

Social Contracts and Informal Workers in the Global South

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Introduction: social contracts and informal workers in the global South

Sophie Plagerson, Laura Alfes and Martha Chen

Man was born free; and everywhere he is in chains. (Rousseau 1999 [1762])

The social contract, whether in its original or in its contemporary version, constitutes a powerful set of lenses for looking at society and the government. But in its obfuscation of the ugly realities of group power and domination, it is, if unsupplemented, a profoundly misleading account of the way the modern world actually is and came to be. (Mills 1997)

Most public resources and public services are targeted at formal workers while most policy and legal constraints are targeted at informal workers. (Chen 2012)

WE aren't integrating into YOUR system, YOU are integrating into OUR system. (Informal worker leader, in Samson 2017).

There is a global mismatch today between political expectations of equality and the realities of economic inequality. Transitions towards increased informality of employment in the global North, and greater acceptance of the persistence of informal work in the global South, threaten and challenge existing social contract models which have been based on assumptions of full formal (and male) employment, bringing to the fore previously excluded stakeholders, such as informal workers who constitute over 60 per cent of the global workforce. Calls for renewed social contracts are proliferating, framed in particular by policy debates regarding the 'future of work', and appealing for new conceptualizations of state–society and labour–capital relations. Yet, the content and scope of calls for a 'renewed social contract' by different international institutions are deeply contested.

The contemporary world of work threatens and challenges traditional social contract models, in which informal workers tend to be ignored or considered undesirable. The COVID-19 pandemic has exposed and exacerbated pre-existing fault-lines of prevailing injustice by employment status, which compound inequalities by gender, class, caste, ethnicity and nationality. Across developing countries, 90 per cent of the workforce is informally employed: self-employed in mainly traditional or survival activities, wage employed for formal firms as well as informal firms and households, or

sub-contracted in global or domestic supply chains or by online platforms (ILO 2018a). Informalization of employment relations is an enduring feature of economic growth and the global economy. Yet sheer scale is not sufficient for change to occur organically in the status of informal workers within current political, economic, social and labour landscapes. Acknowledging systemic failures, blind spots, unfair relationships and unspoken assumptions is a key part of setting out a vision for transformation. Informal workers need to be recognized, to be heard and to have a level playing field from which to operate and to bargain for a better deal. Could a new social contract help to achieve this vision? This is the central question of this book.

The book is written from a viewpoint which is unapologetically sympathetic to the claims of the working poor in the informal economy, and aims to consider how social contract approaches may be applied to helpfully theorize and support the advocacy efforts of informal worker organizations. Chapters are authored by activist academics and researchers. Quantitative and qualitative evidence is drawn from the grounded research, statistical work and policy analysis of the global network Women in Informal Employment: Globalizing and Organizing (WIEGO). WIEGO, in partnership with informal worker organizations, is focused on empowering the working poor, especially women, in the informal economy to secure their livelihoods by increasing their voice, visibility and validity.

It is fair to ask why one would consider social contracts at all in the context of advocacy for informal workers. Indeed, there are several reasons why such a choice could be regarded as irrelevant or ill-advised. Social contract theory is one of the most influential political theories in Western philosophy, but arguably far removed from the realities of the geographical contexts in which informal workers are predominantly located, particularly in Africa, Asia and Latin America. A further cause for apprehension might be that the conventional structures represented by prevailing social contracts are typically those which have disregarded informal workers, or which have institutionalized disadvantageous or exclusionary systems, as the quote by Charles Mills makes clear. Dominant narratives about the informal economy have justified its systematic exclusion from social contract formulations by stigmatizing informal workers/enterprises as non-compliant, illegal, non-productive, and associated with urban crime and grime. This volume's critique of social contract approaches, and its consideration of economic relations and gender as issues of critical relevance, is mindful of these serious limitations.

However, there are also reasons which support engagement with the theory of social contracts, and which warrant a thoughtful application of contractarian ideas to current regional and national trends in the global South. First, the social justice core which permeates some expressions of social contract theory resonates with the perspective of the authors. A second important reason is

pragmatic. Although informal employment has always been the norm in the global South, the fact that it is expanding in the global North offers a window to rethink social justice and social contracts on a wider scale.

The term ‘social contract’ is increasingly referred to in current discourses, particularly by prominent international organizations such as the International Monetary Fund, the World Bank and the International Labour Organization (ILO; Bussolo et al. 2019, IMF 2018, Ryder 2019). These references tend to draw on the idea of the social contract as an agreement reached between equals, which promises fair process and fair outcomes for all who subscribe to it; without questioning the power inequalities that exist. As we show in this Introduction, the proposals by the different international organizations for a new social contract can also vary greatly, with different consequences for informal workers.

The tension between the ideal and the actual state of affairs, and the relationship between the two, is central to the book. The conflict between historical and normative approaches is not foreign to social contract theorists. The political philosopher Jean-Jacques Rousseau argued on one hand in his discourse on inequality (Rousseau 2011 [1754]) that the idea of the contract institutionalizes artificial inequalities such as power and privilege and protects the interests of those with unequal advantages. On the other hand, in *The Social Contract* (Rousseau 1999 [1762]) he affirmed the principle of the sovereignty of the people based on the concepts of freedom and equality (Freeman 2007). This tension is embodied across the book, which considers a variety of social contract theoretical traditions, both mainstream and critical. Overall the book seeks to be realistic in its appraisal of multidimensional injustice, confident in its projection of ideal scenarios built on the claims of informal workers and hopeful in its documentation of the existing processes that are laying the ground for positive change. The representation of a vision for a fair social contract ‘from below’, rooted in the multiple narratives, claims and experiences of informal workers, is a novel contribution to social contract literature, which tends to be top-down and ideologically driven.

Every chapter is deeply contextualized, and several underlying themes weave through the book. First, the state needs to be problematized. Globally, both authoritarian and democratic regimes are being questioned, and any consideration of the state as an entity cannot assume it to be neutral, monolithic, benevolent, consistent or capable. The expression of the social contract is deeply dependent on the situated and at times ‘informal’ nature of government and political structures. A deep engagement with the realities of political institutions also goes beyond the classic focus of social contract theory on the nation-state. ‘Cosmopolitan’ perspectives on the social contract have argued for contracts that transcend national structures and recognize the global economic and political forces that shape state–society relations (Moellendorf

2009, Perry and Villamizar-Duarte 2016). In-depth case studies of informal worker movements also highlight the importance of local-level government and municipal entities as actors within social contract formulations. It is therefore appropriate to recognize that society is governed by an interconnected web of social contracts, rather than by one monolithic contract (UNDP 2016). The relationship and coherence (or lack of it) between local-, national- and transcendental-level contracts is discussed in the chapters by Roever and Ogando and by Von Broembsen in this book.

Second, informal workers are not homogeneous. Their voices and demands reflect their varied livelihood activities, statuses in employment, places of work, enterprise size, gender and social group; as well as economic trends, urban and rural policies and practices, value chain dynamics, and other economic and social forces. Importantly, a close examination of the trends that relate to informal workers also highlights that, as labour markets are evolving well beyond the confines of the recognized employer–employee relationship and established labour regulations, informal workers around the world are actively redefining the meaning of ‘workers’ as active economic agents. Given the central role of ‘labour’ in brokering social contracts, the recognition of informal workers is a significant development that can shape the contours of a new social contract. This textured and grounded analytical approach makes a case for responsive social contracts which recognize a breadth of employment relationships, that are heterogeneous and dynamic.

A third theme is that economic power should not be underplayed in the consideration of the social contract. The growth and development of informal economies is deeply interwoven and shaped by processes of industrialization, modernization and capital accumulation. A credible approach to social contracts needs to take into account that those who own and manage capital hold significant influence within political democracies as well as other governance systems. In addition, the role of capital is not confined within the bounds of the nation-state or the employer–employee relationship, as traditional social contract theory would anticipate. An embedded analysis revisits and interrogates the manifestations of modern economic institutions in relation to both the state and labour.

A fourth recurring theme is the book’s engagement with debates about formalizing the informal economy (Chen 2012). The meanings attributed to formalization may vary, from a focus on taxation, regulation and spatial containment of the informal economy to a greater emphasis on welfarist approaches, rooted in incentives and supportive policies to promote formalization (Kamete 2018). Recognizing informal economies as a dominant mode of economic organization in many parts of the global South, and not simply as a transitory point in the inevitable march forward towards formality, changes the starting point from which formalization discourses are addressed

(Meagher 2017). Different chapters in the book consider the claims of informal workers which may vary by economic sector and by status in employment (that is, whether the informal workers are self-employed, wage employed or sub-contracted). Any process of formalization needs to be tailored to the divergent needs of these different segments of the informal workforce, and encompass both the benefits of formality and the costs of entry into the formal economy. From the standpoint of informal workers, the notion of formalization is itself problematic, since it requires compliance with formal rules and regulations that are not well suited to their economic realities. The idea of formalization also assumes a benevolent, inclusive and effective state, a far cry from many informal workers' experiences of daily encounters with antagonistic and obstructive authorities (Kamete 2018).

In addition, the debates around formalization need to recognize the need to move beyond the confines of narrowly defined labour and social protections, to ensure the inclusion of other forms of necessary protection (for example, urban and business protections). Reductionist versions of the social contract which focus solely on the provision of minimalist social safety nets may also end up exacerbating an already unequal status quo (Alfers and Moussié 2019). These issues are central to a redrawing of a new social contract.

In summary, the book considers the intersection between the lived realities of informal work and social contract theory, both as a description of actual power dynamics and as a prescription of how economic benefits ideally ought to be allocated. The next section ('Informal workers: here to stay') describes the global scope and trends in informal employment and the realities of informal workers, as well as different institutional discourses which frame how we understand what drives the informal economy and its future trajectories. In the section 'Interpretations of social contract in global policy', we then review how recent publications by several international institutions have appealed to a somewhat sanitized version of the social contract, seen as implicitly 'good', but how they in fact propose conflicting visions of an ideal social contract. The section 'Comparing social contract theories' outlines the definitions and historical themes of social contract thought, and discusses major dimensions of the social contract: who are the contractors and what is the substance of the contract. In 'Three applications of social contract theory to informal workers', we first describe how current conditions can be framed as a 'domination' contract which enables the exploitation of informal workers; second, what an ideal vision of a social contract could look like from the perspective of informal workers; and third, the actual processes of change in the direction of these ideals, as well as the constraints. The Introduction concludes with an overview of the contributions included in the book and how they develop the different themes of the book.

INFORMAL WORKERS: HERE TO STAY

Fifty years ago, the informal economy was viewed as traditional small-scale economic units and activities soon to be rendered obsolete by the combined logics of capital accumulation, mass production and the industrial modernization of developing economies (Chen et al. 2015). Contrary to such predictions, informal employment has grown in many countries and emerged in new guises over recent decades (see Chen, Chapter 2 in this volume).

Today, two billion of the world's working population (aged 15 and over) work informally, representing 61 per cent of the global workforce (ILO 2018b). Informality exists in all countries – developed, emerging and developing – though the proportion varies: from 90 per cent in developing countries, to 67 per cent in emerging economies to 18 per cent in developed economies. The proportion of informal employment also varies across geographical regions: from around 90 per cent in sub-Saharan Africa and South Asia, to 77 per cent in East and Southeast Asia (excluding China), to 68 per cent in the Middle East and North Africa, to 54 per cent in Latin America and the Caribbean to 37 per cent in Eastern Europe and Central Asia (ILO 2018b).

Informal employment includes a range of self-employed persons, who work in unincorporated, unregistered and often small enterprises, as well as a range of wage workers who are employed without employer contributions to social protection by formal firms, informal enterprises and households, and dependent contractors who work in supply chains or for digital platforms (Chen 2012). They vary by occupation, including construction workers, domestic workers, home-based workers, street vendors, transport workers and waste pickers. The lower tiers of global supply chains often include a broad range of home-based workers and sub-contracted micro- and small enterprises (ILO 2018a). Many on-demand/gig economy jobs, mediated via digital platforms, also share many of the characteristics of informal work, with limited regulation and low levels of labour and social protection (Berg et al. 2018).

Though not all are poor, informal workers face a greater risk of poverty than formal workers. Their working lives are regularly characterized by uncertainty of continued employment and income insecurity. They are more likely than formal workers to face deficits in the four pillars of decent work: economic opportunities, legal rights, social protection and collective voice and representation (ILO 2002). They frequently lack access to social assistance or social insurance, as well as to public services such as basic infrastructure and transport services, and have low-quality and unequal access to many state-provided social services (such as health care or education) (Agarwala 2018, Alfery et al. 2018, Behrendt et al. 2019).

Most people do not enter the informal economy voluntarily, but as a consequence of a lack of opportunities in the formal economy and in the absence of other means of livelihood (ILO 2018b). Some are carrying on hereditary occupations, passed on by their parents or community. Compared to their male counterparts, women in the informal economy tend to be over-represented in the lower tiers of the informal economy by status in employment (for example, dependent contractors and contributing family workers) and in the least visible and most vulnerable occupations; for instance, as domestic workers and home-based workers (Chen et al. 2005).

Though informal workers represent the majority of workers in many countries and are deeply embedded in global, national and local economies, they largely remain at the margins of negotiation and collective bargaining platforms (see chapters 5 and 7). Informal worker organizations are often not recognized as equal partners within tripartite state–labour–capital structures: either excluded altogether or represented indirectly through an affiliation to a trade union of formal workers. Yet, trade unions are frequently not suited or favourable to articulating their demands (Alfers and Moussié 2019). However, there is a growing social movement of international networks of organizations of informal workers from specific sectors – HomeNet International, the International Domestic Workers Federation, StreetNet International and the Global Alliance of Waste Pickers – with over 230 affiliated organizations in 94 countries with a total membership of over 2.4 million informal workers (Bonner and Carré 2013, Bonner et al. 2018, Carré et al. 2018, Chen et al. 2015). These networks represent an important step towards establishing new social dialogue platforms, in which the interests of informal workers can be represented alongside those of governments, national and multinational companies and formal wage workers. As with other social movements, this movement is embedded in the daily realities of people round the world in which identity and class often intersect, and is voicing demands for economic justice to create new openings for informal workers (Biesecker and von Winterfeld 2018). Despite their heterogeneity, these broad-based networks are bringing together different types of organizations of informal workers with similar interests, such as trade unions, cooperatives, producer groups, trade associations and other membership-based organizations (Agarwala 2018, Behrendt et al. 2019).

INTERPRETATIONS OF SOCIAL CONTRACT IN GLOBAL POLICY

A rapid survey of recent speeches and publications by international institutions concerned with the spheres of work and social protection reveals increasingly frequent references to the idea of the social contract (Behrendt et al. 2019, Guterres 2020, Jütting and Laiglesia 2009, World Bank 2019). Within the

international community, the notion of the social contract is increasingly used as a normative ideal that societies should aspire to, and realize, by endorsing and complying with a particular set of social rules, principles or institutions (UNDP 2016). Contractarian ideas have intuitive appeal, given their implied promise that a stable political and social order could be constructed which provides equal protection to the (conflicting) interests of all individuals (Lessnoff 1986).

These global North institutional narratives around social contracts and the needs of informal workers overlap in their diagnosis that the current system is broken and needs to be fixed. Informality in labour systems is often portrayed as ‘a sign of a broken social contract’ (Jütting and Laiglesia 2009, p. 7). The ILO ascribes to this premise as it sees the large informal economy, particularly in Africa and South Asia, as largely operating outside the confines of legal protection and accountability mechanisms, reflecting a significant malfunctioning in the relationship between the state and its citizens as well as between labour and capital (Behrendt et al. 2019). Informal workers are portrayed as a symptom of the erosion of social contracts, and a thriving informal economy is viewed as an expression of a lack of trust in public institutions, undermined by the driving forces of globalization and financialization of the economy, technology and new forms of work, weakening of labour market institutions and growing inequality (Saavedra and Tommasi 2007).

While there is some diagnostic consensus between these accounts, the visions proposed for new ideal social contracts are heterogeneous and tend to represent competing agendas. The World Bank’s proposed solutions refer to ‘progressive universalism’ as a guiding principle for extending social protection to informal workers that can then underwrite increasingly flexible labour regulations as well as extending revenue collection nets (World Bank 2019). The Organisation for Economic Co-operation and Development recommends that in the long term informal work should be formalized, with provision made in the short term for the extension of ‘necessary tools (extension services, technology, inputs, and so on) as well as an enabling environment for business creation and increased job productivity’ (Jütting and Laiglesia 2009, p. 158). The ILO recognizes employment as a major structural element in the social contract and questions whether given current challenges, many countries will be able to establish viable and stable social contracts. It also lauds the efforts towards ensuring social protection for non-salaried and vulnerable workers, including those with multiple employers as well as those in disguised self-employment (Behrendt et al. 2019). However, even with this welfarist version of formalization elaborated in ILO Recommendation 204, ‘Transition from the Informal to the Formal Economy Recommendation’, there is a sense of discomfort with the informal economy and an underlying understanding of formality as the desired end point (Alfers and Moussié 2019).

The different discourses that emerge in relation to informal workers prioritize different values for the renewed social contract. They also highlight different perspectives on the nature and composition of the informal economy, its origins, its relationship to the formal economy and its ideal trajectory going forward. A taxonomy of approaches to the informal economy popularized by Martha Chen includes voluntarist, legalist, dualist and structuralist approaches (Chen 2012) which resonate with different strands of social contract theory as this chapter shows.

The voluntarist view frames informal workers as entrepreneurs engaged in legal or illegal activities who deliberately seek to avoid regulations and taxation for personal gain. The proposed solution is to enforce exit from informality by regulating and taxing informal enterprises. Delinking social protection from employment is also proposed as a way to avoid creating perverse incentives for firms and workers to operate informally through targeted interventions.

A second approach is the legalist one, which also highlights the agency and entrepreneurship of informal operators, who cannot afford or negotiate the costs, time and effort of formal registration in a hostile legal system. Legalists argue that governments should introduce simplified bureaucratic procedures and encourage informal enterprises to register and should extend legal property rights for their assets.

The dualist approach sees the informal sector of the economy as marginal, distinct and with few linkages to the formal sector in a segmented labour market. The informal economy is viewed as providing income for low-income self-employed workers and a safety net in times of crisis. The dualist perspective prizes political stability, and advocates for tweaks to the existing social contract in order to incorporate informal workers without tampering with existing structures. Limited interventions include the creation of more jobs and the provision of credit and business development services to informal operators, as well as basic infrastructure and social services to their families.

The structuralist approach regards informal and formal economies as intrinsically and inequitably linked. Structuralists argue that capitalist development actually fosters or perpetuates informality, by coercing micro-enterprises and workers to provide cheap goods and services and to work for low wages, by opposing the power of organized labour and state regulation of the economy through taxation and social legislation and by supporting global processes of industrialization such as off-shore industries, sub-contracting chains and flexible specialization. They call for regulating the relationships of production, not the informal economy. This view is aligned with a social justice angle which advocates for a radical restructuring of current political, economic and social institutions, which will allow informal workers to have a seat at the table, and to reshape institutions and the terms of the social contract.

Appeals to social contract ideals tend to treat social contract models as a single, undifferentiated approach (Hickey 2011, Meagher 2018). Yet the lack of convergence between prescriptive visions for a new social contract, and on whether such a contract requires repairing or restructuring, highlights the influence of different institutional agendas. In reality, by foregrounding different core values (for example, freedom, equality and justice), social contract proposals reach different conclusions about the role of the state and of the market/capital, about ideal economic and social arrangements and about the distribution of rights and responsibilities. Similarly, a fuller engagement with social contract theory recognizes the different philosophical threads, and the underlying assumptions about state/citizens and capital/labour, as well as several critiques and limitations, many of which are relevant to the analysis of informal workers.

We argue therefore that a social contract which advances the cause of informal workers should be informed by their perspectives, with the freedom to reinvent rather than repair previous social contracts. Given the colossal scale of informality in the global employment landscape, there is decreasing scope for the view that the symptoms of a ‘broken social contract’ simply pose a challenge to the status quo and represent a deviation from a social order that needs to be restored and strengthened. Informal workers’ accounts also challenge the simplistic idea that the current global context is suspended between the past (good) social contract which has unravelled, en route to the next stable platform, to be informed by a new (or revised) aspirational social contract. They rather bring to light that current standards are inadequate, irrelevant or unjust, and that radically new conceptualizations of state–society and labour–capital relations are required.

COMPARING SOCIAL CONTRACT THEORIES

The idea of the social contract has been a central concept of Western political theory for understanding and justifying a society’s legal, political and economic structures (Paz-Fuchs 2007). The social contract tradition is premised on the need for social order among human beings living in a defined political space (Chemhuru 2017). Four broad types of definitions can be distinguished: classical, modern, critical and contemporary. Classical definitions sought to explain and justify the origins of social cooperation and of the existence and power of the government. They defined the social contract as a rational agreement between (moral, immoral or amoral) equals who give up some of their rights to a sovereign authority in order to get the benefits of living in civil society. Modern definitions are not primarily concerned with underwriting political obligation; rather they are based on principles of justice and describe the social contract as a fair collective agreement among free and equal persons

(Freeman 2007). Critical theorists identify the social contract as a mechanism of inclusion and exclusion that reflects and reinforces the structure of our current political and social systems (Perry and Villamizar-Duarte 2016). Contemporary meanings have subscribed to a positivist and aspirational view of the social contract as a value-driven consensus among the members of a society with regard to the regulation of collective life (Uzbay Pirili and Pifpirili 2015). Contemporary applications also use the social contract as a tool of analysis of the ‘entirety of explicit or implicit agreements between all relevant societal groups and the sovereign (that is, the government or any other actor in power), defining their rights and obligations towards each other’ (Loewe et al. 2019, p. 1).

These varied definitions draw their roots in the rich and variegated history of social contract theory, which can be traced back to Greek Socratic and Epicurean arguments about the need to obey human laws to ensure the organization and functioning of society (Boucher and Kelly 2004). In European political thought, in the seventeenth and eighteenth centuries, the idea of the social contract was developed and popularized in the works of Thomas Hobbes, John Locke and Jean-Jacques Rousseau. Early classical proponents radically argued against the divine right of the monarchy and its absolute inherited power and in different ways highlighted human equality as a guiding principle of social cooperation (Geerlof 2019). Reaching different views about the rights of individuals and expectations from the state, these earlier accounts attempted to give a ‘historical’ explanation for the origins of society (why and how individuals organized themselves as members of a collective body) and for the subsequent establishment of a government, transferring outright or delegating in a relationship of trust the rights and powers of individuals to a sovereign governing entity. Social contract arguments were used as a way of justifying the political obligation to obey the law and the acceptance as authoritative of government decisions (Paz-Fuchs 2011).

Critiques by David Hume and others led to the demise of social contract theory as an account of the obligation to obey the state. They were concerned with the conjectural nature of the historical versions of social contract theory. They also criticized contractarian appeals to consent and consensus as a basis for ordering collective life (which they viewed as misleading). Social contract theory was subsequently revived by John Rawls with the publication of his book *A Theory of Justice* (1971). Rawls dispenses with the historical claims of classic contractarianism and takes the modern state as a given. Drawing on the ideas of Rousseau and Immanuel Kant, Rawls proposes a social contract in which equal respect is the basis for rational deliberations. In order to achieve a fair social contract, Rawls proposed that an ideal collective agreement would be reached by individuals from behind ‘a veil of ignorance’ which would ensure their impartiality with regard to gender, social and economic status, and

other potential sources of prejudice and privilege (Boucher and Kelly 2004, Geerlof 2019). This modern version of the social contract is employed as a mechanism for identifying social institutions and policies that reflect justice as the basic virtue in society. For Rawls, as for most other recent contract theorists, the object of contractualist political philosophy is not primarily to justify political obligation, but to provide a legitimate basis for the basic political, social and economic institutions of society. Rawls and subsequent theorists have made the social contract a powerful platform for the construction of rights and responsibilities in the modern welfare state with a focus on shared values and consensus-building within (fragmented) societies and on voluntaristic compliance rather than punitive enforcement (Kaplan 2017, Uzbay Pirili and Pifpirili 2015). Recent extensions to contractarian approaches aligned with ideas of social justice and human rights have argued that a modern social contract should take an even wider angle to current collective issues affecting societies at local, national and transnational levels, such as the environment, energy and in the wake of recent pandemics, public health (Guterres 2020, Hickey 2011, Paz-Fuchs 2007, Perry and Villamizar-Duarte 2016).

Critics from feminist, race and capability approaches have questioned several assumptions inherent to social contract theory, portrayed as a mechanism of both inclusion and exclusion. Carole Pateman in *The Sexual Contract* (1989) and Charles Mills in *The Racial Contract* (1997) have shown how inequalities based on gender and race are legitimized by unrealistic assumptions of power symmetry within social contracts. They showed how apparently egalitarian principles in reality equated with masculinity and with whiteness. These critiques point out how classical thinking has idealized the social contract as the way to live together in society without questioning the underlying implications of the idea of a contract which allows certain groups effectively to dominate, subordinate, and exploit other groups (Perry and Villamizar-Duarte 2016). Critical theorists argue that while social contract theory cannot be used as a prescriptive formula, the concept can be used to describe non-ideal unjust societies to demonstrate the existence of ‘domination contracts’ (Mills 1997). These critiques set a crucial precedent for investigating social contracts and informal workers, and the reasons for their omission from social contracts or their incorporation on adverse terms or the requirement that they conform to biased paradigmatic social relations. Such an analysis would attest to the ways in which poor and marginalized groups may be perceived as political equals (for instance, through the right to vote), but who socially and economically are stuck in a structure that traps them in positions of vulnerability and exclusion (Ulriksen and Plageron 2014).

The overview shows that there is wide variation in how the idea of the social contract has been developed, whether as an explanatory or justificatory model. Different theorists have articulated social contract models based on differing

views of human nature, human motivation, rationality, the rights and liberties that people give up or maintain, the definition of consent, the nature of the state, the details of the agreement, the parties to it, their equality and the conditions under which it was made, and how one characterizes ‘just’ collective arrangements (Darwall 2003). Each version involves different assumptions about the relative priority of individual and collective rights and whether it is possible to increase individual and collective welfare simultaneously (Kaufmann 2012).

In thinking about how social contract theory applies to informal workers, we draw out four distinctions in contractarian thought. The first is between interest- and rights-based approaches. The second is between negative and positive rights. Third is the tension between ideal and actual contracts, and fourth the concept of social contracts as static or dynamic.

The interest-based approach stems from the Hobbesian line of social contract thought, and has been extended by contemporary thinkers such as David Gauthier. It contends that one only ever has good reason to do what one thinks will satisfy one’s own desires. Persons are fundamentally amoral and primarily self-interested, and they will agree to cooperate if following a set of rules promotes everyone’s interests better than pursuing their own interests independently. As a result, the social contract creates moral constraints. In contrast, rights-based thinking draws from Locke, Rousseau, Kant and Rawls, and sees the social contract as shaped by common intrinsic moral principles (though the theorists’ views on what these principles are differ). Interest-based social contracts foreground the liberty of the individual, whereas rights-based approaches prize equality between contractors. Interest-based contracts are the result of bargaining and compromise motivated by self-interest. Rights-based approaches result from consensus guided by notions of fairness. The aim of the interest-based approach is to validate institutions whose primary aim is to maintain stability and public order, thereby facilitating people’s ability to satisfy their desires. For Hobbes the response to unrestricted human self-interest was to surrender authority to a sovereign government, which would give the assurance that everyone will follow the rules of the cooperative scheme (Darwall 2003). However, subsequent philosophers and classical economists who also prioritized individuals’ freedom contended that moral and governmental constraints on individuals should be reduced to a minimum. Under this procedural model, inequality is justified and power distributions are not questioned. These ideas have tended to justify the unrelenting expansion of capitalist powers and the exploitation of nature and labour (Paz-Fuchs 2007).

The normative stance of interest-based social contracts sits uncomfortably with proponents of rights-based thinking rooted in principles of social justice, as well as with critical theory. In the book, we draw on rights-based approaches as a way of framing an ideal social contract from the perspective of informal workers. We use interest-based approaches as an explanatory

device (in a similar way to a power resources approach) to understand how existing policy outcomes result from the stronger bargaining position of those with greater economic, social and political resources (Ulriksen and Plagerson 2017).

The second distinction is between negative and positive rights as the essence of the contract. Negative rights are ‘freedom from’ rights as opposed to positive entitlement rights, thin and formal in contrast with thick substantive rights, choice rights as opposed to benefit rights (Dean 2013). Locke’s ‘negative’ version of social contract theory considers the right to private property as the primary inalienable right of individuals, and the right to punish others for violating rights as the main right that social contractors give up. This is the function of civic government whose role is reduced to the protection of property rights; that is, duties not to take what belongs to others. For informal workers, negative rights would include freedom from abuse and extortion of bribes by local authorities, freedom from evictions of street vendors and from confiscation of goods without due process. Social contracts which endorse positive rights draw from Rawls’s ‘difference’ principle that

social and economic inequalities are to be arranged so that they satisfy two conditions: first they are to be attached to offices and position open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least-advantaged members of society [the difference principle] (Rawls 1971, p. 302).

This lays a foundation for redistributive measures based on need or rights, funded via progressive taxation (Dean 2013, Hickey 2011). Egalitarian and communitarian perspectives would go even further in arguing against solely individual rights for more structural, contingent and/or collective approaches to redistribution (Dean 2013, Wenar 2021). Several chapters in this book offer contextualized views of informal workers regarding their claims to both positive and negative rights, including, for example, access to housing, workplaces and productive assets (see Chapter 2).

Third, there are multiple views about the value of ideal contracts. Generally, the underlying assumption is that an imagined ideal social contract can serve to influence stakeholders, transforming them to become more and more like their idealized surrogates. However, there is little normative consensus about how to transition from one to the other, incrementally or radically. Some view the ideational phase as a key step for achieving justice, others question under what conditions hypothetical contracts serve a useful purpose, still others view it as a futile or counterproductive exercise (Paz-Fuchs 2007). The reasons for discrediting the value of normative social contracts centre around the fact that an idealized social and political theory is based on a state of affairs that

is quite different from the one in existence. In order to avoid being irrelevant, the abstract models and the assumptions they depend on need to be informed by contingent information. However, this process could blur the lines between the ideal and the actual, and ultimately risk elevating current policy to the ideal by insisting that certain measures which may be oppressive, coercive and reactionary are necessary in order to advance towards an idealized account of the social contract (Paz-Fuchs 2007). This could be relevant, for example, in contexts where ‘security and economic stability are not viewed as entitlements of citizenship, but as future benefits to be attained in the course of national development’ (Meagher 2018, p. 4). Amartya Sen also doubts Rawlsian contractualism and questions the search for a single normative and universal basis for fairness, and its embodiment in a system of fair institutions and social arrangements. Given individuals’ differential ability to convert resources and opportunities into reality, he argues that the progressive achievement of justice demands an evidence-based analysis of ‘human lives, experiences and realizations’ (Sen 2009, p. 18). This volume seeks to pursue the parallel tracks of a critical analysis of current ‘non-ideal’ terms and conditions, and the proposal of ideal scenarios based on the evidence-driven claims of informal workers themselves.

Lastly, and closely related to the previous point, there is little clarity on whether and how ideal social contracts can be renegotiated. Since the main function of social contracts is to bring stability to state–society relations, there has been limited theoretical attention given to the process of rewriting the social contract itself. A ruler/subject Hobbesian view of the social contract where people give up their rights in the hope that their needs will be met leaves no room for dissent or resistance. A Lockean view of the social contract as a voluntary agent/principal relationship, where people give up their power to the sovereign on condition that their needs are upheld, legitimizes rebellion as a last resort (Forsyth 2004). Modern contractarians normally accept that political and social institutions are not the result of a contractual agreement but that the evolution of political society has often taken a different course from the one that the contract image would suggest, peppered instead with the iterative and unpredictable twists and turns of policy reforms. Given this pragmatic view, and the critical perspectives which highlight the shortcomings of ideal social contracts, the social contract can no longer be accepted as a one-off static end goal. The ongoing process of ‘social contracting’ is just as important. This requires mechanisms for ongoing negotiation of the social contract, particularly when: (i) the relative distribution of power between the contracting parties changes, (ii) one party realizes that the other party does not fulfil its obligations as contracted, (iii) one party finds that the existing social contract does not live up to its expectations (Loewe et al. 2019). Because the appeal to public reason is central to social contract theory, in practice social dialogue

(whether adversarial or consensual) is often understood as the primary vehicle for change, particularly when social contracts are seen to support democratic paradigms (Coole 2004). While the book spans case studies from countries with different types of political regimes, the analysis of informal workers as ‘social change agents’ (Agarwala 2018, p. 1) who mobilize and organize is central to the chapters in the book.

WHO ARE THE CONTRACTORS? TOWARDS THE INCLUSION OF INFORMAL WORKERS

The chapter so far has detailed some of the threads, connections and divergence between social contract theories. In this section we outline the characteristics of conventional social contract actors – individuals in society and the state. We also discuss how capital and (formal) labour have assumed a significant position in modern social contract discourses. The discussion reflects on how informal workers relate to each of these, towards envisioning informal workers as ‘contractors’ both in relation to their ‘individual’ identities and their ‘worker’ identities.

The role of individuals who together comprise society is crucial to social contract models. The language of equality runs through much of social contract writing since social contract theories emerged in response to feudal and monarchic systems and their notions of ascribed status and natural subordination. Contractarians made the radical claim that individuals are born free and equal to one another (Paz-Fuchs 2007). However, as the gender and racially sensitive critiques of social contracts show, behind the assumption of equality, important questions can be asked about who is at the negotiating table and who is missing, if it is really a contract between everybody or only between those ‘who count’, and whether there is a distinction between signatories and beneficiaries, between subjects and objects of the social contract, and between formal and informal workers (Mills 1997).

Philosophically, the requirement that contracts are reached by autonomous agents who are able to make and carry out rational commitments without the aid of others is problematic, potentially excluding whole classes of people from the realm of justice. Contractarian theories tend to disregard the multiple relational and interdependent identities of contractors, in ways that lead to simplistic and narrow views of reciprocal exchanges of rights and duties; for example, underestimating the role of civil society or of caregivers. As several chapters demonstrate, social contracts suited to informal workers would need to be able to accommodate the intersectionality between their multiple identities as economic and social actors, as workers and carers, as men or women, as citizens and/or migrants.

The state plays an important part in theories of the social contract. The classical expositors of social contracts all developed concepts of the state regarding its role, its nature and scope. Social contract models vary about the extent to which a legitimate state should act as regulator or provider and intervene in the constriction and transformation of society, how far it should go in mediating between individual and collective relationships, and how expansive its involvement should be in the economy in order to ensure growth and development. Classic contractarianism envisages a neutral state that embodies the interests of society. More critical and empirically based views question whether the state in reality maintains and reproduces hierarchical order, securing the privileges and advantages of certain citizens and maintaining the subordination of others (Perry and Villamizar-Duarte 2016).

In considering social contracts as they apply to informal workers in increasingly complex modern societies, the role of the state needs to be carefully dissected. It is necessary to consider a range of countries which include both authoritarian and democratic regimes, as well as many fragile states who fall short in the fulfilment of one or more core state functions. Governments are in themselves the locus of political contestation, between ministries and across delegated levels of authority. They are also located within geopolitical contexts where the state can no longer be equated with sovereign power, since sovereignty is dispersed vertically between national and transnational actors and horizontally between economic and political institutions and elites. The hostile and obstructive nature of encounters with local and national government entities described by many informal workers highlights how their interests are often not represented by the state (see chapters 1, 2, 4, 5, 8 and 9 in this volume). Indeed, state actors often penalize informal workers and abuse their authority to extract bribes and confiscate goods from informal workers and periodically evict them from their workplaces and/or residences. These findings contribute to debates regarding the need to establish certain threshold requirements for the state without which a social contract ideal is meaningless (White 2000). For example, Breman and van der Linden (2014, in Meagher 2018) contend that ‘the minimum requirement of a social contract is for the state to hold capital accountable for contributing to decent and dignified work for the labouring masses’. Others have proposed visions of an ideal state as a guide to strengthening fragile states (UNDP 2016).

With particular relevance to this book, capital and (formal) labour have been considered key mediators of the relationship between state and society, traditionally representing the collective and competing interests of employers and employees (Paz-Fuchs 2011). Social contract theory paradigms have underpinned the evolution of employment systems, fiscal regimes and welfare states, which historically have come to represent the substance of social contracts in many global North economies (see the next section). Liberals in

the early manufacturing era hoped that wage employment was to be no more than a transitional stage and that self-sufficient producers would become the primary means of production in the long term (Pateman 1989). However, over the first half of the twentieth century, wage employment became the accepted *modus operandi* in industrializing nations. The terms of the social contract between employers and trade unions in these contexts were rooted in the tension between alternative views of work as liberating or exploitative. As a result of collective bargaining, trade unions recognized the legitimacy of private ownership of the means of production, while employers conceded both an input into the management of the enterprise and the right of unions to bargain on behalf of members for better wages and conditions (Paz-Fuchs 2011).

This ‘stable’ social contract has been challenged from several angles. Libertarian ideology has juxtaposed economic markets with states, rather than as subordinate to them, promoting markets as ‘alternative’ guarantors of a natural balance in society which could achieve individual liberty and collective wellbeing without the risk of forceful hierarchical authority, subordination and power (Perry and Villamizar-Duarte 2016). This paradigm remains ingrained despite the effects of economic crises and recessions which have exposed power imbalances in markets and the failures of markets to act as a self-regulating effective force towards equilibrium in society.

