initial wage increases were more substantial than the periodic wage adjustments that were to be made during the latter part of the contract, the workers preferred a shorter period. The MTSS submitted a compromise of two and a half years that the SUTD presented to its assembly. In the end, the workers prevailed and the agreement covered a period of two years.

On December 17, 2010, the representatives of the wage council for Group 21 signed the second collective agreement and decided to resume negotiations in March 2011 in order to resolve the issues that remained pending.

Like the previous one, the second agreement had national jurisdiction and applied to all domestic workers and their employers. This second agreement provided for the following:

- Minimum wage: For the period between December 1, 2010 and June 30, 2011, a minimum monthly wage of UYU6,591.40 (US\$297, (44 hours per week and 25 workdays per month), which equates to an hourly wage of UYU34.67 (US \$1.56).
- Wage adjustments for December 1, 2010 to June 30, 2011.
- A 37.6 per cent increase for those workers earning up to UYU5,792 (US\$260) per month (or the daily or hourly equivalent) as of November 30, 2010.
- A 26.6 per cent increase for those workers earning between UYU5,793 (US\$298) and UYU6,792 (US \$306) pesos per month or the daily or hourly equivalent as of November 30, 2010.
- A 13.7 per cent increase for those workers earning UYU6,793 (US\$307) or more.
- Sliding-scale wage adjustments as of July 1, 2011, January 1, 2012, and July 1, 2012.

In addition, it regulated the following working conditions:

- Night work: 15 per cent additional payment for work carried out between 10 p.m. and 6 a.m.
- Payment of full wages in the event that the employer suspends work.
- Establishment of a tripartite commission for occupational health.

It also stipulated continuation of the provisions of the previous collective agreement that was signed on November 10, 2008. In other words, as one of the workers said, "What we won cannot be taken away".

During 2011 and 2012, representatives from Group 21 met four times to formalize the wage adjustments for domestic workers that had been provided for in the second collective agreement. At their final meeting, the minimum monthly wage as of July 1, 2012, was rose to

UYU8,534 (US\$384). For those workers at the lowest wage level, there was a seven per cent increase, and six per cent and five per cent for the higher wage levels.

The SUTD has pressured the government regarding the issue of union leave, but thus far it has not presented any initiative to Congress. Although there are various issues still on the bargaining table (including occupational health, a written contract, paid free time for breastfeeding), the most contentious is that regarding categories of work and related wage rates.

When asked about the feasibility of including categories in the next agreement, Mabel Lorenzo responded that the Liga de Amas de Casa would only accept this if it were to provide for proof of training (through production of a certificate). Various present and former members of the SUTD considered it absurd to demand that a woman with years of experience present a diploma. In contrast, a few worker representatives supported training and certification of new workers by the Instituto Nacional de Empleo y Formación Profesional (INEFOP, National Institute for Employment and Professional Training), a tripartite organization that includes the Ministries of Labour and Social Security and of Education and Culture, the PIT-CNT, Rural Federation, and the Chambers of Commerce and Industry.

On November 27, 2012, once again the delegates met to discuss the terms of the next agreement. They are still at the bargaining table.

Reflections about the negotiation process

The current leadership of both organizations emphasize the cordial relationship they share. In interviews, both referred to how they visit each other's offices to congratulate them on their respective holidays: August 19 for domestic workers and June 29 for housewives.

According to personnel at the MTSS, the climate of bargaining within Group 21 is atypical and less conflict-ridden than that involving other sectors.⁶⁰ This is attributed to the character of domestic work relationships in contrast with labour relations in private industry or in the public sector. MTSS personnel note the particular characteristics that distinguish domestic work relationships, namely that it is between women, home-based, care-oriented, and not geared towards the generation of profit. In fact, they believe that negotiations proceed more smoothly sometimes without the presence of lawyers or union officials. An additional consideration is the parties involved, particularly Mabel Lorenzo, who will not tolerate verbal abuse or any other insinuation of violence.

