

From 'Battles' to Collective Agreements Between Street Vendors and Local Authorities in Zimbabwe

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Key Points

- 1 Founded in 2002 by a group of 22 informal traders' associations that sought to establish an apex body to represent their interests, Zimbabwe Chamber of Informal Economy Associations' more than 205,000 members include street vendors, construction workers, waste pickers, and other informal workers (ZCIEA, 2020). Street vendors constitute the majority.
- 2 ZCIEA used ILO Recommendation 204 *Concerning the Transition from the Informal to the Formal Economy* (2015), which recognizes public space as a workplace, to pursue collective agreements with 19 local authorities. With support from the Solidarity Centre and StreetNet International, ZCIEA's street vendor affiliates were trained in collective bargaining; they pursued innovative ways to gain the trust of local authorities and recognition as bargaining parties.
- 3 The brief documents how street vendors in Zimbabwe, who are not recognized as workers by labour laws (and therefore do not enjoy collective bargaining rights), nevertheless pursue collective relations with the local authorities that control their workplace – public space – and determine their terms and conditions of work. It discusses the issues that vendors want to bargain with local authorities about, documents how they go about securing recognition as bargaining agents and analyzes the Memoranda of Understanding (MOU) as nascent examples of collective bargaining agreements.
- 4 The MOUs, which we argue are a form of collective bargaining agreement, namely recognition agreements, have established collective relations between local authorities and ZCIEA and brought about shifts in



Lorraine Sibanda, president of the Zimbabwe Chamber of Informal Economy Associations and StreetNet International, at the ILO headquarters in 2023. ZCIEA used the ILO's Recommendation 204 to pursue collective agreements with 19 local authorities.
Credit: Sofia Trevino

the relations between street vendors and local authorities: ZCIEA is recognized as representing its members; its officials now participate in council meetings and are consulted by local authorities on issues affecting vendors; and, in the case of Chikomba and Gwanda, the local authority has agreed to designate land for trading sites.

Introduction

The creation of ZCIEA is partly attributable to the support of the Zimbabwe Congress of Trade Unions (ZCTU) (ZCIEA, 2020). The trade union movement realized that many employees were losing jobs due to the Economic Structural Adjustment Program; in response to the job losses, ZCTU conducted a mapping exercise to identify where retrenched workers relocated and whether they had formed organizations (ZCIEA SG, 2021). This exercise culminated in the formation of ZCIEA. ZCIEA is an affiliate of StreetNet International.

During 2020 and 2021, ZCIEA and local authorities signed 19 memoranda of understanding that provide for the recognition of the ZCIEA as representative of workers in the informal economy and for improved working conditions for these workers. The first MOU between ZCIEA and a local authority was signed in November 2019; subsequent MOUs were

signed between 2020 and 2021, during the COVID-19 pandemic.¹

Workers in the informal sector in Zimbabwe in general, and street vendors in particular, are motivated to enter into MOUs by a need for: social and legal recognition; access to public space and infrastructure; and safe working environments. Local authorities are motivated to engage with street vendor organizations for two reasons. First, they want to secure street vendors' compliance with health, sanitation, public order, and traffic by-laws. Second, regulated markets are a source of revenue for local authorities because vendors pay daily, weekly and monthly fees to local authorities to trade from a specific site in the public space.

This brief discusses the strategies of ZCIEA to secure these MOUs and the content of four of these MOUs with a view to:

- documenting how workers in informal employment, who are not recognized as workers by labour laws (and therefore do not enjoy collective bargaining rights), nevertheless pursue collective relations with the local authorities that control their workplace – public space – and determine their terms and conditions of work
- analyzing the MOUs as nascent examples of collective bargaining agreements

- understanding the issues that street vendors want to bargain with local authorities about; how they go about securing recognition as bargaining agents; and the effect of MOUs on the relations with local authorities and on vendors' terms and conditions of work.

Rutendo Mudarikwa conducted semi-structured interviews with ZCIEA's national leadership and with local authority officials and held focus group meetings with the leaders of ZCIEA affiliates in the four territories/towns during May and September 2021.

The four sites were selected from the list of 19 municipalities that have concluded MOUs with ZCIEA, using two criteria: first, they represent municipalities where ZCIEA initially signed MOUs and, second, the leadership is robust and dynamic. The leaders were key to mobilizing workers, and their dynamism and effectiveness contributed to the quality of information gathered.

Chikomba Rural District authority was selected because it was one of the first rural district councils to sign an MOU with ZCIEA. The Municipality of Gwanda was selected because the ZCIEA and StreetNet International President are based in Gwanda. Beitbridge was selected because it is one of the largest border towns in Zimbabwe. Chitungwiza was selected due to its proximity to Harare, the capital city of Zimbabwe,

¹ Organizations of street vendors that are not members of ZCIEA have also signed MOUs with local authorities. These include the Bulawayo Vendors and Traders Association (BVTA), which has signed an MOU with the City of Bulawayo, and the Kariba Vendors and Traders Association, which has concluded an MOU with the local authority in Kariba (ZCIEA President, 2021).

and the prevalence of street vendors in the municipal area.

The brief proceeds as follows: Part two discusses how ZCIEA was formed and describes how it is constituted. Part three explores how the MOUs came about. This is followed by an analysis of four of the agreements (in part four) and a discussion on their implementation (in part five). Part six concludes with a reflection on the lessons that we can learn from this case study.

About ZCIEA

ZCIEA’s national headquarters is located in the capital, Harare. The national office coordinates the activities of the association, including training members, advocating for their rights, and organizing empowerment programmes to support their members to grow and sustain their livelihoods. ZCIEA has affiliates in 45 territories spread across all 10 of the country’s provinces, as indicated in Figure 1 below. According to the ZCIEA’s national leadership, by 31 December 2020, ZCIEA had 205,327 active, paid-up members.