The dominant acceptance of the market economy paradigm has had several implications for the social contract anchored in the employer–employee relationship. Capital and labour are no longer equals held in tension within the broader state–society framework (see chapters 2, 6, 7 and 8). The balance of political and economic power across national and international contexts has shifted, arguably in favour of employers (see Chapter 7). Moves to disestablish collectivism in favour of decentralized individual bargaining (which places workers at a disadvantage) and a reduction of labour rights have been typically justified under a labour flexibility agenda, understood as the ability of employers to set wages and conditions of employment in order to respond quickly to market and technological changes. The employment relationship has become increasingly individualized, fragmented, de-localized and de-materialized, opening up new forms of vulnerability for workers (Daguerre 2014). When employers control the means of production and are able to set the terms of the employment contract to their advantage, workers have no genuine choice about whether to enter the employment contract, and may be effectively absorbed coercively (see chapters 6 and 8). Furthermore, market prices do not reflect all the costs of production, and tend to externalize the costs of damages to health caused by working conditions, damage to the natural environment by the toxic sides of production, and the constructing of transport networks, which are borne by workers, the environment and/or the state. A global perspective

accentuates the distortion of capital–labour relations, given the high level of transnational globalization of capital and the increasingly stringent limits on the globalization of labour (Uzbay Pirili and Pifpirili 2015).

The unravelling of the global North social contract has highlighted the absence of a conceptual and analytical space for informal workers, as well as the relevance of critical theory to the case of informal workers (as chapters 2 and 7 clearly show). As Chen argues in Chapter 2, informal work is not a ‘new’ form of labour, and is well established in many countries in the global South. However, as informality has re-emerged in the global North, and as global supply chains across North–South divides have taken root, informal work has become more visible, as has its omission from social contract models. COVID-19 has exposed the vulnerability and risks of essential workers in transport, health and food industries who often lack basic employment rights (several examples are given in Chapter 9). These developments challenge a dualist view of informal workers which sees them as marginal to social contracts. A comparative historical view of the ideological antecedents of contractarian theory provides a framework within which to evaluate how different social contract models might offer a different perspective on informal workers’ identity.

The Hobbesian interest-based view which prioritizes freedom would frame informal workers as autonomous and self-reliant agents, who trade their goods and/or labour as a livelihood, who in an efficient market system are paid what they are worth and whose ‘active citizenship’ arguably decreases their dependence on public welfare provisions (Dean 2013). This would align with a voluntarist view of the informal economy, outlined in the earlier section ‘Interpretations of social contract in global policy’. A Lockean version of the social contract, in line with a legalist perspective, would also highlight the agency and entrepreneurship of those who choose to operate informally yet are hampered by inefficient bureaucratic restrictions, and support a minimalist approach to regulation. A critical view of these positions would show that by foregrounding self-interest the assumption of contractual equality between contractors becomes misleading and creates the conditions for agreements that favour political and economic elites. ‘Voluntary’ agreements may not be mutually beneficial, and may even be coercive, given differences in bargaining power, which can skew agreements in favour of some over others, enabling the exploitation of resources and people (Pateman and Mills 2007).

A Rousseauian/Rawlsian rights-based approach would promote an egalitarian perspective, which takes account of informal workers as agents of change within a structuralist interpretation of informality. A critical view would also highlight the inequities of exploitative linkages between formal and informal markets and the ‘five faces of oppression’ (Young 1990): exploitation (when one group of people gains advantage at cost to another), marginalization

(expulsion from participation in social and economic life and subjection to severe material deprivation), powerlessness (being deprived of the ability to accomplish one's goals), cultural imperialism (to have one's perspective rendered invisible and/or depreciated by dominant meanings of a society) and violence (living with the prospect of random, unprovoked attacks to oneself or one's property). Rather than reducing individuals to the mould of a common universal contractor with a universal interest, a critical lens would also require the recognition of the dynamic gendered, cultural, social, economic and geographical differences between individuals (Perry and Villamizar-Duarte 2016).

Importantly, an analysis of the contractors from the perspective of informal workers opens up a panoramic view beyond the state–society and capital–labour lenses. Collectively, the chapters in this book introduce and critically describe a much broader spectrum of actors and relationships which need to be mapped out to inform a social contract that is relevant to a contemporary global context: state–citizen, citizen–citizen, labour–labour, labour–citizen, state–capital and state–labour, among others.

WHAT IS THE SUBSTANCE OF THE CONTRACT?

Re-envisioning the social contract for informal workers also entails a reflection on the actual substance of the contract. Fundamental to a fair social contract is the critical need to recognize informal workers as 'workers' – as legitimate economic agents – and to include them in relevant social dialogue platforms as well as policy-making and rule-setting processes. A social contract that is pertinent for informal workers therefore requires procedural, distributive and participatory components, which we describe below. In addition to these three functions of the social contract, captured for example in the '3P' framework (provision, protection and participation) proposed by Loewe et al. (2019), recognition and the need to call out the wrongness of demeaning and stigmatizing policies and practice is also an important dimension of a normative framework, as the evidence presented in this volume demonstrates (see Chapter 2 especially).

The procedural function is the primary function of classical social contracts, concerned with the legal enforcement of human and civil rights and collective security from external threats. The aim is to reconcile civil liberties with the necessity of maintaining domestic order and national independence (Kaufmann 2012). A narrow procedural focus supports the liberal idea of the constitutional state based on and restricted by law and the separation of public and private spheres. As part of an extensive social contract, 'protection' provides the fundamental legal safeguards and defence against a vast array of contemporary collective risks, such as health pandemics, environmental disasters and nuclear accidents.

The distributive (and redistributive) dimension of access to infrastructure, private and public property, health, education and social services, social protection and economic opportunities, supported by tools of monetary policy and fiscal policy, is central to a modern conception of the social contract, viewed as a means of safeguarding economic, cultural and social rights. The Polanyian concept of de-commodification constitutes the backbone of welfare state policies which involve the emancipation of people from market dependence (Polanyi 1944). In its broadest sense, this provision is not limited to the most vulnerable but ensures a dignified standard of life for an entire population (Uzbay Pirili and Pifpirili 2015). The role of the employee–employer relationship in the provision of welfare is central to social contract debates and the lack of substantive provision for informal workers is increasingly recognized (Siegmann and Schiphorst 2016).

The participatory function is a component of contemporary social contract paradigms and entails the involvement of society in political decision-making processes on different levels. Participation is not a valued function when the state is viewed as the organ that embodies and represents a population and marginal active participation is envisaged for civil society and its organizations (Uzbay Pirili and Pifpirili 2015). However, it becomes a key consideration when the exclusion of large sections of population from participation due to social status, lack of economic resources or political voice becomes apparent (Fraser 2003), as well as the constraints of fragility, clientelism and lack of capacity and resources of the state (Uzbay Pirili and Pifpirili 2015). Thus, it is crucial that stakeholders not only initiate an original contract but are participants in a continuing process (Paz-Fuchs 2007).

The recognition function supplements standard dimensions of the social contract and acknowledges that a sense of dignity and respect cannot simply be assumed to be a natural outcome of the other dimensions (Fraser 2003). This angle draws in the relational aspects of a fair contract, which is concerned with what kind of standing vis-à-vis other persons a person has and should have (Young 1990). The upholding of dignity in the procedural, redistributive and participatory components of the social contract also has a psychological dimension (Honneth 2014). This has become particularly evident in the wake of political movements centred on identity, which have, for example, highlighted how the victims of racism and colonialism have suffered severe psychological harm by being demeaned as well as exploited.

In this book we consider all these dimensions – procedural, substantive, participatory and recognition-related – as important for informal workers. The interrelated needs and claims of informal workers in relation to worker benefits and social protection (health, pensions, childcare, and so on); public services, space and procurement; and social dialogue and their contributions to taxes, the economy and society are dealt with extensively in the book chapters.

These dimensions are also interdependent. Systematic injustices that derive from the dynamics of power and lack of recognition cannot be reduced to problems of distribution (Young 1990). Protection from external threats such as long-lasting mass unemployment, increasing inequalities, global financial crises and the global pandemic recession require legally enforced protection and substantive provision, and are unlikely to be achieved if informal workers are not institutionally mandated to negotiate as equals.

THREE APPLICATIONS OF SOCIAL CONTRACT THEORY TO INFORMAL WORKERS

Drawing on the different strands of social contract theory, we suggest three ways in which social contract models can be applied and will be useful for understanding and advocating for informal workers. These three themes are cross-cutting across chapters.

First, an in-depth analysis of the current status quo in which informal workers are located brings to light the ways in which political, economic and social arrangements perpetuate relations of power. This means identifying the ways in which societies have given

new fetters to the weak and new forces to the rich, irretrievably destroyed natural liberty, established forever the law of property and of inequality, changed adroit usurpation into an irrevocable right, and for the profit of a few ambitious men henceforth subjected the entire human race to labour, servitude and misery (Rousseau in Boucher and Kelly 2004, p. 15).

Exposing the inequities of existing non-ideal social contracts highlights informal workers' exclusion from legal recognition (chapters 3 and 7), from policy discourses (chapters 4 and 5), from negotiation platforms (chapters 1 and 5), from economic and urban planning (chapters 1, 2 and 6), and from legal and social protection (chapters 5 and 9). The experience of violence and punitive stances rather than protection perpetrated by the state or by capital (allowed by the state) reveals that exclusion is not because informal workers are out of reach of the state, but because they are branded as undesirable for what they do and also for who they are (from races/ethnicities/castes that the elite and powerful choose to look down upon) as a deliberate state/capital policy (chapters 2, 7 and 9). Exploring the ways in which informal workers operate within contexts of inequality and subjugation calls attention to unfair terms of labour and weak bargaining positions. The ways in which social and political institutions sustain occupational, gender and racial inequalities often serve to entrench power asymmetries within labour markets and societies.

A second application involves articulating ideal social contract dimensions, drawing on the perspectives of informal workers from a social justice perspective, based on fairness and recognition (see chapters 1 and 2). This involves a reimagining of new economic/social/political ‘structures’ or institutions which would represent a fair social contract for informal workers. It means conveying informal worker leaders’ formulation of common shared values and demands for recognition, responsiveness and reciprocity (Chapter 1), as a basis for inclusive negotiations leading to inclusive legal and policy reforms. It also invites a redefinition of social contractors, a redrawing of the boundaries of collective representation, a recalibrating of the relative weight of different actors and relationships, and a demarcation of the appropriate lines of accountability and means of enforcement of new social contract norms.

Lastly, the book documents the process of moving from the current status quo towards the ideal contract, and the constraints to this process (see chapters 3, 5, 8 and 9). While it is important to recognize the power asymmetries which constrain informal workers and their households, a process-oriented analysis of social contracts in flux also draws attention to how informal workers are actively organizing, resisting and setting the contours for new social contract negotiation. The authors examine the significant trends that are leading to actual change among informal workers, such as new legal definitions, positive changes in global discourses which refer to them as ‘workers’, legitimate economic agents and emerging social dialogue platforms. They also look at some of the risks that can thwart their efforts. The concrete experiences of informal workers engaging with the state also show the need to consider both locally embedded yet nationally and globally inclusive collaborations as dimensions of a multi-layered social contract in which wage/price negotiations, profit-sharing, taxation, social assistance, social insurance and social services can be addressed.

OVERVIEW OF CHAPTERS

At the outset, in Chapter 1, Sally Roever and Ana Carolina Ogando portray the ways in which informal workers perceive their role in economy and society, addressing a gap in current knowledge, despite the prevalence of informal work worldwide. Roever and Ogando highlight how existing structures marginalize and undervalue informal workers and undermine their livelihoods, in ways that shed light on current calls for renewed social contracts between the state, capital and workers. The chapter draws on empirical data to identify three principles or dimensions of a new social contract that emerge from informal workers’ own perceptions: recognition (of the role they play in sustaining households, communities and cities), responsiveness (to their needs – not only as workers, but as members of society) and reciprocity (so that the value that

informal workers create for households, communities and cities is met with some corresponding value from the state and owners of capital).

In Chapter 2, Martha Chen further develops the portrayal of the world of informal work to help correct the assumption of traditional social contract theory that labour markets are dominated by formal wage employment. Chen highlights that nearly half of all workers globally (44 per cent) and two-thirds to three-quarters of workers in emerging and developing economies are self-employed, and discusses how self-employment differs between developed, emerging and developing countries. Chen then draws on case studies of three informal self-employed groups to illustrate that the state, both national and local, plays a large role in determining the status and working conditions of the informal self-employed: home-based workers negotiate with city governments for secure tenure and basic infrastructure services for their homes which double as workplaces; street vendors negotiate with city governments for secure vending sites and with the police to prevent bribes, evictions and confiscation of stock; and waste pickers negotiate with city governments for access to waste, municipal contracts to collect and recycle waste, and space to sort, store, bundle and process waste.

The nexus between procedural and recognition functions of the social contract emerge in Chapter 3, in which Françoise Carré details the establishment of a new status in employment category in official statistics: that of ‘dependent contractor’ in addition to the existing ‘wage employed’ and ‘self-employed’ categories, providing an important case study of how change can occur in practice. This example reflects one aspect of attempts to (re-)establish a contract between labour and capital that is critical when taking a work-centred perspective on social contract theory but is often downplayed in favour of the more widely recognized capital–labour relationship, namely the employer–employee relationship.

Chapters 4 and 5 address the substantive and redistributive aspects of the social contract, undergirded by rights and responsibilities. In Chapter 4 on taxation, Michael Rogan critically examines the current dominant focus on the responsibility of informal workers to pay taxes, and counters the growing consensus that negotiation and collective action around tax obligations are the key defining relationship between the state and society. Based on a field study of informal street vendors and market traders in Accra, Ghana, Rogan reflects on the kinds of taxes and operating fees that informal workers pay, and the lack of reciprocal benefits from government, including sanitation and fire protection services. Avenues for a future research agenda and an approach to understanding ‘tax justice’ from below and the politics of taxation are considered.

In Chapter 5, Laura Alfes and Rachel Moussié turn the focus from responsibilities to rights, and in particular the right to social protection, a critical component of the social contract. They define its contours from the perspective of

informal workers. Importantly, the chapter also highlights a process-oriented perspective on social contracts, critically examining the ‘new spaces’ for dialogue that are opening up to informal workers. This analysis, which meshes the participatory and redistributive dimensions of the social contract, also questions conceptions of social risk which have underpinned traditional models of work-related social protection. The chapter provides an overview of the forms of social dialogue in which membership-based organizations of informal workers have been involved in relation to these issues. It uses these examples to critically reflect on the power dynamics that shape the spaces for dialogue being opened up by informal worker organizations, the tensions that arise as a result and the implications for formal institutions governing social dialogue if they are to maintain relevance in a rapidly informalizing world of work.

From different angles, chapters 6 and 7 examine the capital–labour relationship. In Chapter 6, Taylor Cass Talbott emphasizes the changing nature of labour–capital linkages within the social contract, highlighting processes of struggle to shift the contract to more favourable terms for informal workers, the emergence of new lines of accountability and the impacts on social contracts of environmental considerations. In a selection of cities from the global South and North, Cass Talbott describes the ways that waste pickers both benefit from and are disadvantaged by Extended Producer Responsibility (EPR) policies and systems which have increased dramatically in recent years. Based on discussions and engagements by a global working group of several waste pickers’ organizations and researchers around the world, Cass Talbott also discusses possibilities for new, more equitable systems in which EPR can help integrate waste pickers into more formal waste management systems on favourable terms.

In Chapter 7, Marlese von Broembsen argues for a plural, overlapping perspective of social contracts at city, national, regional and global levels. Drawing on the lived realities of informal homeworkers in developing countries, her chapter explores transnational social contracts with a focus on the garment sector. The chapter analyses the eminent European Union human rights due diligence legislative framework that seeks to hold corporations accountable for labour rights violations in their supply chains, and argues that a social contract that is institutionalized through human rights, rather than labour law, performs several functions: its transnational character addresses labour law’s jurisdictional limitation to the nation-state; human rights extend protection to all workers, not only employees; and it recognizes other actors besides the state–capital–labour triad, including civil society organizations and informal workers, as legitimate participants in social contracting processes.

In Chapter 8, Salonie Muralidhara Hiriyur discusses how the emergence of digital platforms and the gig economy has generated significant questions on the impact of new technologies on labour, especially on informal workers in

the global South, and the potential need for a new social contract to keep pace with the shifting landscape of work. This chapter draws on the case of domestic workers in India to analyse the impact of digitization on the sector, focusing on problems of access, the changing nature of employment relations, new power dynamics, and the intersection of gender and other socio-cultural indicators. The chapter examines key strategies of, and challenges faced by, the Homecare cooperative of domestic workers who belong to the Self-Employed Women's Association in Ahmedabad (India) to develop alternative, 'democratic' and 'worker-oriented' models of digital platforms and the advantages of such alternatives.

Drawing on research conducted by WIEGO during the COVID-19 crisis, in 11 cities across five continents, Sarah Orleans Reed explores in Chapter 9 what meaning the policy designation of 'essential' work had for urban informal workers. The chapter highlights the ways in which the self-employed status of many informal workers left them doubly vulnerable, taking on health and economic risks associated with the pandemic, without any of the health protections afforded to formal wage workers and none of the business protections afforded to formal businesses. In contravention of the core principles of a fair social contract, the ongoing experience of violence and harassment, the undermining of their livelihoods, their relative lack of social protection and the absence of business support for their businesses means that the paradoxical status of being 'essential but disposable' has particular resonance for many urban informal self-employed. The loss of earnings and the coping strategies used by informal workers, both 'essential' and 'non-essential', illustrate the real, material outcomes of their disposability, outcomes which need to be addressed in a new social compact for informal workers.

In the final chapter, the editors synthesize the key themes of the book chapters. The Conclusion reflects on the changes that have occurred in the time during which the book was written with the onset and global spread of the COVID-19 pandemic, which has had a disproportionate impact on informal workers: both revealing and exacerbating the pre-existing inequalities and injustices, while also shining a spotlight on the contributions of informal workers in providing essential services (health, food, care, transport, sanitation). While successive waves of the virus and related restrictions continue around the world, we argue in this chapter that there is an urgency in drawing lessons from the pandemic recession, which can serve to actively contest predatory forces that seek to take advantage of the crisis, and direct the course of recovery towards a better new social contract for informal workers.

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1. Recognition, responsiveness and reciprocity: what informal worker leaders expect from the state, the private sector and themselves

Sally Roever and Ana Carolina Ogando

INTRODUCTION

More than a year after the start of the COVID-19 pandemic, evidence continues to accumulate that its economic impact has disproportionately hit vulnerable populations (OECD 2020). In the world of work, the most severe impact has been felt by workers who lack income security, contracts and access to basic protections, all of which are prevalent conditions in the informal economy. According to estimates compiled by the ILO (2020), workers globally lost \$3.5 trillion during the first three-quarters of 2020 as a result of the pandemic, and workers in informal employment—particularly women (Azcona et al. 2020, Lakshmi Ratan et al. 2020)—have been especially vulnerable to income loss and poverty during the crisis.

Policy responses to the crisis across regions have focused primarily on delivering social assistance in the form of cash grants (Gentilini 2020). While as part of short-term relief efforts cash grants have served recipients well as an immediate crisis response measure, many informal workers were excluded from this relief, and where cash grants have been complemented by labour market interventions, they have benefited formal wage workers (De La Flor et al. 2021). The road to a more broad-based recovery for all workers will require a nuanced approach that addresses the inequalities between segments of the labour force that existed prior to the crisis.

Yet the views of informally employed workers themselves are rarely solicited in the design of policy responses or in the co-production of policies more broadly (Mitlin and Bartlett 2018, 355–356). Informally employed workers typically lack access to national tripartite bargaining structures, and their voices are not often heard within discussions of roles and responsibilities associated with the concept of the “social contract.” There is “too little understand-

ing about the importance of building dialogue, exploring collaboration and co-producing solutions” (Gupte and Mitlin 2020, 211) in the rush to respond to the crisis, and informal worker leaders have struggled to find spaces where their organizations can exercise meaningful influence over recovery policy design and implementation. But these leaders have much to say about their expectations of the roles that should be played by national and local governments, private sector enterprises, employers and their own organizations.

How do informal worker leaders from different occupational sectors view the roles and responsibilities of institutional actors in the current circumstances? What can their views tell us about mending the fault lines laid bare by the pandemic? What can be learned from their lived experience during the COVID-19 crisis and more generally as workers who tend to be excluded from state protections and from dialogue structures? Lastly, how can these perspectives inform building better state–society and capital–state–labour processes and, ultimately, what can they tell us about recovery pathways that lead to better outcomes for workers once the immediate crisis recedes?

This chapter explores data from the Women in Informal Employment: Globalizing and Organizing-led 12-city COVID-19 Crisis and the Informal Economy study (WIEGO 2020) to address these questions. It privileges the perspectives of informal worker leaders: workers with leadership responsibilities within their organizations who have been navigating the space between the dire circumstances of their members and the responses of institutional actors, including the state.

METHODS

This chapter draws on qualitative data from semi-structured key informant interviews from four cities where WIEGO and local partners researched several occupational sectors: Accra, Ghana; Durban, South Africa; Lima, Peru; and Mexico City, Mexico. The four cities had broadly similar timelines regarding pandemic-driven regulations restricting movement and economic activity: in the first survey reference period, April 2020, all cities had enacted restrictions that impacted the movement of workers and consumers. Of the four cities, Lima and Durban exercised the most severe restrictions. In the second survey reference period, early July 2020, all cities had eased restrictions to some extent. The choice to draw on qualitative data supports the objective of gaining a more in-depth understanding of sector and context-based challenges that limited or facilitated multi-actor engagements.

Responses to key informant interviews were coded according to explicit or implicit references to the roles and responsibilities of different actors: local and national government, private sector and employers, and informal workers and their organizations. Of the 31 worker leaders interviewed, 15 were women.

The chapter proceeds in two sections. In the first section, we discuss respondents' reports of the roles taken on by governments, employers and private sector actors, and informal workers' membership-based organizations (MBOs) across two dimensions of the crisis: relief (including the provision of cash, food and personal protective equipment) and recovery of livelihoods by facilitating a return to work (including the management of public health risks to workers and society). In the second section, we move from roles to relationships, examining how respondents' views of the relationships between the different institutional actors were shaped by perceptions of fairness. The analysis suggests that workers viewed fairness along three dimensions: recognition, responsiveness and reciprocity. These dimensions highlight how important principles of fairness can be for establishing relations of dignity and trust in day-to-day interactions through to engagements in formal institutional settings and policy processes, whereby workers seek access to contested spaces to deliberate on existing barriers of inequalities reproduced by the state and the private sector.

1. WORKER LEADERS' PERSPECTIVES ON ROLES OF DIFFERENT ACTORS IN RELIEF AND RECOVERY

Relief

The worker leaders interviewed for the study viewed relief from the standpoint of their personal experience with whether and how widely cash grants, food aid and other emergency provisions and subsidies reached their members in the early months of the crisis. In the interviews, MBO leaders in Mexico City, Lima and Accra reported that some workers received relief in the form of cash transfers and/or moratoriums on utility payments (typically from national governments), and/or provision of personal protective equipment or free COVID-19 testing (typically from local governments). Nowhere did worker leaders report that more than one form of relief reached more than a handful of workers, reinforcing findings from the full survey sample (Alfers, Ismail and Valdivia 2020), but indicating that they held an expectation that governments should deliver relief to their sector.

Role of governments

In cities where relief did reach specific sectors of workers, the interviews indicated that most relief was provided by governments, although some came through non-profits or other donors. Worker leaders expressed appreciation for all forms of relief that did reach their members. A domestic worker leader in Lima, for example, noted the appropriateness of a national government cash

grant program even though it did not reach all workers in her organization.¹ In Accra, street vendors and market porters (*kayayei*) recognized that electricity relief had cut costs in half and that local governments helped by providing water buckets for hand washing. Several leaders in Mexico City noted the local government provision of kiosks with free COVID-19 testing.

Where relief did not reach MBO members, worker leaders articulated the need for governments to be more active and more aware of what could help. In some cases, these comments referred to relief measures that did not reach their members, such as national cash grant programs in Mexico City and Lima and small business loan programs in Accra and Durban.

Government attempts to offer relief on rent and utility payments were not always appropriate to the working and living conditions of workers: in the case of utilities, for example, a street vendor leader in Accra explained that the threshold for a subsidy on electricity payments did not work in favor of the poorest workers:

If the system had for instance an arrangement which gives every room a separate meter it would have really helped the relief on the electricity bill. The informal workers who are very poor do not benefit because about ten people use one meter for separate rooms so the reading of the kilowatts are charged together and therefore exceeds the threshold which qualifies for the subsidy. So if the government would bring an arrangement that every room or household should have its own meter, it would help.

Where relief did not reach workers, leaders suggested that governments should have played a role: as a leader of street traders in Durban said, “I thought that during this time the government would consider us, and support us. The issue of inequality will have long-term effects. People have lost their jobs and the business is really slow.”

Overall, with regard to perceptions on relief, worker leaders across all sectors in all cities except Accra reported very few *local* government interventions. They instead associated relief more frequently with the role *national* governments played, though this too was insufficient due to the barriers to access and the amount of relief in relation to the extent of loss in earnings and livelihoods. Thus, while the expectation of worker leaders towards governments’ responsibility to provide relief in times of crisis was common across the cities and sectors, governments’ willingness and ability to fulfill that role varied considerably and did not entirely meet the needs anywhere.

Role of the private sector

A handful of worker leaders also commented on the role of the private sector and/or employers in relief efforts. One worker leader in Lima said that private companies had donated food to community kitchens, and a leader in Mexico

City said that some landlords had forgiven rent payments. However, far more comments focused on what the private sector and employers did not do rather than on what they did. These comments shed light on how worker leaders view the possibilities for a more constructive role on the part of more powerful actors in their respective sectors or value chains.

For example, a leader of newspaper vendors in Lima said that media companies, who rely on vendors to distribute their newspapers, had contributed almost nothing to protect vendors' health and wellbeing. Similarly, a waste picker leader in Durban said that members of his organization had not received any help from the businesses whose waste they had always collected.

These comments reflect a perception among worker leaders that businesses which rely on informal workers bear some responsibility to contribute to those workers' wellbeing. They also reflect a perception that, like governments, private sector actors had fallen short on meeting this responsibility.

Role of MBOs

The interviews also suggested that an MBO's role is fundamental in times of crisis. In all four cities, worker leaders reported that their MBOs played a facilitating role to link relief with members where possible. They did so by providing information on how to access relief and food rations, assisting workers in applying for relief, and helping produce and distribute food rations and personal protective equipment to those in most need. In Lima, for example, a domestic worker leader highlighted the role her organization had played in distributing food parcels donated by national government ministries and civil society actors to more than 400 individual members, targeting those most in need.

In some cases, MBO relief efforts were also directed to the community at large. In Lima, street vendors donated produce to community kitchens to support their efforts and reduce food insecurity and its associated stress. As a woman street vendor leader noted, "it's a joy to be organized, to be united in order to deliver food relief, masks and even just morally accompanying people ... Everyone doing what they can to help each other through." A leader of market traders in Durban noted that the challenges brought forth from the pandemic enabled them to "learn new channels of communication and networks [and] above all [learn about] application processes and how they work in pursuit of relief scheme funds." Indeed, several worker leaders reported that the most important relief role they played was in the emotional support to their members as they underwent the acute stress of suddenly losing their livelihoods.

Worker leaders' expressions of the gap between expectations and reality is an important consideration in discussions of the social contract, particularly when it comes to the need to build trust between the state, citizens and labour.

Worker leaders' sentiments of invisibility and isolation during the height of the pandemic were also met with lack of sufficient support and relief from the private sector and employers, who seemed to abandon the very workers they rely on once the crisis hit. The MBOs' interventions to fill in relief gaps helped, but leaders felt the heavy emotional burden of the limits of their ability to mitigate the impact of such a large-scale crisis.

Recovery

As in the previous section, we began our analysis of roles regarding recovery measures in response to COVID-19 by assessing what interviewees said about their needs in this area. We define recovery measures as interventions that altered or created new rules influencing who could work and under what conditions during the early stage of the pandemic.

Role of government

The interviews with worker leaders revealed a great deal of insight into the effect that recovery measures had on workers' ability to maintain their livelihoods. Worker leaders also commented on the roles they thought governments and employers did not play but should have played in rule-setting and the effect that inaction had on their livelihoods and wellbeing.

Across the four cities, street vendor and market trader leaders had the most to say about the recovery role that governments played to facilitate the return to work, including running shifts among market traders to prevent overcrowding (Accra), closing certain gates or entry points to markets (Durban), and evicting smaller markets to avoid crowding (Lima).

Some recovery measures were viewed positively and as supportive of livelihoods. In Accra, market traders appreciated the spraying of the markets with disinfectant and the safety protocols put into place. One leader said, "I would like to thank the government for the safety protocols prescribed for us." Notably, the role of government in establishing better protocols in markets was not viewed in isolation, but in the context of the dual need for governments to intervene and for traders to comply with such interventions. As one Accra leader said, "As we speak we haven't recorded a surge in the COVID infections in the markets which means that the traders have really done well in complying. I urge the government to factor in all these issues when building new markets considering spaces and water access."

More commonly, however, interview participants discussed interventions that were unsupportive of workers' livelihood recovery, and failures to intervene where measures were needed. For example, the trader in Accra who praised the local government's role in establishing safety protocols also said, "the biggest harm has also been from the same government because of

the imposition of the restrictions and running of shifts which really impacted negatively on the traders”; the limitations placed on hours of work meant that traders could not earn enough to make ends meet in the absence of cash grants or other forms of social assistance. A similar complaint arose in Durban: “People can only recover from this pandemic if they are employed and if the market is fully operational.”

Food traders in Durban expressed frustration with local enforcement authorities’ lack of knowledge of their designation as essential service providers, which gave them permission to work even while movement was restricted. Despite holding special permits, they reported ongoing harassment and intimidation on the part of enforcement agents who were unfamiliar with what the new permits looked like, which in turn made market traders fear their goods would be impounded. In the face of those issues, one trader said, “we also fear that our businesses will never recover after this pandemic.” Another market trader added that the most important role local governments could play is to make the markets hygienic: “sanitation is the biggest issue in this pandemic—no access to water and some toilets are not functioning. If the government can fix that, customers will feel safe to come and purchase goods in the market.” This suggests workers’ desire for governments to play two roles: to protect public health and to boost demand by creating conditions where customers could feel safe coming to markets.

In Lima, local governments took a more drastic approach to street markets, fueled by negative media portrayals of markets as vectors of disease (Ogando and Abizaïd 2020). Rather than working with street vendors’ organizations to establish and enforce safety protocols, leaders reported that some municipalities evicted smaller markets altogether. Perversely, these evictions drove customers to a handful of larger markets, which became more overcrowded as a result. According to one leader, her organization drew up their own protocols, put into place plastic barriers between stalls, distributed masks and sanitizer, and presented their approach to a few municipal administrations: “We said: ‘Sir, we are going to organize ourselves with one meter in between and we will disinfect everything for our clients,’ and he didn’t give us the time of day.” In her view, local authorities should have supported the organizations in place to operate markets safely, preserving livelihoods while also protecting public health.

At the same time, this leader saw some potential for collaboration between street vendor organizations and local and national governments in the longer term. In her view, local government authorities must build their own capacity to understand the economic logic and consumer patterns associated with smaller markets in the context of the broader urban retail system. While the media’s negative portrayal of street markets incentivized police and private security forces to evict street markets during the pandemic, governments could

have built on existing partnerships to develop and disseminate clear plans that would have prevented some of the abuses and evictions that arose in their absence. Waste pickers and domestic workers also saw a recovery role for governments, though they said less about it than did street vendors and market traders.

Role of private sector and employers

Regarding the private sector and employers, domestic worker leaders in Mexico City identified a need for the Ministry of Labour to develop protocols to get employers to comply with labour rights already enshrined in law. In the absence of such protocols, employers created abusive working conditions that domestic workers were afraid to resist for fear of losing their jobs. No additional views on the private sector or employers were recorded, a reflection of other workers' status as self-employed workers and their lack of expectation that private sector and employer actors would play a role in supporting recovery.

Role of MBOs

Finally, for those working in public spaces, particularly street vendors and market traders, several leaders across the cities mentioned that their own organizations had taken a strong lead role in recovery by encouraging compliance with health and safety protocols. This includes enforcing mask-wearing in street markets by both traders and customers, installing plastic sheet barriers between street market stalls, placing hand-washing stations at entry points, reducing the size of stalls to increase space between them, creating one-way entry and exit points to facilitate distancing among customers, maintaining shifts among market traders to avoid crowding, and sanitizing surfaces and currency.

In addition to establishing practices that could mitigate workplace insecurity and health risks, worker organizations also took a lead in being a reliable source of information for members. A market trader leader in Accra stated, "I believe that a strong or a living association is one whose members are strong and healthy so what I have been proud about is the education we provided to our members for them to keep safe and not be affected by the COVID."

Worker leaders also supported recovery by negotiating permits for workers designated as essential workers and supporting workers in the registration and acquisition of ID cards. This advocacy reinforced the fact that informal workers provide essential services and goods, and it helped mitigate the forms of violence and harassment being directed at them. In Durban, for example, market trader leaders helped workers understand the detailed registration processes for permits, which helped workers avoid multiple trips to municipal offices and higher transportation costs.

Viewed holistically, the interview responses outlined in Section 1 suggest that worker leaders in the four cities viewed responsibilities multidimensionally: they saw an appropriate role for governments, private sector actors, employers and themselves as leaders—as well as their organizations and members—in both delivering relief and coming up with recovery measures that would both support livelihoods and establish safer and more decent work conditions. How, then, did they view fairness and justice within the context of those pandemic-related responses? We analyze the interview data in light of this question in Section 2.

2. INFORMAL WORKERS' PERCEPTIONS OF RELATIONSHIPS: RECOGNITION, RESPONSIVENESS AND RECIPROCITY

Further analysis of the interview data suggests three dimensions along which informal worker leaders view their relationships with key institutional stakeholders. The first dimension is recognition: an expression that state entities, private sector firms and/or employers should be aware of informal workers' existence, their working conditions, and the role they play in economic and social life. The second dimension is responsiveness: the notion that open, two-way dialogue and collaboration are essential components of the desired relationship that MBO leaders wish to build with the state and the private sector. The third dimension is reciprocity: a sense that the roles of institutional actors should be balanced in a way that facilitates the overall functioning of economy and society in order to avoid or eliminate punitive, arbitrary or counterproductive arrangements.

Recognition

Several interviews with worker leaders conveyed a sense that fairness, from their perspective, is fundamentally rooted in a sense of recognition. Worker leaders mostly expressed this sense in terms of its absence: that more powerful actors—specifically, the state, employers and private sector firms—do not even recognize their existence. “I can tell you in all honesty,” said one worker leader in Lima, “we continue to be invisible” to government officials when it comes to COVID responses.

A woman waste picker in Accra reported that the lack of recognition by her community and the government made her question whether waste pickers are considered citizens:

We realize the importance of our work to the community and it's very painful for us, now that we know that the work that we are doing benefits the government and the

community, and they don't see us playing any role. Are we not a part of them, are we not a part of the country, are we not citizens?

In this sense, workers had a heightened awareness of their contributions to their communities, society and the economy, which grounded their claims that governments should understand informal workers' experiences of invisibility and marginalization. As one street trade leader in Accra said, "I work to get all traders to know that whatever they are doing is of great importance to the nation and that they should not belittle themselves or downplay their contributions to the development of the country and that they are a major stakeholder in the nation."

Yet a prevailing theme in the interviews was that the government did not recognize these contributions. As a street vendor leader in Mexico City said, "we are part of the economic engine of the city; this is something that the government still doesn't understand." Workers linked this lack of understanding with barriers to accessing government relief.

Some leaders contrasted government's inability to recognize informal workers' contributions to the general public's understanding: "The government has always had the same attitude: they continue to see us as a sector of little importance, a part of society that they only use from time to time for political expediency," said a street vendor leader in Mexico City. The public, on the other hand, "can see what vendors are doing" to protect public health: "putting up plastic [safety barriers] in between vendors and customers, cleaning everything, taking vendors' temperatures and sending people back home when they are sick."

Most fundamentally, study respondents conveyed a sense of wanting the government to recognize that their livelihoods contribute to the city: "I would like recyclers to be viewed as valuable workers. We are not stealing or littering around; we are trying to make a livelihood," said one waste picker leader in Durban. In fact, worker leaders in several cities demanded that workers in their sectors be recognized as essential workers (Abizaid and Parra 2020, Marchiori and Prandini Assis 2021), and these efforts resulted in their official designation as essential workers in some cities.

Finally, a domestic worker leader in Mexico City called on the government to recognize the unique employment conditions of domestic workers given that they work in private households. In her view, its role as a guarantor of basic rights implies a responsibility to recognize in policy and law how to protect those rights: "The government has a responsibility to see that for domestic workers, the home is not a private place. It is a workplace where they are

experiencing rights violations.” As one domestic worker in Peru commented, employers must recognize the rights of domestic workers as well:

I am calling on all employers to be aware of the domestic workers’ movement of Peru ... What we are saying to them is that we are not against them as people. We want them to recognize [us] and be flexible—because we are all women. We want them to reflect that we are also part of Peru, we are also citizens.