Based on interviews with various representatives from the SUTD, they employ the following strategies and tactics in bargaining:

- Access and maximise the different areas of expertise of the SUTD members. During the initial negotiations, the delegation from the SUTD included a representative who had prior labour union experience (particularly within the realm of negotiations) in another sector (garment work) and another who had extensive experience as a domestic worker. The latter was more aware of the particular problems faced by

⁶⁰ Ximena Ruy Lopez, delegate for the Ministry of Labour and Social Security, Group 21 of the Wage Council, interview by author, November 23, 2012.

domestic workers, while the former had more savvy regarding how to defend domestic workers' collective rights.

- Control of one's temper and the avoidance of any comment that could be interpreted as aggressive behaviour in order to avoid withdrawal by the employer. Several workers were quite adamant about the need for measure and eloquence, particularly if one considers the enormous responsibility of representing 120,000 workers.
- Some believe that it is better not to plan a strategy (which might backfire), but rather to be spontaneous.
- Astute observation of the other parties (employer and government official) to understand their weaknesses, their sources of satisfaction and identity, and their aspirations. For example according to the SUTD, during the discussion of wage increases in 2010, the representative from the Liga offered even more than they were demanding. They believe that later she did not retract the offer because she prides herself on being a "woman of her word".
- Also observation of the other parties provide cues as to how one should act:

While you are seated at the bargaining table, you need to observe closely the other persons, their body language. The way the employer sits. Or the representatives from the government, because they aren't always on the side of workers. Sometimes they are more rigid, more serious, other times real relaxed. You have to look at what is on the bargaining table, what is on your list of demands. And ask yourself "How should I act? Like the in-your-face militant and if you don't give me what I want, I'm going to hit you? Or like, poor little me? Or, we can look one another in the eye as equals and negotiate calmly?"
- The appeal to a common ground: For example one of the domestic workers recalls how she used this tactic to negotiate 15 per cent additional pay for night work.

(The delegate from the Liga) said, "No, no, no, I can't go any higher than 10 per cent". So I said, "Look, we negotiated salaries, the primary issue. Can't we negotiate this too?" And she answered, "Imagine how the other employers are going to respond! They are going to want my head." So I said, "Your head? Ayy, same for me. Because my union didn't send me not to negotiate, just to listen. Look, I am negotiating with you right now. Well, and if they go after us, so what." So that is how we struck the bargain of 15 per cent extra night pay. I gave in five per cent and she gave in five per cent.
- Withdrawal from the sessions if the other party makes a totally unacceptable (offensive) offer.
- When faced with a deadlock, invite sympathetic government officials or PIT-CNT leaders both as a symbolic show of strength and in order to exercise political pressure.
- Taking PIT-CNT leaders to the negotiations was also a means of forging the labour federation's commitment to the SUTD.
- Leafleting during the negotiations to build public support and undermine the other parties when there was a conflict.
- Generally avoid contact with the press during negotiation in order to avoid giving information that might be used against the workers by the employers.
- And finally, when faced by an endless deadlock:

When the negotiations drag on well past their expiry date, it is hard for us to get retrospective pay, because they tell us that we are not productive. But that's when we say, 'Depends upon your point of view. Because if I don't go to work, the bank president doesn't go to work, the doctor doesn't go to work, the lawyer isn't going to court'. I say we do productive work. That is the problem that we cannot get

them to understand that without us, the country comes to a standstill. That's why I say, "Imagine if we were to go on a general strike!"

The results

Through the collective bargaining process the SUTD has been able to win rights that were not included in the 2006 law nor the 2007 regulatory decree: work clothes and equipment, seniority bonus, additional compensation for night work, a bonus for work done in a location other than the normal household, compensation for a reduction in work hours or work days, full payment of workdays which are suspended by the employer, and an additional paid holiday, August 19, designated as Domestic Workers' Day. All of these formed part of the platforms of demands that the SUTD presented.

There are other provisions in both of the collective agreements that strengthen clauses in the 2006 labour law and the 2007 regulatory decree (such as overtime pay), or other recent laws that theoretically covered domestic workers (Law 18.345, special paid leaves for study, family deaths, adoption, marriage). Their inclusion in the collective agreement reaffirmed that domestic workers had these rights. Given that the domestic workers found it very difficult to get employers to pay for overtime, they hoped that its inclusion in the first agreement would help them do so. Various members of the SUTD commented that live-in work declined because employers realized that in order to comply with the law, they would have to pay quite a bit of overtime. Most workers consider the decline in live-in work as positive as it means that workers are not permanently on duty and have the possibility of breaking out of their isolation.