According to ZCIEA’s constitution, each member trade association, chapter, or territory is required to pay an annual subscription fee of US\$6 per member.² To be eligible for appointment to the national executive of ZCIEA, a person must hold a position within the chapter executive, be a

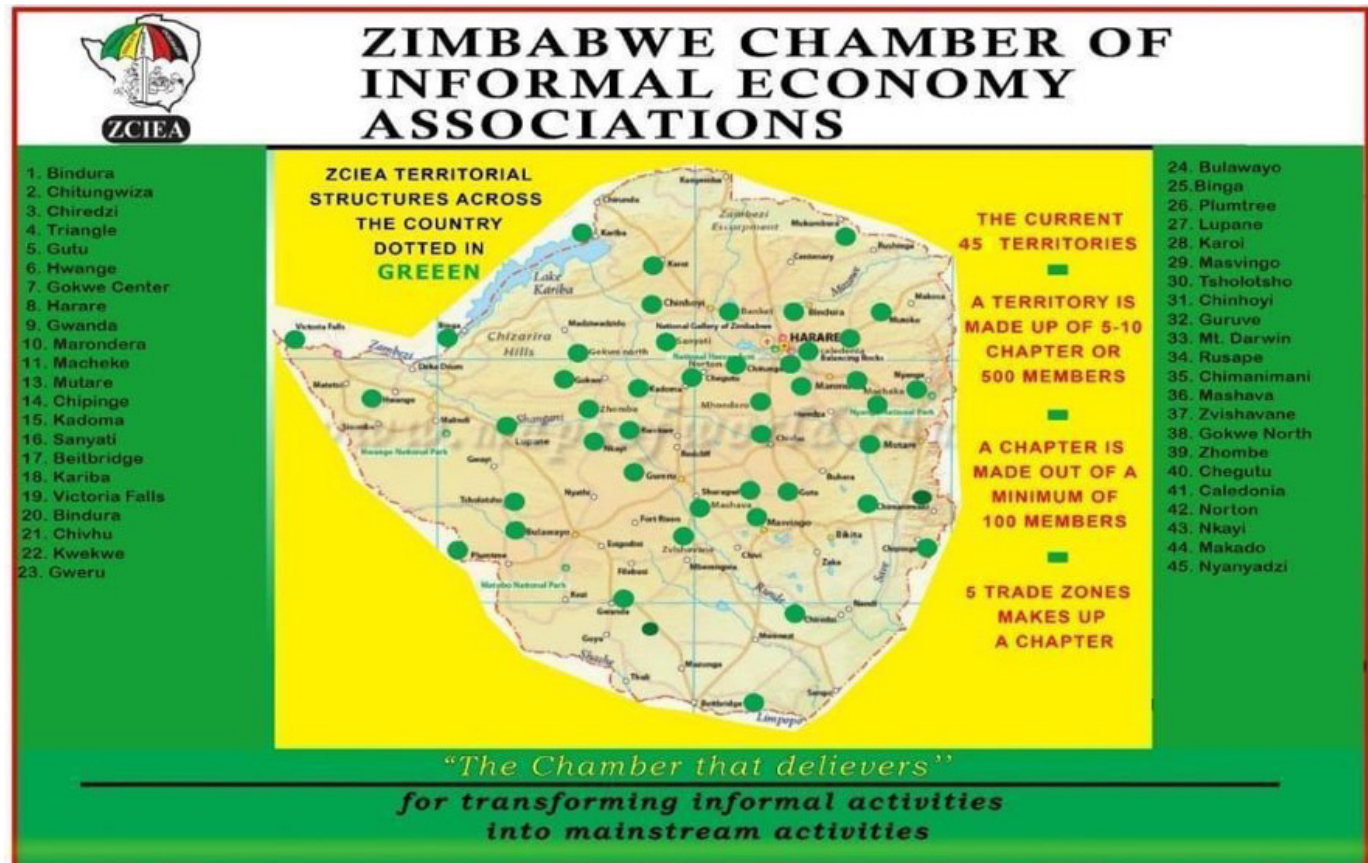
² A territory refers to a group of seven chapters or a place with over 500 members.

Table 1: Local Authorities Selected for the Study

Sampled local authority I	Town	Province	Current status	Population 2012
Municipality of Beitbridge Town	Beitbridge	Matabeleland South	Town	60,000
Chitungwiza Town Council	Chitungwiza	Mashonaland East	Municipality	374 279 (informal estimates 650,000)
Chikomba Rural District Council	Chivhu	Mashonaland East	Rural	131 590
Municipality of Gwanda	Gwanda	Matabeleland South	Town	20,226

Source: ZCIEA website: <https://zciea.org.zw>

Figure 1: ZCIEA Structures across Zimbabwe



Source: ZCIEA [profile](#).

member of an accredited national association, or serve on a territorial executive committee. This ensures that those in leadership roles have a demonstrated commitment and connection to the organization's mission and goals.

ZCIEA's objectives are to organize, establish, promote, and protect the interests of the informal economy in Zimbabwe, including by advocating for enabling legislation.

At the national level, social dialogue takes place within the Tripartite Negotiating Forum (TNF). The forum was established in terms of, and is regulated by, the Tripartite Negotiating Forum Act, 2019 (TNF Act). Section 3 of the Act mandates the TNF with consultation, cooperation, and negotiation on social and economic issues among the three social partners: the Ministry of Public Service, Labour and Social Welfare (Government); the Employers' Confederation of Zimbabwe (EMCOZ); and the trade union federations: the Zimbabwe Congress of Trade Unions (ZCTU) and the Zimbabwe Federation of Trade Unions (ZFTU). The TNF Act leaves room for other associations and members to participate by invitation.³

ZCIEA is an affiliate of ZCTU, and it expected ZCTU to represent its members' interests in both the Tripartite Negotiation Forum and in other fora (ZCIEA SG, 2021). Indeed ZCIEA and ZCTU concluded an MOU that both organizations would jointly advocate for enabling legislation

for self-employed workers and ZCTU would facilitate meaningful participation by ZCIEA in the Tripartite Negotiating Forum as an independent body. According to interviewees, over the years, as ZCIEA grew both in number and into a more mature institution, it has pushed for workers in the informal economy to represent their own unique needs within the Tripartite Negotiation Forum and in other fora.