Considered together, the reflections of worker leaders indicate the extent to which workers feel devalued as workers or citizens in relation to the state, the private sector and society. In response to questions about what they would like to see in the future, several worker leaders mentioned having their work valued appropriately and correspondingly recognized in policy and law. More so, the dimension of recognition as a principle of fairness would seek to reorient relationships between informal workers and, particularly, local governments that are currently based on fear and punitive regulatory environments.

The desire for recognition reflects workers’ demands for basic dignity and a sense of equal standing as full members of society (Fraser 2000) and as workers. Worker leaders saw that claims for recognition could redress the historic forms of invisibility and potentially disable the institutionalized forms of violence and stigmatization they experience in the workplace and in their everyday lives. In this sense, the claims for recognition foreground broader claims for both a fairer redistribution of resources and a pathway for participation as peers in decision-making spaces.

Responsiveness

A second dimension of fairness relates to workers’ perceptions that responsiveness, as constitutive of open dialogue and collaboration, would pave the path for workers’ more direct involvement and engagement with the state and the private sector on decisions directly affecting their livelihoods and work conditions. If recognition is a first step in establishing a deeper mutual understanding of the needs and demands of workers as well as their contributions, responsiveness is a second step in ensuring that fairness is embedded into channels for negotiation. In this regard, worker leaders expressed a need for receptiveness towards their demands on a continuous rather than ad hoc basis. Ultimately, responsiveness reflects workers’ two-fold interest: on the one hand, to pressure authorities to give workers access to decision-making spaces to present their ideas and solutions, and, on the other hand, to show their willingness to work collaboratively to establish more enabling work environments.

Interviews highlighted efforts to gain access to authorities to report on the multiple ways in which workers were experiencing harassment and abuse

during the pandemic. In Lima and Accra, worker leaders were able to meet with government authorities and work towards mitigating this harassment and avoiding further evictions. A market trader leader from Accra described the process and outcome of engagement:

The leadership had to meet with the Deputy Minister for Local Government over this concern [of mistreatment] to get some positive outcomes for the traders. We finally resolved to design ID cards for the traders together with the transport unions who were also affected by this action from the security agencies.

Several worker leaders' strategies involved presenting recovery proposals in the limited spaces for engagement to counter the inaction towards proposals brought forth by informal worker organizations pre-COVID. These efforts were motivated by their view that local authorities and policy makers responsible for local economic development need to have a sense of what the local economy really looks like. According to a street vendor leader in Lima, this lack of ground-level knowledge can lead to further marginalization:

When I've gone to talk [to municipal officials] about a project, it has surprised me that the Manager of Urban Development is a pure economist. As I discussed and made observations, I realized he was lost in regard to what we were talking about ... this is how the administration is run. These guys don't know the realities in the field ... this district is really abandoned and our sector even more so.

Leaders also presented examples of workers' efforts to uphold safety protocols. A street vendor leader in Mexico City, for example, described the efforts by the workers' organization to contribute to public health protocols set forth by the government, and a lack of responsiveness to these efforts:

We have gone well above and beyond what the authorities demanded of us in order to avoid contagion: wearing masks, using hand sanitizer, washing our hands constantly all day long, cleaning our merchandize and structures, and also completely sanitizing the entire common work zone ... we have done all this without government support. They've abandoned us to our fate.

Government responsiveness was also lacking in regard to regulating employers' actions towards informal workers. Such was the case noted by a domestic worker leader in Lima: "There is no movement on complaints," she stated, so "we have had to call employers and tell them not to abuse their domestic workers."

Leaders, however, did report a few positive examples of government responsiveness. In Mexico City, domestic worker leaders reported that dialogues with the government had resulted in possible collaborations with Mexico City's prosecutor to support complaints on violence at the workplace and instances of

trafficking. In Accra, a street vendor leader saw the fact that local authorities “have not bothered us” as positive.

Nonetheless, there were few examples of governments exhibiting even a degree of responsiveness to the collective demands of workers to carry on their activities undisturbed, and no pattern of positive government responsiveness across sectors or cities emerges from the data. This gap between expectation and experience is another important consideration in discussions of what a new stronger social contract for informal workers might look like.

Reciprocity

As a third dimension of fairness in the establishment of relationships among workers–state–private sector, reciprocity primarily reinforces the need for rules and regulations to make sense or balance out the relationship between actors rather than reproduce arbitrary or punitive frameworks negatively targeting informal workers. The concept of reciprocity is built upon worker leaders’ own recognition of the contributions informal workers in their sector make to the functioning of community, city, society and economy, and their frustrations with the failure of the state to value those contributions and design interventions accordingly—and, in some cases, with the failure of the private sector to value their contributions as essential components on which private sector profit models rely. The concept of reciprocity also builds on the notion of responsiveness in that workers understand they are doing their part, against great odds, in opening and maintaining dialogue channels with more powerful actors—a necessary step towards building more reciprocal and institutionalized relationships—but often with limited responsiveness by the state or the private sector.

Their explicit desire for greater transparency, consistency and accountability by governments in implementing rules and regulations during and beyond the pandemic demonstrates worker leaders’ perspective on reciprocity. From worker leaders’ point of view, informal workers are doing what they must do to survive by creating their own jobs—something that, in fact, governments could have done better at: “We’re the ones creating work,” said one leader. Yet despite informal workers’ contributions, government actions and responses are inconsistent and incomplete, a sign of lack of reciprocity in the relationship. Along these lines, waste pickers in Lima discussed problems with the national government’s attempts to provide support and how delivery appeared to be arbitrarily or unevenly implemented. Workers questioned why certain municipalities implemented relief and others did not, fostering a greater sense of mistrust. This form of inconsistency is expressed at times as a lack of reciprocity or fair exchange of responsibility between institutional actors.

Worker leaders also pointed out that arbitrary violence towards informal workers undermined the very objectives of the government to contain the pandemic. Governments were, in other words, both excluding informal workers from relief measures and preventing them from working, making it impossible for them to meet their basic needs. A street vendor leader from Lima reflected on this situation in her description of what the members of her organization are enduring in the pandemic context:

Honestly, a street vendor has to go out and work, and keep going out to work [because there is no relief] ... the hunger and the necessity are intense. As long as there is no good government program, as long as the municipalities don't do anything to control the [virus], it's going to continue. And it's really hard ... we have lost our humanity here. They [the police] throw water on street vendors and beat them with sticks. It's horrible.

Another aspect of reciprocity constitutes the worker leaders' own perceptions that they have demonstrated willingness to comply and abide by government rules and regulations only to be met with a sense of greater marginalization and miscomprehension of the extent of livelihood losses. A street vendor in Mexico City stated: “[we] don't understand why the government is restricting our activities knowing that if we don't work we won't have anything to eat.” For this worker leader, one possible explanation for the government strategy was to “make us disappear” by simultaneously limiting access to relief and preventing them from earning income. Not only did this generate a sense of hopelessness given that so many workers had no income at all in the early months of the pandemic, but it also led to asset-depleting strategies (Roever and Rogan 2020).

Worker leaders expressed a similar view in the case of employers and more powerful actors in their particular value chains. Media companies in Peru, for example, rely on a workforce of vendors who collate newspapers in the early morning hours and then sell them on the streets, either in kiosks or on street corners. Vendors did not receive any relief payments and, when restrictions on movement were put into place, suddenly had no source of daily income. As one vendor said: “In these four or five months, the newspaper companies have only given vendors two masks—nothing more. And this is the saddest part ... they say they're going to help the vendors to have better [safety] protocols, but it's totally false.” Instead, the media companies offered no relief and refused to comply with a commitment to compensate families for lives lost due to their exposure to risks as workers.

A waste picker leader in Durban expressed a similar view that despite waste pickers' many years of service collecting recyclable materials from local com-

panies, those companies had disregarded the relationship once the pandemic hit:

We haven't received any support from formal businesses. They do not allow us to collect waste in their business after level three lockdown; they now sell the waste. We were surprised that after a long time we have been working with them they did not consider us at all; instead they chased us away.

In a sense, worker leaders' comments about the failures of government and private sector actors to reciprocate workers' contributions reflect a critique of the irrational imbalance of power and resources in these societies. For example, a street vendor leader in Peru pointed out the impossible situation of older workers without pensions in that country:

The government is issuing one norm after another saying persons over 65 years old may not go to the market, they may not go to the park, they can't go out at all. In street vending maybe 40% of vendors are older workers so what are we supposed to do? A lot of them are by themselves. People have to work in order to sustain themselves.

Governments' irrational expectation that people who rely on day-to-day earnings can somehow survive without work and without relief was at the core of worker leaders' perceptions of nonreciprocal roles. Above and beyond a fairer balance of roles and responsibilities, reciprocity should imply that more powerful actors adhere to agreements and comply with commitments made; without that adherence, a new social contract would be impossible, particularly given the historic marginalization, exclusion and mistrust workers have experienced across cities.

In many interviews, a profound sense of solidarity that organized workers have built over time underscored comments about reciprocity—a sense that workers are bound to help one another when more powerful actors fail to uphold responsibilities. Notwithstanding the relative lack of resources in the sector, several MBOs undertook efforts to pool any resources they could find and to direct food and cash to the most vulnerable of their members. In this sense, where government cash grants never reached the most vulnerable, solidarity contributions did. These expressions also reflect leaders' aspirations for a better society, one that changes its view of informal workers “because [the pandemic] has shown the need for solidarity: if you are okay then I will be okay too.”

CONCLUSION: PATHWAYS FOR RECOVERY

What do these expressions of the need for more recognition, responsiveness and reciprocity suggest for building enduring pathways for economic recovery? At one level, recovery plans may represent an opportunity to redress mistrust in highly fragmented, polarized and unequal cities. A new social contract cannot be built if governments fail to recognize and address the extent of misery caused by not only the crisis but also by their own failures to adequately address the crisis's consequences—or even to see and acknowledge those people affected the most. Repairing the mistrust and skepticism may start with delivering benefits that offer a concrete sense of hope to reverse the common view that “government has no interest in us.”

The “three Rs” as principles of fairness introduce a pathway for building trust and relationships through a more balanced framework that ultimately seeks to connect and engage workers and institutional stakeholders. Indeed, it is notable that several worker leaders, despite their circumstances, expressed an understanding that their own employers (in the case of domestic workers) and clients (in the case of street vendors and shoe shiners) were also suffering under the circumstances. In addition, worker leaders saw informal workers and organizations as active “social contractors” with rights and responsibilities. The leaders’ reflections suggest the need for recognition, responsiveness and reciprocity, ultimately sharing a vision of balance and shared responsibility in society that is achievable when everyone does their part.

Moreover, this moment may also present an opportunity to draw from leaders’ demonstrated localized knowledge (Mitlin and Bartlett 2018, Ogando and Harvey 2020), deep social ties and sensitivities to the needs of their fellow workers as they endure the ongoing crisis. Worker organizations’ efforts to build relationships and support fellow workers through solidarity, interdependence and mutual aid can present a perspective for foregrounding a new social contract. A paradigm shift within the new social contract that embeds part of this logic and incorporates grassroots knowledge may help address and present solutions to the socio-economic and political crises that will continue to test governments’ ability to reduce poverty and inequality.

NOTE

1. A leader of street musicians in Mexico City also reported that his organization’s members received cash grants from the national government.

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2. Self-employment and social contracts from the perspective of the informal self-employed

Martha Chen

1. THE SOCIAL CONTRACT IN CRISIS

When countries experience crises that fundamentally change the economy and society, there is often a call for a new social contract – a new bargain – between the state, capital, society and labour. The public health and economic crisis brought on by the COVID-19 pandemic has exposed and exacerbated the inequality between, and within, countries around the world. It has also revealed that the social contracts of the mid-20th century were never firmly in place in some countries and have broken down or are in serious crisis in other countries: both the social contracts between states and society (for example, the welfare state) and the social contracts between capital and labour (for example, minimum wage and collective bargaining agreements). There is growing consensus that new social contracts for the 21st century are needed which take into account both new and old political, social and economic realities, including in the world of work. International institutions of various political stripes are calling for a new social contract: from the International Labour Organization (ILO) to the Organisation for Economic Co-operation and Development to the World Bank. Also, in some countries, business associations are calling for corporations to care for and share value with their employees, customers, suppliers and communities, not just their shareholders (for example, the US Business Roundtable, a group of CEOs from major US companies, in 2019; US Business Roundtable 2019). And this was before the COVID-19 crisis.

The call for a new social contract between capital and labour focuses on wage employment and the employer–employee relationship – as did the old social contracts. However, nearly half (44 per cent) of the global workforce and nearly three-quarters (72 per cent) of the workforce in developing countries are self-employed; and among informal workers globally, 79 per cent are self-employed (ILO 2018, Bonnet et al. 2019). It should be noted at the

outset that some existing and emerging forms of employment, that are not fully independent, are mis-classified as self-employment. These new and old forms of employment that fall between fully independent self-employment and fully dependent wage employment are covered in chapters 3 and 7 of this book.

This chapter seeks to provide new concepts and insights, based on the knowledge and experience of the Women in Informal Employment: Globalizing and Organizing (WIEGO) network,¹ for a new social contract for the informal self-employed. It does not seek to enter the philosophical debates on social contracts but, rather, builds on the following premises. First, that there is growing inequality and injustice in the world of work and that the state has a role to play, in regulating the relationship between capital and labour as well as its own relationship with labour (especially with the self-employed). Second, that there are significant power asymmetries between state, capital and labour, as well as significant wealth inequality between capital and labour, which make it impossible for all parties concerned to enter a rational agreement. Third, that a new social contract for informal work in general, and informal self-employment in particular, would provide a key pathway to reducing income inequality and economic injustice. Hence the need for a new normative social contract for informal workers.

For the self-employed, three sets of relationships matter for negotiating a new social contract: their relationships with government, with owners of capital (not employers per se) and with the general public. This chapter will interrogate these relationships – and the social contract that should govern them – from the perspective of the informal self-employed. To ground the analysis, this paper will focus on three occupational groups of informal workers – home-based workers, street vendors and waste pickers – who are predominantly informal and (except for home-based workers) predominantly self-employed and urban.

A new social contract for informal workers has to move beyond the standard approach to labour which focuses on the employer–employee relationship and on labour regulations. A new social contract for informal workers, most of whom are self-employed, requires a wider focus: on principles of just and fair economic and social policies as well as just and fair commercial transactions, agreements and contracts. As the three cases studies featured in the chapter illustrate, the relationship of capital to the self-employed is as supplier, buyer and competitor. Also, the state – its agents, policies and practices – has a direct daily impact (often negative) on the economic activities of the urban informal self-employed. This poses a major challenge: who can or should regulate the state and hold it accountable to the new social contract?

The next section examines the size, composition and characteristics of the informal self-employed as well as the linkages between informal enterprises and both the formal regulatory environment and the formal economy. Section

Table 2.1 Informal employment and self-employment as per cent of total employment – globally and by country income group

	World	Developing economies	Emerging economies	Developed economies
Informal employment	61	90	67	18
Self-employment	44	72	49	14

Source: ILO 2018, Bonnet et al. 2019.

3 describes the working conditions of three illustrative groups of informal workers who together constitute a significant share of the urban self-employed in the global South: home-based workers, street vendors and waste pickers. Section 4 examines what a new social contract for the informal self-employed should consist of through the lens of these three groups. The chapter concludes with a call for a new social contract for informal workers, the majority of whom are self-employed.

2. INFORMAL SELF-EMPLOYED AND INFORMAL ENTERPRISES

Fifty years ago, both the informal sector and self-employment were widely viewed as traditional forms of small-scale economic organization soon to be rendered obsolete by the combined logic of capital accumulation and mass industrial production (Arum and Müller 2004, Chen 2012). Contrary to such predictions, both informal employment and self-employment have grown in many countries over recent decades.

The Informal Self-Employed

Size

The first-ever global estimates by the ILO (2018) suggest that, globally, nearly half (44 per cent) of all workers are self-employed and over 60 per cent of all workers (61 per cent) are informally employed, of which over three-quarters (79 per cent) are self-employed (ILO 2018, Bonnet et al. 2019). In developing countries, these percentages are higher still: 72 per cent of all workers are self-employed and 90 per cent of all workers are informally employed, of which nearly 80 per cent (79 per cent) are self-employed. In marked contrast, in developed countries, 14 per cent of all workers are self-employed and 18 per cent of all workers are informally employed, of which nearly half (49 per cent) are self-employed. Emerging countries fall in between these two extremes: nearly half (49 per cent) of all workers are self-employed and over

two-thirds (67 per cent) of all workers are informally employed, of which nearly two-thirds (63 per cent) are self-employed.²

Composition

Self-employment is heterogeneous. So, unless appropriately disaggregated, the concept tends to conceal more than it reveals. In the past, in the global North, the self-employed were classified largely by occupation: notably, farmers, proprietors and professionals (Blau and Duncan 1967 for the US, and Erikson et al. 1979 for Europe). But these occupational categories fail to capture the full range of self-employed occupations, especially in the global South, including the three groups that are featured in this chapter.

Another meaningful way to distinguish between the self-employed is by “status in employment”, which refers to the degree of risk and autonomy in different employment arrangements. The status in employment classification has the additional advantage of disaggregating self-employment into meaningful categories which cut across occupations and determine whether or not the self-employed hire workers. Globally, only 3 per cent of all informal workers are employers who hire workers. The largest share (45 per cent) are own-account operators who work on their own or head family firms or farms, overseeing the work of contributing family workers (16 per cent) who work alongside them (ILO 2018, Bonnet et al. 2019).

According to the 1993 International Classification of Status in Employment, used by labour statisticians in collecting and tabulating labour force data, the self-employed include:

- employers: owner operators of informal or formal enterprises who hire others;
- own-account workers: owner operators in single-person units or family businesses or farms who do not hire others;
- contributing family workers: family workers who work in family businesses or farms without pay; and
- members of producer cooperatives: either formal registered or informal non-registered cooperatives.

But few countries collect – and fewer still report – statistics on members of producer cooperatives: so this status is not included in the 2018 ILO estimates of informal employment reported in this chapter.³

Among the informal self-employed globally, 4 per cent are employers, 70 per cent are own-account workers and 25 per cent are contributing family workers (ILO 2018). Considered another way, over half (51 per cent) of all employers worldwide are informal, 86 per cent of own-account workers are informal and all contributing family workers are informal (ILO 2018).

Own-account operators tend to invest more labour than capital into their informal businesses; and, for this and other reasons, do not fit the model of the entrepreneurial self-employed and are not suited for the entrepreneurship approach to enterprise development.

In sum, the fact that the majority of the self-employed globally are own-account operators of single-person or family units, without hired workers, challenges the notion of who is self-employed, the assumption that the self-employed are an entrepreneurial class and, more fundamentally, “the simplistic division between labor and capital” (Khattak 2002: 38).

Being an informal operator and being an entrepreneur are not the same.

Characteristics

Self-employment involves investment of human capital (skilled or unskilled labour) and economic capital (fixed assets and working capital) as well as (often) social capital (social networks and contacts), unlike wage employment, which involves the “sale” of human capital/labour capacity to an employer. Self-employment also involves engagement with the market and taking on associated risks, which in turn requires organizational skills. In some cases, self-employment also involves the recruitment and management of workers (paid and/or unpaid).

Self-employment is often, therefore, associated with entrepreneurship: with risk-taking entrepreneurs trying to grow their business. But most informal self-employed are working poor persons trying to earn a living and to cope with existing risks. In many cases, they do not seek to grow their individual business but rather to diversify income sources within the household. This is done in order to be able to feed, clothe and educate their families and to deal with work-related risks, economic shocks (such as the COVID-19 pandemic recession), and the common core contingencies of illness, disability and death, against which they have limited (if any) protection.

Self-employment in single-person or family units is often embedded in social relationships: as often workers (paid or unpaid) are recruited from networks of family, kinship and community; intra- and inter-firm relationships are “non-contractual”; household and enterprise accounts are not separated; and entry into self-employment involves inheriting a parental business or carrying on the kinship group’s line of work. In their introduction to an edited volume of findings from a study of self-employment in 11 developed (high-income) countries, Richard Arum and Walter Müller refer to these features as “family-embeddedness” and “intergenerational inheritance” (Arum and Müller 2004). Societies with high levels of family-based social capital – for example, with a large share of extended families with parents living with adult earning children – are more likely to have large shares of family-embedded and inherited self-employment (Arum and Müller 2004). This is often the case in

developing countries but is also the case in some developed countries. Among the 11 developed countries in the study, which analyzed trends from the early 1980s to the late 1990s, Italy, Japan and Taiwan had relatively high levels of self-employment in traditional non-professional skilled occupations. Further, in Italy and Japan, more than half of self-employment was in occupations that were inherited from parent to child. In the nine other countries, approximately one-third of self-employment was inherited (Arum and Müller 2004).

Earnings, costs and risks

Average earnings are low among the informal self-employed, except those with paid employees (Chen et al. 2005). Indeed, employers with hired workers are the only segment of informal self-employed who are non-poor on average (Chen et al. 2005). The average earnings of own-account operators are quite low and often, at least conceptually, should be shared with unpaid family members who work alongside the own-account worker. This is because the contributing family workers depend on the earnings of the family firm or farm headed by an own-account operator.

In terms of costs, there is a widespread assumption that informal enterprises represent unfair competition to formal enterprises as they pay less in rent and utility bills. While those who operate in public spaces do not pay rent per se, they typically pay operating fees to local government or bribes to local officials or the mafia who control specific market areas or other public spaces (Roever 2014). And many of those who work from in or around their own home pay rent while others occupy homes with uncertain tenure rights with, if in informal settlements, the chance of eviction. And there is growing evidence that many informal enterprises pay relatively high rates for utilities and transport, especially as a share of business expenses (Chen 2014).

In addition, the informal self-employed face considerable costs of doing business, including risks that most formal entrepreneurs and professional self-employed do not face:

- the lack of secure workplaces, especially street vendors but also home-based workers (who often live in informal settlements) and waste pickers (who need space to sort and store reclaimed waste);
- the lack of workplace infrastructure – those who work on the streets or in open spaces, and also those who produce for their market from in or around their own homes, need water, electricity and sanitation services;
- the lack of legal protections;
- the lack of social services; and
- the lack of access to public tenders, notably for solid waste management contracts.

Moreover, informal operators experience high levels of entrepreneurial risk: like formal entrepreneurs, they experience fluctuations in demand, prices and competition; but more so than formal entrepreneurs, they experience a particularly uncertain and hostile policy and regulatory environment, have greater difficulty in accessing markets, and are less able to bargain or negotiate effectively.

Gender

Globally, men have slightly higher rates of informal employment than women. But in three large geographic regions – Latin America and the Caribbean, South Asia and sub-Saharan Africa – women have slightly higher rates of informal employment than men. In all geographic regions, except in sub-Saharan Africa, own-account work is a larger source of total employment and of informal employment for men than for women. And in all geographic regions, contributing family work is a larger share of total employment and informal employment for women than for men. Globally, around 36 per cent of women informal workers and 50 per cent of men informal workers are own-account workers, 28 per cent of women informal workers and 9 per cent of men informal workers are contributing family workers, and only 1 per cent of women informal workers and 3 per cent of men informal workers are employers (ILO 2018).

Women own-account operators face a range of constraints or barriers: some because they operate informally and others because they are women. In other words, they share some constraints and risks with men informal self-employed and others with women self-employed workers. The constraints common to *all* informal self-employed workers, which can be particularly severe for women informal self-employed workers, are detailed in this chapter. Additional constraints specific to self-employed women, which can be particularly severe for women informal self-employed workers include:

- limited property rights, due to which women have fewer productive assets and less collateral to leverage capital;
- gender division of labour, by which women are seen to have the primary responsibility for childcare and domestic chores, and are also often responsible for the daily cash flow of the household (to subsidize the search by men for higher-return activities);
- norms of female modesty, which restrict women's physical mobility and interactions with strangers, especially men;
- verbal, physical or sexual harassment: by family, kin, or neighbours against women working outside the home; and

- verbal, physical or sexual harassment: in the marketplace or in business transactions by local officials and/or business counterparts, and during the commute to work by men from the general public.

Exposure to these risks is often higher and the ability to cope is often lower for women *informal* operators, because they are informal, than for female *formal* entrepreneurs. Overall, in regard to relationships with the state and with capital, women informal self-employed workers tend to have more in common with men informal self-employed workers in the same sectors than with women formal self-employed workers.

Given its heterogeneity, informal self-employment has different consequences for different self-employed persons. For some, being self-employed means having flexible hours of work and control over how they work; while for others, it means working long hours with little, if any, time for leisure. For some, self-employment means they can choose to work in – or quit – a particular line of work when they like or need to; while for others, it means being, or feeling, trapped in low-earning work with no exit options. For some, self-employment means being able to work – or not work – as they would like or need to; while for others, it means continually searching for customers, buyers and orders and seldom finding enough. In sum, self-employment is associated with both independence, agency and self-fulfilment on one hand and drudgery, hardship and uncertainty on the other (Hotch 2000).

Given these differences, the self-employed should not be considered as a single class. On average, among the self-employed, employers are non-poor while own-account operators (and the contributing family workers who work alongside them) are poor (Chen et al. 2005). Based on its research, data analysis and experience, the WIEGO network has specified four classes of self-employed, as follows:

- Entrepreneurs: employers in formal (that is, incorporated) enterprises;⁴
- Professionals: employers or own-account operators in formal (that is, incorporated) enterprises;
- Proto-Entrepreneurs: employers in informal (that is, unincorporated) enterprises; and
- Survivalists: own-account operators and contributing family workers in informal (that is, unincorporated) enterprises (Chen and Roever 2016).

During the General Discussion on Decent Work and the Informal Economy at the 2002 International Labour Conference, a delegation of informal worker leaders facilitated by the WIEGO successfully made the case that own-account workers should be included under the Workers Group, not the Employers Group, of the ILO tripartite social partners. This is because, as noted earlier, most own-account operators are poor and invest more labour than capital into

their business activities, and thus should be considered working class, not entrepreneurial. They did so by making the following argument, which was included as Clause #4 in the Conclusions on Decent Work and the Informal Economy:

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 (ILO 2002).

In making their case, the informal worker leaders challenged key notions of two sets of observers: mainstream economists who tend to equate self-employment with entrepreneurs, and formal trade unionists who tend to equate workers with employees. In 2005, based on the Conclusions to the 2002 General Discussion on the Informal Economy, the ILO and WIEGO successfully advocated that “own-account work” and “contributing family work”, should be added as indicators of “vulnerable employment” under Millennium Development Goal #1. Together, they constitute the vast majority of the self-employed and a large share of the working poor.

Relationship to formal regulations

The relationship of informal self-employed workers to formal laws or regulations is quite complex, as some try to evade or avoid laws, regulations and taxes while others find existing regulations and laws to be inappropriate, hostile or cumbersome. In some contexts, there are simply no relevant laws or regulations with which informal workers need to comply (Kanbur 2009). When there is no appropriate legal framework or the existing framework is inappropriate, hostile or cumbersome, the self-employed are often forced to operate informally, especially when there is no appropriate legal framework, when the procedures are too cumbersome to comply with or when they do not know the legal framework or procedures.

However, operating informally does not mean being outside the reach of the regulatory arm of government. Because they are widely perceived to be illegal, informal operators are often subjected to criminal law or punitive actions by government and police: they often pay fees or bribes, have their goods confiscated, are evicted temporarily or permanently, and/or are forced to relocate to locations where the customer demand is low and the transport costs are high (see Chapter 9 in this volume).

In sum, many informal operators are subject to the punitive arm of the state but fall outside the protective arm of the state. For this reason, many informal operators would be willing to pay reasonable fees in return for reasonable regulations and practices. They would like laws and regulations to be more

supportive and protective, and less punitive. In addition to social protection, they would like legal protections and rights of various kinds depending on the sector they work in, including: the right to work in public space, to have basic infrastructure services at their workplaces and to bid for public tenders.

Linkages with formal firms

Many informal self-employed have linkages with formal enterprises. In regard to backward linkages, many informal operators buy their supplies and equipment from formal enterprises: for example, the fruit and vegetable vendor who buys her produce from a wholesale dealer in a municipal wholesale market, and the home-based garment maker who bought her sewing machine from a formal retail store. Of course, many informal self-employed workers buy their goods from informal enterprises: for example, the medicinal herb trader who buys herbs directly from informal producers or collectors of medicinal herbs. In regard to forward linkages, many informal self-employed people sell their goods and services to formal firms. In addition, some informal operators sell goods on commission for formal firms: for example, newspaper vendors. However, few informal self-employed operators have formal written contracts with their suppliers and buyers and are often, therefore, subject to being sold poor-quality supplies, having their finished goods rejected and having their payments delayed.

3. INFORMAL SELF-EMPLOYED PEOPLE: THREE ILLUSTRATIVE CASES

Home-Based Workers

Home-based workers produce goods or services for the market from their own homes or adjacent grounds and premises: stitching garments and weaving textiles; making craft products; processing and preparing food items; assembling or packaging electronics, automobile parts and pharmaceutical products; selling goods or providing services (laundry, hair-cutting, beautician services); or doing clerical or professional work, among other activities. Although they remain largely invisible, home-based workers are engaged in many branches of industry and represent a significant share of the workforce.

Globally, there are 260 million home-based workers (Bonnet et al. 2019). While the overwhelming majority (86 per cent) of home-based workers are in developing and emerging countries, the number in developed countries (35 million) is substantial. Although there are large differences in the *numbers* of home-based workers across regions, the *percentage* of home-based work as a share of total employment varies between 3 to 10 per cent in most regions (Bonnet et al. 2019). The exception is in East and South-Eastern Asia (exclud-

ing China), where home-based work is 18 per cent of total employment and 23 per cent of non-agricultural employment. Asia and the Pacific, which has the largest population among the regions, accounts for 65 per cent of home-based workers. The share of home-based workers among women workers is higher still (Bonnet et al. 2019). In India, 32 per cent of the female workforce is home-based (Chen and Raveendran 2014), and 33 per cent of all enterprises are home-based (Government of India 2016).

While home-based work tends to be associated with manufacturing, many home-based workers provide services or engage in trade from their home – 37 per cent of home-based workers in South Africa and 23 per cent in Buenos Aires were in trade (ILO and WIEGO 2013: 46). In most countries, the majority of home-based workers are self-employed, with a minority being subcontracted workers.

For home-based workers, whose home doubles as their workplace, housing is an essential productive asset. Inadequate housing is a commonly cited problem by home-based workers. A small house hampers productivity as the home-based worker cannot take bulk work orders because she cannot store raw materials and her work is interrupted by competing needs for the same space of other household members and activities. Poor-quality housing often results in raw materials and finished goods being damaged. Monsoon rains force home-based workers to suspend or reduce production, as equipment, raw materials or finished goods get damaged when roofs leak or houses flood; products (for example, incense sticks) cannot dry due to leaks and humidity; and orders are reduced due to decreased demand and/or difficulties associated with transport during the rains (Chen 2014). Home-based workers are also negatively impacted by single-use zoning regulations, which ban commercial activities in residential areas.

When the home is also the workplace, basic infrastructure services are essential for the productivity of work, notably electricity but also water and sanitation. The accessibility and cost of public transport is also a key factor for home-based workers who commute to markets on a regular, if not daily, basis to buy raw materials and other supplies, to negotiate orders and to sell finished goods. The distance between the home-based worker's home and the market, contractor or customers she deals with is critical, affecting the cost of transport. When home-based workers are relocated to peripheral areas of the city, they often have poor access to public transport and their transport costs rise sharply. A recent study of home-based workers in Ahmedabad (India), Bangkok (Thailand) and Lahore (Pakistan) found that transport accounted for 30 per cent of business expenses; and of those who had to pay for transport, one-quarter operated at a loss (Chen 2014).

In sum, home-based workers and their livelihood activities are affected by government policies and practices, notably involving land allocation, housing

policies, zoning regulations, basic infrastructure services and public transport. This is because their homes are their workplaces, and they have to commute to markets and transport supplies/goods to and from their homes. Legal reforms should support policy interventions that upgrade settlements with large concentrations of home-based workers to ensure they have adequate shelter, water, sanitation and electricity. If and when home-based workers and their families have to be relocated, efforts should be made to ensure the relocation sites have, from the outset, adequate shelter, basic infrastructure, transport services and access to markets.

Street Vendors

Street vendors offer a range of goods and services from streets and other open public spaces. They represent 4 per cent of urban employment in India, between 12 and 24 per cent of urban employment in eight African cities, and 15 per cent of non-agricultural employment in South Africa (Chen and Raveendran 2014: 11, Herrera et al. 2012: 95, Wills 2009: 3). Some street vendors come from castes or communities for whom street vending is a hereditary occupation. Others are migrants or laid-off workers for whom street vending affords low-end but steady employment. Also, many home-based producers of garments, textiles, crafts or cooked food sell their goods in street markets. Street vendors offer working people, the poor and even middle-class consumers a convenient place to buy goods at low prices; serve as key links in the wider urban distribution system; and enrich the cultural life of cities.

On a daily basis, street vendors are directly affected by the regulations and policies of city governments and the practices of city officials. Across most cities worldwide, government policies or practices undermine the ability of street vendors to pursue their livelihoods. Abuse of authority by the police and local officials is the most common complaint; this

includes police harassment, demands for bribes, arbitrary confiscations of merchandise and physical abuse. These practices tend to take place in urban policy environments that do not define a role for street trade or offer a viable space to accommodate it. In that context, street traders also rank the lack of a fixed and secure workplace and evictions from (or demolitions of) existing workplaces among the most significant negative drivers (Roever 2014: 25).

A study of street vendors and public space in Ahmedabad found that local mafia in specific market areas collect “protection” money on a daily, weekly or monthly basis from street vendors, which they hand over to the police after taking their cuts: the amount paid differs by whether the street vendor sells from the pavement or from a push cart (Brown et al. 2012).

Where cities attempt to regulate street vending, the licensing and permitting practices and their associated taxes, fees, tolls and levies have a significant impact on vendors. Most vendors “pay all manner of tolls, levies and fees – as well as bribes – to use public space” (Roever 2014: 26). But most street vendors lack basic infrastructure services at their vending sites, including running water and toilets, electricity and waste removal. “Prepared food vendors must cook at home or ferry water to their stalls, street tailors and hairdressers stop working when the power goes out, and market vendors spend time and money organizing ad hoc waste removal systems where city services fail” (Roever 2014: 26). The fact that most cities do not consult with street vendors around such practices only compounds the problem.

When they operate without a licence, street vendors are considered illegal under most municipal acts or by most municipal officials, leaving them subject to treatment as criminals and to rent-seeking in the granting of licences. But the licence regime for street vending is opaque and repressive. Many cities have inappropriate licence ceilings: for instance, in Mumbai, India, when there were an estimated 250,000 street vendors, the municipal corporation arbitrarily fixed a ceiling of only 14,000 licences and even these were not issued for many years (Bhowmik 2000). Across India, those without licences are subject to summary warrants, confiscations and fees under the Indian Penal Code. In Kolkata, India street vending without a licence is a non-bailable offense (Bhowmik 2000).

Estimates suggest that, in India, street vendors occupy only 2 per cent of urban land but are legally barred from doing so (SEWA 2014). A 2000 study of street vending in eight cities of India found that only two cities, Bhubaneswar and Imphal, made provisions for street vendors in their city plans (Bhowmik 2000). The other six cities – Ahmedabad, Bangalore, Delhi, Kolkata, Mumbai and Patna – earmarked spaces in their plans for hospitals, parks, offices, residential colonies and bus and rail terminals but excluded the vendors who naturally congregate around such areas, providing essential goods and services at low costs to commuters, residents and the general public. Increasingly, cities around the world are allocating public space for large-scale modern retail – malls and shopping arcades – while continuing to neglect traditional small-scale retail.

Waste Pickers

Around the world, large numbers of people from low-income and disadvantaged communities make a living and create value from waste. Waste pickers collect, sort, recycle and sell materials, reclaiming reusable material for personal use or recyclable materials for use by industries as raw materials or packing materials, helping in the process to reduce carbon emissions. Waste

pickers may collect household waste door-to-door or from the kerbside, commercial and industrial waste from dumpsters, or litter from streets and urban waterways. Some work on municipal dumps. An estimated 24 million people worldwide, of whom 80 per cent are informal, make their living picking waste (ILO and WIEGO 2013: 37). Waste pickers constitute around 1 per cent of urban employment in many countries (ILO and WIEGO 2013: 48, Vanek et al. 2012).

In cities without adequate waste management systems, waste pickers help reduce accumulation of solid waste in the streets, public spaces and urban water resources as well as dumps, landfills and incinerators. In a 2006 study of six cities, more than 70,000 people and their families were responsible for recycling about 3 million tons per year (Scheinberg et al. 2010: 12).⁵ In terms of environmental contribution, the study found that in three cities, waste pickers recovered approximately 20 per cent of all materials that entered the waste stream (Ibid: 15). Recovery of recyclable materials and organic matter leads to the reduction of greenhouse gases and to the mitigation of climate change (Ibid).

Despite the public services they provide to the city, the environment and the economy, waste pickers often are denied access to waste, or face confiscation of the waste by city authorities or municipal street cleaners. Organizations of waste pickers are rarely allowed to compete alongside private companies for solid waste management contracts. Waste pickers are usually treated as nuisances by authorities and with disdain by the public. They are particularly susceptible to violence by the police. They may face exploitation and intimidation by middlemen, which can affect their earnings. Most crucially, they are negatively impacted by the privatization of municipal solid waste management services, which increases competition for waste and renders the recycling activities of waste pickers invisible or even illegal.