Without a doubt the collective bargaining has contributed to the increase in wages and registration in the Banco de Previsión Social (BPS, Social Security Institute), which were mentioned at the beginning of this report. Unfortunately there are still not studies regarding domestic workers' wages over the past four years since the first collective agreement was signed which would permit further discussion of this question.

Finally, the collective bargaining process has reaffirmed their status as workers and made evident that the problems that they face are shared by other workers and therefore require collective solutions. Furthermore, their participation in negotiation has bolstered the SUTD as the authority that legitimately represents the more than 120,000 domestic workers in Uruguay.

An additional benefit associated with the experience of collective bargaining has been the legal service provided by members of the Law Faculty from the Universidad de la República. On August, 2011, the BPS signed an agreement with the Universidad de la República, in which the Law Faculty would designate two lawyers to provide legal consultation to the SUTD and the Liga in exchange for payment by the BPS. This has contributed to compliance because it educates workers regarding their rights and assists them in formulating and placing grievances.

On the employer side, for the Liga participation has been a means of contributing to a more just Uruguayan society, and at the same time, gaining more visibility for their demands for the recognition of housewives' contribution to society and their right to a pension, and

authority as a political actor. Plus the BPS agreement with the university has provided them the legal counsel that they demanded during negotiations.

Despite the laws, collective bargaining, and campaigns for compliance with the law, the SUTD and the government know all too well that domestic workers are often still unaware of their rights, and if they are aware, cannot exercise them fully because of employers' opposition. In this regard, the lawyer and the group of students from the university who participate in the legal aid clinic at the union found that workers' most frequent complaints were with regards to unpaid overtime, retention of holiday pay, lack of compliance with wage increases, and problems with Social Security. After each wage adjustment, domestic workers are fired and others face the same fate if their employers find out that they belong to the union.

Employers have adopted strategies to avoid compliance with the law. Some order their domestic workers to tell labour inspectors that they are relatives.⁶¹ Others in a desperate attempt to safeguard their privileges hire Bolivians and Peruvians through employment agencies in those countries. Although these workers are covered by the same laws and collective agreements as their Uruguayan counterparts, they often do not know this, hence they are sometimes preyed upon by their employers, who confiscate their passports, impose humiliating conditions that are in flagrant violation of their human rights, and threaten to throw them out on the streets if they protest. The SUTD and feminist organizations have denounced these situations and have demanded that the MTSS pinpoint for inspection residential neighbourhoods known to concentrate migrant domestic workers.

The 2006 Uruguayan law for domestic workers is exceptional in the sense that it includes a provision for labour inspection. Worth noting in this regard is that almost 100,000 households employ at least one domestic worker (Amarante and Espino, 2008: 77); therefore routine inspection is a formidable challenge. This is particularly so if one considers that the collective agreements have expanded domestic workers' rights. The SUTD has collaborated with the Department of Labour Inspection (Inspección General del Trabajo y la Seguridad Social, IGTSS), reporting employers who do not violate workers' rights so that they may go to their homes to investigate. Between 2010 and 2011, the IGTSS dedicated additional resources to routine inspection of households that employed domestic workers. Over this period they visited 9,200 households. During the first year they limited the campaign to Montevideo and Canelones and focused upon registration with and payment to the BPS. During the second year, they expanded the campaign to four other departments and covered other issues such as payment of wage increases, holiday pay, yearly bonus, and the availability work clothes and equipment. The inspectors did not enter the households, so they did not require a judicial order. They asked the employer (and if he or she was unavailable, the worker) to answer a series of questions regarding work conditions and benefits and to show payslips and documents from the BPS that would allow them to detect violations. They found that there was at least some degree of lack of compliance in 80 per cent of the cases, most frequently regarding some aspect of social security. The IGTSS officials have emphasized that rather than utilizing inspection to sanction employers, they use it as an opportunity to educate them about their obligations and workers' rights, thus encouraging them to comply with the law.⁶²

⁶¹ Interview with Cristina Otero and Matilde Castillo by author, November 21, 2012.