At the local level, the head office team of ZCIEA led a campaign to recruit members and associations, which led to affiliates being established in Chitungwiza, Beitbridge, and Chivhu. The president of ZCIEA's Chivhu branch recalls that organizers started the branch with a few members and held meetings under a tree for nearly two years. He recounted: "It was challenging to convince people to join us while holding gatherings in open spaces. Many initially thought it was political, as we had to endure criticism." Later, ZCIEA established offices to boost the organization's professional image; to centralize operations; and to keep information on their members secure.

In Beitbridge, vendors were informally organized and advocating informally for their rights. They welcomed ZCIEA and started participating in its activities. They became an affiliate of ZCIEA territory in 2012. The Gwanda branch is one of the oldest ZCIEA affiliates. In 2003, ZCIEA contacted members of the Zimbabwe Cross Border Traders

Association and recruited its members in the area. By 2004, membership had grown, and a Gwanda Chapter Congress was held to elect its leadership. In 2009, Gwanda achieved the status of a territory, meaning it had established seven chapters or had more than 500 members.

How the Agreements Were Reached

After the adoption of ILO Recommendation 204 Concerning the Transition of the Informal to the Formal Economy (R204), ZCIEA's national leadership focused on its implementation. An immediate objective was to address the hostile and confrontational relationships between street vendors and local authorities.

First, ZCIEA focused on building the capacity of leaders across the regions to enter into negotiations with local authorities. In April 2016, ZCIEA partnered with the Solidarity Center and StreetNet International to provide collective bargaining and negotiation skills training to its national and territory leaders. The training covered negotiating skills and tactics and how to prepare for, and participate in, negotiations. Thereafter, ZCIEA's national leadership coordinated numerous workshops on negotiation skills and collective bargaining for territorial leaders.

³ In terms of section 4(a) of the Act, "the Forum may be acting on its own initiative to invite other persons to attend the proceedings of the Main TNF for specific input".

Second, in 2017, ZCIEA launched its *Informal Economy Policy Position Towards the Transition of the Informal Economy*, which highlights the following:

- formalizing of the informal economy
- undertaking legal reform
- incorporating self-employed workers into Zimbabwe's Decent Work Country Programme
- establishing a formal social dialogue framework for the informal economy (since self-employed workers are excluded from, or under-represented in, social dialogue and in the tripartite structure)

Between 2018 and 2020, some of ZCIEA's affiliates began to approach local officials to explore the possibility of reaching an agreement with their respective municipalities. According to the leaders interviewed, the hostile relationships between ZCIEA and municipalities provided an impetus for branches to seek their respect for and recognition of their organizations. The leaders stated that they wanted to improve their working relationships with authorities and to be included and heard in decision-making and budgeting processes.

Leaders in Chitungwiza recalled that for years the local authority had ignored ZCIEA and excluded it from decision-making processes. Similarly, leaders in Gwanda reported that there was no meaningful engagement between street vendors and the council. In Beitbridge, one leader reported that "council treated us as street kids or criminals" (BT2), while in Chivhu, leaders reported

that the ZCIEA and the municipality "were like cat and mouse, they did not see eye to eye" (CHV4).

The leaders' views resonated with the observations of council officials in Gwanda, where the council official recalled that "there was a lot of fighting – a lot of battles" and in Chikomba, where the official noted that the relationship was "confrontational and antagonistic". The Chitungwiza official suggested that there was a more cordial relationship; street vendor associations presented their demands to the council and made inputs on licence and permit fees during annual budget meetings. However, the same official recognized that at times there was tension due to the parties' diverging interests. The Beitbridge official painted a different picture from that of the ZCIEA leaders, namely that before making decisions on matters including budgets, the council consulted committees that represent the interests of street vendors. ZCIEA and a cross-border organization represented street vendors on these committees at council meetings.

The branches wanted to address the following challenges:

- the lack of security of tenure regarding space to trade
- the ongoing harassment of street vendors by local government officials
- the issue of fees: how much traders have to pay; the lack of transparency in how fees are collected and disbursed; and corrupt practices by officials charged with collecting fees

Lack of Security of Tenure Regarding Access to Space to Trade

The Chikomba council had not designated specific spaces for informal vending, which meant that street vendors did not have a legal entitlement to trade in the spaces in which they operated.

Only in Gwanda and Beitbridge had local authorities specifically designated areas for trading and issued licenses for traders to operate lawfully. Street vendors in both territories nevertheless complained that they did not have security of tenure, with a Beitbridge street vendor leader arguing that "... we do not have permanent places for doing our business. Most of our working places are temporary places." (BT1).

In Chitungwiza, ZCIEA obtained a high court ruling to the effect that allows traders to work in the Jambanja market until the municipality has designated trading spaces and issued licences for them to trade lawfully issue (Chitombo, 2021).

Council officials in Chitungwiza, Beitbridge and Chikomba reported that the main challenge for the respective councils is that many street vendors operate on undesignated spaces that do not have adequate amenities such as water and toilets. The council official interviewed in Chikomba attributed the use of undesignated spaces by vendors, i.e., they traded illegally, because the council was unable to accommodate the traders; the Beitbridge official noted that the street vendors found that the designated places were not viable, forcing them to trade in

more popular areas that do not have amenities: “As a council, we have tried as much as possible to accommodate the people where they move into new areas, but we do not have the financial resources to put up social amenities like ablutions everywhere where street vendors want to sell their goods.” (BTO)

Harassment of Vendors

Regardless of whether the local authorities had designated spaces for vending, the council and police officials in all four territories constantly harassed street vendors and chased them away from their trading spaces. The leaders complained that the officials demanded bribes from street vendors in exchange for permission to continue trading. They also reported that the officials confiscated their wares either for their own use or to extract bribes for their return: “Municipal police together with ZRP [Zimbabwe Republic Police] take street vendors’ goods and later demand bribes, and this causes corruption.” (GW2). Leaders in Chitungwiza and Gwanda further reported that the authorities demolished their trading spaces before and during the pandemic.