It is important to note that a higher percentage of women than men workers are employed in these three groups across the different cities and countries where data are available, with the notable exception of street vendors in India where a higher percentage of men workers than women were employed in five (out of six) cities. Delhi was the one Indian city where a higher percentage of women workers were street vendors. Together, these three groups represented 19 per cent of *total* urban employment and 37 per cent of *female* urban employment in India in 2011/12 (Chen and Raveendran 2014).

To sum up, all three groups work in so-called “non-standard” places of work – private homes or public spaces – and are subjected to stigmatization, exclusion or penalization by the state without legal or social protections. Yet each group typifies the need for a specific public resource: public services (home-based workers), public space (street vendors) and public procurement (waste pickers). Home-based workers need to negotiate with government to

secure housing tenure, mixed-use zoning and basic infrastructure services for their homes-cum-workplaces, and with owners of capital to negotiate fair terms of trade. Street vendors need to negotiate with the police and city government to stop them from harassing, bribing and evicting street vendors and from confiscating their stock and equipment, and to secure a vending site in a central location; with wholesalers from whom they buy goods, and retailers for whom they often sell goods; and with the general public who either buy their goods or support government efforts to evict them. And waste pickers need to negotiate with city government and the general public to secure a right to waste and to waste collection and recycling; with city government for municipal contracts to collect and recycle waste and space to sort, store, bundle and process waste; with private waste collection companies to access waste; and with scrap dealers or industries which buy reclaimed waste.

4. A SOCIAL CONTRACT FOR THE INFORMAL SELF-EMPLOYED

This volume seeks to make the case for a social contract that contributes to promoting decent work and economic rights of the working poor in the informal economy. This chapter has highlighted that a new social contract for informal workers needs to take into account the fact that nearly 80 per cent of informal workers are self-employed, and that the state has a major role to play in ensuring decent work and economic rights for the informal self-employed, largely through a fair and enabling legal and policy environment.

This section lays out a framework for thinking about the economic rights of the informal self-employed, most of whom are working poor. It begins with a typology of the economic rights and freedoms that the informal self-employed need and want. It then considers what laws and regulations impact on these rights and the role of different actors as both violators and defenders of these rights. The concluding section of this chapter discusses how the progressive realization of these rights and freedoms should be promoted.

Core Economic Rights and Freedoms

The common economic rights and freedoms that all informal self-employed people demand and have struggled for include (a) the right to legal recognition and dignity as workers; (b) the right to work and pursue their livelihoods; (c) the right to public goods, including regulated access to public space; (d) the right to social protection; and (e) and the right to collective representation.

Legal recognition

Underpinning the many legal demands raised by different groups of informal workers is a primary demand for legal recognition and status (Sankaran and Madhav 2013). This demand for legal recognition has several inter-related dimensions. First, informal workers want to be recognized as being legal, not illegal. Through their legal struggles, they try to highlight that the existing regulatory frameworks force them to operate illegally: if their residential area is zoned for single use (home-based workers), if not enough licences are issued (street vendors) or if waste and waste management are privatized (waste pickers). Second, informal workers want to be recognized as economic agents who contribute to the economy, to the city, and to society and want to be integrated into local economic development and city plans. Most fundamentally, legal recognition can help informal workers, and their organizations, fight against the stigmatization and penalization of informal workers as being illegal, avoiding regulations and taxation or a drag on the economy; and fight for the right to be included in economic development and urban plans.

Right to work⁶

The “right to work” has been enshrined in several international human rights documents, including the Universal Declaration of Human Rights. This right is enshrined, either explicitly or implicitly, in the constitutions of many countries, from Colombia and Mexico to India and Vietnam. For instance, the Constitution of South Africa (Chapter 2, 22) states that every citizen has the “right to choose their trade”; the Constitution of Colombia (Article 333) mandates the “right to pursue business or trade”. In India in 1986, in a case brought by pavement dwellers to resist eviction by the Bombay Municipal Corporation, the Supreme Court ruled that the “right to livelihood”, which is a variation on the “right to work”, derives from the “right to life” (Article 21 of the Indian Constitution), as no person can live without the means of means of livelihood and evicting the petitioners from their dwellings would deprive them of their livelihoods (*Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180).

Right of access to public goods

The livelihoods of the informal self-employed depend on access to public resources, including public space, public services and public procurement. As noted earlier, access to key public resources is essential to the livelihoods of the three groups featured in this chapter: housing in central locations for home-based workers; vending sites in good locations for street vendors, ideally in existing natural markets around transport nodes, public institutions and residential areas; access to waste and solid waste management contracts for waste pickers; basic infrastructure services at their workplaces for home-based

workers and street vendors; space to store and sort goods for street vendors and waste pickers. And for all three groups, accessible and affordable public transport is essential. Evictions from established places of work, as well as privatization of public resources and services, pose major threats to their livelihoods. For urban informal workers, most of these access rights are governed by municipal regulations. Municipalities are responsible for balancing competing users of public resources while regulating who can do what, and where.

Right to social protection

All informal workers, both self-employed and waged, want and need social protection because, by definition, they do not enjoy employment-based contributions to social protection. The current global commitment to universal health and the growing commitment to universal pensions should include a focus on the informal workforce: both the specific risks that they face as well as the specific barriers they face in gaining access to universal systems of health insurance, health care and pensions (see Chapter 5 in this volume, and Chen and Lund 2015).

Right to collective representation

Most fundamentally, as it will allow them to demand and secure their economic rights, the informal self-employed, like all workers, want and need the rights to organize, to legal recognition of their organizations and to be represented in relevant collective bargaining, policy-making and rule-setting processes.

Collective bargaining is usually understood as taking place between an employer and employees to achieve a collective agreement, primarily around wages and working conditions.⁷ Workers in the informal economy, including the self-employed, also engage in forms of collective bargaining through their membership-based organizations. However, their counterparts across the table are often not employers but other stakeholders. Home-based workers have to negotiate with city authorities for secure tenure of their homes which double as workplaces, for basic infrastructure services for their homes-cum-workplaces and for mixed-use zoning regulations that allow them to work from home. Street vendors most often negotiate with local authorities, different municipal departments and the police regarding harassment, bribes, confiscation of goods and evictions. Waste pickers negotiate with local authorities for access to waste, storage and sorting facilities, and the right to bid for solid waste management contracts (Chen and Fernandez 2015).

Unlike formal wage or salaried workers whose rights are usually laid down in labour statutes, most informal workers do not have statutory collective bargaining rights. While the right has been acknowledged by the ILO in its 2002 *Resolution and Conclusions Concerning Decent Work in the Informal Economy*, including for the self-employed, it has not generally been extended

to these workers. Most often, negotiations between the state, capital and informal workers take place in ad hoc meetings – often arising out of a crisis – or in consultative forums without statutory obligation on the part of the state or capital, and without enforceable agreements or continuity. While dialogues, consultations or meetings to resolve immediate disputes play a role in enabling informal workers to raise their voices and make gains, ad hoc agreements reached can be easily ignored or undermined. Informal workers need statutory collective bargaining and negotiating rights, and the right to direct representation in the ILO tripartite system (Chen and Fernandez 2015).

5. REALIZING A NEW SOCIAL CONTRACT FOR THE INFORMAL SELF-EMPLOYED

A new social contract for the informal self-employed will require understanding which laws, policies and regulations impinge or undermine their rights and addressing how these laws, policies and regulations need to be reformed to protect their rights. This will require reforms of relevant policies and laws, and an approach to formalizing the informal economy which focuses on the economic rights of informal workers, not only on their obligation to register their businesses, pay taxes and comply with regulations. Most fundamentally, it will require that policy-making and rule-setting processes are made more transparent and participatory, inviting organizations of informal workers to the policy table.

This will require ongoing efforts to ensure that informal workers in all sectors are visible in labour force and other economic statistics and that organizations of informal workers have a voice in relevant policy-making and rule-setting processes. It will also require that informal workers and their activities are recognized and valued as the broad base of the workforce and economy and are incorporated into economic planning at all levels of government.

Policy and Legal Reforms to Support the Informal Self-Employed

Realizing a new social contract for informal workers in general, and the self-employed in particular, will require transforming existing legal and regulatory frameworks. Here are three lessons for future policy and legal reforms that have emerged from the ongoing advocacy and legal struggles of organizations of informal workers in the WIEGO network.

First, policy and legal reforms for informal workers in general, and the self-employed in particular, will require fundamental rethinking regarding regulations and the informal economy. To begin with, there is a common assumption that the informal economy – and those who work in it – are outside the reach of the state or its laws. However, as the evidence presented

in this volume has illustrated, the informal workforce and their activities are not outside the reach of the state or its laws. Rather, they tend to be inside the punitive arm of the law but outside the protective arm of the law.

Second, labour and employment laws have limited salience for the informal self-employed. As noted earlier, most labour and employment laws are premised on an employer–employee relationship and, therefore, are not directly relevant to the self-employed. Moreover, most self-employed people are not obliged to comply with labour laws and regulations as so few hire workers. However, the core labour rights of organization and representation are as critical to the self-employed as to the wage employed.

Third, a wide range of policies, laws and regulations have salience for the informal self-employed: from municipal laws and ordinances to commercial laws to sector-specific policies to macro-economic policies. To reduce the legal risks and barriers faced by the informal self-employed it is important to assess and monitor the impact of all laws, regulations and policies on their livelihoods. At present, most laws, regulations and policies relating to the functioning of cities and the economy ignore the productive roles and contributions of the working poor, relegating them to the domain of social policies. What the informal self-employed want and need is legal recognition and legal protection as economic actors as well as integration into economic planning at all levels.

Finally, and most fundamentally, the informal self-employed need to be empowered to help shape appropriate policy and legal and reforms and need to be represented in the policy and legal reform process. This requires two enabling conditions.

The first is voice. The rights to organize and be represented – two core labour rights – are critical to ensuring a new social contract for informal workers, both wage workers and the self-employed. To ensure their economic rights are appropriately framed and properly enforced, informal workers need representative voice in the processes and institutions that determine economic policies and formulate the “rules of the (economic) game”. This requires building organizations of informal workers and recruiting informal workers into existing trade unions, cooperatives and other worker organizations. This also requires making rule-setting and policy-making institutions more inclusive and ensuring that representatives of the organizations of informal workers have “a seat at the (policy) table”.

The second is visibility. To capture the attention of policy makers, and inform policy-making, informal workers – and their contributions to the economy – need to be visible in official economic statistics and in relevant policy research. Fortunately, in May 2018 the ILO published the first-ever global estimates of informal employment, rural and urban: its size, composition and characteristics (ILO 2018).

Increased voice and visibility are the key enabling conditions through which informal workers can gain validity – legal recognition and legitimacy – and engage in policy and legal reforms and, thereby, realize their other economic rights. With increased voice, visibility and validity, informal workers, especially the self-employed, are more likely to be able to advocate effectively for a new social contract.

The Way Forward

Promoting a new social contract for informal workers in general, and the self-employed in particular, will require transforming the debates and mind-sets about the informal economy. So long as the informal self-employed are blamed for being illegal or criminal, for avoiding regulations and taxation, or for having low productivity, representing a drag on the economy, they will continue to remain under the punitive, rather than the protective, arm of the state. And yet most informal workers are trying to earn an honest living in a hostile regulatory environment.

For urban informal workers, what is also needed is a fundamental transformation of the vision of cities to embrace economic diversity – the informal and traditional alongside the formal and modern – and a fundamental transformation of the political economy of cities to reduce the disadvantages, including lack of power, of the working poor in the urban informal economy.

Fortunately, many of the economic rights that are of critical importance to informal workers are enshrined in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights. More recently, the global community has committed to the United Nations Sustainable Development Goals, which mandate economic rights of all workers, including the informal workforce, and call for more inclusive economic development and more inclusive cities.

Furthermore, organizations of informal workers, with support from the WIEGO network, successfully campaigned for key provisions in two recent global commitments that are of particular relevance to their economic rights: Recommendation 204 of the ILO and the New Urban Agenda of the Habitat III summit. Thanks to their collective efforts, ILO Recommendation 204 recognizes that most informal workers are working poor, that informal livelihoods need to be preserved in the transition from the informal economy to the formal, that informal workers need social protection, and that regulated access to public space and natural resources are essential for informal livelihoods. The New Urban Agenda calls for the integration of the informal self-employed and their livelihood activities into urban plans and local economic development

planning, as is well captured by the following excerpt from the New Urban Agenda:

We commit to recognize the contribution of the working poor in the informal economy, particularly women, including the unpaid, domestic, and migrant workers to the urban economies, taking into account national circumstances. Their livelihoods, working conditions and income security, legal and social protection, access to skills, assets and other support services, and voice and representation should be enhanced. A progressive transition of workers and economic units to the formal economy will be developed by adopting a balanced approach, combining incentives and compliance measures, while promoting preservation and improvement of existing livelihoods (United Nations 2016).

The way forward is to support organizations of informal workers in their ongoing campaigns to translate these global commitments into local reality.

As this chapter has illustrated, a new social contract for informal workers, most of whom are self-employed, will require addressing a broad range of laws, policies and regulations and the role of both the state and capital. It will require moving beyond labour and employment law to assess and address how a range of macro, micro and sectoral laws, policies and regulations, in their existing forms, infringe and undermine the economic rights and freedoms of the informal self-employed. Most fundamentally, to protect their economic rights and freedoms, informal workers, especially the informal self-employed, need to be centrally involved – to be collectively represented – in framing the new social contract. “Nothing for us, without us” is the motto of the global movement of informal workers.

NOTES

1. For more information about the WIEGO Network, see <http://wiego.org>.
2. In a 2009 article entitled “Revisiting Labour Markets: Implications for Macroeconomics and Social Protection”, James Heintz highlights that macro-economics and economic models of the labour market fail to take into account the large share of the workforce that are informally employed and self-employed. He points out that the dichotomy of “labour demand” and “labour supply” needs to be reformed to capture the self-employed (Heintz 2009).
3. Due to growing recognition that some of those classified as self-employed are not fully independent but, rather, are dependent on another individual or firm for supplies or work orders or sale of finished goods, the International Conference of Labour Statisticians (ICLS) has proposed and is actively formulating a new status – that of “dependent contractor” (see Chapter 3 by Carré in this volume). At the same time, there is a parallel proposal to consider “contributing family workers” to be dependent, not independent, workers. Since these proposals have not yet been adopted by the ICLS, this chapter considers all own-account workers to be fully independent and also considers contributing family workers

- to be self-employed (although dependent on a family member who heads the family firm or farm).
4. Under the international statistical system, it is left to national statistical offices to determine what incorporation means, which type of registration applies and what the size cut-off should be. Countries define these criteria in different ways but, typically, incorporation is defined as being legally registered and/or having formal written accounts, and the size cut-off is typically set at less than either 10 workers or five workers.
 5. The six cities included in the study were Cairo, Cluj-Napoca, Lima, Lusaka, Pune and Quezon City.
 6. In the US, several states have adopted laws which guarantee that no person can be compelled, as a condition of employment, to join or not to join nor to pay dues to a labor union. Regrettably, these laws are called “Right to Work” laws, an unfortunate but deliberate cooption of a term whose original constitutional meaning in most countries was quite different.
 7. See the International Labour Organization’s definition of collective bargaining: C154: Collective Bargaining Convention, 1981 (No. 154).

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3. “Dependent Contractor”: towards the recognition of a new labor category

Françoise Carré

INTRODUCTION

In a world where legal classification of workers by countries and official statistics reflect as much as feasible a combination of employment practices on the ground and national legal frameworks for employment relationships, a high-order divide has ruled in policy and statistics. It is the divide between “employees” and the “self-employed” that has prevailed in both developed and developing countries.

In principle, employees are workers who are in work “for pay”, meaning they are paid for effort expended (often time worked) and do not have autonomy in decision making regarding the running of the operation for which they work. They are dependent workers; that is, dependent upon an employer and/or an enterprise. In contrast, the self-employed are in work “for profit”, meaning they invest in their activity and their earnings ebb and flow with the final results of the business they run, and they have autonomy in decision making regarding the performance of the work or running of the enterprise. They stand to profit or lose, and may invest in the operation or enterprise; as such, they incur economic risk.

This high-order dichotomy in labor force statistics, and the rationale that undergirds it, have entailed limitations that have become increasingly restrictive over the years. The dichotomy hinges on two dimensions: authority/autonomy and economic risk (of investment in the enterprise). Its logic has been that autonomy and risk balance each other. The self-employed incur economic risk but have the autonomy/authority to affect their economic fortunes. Conversely, employees do not have such authority (they are supervised and cannot directly affect the running of the enterprise) but, in counterpart, are paid based on the effort they put into the work. They do not take the risk of capital investment in the activity and, because they are in principle paid for effort, do not directly absorb the risks of fluctuation in the enterprise’s revenues.

In developing countries, where most workers do not have an employer but operate in a wide array of other arrangements, with varying degrees of autonomy in decision making, this divide in statistics and the notion that autonomy could balance out economic risk have been problematic. The work arrangements of many workers cannot clearly be classified nor their employment status determined. Many who do not have a direct employer who carries them “on payroll” are not classified as employees and yet could hardly be described as having autonomy in decision making. Examples include industrial outworkers who take orders to produce on specification for an intermediary or factory owner in developing countries, and varied kinds of “gig” workers around the world. By default, however, “order givers” and (former) employers as well as governments have treated them as self-employed. Statistics have reflected this state of affairs and counted them among the self-employed in the absence of an appropriate option in virtually all cases.

Over the past couple of decades, economic and employment changes in both developed and developing countries have called attention to this challenge—and its repercussions for how workers are counted in statistics and also how they are treated under national employment law and policy (see Chapter 7 in this volume; Carré 2016; ILO 2015, 2016). Signals have included increases in the long-standing use of such work arrangements in global production chains and their use in both high- and low-income countries by formal firms and the public sector—as well as the spread of platform-mediated employment (“gig” work). All of these changes have resulted in a multiplication of work arrangements that cannot easily be classified and warrant policy attention as well (see the next section). Pressure has built throughout the years to appropriately account for a broader array of work arrangements than can be done with the existing dichotomy used in classifying jobs by status in employment. Statistics to reflect this broader array have been needed for research, policy development, and advocacy in order to inform policy making with basic information about the structure of the labor market.

Partly in response to increasing reports of shortcomings of the existing framework over the past decade, and in order to better inform policy making, the International Labour Organization (ILO) Department of Statistics engaged in a process of revision of the International Classification of Status in Employment (ICSE; last reviewed in 1993). It organized a three-year (2015–18) consultative process of revision which led to recommendations for a new classification (ICSE-18) that were reviewed and debated by and received approval from the 2018 International Conference of Labor Statisticians (ICLS), the vehicle for standard-setting for international official statistics on work and employment.¹ The process organized by ILO Statistics entailed engaging an international working group of experts from national statistics offices of member countries, and representatives of the worker and

the employer groups at the ILO, as well as ILO statisticians and observers from international organizations (including Women in Informal Employment: Globalizing and Organizing). It also involved regional consultations (ILO processes aim to be consultative and to achieve a degree of agreement sufficient for countries to alter their practices). Among several significant changes was the creation of a new status in employment category—Dependent Contractor—which is neither *employee* nor *self-employed*; for workers who, though they are most often currently treated by their “customer/end-user” and government as “self-employed” responsible for their own social protection and devoid of labor standards protections reserved for employees, are in fact *not* independent workers (20th International Conference of Labour Statisticians 2018).

WHY A NEW CATEGORY WAS NEEDED AND ACTIONS WERE TAKEN

Countries needed to better capture the work arrangements of workers seemingly in-between the two high-order categories of “employee” and “self-employed”. For policy purposes, it was important to know how many workers are in employment situations in-between these two main categories and what kind of work arrangements govern their employment. Statistics play an important role in policy discussion; for example, whether the group of workers concerned is large or small in a country affects the choice of policy approaches (ILO Department of Statistics 2013).

The policy interest in workers whose status lay somewhere “in-between” employee and self-employed status has been triggered by concerns about social protection and labor rights. In most or virtually all countries with systems of social protection, employment-based social protection is accessible and funded through the employer–employee employment relationship. Individual and collective labor rights are usually grounded in the employment relationship. Access to pension systems or group insurance permitting the pooling (syndication) of risks is primarily available to employees. In policy systems, with few exceptions, “self-employed” workers are treated as entrepreneurs independently responsible for financing their protection from life risks (for example, health, accident) and from work interruptions. As a result, workers whose work arrangements do not fit neatly into the autonomous self-employed entrepreneur model, particularly those in own-account self-employment (without employees), are excluded from employer-based social protection and responsible for their own (ILO Department of Statistics 2015). In order for relevant policy debate to occur, countries need to know the size of the phenomenon.

The pressure for change came from several sources. Different strands of statistical and policy communities with convergent interests in accurate meas-

urement of all employment arrangements reported the shortcomings of the existing system. Statisticians and researchers reported difficulty classifying workers and worried that, as a result, the statistics provided were of limited use in policy discussions. This was the case across high-income as well as medium- and low-income countries.

In developing countries, statisticians and labor and policy advocates reported needing a means to account for employment arrangements that do not fit neatly in one of the two main categories. Most notably, industrial outworkers in domestic and global chains were a subject of concern, but also many other own-account workers with little autonomy and control over their interaction with, or access to, the market. Specifically, industrial outworkers and homeworkers who are doing piece-rate work for orders issued by a garment subcontractor in a global supply chain are not small-scale independent operators, although they own the workplace and equipment and pay for electricity. To receive work orders through the production chains of larger companies, they depend on the subcontractor for instructions and supplies, and take a price set by the ordering company. Later on, developing-country representatives in ILO regional consultations regarding possible changes were interested in the creation of a new category and supported its adoption. They had found it difficult to classify many of the workers in their countries as either independent self-employed or dependent wage employees.

Within developed countries, there was interest in accurately portraying some existing work arrangements that fit neither Employee nor Self-employed, such as freelance service providers like “tied” desktop publishers with a single major corporate customer. Another salient example being the FedEx Ground delivery workers in the USA who rent trucks as well as uniforms and receive mandated delivery routes from the corporation but have been classified and treated by FedEx as self-employed workers (Carré 2015).

There was also concern—shared at this point across developed and developing countries—about the recent but rapid growth of digital platform-driven employment intermediation (so-called “gig” work and crowdsourcing) (Berg et al. 2018) because virtually all of the employment accessed through these intermediators has been organized on an “independent contractor” model. It has been considered “self-employment” in spite of the many instances in which the worker has extremely limited autonomy in whether and how to access potential “clients” for his/her work.

THE NEW ICSE AND ITS IMPLICATIONS FOR CLASSIFYING WORK ARRANGEMENTS BETWEEN WAGE EMPLOYMENT AND SELF-EMPLOYMENT²

As noted earlier, the new status in employment classification, ICSE-18, departs significantly from the overarching high-level divide used in classification systems—that between (dependent) paid/wage employment and (independent) self-employment—and which has governed the international system of employment statistics since 1993 (ICSE-93).

The limitation of ICSE-93, the system being applied until countries transition to full implementation of ICSE-18, is that it has conflated the two key dimensions of employment relationships: risk and autonomy. The autonomy in economic decision making and control had been expected to counterbalance the risk or investment involved. In practice, this conflation of both criteria resulted in the assumption that a worker who is paid based on the end-product (in “work for profit”³) is automatically independent/self-employed while a worker receiving a wage (in “work for pay”) is dependent/an employee (ILO Department of Statistics 2013). In reality, as noted earlier, some workers are often paid based on an end-product and also bear risks similar to those faced by independent workers (income at risk and responsibility for own social protection) yet have little or no autonomy in decision making regarding their operation or work performance, or do not control their access to the market.

Instead, the new ICSE-18 includes two—complementary—classification hierarchies: ICSE-A, based on authority (or autonomy), to identify and classify Dependent and Independent workers; and ICSE-R, based on risk, to classify workers in employment for pay and those in employment for profit. ICSE-18 represents a break away from the Employee/Self-employed divide, and from a single classification hierarchy: Both classification hierarchies are necessary for labor force statistics; and ICSE-R is specifically needed for the System of National Accounts (SNA). The SNA is the internationally agreed standard set of recommendations on how to compile measures of economic activity (for example, income, production), and thus type of income (for pay or profit) matters for the SNA.⁴

The new classification system enables proper accounting and visibility of workers in ambiguous situations, such as those described above and who will be classified as “dependent contractors”, a sub-category of dependent workers. On the Autonomy hierarchy, dependent contractors are classified in the Dependent Workers group, along with Employees and Contributing Family Workers. On the Risk (and investment) hierarchy, they are classified with the “Independent” group, as in employment “for profit”, along with Employers and independent own-account workers in household market enterprises.

THE ICSE-18 CATEGORY OF DEPENDENT CONTRACTORS

The international statistical definition for Dependent Contractors included in ICSE-18 is summarized in the following.

Dependent Contractors are workers employed for profit:

- who have contractual arrangements of a commercial nature to provide goods or services for or through another economic unit,
 - who are not employees of that economic unit,
 - who are dependent on another entity that exercises control over their productive activities and directly benefits from the work performed by them.
- a. Their dependency may be of an operational nature or economic nature such as through control over:
 - access to the market,
 - the price for the goods produced or services provided, or
 - access to raw materials or capital items.
 - b. The economic unit(s) on which they depend benefits
 - from a share of sales produced by the dependent contractor, and/or
 - from reduced labor costs when the work performed by dependent contractors may otherwise be performed by its employees.
 - c. The activity of the dependent contractor would potentially be at risk in the event of termination of the contractual relationship with that economic unit (Frosch 2019).

Importantly, it was understood that the category would also include workers with work arrangements ranging from those who invest some of their resources into their activity to those who only provide their own labor. ILO meeting documents noted that this second group also encompasses a sub-group of workers—not identified separately—whose work arrangements could rightly be deemed “employee”, who have been misclassified by their direct employer and, under national (or state, or provincial) laws could be reclassified as employees were such laws consistently enforced.

Following the 2018 revision, guidelines on how to measure dependent contractors are being developed by the ILO in consultation with national statistical offices, a process that is expected to take a few years. Developing measurement guidelines for the Dependent Contractor category is challenging due to the large variety of circumstances and relationships that yield dependency for a worker. Initial tests in countries, in particular Mexico and Chile (Pérez Klein 2019), as well as Sri Lanka (ILO Department of Statistics 2020) and Thailand (Poonsab et al. 2019), indicate that measurement guidelines may need to allow

for some variation in survey questions across types of economies and possibly industrial sector (Frosch 2019).

Industrial outworkers and homeworkers in developing countries who are doing piece-rate work for orders issued by a garment subcontractor in a global supply chain are also candidates for classification as dependent contractors. So-called freelance workers and platform-intermediated workers/“gig workers” likely will also be classified as dependent contractors.

WHAT DIFFERENCE WILL THE CHANGE MAKE?

Once statistical measurement is operationalized, it will be possible for countries to assess the size of the workforce that works in dependent contractor arrangements. The choice of how these workers will be treated in employment law and social protection regimes will be a matter of policy and political choices. Statistics will have made these workers visible as a subject of policy whereas, as of now, these workers are not visible and are presumed to be independent entrepreneurs simply because the label of “self-employed” has been given to them. As a result, their access to social protection and other employment rights is limited.

In each country, the situation of Dependent Contractor is shaped at the intersection of legal frameworks for the employment relationship (for example, criteria for determining employee status) and the degree and consistency of enforcement of these frameworks (incidence of violations). National and regional governments have the discretion and power to decide how dependent contractors are treated in policy systems. For example, countries may continue to treat sub-groups of workers in these arrangements as if they are self-employed, arguing that all are very much autonomous workers, and let litigation settle any improvement in their status regarding the national system of social protection, for example. They may choose to re-classify them as full-service employees because their economic dependency is central to their work arrangement. Or they may devise a specific legal and policy framework for dependent contractors that entails specific regulations and job-related entitlements.

In this set of decisions, statistics, and therefore the new dependent contractor statistical category, play a significant role but a circumscribed one. Official statistics aim to provide a consistent way to classify work arrangements based on shared core characteristics and two separate dimensions, authority/autonomy and risk. Statistics do not drive the legal treatment of workers. At most, they categorize the *de facto* situation of workers given their legal treatment in national contexts. They bear witness to the result of three important factors: economic behavior, legal frameworks for employment, and actual enforcement of employment and tax laws.

This distinction between official statistics and the actual treatment by governments of dependent workers in terms of labor rights and social protection is important. So is the distinction between legal frameworks and their actual implementation and enforcement because of the consequences for workers' coverage under the regulatory system, including labor rights and access to social protection.

Dependent contractors as a statistical category actually regroup workers in different types of situations which may entail different policy choices. They include:

- a. Workers who operate in ambiguous situations. They may consistently work on their own (without employees) but for a small number of customers, often one or two at a time. Workers in this category include some forms of consulting and other professional services.
- b. Workers who access the market for their products through an intermediary, such as receiving orders and production specifications for what they make, or receiving home care customers and a list of standardized personal care tasks to perform from an agency.
- c. Workers who access work through intermediation by a digital platform that sets parameters for participation on its site and sometimes sets explicit norms of performance and price (pay). These workers are part of a broader category of workers whose work arrangements exist in a legal vacuum, where the national employment law framework has not caught up with the reality of employment relationships.

But dependent contractors, as a statistical category, will also include workers who are now treated as “self-employed” as a result of employer fraud; they should be employees according to the legal norm of their country. There is nothing ambiguous about their employment situation; the only cause is law-breaking by their employer. What is called “independent contractor misclassification” is the result of limited/lax enforcement of existing employment law, and of changing conditions on the ground that facilitate violations—as, for example, with lengthening subcontracting chains in construction or in social services provision which enable employers to evade the obligation to payroll workers and finance their registration with the social protection systems (Carré 2015).

Policy options and actual choices will vary greatly across countries due to distinct institutional frameworks for employment, histories of regulation and enforcement, and labor market structure. Policy options will also need to be appropriate to the different settings in which dependent contractors work.

The simplest policy approach—though not one easy to enforce—concerns the cases just mentioned of dependent contractor misclassification; that is,

workers whose work arrangement, according to a country employment law, bears all the characteristics of an employee relationship as defined by labor law. In all types of economies, employment fraud occurs. It is particularly prevalent in sectors with shifting locales and small and highly volatile businesses (for example, construction, household services), and where enforcement of all labor standards is difficult. For these cases, strengthening the legal language about “employee status”, consistent inspections, stricter enforcement, and employer information campaigns are needed.

Broader policy change is needed to address the three main employment situations above. Two polar policy approaches are, on one hand, to treat all dependent contractors as “employees”—that is, mandate identical labor and social protection rights to them—or, on the other hand, create one legal regime or a set of separate regimes for them. The first approach, providing a regime identical to employee status, has been deployed in some countries for sub-categories of dependent contractors; for example, Spain’s decision to mandate near-employee rights for digital platform food delivery workers and, in the USA, California’s Assembly Bill 5 (AB 5) for “ride hailing”/on-demand drivers mandating the same rights as employees. On the litigation front, where workers have brought cases, mostly in high-income countries, they have argued for full employee status. Their cases are brought at state or national level and sometimes before meta-national organizations such as the European Court of Justice (Alderman 2017).

The second polar approach can take two different forms: either a regime of equivalent rights and social protection access tailored to the work arrangements (and industries) in which dependent contracting prevails and thus varies in some way from status as employee, or a regime with reduced rights and limited access to social protection, premised on the perspective that these workers do not “need” the same labor rights and social protection as other dependent workers. Needless to say, digital platform companies, leading ones of which are global corporations, have pushed for a debased or degraded regime, even sponsoring ballot initiatives to overturn regulations aimed at improving worker rights, as was in the case in 2020 with the Uber- and Lyft-sponsored ballot initiative which overturned California’s AB 5 (Kerr 2020), or, failing at this, have ceased operation in the country with regulation.

Situations in which a clear and proximate corporate intermediary or company can be readily named as having responsibility and control for the operation to which a dependent contractor contributes labor provide a feasible setting in which to develop a set of labor rights and “end-user” obligations towards workers who, indeed, are not independent workers. Still, these end-users also are powerful economic actors, able to exert restrictive influence on policy processes. Conversely, situations in which an intermediary is part of a very long chain of inter-business transactions are more challenging to address—as advo-

cates and international organizations pushing to establish labor standards in global chains that include industrial outworkers have experienced—precisely because there are multiple levels of jurisdiction (national, cross-national) and difficulties of enforcement, and it is easy to avoid or evade legal obligations (see Chapter 7 in this volume). Whichever approach countries’ regulations may take, enforcement will be crucial, as it is for all key labor standards and labor rights.

CONCLUSION

It will take some time for countries to implement the measurement of dependent contractors in official labor statistics and to get the benefit of such measurement at the national policy level. Once a significant number of countries implement consistent measurement of dependent contractors, harmonized international statistics can be produced and thus foster cross-national debate on national and international norms for this type of employment arrangement.

Debate about the terms and employment conditions of these workers and their treatment in national policy will be unavoidable as worker organizations and advocacy groups use statistics for raising visibility and leverage. Policy debates will be hard-fought and effective policy change will be challenging to achieve, and enforce. Ironically, achievement of clarity in international labor statistics for this category of workers almost seems like the easy part of the process. It is not. But significant progress has been made in developing the tools that make it possible to make workers in these arrangements and their need for policy action visible and critical.

NOTES

1. Previous meetings of the ICLS had called for the need for revision. According to its webpage, the ICLS is “a vehicle for standard setting in labor statistics” and is convened by the International Labor Organization every five years. ICLS participants include experts from governments, mostly from ministries responsible for labor and national statistical offices, as well as from employers’ and workers’ organizations. Regional and international organizations and other interest groups attend as observers. It issues recommendations on topics of labor statistics in the form of resolutions and guidelines, which are then approved by the Governing Body of the ILO before becoming part of the set of international standards on labor statistics. “These standards usually relate to concepts, definitions, classifications and other methodological procedures which are agreed as representing ‘best practice’ in the respective areas. When used by national producers, these will increase the likelihood of having internationally comparable labour statistics as well as comparability across time within a country” (ICLS n.d.). Approved changes are expected to be carried out by national statistical offices, albeit allowing for country variations in resources and timing of implementation.

2. This section and the next one rely extensively on Carré (2020).
3. A statistical classification term meaning that the basis for pay is the end product rather than effort spent and that the worker directly bears financial risk, or benefits, from the results of the enterprise, be it a one-person enterprise.
4. “The System of National Accounts (SNA) is the internationally agreed standard set of recommendations on how to compile measures of economic activity. The SNA describes a coherent, consistent and integrated set of macroeconomic accounts in the context of a set of internationally agreed concepts, definitions, classifications and accounting rules. In addition, the SNA provides an overview of economic processes, recording how production is distributed among consumers, businesses, government and foreign nations” (UN Department of Economic and Social Affairs, Statistics Division website, <https://unstats.un.org/unsd/nationalaccount/sna.asp>).

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4. Taxation and the informal sector in the global South: strengthening the social contract without reciprocity?

Michael Rogan

INTRODUCTION

Among both international financial institutions and developing country governments, there is an enduring interest in including more informal sector workers within national and local tax nets. The motivation for taxing the informal economy is related, in large part, to the need for greater ‘revenue mobilisation’ but there is also a claim that taxation can improve or restore the social contract through greater government accountability and civic engagement (Prichard 2010, Kundt 2017). Supported by emerging perspectives within the ‘new fiscal sociology’¹ there is a growing consensus that taxation *is* the social contract and that negotiation and collective action around tax obligations are the key defining relationship between the state and society. However, others, most notably Kate Meagher (2016), have warned that these perspectives have a number of ‘blind spots’ in relation to developing countries, more broadly, and the informal sector² in particular. These include: a ‘Euro-centric’ conceptualisation of the social contract, a narrow focus on traditional (northern) forms of taxation and a tendency to understand the informal economy as a homogenous group of workers (Meagher 2016). With 61 per cent of the world’s workers informally employed, including 67 per cent of those in emerging economies and 90 per cent in developing countries (ILO 2018), these blind spots have a particular relevance for the social contract, political participation, governance and accountability, especially in the countries of the global South.