⁶² XXXVI Reunión especializada de la mujer del MERCOSUR, III Mesa técnica de la mesa asesora de género, trabajo e integración económica, November 9, 2011.

A final reflection: if one considers that in 2005 there was not even a law regulating domestic work in Uruguay, the change in seven years has been dramatic. But one might argue that this change started four decades ago when domestic workers began to organize. And certainly the adoption of the law, their inclusion in the wage councils, the implementation of measures that enforce the law, and the collective agreements are products of their political work, not simply a gift from the government.

INTERVIEWS

Name	Role	Type of interview and date
1. Gladys Arévalo	Member of SUTD 2007-2011 Former sales worker Current member of the Association María Gorretti	Personal interview November 21, 2012
2. Karina Batthyány Dighiero	Researcher about domestic work Departamento de Sociología, Facultad de Ciencias Sociales - Universidad de la República	Personal interview November 22, 2012
3. Dolly Mariela Burlón	Member of SUTD 2005-2010 Participated as substitute delegate for the SUTD in the negotiation in 2008-2010. Has always been a domestic worker Now a member of Las Jazmines, an NGO	Phone interview November 26, 2012
4. Mariselda Cancela	Probono lawyer for the SUTD 2005-2010 Participated in negotiation in 2008-2010	Personal interview November 25, 2012
5. Matilde Castillo	Member SUTD 2005-2011 Propaganda commission Delegate to collective bargaining, 2008 -2010. Former garment worker Current member of the Association María Goretti.	Personal interview November 21, 2012 Phone interview January 26, 2013
6. Juan Carlos Cerreta	Lawyer, Legal Aid Clinic for Domestic Workers, SUTD (agreement between Banco de Previsión Social and Universidad de la República)	Personal interview November 26, 2012 Phone interview January 26, 2013
7. Valeria España	Coordinator of programme for domestic workers (including blog trabajadorasdomesticasmercotur), Cotidiano Mujer (feminist NGO)	Personal interview November 25, 2012
8. Graciela Espinoza	Member of SUTD since 2007 Current chief delegate of Organization Commission Participated in negotiation 2008-2010 (more of an observer in 2008)	Personal interview November 23, 2012

9.	Beatriz Fajián	Former meat packing worker Secretary of Gender, Equality and Diversity, PIT-CNT	Personal interview November 23, 2012
10.	Mabel Lozano de Sánchez	President of the Liga de Amas de Casa, Consumidores y Usuarios de la República Oriental del Uruguay. Delegate to negotiation of first and second agreements and tripartite commission about union leave, categories and written contract.	Personal interviews November 20, 2012 November 22, 2012
11	Nelson Loustaunau	Vice Minister of Labour and Social Security President of Group 21 (domestic service) of wage council Author of various articles about legal aspects of domestic work	Personal interview November 22, 2012
12.	Cristina Otero	Primary leader of SUTD in 2005 – 2009 Organization commission Participated in negotiation 2008-2009.	Personal interview November 21, 2012 Phone interview January 26, 2013
13	Nora Pacheco	Member SUTD 2006-2011 Organization commission Delegate to collective bargaining, 2008 -2010. Former garment worker Current member of the Association María Goretti.	Personal interviews November 21, 2012 Phone interview January 26, 2013
14	Jimena Ruy López	Ministry of Labour and Social Security, delegate to Group 21 (domestic service) of wage council	Personal interview November 23, 2012
15	Gonzalo Uriarte	Director of Legal Aid Clinic Facultad de Derecho Universidad de la República Uruguay	Personal interview November 26, 2102
16	Various members of SUTD commissions	Commissions of SUTD	Group interview November 21, 2012
17	Various members of Asociación María Goretti	Former members of SUTD Members of Asociación María Goretti	Group interview November 23, 2012

Methodological note: In addition to interviews, I observed some of the activities of the Legal Aid clinic at the SUTD and a training workshop about computer skills for migrant domestic workers at Cotidiano Mujer.

In November 2011, I conducted fieldwork in Montevideo regarding good practices government practices and domestic work, which provided a background for the present project.

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