Council officials admitted that street vendors experience arrests and confiscations at the hands of the police and municipal police officials, which they justified on the grounds that street vendors contravened the law. In Chikomba, officials reported that police frequently arrest street vendors for vending on undesignated spaces on streets in contravention of various public laws. The official from Beitbridge reported that the

police often confiscate street vendors’ prohibited goods, including fresh produce and drugs.

Trading Fees

ZCIEA leaders in territories that have designated public markets – Beitbridge and Chitungwiza – complained that the trading fees were high and that the fee-setting process was not transparent. And despite paying trading fees, they experienced constant police harassment and were not receiving the benefits of secure space, storage, water and ablution facilities: “The council officials take our goods. There is no water and there are no toilets near our trading areas, but we pay the council every day.” (BT3)

Leaders in all four territories complained about inadequate infrastructure and services in their trading areas. They bemoaned the lack of shade to protect them from the elements and lack of storage facilities for their goods. The lack of water, toilets and waste management services in and around trading areas forced them to work under unhygienic conditions.

Strategies for Recognition as Bargaining Partners in Four Municipalities

ZCIEA leaders in all four territories stressed that the road to concluding the MOUs was long and difficult. They recalled their frustration when they encountered the resistance of the council officials, particularly at the beginning of the negotiations process. ZCIEA territory leaders related how the officials initially “did not understand us” and were “hard as a rock” (GW2 & GW6). The

leaders reported that it took several meetings to convince the councils to agree to conclude the MOU to recognize vendors as traders in the area and to create a space for regular negotiations on areas of mutual interest.

ZCIEA’s Chivhu branch leadership first approached the Chikomba Rural District Council in 2018 to begin negotiations for an MOU. In response to their request, the council asked ZCIEA to provide examples of MOUs in other territories. This was impossible because no other organization of street vendors had concluded an MOU with a local authority at the time. The territorial leadership had to devise a strategy to secure the municipality’s buy-in and resolved to find innovative ways of increasing ZCIEA’s relevance and credibility by making its local activities more visible through activities like clean-up campaigns.

As a result of the active role that ZCIEA played in the territory, the council recommended that ZCIEA approach the district and provincial administrators at the provincial offices to authorize an MOU. ZCIEA approached these authorities and convinced the Provincial Administrator to issue the letter of authorization.

After receiving authorization, the ZCIEA territorial leadership was referred to the provincial offices of the Department of Social Services for further assessment. The Department of Social Services conducted a security vetting of ZCIEA and the proposed MOU to determine whether the

organization had any political affiliations or agenda. ZCIEA then presented its request to a meeting of 30 councillors from all the wards in the District. Two of the councillors are members of ZCIEA, and they lobbied other councillors to vote in support of an MOU with ZCIEA.

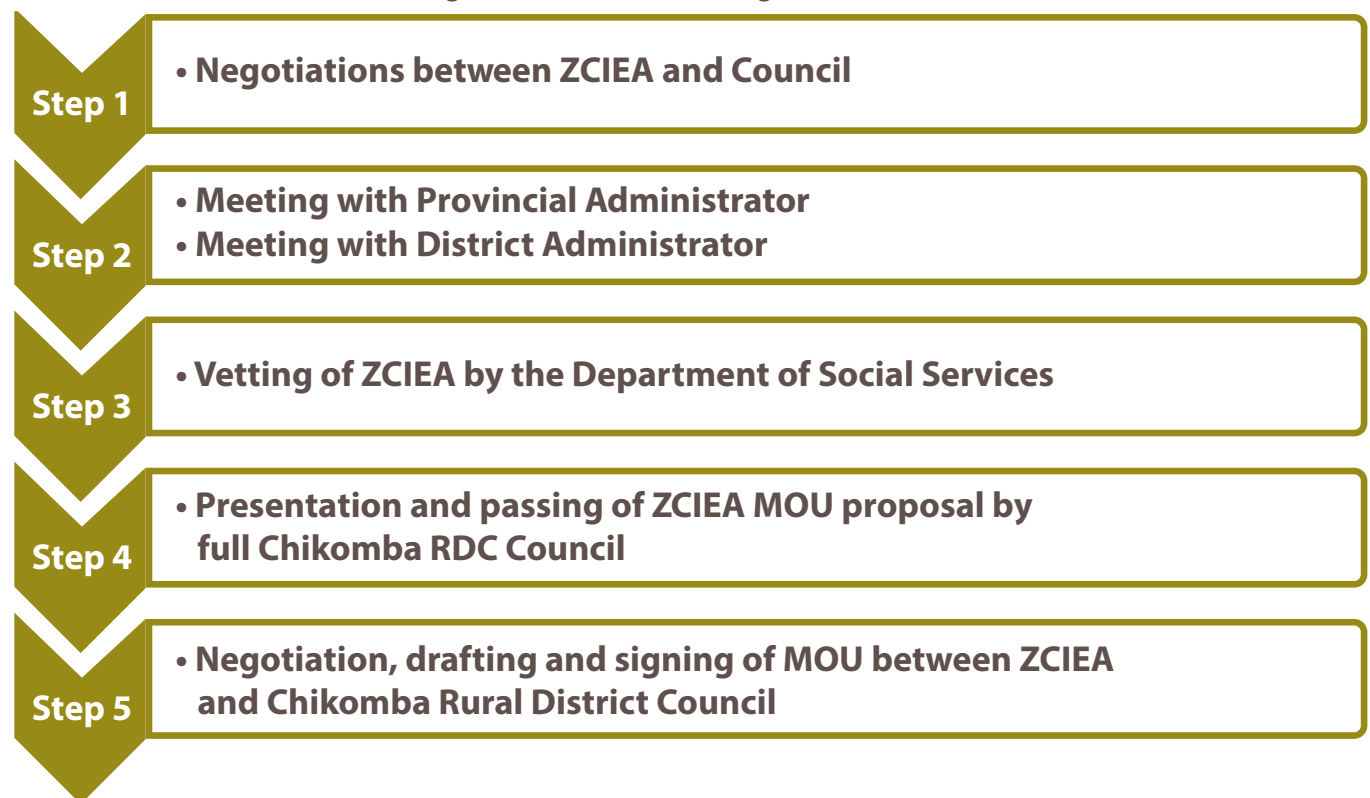
The full council unanimously passed the motion in support of the Chikomba Rural District Council concluding an MOU with ZCIEA. ZCIEA's Chivhu chapter, in conjunction with the ZCIEA national leadership, drafted the MOU, considering the interests of the workers in Chivhu and their obligations to the council, and vice versa. This helped them determine what to include in the MOU. The Chivhu President recalled how drafting the MOU aimed to bridge the gap between the workers and the local authority. The MOU was then reviewed by the Chikomba Rural District Council and signed after more than 18 months of engagement and negotiation. Figure 2 provides an illustration of the negotiation process.

