WIEGO NETWORK PLATFORM

TRANSITIONING FROM THE INFORMAL TO THE FORMAL ECONOMY in the interests of workers in the informal economy



Produced through an international participatory process in coordination with informal worker organizations and supporters

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Workers in the informal economy include both wage workers and own-account workers. Most own-account workers are as insecure and vulnerable as wage workers and move from one situation to the other. Because they lack protection, rights and representation, these workers often remain trapped in poverty.¹

A majority of workers worldwide work in the informal economy, and most new jobs are informal jobs. It is assumed that informal work is unlikely to completely disappear, and that many informal economic activities will remain informal or semi-formal in the foreseeable future. There is no single, easy, one-step way to formalize informal employment. Rather, it should be understood as a gradual, ongoing process of incrementally incorporating informal workers and economic units into the formal economy through strengthening them and extending their rights, protection and benefits.

The WIEGO Network supports the definition of informal employment, adopted by the International Conference of Labour Statisticians (ICLS), 2003 (details in Annex).



What Do Informal Workers Need?

The working poor in the informal economy have a common core set of needs and demands, as well as those specific to their employment status, occupation and place of work. For all informal workers, formalization must offer benefits and protections – not simply impose the costs of becoming formal. It must restore the universal rights from which workers in the informal economy have been marginalized by the neo-liberal model of governance over the past 40 years, and reintegrate them into legal and regulatory frameworks.

Common Core Needs and Demands

Organizing/Labour Rights

Workers in the informal economy must be able to effectively exercise their rights to organize and bargain collectively, as well as their other fundamental rights at work.

Voice and Bargaining Power

The working poor in the informal economy need individual voice and bargaining power founded in an awareness of their rights. They must also have collective and representative voice that allows them to negotiate on a continuing basis with the dominant players in the sectors or value chains in which they operate. Collective voice comes through being organized in democratic membership-based organizations. Representative voice comes through having representatives of these organizations participate in relevant policymaking, rule-setting, collective bargaining, or negotiating processes – including by means of direct representation in tripartite forums. Ideally, the representation of membership-based organizations in the relevant processes should be ongoing and statutory.

Legal Identity & Standing

The working poor want to be recognized as workers or as economic agents with a clear legal standing in all relevant policy-regulatory-legal domains. They do not want to be relegated, as the poor or vulnerable, to the social policy domain alone; they want to be recognized as legitimate contributing economic agents by policymakers who frame both macro-economic and sector-specific economic policies. This necessitates extending the scope of labour laws to categories of workers traditionally excluded (e.g. domestic workers, home-based workers, agricultural workers) and/or amending laws so they cover the full range of relationships under which work is performed.

Economic Rights

The working poor in the informal economy need and demand a wide range of labour, commercial, and land-use rights in order to: improve their employment arrangements and secure their livelihoods; make their economic activities more productive; and use their representative voice to achieve appropriate changes to the wider institutional environment that affects their work and livelihoods.²

Social Rights, including Social Protection

Social protection coverage must be extended to all workers in the informal economy through social assistance and/or social insurance mechanisms, as part of universal social security. ILO Member States should commit to this by adopting clearly elaborated Social Protection Floors. This includes rights to housing, education, health, food security, water, sanitation and social protection against the core contingencies of illness, disability, old age, and death, and against work-related risks. Maternity and child care should be addressed as a priority due to the over-representation of women in the informal economy.



² It should be noted that labour rights are premised on the notion of an employer-employee relationship. But many of the working poor are self-employed. For them, traditional labour rights are not always relevant. Instead, the basic right to pursue a livelihood, as well as commercial rights, are of greater relevance and importance.

Different Categories: Different Meanings and Implications

Formalization has different meanings and implications for different categories of informal workers. The diversity of actors in the informal economy should be recognized. The informal economy includes economic units, self-employed workers (a majority of whom are ownaccount workers striving for survival, with a small minority being entrepreneurs) and wage workers who work informally in either informal or formal enterprises but whose rights as workers are denied. Informality also occurs along global supply chains, where subcontracted workers are deprived of decent working conditions.

For the self-employed, formalization should not mean just obtaining a licence, registering their accounts, and paying taxes - these represent, to them, the costs of entry into the formal economy. In return for paying these costs, they should receive the benefits of operating formally, including: enforceable commercial contracts; legal rights to a secure place of work and means of production; access to markets; preferential prices for social enterprises and worker-controlled cooperatives; membership in trade associations or other associations of their choice; protection against creditors; and social protection.