Moreover, these debates are not purely theoretical. As the impacts of the COVID-19 pandemic and related restrictions have contributed to one of the largest global economic downturns in generations, national governments are likely to search for additional sources of revenue to finance stimulus and recovery packages (Gallien et al. 2021). For example, the Algerian government has proposed the Supplementary Finance Law, which aims to

tax the informal sector as an alternative to borrowing from the International Monetary Fund (IMF) to fund the recovery (Hamadi 2020, Gallien et al. 2021). Similarly, in Ghana, a country with very high levels of informal employment (85 per cent of total employment is in the informal sector – see ILO 2018), one of the largest recovery and support packages (the Coronavirus Alleviation Programme Business Support Scheme³) requires tax registration as an eligibility requirement even for small own-account-operated firms.⁴

One of the reasons for the longstanding interest in informal sector taxation is that, in countries with a small tax base, a common feature of many developing and middle-income countries, levels of personal income tax are particularly low. Personal income tax, on average, accounts for only about 10 per cent of total tax revenue in developing countries (compared with an average of 25 per cent in developed countries)⁵ and this is largely through the taxation of employees from the public sector and large private firms (Keen 2012: 10). In other words, the bulk of the workforce in most developing countries does not pay personal income tax to a national revenue authority. The share of workers not contributing to personal income tax, of course, increases with the size of a country's informal economy (Joshi et al. 2014, Akeju 2018, Resnick 2018). It is to this 'untapped' source of revenue that national tax agencies often turn in attempts to widen the tax net. A recent and poignant example comes from Ghana, where the national revenue authority launched its campaign 'Our Taxes Our Future', which aims to address the 'culture of impunity' that, it claims, prevents the informal sector from paying its fair share of taxes.⁶

The taxation of the informal sector has a number of links, at least tangentially, with a broader global tax justice movement. High-profile discoveries such as the 'Panama Papers', growing levels of inequality and a general desire for greater accountability have focused attention on issues of fairness and equity in taxation (Keen 2008, 2012; Sampere 2018). However, for many informal workers across the global South, concerns with the proliferation of tax havens, tax breaks or tax rebates granted to large multinational companies are far removed from the realities of their daily experiences with taxation (Sampere 2018). Nevertheless, tax is a critical issue for those working in the informal economy and particularly for those in the informal sector. It is this particular group of workers, the self-employed in the informal sector (that is, informal enterprises), that have been the target of new tax policy proposals to improve revenue collection in a number of countries.

Such efforts have raised questions concerning the effectiveness of increases in local levels of taxation or attempts to introduce national taxes for informal workers, but have also drawn attention to broader issues of state–society relations, accountability and the social contract. In the same way that conceptualisations of the social contract have been based on assumptions of full formal (and male) wage employment, the understanding of taxation as the instrument

through which the social contract is negotiated is based, at least implicitly, on the so-called ‘standard’ employment relationship. The fact that this condition has very little relevance to the dominant forms of employment in the global South has introduced an obvious source of tension between modes of taxation and the strengthening of the social contract in developing-country contexts.

This chapter aims to examine the social contract through the lens of informal sector taxation. In so doing, it sets out to identify some of the systemic failures, theoretical blind spots and unequal power relationships which limit the possibilities of strengthening the social contract through taxation. The remainder of the chapter is structured as follows. The first section offers a broad overview of some of the current models of informal sector taxation and outlines several key concepts. The next section makes an explicit link between taxing the informal sector and the social contract by reviewing a number of recent theoretical and empirical claims. Several critiques of these claims, embodied within the ‘new fiscal sociology’, are then considered. In support of these critical perspectives, a number of well-documented challenges to strengthening governance and accountability through taxation are then discussed in this section. Finally, the chapter concludes by reflecting on a case study of informal street vendors and market workers in Accra, Ghana. The ensuing discussion considers how some of the perspectives of the new fiscal sociology, which theorise the strengthening of the social contract through taxation, sit in tension with the realities experienced by informal workers in the global South.

THE INFORMAL SECTOR: CURRENT MODELS AND KEY CONCEPTS

Before proceeding to an analysis of the links between taxation and the social contract, some context is required. On the whole, it is difficult to establish a clear picture of the scope and scale of informal sector taxation at a global or even regional and national levels. This challenge stems from the fact that informal sector taxes and (tax-like) fees are often levied at the local (city) level, because these taxation regimes are often lacking in transparency, and because enforcement and implementation are often uneven. Similarly, there is very little information on how much informal workers contribute to local finances. At least part of the reason is because the fees and taxes that workers pay come in many different forms and are not accounted for in a way which is reflected in municipal budgets or audit reports. Their contributions are likely to be substantial, however, and as one example from Ghana suggests, ‘market revenues, in the form of fees and stall rents, are of considerable importance for local governments – as they have been historically (Clark 2010) – representing an average of 27 per cent and 24 per cent of local government tax revenue from 2001 to 2011’ (Prichard and van den Boogaard 2015: 10).

The challenges with identifying the scale of informal sector taxation notwithstanding, it is possible, in broad terms, to outline some of the key concepts and features. As a starting point, the literature on development and taxation often refers, somewhat problematically, to the ‘hard to tax’ or the ‘shadow economy’ to describe components of the labour force that should/could be targeted by tax administrators in developing and transition countries (Schneider and Enste 2000, Bird and Wallace 2003). While the ‘hard to tax’ and the shadow economy often overlap in some contexts, there is a clear distinction between, on the one hand, firms and individuals that earn enough to pay taxes but do not and, on the other hand, firms and individuals which are often very small earners and are potentially, but not necessarily, taxable. This latter category includes most groups of urban informal workers (for example, waste pickers, street vendors and home-based workers) across the global South. The reality for these groups is that they may fall between the categories of ‘hard to tax’ and the untaxable both because the administrative costs of taxing them are high and because their earnings fall below official tax thresholds (Bird and Wallace 2003). In many countries across the developing world, such workers make up the vast majority of the workforce and earn well below their national income tax thresholds (Pimhidzai and Fox 2013).

There are also some important distinctions within the different segments of the informal economy. Informal employees (both inside and outside the informal sector), for example, are liable for income taxes if they earn above their country’s income tax threshold (although many do not). In the case of informal employees in informal enterprises, many are among the ‘working poor’ and earn below the tax threshold. The same logic applies to domestic workers in that, even if registered by their employers for national tax purposes, their earnings are likely to be too low to be taxable. However, employees in the informal economy (both inside and outside of the informal sector) typically pay indirect or consumption taxes on the goods that they purchase.

The informal workers with which this chapter is concerned are the self-employed in the informal sector. This is the group of workers which is most often targeted for tax contributions by developing-country governments. The focus of this chapter is, therefore, on tax policies related to the informal sector and, in particular, those which are relevant to informal employers and own-account workers. The mechanisms for taxing this specific group of workers include (Joshi et al. 2014): indirect taxation (examples include value-added tax – VAT – and import duties) as well as several types of direct taxation on informal sector incomes. While methods of indirect taxation have, arguably, the widest reach and are often seen as the most efficient ways to ‘capture’ the informal sector, they are not the focus of this chapter. There is a separate literature on the effects of indirect taxes such as VAT on tax efficiency and equity in developing countries, but these debates are often not

specific to the informal sector (but see Valodia and Francis 2020). Moreover, the new generation of tax policy proposals in developing-country contexts is focused on the direct taxation of the self-employed in the informal sector.

There are several forms of direct taxation that are often levied against the informal self-employed, but perhaps the most common is presumptive taxation. As suggested by the name, this particular tax system is comprised of setting uniform fixed amounts of tax based on the ‘presumed’ incomes of different occupations. In Zimbabwe, for example, presumptive taxation is based largely on the sector of activity and a tax schedule reflects different tax rates for, *inter alia*, informal traders, hairdressers, taxi drivers and small-scale miners. In Tanzania, taxes are implemented through a ‘block management system’ which is used to monitor informal activities in areas associated with high levels of informal trading. Tax officials encourage traders in these areas to keep financial records, and tax rates are lower for traders that can produce such records. Otherwise, taxes are levied against ‘presumed’ turnover based on identifiable characteristics of the enterprise as determined by a tax commissioner (see Dube and Casale 2016). Such presumptive tax systems are appealing because they are simple to administer, do not require access to business accounts and can be publicised to wide segments of the population (see Prichard 2009, Dube 2014, Dube and Casale 2016, Dube and Casale 2017, Mekonnen Workneh et al. 2019). Proponents of presumptive taxes have argued that ‘[they] may well be the most appropriate solution for many developing countries with large informal sectors. A single tax is particularly useful in countries with numerous small “nuisance” taxes, and if well-administered, is likely to have a strong signalling effect encouraging informal entrepreneurs to become compliant’ (Loeprick 2009: 6).

Other common forms of direct taxation of the informal sector which have been implemented in developing countries at the local level include: various types and methods of taxation on transport operators, tax stamp programmes for informal traders and a flat rate tax on retail turnover (Prichard 2009). Market taxes (for example, in Ghana) are another good example of a direct tax, and have become popular due to their high visibility and associated potential to promote ‘citizen engagement’ and tax negotiation (Prichard and van den Boogaard 2015). These taxes are typically levied as fees for operating as traders or in designated market areas. Market taxes have even prompted some cities in the global South (see Akeju 2018) to explore the role of using market associations and informal worker organisations as agents of tax collection.

In short, there has been an enduring interest in increasing informal sector contributions to national and local coffers through a series of direct taxation measures. While indirect taxes are increasingly a key feature of tax systems in the global South and many informal workers do pay these taxes, some of the

more prominent debates concerning taxation of the informal sector are focused on methods of direct taxation.

INFORMAL SECTOR TAXATION AND THE SOCIAL CONTRACT

The motivations for taxing the informal sector can be grouped into a number of different rationales (see IMF 2011, Joshi et al. 2013). Perhaps first and foremost, proponents (Schneider and Klinglmaier 2004, Schneider et al. 2010) of informal sector taxation often point to the large potential revenues associated with the informal sector in many developing countries. In contexts with relatively small tax bases, the need to finance relief packages to address the economic damage caused by the COVID-19 pandemic is likely to place increased pressure on national tax agencies to ‘find’ new sources of revenue (Gallien et al. 2021).

Revenue-based arguments for taxing the informal sector are the most common in the tax literature and are concerned with the ‘potential income’ that could be raised by bringing the informal self-employed and their employees (if any) into the tax net. This argument is typically (either explicitly or implicitly) applied in relation to the payment of taxes to the *national* tax authority while informal sector workers are more likely to be paying *local* taxes and fees (Pimhidzai and Fox 2013).

While the main arguments for taxing the informal sector are underpinned by these fiscal and regulatory considerations (see Rogan 2019), a new perspective in the development literature has begun to espouse the link between informal sector taxation and good governance or the so-called ‘governance dividend’ (Moore 2008, 2015; Meagher 2016). Relatedly, one of the most prominent arguments, particularly outside of the conventional tax and economics literatures, for taxing the informal sector is to repair or to establish the social contract (Resnick 2018). This section of the literature (Levi 1988, Tilly 1990, Brautigam 2002, Moore 2008, Prichard 2015) has argued that bringing more citizens into the tax net promotes a more inclusive ownership of government resources and activities – thereby improving the ability of workers to make claims on the state. Broadly termed ‘the new fiscal sociology’ (Keen 2012), a number of recent approaches to the informal sector within the development agenda include attempts to ‘draw the informal economy into the tax net with a view to rebuilding the social contract that was demolished under structural adjustment’ (Meagher and Lindell 2013: 59). Crucially, these new approaches have moved beyond ‘taxation as formalisation’ where the principal goal was to bring unregistered enterprises into the tax net (see Dube and Casale 2016). Instead, the benefits of taxation to both workers and state–society relations are emphasised. As a parallel process, the formalisation of the informal sector

(embodied within the International Labour Organization's Recommendation 204) is framed as a progressive realisation of rights, where formalisation is not simply a series of registration and tax measures but also includes the benefits of compliance.

In particular, there are three channels through which informal sector taxation is hypothesised to strengthen the social contract. First, the state, in aiming to encourage tax compliance, may actually become more responsive to tax paying groups. In the most optimistic view, taxation then becomes 'a catalyst for the development of responsive and accountable government' (Prichard 2010: 9). Second, citizens may be more likely to make claims against the state if they have contributed taxes. Third, tax collection in the informal sector may encourage informal workers to engage in collective action through their worker-based organisations – with the knock-on effect of greater bargaining with the state (Joshi et al. 2014).

The social contract argument for taxing the informal sector also has a 'reciprocity' component which, through the 'fiscal exchange hypothesis', suggests that citizens are more likely to be tax-compliant when they can observe tangible benefits (for example, the provision of services) as a result (Bodea and Lebas 2013, 2014; Resnick 2018). There is some evidence from Zambia (Resnick 2018) that having greater access to services and infrastructure in informal markets is correlated with a higher likelihood of paying taxes (see also Korsun and Meagher 2004, Bodea and Lebas 2014). However, even when there is evidence of a link between taxation and greater government accountability and service delivery, the relationship is mediated by factors such as the broader state of politics, the role of elites, the mobilising capacity of civil society and 'the motives for the tax increase and the type of tax in question' (Prichard 2009: 1). These are factors which are likely to be particularly relevant when taxing the informal sector.

More broadly, while taxation is clearly a key element of state- and institution-building, there is an ongoing debate about what this means precisely for tax policy in a developing-country context (IMF 2011). One of the key questions, for example, is whether informal sector taxation 'strengthens public accountability or [whether it simply] creates new avenues of predation' (Meagher and Lindell 2013: 67). In answering this question based on research in Nigeria, Meagher (2016) suggests that taxing the informal sector has tended to promote social divisions rather than restoring the social contract. One of the key lessons emerging from this work in Nigeria is that the social contract is shaped by the historical fiscal relationship between the state and the citizenry. Thus there is no all-encompassing model of a social contract which can be enhanced through greater levels of taxation. Another key lesson is that taxation in and of itself does not necessarily create the political capacity (for example, among associations of informal workers) that is required to effect engagement

between the state and society – particularly in contexts where levels of trust and accountability are low. In such contexts, the building of the social contract has an obvious relevance, if not urgency, but, on the whole, it appears as though some of the key issues surrounding informal sector taxation and the social contract require further interrogation.

CHALLENGING THE NEW FISCAL SOCIOLOGY

One of the assumptions in much of the tax literature (Emran and Stiglitz 2005, Torgler and Schneider 2007, Bird and Zolt 2008) is that informal sector workers (firms) are tax evaders. The reality, however, is that micro-informal firms are not tax evaders because they tend to fall below the earnings thresholds set by central or national tax agencies and because they already pay various types of taxes and operating fees at the local level (Pimhidzai and Fox 2013). Even one of the most important intellectual breakthroughs in relation to taxation (the ‘new fiscal sociology’) somewhat inadvertently has tended to downplay these contributions in an effort to focus more attention on the institution of taxation as a window into the changing social contract (see Martin et al. 2009a, 2009b). The new fiscal sociology’s assertion that ‘taxpayer consent is best explained not as coercion, predation or illusion, but as a collective bargain in which taxpayers give up resources in exchange for collective goods that amplify the society’s productive capacities’ appears to embrace a somewhat narrow view of the mechanisms of taxation particularly as they relate to different forms of tax (Martin et al. 2009b: 14). Moreover, the claim that ‘in the modern world, taxation *is* the social contract’ (Martin 2009b: 1, emphasis in the original) or, more specifically, that it is ‘the actually existing social contract, the renegotiation of which transforms the relationship between state and society’ (Martin et al. 2009b: 26) suggests a particularly rigid and narrow understanding of the forms of taxation as they may apply to the informal sector in developing country contexts.

Accordingly, Meagher (2016: 3) identifies three ‘blindspots’ in the new fiscal sociology literature as it applies to informal sector taxation and improved governance, which include: ‘(1) the use of historically inappropriate (and Euro-centric) models of the social contract, (2) a propensity to “fiscal essentialism” in the definition of informality, and (3) a monolithic view of the informal economy’. In challenging some of the claims from the new fiscal sociology, her work has shown that through payment of a range of fees, licenses, market levies and registration dues, workers in the informal sector are far from ‘tax evaders’ (Meagher 2016). In fact, it is the way in which the new taxation literature tends to ignore the many ways in which informal workers pay taxes (including bribes) that Meagher refers to as ‘fiscal essentialism’ (Meagher 2016). Moreover, tax collection (including illicit taxation through

bribes) is generally uneven in the informal sector, and more vulnerable workers, in particular, have less leverage to negotiate and/or enforce their rights (Meagher 2016).

In one widely cited example from Uganda, the data suggest that, ‘contrary to widely held perceptions, microenterprises pay taxes – albeit not to the central government but to local governments in various fee payments’. In reaching a similar conclusion to Meagher (2016), Pimhidzai and Fox (2013: 3) also note that, in the Ugandan case study, ‘the least noticed sector with the softest voice ends up paying a disproportionate tax burden’ (Pimhidzai and Fox 2013: 3):

[These] taxes paid are in various forms. They include tax payments to the central government in the form of VAT and income tax, either corporate tax or a presumptive/small businesses tax as dictated by their turnover. Tax payments are also made to the local governments in the form of trading license fees, operating permit fees, cess on produce (a levy paid by agriculture commodity traders) and user fees like market dues (Pimhidzai and Fox 2013: 7).

Thus nano-enterprises are not necessarily tax evaders if they do not pay any taxes at the national level. Rather, they pay taxes and fees elsewhere (Pimhidzai and Fox 2013: 10).

The unacknowledged and unequal power relations that influence compliance with tax codes and by-laws and the multiple and often regressive sources of taxation and the burden they place on informal workers all sit in tension with the key tenets of the new fiscal sociology. Therefore, its limits in examining the social contract between the state and workers in the informal sector require a rethink about the modes of exploitation which are experienced in cities across the global South. In these contexts, multiple forms of taxation place an unfair burden on the poorest workers in the informal sector and may, in fact, damage the social contract between the worker and the state.

REGRESSIVE TAXATION AT THE BOTTOM OF THE ECONOMIC PYRAMID

Even when the taxes that informal workers do pay are recognised, the existing evidence suggests that they are often highly regressive (that is, they violate the principle of vertical equity).⁷ In many countries in sub-Saharan Africa (including Ethiopia, Kenya, Rwanda, Tanzania and Zimbabwe) and Latin America, presumptive tax regimes (for a flat rate system, see Meagher 2016) have become popular methods with which to collect taxes from the self-employed (Joshi et al. 2014, Dube and Casale 2017, Getachew 2019). Such tax systems, however, also violate the principle of horizontal equity since there is no minimum income threshold. As a result, workers in the formal sector who earn

similar amounts could pay less in taxes than their counterparts in the informal sector (Dube and Casale 2017; see also Pimhidzai and Fox 2013).

Moreover, compared with corporate income taxes, presumptive tax regimes do not allow the types of deductions which are available to formal firms (while, at the same time, informal firms are often exposed to fees and other types of costs not normally paid by formal operators) (Dube and Casale 2017). In terms of local government taxation, evidence from Uganda showed that roughly two-thirds of small informal firms (many of which were single-person operations or family units) paid at least one type of local fee and, most crucially, the effective tax rate based on these fees was highly regressive (Pimhidzai and Fox 2013). The analysis suggested further that such regressivity means that a rise in taxes could ‘threaten the viability of the smallest enterprises and push people into poverty’ (Pimhidzai and Fox 2013: 1).

Related directly to the social contract is the finding that informal workers are not necessarily opposed to paying local (or even national) taxes. Far from being tax evaders, they are often willing to contribute to local revenues if the taxes are fair and transparent and if they get benefits in return:

[Informal] businesses need the support of local government officials to survive and be sustainable. For example, within zoning and land use planning exercises, they need to be assigned workplaces such as markets and areas where small manufacturers can cluster. They need these workplaces to be supplied with basic infrastructure services such as water supply, drainage, solid waste disposal, road maintenance, streetlights as well as security. While no business wants to pay taxes, some would be ready to pay taxes to support such development if the system was perceived as fair, and benefitting them (Pimhidzai and Fox 2013: 21).

In addition to multiple and regressive over-taxation in the informal sector, there is a risk, as Meagher (2016) has suggested, that efforts to tax informal workers tend to open up ‘new avenues of predation’. Harassment is more likely to happen in the informal sector because informal operators are more likely to have their fees and taxes collected in person and/or at their place of work (Resnick 2018). At times, the collection of taxes is overtly political and features

unofficial tax exemptions [that] have been used as a means of political or social inclusion or exclusion, for example by discriminating against “out-groups” such as foreigners or migrants (e.g. Flynn 1997, Juul 2006, Schomerus and Titeca 2012, Titeca and Kimanuka 2012, Meagher 2013). More broadly, it is frequently the weakest actors who are vulnerable to extortion, while more powerful actors are able to collude with tax collectors to avoid taxes (Prichard and van den Boogaard 2015: 9).

Even where predation or extortion are not evident, limited capacity at the local government level often provides a challenge to fair tax practices. One of the key suggestions in the recent literature is, therefore, that ‘more effective reform can likely be achieved by “working with the grain” of local governance realities, by seeking to design reform in a way that is consonant with inescapable capacity constraints and the broader social reality in which collection efforts are embedded’ (Prichard and van den Boogaard 2015: 6). Many efforts at reforming or expanding local government tax collection tend to simply ignore the complexities of this level of taxation (Prichard and van den Boogaard 2015). In such cases, the limits to the repair of the social contract between informal workers and the state are clear.

A CASE STUDY OF INFORMAL WORKERS FROM A MARKET IN ACCRA: TAXATION WITHOUT RECIPROCITY

The chapter now reflects on the results of an exploratory research project which aimed to investigate local taxation in the informal economies of several cities in the global South.⁸ The project began in Ghana, where Women in Informal Employment: Globalizing and Organizing (WIEGO) has a number of partners as well as ongoing collaborations with membership-based organisations of urban informal workers. Ghana has long been a focus for research on informal employment and, even by regional standards, the country has a large informal sector and a low tax-to-GDP (gross domestic product) ratio (Danquah and Osei-Assibey 2016). In terms of tax policy, the Ghana Revenue Authority has experimented with different ways (for example, through the introduction of the 2004 stamp tax) of bringing the informal sector into the tax net (Amponsah and Adu 2017). While the stamp tax has been, arguably, the most high-profile (and controversial) informal sector tax reform, the large non-farm informal sector has provided opportunities for many types of fees, licences and permits to be levied against the informal self-employed (Prichard and van den Boogaard 2015: 10).

In early 2018, WIEGO researchers undertook a small (n=214) survey of informal street vendors, market traders and market porters (*kayayei*) in the capital city of Accra. The questionnaire was based on a recent module on tax perceptions designed by the Afrobarometer⁹ survey project. While the survey was by no means representative of the workforce, the results serve as a useful illustration of why it is important to understand the structure of local tax regimes. As suggested in Figure 4.1 below, most informal workers in the sample pay some type of fee or tax to the local government authority (the Accra Metropolitan Assembly; AMA). The two most common are the daily tax (paid by 43 per cent of respondents) and licence fees (54 per cent). All told,

and similar to findings from research in Uganda (Pimhidzai and Fox 2013), the majority of workers (roughly 61 per cent) pay some type of fee or tax to the AMA in order to carry out their livelihoods. While only a handful reported paying a tax directly on their income, relatively few workers are exempt from multiple sources of taxation.

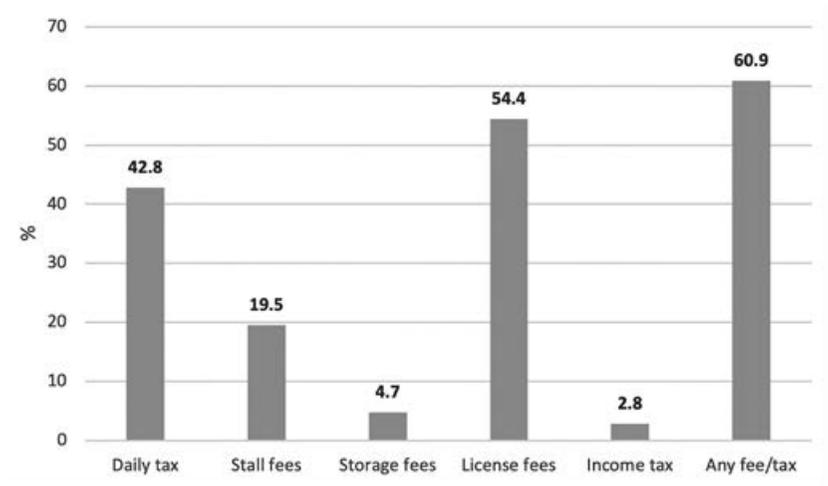


Figure 4.1 Types of taxes and fees paid by informal workers in Accra, Ghana

The main problem arises in relation to the distribution of these local taxes and fees. In Figure 4.2, the effective tax rates are presented for each worker income quintile. ‘Effective tax rates’, in the language of taxation, refer to total taxes paid as a percentage of total gross (monthly) income. The first quintile represents the lowest earners and the fifth represents the highest earners. When a tax regime is progressive, the effective tax rate increases (or at least does not decrease) for each quintile or, in other words, tax rates are highest among higher earners. As can be seen in Figure 4.2, this is the opposite of what happens when local tax rates are calculated for this small sample of informal workers in Accra.

While the median effective tax rate is zero for the lowest earners (most workers in quintile 1 and quintile 2 do not pay any taxes or fees to the AMA),¹⁰ their average tax rate is about 9 per cent. In other words, the average cost of local taxes and fees is about 9 per cent of total income for this group of workers. So, while many of the lowest earning workers do not pay any types of taxes or fees to the municipality, those that do tend to pay a higher share of their earnings. However, as income increases (moving towards quintile 5) the median and

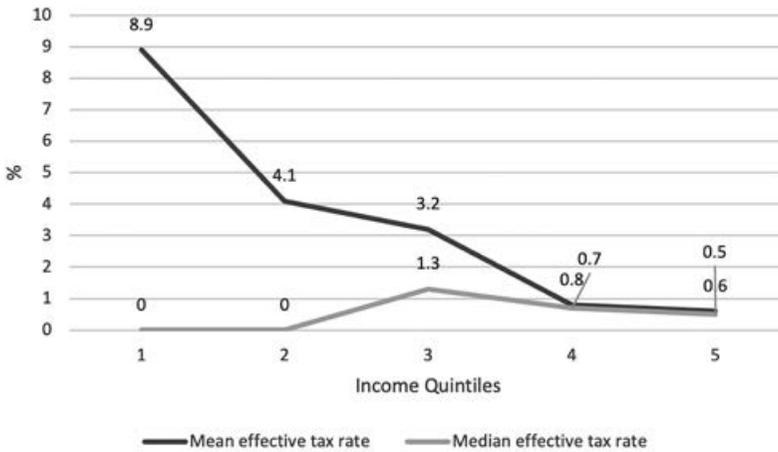


Figure 4.2 Mean and median effective tax rates by income quintile

mean tax rates converge, which suggests that the level and/or rate of tax payments is less variable. However, the key finding from the graph is that these local taxes and fees are highly regressive, with the effective tax rate decreasing steadily for each income quintile. Among the highest earners in the sample (quintile 5), the average effective tax rate is less than 1 per cent. This is a clear violation of the principle of vertical equity.

Given this existing structure of regressive local taxes, what would happen if a presumptive tax or indirect tax (for example, VAT or custom duties) was introduced to bring more informal workers into the (national) tax net? If the illustration from Accra represents a typical tax structure, then this means that even a well-intentioned tax reform would exacerbate the regressive and unfair system of taxation which exists at the local level for many informal workers. Efforts to tax the informal economy would be borne by the poorest groups of informal workers – many of whom are women.¹¹

Since taxation is not simply a technical exercise related to revenue mobilisation, the perceptions of informal workers as taxpayers are also important to understand. Deriving from the exchange hypothesis which holds that citizens (and workers) are more likely to pay taxes when they receive something in exchange (for example, services, infrastructure), efforts to measure attitudes towards taxation are increasingly becoming part of the tax research agenda. The comparison (Figure 4.3) between responses to the original¹² Afrobarometer survey with those from three types of workers in Accra (market traders, street vendors and market porters) offers some interesting insights into taxation in the informal sector. When asked whether it would be better to

pay high taxes in return for more public services or low taxes even if it means fewer services provided by government, most (63 per cent) of the workers that were interviewed opted for lower taxes. In contrast, about 60 per cent of the respondents to the Afrobarometer survey indicated that they would prefer *higher* taxes if it meant better public resources.

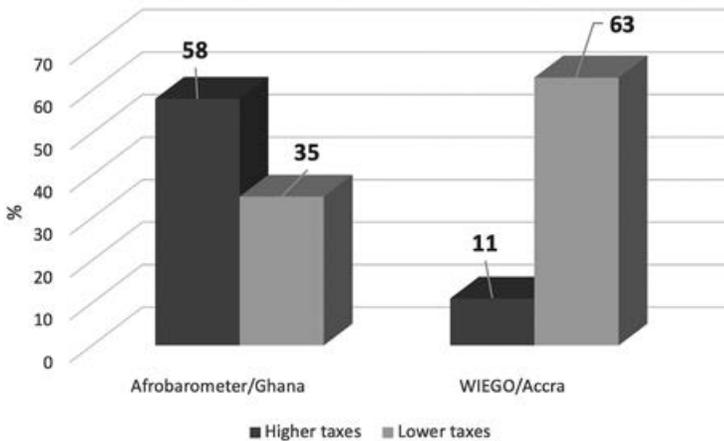


Figure 4.3 Reported preference for high vs low taxes

Informal workers' views on taxes appear to differ substantially from those held by other citizens. One possible explanation, albeit a speculative one, is that the benefits of paying taxes are less obvious and less guaranteed relative to the Afrobarometer sample. On the one hand, informal workers in Accra reported that it is relatively easy to find out which taxes and fees they are required to pay to local government (the AMA). Only about 43 per cent reported that it is difficult or very difficult to find out what taxes and rental fees they are supposed to pay. In comparison, about 70 per cent of Ghanaians who participated in the Afrobarometer survey reported difficulty in finding out what taxes or fees they are supposed to pay. The telling finding here is the large difference in the perceived transparency in how the AMA *uses* the revenues from these fees and taxes. Most informal workers (66 per cent) reported that it is difficult or very difficult to find out how the AMA actually uses the revenues from their taxes and fees. Compared to other citizens, it seems as though informal workers overwhelmingly find it difficult to see how their contributions to local government revenues are used.

Reasons for non-compliance (Figure 4.4) also reveal an important part of the story. In the Afrobarometer survey, the single largest reason for not paying

taxes was that they are too high. Among the workers in the WIEGO sample, the modal response was poor service delivery (29 per cent). A relatively large percentage (25 per cent) also indicated that they could not afford to pay their taxes and fees. Combining this finding with the one from the previous graph, it seems as though informal workers in the sample do not see clear benefits deriving from their tax contributions. This, in itself, is not altogether surprising (since attitudes towards taxation can be negative for a number of reasons), but the fact that attitudes towards taxation seem more negative among informal workers than among the population as a whole is telling.

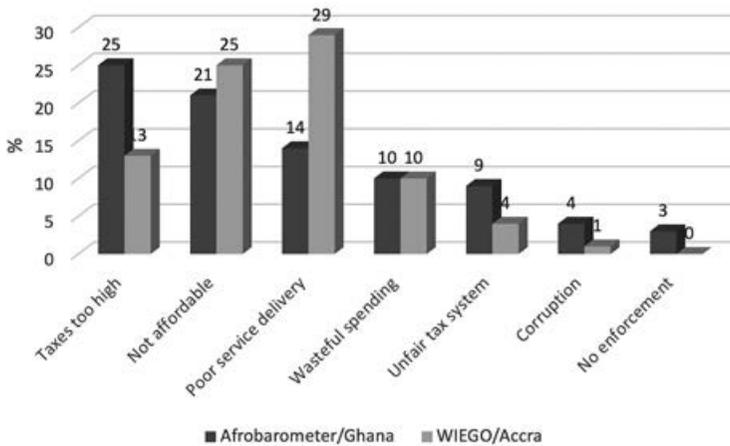


Figure 4.4 Reported reasons for tax non-compliance

THE LIMITS TO STRENGTHENING THE SOCIAL CONTRACT THROUGH TAXATION IN THE INFORMAL ECONOMY

Aligning with the objectives of this volume, the analysis in this chapter has aimed to identify systemic failures as well as a number of theoretical and empirical blind spots associated with the links between informal sector taxation and the strengthening of the social contract. Perhaps the two key themes emerging from the overview of the literature and the findings from a case study in Ghana are that: (1) the assumptions concerning the channels through which taxation leads to good governance are not well defined and tend not to align well with the realities of informal employment, and (2) the lack of recognition of informal workers and the contributions that they already make to local governments does not create a fertile environment for a vibrant social contract.

In short, the lack of responsiveness and reciprocity which characterise local tax regimes in cities across the global South are not currently conducive to governance, accountability or the strengthening of the social contract.

However, the perspectives put forth in this chapter are not intended to suggest that there are no circumstances under which (even regressive) taxation can strengthen the social contract or improve the governance dividend. As suggested by Moore (2015), it is possible for governments that levy regressive taxes in lower-income countries to compensate for the uneven tax burden through (targeted) public spending. Rather, the argument here has been that the tax and development literature has applied too narrow a lens on the structures, institutions and practices of taxation as they apply to informal workers in the global South. Due, in part, to a lack of data (for example, on municipal finances), this literature tends to ignore the realities of taxation for the informal sector and, as such, does not meet the preconditions for imagining an alternative where workers and their organisations are participants in tax design as well as beneficiaries of taxation. Similarly, the language of taxation as the basis of the social contract does not appear to offer a comfortable fit with the institutions of taxation or the ways in which governance through taxation is realised in many developing-country contexts.

In contrast, and in imagining tax justice for the informal economy, a key principle is that of exchange or reciprocity. For example, 'there is evidence suggesting that informal sector workers are willing to pay taxes when: (a) the benefits outweigh the costs; (b) when they are sufficiently empowered; and (c) when there are effective institutional channels for facilitating collective action and bargaining to ensure they receive the benefits' (Joshi et al. 2013: 20). There is further evidence that, when investments in local infrastructure are undertaken in a transparent way which links market taxes with public expenditure, informal tax compliance increases (sometimes substantially) (Joshi et al. 2013). Thus, while there is still much to be learned about taxing the informal sector, an approach which engages directly with informal workers and their organisations is likely to be the best way to ensure a fair system of taxation which maximises local revenues while supporting livelihoods in the informal sector. In this regard, perhaps the notion of 'associational taxation' where organisations representing informal workers are involved directly with the formation of tax policy is the most promising (see Joshi and Ayee 2008). Some (albeit limited) examples of the way in which reciprocity can lead to effective negotiation between workers and the state have been reported in Ghana, Senegal and Peru (Roever 2006, Joshi and Ayee 2008).

However, in order to achieve the aim of developing fair and transparent tax systems for informal workers, more research is needed. In particular, the question that drives such a research agenda might best be reframed as, 'under what conditions or circumstances could governance gains be achieved in rela-

tion to informal sector taxation and the social contract?’ (see Joshi et al. 2014). Underlying this question is, of course, the broader issue of whether it is, in fact, possible for ‘taxation [to] become a source of healthy conflict between [informal workers] and the state’ (Moore 2008: 35). Addressing these questions requires a careful analysis of existing tax systems and an acknowledgment of the contributions that are made by informal workers in the countries of the global South (both to revenues and to local economies). While there remain a number of questions, both empirical and theoretical, at present a focus on reciprocity as the means to explore the social contract between the state and the bulk of the workforce in the global South appears to be the most logical starting point.

NOTES

1. This inter-disciplinary approach attempts, *inter alia*, to address Schumpeter’s classic set of questions about tax – namely ‘the social sources of tax systems, the determinants of taxpayer consent, and the social and cultural consequences of taxation’ (Martin et al. 2009b: 14).
2. The analysis in this chapter is concerned specifically with the informal sector. The informal sector is a sub-set of the informal economy and includes all types of employment (for example, self-employment, employees and unpaid contributing family workers) in unregistered or unincorporated enterprises.
3. While not explicitly aiming to widen the tax net, the CAPBSS recovery package is being implemented against the backdrop of the Ghana Beyond Aid strategy document (see Office of the Presidency 2019, p. 37) which aims to, *inter alia*, ‘find innovative ways to widen our tax net and to bring in the huge informal sector’.
4. While official information on this recovery package is difficult to source, it is managed by the National Board for Small Scale Industries, which is an agency under the Ministry of Trade and Industry mandated by Act 434 to promote and develop micro, small and medium-sized enterprises in Ghana.
5. In some respects, however, this is a false equivalence as the structure of the economy in developing countries is very different to high-income countries. Most developing countries with low tax-to-GDP (gross domestic product) ratios, for example, also have low per capita incomes, a low ratio of international trade to GDP and high levels of agricultural activity (Moore 2015).
6. See: www.ghana.gov.gh/index.php/media-center/news/5082-only-2-per-cent-informal-sector-pays-tax-gra-launches-tax-campaign.
7. In the context of taxation, ‘horizontal equity’ refers to the idea that different types of taxpayers with similar levels of earnings should pay the same amount in taxes. ‘Vertical equity’ refers to the idea that taxpayers with higher incomes should pay a higher rate of taxation.
8. The project data have not yet been published.
9. www.afrobarometer.org/.
10. In other words, only the higher earners in these quintiles pay any taxes but, overall, average tax rates are high.

11. Women often earn less in the informal economy, a situation that would then be exacerbated by a flat tax (see, for example, Rogan and Alferts 2019).
12. The Afrobarometer interviewed a nationally representative sample of 2,400 respondents in Ghana in 2017.

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5. Towards a more inclusive social protection: informal workers and the struggle for a new social contract

Laura Alfery and Rachel Moussié

INTRODUCTION

The provision of social protection by the state in the form of social assistance, insurance and services is widely considered to be a key component of a social-justice-oriented social contract – the “implicit social agreement” which establishes the “guiding principles in building economic, social and political institutions” (Behrendt et al. 2019, Hickey 2011). The COVID-19 crisis revealed the extent to which informal workers remain unprotected by these provisions. Their exclusion significantly contributed to the severity of the economic crisis which accompanied the health crisis. At the same time the pandemic has also opened up the political space to (re)negotiate a social contract where protections hold a more central position.