Although the negotiations between ZCIEA and the municipalities of Beitbridge, Chitungwiza, and Gwanda were protracted, the process was not as complex as in Chikomba because they have a town or municipal status, which gave the councils autonomy in the negotiation processes. Concluding the MOUs was therefore solely dependent on the willingness of the local authority and not subject to approval of provincial or district offices.

Council officials in Gwanda and Beitbridge explained how they came to a decision to conclude the MOUs. In Gwanda, ZCIEA leaders approached the council to request an MOU long before the negotiations began and suggested that the council begin to engage the leaders. The officials vetted ZCIEA and decided to conclude an MOU after considering ZCIEA's level of

representation; its constitution; its willingness to engage with the council; and its list of demands. The Beitbridge official reported that the Council was open to concluding an MOU with ZCIEA "because we knew the people" (BTO). ZCIEA is the main organization, and some of the territory leaders already were participating in the area trading committees that the Council consults

Figure 2: Chikomba MOU Negotiation Process



Source: Generated from the interviews with the ZCIEA Chivhu Chapter Leaders.

with. The Council nevertheless conducted due diligence to understand the organization's background and its constitution.

A number of factors hindered the process: First, the highly polarized political environment stalled the conclusion of MOUs. Non-governmental organizations (including worker organizations) in most urban areas are treated with suspicion (ZCIEA SG, 2021). The environment within which the organization operates is highly monitored. Second, administrative challenges in the form of local officials claiming "a few times they said that something had gone wrong with the paperwork" forced them to restart the recognition process (CHV2). Leaders in Chitungwiza explained that changes in council membership stalled the process of negotiating for the MOUs. Third, the COVID-19 pandemic inhibited the signing of MOUs because officials would not hold meetings with the public during the pandemic.

Several factors incentivized the local authorities to sign the MOUs:

(i) ZCIEA's policy to implement R204

ZCIEA had adopted a clear policy position and a strategy to implement R204. This strategy – which stressed the need to establish formal social dialogue platforms for the informal economy – undoubtedly guided ZCIEA's branches in setting their priorities and planning their efforts towards the conclusion of MOUs.

(ii) ZCIEA's maturity as an organization and the capacity of its leadership

In Gwanda and Beitbridge, the council officials acknowledged that ZCIEA was stronger and more representative than other informal worker organizations. In Gwanda, the officials underlined the fact that ZCIEA had a constitution. Related to this was the capacity of ZCIEA's territory leaders as a result of the negotiation skills and collective bargaining training that ZCIEA members had received from StreetNet International and the Solidarity Center (CHO & ZCIEA SG).

In addition, the national leadership provided crucial guidance and support to the territorial leaders, as highlighted by a leader in Chikomba/Chivhu: "Our President – together with the national office – worked very hard to pursue this matter, and persevered until the agreement was reached" (CHV2). The process of negotiating and concluding the MOUs involved close coordination between the national office and the territorial leadership. ZCIEA territorial and national leadership's skill and professionalism impressed local authority officials. A Gwanda Municipality official observed that ZCIEA was better-organized than other informal worker associations in the locality, as evidenced by its willingness to engage and the fact that it had a list of demands (GWHS).

(iii) Willing local authorities

A key enabler was the willingness of the local authorities to recognize informal workers as economic actors and stakeholders in their

localities. The Chikomba Council representative stressed that authorities signed the MOU because there was a need to embrace the informal economy as an integral part of economic growth and revival. This was echoed by the Beitbridge official, who stated: "We recognized that workers in the informal economy and vendors, in particular, are a key stakeholder that contributes significantly to the economy and to council revenue. So it was important for us to recognize them as an essential constituency" (BTO). In addition, one of the Gwanda councillors reported that the council agreed to the MOU with ZCIEA so as to have a defined relationship between the local authority and the informal worker association (GWHS).

(iv) ZCIEA's institutional power

ZCIEA's reputation at the national level also appeared to have been a factor that helped its branches gain the trust of some municipalities. The association has built sound relationships with parliamentary portfolio committees and with some government ministries, including the Ministry of Small and Medium Enterprises. ZCIEA has filed several petitions to Parliament to air its members' grievances and to present practical solutions to the challenges facing workers in the informal economy (ZCIEA1B, 2021). A representative of Gwanda Municipality emphasized that since ZCIEA had been recognized at the national level, it was crucial to recognize and establish a cordial relationship with ZCIEA at the local level.

(v) *Visibility and credibility through participation in community affairs*

At the local level, ZCIEA gained visibility and credibility through active participation in community affairs. This was evident in Beitbridge, where the officials acknowledged that ZCIEA was already part of the local committees that represent street vendors in areas where street vending takes place: “we were willing to sign the MOU because we knew the people” (BTO). In Gwanda, council officials acknowledged the important role that ZCIEA was playing and commended the organization for supporting its members by providing them with personal protective equipment after the pandemic broke out.

