

LABOR RIGHTS AND THE LEGAL EMPOWERMENT OF THE POOR

“The opposite of poverty is not wealth – it is justice. (T)he objective...is to create a more just society, not necessarily a wealthier one. And the great question is, how do we do this?”

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I. PROBLEM STATEMENT

- There are some 550 million working poor earning less than US\$ 1 per day (ILO 2004)
- The vast majority of the working poor – those who earn less than US \$ 1 per day - earn their living in the informal economy
- Rough estimates suggest that half of the working poor in the informal economy are self-employed, a quarter are employed by informal enterprises or households, and a quarter are employed by formal enterprises
- Average earnings are low and average costs and risks are high in the informal economy, particularly for own account operators, casual day laborers, and industrial outworkers
- Poverty reduction is not possible without addressing the root causes of the low level of incomes and the high level of risks in the informal economy
- The root causes of low incomes and high risks in the informal economy include:
 - lack of productive resources and economic opportunities
 - lack of economic rights – as workers and producers
 - lack of social protection
 - lack of organization and representation
- To address these root causes requires legal empowerment, including:
 - labor rights for informal wage workers
 - commercial rights for informal enterprises
 - legal identity for both groups
 - social protection for both groups
 - property rights for both groups
 - organization and representative voice for both groups

II. LABOR RIGHTS FOR INFORMAL WORKERS

2.1 Policy Stance – WG# 3 should encourage the Commission to highlight and endorse that...

- legally empowering those whose main asset is their labour should be recognized as a central pillar of a just society and a central strategy for reducing poverty and inequality
- the global economy privileges those who own capital – in terms of mobility, bargaining power, and wealth - over those whose main asset is their labour
- informality is here to stay and is an essential feature of the global production system
- while national governments and the international community should seek to create as many formal jobs as possible and formalize as many informal enterprises and jobs as possible, informality is not going to disappear
- the real challenge is to reduce the Decent Work “deficits” of those who work informally, especially the working poor
- labour rights for informal wage workers should be seen as an essential part of a package of rights for the working poor in the informal economy that also includes property rights, commercial rights, the right to social protection, and the right to be organized and represented in policy-making and rule-setting institutions and processes
- other than social protection (property, health, life, disability, old age) which is relevant for the self-employed as well as wage workers in the informal economy, labour rights per se are relevant for roughly half of the working poor in the informal economy who are informal wage workers
- of the half of the working poor who are informal wage workers, roughly half are employees of informal enterprises or households and the other half are employees or disguised wage workers of formal firms
- productivity and protection can and should be promoted together
- economic policies should address issues of redistribution

2.2 Policy Position – WG # 3 should encourage the Commission to highlight and endorse...

- Global Consensus: Declaration of Fundamental Rights (ILO) + Decent Work Agenda (ILO) + Productive Employment and Decent Work (UN Summit/ ECOSOC)
- Minimum Floor: a la Victor Tokman

2.3 Policy Process – WG # 3 should encourage the Commission to recommend a policy process that...

- seeks to reduce the Decent Work “deficits” of those who work informally
- includes representative voice of the working poor in the informal economy
- recognizes and addresses the mismatch between existing labour laws, labour regulations, and labour market models and the reality of many work arrangements today, in both developed and developing countries and the

global production system

- seeks to improve the quality of labour market institutions
- highlights the need to extend standards to subcontracted workers, industrial outworkers, and disguised wage workers
- applies standards in a gradual and progressive manner to cover more and more categories of informal wage workers and disguised wage workers
- promotes “active labour market policies”, including social protection for all workers (property, health, life, disability insurance – not just unemployment insurance) plus retraining, life-long learning, and other support to mobility

2.4 Practical Strategies – WG# 3 should assemble a critical set of good practice examples that illustrate the desirability and feasibility of such a policy position and process

- Draft Bill on Social Protection for Informal Workers, India
- Others TBD

2.5 Policy Debates re Labor Rights and Labor Regulations - WG# 3 should point out to the Commission the fact that...

- the debate is ideological: orthodox/conservative economic thinking is anti-labor regulations and heterodox/progressive economic thinking is pro-labor regulations
- the evidence is mixed and subject to ideological interpretation:
 - USA: *New Economics of Minimum Wage* suggests that minimum wage does not lead to unemployment vs. Neumark who claims that minimum wage has increased poverty
 - developing countries: minimum wages reduce poverty (Lustig and McLeod, Saget) + living wages reduce poverty (Neumark himself, although he never mentions this) vs. minimum wages increase poverty (Neumark)
 - labour standards are ranked # 11 in terms of burden (World Bank study) vs. orthodox economic thinking that is pro-some forms regulations but instinctively anti-labor regulations
- the debate as currently framed does not really apply to developing countries:
 - orthodox models assume there is only wage employment and unemployment, leaving out the self-employed and under-employment
 - no amount of over-regulation in a small formal economy can account for the very large informal economy in most developing countries – other processes and factors are clearly at work
- in other words, the debate needs to be completed/reframed for the developing country context where the informal economy is large and diverse and under-employment (not unemployment) is the real problem.
- in any case, the real question is not whether labour regulations create unemployment or under-employment in the informal economy but how they can be used to promote Decent Work for the working poor

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