This chapter focuses on pre-COVID-19 attempts by organizations of informal workers to engage in dialogue and advocacy to shape such a social contract by transforming spaces for negotiation or creating new spaces for interactions with government at international, national and municipal levels. In doing so it emphasizes the idea of the social contract as less of a static entity than a shifting process of challenge and negotiation (Hickey 2011). The social contract, understood as a process, brings to the fore the question of power – who holds the power to shape the terms of engagement in such processes, who is considered a social actor worthy of having a seat at the table, to what extent do different actors hold the expertise and knowledge necessary to make change.

Drawing on a set of short case studies, the chapter examines the ways in which informal workers and their organizations have attempted to negotiate with the state and influence social protection policy and implementation (and, at times, been successful). In doing so it provides a unique view of social protection policy formation “from below.” The chapter concludes with a reflec-

tion on what lessons these experiences may hold for organizations attempting to take advantage of the immediate post-COVID-19 moment to shape a fairer and more protective social contract for informal workers.

FALLING THROUGH THE CRACKS: INFORMAL WORKERS AND DIALOGUE SPACES FOR SOCIAL PROTECTION

It is commonly known that informal workers make up much of the “the missing middle” when it comes to accessing social protection. Informal workers, particularly the self-employed, face either *de jure* or *de facto* exclusions from employment-based social protection schemes which largely rely on the presence of an employment relationship. They are also often excluded as direct recipients of social assistance which is aimed at those outside of the labour market, such as children or older people. However, it is also true that this is at least in part linked to the fact that informal workers are also missing in the spaces for dialogue and engagement which form and guide social protection policy and implementation. Within a labourist framework, the major institution through which social agreements between the state, workers and capital are shaped and legitimized is that of social dialogue (Behrendt et al. 2019). Social dialogue is defined by Maffei (2018, p. 6) as a “mechanism for participation and consensus building in the world of work,” and may take many different forms, from collective bargaining between workers and employers to tripartite processes which include the state, as well as to “expanded tripartite dialogue” spaces which may (but too often do not) incorporate other actors. Social dialogue is also a central component of the International Labour Organization’s (ILO’s) Decent Work framework, which seeks to extend core labour rights to workers in both the formal and informal economy. In Trebilcock’s (2005) discussion of the Decent Work framework, it is noted that the four dimensions of Decent Work – opportunities, rights, social protection and social dialogue – have to be seen as mutually reinforcing and integrated in order to address the “multi-faceted and multi-rooted problems of the informal economy” (pp. 3–4).

Yet for informal workers, the links between social protection and social dialogue are rarely present because institutionalized social dialogue platforms – such as tripartite committees, social and economic councils and the annual International Labour Conferences (ILCs) – are either *de jure* or *de facto* exclusive of workers outside of the formal employment relationship. Maffei (2018) points out that social dialogue can be defined beyond the institutionalized spaces for negotiation which lead to binding agreements, to more informal consultations and information exchanges which may include actors outside of the state, formal labour and business. This definition suggests a wide-ranging and inclusive role for social dialogue, and there are certainly examples of infor-

mal workers engaging in such platforms. For example, Van Empel and Werna (2010) collate experiences of informal workers engaging in decentralized social dialogue with municipal governments, and a paper by Carré et al. (2018) analyses and categorizes the collective bargaining efforts of street vendors and home-based workers in particular. Nevertheless, it remains overwhelmingly the case that informal workers are excluded from the more institutionalized forms of social dialogue, and this has certainly had an impact on their capacity to influence work-related social protection systems and programmes.

Social protection does, however, also exist as a policy concern outside of the world of work and labour, in the form of social assistance programmes such as cash grants. This world of social protection is largely concerned with issues of poverty, and the key relationship is that between citizens and the state. Here the world of work, capital and labour is absent, and the term “social dialogue” is rarely used to describe platforms which connect the state with other stakeholders. Rather, this is the world of “social accountability,” which promotes “bottom-up forms of accountability” and attempts to ensure that the state “not only delivers goods and services ... but is also responsive to citizen demands” (Hickey and King 2016, p. 1225 and p. 1226). Social accountability initiatives can include transparency initiatives, grievance mechanisms, participatory governance initiatives, participatory budgeting and community management committees (Hickey and King 2016). In these instances, informal workers may certainly have the opportunity to participate – but often as citizens rather than as workers. This is reinforced by the fact that, at least prior to the COVID-19 crisis, social assistance schemes rarely if ever directly included informal workers. Migrant workers in the informal economy are further excluded from any forms of social assistance and social dialogue as non-citizens (if trans-border) or non-residents (if internal migrants). The emergency response to the pandemic – often building on existing social assistance schemes – underscored the exclusion of migrant workers from new or expanded social assistance schemes targeted at informal workers.

Informal workers are *workers* – they have a need for protections which relate to their working lives and the economic relationships in which they are embedded (Alfers et al. 2017). At the same time, informal workers are also often poor and marginalized *citizens* and residents who require basic protections and public services. They need access to both citizen- and resident-centred protections and public services and work-related social protection. Yet, there are few dialogue spaces for informal workers as *workers* to directly negotiate as equal social partners on the design, financing and implementation of social protection. The question then is, considering these exclusions, how can informal workers be active participants in the shaping of social protection, and by extension a social contract?

In the remainder of this chapter, we explore the different ways in which informal workers have attempted – despite the significant barriers they face in doing so – to actively engage in policy-making processes. In the first instance we look more closely at how informal workers have tried to find a way into tripartite dialogue spaces, providing a detailed discussion of the possibilities that exist for this but also the real difficulties informal workers encounter in trying to enter existing spaces. We then turn to examples of how informal workers have created new spaces for influencing social protection, often drawing on alternative forms of worker power than those traditionally used by the trade union movement. Ultimately, we argue that in looking at where and how informal workers are in the process of forging a new social contract, it is important that we look beyond traditional spaces of engagement and traditional modes of engaging in dialogue.

THROUGH THE LENS OF POWER RESOURCES: INFORMAL WORKERS ESTABLISHING SPACES FOR DIALOGUE ON SOCIAL PROTECTION

Establishing a connection with the state or other actors around social protection requires informal workers to be organized, but it also requires some capacity to draw the interest and attention of these actors. As Webster et al. (2017, p. 23) argue, “organizing depends on the ability to mobilize members and connect them to a common purpose. Sustaining the mobilization requires power to engage the parties with which workers are in contention.” In their edited volume *Crossing the Divide: Precarious Work and the Future of Labour*, Webster et al. (2017) argue that their adapted version of the power-resources approach may help us to better understand why some forms of collective action – including forms of dialogue and engagement with the state – in the informal economy are more successful than others at “engaging the parties with which workers are in contention.”

The authors identify four key sources of power: structural, institutional, societal and associational. Structural power – the power conventionally ascribed to formal workers – is the power to disrupt the economy, either through workers’ position in the workplace or in the market. Institutional power “embeds past social compromises” into institutions and legislation, and societal power is derived through “coalitions with social movements” and by “influencing public discourse around issues of social justice” (p. 15). Associational power is the power derived through the presence of large, well-resourced organizations (Webster et al. 2017). In the remainder of this section, we draw on the latter three components of this framework – institutional, societal and associational power – to structure our discussion about the different methods informal

workers are using to influence and expand access to social protection and social services.

Allying with Institutional Power: Working through Tripartite Structures

Tripartite structures are institutionalized spaces through which social partners – workers, employers and governments – use social dialogue to formulate labour and social protection standards and policies. This is the space in which work-related social protections – pensions, maternity leave, sick leave, and so on – are negotiated. The strength of national tripartite structures varies across countries – with some wielding real decision-making power and others playing an advisory role to government (Carré et al. 2018, ILO 2016). They represent the institutionalization of past social compromises between the social partners, one which is largely embedded within the framework of the “golden years of prospering welfare capitalism” (Dörre et al. 2009, p. 37). As mentioned in the previous section, informal workers may be excluded or have limited representation in tripartite structures due to several reasons. Their occupation or sector of work may not be recognized under labour law so they cannot organize as member-based organizations and seek representation in tripartite negotiations. Informal workers may also not be permitted by law to establish member-based organizations and register as trade unions because they operate in the informal economy and/or represent the self-employed and those without a clear employment relationship. There may also be resistance to inclusion from formal workers. At the international level, organizations of informal workers are excluded from direct representation within the ILO’s tripartite structure because formal trade unions have argued that informal workers should only be represented as members of trade unions.

Nevertheless, as Webster et al. (2017) point out, the institutionalization of workers’ rights to social dialogue through tripartite structures can be a source of power for informal workers in that it grants workers (and this may be extended to mean *all* workers) a right to dialogue space – one which informal workers may grasp and struggle to expand. For example, at the international level, even though most informal workers’ organizations do not have equal and direct representation in ILO tripartite structures, they have been successful in influencing standard-setting processes such as the Homeworkers Convention (No. 177), Domestic Workers Convention (No. 189) and the ILO Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) (Carré et al. 2018, Mather 2013). The latter specifically recognizes the need to include informal workers in tripartite structures:

the competent authority should make use of tripartite mechanisms with the full participation of the most representative employers’ and workers’ organizations,

which should include in their rank, according to national practice, representatives of membership-based representative organizations of workers and economic units in the informal economy (Art. 6).

Gains may also be possible at the national level. In relation to social protection, for example, negotiations between social partners in Indonesia's tripartite structures led to a commitment to extend universal health coverage to the entire population, a new pension scheme for private formal sector workers and the creation of a contributory social security scheme for self-employed informal workers (Labour Institute Indonesia and ITUC 2016). During the COVID-19 crisis, the International Trade Union Confederation (ITUC) Africa called on its national affiliates to raise awareness of the needs of informal workers, to help them to secure voice and representation during the pandemic and to raise public awareness of their economic contribution (ITUC 2021).

Moreover, in global policy-making spaces, such as the ILC, informal workers' organizations have made significant headway in influencing international labour standards by gaining access to the Workers' Group in the tripartite negotiations. Strengthening informal workers' organizations and building transnational networks of such organizations – such as the International Domestic Workers Federation, StreetNet International and HomeNet International – have been critical in establishing new labour standards that reflect informal workers' demands at the ILC such as the ILO Conventions on Home Work (no. 177), Domestic Workers (no. 189), Violence and Harassment (no. 190) and ILO Recommendations on Social Protection Floors (no. 202) and the ILO Recommendation on Transition from the Informal to the Formal Economy (no. 204). These organizations gained in institutional power at the ILO through their close collaboration with supportive formal sector trade unions and the visibility they acquired in this global policy space.

At the same time, however, there are still significant barriers to access for informal workers, restricting the possibilities for action and influence over social protection policies (Webster et al. 2017). There is an increasing literature on trade union–informal worker collaborations in relation to tripartite processes (Maffei 2018, Otoo et al. 2015). Yet these are often written from the perspective of formal trade unions, tending to problematize perceived lack of organization amongst informal workers, but with less emphasis on what may be problematic about the way in which trade unions interact with such organizations.

In 2018 under the auspices of the Rights-Based Social Protection in Africa project,¹ a workshop was organized to explore the possibilities for more equal collaboration on social protection issues between membership-based organizations of informal workers and trade unions in four African countries (Ghana, Tanzania, Togo and Zambia). Three key issues arose from the discussions: first,

the importance of alliances with formal trade unions in obtaining a “seat at the negotiating table”; second, the tensions that exist within such collaborations, particularly with respect to the direct representation of informal workers; and finally, the difficulties women informal workers in particular have in raising their gender-specific social protection needs within such collaborations.

Organizations of informal workers have found collaborations with formal trade unions to be crucial in accessing tripartite fora, creating space for greater participation in social protection policy making and scheme oversight, and in terms of support for the extension of social protection to informal workers. This was particularly the case in Zambia, where the Alliance of Zambian Informal Economy Associations has worked closely with the Zambian Congress of Trade Unions to ensure input into social protection policy processes. It was also the case in Ghana, where the Ghana Trades Union Congress (GTUC) has been working with informal workers to develop a pension scheme specifically targeted to this group (the UNIWA–GTUC scheme) in which informal workers are directly represented on the governing body.

However, there exist tensions within these collaborations. Furthermore, trade unions and informal worker organizations have different perspectives on what the key tensions are. While the trade unions at the workshop emphasized the difficulty of working with informal workers in relation to established trade union practices such as determining and collecting membership fees and organizing regular meetings, informal worker organizations prioritized the question of equal representation within the tripartite structures where the design of social protection policies and schemes for working people are discussed. In the words of two of the informal worker representatives present:

Us, we know the challenges of the informal sector. We know what’s needed for us. We should be speaking on our own behalf, not having indirect representation.

We are so many informal workers ... but the trade unionists are not there on the ground with us. When a vendor has to stop selling tea because her child was sick and then the child dies because of poor healthcare and she has lost all her income – it is we who are close to these experiences, not them. Why aren’t we the ones speaking for ourselves? We are taken to be illiterate people who haven’t been to school, so we can’t have opinions.

There was a strong feeling that solidarity across the formal/informal divide is important, but that formal unions should be working towards more equal spaces for direct informal worker representation than they currently are, so that informal workers are able to speak for themselves and represent their needs accurately. Without this the concern is that specific needs of informal workers are likely to be marginalized. This was, for example, the case in the development of the Ghana National Health Insurance Scheme, where the

Secretary-General of the GTUC represented both formal and informal workers on the governing body, but in reality prioritized the interests of formal workers (Alfers 2013).

However, the difficulty here is not only a technical one, but also a political one. Access to tripartite structures is as much a question of power as it is of legal provisions, and it is not only a question of whether trade unions will cede space to informal workers to ensure direct representation. As one trade union representative expressed it: “the existing tripartite constituencies do not want the status quo to change, they especially do not want two labour representatives at the table.” This suggests that if informal workers are to gain direct representation, significant challenges are needed to existing constellations of power – between formal and informal workers, but also between workers and capital and workers and the state – which underpin current institutional arrangements. While this is a difficult task, it is not impossible.

In Burundi, Maffei (2018) points to the example of the National Tripartite Charter on Social Dialogue (2011), which places representatives of the informal economy on an equal footing with the formal economy and gives them direct access to tripartite structures. The development of sector-specific tripartite spaces may also open up access to informal workers. The Thailand Homeworkers Protection Act (2010) – which provides basic protections to homeworkers – stipulates that the Ministry of Labour must develop secondary laws related to the Act in consultation with a tripartite committee made up of ministry representatives, homeworker representatives and representatives of the contractors who hire homeworkers (Harvey 2019).

A final issue that arises is the degree of gender inequality in the prioritization of social protection demands. At the workshop, women workers across the formal/informal divide felt that their desire to prioritize maternity protection and childcare was not heard or taken seriously by their male colleagues. Men felt that demands should focus on more general issues such as health care and changes in laws, which they argued were “realistically the only options on the table in Africa right now.” One woman worker responded: “Don’t we have health care facilities in our community? Yes, we do. Do we have maternity care and day care provision? No, we don’t. In that case don’t you think this should take priority?” Ultimately, however, these demands were not prioritized.

Exercising Societal Power: Entering Social Movement Coalitions

Social services – such as health and childcare – are not often considered core elements of social protection, where the focus is on social assistance and social insurance. However, for informal workers who lack access to social or private insurance, these services can be critical to income protection. This is particularly the case for women workers who are more dependent than men

on social services such as health care and childcare across their life cycles due to reproductive health needs and their unequal responsibility for unpaid care work. Access to affordable and quality health services can reduce the time spent away from work due to ill-health, and access to childcare services allows women more time to focus on their paid work (see WIEGO/ILO 2020). Due to the role that services can play in income protection, the Self-Employed Women's Association (SEWA) in India, the largest and oldest union of informal workers, has for many years included both health and childcare in its core set of social protection provisions.

While the governance of social services may certainly be negotiated within the framework of labour–state–employer relations (particularly when employment in social services and/or coverage of employer-provided social services are in question), such services also exist within the sphere of citizen–state relations. This provides informal workers with the opportunity to ally with grassroots movements outside of the labour sphere, and exercise what Webster et al. (2017, p. 15), citing Chun (2009), refer to as societal power by “building coalitions with social movements and influencing public discourse around issues of social justice.” In this way informal workers may develop their own spaces in which to interact with the state outside of tripartite structures.

One of the better-known examples of informal workers building coalitions around health provision is that of HomeNet Thailand (HNT), an organization of home-based workers who were involved in the push for the 2007 Universal Coverage (UC) Scheme which allows all Thai citizens free access to health services. The UC Scheme has its roots in what Nitayarumphong (2006, p. 1) has called “the triangle that moved a mountain” – an alliance between public health professionals, civil society movements and political parties.

The space for the inclusion of civil society in the reform process was provided by a 1997 Thai law which states that any piece of proposed legislation with 50,000 or more signatures supporting it must be debated in Parliament as a “people’s sector law.” In the case of the advocacy for the UC Scheme in Thailand, an alliance of civil society groups, which became known as the Network of People Organizations, was originally made up of nine groups representing a wide range of interests: informal workers, women, the urban poor, agriculturalists, the elderly, children and youth, indigenous groups, people living with disabilities and people living with HIV/AIDS. Through the efforts of this network, 50,000 signatures were collected, and a health reform bill was submitted as a people’s sector law to the 2001–2002 sitting of the Thai Parliament. While the bill was ultimately passed with some significant changes to the original, an important victory for the civil society alliance was the inclusion of openings for public participation and dialogue at all levels of the scheme. As a result of this, HNT currently sits on the National Health Security Board.

There are some important points to note about this example. First, informal worker organizations were significantly strengthened in achieving their goals through the coalition that was established with other grassroots groups. This brought numbers, but it also appealed to a wider and more universal conception of social justice, ultimately creating a groundswell of public support for the UC Scheme. Likewise, the support of academics, policy professionals and public health professionals was important – without their support the Network of People Organizations may not have been able to develop convincing draft legislation (Alfers and Lund 2012). Second, a significant contextual factor was the fact that the bill was adopted by the Thai Rak Thai party as an election promise in what was a hotly contested election. The Network took advantage of this, to draw on what Agarwala (2014) has called in the Indian context “competitive populism” – the strategic use of elections to push for gains independent of affiliation to a political party.

A final point, however, is that – as mentioned previously – within spaces for dialogue that have been created by social movement coalitions and are related to universal services, informal workers do face the challenge of being recognized as *workers* and not only as poor citizens. When HNT first entered into the Network of People’s Organizations, it was suggested that it be included under the rubric of “the poor.” HNT contested this strongly, arguing that informal workers had specific needs in relation to health care, such as occupational health services, and opening and closing times suited to working people, and these were not the same as the needs of all “the poor.” HNT’s argument was ultimately accepted by the Network, and this gave HNT the space to develop its own demands while continuing to contribute to the wider goal of universal access to healthcare (Alfers and Lund 2012).

However, despite the fact that all formal workers in Thailand have access to basic occupational health medical checks and despite HNT’s innovative work to integrate similar services for informal workers within the UC Scheme, it has not been easy for the HNT to successfully carry forward its worker-specific agenda into a social service which prioritizes the needs of vulnerable citizens (Alfers and Samantrakul 2019). This is not only because of a lack of financial and human resources, but also because workers’ health tends to be considered as a low priority within the public health profession in favour of what are considered to be more pressing demands from other vulnerable sectors. As a HNT representative put it:

Every year we engage at NHSO [National Health Security Office] hearings on the benefit package and it’s like a beauty contest. We often pass the second round, but never make it further ... Workers are always forgotten – they’re just not automatically in people’s minds.

Harnessing Associational Power? Co-Producing Health and Childcare Services as Political Strategy

“Associational power” is used to refer to the presence of large and well-resourced worker organizations which are capable of developing and executing strategies (Schmalz et al. 2018). Within the formal trade union movement, indicators of associational power may include membership numbers, the material and human resources needed to carry out their work, organizational efficiency, internal cohesion and member participation (Schmalz et al. 2018). From within the movement of informal workers, what is interesting is the way in which some organizations have harnessed their associational power to become providers of social protection for their members. They have then used the connections and expertise developed through this experience to open up spaces for dialogue with the state.

For example, in Belo Horizonte, Brazil, the Asmare Waste Picker Cooperative (Associação dos Catadores de Papel, Papelão e Material Reaproveitável) set up a childcare centre for its members. Waste pickers expressed their need for childcare services during the participatory budgeting assemblies held between 1990–2000 across Brazil. A budget was finally allocated for this childcare service after years of negotiation with the local government. The municipality provided a public building, two private foundations contributed funds and two non-governmental organizations supported the management of the child centre (ILO and WIEGO 2018). From its inception, the childcare centre was designed to meet waste pickers’ specific working hours – the centre is open from 7:00 a.m. to 10:00 p.m. There are four shifts of trained childcare providers per day and children are left either in the mornings or in the evenings depending on their parents’ working hours.

Due to the open dialogues with city government administrators, where the waste pickers were able to develop a stronger relationship with officials, as well as increasing municipal recognition of their responsibility for early childhood education and care, the municipality took over the management and financing of the Asmare Cooperative community childcare centre. In 2004 it became part of the municipality’s educational system of early child development centres, Unidades Municipais de Educação Infantil.

The development of a relationship between informal workers and local-level government officials has also been a key strategy used by SEWA in its attempts in Gujarat, India, to improve its members’ access to social protection benefits and health and childcare services. In 2015, SEWA’s Social Security Team, through its own cadre of community health workers, adapted a model of working originally developed by SEWA in Delhi and Madhya Pradesh, called the SEWA Shakti Kendras (SSKs). SSKs are “one-stop shops” run by local SEWA leaders who often, from their own homes, provide information

to workers on health, nutrition and social security programmes which can be accessed from the state; provide direct and practical assistance to workers in accessing these entitlements (including holding the application forms for benefits); and through ongoing dialogues between state officials and women workers establish a relationship between informal workers and the state which leads to improved governance and access to services.

Establishing a relationship with state officials at the local level has been key to improving the ability of SEWA's community health workers to ensure that SEWA members are able to access entitlements (Alfers 2018). Establishing this relationship has been far from easy, mainly because of the power differentials that exist between the Indian state and its poorer citizens and workers (Gupta 2012). Evening out the terms of engagement has been a multi-stage process.

The first step has been for SEWA's community health workers to study and understand the state system better. The next step has been to empower the health workers to use this information. Initially they were accompanied by senior team members on "exposure visits" to government departments and public health services so that they could establish personal contacts with officials. Slowly relationships were built through repeated exposure visits, and the confidence of the health workers to communicate with officials has improved to the point where they are able to operate independently. Then, the health workers make a concerted effort to maintain the relationships they develop with government officials by providing regular reports of their activities, particularly to the medical officers who staff primary health care centres, following this up with consistent personal contact (Alfers 2018).

The result is that SEWA community health workers increasingly find themselves being called in to assist public health officials – from medical officers down to frontline workers – staffing the public health centres and in the Integrated Child Development Service. Often these state workers have targets to meet (for example, reaching a certain number of people with vaccinations or health education), but find it difficult to do so because of their limited capacity to reach out to the grassroots. "Often, I have to call in [a SEWA health worker] to help us run our health and nutrition days," said the manager of an urban health centre in Rajiv Nagar in Ahmedabad. "Government needs help to reach people. Truthfully, we really don't have any idea how to do this and the SEWA workers really help us there." This allows SEWA's workers influence over the implementation and delivery of health services and activities and means that their members are more likely to benefit from what is on offer, and in a manner that suits their working lives (Alfers 2018).

In both these examples, the worker organizations – the Asmare Cooperative and SEWA – have strong associational power, which has been crucial to establishing dialogue at the local level. According to Schmalz et al. (2018),

the components of associational power in relation to trade unions consist of the following: membership numbers, human and financial resources, organization efficiency, member participation and internal cohesion. In the case of Asmare and SEWA, however, there is an additional component: the technical competency to develop and run an efficient social service for their members. This has enabled them to not only provide a model for government service provision, and a platform around which to strategically structure dialogue, but also to attract members who are drawn to organizations which meet their practical needs.

REFLECTIONS ON INFORMAL WORKERS AND DIALOGUE FOR SOCIAL PROTECTION IN A COVID-19 WORLD

The examples presented in the above sections come from the world that existed before the COVID-19 crisis. What has changed since then? First, informal workers as a group are much more visible to policy makers, as United Nations agencies, international financial institutions and national governments were made starkly aware that public health restrictions were unlikely to be effective when the majority of the world's workers were unable to stay away from work because of their lack of social protection. Second, the crisis also pushed social protection to the centre of the global social and economic agenda. In some countries, for example, the extension of emergency relief to informal workers during the hard lockdowns of 2020s has opened up and/or accelerated policy discussions around basic income (South Africa), wealth taxes (Argentina) and the extension of social insurance schemes to informal workers across sub-Saharan Africa (UNDP 2021).

Although informal workers lack the same structural power as formal workers, the pandemic also underscored the structural power informal workers have through their role in the provision of essential services and goods in many low- and middle-income countries. Across several African countries informal food vending was designated as an essential service during lockdowns (Bamu-Chipunza and Marchiori 2020). In Lesotho, Namibia, South Africa and Zimbabwe this was due to pressure from informal trader organizations and other stakeholders. Though these informal workers did not intentionally withhold their labour for political leverage, as formal workers have done through strikes, lockdowns are forcing states to identify informal workers across diverse sectors and recognize their contribution as essential by explicitly allowing them to work.

The opening up of policy space does not mean that conditions of work for informal workers have immediately improved – on the contrary, informal workers continue to face the severe economic and social consequences of the

crisis. Even if deemed essential workers, they were not necessarily allowed to work or did not always benefit from the necessary personal protective equipment to shield them from the virus while at work. There are also strong countervailing forces which may work against efforts to expand protection in the post-crisis world – austerity measures, shrinking of fiscal space due to unsustainable debt repayments, continued prejudice and stigma against informal workers, and in some countries, the closing down of civil society–state relations more generally (CIVICUS 2021). However, the current moment remains one where the opportunity of envisaging a new social contract remains present, and one where space exists in particular to ensure that social protection for all is a part of that contract. Informal workers are now more visible due to their vulnerability and stigmatisation as well as the life-sustaining work they do by collecting recyclables, producing and selling food and basic commodities, and caring for children, the ill and older people. What can the past experiences of organizations of informal workers tell us about how informal workers may participate in negotiating this social contract?

In certain contexts, the crisis – and the visibility of informal workers within this – did provide organizations of informal workers with greater opportunities to participate in tripartite fora. South Africa's National Economic Development and Labour Council (NEDLAC) has for many years included a community constituency alongside the state, business and labour in which informal workers are represented. During the lockdowns in 2020, informal workers drew on NEDLAC's Recommendation 204 Task Team – originally set up to guide and monitor the government's implementation of the provisions of ILO Recommendation 204 on the Transition from Informality to Formality – to advocate for their right to work and secure incomes (Global Deal 2020). The existing relationships with the government, built over several years through this dialogue platform, were critical in allowing informal workers to amplify their voices during the crisis. Such institutionalization, however, does not always translate into a conducive space for dialogue. Entrenched governmental attitudes towards informal workers, and a lack of commitment in terms of resources and time to the process of dialogue, remain challenges in the South African context (Devenish and Afshar 2020).

Alliances with trade unions do provide opportunities but may also exacerbate the unequal power dynamics between organizations of formal and informal workers. A persistent challenge in this context is ensuring that the voices of women informal workers – and their social protection concerns – are heard. The low uptake and investment in social protection policies and social services that can specifically improve women informal workers' income security suggests they remain marginalized in social dialogue spaces. For instance, only 41.1 per cent of women with new-borns worldwide receive a maternity benefit, and only 15.8 per cent of childbearing women in Africa and 33.4 per

cent in Asia and Pacific (ILO 2017). Women's care responsibilities and the impact this has on their income security are not seen as labour rights or a social protection issue, but rather considered a private matter to be dealt with at the household level.

This combination of factors makes it more difficult for maternity protections, childcare services or health care services for women and their dependants to rise as priority demands carried by the entire worker organization. Sankaran and Madhav (2011) note that even though India's increasing unionisation rate is largely due to the many more women informal workers joining unions, women remain underrepresented in leadership structures. Their demands are not integrated into social dialogue; rather they are contained and limited to discussions in women's committees and fora within worker organizations.

What has noticeably increased during the COVID-19 crisis has been the space for wider social movement coalitions around social protection, often establishing space for dialogue that did not previously exist. In Argentina, for example, informal workers were incorporated into a national dialogue space through the Emergency Social Committee (ESC), which was set up in March 2020 in order to tackle issues of food, income and job security. It included representation from different levels of the state, churches, and worker and civil society organizations. Social movement and worker organizations of both formal and informal workers were involved, including a representative of UTEP (Unión de Trabajadores y Trabajadoras de la Economía Popular) and Barrios de Pie – both of which are central unions with a broad informal worker membership. An important feature of the ESC dialogue space was its replication at local level, with the mayor of each participating municipality establishing an independent local-level dialogue committee, made up of a similar cross-sectoral representation from within their municipality. This helped to both ensure grassroots representation and local-level implementation of social protection and associated programmes (Devenish and Afshar 2020).

The spaces for these types of wider social movement coalitions around social protection and the inclusion of informal workers' organizations within them have at least in part been enabled by the unprecedented expansion of social assistance to informal workers during the COVID-19 crisis. By May 2021, over 3,333 relief measures which build on existing social protection programmes had been implemented by governments in response to the crisis, and over 55 per cent of those were social assistance measures (Gentilini et al. 2021). Even though the majority of these measures were temporary, they have enabled a greater awareness amongst informal workers of the benefits of social assistance, presenting an opportunity for coalitions of rights-based groups and worker organizations to mobilize around a common cause. In South Africa, Argentina and Brazil, for example, organizations of informal workers have

become increasingly involved in advocacy around a basic income or a basic salary for self-employed workers.

The challenge here – as with previous experiences of informal workers' organizations within social movement coalitions – is to ensure that the work-related needs of informal workers are acknowledged and linked into social assistance demands. There is increasing consensus amongst the social assistance community that “cash plus” approaches – which combine cash grants with other linked forms of support – are critical to amplifying the positive effects of cash grants (Roelen et al. 2017). For informal workers, the “plus” components of cash-plus approaches may be very specific to their own needs. In the case of self-employed informal workers in urban public spaces, for example, to realize the full potential of a social assistance measure such as cash, the “plus” component may need to be structured around targeted support to micro businesses, as well as acknowledging and working to address the punitive urban regulations under which urban informal workers often work.

Outside of coalitions and alliances, the crisis has also seen the development of other forms of contact between the state and organizations of informal workers in relation to relief measures and, by extension, to social protection. The nature and scale of COVID-19, the lack of preparedness of many governments and the limited reach of existing social protection measures to informal workers meant that relief efforts to reach this group were often reliant on collaborations between the government and grassroots organizations of the urban and working poor (de Hoop et al. 2020, Roever and Rogan 2020). These points of contact have taken different forms, depending on context and need. They have included assistance with the identification of beneficiaries – in Sierra Leone, for example, informal trader association databases were used alongside other sources of data to identify households with informal workers and to target relief (Gentilini et al. 2021). Organizations have also provided “last mile” support – ensuring that informal workers were able to overcome various barriers to accessing social protection and/or relief benefits during the crisis (see examples from Bangkok, Ahmedabad and Tirrupur in the 12-city COVID-19 survey fact sheets from *Women in Informal Employment: Globalizing and Organizing*, or WIEGO²). When state relief efforts failed, grassroots organizations also provided essential protections and services to their members, thereby supplementing the state's crisis response (de Hoop et al. 2020, HomeNet South Asia 2020).

The active participation of organizations of informal workers in the relief effort – and the use of their own associational and technical capacities to extend government relief measures – may be interpreted in a number of ways. This can be understood – and in many cases objectively has been – as a downloading of responsibility from the state onto informal workers, making social protection the responsibility of those least able to afford it (Holmes and

Hunt 2021). At the same time, however, such interactions may also present an opportunity to establish and strengthen the relationship between the state and grassroots organizations of the working poor (see Mitlin 2008, Samson 2015). An opportunity which organizations with associational power may ultimately leverage – as was the case with Asmare and SEWA in relation to health and childcare services – to influence the design and implementation of state-funded social protection programmes. Shifting power relations requires multiple strategies, and the often less glamorous actions at the front line of the state–society relationship are just as critical as participation in coalitions and formal dialogue spaces. Central to this is the work of grassroots organizations who build the relationship between the state and the people, empowering their members to engage in that relationship more fully.

The example of SEWA is worth highlighting here – not only for the extensive relief efforts the union provided for its members and their households through its existing community health and childcare services – but also for the legal action the union is taking against the Central Government. Along with other trade unions, SEWA is challenging the central government’s use of the Welfare Fund for Building and Other Construction Workers to finance COVID-19 relief efforts. The Welfare Fund is financed through workers’ contributions and a cess (tax) paid by builders. Drawing on these funds for relief efforts depletes future funds available to these workers. Trade unions claim it is illegal for the central government to use these funds, which belong to workers registered in the Welfare Fund. This contestation points to the threats the COVID-19 pandemic poses to the social protection gains already made by informal workers. It also offers another point of engagement with the state to redefine the terms of inclusion for informal workers in social protection.

CONCLUSION

The COVID-19 pandemic-cum-lockdowns has underscored the critical role social protection can play in supporting workers and entire societies. At no other time have so many governments sought to extend the reach of relief efforts, including pre-existing social protection schemes, to informal workers or recognize their essential contribution in such a deliberate and explicit manner. Past and current organizing strategies around social protection point to three key lessons regarding how informal workers’ organizations can shape the social contract in the context of this pandemic. First, social protection remains a policy area of growing importance to informal workers as they call for guaranteed income security and recovery cash grants and stimulus schemes, rather than only temporary relief. Even in countries where relief measures did not reach informal workers, the benefits offered to many workers in the formal economy through social protection shone a glaring light on the

gaps and inequities of current systems. In countries where there was a rapid relief response inclusive of informal workers, many informal workers received cash grants or food aid for the first time and saw the immediate relief this can provide. If they did not receive this relief, the grounds of their exclusion can become the basis for claims to a more universal social protection system. Second, informal workers will continue to draw on diverse and complementary sources of power, including associational, institutional and societal, as well as a range of different relationships, as economic recovery plans are defined and negotiated. Growing recognition of informal workers' essential work in sustaining economies during lockdowns and recovery may open new avenues for flexing their structural power. Finally, in looking for the places where informal workers have influenced – and will be able to influence – the social contract, we may have to look outside of conventional dialogue spaces and pathways of policy influence. In doing so, informal workers as active participants, rather than passive beneficiaries, may become more visible and may provide the basis for a more protective social contract.

NOTES

1. The Rights-Based Social Protection in Africa project is a partnership between the Friederich Ebert Stiftung (FES)-Zambia, WIEGO, the ITUC-Africa and the Africa Platform on Social Protection.
2. See www.wiego.org/covid-19-crisis-and-informal-economy-study-city-fact-sheets. COVID-19 Crisis and the Informal Economy is a collaboration between the global network WIEGO and local partner organizations representing informal workers in 12 cities: Accra, Ghana; Ahmedabad, India; Bangkok, Thailand; Dakar, Senegal; Dar es Salaam, Tanzania; Delhi, India; Durban, South Africa; Lima, Peru; Mexico City, Mexico; New York City, US; Pleven, Bulgaria; and Tiruppur, India. The mixed-methods longitudinal study includes survey questionnaires of informal workers and semi-structured interviews with informal worker leaders and other key informants, all conducted by phone.

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6. Extended Producer Responsibility: opportunities and challenges for waste pickers

Taylor Cass Talbott

INTRODUCTION

Recycling of solid waste has historically been driven by a large informal economy at the base of a complex global supply chain. Around the world, an estimated 20 million waste pickers (ILO 2013) sell recyclable materials to a series of middlemen and intermediaries, who in turn sell them to be recycled in their countries or overseas. In this way, waste pickers, through their labor, facilitate the link between the waste management and manufacturing sectors. They pick waste and transform it into an industrial good through their work in collection, sorting, aggregating, processing and marketing. A large share of waste picker earnings come from recyclable plastic, an increasingly contestable commodity due to its impact on the environment as well as its fluctuating value.

In recent years, waste management has become a priority on the global development agenda, largely as a result of growing awareness about marine plastic pollution. Waste generation is increasing (Kaza et al. 2018), with waste management struggling to keep pace. Meanwhile plastic pollution in the ocean is reaching crisis levels. While countries attempt to keep their environments clean without sufficient budget to do so, companies ('producers') around the world face growing pressure to take responsibility for their products and the waste they generate. The ownership of responsibility derives from the 'polluters pay' principle, wherein producers as polluters take responsibility for managing the waste generated from their products and packaging. In order to regulate the environmental impacts of waste, and to afford the growing costs of waste management, governments are increasingly looking to Extended Producer Responsibility (EPR) to operationalize the 'polluter pays' principle.

The design of EPR has been a top-down approach, with governments across different levels and countries demanding that companies make commitments

to take responsibility for the waste they generate. Multinationals as well as local corporations have started committing to various degrees of responsibility over the materials they produce. This is resulting in the development of new institutions and arrangements, re-organizing waste recovery and recycling systems while also re-arranging relationships between state, capital and labor. As producers' responsibility in policy and waste management landscapes grows – responsibilities that have been traditionally held by government – so too does the expectation that they also ensure decent livelihoods within their supply chains.