For informal wage workers, including those who work informally in precarious jobs in formal enterprises, formalization means obtaining a formal wage job - or formalizing their current job - with a secure contract, worker benefits, membership in a formal trade union, and employer contributions toward their social protection. It is important to highlight that formalizing wage work requires a focus on employers, as they are more likely than employees to avoid compliance with labour regulations. In this context, it should be noted that many informal wage workers work for formal firms and households, not just for informal enterprises.

Summary of a Comprehensive Approach for Transitioning from the Informal to the Formal Economy

1. Formalization of Informal Work legalization, legal recognition and protection as workers (for own-account and self-employed)

rights and benefits of being formally employed:

- freedom from discrimination
- minimum wage
- occupational health and safety measures
- employer/state contributions to health and pensions
- right to organize and bargain collectively
- membership in recognized worker organizations, including trade unions
- inclusion in decision-making

benefits of operating formally for own-account workers:

- simplified registration procedures and simple administration
- progressive taxation system
- protection from harassment
- access to resources and facilities
- workers' rights
- support services, such as access to financial services and training
- inclusion in participatory budgeting processes including at local government level

- 2. Formalization of Informal Economic Units appropriate legal and regulatory frameworks, including:
 - enforceable contracts
 - land-use and property-use rights
 - use of public space
 - occupational health and safety regulation

benefits of operating formally:

- work security and security of working space
- access to finance and market information
- · access to public infrastructure and services
- enforceable commercial contracts
- limited liability
- clear bankruptcy and default rules
- access to government subsidies and
- membership in trade associations
- access to a formal system of social security

registration and taxation:

- simplified registration procedures
- progressive taxation systems



Organizing and Labour Rights Formalization of Labour Rights

At their origin, all trade unions were formed by informal workers, since the entire economy was informal at the time trade unions were first organized. Trade unions were, and still are, self-help organizations of workers who, through collective action, seek to regulate their wages and working conditions so as to eliminate the worst forms of exploitation, i.e. to formalize an informal situation.³

For workers in the informal economy to exercise their full labour rights, legal recognition and practical integration of their right to be represented by worker-controlled organizations of their own choice is essential. They must be able to regulate their working conditions through collective bargaining processes that involve democratically elected representatives of these worker organizations (not representatives of other trade unions on their behalf).

Workers in the popular or social solidarity economy need to enjoy the right to work in cooperatives while being legally recognized as workers.

Governments need to start giving effect to formalization processes by de-criminalizing all subsistence economic activities that are not inherently criminal in nature.

Youth Entry into Labour Market

Policies are needed to ensure youth can become fully integrated in labour markets with protection against becoming another vulnerable sector of the labour force.

Defence of Decent Jobs

To avoid counterproductive effects, governments should do away with SEZ (Special Economic Zones) exemptions or other measures that create further informalization.

Voice and Bargaining Power Formalization of Representation: Nothing For Us Without Us!

Negotiation as Opposed to Consultation

Consultation allows people's voices to be heard, but does not carry any obligation to reach agreement – it may not even link with what is implemented afterward.

Consultation can lack continuity – it can be a once-off exercise – and does not necessarily empower those consulted or alter power relations. The party initiating a consultation controls the process, the outcome, and all future actions based on the issues raised. Negotiation, on the other hand, takes place on a level playing field on which all parties engage with a view to reaching mutually acceptable agreements. In negotiations, vulnerable constituencies use their collective strength to exert a sufficient level of choice and control, affecting a suitable outcome.

The most direct form of negotiations is bilateral negotiations between two parties. However, sometime it is appropriate for a number of parties with a common agenda to negotiate jointly with an authority. For example, multiple actors (e.g. municipality, suppliers, and enforcement agencies) typically exert control over the lives and work of street vendors.

Thus it often makes sense to enter into multilateral negotiations in a joint collective bargaining forum where multiple layers of controls can be simultaneously addressed.

As well, street vendors are often represented by many associations in the same area.

The municipality may not want to negotiate with each of them separately (which can lead to inconsistency, confusion and even conflict). In such a circumstance, multilateral negotiations between the authority and many different representative organizations are often the best way to achieve effective results.