An Analysis of the Agreements

Two of the four MOUs (Chikomba and Chitungwiza) outline the issues that the workers have identified, which form the basis of the goals of these MOUs. Both of the agreements identify five identical issues, namely:

- lack of proper stalls
- lack of toilets near trading areas
- the need for trading facilities for people with disabilities
- the need for a once-off vending fee, to avoid demands for payments at any time
- the need for Ecocash (mobile money) for payment of rental fees

The Chikomba agreement identifies two additional issues, namely, the need for a proper and transparent council revenue collection system and the need for a Build, Operate and Transfer (BOT) system for infrastructure development and other initiatives.

The agreement in Chikomba outlines a process to give effect to the agreement: a one-day meeting to formulate a “community-based strategic plan” to “allocate tasks for both parties”. This workshop was never held because the COVID-19 pandemic prevented the parties from meeting.

In terms of the agreement, ZCIEA is obliged to:

- report on “activities” on the first of every month
- implement the programme “using government structures that are in the district”
- disseminate any study or survey results to “all stakeholders”
- plan, implement, monitor and evaluate programmes with communities
- network and cooperate with organizations and similar “development programmes”
- attend the local authority’s social services and reconstruction and development meetings
- maintain transparency with respect to its sources of funding

The Rural District Council’s obligations are much more general. It is obliged to:

- allow ZCIEA to “undertake development activities”
- provide an “overall development framework” for the implementation of development programmes and assist in carrying out needs assessments
- support ZCIEA to mobilize communities to support these development programmes
- assign a senior council official to coordinate these activities on behalf of the Chief Executive Officer

The agreement goes on to outline ZCIEA’s vision “to ensure a decent standard of living for all Zimbabweans within a stable economy” by “transforming informal economy activities into mainstream activities”. Its stated objectives address workers, their organizations and regional and national policy with an emphasis on a “democratization of the environment”.

The period of the agreement is two years. The termination clause states that the partnership will end on the agreed date; or ZCIEA may end the agreement on one month’s notice. In the event of a breach of contract by either party, the other party may cancel the agreement immediately. As is the case with all the MOUs, the agreement does not provide for a dispute resolution procedure, nor does it provide for notice to be given calling for “specific performance” i.e., that the party in breach is given a period of notice to perform, as a step before cancellation.

The parties would independently evaluate the progress made in relation to the agreed activities “from time to time”.

Because the relationships between councils and ZCIEA are more established in Beitbridge and Gwanda, ZCIEA was able to negotiate for MOUs to include more specific obligations on the part of the council, namely:

- to provide proper stalls for traders
- to install public toilets for workers to use
- to provide presence of proper stalls situated in to accommodate traders
- to provide bins for litter at all workplaces
- to adopt user-friendly payment systems

The MOUs state that ZCIEA’s obligations are the following:

- conduct cleanliness/hygiene and climate-change awareness training to keep informal workplaces clean
- encourage members to observe council regulations
- set up structures that are council-approved
- engage council on the formalization of the informal economy work in line with R204 standards of operations and the development of the town

Although these are included as “obligations”, they legitimize activities that allow for ZCIEA to organize and to engage the local authority by

setting up structures that are council-approved and engaging the council on the formalization of the informal economy.

Could these agreements be interpreted as collective bargaining agreements? We turn to the jurisprudence of the ILO’s supervisory mechanisms and to labour law literature to make the argument that the Conventions on Freedom of Association and Collective Bargaining also apply to workers such as street vendors and that these agreements represent nascent forms of recognition agreements. The ILO supervisory bodies – the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and the ILO Committee on Freedom of Association – agree that Convention No. 87 on Freedom of Association and Protection of the Right to Organise, 1948, and Convention No. 98 on the Right to Organise and Collective Bargaining, 1949, apply to all workers, including workers without an employment contract (ILO 2022). According to the ILO Committee on Freedom of Association:

The criterion for determining the persons covered by that right [protected by C98] ... is not based on the existence of an employment relationship, which is often non-existent, for example in the case of agricultural workers, self-employed workers in general or those who

practice liberal professions, who should nevertheless enjoy the right to organize (Countouris and Stefano 2021).⁴

The Committee has found that self-employed persons are entitled to collective bargaining rights as part of their human right to freedom of association (McCrystal and Hardy 2021).

Employers and workers recognize that their interests differ. They enter into collective negotiations to work on a compromise. The first step in a collective relationship is for an employer to recognize a trade union as a “bargaining agent” (Grogan 2019). This usually means that the employer is satisfied that the trade union is independent and sufficiently representative (criteria for representation may be established by collective bargaining laws). Recognition happens either through the parties concluding “a recognition agreement” or through the trade union following a process that is set out in a collective bargaining law.

In each of the four examples discussed, the local authority undertook a vetting procedure before entering into negotiations with ZCIEA to determine: whether ZCIEA is independent from political parties; whether it has a constitution; and whether it represents a significant percentage of street vendors within the jurisdictional areas concerned. In the absence of a statutory recognition process, this demonstrates what a

⁴ ILO Committee on Freedom of Association *Case No 2013 (Mexico): Definitive Report – Report No 326* (November 2001) at para 416.

recognition process could entail in the context of bargaining with local authorities.

Could the MOUs therefore be interpreted as recognition agreements, which is one type of collective agreement? Generally a recognition agreement (a) recognizes the trade union as a collective bargaining agent for a specific group of employees; (b) defines the level at which bargaining takes place (for example at the workplace, within a company, or a sector); (c) extends organizational rights to the trade union (such as access to the workplace to organize; access to information; the right to represent members during disciplinary procedures); and (d) regulates how collective bargaining will take place (how often the parties will meet; how many people will be involved in negotiations; how demands will be made and outlines a process for resolving disputes) (Grogan 2019).