As organized waste pickers begin to understand the impacts of EPR on the waste sector, they are working on national and international levels to understand and respond to EPR proposals such that they can benefit from them, or at least avoid harm from them. Like formal waste management providers, they seek inclusion provisions such as legal mandates for waste picker integration; recognition as key stakeholders; representation in research; direct participation in planning processes; access to capital, land and infrastructure; and support for training and organizing. However, as this chapter later discusses, producers are also working at international levels to understand and in certain circumstances resist EPR, or otherwise influence the adoption of EPR to their benefit.

THE GLOBAL ALLIANCE OF WASTE PICKERS AND EPR

The Global Alliance of Waste Pickers is a network of waste picker organizations that, among other things, supports its members to engage more effectively on EPR. Originating in Latin America in the early 2000s, the Global Alliance of Waste Pickers represents more than 100 organizations in 34 countries around the world representing more than 300,000 workers (Global Alliance of Waste Pickers 2021). In 2018, at a gathering of representatives of the Global Alliance of Waste Pickers in Buenos Aires, several members expressed concern over EPR policy proposals in their countries, which threaten to disrupt waste management systems at the exclusion of waste pickers. This resulted in the establishment of a working group on EPR that led to a global campaign to better enable waste pickers to advocate for their integration into EPR policies. This work is increasingly also enabling the Global Alliance of Waste Pickers to engage in EPR-related negotiations with multinational corporations at the global level.

Based on the experiences of the Global Alliance of Waste Pickers' EPR working group,² this chapter describes some of the opportunities and challenges for waste pickers in EPR, and introduces several key recommendations for how EPR can better serve waste pickers. This work draws on experiences with EPR in several global South and global North cities, and discusses the

ways that waste pickers are organizing to define and establish more equitable and inclusive EPR systems.

EPR SYSTEMS

EPR is a framework that holds producers financially and often also operationally responsible for the recovery of their products and packaging for recycling or disposal. To reflect the practical usage of the term ‘Extended Producer Responsibility’ around the world, especially by waste picker organizations, this paper adopts a broad definition of EPR that includes both voluntary and mandatory systems as well as hybrid shared-responsibility models implemented by both producers and government.

EPR can cover a range of materials, with systems around the world covering hazardous or difficult-to-recycle materials like tires, mattresses, e-waste and paint. EPR for packaging has begun expanding dramatically in recent years thanks to growing awareness about marine plastic pollution. Longstanding packaging EPR systems exist throughout European countries and Canadian provinces, with new policies and proposals emerging in countries like Chile, Colombia, Ecuador, Ghana, India, Indonesia, Mexico, Nigeria, Senegal, South Africa, the United States and Vietnam.

No two EPR systems are exactly alike, but EPR can be conceptualized under two basic frameworks: full producer responsibility, in which producers both finance and implement material recovery; and municipal reimbursement, in which producers reimburse the government for the cost of material recovery. Some systems, like the new EPR law for packaging in Oregon, USA, combine full producer responsibility and municipal reimbursement. In both cases, waste collection and processing services may be contracted out by the system’s implementer (usually producers or government) to other parties, such as private waste haulers and processors or, in some instances, waste picker organizations.

Producers within EPR systems can fulfill their obligations individually, or collectively as producer responsibility organizations (PROs). PROs can give companies considerable power to lobby and influence EPR policy, as well as establishing monopolies with the power to control the terms and players of the waste system, often without negotiation or clear dispute-resolution mechanisms (Cass Talbott 2021). PROs and individual producers tend to favor EPR models in which they have a great degree of control over systems and infrastructure, allowing them to control costs (NEWMOA and NERC 2020).

EPR can be voluntary, in which it looks more like a Corporate Social Responsibility project usually operated by a single company, or mandatory, in which it takes shape as a policy or official sectoral agreement. When it is voluntary, individual private sector actors tend to work directly with

material recovery partners like companies or waste picker organizations in small, usually single-material systems. When it is mandatory, government, sometimes with support from international institutions like the United Nations Development Programme or the German Development Agency (GIZ), and sometimes also in collaboration with the private sector, develops policy proposals that, ideally, undergo public review and comment before their passage. Once they are passed, one or several PROs are usually established and, particularly if tasked with implementing the system, will submit a PRO plan to government for approval.

Regardless of who is operating the system, financing for EPR can come from any combination of producers, government and consumers. In many cases, the costs to consumers, which can be significant, are somewhat hidden (Miller 2019). In Oregon in 2020, for example, consumers spent \$42.49 million US towards the state's producer-operated beverage-container EPR system, compared with \$3.96 million charged to producers (who also earned unreported additional income from the system through the sale of recyclable materials) (OBRC 2021). When costs are placed on consumers, low-income consumers can be disproportionately impacted (Miller 2019).

EPR AND INFORMAL WASTE WORKERS

Though informal waste workers³ are active in EPR systems around the world, EPR is often described as a policy that helps formalize the waste system (StEP 2020). But what exactly that means, and for whom, remains unclear. Anecdotally, EPR is ushering in the formalization (registration and contracting) of enterprises in places with high degrees of informality. The generation of formal employment (including contracts, and social and labor protections) within those formal enterprises, however, is not a given, especially considering that informal work is on the rise around the world, including within formal enterprises (Agarwala 2020).

Early development of EPR policies was promoted by work of the Organisation for Economic Co-operation and Development (OECD) in the 1980s, with models primarily influenced by the economic conditions of the most developed countries (Stephenson and Faucher 2018), where the main drivers of waste recycling policy have been economic and environmental (Rogoff and Ross 2016). Thus, EPR has tended to focus on the economic and environmental aspects of materials management, but not on its social aspects (Woggsborg and Schröder 2018). Environmental pollution that was the result of the post-World War II rise in disposable packaging necessitated greater investment in material recovery systems. In the 1980s and 1990s, waste management in most OECD countries underwent a process of municipalization, wherein informal practices like waste picking and scrap dealing became

illegal and such workers were either displaced by, or absorbed into, formal municipal waste management (OECD 2016). This stands in contrast to today's middle-income countries that are now adopting EPR, where the size and role of the informal recycling value chain is considerably more important (OECD 2016). Gross domestic product and average household income levels are lower in these middle-income countries than in the OECD countries of the 1980s, and in many cases income inequality is also higher (OECD 2016). So, while it may be understandable that EPR was never designed with the informal economy in mind, this oversight now presents serious challenges to informal workers in the middle-income countries that are now adopting EPR.

EPR systems that recognize waste pickers as stakeholders do exist in some places, but these systems share several characteristics that raise concerns about current EPR models as viable and sustainable mechanisms for integrating waste pickers and other informal waste workers. The first notable observation is that EPR systems that recognize waste pickers rarely if ever happen without the pre-existing presence of waste picker organizations that advocate for their integration. Furthermore, EPR systems that benefit waste pickers in some way tend to depend upon existing collection operations – whether informal, uncompensated collection (like informal picking in countries like Canada and the United States); or existing formal systems in which waste picker cooperatives are already contracted to collect and sort household waste, and EPR subsidizes the cost of marketing recyclables (as seen in Brazil and parts of India). Dependence on, without compensation for, existing collection practices considerably reduces the cost of operation for producers.

Deposit return systems (DRS)⁴ in places like the United States and Canada, for example, depend heavily on informal waste pickers for materials recovery, though these workers are only beginning to be recognized as stakeholders in places like Oregon state, New York City, Vancouver and Montreal, where informal workers' organizations exist. And despite that recognition, those DRS systems have not been officially modified to improve conditions or provide opportunities for informal waste pickers to advance in value chains. Brazil's reverse logistics EPR system, on the other hand, does compensate waste picker cooperatives directly for the segregation of recyclable packaging. However, this system is dependent on both the existence of waste picker cooperatives, and doorstep waste collection contracts that these cooperatives hold with municipalities (Rutkowski 2021).

The rise of EPR has had mixed results for waste pickers and other informal waste workers, who are increasingly engaging with the issue thanks to global and regional support networks helping to orient workers to understand and provide feedback on EPR proposals.

OPPORTUNITIES FOR WASTE PICKERS IN EPR

There are considerable benefits to orienting EPR schemes towards the integration of waste pickers, who can be key to the attainment of material recovery targets (OECD 2016, Scheinberg et al. 2016). For example, Brazil's Sectoral Packaging Agreement for the Implementation of Reverse Logistics (*Acordo Setorial para Implantação do Sistema de Logística Reversa de Embalagens em Geral*, in Portuguese) sets targets for the gradual reduction of packaging disposal in landfills (22 percent by 2018 and 45 percent by 2031), which are met in large part through the integration of 5,000 waste pickers organized into about 300 cooperatives that sort materials for recycling (Rutkowski 2021).

When formally integrated into EPR systems, waste picker organizations can also support with data-collection efforts. Even in voluntary EPR projects in places like Pune, India, and Oregon, waste picker organizations have contracts with producers to recover packaging materials, with material diversion-related data collection and reporting comprising part of those contracts (Anantakrishnan 2021, Cass Talbott 2021). But these efforts demand direct engagement with waste picker groups to understand what is feasible. A pilot EPR project for refrigerants in Northern Ghana, for example, was successful in incorporating informal waste pickers once it was understood that tracking material sales on WhatsApp was more viable for them than the proposed smartphone application (StEP 2020).

In places with a large informal workforce, waste pickers can paradoxically hinder the attainment of EPR objectives if they are not properly accounted for in the design of the system (Bünemann et al. 2020, Gupt and Sahay 2015, Henzler et al. 2018, OECD 2016, Scheinberg et al. 2016), as EPR systems that compete with informal value chains may struggle to attract sufficient materials. In India and China, for example, certain EPR systems have failed to collect sufficient materials because producers are not giving an adequate financial incentive to feed materials into the EPR system rather than into parallel informal value chains (Gupt and Sahay 2015, Henzler et al. 2018). Similarly, producers' lack of sufficient financial incentive in Colombia has placed them in competition with drug cartels, which launder money by buying printed circuit boards from informal waste pickers and selling them internationally. The cartels can use drug trade profits to offer informal workers prices that are 15–30 percent above the rates of competitors (StEP 2020).

The most effective EPR systems embrace informal waste workers and other existing value chain actors (OECD 2016), and companies can in some places gain credibility and increase the likelihood of having EPR plans approved by government if they have a developed approach to the informal economy (Henzler et al. 2018). India and Brazil are among the countries with the most

advanced inclusive waste management systems, including within EPR; and both countries have legal mandates for waste picker integration thanks to years of advocacy by organizations of informal workers.

Considering the role that EPR can play in controlling material recovery value chains, integration of informal workers in EPR is critical to the human right to work, and to preventing the further marginalization (StEP 2020) of workers who may not have any alternative source of income beyond waste recovery. The private sector's role in funding waste picker integration is growing increasingly important with the introduction of EPR (Samson 2020), which can generate revenue and other forms of support for low-barrier environmental jobs (Rutkowski 2020). Waste pickers and their organizations have received infrastructure, training and payment for sorting services through EPR systems in places like Brazil, Chile, Colombia, India, South Africa, the United States and Uruguay.

EPR has established new markets for materials, enabling some waste pickers in places like India to profit off materials like multi-layer packaging that otherwise lack value (Anantakrishnan 2021). It has also improved markets for materials that *did* previously have value, enabling higher profits for waste pickers with access to those systems (Cass Talbott 2021, Rutkowski 2021). In South Africa, for example, manufacturers entered into an agreement to pay the price equivalent of virgin glass for collected bottles to ensure stable price floors for materials (Gupt and Sahay 2015). Similarly in the United States and other places with EPR DRS for beverage containers, deposit fees are imposed on consumers that enable those materials to be returned for recycling at or above market rates (Cass Talbott 2021).

EPR can help close underfunded gaps in waste management and, as the concept expands around the world, it has increasingly drawn the attention of waste pickers and their organizations, who see its potential to improve markets for their materials and labor, and to build recognition for their work through contracts and greater social and labor protections. However, without adequate involvement in the crafting of EPR systems, waste pickers are also concerned about the likely negative impacts of these systems on their livelihoods.

CHALLENGES FOR WASTE PICKERS IN EPR

Governments and the private sector are increasingly willing to consider EPR systems that integrate informal waste workers, but integration may not be a realistic objective without overcoming considerable challenges for waste pickers in EPR. Experience on the ground shows that the impact of EPR on the informal economy is quite mixed and under-studied, though the introduction of EPR is considered more likely to disadvantage existing waste pickers or informal collectors (OECD 2016). There are several key barriers which prevent

EPR from benefiting informal waste workers, which are described in detail in this section. First, a lack of data and research is hindering informed integration planning and effective advocacy by waste picker groups. Second, EPR can increase competition for materials, and establish barriers to public access to waste through interventions like containerization (the locking of waste receptacles), excessive infrastructure and registration requirements (Duque Daza, forthcoming; Viteri, forthcoming; Woggsborg and Schröder 2018), or the barring of informal workers from selling to collection points (Bünemann et al. 2020). Third, lack of transparency can create an uneven playing field in EPR. Fourth, disproportionate producer power can undermine equitable distribution of opportunities and institutionalize undercompensated labor within the system. And, finally, even when EPR does aim for waste picker integration, it is never at the scale needed to include all waste pickers in the system.

Lack of Data and Research

It is challenging to document and track the impact of EPR on informal waste workers due to the lack of data and research on the impact of EPR on the labor and enterprise structure of the waste sector. What studies do exist on the intersection between EPR and the informal sector highlight the challenge of operationalizing EPR in parallel with the informal economy (Davis and Garb 2015, Gupt and Sahay 2015, Henzler et al. 2018, OECD 2016, Ojino 2016, Scheinberg et al. 2016), and the need to engage with informal workers in the design and implementation of EPR systems (OECD 2016, Rutkowski 2020, StEP 2020).

Henzler et al. (2018) and Scheinberg et al. (2016) emphasize the need for proper mapping and research to identify key stakeholders in a waste system before advancing with an EPR proposal. Without baseline and periodic research to understand the actors, opportunity distribution and labor characteristics of a waste system, it is difficult to assess the impact of disruptions like EPR to a waste management system. But such studies are not normally conducted, particularly those that include the informal economy. As a result, there is a lack of data regarding whether jobs are lost and by who, and whether new jobs (formal or informal) that are being created within EPR systems are to the benefit or detriment of existing informal waste workers and their organizations. This constitutes a form of data injustice for populations like waste pickers that are often displaced before ever having appeared in sector data, obscuring the impacts of EPR on both labor and capital. Because many waste pickers lack economic alternatives (ILO 2015), displacement can have dire consequences – including for informal workers who do reap benefits from EPR systems but lack stakeholder power within them.

During the COVID-19 pandemic, for example, states across the United States suspended the enforcement of bottle bills,⁵ the monetary return deposit which is one of the only ways that people can still make money from waste picking in the United States. Grocery stores, which serve as the bottle redemption sites for many states, opted to discontinue collecting bottles for a return deposit, abruptly shutting innumerable people out of this income source at a time when people most needed it. Lack of data on the numbers of people who are reliant on bottle redemption income, and to what degree they rely on this income for housing and other basic needs, has hindered advocacy efforts and also obscures understanding of the impact of the sudden removal of this source of income.

A lack of research and consultation with impacted stakeholders, like waste pickers, is another significant problem with EPR (Chandran 2021), leading to systems that are not informed by existing realities. Ghana's plastics policy, for example, speaks to the importance of integrating the informal waste sector, but sufficient primary data on the informal waste economy is lacking, and waste pickers have not been adequately identified or directly consulted by government in the development of the country's impending EPR system. Most often, informal waste workers are left out of consultations in the design of EPR systems, and, even when included, are not sufficiently oriented on the issue to provide the kind of feedback that will protect their livelihoods. Sensitization on EPR, for example, frequently only targets consumers (Duque Daza, forthcoming), or policy makers.

Competition and Bureaucratic Barriers

EPR tends to be designed to improve markets for discarded materials, which can draw fresh competition into waste systems to take advantage of new market opportunities. In India, for example, the emergence of EPR for materials like multi-layer plastics that previously lacked viable markets has attracted new startups into the waste sector that compete with existing waste pickers and waste picker organizations. To reserve materials for certain actors and incentivize formal and traceable value chain routes, EPR can mount barriers to public access to waste through interventions like containerization (the locking of waste receptacles), the barring of informal workers from selling at collection points (Bünemann et al. 2020; Viteri, forthcoming), or by distorting the market such that buyers outside the system cannot compete with EPR's artificially high prices for materials (Cass Talbott 2021).

Some EPR systems subsidize the price of materials to incentivize their recovery, distorting natural waste markets. This tends to be viewed as a benefit because it can give value to materials that otherwise lack it, thereby incentivizing their collection. Attaching an artificial price on materials can be good for

waste pickers who are able to avail themselves of higher prices for materials, and it can mitigate risk for those involved in the system, but it can also disrupt the system in ways that may be challenging for waste pickers' advancement in value chains. Price disruptions can attract new competition to the scrap collections market, which impacts waste pickers. But it can also inhibit competition at the scrap-buying level, as buyers outside of the EPR system may not be able to compete for materials against an EPR system's artificially high prices (Cass Talbott 2021; Viteri, forthcoming). Organized waste pickers wanting to move up through the value chain into aggregation and buying may struggle to compete with EPR systems, while also struggling to comply with requirements necessary to work within an EPR system (Duque Daza, forthcoming; Viteri, forthcoming; Woggsborg and Schröder 2018). By contrast, an EPR system that fails to establish above-market rates for materials may not succeed in capturing materials for formal recovery due to competition with informal collection and processing systems (Henzler et al. 2018). In this sense, EPR may inevitably be problematic for one actor or another unless it is explicitly designed to integrate waste pickers and other informal waste workers.

In both Oregon and Ecuador, waste pickers have been unable to formally benefit from EPR DRS at the aggregation level, remaining active (and valuable) in the system only as informal collectors. They cannot compete with the EPR system at the scrap-buying level because they cannot afford to buy materials at the same rates that EPR-sponsored redemption centers can. In the case of Ecuador, prohibitory fees, as well as the lack of pre-payment for materials in the system, prevent waste picker cooperatives from entering the scrap buyers' market as part of EPR (Viteri, forthcoming). In Oregon, producers have a monopoly on bottle redemption centers, which offer an above-market price for materials, and it is therefore financially unviable to operate competing redemption centers. Though recent negotiations have enabled one waste picker organization to be subcontracted by producers to operate pop-up bottle redemption sites in Oregon, this exists as a short-term charity measure rather than as a structural, stable and mandatory component of the system (Cass Talbott 2021).

Lack of Transparency

EPR systems can in theory improve transparency by mandating improvements in traceability and data collection through requirements that producers track material generation and recovery. But in practice, lack of material, financial and organizational transparency remains a major hurdle within EPR (Bünemann et al. 2020, Cass Talbott 2021, Miller 2019, Rutkowski 2020). Brazil's reverse logistics system, for example, does not require reporting on (nor financial accountability for) the full amounts of materials that producers

put into the system (Rutkowski 2021), undermining efforts to increase their financial responsibility. In Oregon's bottle bill system, producers are not required to report on the profits they make from the sale of recyclable materials, a dynamic that incentivizes EPR models for valuable materials in which producers consolidate control over collection and processing.

Within EPR systems, the state's role can tend to become exclusively bureaucratic, which can hinder transparency efforts and potentially undermine government efforts to promote equity and inclusion in the waste sector. In Oregon, for example, government bodies are working to mainstream equity and inclusion in the waste sector through more diverse contracting and are subject to transparency safeguards like the Freedom of Information Act; while the PRO for Oregon's bottle bill system is not required even to publicly share who sits on its leadership team or board of directors, nor a complete budget. Similarly, the monopoly PRO for British Columbia's EPR system is not required to report on income earned from the sale of recycled materials (Miller 2019). In EPR systems, PROs can be exempt from antitrust laws and operate as a sort of quasi-governmental utility, sometimes also as monopolies, but without being subjected to the same transparency requirements that may apply to government. Oregon's new EPR-for-packaging system, like other EPR-for-packaging systems being proposed across the United States, exempts producers from antitrust laws.

Lack of transparency poses serious barriers to the integration of waste pickers, especially women and other more marginalized groups, who struggle to compete with powerful actors within the industry – not just for materials and money, but also for information. EPR without full transparency yields opaque systems in which it can be difficult to tell if producers are shirking their responsibilities, are engaging in corruption, are including under-represented identities in leadership, or are making financial gain off the system and to what degree. It also makes it challenging for prospective stakeholders in the system to identify possible funding sources for their work, or for existing stakeholders to negotiate for better terms.

Producer Power

The challenge to waste picker agency within EPR systems can be partly attributed to the disproportionate power that global corporations are building in researching and lobbying to shape EPR policy and practice. EPR is a highly technical concept, and can be challenging for policy makers and other stakeholders to grasp well enough to support strong and equitable policy. Global brands, on the other hand, are working at the international level to research, track and influence EPR policy and practice in ways that benefit producers. Producers tend to lobby to prevent mandatory EPR (Corkery 2019), or to

reduce their bottom line within EPR, with PROs and producers favoring EPR models in which they have a great degree of control over systems and infrastructure, allowing them to control costs (NEWMOA and NERC 2020). As the waste and recycling industries have grown more consolidated around the world, producers have been able to make increasing financial gains off EPR systems, including by colluding to promote anti-competitive behavior within the sector (OECD 2016) and further contributing to power consolidation by way of EPR. This can have overlooked but significant impacts on the labor structure of waste management systems, undercutting organizational and demographic diversity within systems in the name of improved efficiency. According to Mary Lou Van Deventer, who sits on the board of directors for the British Columbia Bottle Depot and Recycling Association, the contracts that Association members have with the EPR system's monopoly PRO include gag orders preventing them from speaking out against the PRO or else risk losing their contract (ILSR 2021). When service providers lack power and autonomy in the system, it can lead to disproportionate producer power. Uruguay's EPR-for-packaging system stipulates that waste picker organizations contracted as service providers be managed by the Ministry of Social Development, hindering the autonomy and direct representation of waste pickers and resulting in a system that is significantly producer-driven.

The pressure on producers to engage in EPR often also spurs them to voluntarily fund or engage in their own methods of waste management, including litter collection, with the hope of satisfying environmentalists and policy makers enough to prevent or weaken mandatory (policy-driven) EPR; or help them influence the terms and conditions of eventual mandatory EPR schemes. Voluntary systems are weak in improving environmental outcomes (Arnold 2019, Bünemann et al. 2020), though most of the notable EPR models around the world that are attempting inclusion are, in fact, voluntary. Once these systems become mandatory, requiring the recovery of significantly larger quantities of material, costs can increase for producers and they may be less willing to agree to added expenses for inclusive measures like training and infrastructure support. Producers sometimes try to mitigate costs by taking on the operation of systems (usually through a PRO) to maximize efficiency and capture valuable materials, the sale of which helps offset their expenses (Cass Talbott 2021). In cases in which producers implement systems, other actors in the systems can become beholden to producers for the selection of service provision contracts or charity-type arrangements (Anantakrishnan 2021; Cass Talbott 2021; Duque Daza, forthcoming; Miller 2019). This can also put producers in direct competition with, or in control over (as a contracting entity), recyclers, haulers, aggregators and waste pickers.

Voluntary producer responsibility efforts tend to place power exclusively in the hands of producers, and can have lasting effects on the labor structure

of waste management systems. In the 1950s the US anti-litter organization Keep America Beautiful, for example, was established by producers to prevent the passage of an EPR DRS for beverage containers in the state of Vermont (Rogers 2005). Keep America Beautiful mobilizes volunteers in litter collection across the country, and has helped cement an approach to litter collection that is heavily reliant on volunteers. Twenty years later, producers in Oregon took a similar approach in attempting to avoid mandatory EPR on beverage containers by funding a volunteer-led litter-cleanup organization (Tucker 2018) that to this day remains central to the state's approach to litter control. Oregon, like other US states (Corkery 2019), has also historically relied heavily on underpaid prison labor for litter control. Reliance on volunteers and underpaid labor for litter collection is now a mainstream and global strategy that producers continue to invest in to promote an image of corporate responsibility, at a fraction of the cost they would have to pay if covering the full labor and organizational costs of ethically remunerated material recovery efforts. This leads to incomplete collection, especially in places where mobilizing volunteers is more challenging, including low-income communities. The funding of voluntary litter collection efforts presents an appearance of producer responsibility, but inadequately addresses the issue and usually lacks data transparency (Brock et al. 2021) while at the same time averting the creation of decent, low-barrier work in litter collection (Cass Talbott 2021).

Narrow Scope of Existing Integration Efforts

While producers, governments and civil society are taking an increased interest in the integration of waste pickers into EPR policies, there is little precedent for doing so at a scale that meets the need. Most EPR systems oriented towards integration of waste pickers are voluntary and small in scope, covering only the portion of packaging materials that producers deem appropriate. This limits their costs to producers, as well as income-generation opportunities available within the system, and often leaves waste picker integration at the mercy of producers, who may only be interested in involving waste pickers insofar as it helps reduce their bottom line or promotes an impression of social responsibility. Existing mandatory EPR systems oriented to integrate informal workers are also small in scale, which risks tokenizing informal workers while the rest of the waste management system privatizes or becomes increasingly off-limits to them. According to Soledad Mella, president of the National Association of Waste Pickers of Chile (ANARCH), for example, Chile's EPR-for-packaging law has integrated just 8,000 of the country's 60,000 waste pickers and hands over many contracts to private companies (Mella 2021). Furthermore, as stated earlier, EPR systems may be unlikely to accommodate integration in places

where waste pickers are neither organized nor already engaged in some degree of formal waste management.

MOBILIZING FOR EPR THAT INTEGRATES WASTE PICKERS

The social impacts of EPR have only recently begun to be more deeply assessed as EPR increasingly makes its way into countries like India and South Africa, with large informal labor forces and where many waste pickers are organized and intent on influencing solid waste policy to be more inclusive.

The challenge in understanding EPR and its impacts on waste picker integration in formal waste management systems led the Global Alliance of Waste Pickers' working group on EPR to engage waste pickers in various ways to develop EPR recommendations. Working group members began by sharing their experiences of the ways – good and bad – that EPR impacts waste pickers in their organizations. Waste picker organizations also began mobilizing at a national and a local level in places like India and the United States to formulate feedback on and recommendations for local EPR proposals. In Argentina, the National Federation of Waste Pickers (FACCyR, its acronym in Spanish) developed its own policy proposal, which has enabled it to negotiate at ministerial levels in the design of EPR. In India, the Alliance of Indian Waste Pickers established its own working group to review India's national EPR bill and develop written feedback and recommendations, which were submitted to government. In the United States, the country's two waste picker associations worked together to develop recommendations and feedback on the country's national EPR-for-packaging proposal, which were delivered to national and local policy makers and have gained visibility for their organizations in these spaces.

Meanwhile, the Global Alliance of Waste Pickers working group developed worker education materials to better engage workers themselves on these issues so that recommendations were grounded in the opinions of waste pickers and not technical support organizers. First, the working group contracted researchers within several waste picker organizations to document their experiences with EPR as case studies. These case studies, mixed with literature review and informational exchanges, formed the basis of worker education materials, which were used in both decentralized and global trainings and exchanges between waste pickers to share the essentials of EPR and case studies from other places, and solicit their recommendations. In September 2021, the Global Alliance of Waste Pickers launched its EPR campaign,⁶ in hopes that its work on EPR will pave the way for more productive, direct negotiations between government, producers and waste pickers – which are, for the most part, not happening yet in most parts of the world. Through this work, the Alliance has

had opportunities to also exchange directly with multinational corporations that are involved in EPR, and is exploring platforms and partners for negotiating with companies at the global level.

Through the Global Alliance of Waste Pickers' engagement process on EPR, waste pickers in different parts of the world have been shown to be aligned in both their experiences of and recommendations for EPR. Key recommendations include: thorough mapping of waste systems prior to EPR planning so that informal stakeholders can be identified and integrated into planning and implementation; direct engagement between waste pickers and other stakeholders to enable authentic co-production of systems, including remuneration standards, grievance mechanisms and periodic review processes; legal mandates for waste picker integration; financial and material transparency; support for training and organizing; access to capital, land and infrastructure; and sustained public access to materials and commercialization points so that the system is not formalized at the exclusion of unaffiliated (not connected to an organization) waste pickers.

All of these recommendations are important, but the risk remains that they will be selectively applied, or applied to provide opportunities for a slim minority of informal workers while the majority are excluded or relegated to informal roles within the system without entry points for advancement in value chains. This threatens to tokenize inclusive EPR and waste pickers, while the right of access to waste, often described as a right to the city (Fernández 2020), or the human right to work, is undermined by dispossession and privatization.

As EPR becomes a growing factor in determining who wins or loses in the waste industry, the question of whether governments or producers should hold more power in designing and implementing EPR is beginning to attract more debate. Governments are key to the regulation of waste management, employment targets and standards, and social and labor protections. At the same time, fighting local policy battles for inclusive EPR in cities, states, provinces and countries around the world is unlikely to yield a windfall of gains for waste pickers in places with weak or no organization. Multinational corporations are problematically working at global levels to locally influence EPR policies to their benefit. But the globalized nature of EPR is also presenting opportunities for waste pickers to advocate, through their own global alliances, in ways that can impact policy in places where waste pickers otherwise lack power. The global visibility of EPR is helping draw attention to the responsibility that companies have not just in recovering their products and packaging, but in promoting waste picker integration. Ultimately, waste pickers will need to use their growing global power to negotiate what their integration into EPR should look like, and how to hold power brokers accountable for supporting it.

NOTES

1. Producers are the brands, manufacturers and distributors that voluntarily, or are obligated to, pay into Extended Producer Responsibility systems.
2. The list of representatives of the Global Alliance of Waste Pickers' EPR Working Group can be found at: <https://epr.globalrec.org>.
3. Informal waste workers can include waste pickers, scrap dealers, aggregators and recyclers operating in the informal sector. But they can also be informal workers, including gig workers and independent contractors, such as sorters operating within formal waste collection and processing companies and departments.
4. Deposit return systems are EPR systems that traditionally cover beverage containers. Within these systems consumers pay a deposit on each beverage container (can or bottle) purchased, and can then redeem that deposit by returning the container to designated sites.
5. Bottle bills are EPR DRS on beverage containers in some states of the United States. Consumers pay a deposit on each beverage container (can or bottle) purchased, and can then redeem that deposit by returning the container to designated sites.
6. <https://epr.globalrec.org>.

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7. Human rights and transnational social contracts: the recognition and inclusion of homeworkers?

Marlese von Broembsen

Capital ... takes no account of the health and the length of life of the worker unless society forces it to do so ... this does not depend on the will, either good or bad, of the individual capitalist. Under free competition, the immanent laws of capitalist production confront the individual capitalist as a coercive force external to him.¹

1. INTRODUCTION

Capitalism is both an economic and a social system. It is a way of organizing social and economic relations and its structure is therefore dynamic and mutable (Streeck 2016). Contemporary debates on a new social contract tend to be abstracted from the political economy of capitalism and elide the struggle between organized labour and the owners of capital that produced the social contract that, especially in the wake of the COVID-19 pandemic, is being re-imagined. This chapter brings back into focus the persistent, sometimes violent struggle between the owners of capital (pushing for greater accumulation and surplus) and organized labour (pushing for higher wages and resisting commodification) that is intrinsic to the formation of social contracts.

Chen, Alferts and Plagerson (in this volume) argue that the focus of classical contractarian theories of justice on socio-economic relations within the geographical confines of the nation state needs to be problematized. Drawing on the lived realities of informal homeworkers in developing countries, this chapter addresses the necessity for social contracts that ‘transcend national structures.’ In most developing countries, homeworkers are excluded from the national social contract because labour laws do not recognize them as labour. But even in countries where their status as workers is recognized, they continue to experience work insecurity and earn below the statutory minimum wage. In part, this is so because many homeworkers are part of complex global supply chains that transcend national boundaries. Their terms and conditions of work are largely determined by global brands and retailers in Europe, North America and, increasingly, East Asia.

The chapter proceeds as follows: Section 2 provides a brief historical account of industrial capitalism's shifting modes and relations of production and the ensuing struggles between capital and labour that culminated in a social contract.² I argue that labour law has been intrinsic to the functioning of the social contract by providing mechanisms that allowed labour to exercise counter-vailing power to the power of capital. It concludes with a discussion of the hegemonic shift to neoliberalism that gave rise to a new mode of production—the global supply chain—and the ensuing international division of labour. Section 3 discusses global supply chains, and in particular garment supply chains, in which most homeworkers labour. This is followed, in Section 4, by a discussion on homeworkers: how they are inserted into supply chains, their terms and conditions of work, and their exclusion from the national social contract because labour law does not recognize them as labour. Section 5 engages with ideas of a transnational social contract. It introduces Gunther Teubner and Andreas Fischer-Lescano's model of the world as two overlapping matrices—the bottom reflecting a world order divided into nation states and the top matrix being issue-determined, rather than geographically determined, and thus comprised of plural overlapping orders. It draws on critical international law scholars to construct new transnational solidarities and ends with an analysis of the different solidarities that homeworkers might engage with.

Through a critical analysis of the Bangladesh Accord, Section 6 introduces the new actors that are engaged in the formation of transnational social contracts. I analyse the role that 'social movement actors' are playing in the formation of sector-based transnational social contracts and conclude that the legitimacy, and ultimately the durability, of a social contract relies on the participation of all stakeholders in contract formation. Section 7 discusses the current struggle that is taking place within the European Union (EU) to legislate that corporations must take responsibility for the violation of workers' rights in their supply chains. Trade unions and social movements are wanting corporations to be held liable for failing to exercise their duty of care to workers who are producing their goods. Corporations are spending millions lobbying EU policy makers to avoid liability. The section explains how homeworkers are participating in this emerging transnational social contract and critiques the exclusion of developing-country suppliers from the process. Section 8 concludes with a critical reflection on whether, from the perspective of homeworkers, human rights—the basis for the proposed EU legislation—constitute a durable basis for a transnational social contract.

2. BRINGING THE STRUGGLE BACK INTO DEBATES ON SOCIAL CONTRACTS

The struggle between labour and the owners of capital is as old as industrial capitalism itself. Since the earliest factories in eighteenth-century Britain, workers formed collective organizations to resist being treated as commodities—as inputs for production to be purchased for as little as possible. The first trade unions were formed by craftsmen, who were industrial outworkers—the workers we now call homeworkers. Later, journeymen—reminiscent of modern-day seasonal workers—formed guilds to bargain collectively for higher wages (Fulcher 2004). It was difficult for them to organize because the workshops that contracted them were small, and employment was insecure (Fulcher 2004). By the 1900s, factories were larger and trade unions were ‘strong and revolutionary’ and as a result, capital was forced to make concessions to labour in order to ensure that the factory model of production (with outworkers) survived (Streeck 2016: 4). Wolfgang Streeck (2016) argues that nineteenth-century capital deployed two strategies to subordinate workers, which formed the bedrock of ‘democratic-welfare-state capitalism’: ‘democratic power-sharing’ through collective bargaining, and the production of cheap consumer goods that workers could afford.

From the 1940s until the 1980s, democratic capitalism functioned relatively well in the West (and some post-colonial countries) because of a social contract between the state, capital and labour that was based on the following trade-offs: capital relied on the state to provide the legal institutions (primarily property rights) necessary for profit-making, the capabilities necessary for technological innovation for improved productivity, ‘market opening policies’ to facilitate the export of goods to foreign markets, and public goods for both its current and future workforce, including social security, health services and education (Streeck 2016). The working classes (men) exchanged their labour and their rights to property for a secure livelihood, for social protection (social insurance and public goods, such as healthcare)³ and for a continuously improved standard of living, since increases in wages were linked to more efficient production (Streeck 2016). Capital relied on the working classes not only for their labour, but also for their purchasing power as consumers. Workers’ wages were an outcome of collective bargaining, to be sure, but also took account of the cost of reproduction (for workers to afford children, who would replace their labour) and the need to create demand for the mass-produced consumables that were being produced by the factories. Law, labour law to be precise, was constitutive of the social contract:

Labor law was central to the welfare state because it mediated these conflicts, institutionalizing workers’ movements that otherwise threatened to destabilize the

industrial economy. It represents a grand bargain of sorts. States recognized unions' rights to exist, granted them powers to bind workers to collective agreements, required employers to bargain with them, and often granted them special powers in economic policymaking processes. In exchange, unions consented to the basic terms of capitalist employment and promised to curtail or end industrial strife (Rogers 2016: 1626).

Labour law—and the institution of collective bargaining in the particular—thus promoted industrial stability, a democratization of the economy and a distribution of rents (Rogers 2016). As subcontracted workers were either absorbed by factories after World War II or 'likened to employees', employment was distilled into two categories: those dependent on wage-employment ('employees') and those who were self-employed ('independent contractors') (Supiot 2001, Deakin 2004). The employment contract not only classifies people as an employee or an independent contractor, but it also regulates the relationship between the employer and the employee, and acts as a mechanism of redistribution (Deakin 2004). The state (an 'implicit party' to the contract) collects income tax and social insurance premiums that it redistributes through welfare spending (Deakin 2004).⁴ Although not an explicit term of the employment contract, workers agree to be subordinated to management as individuals. Giving up their individual 'economic independence' and agreeing to be subordinated to management is, however, counter-balanced by institutionalized collective bargaining, which 'provided a framework within which workers can build a countervailing power to that of management' (Davis 2004: 160).