Creating New Bargaining Forums

Existing bargaining forums are designed to address workers with formal employment relationships. They do not lend themselves to addressing the issues faced by vulnerable constituencies of workers in the informal economy. New, appropriate bargaining forums must be created, they must be enshrined in law, and there must be sufficient budgetary provision for them to function effectively. This requires designing the rules of participation, establishing criteria for determining the issues for negotiation, and envisaging how such new forums will engage with the wider policymaking and regulatory frameworks so that these become a meaningful part of participatory decision-making.

Direct Representation in Tripartite Forums

Systems of representation of workers in the informal economy by formal economy representatives in tripartite forums need to be replaced by the direct representation of workers in the informal economy themselves. This will improve the legitimacy of such forums in changing labour markets and in a changing world of work. A model for consideration has emerged in South Africa. The National Economic, Development & Labour Council (NEDLAC) Tripartite Plus model has a Community Constituency in addition to the three traditional partners: government, employers and trade unions. In contrast, at the International Labour Conference (ILC), the tripartite structure has been retained – and in recent years, organizations of workers in the informal economy have found space for direct representation in the Workers' Group, and used this space while strengthening the alliance between workers in the formal and informal economies.

Legal Identity and Standing Formalization in Labour Market Policy and Legislation

Legal Protection

There is a growing commitment in development policy circles to extending legal protection to workers in the informal economy. In its final report, entitled *Making the Law Work for Everyone*, the United Nations Commission on Legal Empowerment for the Poor prioritized three areas of legal rights and empowerment: property rights, labour rights, and business rights.⁴

Most informal workers are not protected under existing labour regulations (which are premised on an explicit employer-employee relationship) and most informal enterprises are not covered under existing commercial or business laws (which are premised on a formal commercial contract). Further, many informal economic activities are governed by local government regulations. Activities of the urban informal workforce are governed in large part by urban planners and local governments, which set rules and determine norms and practices about who can do what, and where. Often the rules are framed or interpreted in ways that discourage or ban informal activities without providing any acceptable alternatives, thus destroying the livelihoods of informal workers.

Legal Recognition

Governments need to recognize all workers in the informal economy, including own-account workers, as workers – and not as entrepreneurs or a parallel sector of undefined economic operators on the margins of the labour market. Governments need to recognize that such workers have come to form a majority of the global labour market.

Appropriate Legal Frameworks

Extending legal protection to informal workers will require rethinking and reforming existing legal regimes in most countries. The working poor in the informal economy need new or expanded legal frameworks to protect their rights and entitlements as workers, including the right to work (e.g. to vend in public spaces), labour rights, commercial rights, and land-use rights. Labour legislation needs to be revised to include the right of own-account workers to have their representative organizations registered as trade unions with the right to negotiate with relevant authorities and to access simple statutory dispute procedures. In addition, laws need to be effectively applied in cases of disguised employment relationships, or where joint and several liability⁵ applies in triangular employment relationships.



- ⁶ Commission on Legal Empowerment for the Poor (CLEP). 2008. Making the Law Work for Everyone. New York: UNDP.
- ⁵ For example, where an intermediary and the end firm are held jointly responsible for ensuring compliance with employment laws and regulations, the worker can make a claim against either of the parties. It becomes the responsibility of the parties to sort out their respective liability and payment.

Economic Rights Formalization in the Economy

Workers in the informal economy, including own-account workers, play an important role in local and national economies by helping to reduce unemployment and improve both the GDP and social stability.

The following factors should be embraced to recognize this contribution:

Favourable Policy Environment

The economic policy environment needs to be supportive of informal operators, especially the working poor, rather than being blind to them or biased against them. This requires addressing biases in existing economic and sector policies, as well as designing and implementing targeted policies. It also requires ensuring that macro policies do not create the conditions for increasing informalization, and that government procurement creates demand for the goods and services produced by informal enterprises and workers.

Improved Terms of Trade

To compete effectively in markets, the working poor need not only resources and skills but also the ability to negotiate favourable prices and wages for the goods and services they sell, relative to the cost of inputs and their cost of living.

Social Solidarity Economy

A new economic sector is emerging governed by principles and values of social responsibility, entrepreneurship and solidarity, and this is vital to the development of democracy and economic citizenship⁶.

