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Plenary 2

Rethinking the Informal Economy: Linkages with the Formal Economy and the Formal Regulatory Environment

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**Rethinking the Informal Economy:
Linkages with the Formal Economy and
the Formal Regulatory Environment**

PLENARY PANEL PRESENTATION

**Policy and Institutional Reforms sought by workers in the informal economy and
their organizations – from the perspective of street vendors**

POLICY & LEGAL REFORMS

LABOUR MARKET POLICY

- **Recognition as workers**
- **Basic labour standards**
- **Access to labour market institutions**

Recognition as workers: The definition of workers in most labour law as employees (usually full-time permanent employees, what's more) is an obstacle to the inclusion of most informal economy workers in labour legislation and labour market policy. Changing the definitions and terminology (e.g. workers instead of employees) would be one first step in a process of coming to terms with the different kinds of labour relationships which exist in the informal economy. Incorporating the concept of own-account worker (as described in the Conclusions on Decent Work and the Informal Economy adopted at the International Labour Conference of the ILO in June 2002) in labour legislation and labour market policy would be another.

Basic labour standards: In theory the core Conventions and basic labour standards of the ILO apply to all workers, including those in the informal economy. However, in practice workers in the informal economy are achieving these to a much lesser degree than workers in the formal economy, for a whole lot of very obvious practical reasons. Policy measures to enhance implementability are needed.

(e.g. Child labour – instead of measures preventing child labour, which may be the correct measure against child labour hired by employers in the formal economy – support measures to improve the earnings of adults in the informal economy and more affordable access to school education for children of the poor.)

Access to labour market institutions: National tripartite institutions are usually structured for formal employers and organized workers in the formal economy. Policy reform for institutional transformation is needed. One policy issue (in the case of tripartite institutions) to be determined – is a fourth social partner the most appropriate way to go (*such as the Development Chamber in NEDLAC in South Africa*) or transformation of the employer and worker components to ensure that they properly represent employers and workers in the informal economy (*such as the route promoted at the ILO by the WIEGO-linked organizations*) ?

Institutions such as standards-setting bodies, labour tribunals and other dispute-resolution mechanisms, etc. usually operate according to Terms of Reference which preclude dealing with the issues of workers in the informal economy, because it would require a type of inventive creativity that most civil servants trained in the formal economy paradigm do not, at best, feel free to display, and at worst, are not capable of. Policy is needed to determine whether to create new institutions (*such as decentralized tripartite Boards in operation in certain states in India for head-loaders and other informal trades*) or to change the Terms of Reference to transform existing institutions.

SOCIAL SECURITY

- **Access to social security systems**
- **What forms of social security are required**

Access to social security systems: Existing social security systems need to be extended to included workers in the informal economy (including own-account workers) and/or new social security systems need to be put in place. To facilitate payment of workers' contributions, a system of registration and identity cards would need to be considered. Payment of contributions by entrepreneurs who work in the sector/industry (whether or not they directly employ their own workers) would have to be considered – as well as of course contributions by government

What forms of social security are required: Equivalent of unemployment insurance, i.e. other forms of loss of income insurance – viable possibilities need to be designed. Social security surveys of workers in the informal economy would need to be done to determine what the priorities are for workers in the informal economy rather than assume standard social security priorities.

URBAN PLANNING

- **Recognition of contribution to local economy**
- **Local economic development**
- **Policies and bylaws**
- **Regulation**
- **Problems of continuity**

A necessary prerequisite for policy reform in this area is for cities to recognize what is happening to them – global increase of street vending and other forms of informal trade, accompanied by (often precipitated by) accelerated urbanization processes worldwide. Many cities still need to come to terms with this in order to shake off the traditional abolitionist approach towards street vending and informal trade, and develop the political will to enter into policy reform which addresses this reality.

Recognition of contribution to local economy: Research to determine the economic contribution of street vendors and other workers in the informal economy to the economy of the city, usually produces unexpected results and facilitates an appreciation by local government of the economic role of workers in the informal economy. Of course it also allows for better and more informed economic planning.

Since most local governments have not yet done this kind of investigation, it needs to be done in most cities.

Local economic development: With information about the economic contribution of workers in the informal economy, local economic development planning needs to be incorporate their development proposals. The process of local economic development should be a participatory process involving all stakeholders including organized workers in the informal economy, including organizations of street vendors and market vendors. This is increasingly essential for local economic development plans to work, as street vendors world-wide are increasingly becoming more resistant to unilateral planning and can (and do) sabotage plans which they perceive to be unilateral and do not buy into.

Policies and bylaws: For local government bylaws to be consistent and implementable they should be drafted in line with a clear policy. Local and national governments should develop policies on informal trade or on the regulation of street vending. Effective policies and bylaws cannot be developed unilaterally. The process of developing policies and bylaws has to involve the active participation of organized street vendors, market vendors and any other informal economy workers affected.

Organisations of informal economy workers have to be actively involved in the implementation of the policies. In order to swiftly and justly resolve problems with the implementation of policies or regulations, bylaws should always contain an appeal provision which is easy for all parties to put into action and follow through, culminating in the end in legal action if all else fails.