Each of the MOUs states that it aims to “to establish partnership relations based on bipartite social dialogue and engagement principles to form negotiation structures”. This suggests that the local authority recognizes ZCIEA as a bargaining agent for its members. And it is assumed that the level of negotiation is the jurisdiction of the local authority.

In general, none of the MOUs created dedicated structures or regular meetings for ZCIEA and the local authority to engage and discuss the issues that relate to vendors’ work. There are no provisions that set out when meetings will be held, who can participate in the meetings,

procedures for conducting meetings, voting or implementation of decisions made in meetings.

However, two MOUs (Chitungwiza and Chikomba) provide for ZCIEA leaders to participate in council meetings. The Chitungwiza MOU provides that ZCIEA leaders are *entitled* to attend council meetings and may do so with other organizations and NGOs. This means that ZCIEA leaders can attend council meetings and may do so in collaboration with other organizations should they wish to. In terms of the Chikomba MOU, ZCIEA is *obliged* to attend social services and council meetings “whenever necessary”. It is unclear who (ZCIEA, the council or both parties) has the power to determine that it is necessary for ZCIEA to participate in a social services or council meetings. There is therefore no certainty as to whether ZCIEA Chikomba leaders can participate in meetings that they deem important and to which they wish to contribute. Moreover, the composition, procedures, agendas and powers of the council meetings are exclusively determined by the council.

None of the MOUs provide for a dispute resolution process or for a party to give the party in breach of the agreement notice before cancelling the agreement.

Although the MOUs do not include all of the components of a standard recognition agreement, it must be remembered that collective agreements are a product of compromise and reflect the bargaining power of the respective parties. Given the antagonistic relationship between vendors and

local authorities, these collective agreements constitute a significant achievement by ZCIEA. As the ILO says, collective agreements should be seen as “institutional experimentation and incubation of new regulatory approaches”. There is no blueprint for a collective agreement, which can identify specific solutions for a particular industry, geography, work situation or enterprise (ILO 2022:31).

Implementation of the Agreements

The leaders of ZCIEA (both at the national level and within the four towns) agree that the MOUs have made a difference in the following ways:

The recognition of vendors and their organizations

Several leaders noted that the MOUs brought about the recognition of street vendors as workers and the recognition of ZCIEA as street vendors’ representative organization within their respective territories.

A Chitungwiza leader emphasized that the MOU recognized the humanity and dignity of street vendors: “All we wanted was for [the council] to see us as people, now we are recognized and viewed as people among others.” Several leaders observed that the MOUs elevated ZCIEA’s status and recognition as the voice of street vendors and as a negotiating counter-party on matters concerning them: “now they know that there is an organization called ZCIEA that represents street vendors” (CH4); “we are now known as an organization that is operating here in Chivhu” (CHV2).

Improved relations and councils consult with street vendors

Most ZCIEA territory leaders felt that the MOUs represent a break with a past characterized by acrimonious relations between councils and street vendors. Some leaders expressed the hope that concluding the MOUs would reduce, and eventually eradicate, harassment and victimization of street vendors and the confiscation of their goods. They also noted that the agreements signified a move towards more harmonious relations and presented the opportunity for workers to bring their complaints and demands to their respective councils:

“The MOU is there to give us a table [at which] to sit with the council and the informal workers and discuss things peacefully.” (CH6)

“Vendors are no longer to be chased away; we are now able to negotiate with the council if we have demands.” (CHV5)

“...to promote mutual understanding of our needs and demands as workers.” (CH5)

“It means that street vendors need not be afraid when doing their work.” (CHV3)

“...better understanding between us and the police.” (CHV3)

Several ZCIEA territory leaders observed that after the conclusion of the MOUs, councils could no longer make unilateral decisions about issues that affect street vendors. Many of these leaders reported that the MOUs require councils to include ZCIEA in decision-making processes (even

though this is not reflected in the actual content of the MOUs). The nature of the obligation to include street vendors extended along a continuum from merely informing them about “everything that is being done in our city” (CH2) to recognizing them as equal partners who have a say in the determination of a decision: “In my understanding, the MOU means we are now a unit; we work hand in hand in terms of decision making. Nothing for us without us.” (CH3)

Leaders in Chitungwiza reported that very little had changed since the adoption of the MOU: “At the moment, it’s as if we don’t have the MOU because they do not call us for the meetings.” (CH2) Some of the leaders attributed this to the COVID-19 pandemic. The only engagement that had transpired between ZCIEA and council related to the allocation of a site for the establishment of vending stalls. ZCIEA and the council had discussed the identification, design and construction of a new vending site by ZCIEA on a Build, Operate and Transfer basis. However, the council had taken over the work on the proposals. The leadership highlighted how there was very little change in the way that local authorities treated street vendors. Police and local authorities continued to harass the street vendors over issues of working space.

In Gwanda, leaders reported that there had been some progress on most of the issues. Leaders reported that the council was including ZCIEA in its meetings and consulting the leaders on all matters: “Local authorities now include ZCIEA members in the various local authority committees. There is [e]ngagement on critical

issues, local authorities prioritize ZCIEA members. Local authorities liaise with and advise ZCIEA members on workspace allocation.” (GW1) Some leaders indicated that there was a significant improvement in the relationship with the council as there was greater mutual respect between the parties to the MOU. This was confirmed by a Council official: “Before the MOU there was a lot of fighting. There were a lot of battles. Now there is a recognized MOU; it’s now easier to communicate with more people on council activities.”

Leaders in Beitbridge reported positive developments in that they are now able to present their concerns and demands to council and that the relationship between the street vendors and the council had improved from “council treated us as street kids or criminals” (BT2) to “there is great change because now we can negotiate with our local authorities” (BT5). It was, however, unclear what procedures the parties had put in place to enable dialogue and negotiations. In addition, the workers did not report any progress on substantive issues. Most of them attributed the limited changes in their working conditions to the fact that the agreement was signed at the beginning of the COVID-19 pandemic.