A strong Social Solidarity Economy consistent with the objectives of social inclusion and decent work should be built by promoting enabling policies and laws and through the provision of resources and support programmes including financial support, information and advice, training, research and innovation. Cooperatives, mutual societies, associations and other organizations should be encouraged and practically supported in the development of a popular economy workers' alliance.

Social Rights Including Social Protection Extension of Social Protection

Social protection is high on the development policy agenda in the aftermath of the global economic crisis, which undermined livelihoods in the informal economy. In June 2012, the ILC adopted Recommendation 202 on Social Protection Floors that would cover people at all stages of the life cycle and be comprised of a combination of cash transfers and access to affordable social services, especially health care.

There is a need to:

- prioritize extension of social protection coverage to excluded groups of workers and their families
- adapt both social and private insurance to incorporate informal workers by providing fiscal and other incentives for their affiliation
- coordinate diverse forms of protection and ensure universal pensions and health coverage.⁷

⁶ StreetNet resolution on the Social Solidarity Economy adopted at the Third StreetNet International Congress in Cotonou, Benin, in August 2010.

⁷ There is currently no agreement on the appropriate role of government, the degree of government responsibility and public expenditure, and the mix of private versus public insurance and provision.



Protection Against Risk and Uncertainty

The working poor need protection against the risks and uncertainties associated with their work, as well as against the common core contingencies of illness, disability, property loss, and death.

Specific Protection for Women

Women working in the informal economy need maternity leave so that they do not have to work immediately following delivery. The issue of child care is also a priority, given the overrepresentation of women in the informal economy. Measures are needed for the prevention of abuse of women, who form the majority of workers in many sectors of the informal economy.

Occupational Health & Safety at the Workplace

According to the ILO, "workplace refers to any place in which workers perform their activity".8

In the process of formalization, the obligation to provide healthy and safe workplaces needs to extend to all workplaces, including the public space where many workers in the informal economy conduct their economic activities. Protection against work-related risks (theft, fire, floods, and drought) must also be a factor.

⁸ Clause 1 (i) of the ILO Recommendation on HIV/AIDS and the World of Work (R200).

What Formalization Should NOT Mean

- costly registration and tax requirements without the rights, benefits or protections that should accompany formalization
- taxation or registration of informal enterprises without benefits, including:
 - a flat taxation system where own-account workers pay the same taxes as big businesses
 - an obligation to register with different departments in cumbersome procedures
- unilateral decisions made by authorities, especially to impose:
 - unrealistic educational requirements for informal workers
 - unrealistic legal requirements for informal workers
 - preconditions that are difficult to meet
 - costly requirements that are unaffordable for most informal workers
- formalization which criminalizes/persecutes those who cannot achieve prescribed levels
- discrimination against women, foreign nationals, people with disabilities, etc.
- fiscal and taxation schemes which privatize public goods
- registration as individual entrepreneurs, which denies access to collective workers' rights
- formalization in which those with more resources have the same responsibilities as those who remain with no resources
- formalization which creates a "closed shop" system with a new elite "in-group" collaborating with authorities to keep out "outsiders" trying to claim/defend their rights
- generation of new exclusions, problems and costs
- preferential recognition of yellow unions in the informal economy
- abuse of child labour
- promotion of pseudo-cooperatives
- handling charges for migrant workers, leading to legalized racial discrimination

Sector-Specific Demands for Formalization

As there are different sectors in the informal economy, the workers in the different sectors of the informal economy have some very sector-specific proposals about the kind of formalization they would like to see. Workers from four of these sectors have provided extensive input about what they would like to propose.

Each of these four groups demand, first, recognition as workers who make a valuable contribution to the economy and society as part of the economically active population; second, the right not to be subjected to punitive regulations, policies, or practices; and third, the right to enjoy specific promotional and protective measures, including protection against explotation by intermediaries.