Implementation plans with projected time-frames, budgets, carefully worked out with all parties, well-advertised with regular progress reports – are important to reassure informal traders who are accustomed to inconsistency on the part of local government and lack of sustainability of their programmes.

Regulation: For street vendors, the regulation – deregulation debate does not hold much meaning. The issue is appropriate regulation, and determining what regulation is appropriate requires the participation of those most affected.

Problems of continuity: Unfortunately democratic processes at local government level frequently result in a loss of continuity when a change in local government at election time results in changes not only of elected politicians, but also of personnel and functionaries, and ultimately often a complete loss of institutional memory for the local government. This is worse when organizations of street vendors are also affiliated, beholden to or tied in any other way to political parties. Policies, agreements, and any negotiated solutions to any problems fall by the wayside and the livelihoods of informal traders revert to being as insecure as they ever were before.

Policies need to anticipate the unintended outcomes of regular or routine political changes, and identify some appropriate mechanism to retain responsibility for management of informal economy policies and regulations even through times of political change – without in any way compromising normal democratic political processes.

OTHER

- **Taxation**
- **Financial services**
- **Immigration**

Taxation: Recognition of the various forms of revenue paid by street vendors and informal traders as part of taxation, and integration of their taxes into the mainstream taxation system. Recognition of their rights and demands as tax payers. Innovation and improvement of methods of tax collection to combat abuses.

Financial services: Access to affordable basic financial services, such as savings facilities, automatic payment services (debit order and stop orders), insurances, etc. Access to affordable credit based on savings rather than assets or collateral.

Immigration: Proper work permits for cross-border trade in the informal economy, to avoid informal traders being harassed for trading on visitors' visas. Recognition and regularisation of customs duties paid by informal traders. Establishment of inter-departmental mechanisms to deal with issues of informal migrant workers in relation to labour and other economic policy issues, and to separate these from the issues of illegal entry, trafficking or illicit trade which are often confused with foreign traders, particularly in the informal economy.

INSTITUTIONAL REFORMS

REPRESENTATION

- **Statutory collective bargaining forums**
- **Direct representation**

Case of street vendors:

Street vendors need to be represented by their own elected representatives in at least the following ways:

1. in urban planning and policy forums, including those which draft legislation for the regulation of street vending;
2. in municipal planning bodies that allocate and zone urban space, regulate urban activities and implement bylaws for the regulation of street vending;
3. in courts to settle summary arrest warrants, institute urgent interdicts or pre-planned test cases for establishment of good legal precedents, and other cases.

Case of home-based workers:

Home-based workers need to be represented by their own elected representatives in at least the following ways:

1. in fair trade and Code of Conduct campaigns;
2. in labour negotiations with lead firms as well as intermediaries in global value chains – to determine fair piece-rates, to formulate Codes of Conduct, to monitor compliance, and to pursue cases of infringement;
3. in courts to file cases of infringement against Codes of Conduct.

Case of non-standard contract workers:

Non-standard contract workers need to be represented by their own elected representatives in at least the following ways:

1. in existing bargaining forums in industries where casual and contract workers are habitually employed – to eliminate deepening inequality between permanent and temporary workers;
2. in committees and negotiations for the allocation of (government) tenders;
3. in tripartite bodies determining and monitoring labour standards for all workers.

Criteria for direct representation in collective bargaining:

The following would be part of a checklist of criteria to be addressed by organisations putting in place new collective bargaining forums or transforming and extending existing bargaining forums:

(a) Relating to democratic representative organisations of workers and to collective bargaining and collective representation:

- membership-based organisations with accountable elected representatives are better placed to participate effectively in voice regulation;
- criteria for accreditation should be simply a working constitution and some form of verifiable membership records;
- organisations need ideally to be autonomous, at least independent of control by negotiating partners (who may control their members individually);
- organisational rights need to be established (i.e. freedom of association, no victimisation of members, rights to conduct meetings and elections, etc.)
- organisational capacity to engage in multi-lateral collective bargaining forums;
- organisations need to build and sustain alliances.

(b) Regarding regulations and institutions that promote democratic and equitable policy-making and negotiation systems:

- process is one of negotiation as opposed to only consultation or hearings;
- full and transparent disclosure of information;
- organisations have freedom to collect mandates;
- organisations have freedom to report back to members;
- recognition and institutionalisation of conflicts;
- formal dispute-resolution procedures;
- agreements reduced to writing and signed by all parties;
- involvement of all parties in implementation of agreements;
- involvement of all parties in monitoring implementation;
- last resort: shift from engagement to unilateral actions to pressurise other party/parties into settlement

(c) Building in sustainability:

- all negotiating partners have to become sustainable credible representative organisations, even if they represent transitory constituencies;
- capacity to monitor implementation of agreements;
- all agreements signed;
- certain agreements gazetted and converted into statutory regulation;
- where necessary, agreements to contain clauses ensuring continuity in the event of changes in *legal persona* of negotiating parties;

- collective bargaining forums to become statutory institutions of voice regulation with secretariat support (e.g. for proper convening of meetings, minute-taking, reducing agreements to writing, etc.)