Chikomba territory leaders noted the greatest progress towards the implementation of the MOUs. They reported that the council was including them in all meetings, including budget meetings and that, in turn, they were submitting monthly reports to the council. In addition, some leaders indicated that council officials have attended ZCIEA territory meetings on the

organization's invitation. This is not a requirement in terms of the MOU, and it is unusual for organizations to invite government officials to their internal meetings.

Council officials interviewed in Gwanda, Chikomba and Beitbridge agreed that the MOU improved the relationship between the council and the vendors. In Gwanda, the official noted that the MOU made it much easier to communicate with ZCIEA. In Chikomba, the council official stated that there was more collaboration with ZCIEA. The Chikomba official also noted that ZCIEA was more willing to formalize their operations following the conclusion of the MOU.

In Beitbridge, the official argued that "the signing of the MOU was only formalizing the relationship" (BTO) because the council already was engaging with ZCIEA leaders who were represented in the area vending committees. He indicated that the MOU had opened new possibilities for engagement: it was now possible for ZCIEA to invite the council to its meetings. The official reported that ZCIEA had invited the council to two meetings in 2021, and that the officials had attended and engaged with ZCIEA on the issues raised. He expressed optimism about the council's future engagement and relationship with ZCIEA.

Improved working conditions

Some leaders underlined the significance of the commitment to achieve substantive goals that would lead to the improvement of vendors' material working conditions. For example,

they stated that the MOUs would promote the provision of "good working spaces" (CH1); "conducive workspaces" (GW1); better sanitation (BT4); and "trading space, water and toilets" (BT6).

In Gwanda, the official indicated the council's willingness to provide ZCIEA with land. He reported that since concluding the MOU, the Gwanda council had facilitated a partnership for the lease of land belonging to National Railways of Zimbabwe to ZCIEA. In terms of this arrangement, ZCIEA must build its own trading structures. The leaders also reported that there has been some progress in relation to the allocation of space: "A few working spaces have been allocated to vendors" (GW4).

In Chikomba, the leaders reported some progress towards the realization of their substantive demands, including the council's commitment to providing stalls for informal cross-border traders to vend:

"The street vendors can now be seen working freely; the council has come to understand the local traders' way of living ... council has

promised to create proper working spaces ... the informal traders are being recognized." (CHV4)

The leaders reported that one of the key outcomes of engagement is that the council has allowed for street vendors to trade on the streets for US\$5 on weekends. This appeared to be an interim measure in recognition of the fact that the council has yet to allocate adequate spaces to street vendors. The territory leaders remarked that while this provided a welcome opportunity for street vendors who currently have not been allocated spaces, it has negatively affected vendors who have been allocated a space in the market. Another important outcome is Chikomba Council's allocation and sale of a 1,000-square-metre piece of land for the ZCIEA branch to build its offices.

Most of the agreements were concluded less than a year before we collected the data. Yet most of the ZCIEA territory leaders reported some progress towards the implementation of the MOUs. Chikomba, where the first MOU was concluded, registered the most significant progress. Although the MOUs for Beitbridge included more substantive obligations on the

Table 2: ZCIEA leaders' assessment of progress towards the implementation of the MOU

Territory	Date of MOU	Relationship	Procedural issues	Substantive	Population 2012
Chikomba	21 November 2019	Improved	Improved	Limited progress – concrete commitments	Yes
Beitbridge	8 July 2020	Improved	Improved	None	No
Chitungwiza	14 July 2020	No change	None	Limited progress	No
Gwanda	11 November 2020	Improved	Improved	Progress – allocation of working space	No

local authority than Chikomba, there has been less progress than in Chitungwiza and Chikomba, which provide for worker leaders to participate in council meetings. This finding supports the view that these agreements should be interpreted as recognition agreements – agreements that establish a relationship, which some affiliates have been better able to build on than others.

ZCIEA and local authority officials in all localities cited the COVID-19 pandemic as the main impediment to the implementation of the MOUs. In Chikomba, the territorial leadership cited financial constraints as a key barrier to the hosting of the strategic planning workshop to operationalize the MOU.

Conclusion

Despite the observations by the ILO supervisory bodies that the Conventions on freedom of association and collective bargaining also apply to self-employed workers, street vendors and other self-employed workers are excluded from the labour laws of Zimbabwe. Nevertheless, they have mobilized and organized. With the support of the Solidarity Centre and StreetNet International, ZCIEA has built the capacity of its branches to find innovative ways to gain recognition as bargaining agents and to engage in collective negotiations. In particular, branches have used R204 as a basis for claiming rights to collective bargaining with the local authorities that control their access to and conditions in their workplace – public space.

We have argued that the MOUs can be seen as a form of collective bargaining agreement, namely recognition agreements. To be sure, the obligations of the local authority are not enforceable, and the MOUs lack a dispute resolution process. Nevertheless, in three of the four locations where we interviewed ZCIEA officials and officials from the local authority, the agreements have brought about significant shifts in the relations between street vendors and local authorities: ZCIEA is recognized as representing its members; its officials now participate in council meetings and are consulted by local authorities on issues affecting vendors; and, in the case of Chikomba and Gwanda, the local authority has agreed to designate land for trading sites. Thus, the MOUs have had the effect of establishing collective relations between local authorities and ZCIEA.

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Acknowledgements

This brief is based on semi-structured interviews, informal conversations and meetings with ZCIEA's national leaders and leaders of ZCIEA's local chapters and with local authority officials from the four cities during 2021. The authors are grateful to the leaders of ZCIEA for sharing their experience and expertise and to the local authority officials for their candid discussions. Our hope is that by documenting and analyzing the collective negotiations and the MOUs, it will demonstrate that collective agreements between organizations of street vendors and local authorities are possible and have a positive impact on relations and progressively realizing decent work for street vendors, who work in public spaces. Our thanks to Allison Corkery, the Law Programme Director, for her insightful comments on an earlier draft.



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