Domestic Workers Demand:

- freedom from harassment or abuse by recruiters or employers
- freedom from exploitation by agencies and intermediaries
- implementation of the Domestic Workers' Convention and accompanying Recommendations as a minimum set of conditions in every country
- the right to a living wage and working conditions such as time off and leave, overtime pay, sick leave, health insurance, and pensions
- the right to have workplaces controlled and subject to inspection
- decent living conditions where live-in arrangements are part of the employment contract
- access to education, recreation and leisure time
- no child labour (albeit disguised as family labour)
- migrant workers' contracts concluded before leaving home countries
- full and equal rights for migrant domestic workers

Home-Based Workers Demand:

(and the demands differ, in part, for self-employed or sub-contracted workers)

- freedom from forced relocations and zoning restrictions (all)
- social protection, including maternity grants (all)
- child care facilities to enable workers to work undisturbed (all)
- protection from being subjected to poor quality raw materials, arbitrary cancellation of work orders, arbitrary rejection of goods, or delayed payments (sub-contracted)
- the right to basic infrastructure services water, electricity, sanitation at their homes, which are their workplaces (all)
- access to markets for their goods and services (self-employed)
- the right to fair prices in markets (self-employed), and fair piece-rates (sub-contracted)
- the right to secure, transparent contracts work orders (sub-contracted) and commercial transactions (self-employed)
- occupational health & safety training, business skills training (self-employed)
- no double taxation (self-employed)
- land/space/venues for working collectively (self-employed)

Street Vendors Demand:

- freedom from harassment, confiscation of goods, evictions, arbitrary warrants and convictions, arbitrary relocations, unofficial payments and/or bribes
- freedom from fear of authorities and mafia elements
- freedom from exploitation by intermediaries who take high fees
- the right to have natural markets of street vendors recognized and built into urban zoning and land allocation plans
- the right to vend in public spaces under fair and reasonable conditions (which balance competing rights of different users of public spaces) and to maintain natural markets
- the right to fair and transparent allocation of permits and licenses
- the right to appropriate sites near customer traffic
- if relocated, provision of suitable alternative sites near customer traffic
- the right to better services and infrastructure at their vending sites, including shelter, water, sanitation, and storage facilities
- provision of infrastructure, including special infrastructure for vendors with disabilities
- provision of protection centres to keep children out of child labour
- education on trading bylaws and local government systems
- access to user-friendly service-providers
- simplified taxation systems
- simplified regulations for informal cross-border traders

Waste Pickers Demand:

- freedom from harassment, bribes, and evictions by city authorities
- the right to access recyclable waste without restrictions
- access to markets
- provision of infrastructure
- recognition for their economic contribution and environmental service to communities
- the right to access recreational community facilities
- provision of protection centres to keep children out of child labour
- freedom from fear of authorities and mafia elements
- freedom from exploitation by intermediaries who take high fees
- the right to fair and transparent price-setting in the recycling chain
- inclusion in modern waste management systems, and access to equipment and infrastructure for collecting, sorting and storage
- the right of their organizations to bid for solid waste management contracts
- cooperatives and Social Solidarity Economy system
- recognition of their labour as service providers and right to be paid for their service
- the right to ensure solid waste collection is not private but managed by mixed systems between governments and waste pickers' associations (cooperatives, associations, unions)
- an end to the use of incineration and harmful landfill disposals technologies
- promotion of segregation, recycling and composting as ways to secure workers' income

In addition to the above-mentioned four sectors, other sectors of workers in the informal economy who need to be considered in the Recommendation include fisherpeople, agricultural sector workers including those in family agriculture, artisan craftspeople, temporary workers, construction sector workers, workers in cooperatives and worker-controlled enterprises, informal transport sector operators, traffic-light workers, etc.

All informal workers – whether wage workers or self-employed workers – in all sectors must have access to basic organizing and labour rights, voice and bargaining power, legal identity and standing, economic rights and social rights, including social protection. Further, it is imperative that informal workers across sectors and in all global regions have input into what formalization, in fair terms, will require.

Annex 1: Definition of Informal Employment⁹

Informal employment is all employment without social protection (i.e., has no employer contributions) and is comprised of:

- Self-employment in informal enterprises: self-employed persons unincorporated and unregistered or small enterprises, including:
 - employers
 - own-account operators
 - unpaid contributing family workers
 - members of informal producer cooperatives
- Wage employment in informal jobs: wage workers without social protection through their work who are employed by formal or informal firms (and their contractors), by households, or by no fixed employer, including:
 - employees of informal enterprises without social protection
 - employees of formal enterprises without social protection
 - domestic workers without social protection
 - casual or day labourers
 - industrial outworkers (also called homeworkers)



Contributors to the Platform

Representatives from many informal worker organizations and supporters have contributed to the development of this Platform, through participation in three regional workshops and/or in the WIEGO Network Working Group on Transitioning from the Informal to the Formal Economy.



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