The state played different roles in different countries: on the one end of the continuum, Britain adopted a 'laissez-faire' approach, where the state stays right out of the bargaining process. At the other end of the spectrum, in several European countries and for example in South Africa, statutory bargaining councils are created for each industry and when the most representative trade union and most representative employer group reach an agreement on wages, the minister of labour extends the agreement to apply to the whole sector, even to parties who were not part of the agreement. This has the effect of removing wages as a competitive advantage.

For over two decades, Western countries experienced continuous economic growth, which 'resulted in deeply rooted popular perceptions of continuous economic progress as a right of democratic citizenship—perceptions that translated into political expectations' (Streeck 2016: 10). Growth began to slow after the oil crisis in the 1970s, however, and with the collapse of the gold standard states were beset by stagflation (a combination of high inflation and high unemployment, creating a stagnant economy) (Kennedy 2009). The Keynesian economic toolkit was unable to deliver full employment, or was not adopted, which led to a loss of confidence in the state, rather than in the

capitalist system itself. These shifts in the political economy heralded a new form of production that involved the vertical disintegration of supply chains and an international division of labour.

3. GLOBAL SUPPLY CHAINS AND THE INTERNATIONAL DIVISION OF LABOUR

Richard Baldwin (2012) explains that cheap sea transport made it *possible* for corporations to off-shore their production to developing countries, but cheap labour made it *profitable* to do so.⁵ In addition, Thatcher and Reagan's embrace of neoliberalism in the 1980s—its animating idea being that the market is the best institution to distribute society's resources—and in particular their espousing a doctrine of labour market flexibility made it *acceptable* for British and American (and later other European) corporations to outsource their least profitable functions, and to off-shore their production to developing countries (Collins 1997).⁶

Previously, brands were vertically integrated: if they established a factory in another country, they owned the factory (through a subsidiary), and the factory workers were their employees. The doctrine of labour flexibility contributed to the vertical disintegration of corporations: corporations outsourced production to firms that were legally autonomous, which meant that legally the workers were not their employees, and therefore legally no longer their responsibility.⁷

For developing countries, global supply chains produced new possibilities for their industrial strategy and for job creation (Baldwin 2012, Gereffi 2014). Their participation in garment production held particular promise since 'the clothing industry has had a critical part in the industrialization process of a wide range of countries, over a period covering two centuries' (Palpacuer et al. 2005: 409). Palpacuer et al. (2005) outline why. First, making clothes is labour-intensive and creates many jobs for both skilled and unskilled labour. Second, garment production creates and satisfies domestic demand for clothing. Third, it acts as a springboard for other sectors through backward linkages and by generating hard currency that can finance more capital-intensive industries. Consequently, '[m]any developing countries, especially low-income ones, believe that the industry can play a similar "bootstrapping" role for them today, and on this basis, they promote its development and its links to the global market' (Palpacuer et al. 2005: 409).

Whereas previously the power between the owners of capital and labour in the context of the nation state was mediated by labour law—through the employment contract and collective bargaining—now capital and labour are located in different countries and continents and these same institutions hold little traction. Indeed, since the retailers and brand-name merchandisers have no need for the workers responsible for their production to double as their

consumers, and there is an oversupply of labour, wages do not need to enable the consumption of mass-produced goods, nor ensure the reproduction of the labour force. These retailers and brands—known in global value chain literature as the ‘lead firms’—exercise their coercive market power to down-load their costs and risks through an ordinary commercial contract with their suppliers.

In the garment sector, lead firms increase their profits by reducing the cost of their garments and by managing their inventory more efficiently. Buyers continually coerce their suppliers to reduce their prices (Palpacuer et al. 2005, ILO 2016, Anner 2019). Analysing US trade data, Anner et al. (2013: 11) conclude that the ‘the real dollar price per square meter of apparel entering the U.S. declined by 48 per cent from 1989 to 2010’. A 2017 International Labour Organization (ILO) study found that up to 50 per cent of suppliers have contracted for below-cost prices, in the hope of securing future orders. At the same time, buyers try to reduce the time that clothing spends on their shelves by pressuring their suppliers to front the costs for fabric, trim and wages, effectively ‘hold[ing] stocks on their behalf and provid[ing] inventory-management services’ at no cost to the lead firms (Palpacuer 2008: 399).⁸ They also reduce the time between placing the order and delivery and they vary the volume of their orders, depending on real-time market consumer intelligence (Palpacuer et al. 2005, Anner 2019). Finally, buyers pay for orders ‘months after the goods are shipped out’ (Cline 2020).

Suppliers typically respond to these pressures by paying their workers less than the statutory minimum wage (ILO 2016), coercing workers to work up to 22 hours a day without overtime pay (Vaidyanathan 2020) and increasing workers’ hourly production targets (Anner 2020b). They also restructure their employment relations so that they maintain a flexible workforce but avoid the costs associated with employment contracts. For example, they adjust the *time period* from permanent to task-based work, which allows them to pay by the piece, or from full-time employment to part-time work, which typically is not protected by labour laws, or where there is some protection, the laws are not enforced (ILO 2016).⁹ They change the *place of work* so that the work does not take place on their premises, but is outsourced either directly to homeworkers, or to informal enterprises. Consider India: nationally 89.9 per cent of workers in the garment sector work in small and medium enterprises (Thomas and Johny 2018). These enterprises also subcontract to homeworkers. Finally, they contract workers through an intermediary (Fenwick et al. 2007). Homeworkers may face one or several of these flexibilization strategies.

4. HOMEWORKERS IN GLOBAL SUPPLY CHAINS

The ILO Home Work Convention, 1996 (No. 177) defines homework as

work carried out by a person in his or her home or in other premises of his or her choice, other than the workplace of the employer; for remuneration; and which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used.

Homework—industrial outwork—is as old as capitalism itself (Fulcher 2004). First in the global North and now in the global South, particularly in Asia, outsourcing to homeworkers allows factories to maintain a flexible workforce and to transfer wage and production costs to homeworkers. A recent survey of 340 garment factories in Delhi and Bengaluru shows that 58 per cent of surveyed factories outsource to homeworkers (Anner 2019). Homeworkers may be contracted directly by factories or through third-party contractors, and sometimes by other homeworkers (who are contracted by factories or intermediaries). Typically, an intermediary (known as a ‘contractor’) delivers the garments and threads to homeworkers’ homes and fetches the completed goods. In some instances, homeworkers are a permanent part of the supply chain, working between seven and twelve hours a day, six days a week. Other times, intermediaries bring the work to homeworkers when the factory has an oversupply of work. A Philippines study documents that during the lean season homeworkers work between three and six hours a day, whereas in peak season they work up to 18 hours a day (Sudarshan et al. 2007). In Indonesia, half of surveyed homeworkers work less than 35 hours a week, but one-third work more than 48 hours per week. In Thailand, three out of every four homeworkers work more than 40 hours per week (Hast 2011, HomeNet Thailand 2013).

Homeworkers are paid by the piece. They generally earn a lower piece rate than factory workers and earn well below the minimum wage. A six-province survey in Indonesia found that homeworkers in the garment sector earn just under half the minimum wage (ILO 2016). An ILO study of 406 homeworkers in Pakistan notes that, on average, homeworkers worked 12.5 hours a day, six days a week, which generated the equivalent of \$41.42 US per month. This is less than one-third of the statutory minimum wage (Zhou 2017). In Vietnam, homeworkers in the garment sector earn less, on average, than half the average factory worker wage (CCR 2019). In addition to low wages, homeworkers absorb production costs, including the cost of equipment (such as sewing machines, needles and scissors), of space and electricity, and of transport if they fetch the raw materials and deliver completed goods. Also, where provided, homeworkers carry non-wage costs, such as training costs and occupational health and safety costs.

Homeworkers make important arguments for why brands and retailers should support, rather than prohibit, homework. First, they argue that factories do not hire older workers. For example, Thai factories do not hire workers over 40 years of age (Von Broembsen 2018), and Indonesian factories have forced people over 50 years of age to resign (Pieper and Putri 2017). Most homeworkers in Bulgaria are over 40 years old (Von Broembsen 2018). An interview with a labour relations expert in Bengaluru, India suggests that the work intensity in export factories means that by age 40, workers' bodies are finished:

One local labour relations expert in Bengaluru said that garment workers often told him: "We are like sugarcane to them [the factory owners]. Once they squeeze out all the liquid, they throw us out." He added that, because of the intense pace of the work, very few workers were able to work past the age of 40 (Anner 2019: 722).

Prohibiting homework would therefore exclude men and women over 40 from the labour market.

Second, women homeworkers argue that they need to work from home to fulfil their domestic and reproductive responsibilities—cooking, cleaning, collecting water and fuel, and caring for children, grandchildren and sick or disabled relatives. Third, homework enables women who are prevented by cultural and religious norms from working outside the home to participate in the labour market. Finally, homework enables women who live in villages outside of cities to access work, as the intermediaries bring raw materials to them and fetch finished products. For many, travelling is unaffordable and not possible on a daily basis.

Homeworkers are difficult to organize because they are isolated in their homes and homeworkers seldom conceive of themselves as workers who should enjoy labour rights. Until recently, few traditional clothing and textile unions organized homeworkers. Despite these difficulties, homeworkers have organized themselves at local, national and international levels. At local and national levels, homeworkers have organized as cooperatives, worker-owned companies, voluntary associations and as trade unions. These organizations mostly include both subcontracted homeworkers and self-employed home-based workers, who set their own prices and sell their own goods. At regional level, homeworkers have joined regional associations. In Asia, home to the main garment-producing countries, there are two regional networks: HomeNet South Asia and HomeNet South-East Asia. In 2021, home-based worker organizations from countries all around the world founded a global federation, HomeNet International.

Classical social contract theory assumes full employment—that all citizens are employed and enjoy a standard employment relationship. Informal workers,

such as homeworkers, are thus excluded from the social contract since labour laws do not recognize them as employees. Writing about work as a pathway to ‘social citizenship or inclusion’, Jennifer Gordon reports that when workers are socially and legally recognized as workers that make a contribution, this often translates into the recognition by the state and the general polity of their ‘legitimacy as political actors’ (Gordon and Lenhardt 2008: 1218).

Moreover, as the COVID-19 pandemic has laid bare, the national social contract was rendered meaningless even for factory employees in global supply chains because their real employers are North American and European brands and retailers.

At the start of the pandemic, when sales slowed down in Europe and North America, many brands and retailers in the garment sector deployed their market power to demand lower prices from their Asian suppliers or simply cancelled their orders, including orders that had already been shipped.¹⁰ Ninety-one per cent of brands that procured garments from Bangladesh refused to pay anything toward the costs of production or toward wages for the workers who had produced their goods (Anner 2020a). These cancelled orders, estimated at over US\$3 billion in Bangladesh alone, meant that more than two million garment workers in Bangladesh lost their jobs or were furloughed without pay.¹¹ Kyritsis et al. (2020) surveyed workers from 158 factories in nine countries that produced garments for over 100 brands and retailers. They concluded that workers’ strategies of reducing their calorie intake and going into debt to stave off starvation are ‘[b]ecause garment factories operate on razor-thin margins and use the money from orders to pay workers and keep the lights on’.¹² Indeed the pandemic laid bare that ‘labor violations are not simply a factory-level problem that can be corrected by improved compliance monitoring; they are a pervasive and predictable outcome in an industry dominated by lead firms whose business model is predicated on outsourcing apparel production via highly flexible, volatile, and cost-sensitive subcontracting networks’ (Anner et al. 2013: 3).

In the meantime, some brands declared dividends to shareholders. As one newspaper article put it, the failure by brands and retailers to pay for orders that they had contracted for amounts to ‘one of the largest transfers of wealth from the global South to the global North in recent history’.¹³ A year later, brands are demanding lower prices from their suppliers.¹⁴ Supplier factories have responded by retrenching their permanent, full-time workers and Asian states have unilaterally amended their labour laws¹⁵ to increase working hours and are engaging in union-busting (AFWA 2021).¹⁶

Civil society organizations in Europe, Asia and the US joined forces and began a campaign to pressure brands and retailers to ‘#PayUp’. The Clean Clothes Campaign (CCC), an international network of over 200 organizations and trade unions, started a live blog to keep track of media reports as well as

the actions by trade unions and worker and homeworker organizations in Asia. The Asia Floor Wage Alliance (headquartered in India) joined forces with Global Labor Justice to pressure brands to pay a Covid-relief contribution to workers, and both the Workers' Rights Consortium (WRC; headquartered in the US) and the Business and Human Rights Resource Centre (headquartered in Europe) started publicly tracking which brands responded to the campaign and 'paid up' and which brands still refused to assume any responsibility. These transnational coalitions and strategies signal two important shifts in how we might envisage a global social contract: to reconfigure the scale from national to transnational, and to rethink the constituent parties to social contracts by enlarging the stakeholders beyond the traditional tripartite structures of capital, labour and the state.

5. A NEW SOCIAL CONTRACT: FROM NATIONAL TO TRANSNATIONAL

Teubner and Fischer-Lescano's model of the global order helps to conceptualize a transnational social contract that includes homeworkers. Unlike the nation state whose laws, law-making and adjudication bodies are ordered hierarchically, the contemporary global order comprises plural, overlapping, sometimes contradictory 'autonomous social systems', which practise their 'own highly refined sphere logics' (p. 1007). For example, the ILO system of international labour standards operates independently from the trade law system, the law of the sea or international mercantile law.¹⁷ The authors propose a scheme comprised of two overlapping matrices to order these polycentric governance regimes. According to their framework, the bottom matrix reflects a world order divided into nation states. Superimposed on this matrix are plural matrices that are determined by the issue, rather than spatial geographies, which knits together populations *across territorial boundaries* and regulates their behaviour in relation to the specific issue:

The traditional differentiation in line with the political principle of territoriality into relatively autonomous national legal order is thus overlain by a sectoral differentiation principle: the differentiation of global law into transnational regimes, which define the external reach of their jurisdiction along issue-specific rather than territorial lines, which claim a global validity for themselves (2004: 109).

At the national level—the bottom matrix—homeworkers suffer from 'misrecognition'—the term Nancy Fraser (2009) uses to describe the situation where laws and/or social or cultural norms exclude groups of people from participating in decision-making, and from the social contract. Participation by the citizenry at the global level is usually through the state, which represents its

citizens and negotiates legal regimes that regulate transnational relationships on their behalf. This is because a fundamental liberal premise of international law is that the state represents the interests of all its citizens. Notionally, therefore, homeworkers are represented by their governments at the global level.

International law scholars critical of liberal constructions of the state contest this premise. Feminist international law scholar Karen Knop (1993) argues that since the voices of some citizens, such as women and informal workers, are misrecognized in the national context, logically the state cannot claim to represent these voices in international law-making fora. Malley et al. (1990) take this further by constructing a theoretical framework for creating transnational polities—polities that could create sector or issue-based social contracts, which can lead to new institutional formations. Focusing on people's plural identities, they argue that some aspects of our identity find community with groups at the national level, while others find solidarity with groups at the global level. They cite the example of a US case involving dockworkers that shows dockworkers experienced greater solidarity with foreign ship hands whose ships docks in the port where they worked than they did with other US workers, since their respective trade unions belonged to the same global transport union. The authors' examples illustrate Teubner and Fischer-Lescano's issue-based matrices.

Similarly, homeworkers' plural identities suggest that they could build relationships of solidarity with different groups at the local city level, the national level and at the transnational, global level. Plural solidarities could translate into plural, overlapping social contracts at different levels. As members of poor communities living in cities, homeworkers experience solidarity with other poor people in their claims for housing (also their place of work) and infrastructure (such as electricity, water, sanitation and transport) as well as with civil society activists advocating for spatial justice and democratic participation in distributive decision-making by all who live in the city. A discussion on the city falls outside the scope of this chapter, except to make the point that narratives, movements and agendas such as 'the right to the city', the Global Platform for the Right to the City, and the United Nation's 'New Urban Agenda' suggest that cities are sites for social contract formation. City inhabitants, who previously have been excluded from participating in urban planning and budgetary processes, are increasingly making claims for recognition and inclusion in institutional planning processes, and in the social and economic life of the city. In short, they are campaigning for inclusion in the social contract of the city (Sinha 2019).

At the national level, homeworker organizations find solidarity with other informal workers who are not defined as workers by the labour law regime of the country and are therefore also excluded from enjoying labour rights, and from the national social contract. For example, in South Africa, a range

of informal worker organizations, including organizations of homeworkers, street vendors, waste pickers and informal taxi drivers, as well as fisherfolk, have formed a coalition that is making the claim that ILO Recommendation 204 Concerning the Transition from the Informal to the Formal Economy challenges sections of the Labour Relations Act that excludes informal workers' organizations from registering their organizations as trade unions and from participating in the labour chamber of the tripartite National Economic Development and Labour Council. At the national level, homeworkers might also find solidarity with formal workers in the sector in which they work. For example, in some countries, such as Bulgaria and Uruguay, clothing and textile unions are organizing and representing homeworkers who work in the garment sector.

At the global level, homeworkers find solidarity with homeworkers in other countries, and with trade unions and civil society actors, depending on the sector in which they work. For example, the Self-Employed Women's Association (SEWA) first organized homeworkers making *bidis* (Indian-style cigarettes). Consequently, SEWA's key international ally that made a case for an international convention concerning homework was the global union federation, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations, which included tobacco workers.

But could such feelings of transnational solidarity be given institutional expression?

In its traditional form, labour law's jurisdictional reach is limited to the nation state. Trade unions are viewed as the 'appropriate political representatives of workers' and labour law grants trade unions and employers 'special powers to negotiate the terms of economic life' (Rogers 2016: 1628).

The following section introduces a new set of transnational actors—civil society organizations or 'social movement actors'—and analyses the sources of power that they draw on and the tactics that they use to pressure corporations to strike a deal. I also touch on the sources of power that they make available to vulnerable workers, including homeworkers.

6. A NEW SOCIAL CONTRACT: EXPANDING THE ACTORS

For labour, the primary mechanism for enforcing the social contract is industrial action. The prospect of economic loss incentivizes the owners of capital to return to the bargaining forum. According to Wright (2000), organized labour relies on two sources of power: structural power, which refers to the power they possess by virtue of their being indispensable to industrial capitalism, and associational power, which they exercise through collective action. Other

scholars have added institutional power, which is gained through participation in institutions such as national tripartite structures (Reinecke and Donaghey 2015).

For workers in garment supply chains, traditional collective bargaining with their employers ‘yield(s) limited results, as unions may find themselves negotiating with companies that are not in an economic position to improve wages and benefits, given the price pressures traveling down the chain’ (Blasi et al. 2021: 13). Moreover, for the most part, their governments are hostile to trade unions. Therefore, the structural and associational power of workers in garment supply chains is limited.

Several labour law scholars argue that transnational ‘social movements’ rather than trade unions are key to forging new bargaining structures (Compa 2004, Dias-Abey 2019), which if they generate sufficient political and economic pressure might lead to new social contracts (Rogers 2016). In the section that follows, I discuss an initiative in the garment sector to analyse these new sources of countervailing power. This is followed, in Section 7, by a discussion of a transnational social contract that is being forged on the basis of human rights law, rather than labour law. This process could also be described as a transnational constitutionalizing process (Von Broembsen 2018).

The Bangladesh Accord

The Bangladesh Accord is a legally enforceable agreement that was concluded after the collapse of Rana Plaza factory in Bangladesh in 2013 and the death of over 1100 workers. The signatories include over 200 brands; two international trade union confederations, IndustriALL and UNI Global Union; and seven Bangladeshi trade unions (Dias-Abey 2019). The Accord’s objective is to improve the structural safety of 1600 supplier factories in Bangladesh that employ 2.5 million workers (Dias-Abey 2019). Four civil society organizations, including the CCC and the WRC, signed the agreement as ‘witness signatories’.

Labour law scholar Manoj Dias-Abey calls the Accord a ‘novel bargaining structure’ which he attributes to ‘alternative mobilizations, which forge solidarities between the various groups adversely impacted by capitalism, [that] are some of most exciting vectors of labour struggle in the contemporary era’ (2019: 3). For homeworkers, herein lies the opportunity for transnational solidarity with other workers in the chain (who are recognized as employees) and access to associational power.

The CCC, which has offices in Amsterdam and Brussels, is a network of global and regional labour rights organizations. Headquartered in Washington DC, the WRC was established by the US trade union confederation AFL-CIO and is financed by Students United Against Sweatshops. The WRC supports

workers in developing countries to bargain collectively with factory owners, and audits the supply chains of the brands that make athletic clothing for over 175 North American campuses. The student consumers use the audit reports to put pressure on their university administrations not to renew contracts with brands whose suppliers are violating workers' labour rights. The other two signatories are labour rights organizations that are based in North America.

IndustriALL has union members from more than 100 countries in the mining, energy and manufacturing sectors, including in Bangladesh, and UNI Global has 900 union members and represents retail and distribution workers in the garment retailers' countries (Reinecke and Donaghey 2015).

The main features of the Accord are the following: brands must disclose the names of their suppliers and subcontractors, and contribute financially to the education of suppliers and workers on safety standards and to the costs of compliance with building standards.¹⁸ Compliance is monitored by independent engineers, worker representatives on occupational health and safety committees, the public disclosure of all inspection and remediation reports and worker complaints mechanisms (Reinecke and Donaghey 2015). Disputes are reported to a representative steering committee, comprised of three trade unions and three brands and chaired by an ILO appointee. Unresolved disputes go to arbitration (Dias-Abey 2019). Brands had to agree to remain in Bangladesh for at least five years and maintain purchasing volumes as a financial incentive for suppliers to undertake repairs to their factories. Brands also had to agree to break off relationships with recalcitrant suppliers (Reinecke and Donaghey 2015).

According to Reinecke and Donaghey (2015), the CCC and the WRC made three distinct contributions: first, they provided knowledge and on-the-ground research on the garment industry in Bangladesh, which the trade unions used in their negotiations with the brands. Second, they had already drafted a memorandum of understanding, which formed the basis of negotiations. Third, they rallied consumers through petitions and pressured the brands to sign the Accord by threatening to campaign against individual brands. The trade unions, who had existing relationships with the brands, enjoyed institutional legitimacy as negotiating partners and possessed negotiation skills. They were also able to call on the ILO to chair the Accord steering committee. IndustriALL represented its Bangladeshi trade union members and UNI Global, whose members represented retail workers in stores that stocked the garments produced in Bangladesh, engaged with its union members to put pressure on brands. For example, the Swedish affiliate met with H&M at its headquarters and placed a full-page advertisement in one of Sweden's biggest newspapers to urge garment retailers to sign the Accord. 'While they did not have to resort to worker mobilization, the potential and threat of doing so was

perceived as a powerful lever in motivating the company to sign the Accord' (Reinecke and Donaghey 2015: 731).

Thus, brands faced potential economic loss from two sources: their own employees threatening to resort to industrial action and consumers threatening to boycott their goods:

the Clean Clothes Campaign and Worker Rights Consortium ... were powerful in their ability to mobilise consumers to threaten to withdraw their purchasing power. This played a critical role in lifting labour rights violations from mere ethical to strategic concerns for companies. The key leverage point of campaign groups was creating a reputational risk to companies by damaging, or threatening to damage, their brand image through repeated negative press (Reinecke and Donaghey 2015: 728).

Despite the Accord's successes, key actors were excluded, with significant implications. The global sector unions formed a coalition with alternative organizations, but when it came to signing the Accord, the unions replicated the traditional national set of actors—employers (brands) and trade unions—and failed to include four categories of stakeholders: the supplier factories, their subcontractors (informal medium and micro-enterprises), the informal workers in the micro-enterprises/workshops and organizations of homeworkers. According to Rahman and Rahman, who interviewed 109 suppliers who belong to the Bangladesh Garment Manufacturers and Exporters Association, the suppliers' greatest complaint was their 'lack of voice' during the contracting process (Ashwin et al. 2020). The implications are several. First, their exclusion from the contracting process meant that suppliers have borne the costs of structural repairs under unrealistic timeframes. At the same time, brands have reduced the prices they pay for garments (Anner 2020b, Ashwin et al. 2020).

Second, workers, the intended beneficiaries, complain that the Accord's limits on working hours have led to an intensification of work because their daily targets must now be achieved in fewer hours (Ashwin et al. 2020). Homeworker organizations report that subcontractors stopped giving orders to homeworkers, which led to homeworkers losing their work. As Ashwin et al. (2020: 3) conclude, the exclusion of these stakeholders from participating as parties to the Accord has 'intensifi[ed] power imbalances between lead firms and suppliers, leaving distributional inequalities within the industry intact'.

This next section discusses the current 'transnational social contracting' process that is taking place in the EU. The EU is expected to issue a Directive by 2023 that will direct all EU member states to enact legislation that will make it mandatory for enterprises that are registered or selling products in their respective countries to take some responsibility for the environmental damage and violations of worker rights attributable to their business operations and business relationships, including in their supply chains. Drawing on this

analysis of the CCC, Section 7 shows how the associational power that is made available to homemaker organizations, through Women in the Informal Economy: Globalizing and Organizing (WIEGO) being a member of the CCC, enables their participation in the process.

7. A SECTORAL TRANSNATIONAL SOCIAL CONTRACT? THE EU HUMAN RIGHTS DUE DILIGENCE LEGISLATIVE PROCESS

In March 2018, France passed its Duty of Vigilance law, which makes it mandatory for corporations to do a due diligence investigation of their supply chains to identify, prevent and mitigate the violation of workers' labour rights. Similar legislation has recently been passed by the German and Norwegian parliaments and is currently before the Dutch Parliament. The novelty of this legislation is that it has transnational application to workers that are not the employees of the European corporations.

The United Nations (UN) Guiding Principles on Business and Human Rights (the Guiding Principles), which were adopted by the UN Human Rights Council in 2011, form the basis for the legislation. Based on the UN Declaration of Human Rights and the two Conventions that codify the Declaration,¹⁹ as well as the ILO Declaration on Fundamental Principles and Rights, the Guiding Principles constitute the first international instrument that stipulates that businesses should assume responsibility for the violation of workers' rights caused by their business practices and their business relationships, even in the absence of a contract of employment. According to the Guidance, they should fulfil this responsibility by: (1) drafting a human rights policy that they adhere to and communicate to all of their stakeholders; (2) undertaking a due diligence/forensic investigation to identify whether workers' rights are being violated, and taking the necessary steps to mitigate risks, including putting pressure on their suppliers to change their behaviour and terminating relationships with non-compliant suppliers; (3) adopting grievance processes and providing remedies in the case of rights violations.

In December 2020, the European Parliament formally requested the EU Commission to draft a legal framework that would make it mandatory for all companies registered or operating in the EU to undertake regular human rights and environmental due diligence in their supply chains. The EU Commission asked for public comment. By 10 February 2021, almost 500,000 trade unions, businesses, and civil society organizations, including homemaker organizations, made submissions to the Commission concerning the legislation. The EU Commission published a draft Directive on 23 February 2022. The EU Council, Parliament and the Commission will now use this text as the basis for negotiating the final text. The formal negotiating partners are therefore

the commissioners and councillors and the democratically elected parliamentarians. Other actors that have consultative status include the European Trade Union Confederation, the global (sector-specific) union federations and civil society organizations that are based in Europe. European corporations are reportedly spending millions lobbying commissioners, councillors and parliamentarians. Thus, the struggle over the terms of this transnational social contract is waged without violence (at least in Europe), but is deadly serious.

Several Brussels-based civil society organizations, including the CCC, Amnesty International, Oxfam and the European Coalition for Corporate Justice, have formed a coalition to develop common positions and a joint strategy. Between them, they are mobilizing significant support for legislation to hold corporations accountable for labour rights violations in their supply chains. According to the Commission's Justice Department, of the 473,461 responses to its consultation process, 472,606 were part of a campaign by the coalition of non-governmental organizations.²⁰

For homeworkers, sector-based networks such as the CCC are a source of associational power, a source of information, a means of indirectly participating in decision-making and a means of getting their issues onto the CCC's agenda. In 2018, WIEGO, which is a membership-based network/coalition of informal worker organizations, including homeworker organizations, became one of the CCC's global members. Three homeworker organizations, who are members of WIEGO, are regional members of the CCC. WIEGO's membership has meant the opportunity to bring visibility to homeworkers and to influence the CCC to adopt the position that the EU legislation must apply to all tiers and all workers in the supply chain, irrespective of whether they are legally recognized as employees. As a network, the CCC is committed to ongoing communication and consultation with its members and WIEGO has therefore been able to glean up-to-date information on the EU process, and to learn from the CCC how best to bring homeworkers and other informal workers to the attention of EU policy makers. Moreover, as one of relatively few 'global members' of the CCC, WIEGO's membership of the CCC is a source of institutional power for homeworker organizations. WIEGO has brought together twelve homeworker organizations from ten countries, who have crafted a platform of demands addressed to EU policy makers and who at the time of writing are planning a campaign on homework.²¹

For the coalition of civil society organizations, the issues at stake are, first, that the legislation should apply to all workers in all tiers of the chain, and second, that corporations should face both civil and criminal liability if they fail to address human rights violations. These and other issues will be hotly contested as the final text is agreed to by the EU Council, Parliament and Commission.

Employees from developing countries can participate in the process through their trade unions, since their unions are members of the International Trade Union Confederation and of global union federations that are based in Europe. Homeworker organizations that are registered as trade unions, such as SEWA, can also participate by virtue of their affiliation with trade union federations in their countries. Informal homeworkers whose organizations are not recognized as trade unions—which constitute the majority—can only participate indirectly through allies in Europe. But as was the case in the Bangladesh Accord, supplier factories and their subcontractors are excluded from participating, even indirectly. Their exclusion will have material implications. The premise of the proposed litigation is that suppliers are guilty of labour rights violations and buyers and retailers should use their market power to regulate the terms and conditions of work for workers in their supply chains. Should suppliers fail, buyers should break off relations with them. What is not on the agenda for negotiation are the procurement practices described earlier, which are for the large part responsible for many labour rights abuses.

8. CONCLUSION: THE EU PROCESS REVISITED FROM A SOCIAL CONTRACT PERSPECTIVE

From the perspective of a transnational sectoral social contract, the UN Guiding Principles initiated three significant shifts. First, the principles recast labour rights as human rights, and labour rights deficits as human rights violations. Historian Anthony Anghie (2005) captures the ideological implications of such a shift:

We might understand the monumental significance of international human rights law in these terms: It enabled international law and institutions to enter the interior, to address the unconscious, and thereby to administer civilizing therapy to the body politic of the sovereign state (p. 547).

Human rights provide a common, emotive language that shifts the collective consciousness and facilitates the recognition of new rights that might evolve into justiciable, enforceable rights.

Second, the Guiding Principles established the principle that businesses are responsible for harms to both the environment and to workers not only caused by their direct actions, but also harm caused as a result of their business model or ‘business relationships’. Arguably corporations can always be held liable for harm through tort law. Yet this principle established a moral responsibility on the part of corporations that establishes the idea in the collective conscience that corporations owe workers in their supply chain, with whom they have no direct employment or even contractual relationship, a duty of care.

Third, the language of human rights creates the potential for transnational solidarities with a broader set of actors. Collective bargaining and social dialogue are premised on a closed, tripartite set of actors that participate in decision-making: trade unions, the state and employer bodies. Human rights legitimately bring other actors, including a broad range of civil society organizations, organizations of informal workers and consumer bodies, into the law-making, social contracting processes, even if informally. Although they might not have a place at the negotiating table, they shape the agenda through the media, petitions and relations with decision-makers.

Since most of the global workforce is excluded from collective bargaining, many labour law scholars agree with re-conceptualizing labour rights as human rights (McCrudden and Davies 2000, Alston 2004, Risse 2009). Many, however, are wary (Maupain 1998, Langille 2005, Kolben 2010, Mundlak 2012). Human rights law, they argue, focuses on individuals' rights, which are primarily enforced through the courts. Labour law, by contrast, supports the collective and the mobilizing and organizing of workers for collective negotiations, rather than litigation for individuals. A consequence of labour relying on the judiciary to realize their labour rights (as human rights) is that it changes the normative basis for the legitimacy of their claims (Fudge 2011, Routh 2018). The basis for recognizing labour rights will likely become labour's claim to being human, rather than because of labour making redistributory claims (such as higher wages, fewer hours of work, and social protection) through their participation in democratic tripartite decision-making structures (Fudge 2011). This is indeed a serious concern.

For homeworkers, however, the advantage of a social contract codified by human rights rather than labour law is two-fold. First, human rights operate transnationally, whereas labour law's jurisdiction is limited to the country where the labour is rendered. Labour law therefore forms the basis of Teubner and Fisher-Lescano's bottom matrix, the social contract at the level of the nation state. Although not the subject of this chapter, homeworker organizations must continue to struggle for their social and legal recognition and their inclusion in the national social contract. But in the absence of an international labour court, and the inability of the ILO to enforce international labour standards, human rights law is perhaps politically the most likely basis for Teubner and Fisher-Lescano's top matrix: transnational sectoral social contracts.

Second, unlike labour law, human rights law extends protection to all workers, not only employees. The challenge for the crafters of this transnational social contract is to design enforcement mechanisms that give workers, including homeworkers, institutional and associational power. Their power will be contingent on the right to collective bargaining. Recognition of their organizations as trade unions at the national level will therefore be key. Thus my argument is for a plural, overlapping perspective of social contracts at

local city level, national level and transnationally. Additionally, homeworkers need to know which brands they produce for, and what their rights are. Brands would have to contractually oblige each tier in the supply chain to give written contracts that contain the brand name to all workers, including homeworkers. Finally, homeworker organizations must be consulted on the design of complaints and grievance mechanisms, and their organizations must be able to represent their members in arbitration and litigation proceedings.

NOTES

1. Marx (1867/1990: 381), from Ashwin, Kabeer and Shlusler (2020: 1301).
2. Chapter 2 in this volume makes the case for a social contract between state and labour in the case of the informal self-employed.
3. For a detailed exposition of the welfare state from the perspective of labour rights, see Jan Breman and Marcel van der Linden (2014), 'Informalizing the economy: the return of the social question at a global level', *Development and Change*, 45 (5), pp. 920–940.
4. However, in the case of dependent contractors (many of whom are misclassified as 'independent contractors'), companies do not pay social insurance premiums, do not offer paid annual or sick leave and make it difficult for them to unionize. And, in the case of platform workers, they are not paid for waiting time when they are on call.
5. Of course, digital technology made offshore production possible as it enabled corporations to manage the production process from afar.
6. See Kate Andreas (2016) for an account of how labour market flexibility played out in the US.
7. See Guy Standing's typology of labour flexibility *Global Labour Flexibility: Seeking Distributive Justice* (Basingstoke: Macmillan, 1999).
8. The introduction of the bar code facilitated just-in-time production whereby the lead firms did not have to have warehouses with large volumes of stock, but rather distribution centres through which stock flowed quickly.
9. In the aftermath of the 1997–8 financial crisis in Asia, many Asian countries revised their labour codes to recognize different statuses of employment for employees, and to extend select labour rights to some categories of non-standard work, and in the case of the Philippines it also includes homeworkers. In reality, the amendments have served to give non-standard forms of employment both legal and normative legitimacy. However, in the absence of enforcement, either by the state inspectorate, or by an enabling legal and political environment for trade union enforcement, most of the rights to non-standard workers remain paper rights.
10. See Business and Human Rights Centre (2020), 'Major apparel brands delay & cancel orders in response to pandemic, risking livelihoods of millions of garment workers in their supply chains', www.business-humanrights.org/en/latest-news/major-apparel-brands-delay-cancel-orders-in-response-to-pandemic-risking-livelihoods-of-millions-of-garment-workers-in-their-supply-chains/, accessed 16 April 2021.
11. Naimul Karim (2020), 'H&M in talks to support Bangladesh workers as lockdowns hit livelihoods', Reuters, www.reuters.com/article/us-health

- coronavirus-bangladesh-manufac/hm-in-talks-to-support-bangladesh-workers-as-lockdowns-hit-livelihoods-idUSKBN21P2UQ, accessed on 14 April 2021.
12. See Cline (2020).
 13. Loretta Graceffo (2021), 'Garment workers win historic victory in effort to transform the fashion industry', Portside, <https://portside.org/2021-03-28/garment-workers-win-historic-victory-effort-transform-fashion-industry>, accessed 11 June 2021.
 14. Naimul Kairim (2020), 'Fashion brands accused of exploiting workers at risk of layoffs', Thomas Reuters Foundation, <https://news.trust.org/item/20201015230800-amzjn>, accessed 26 December 2020.
 15. Also see Reuters (2020), 'World Bank says Indonesia's reforms may hurt environment, labour rights', www.reuters.com/article/us-indonesia-economy-worldbank/world-bank-says-indonesias-reforms-may-hurt-environment-labour-rights-idUSKCN24H0M3, accessed 12 June 2021; Nidhi Singh (2020), 'Suspension of labour rights during the Covid-19 pandemic: possible implications under the revised draft', Cambridge Core Blog, www.cambridge.org/core/blog/2020/07/03/suspension-of-labour-rights-during-the-covid-19-pandemic-possible-implications-under-the-revised-draft/, accessed 11 June 2021; Khy Sovuthy (2020), 'Unions boycott discussion on Labor Law amendments', Cambodian Journalists Alliance Association, <https://cambodianews.com/unions-boycott-discussion-on-labor-law-amendments/>, accessed 8 February 2022.
 16. Ben Chacko (2020), 'Factories supplying "biggest names in fashion" using Covid as an excuse to bash unions', *Morning Star*, <https://morningstaronline.co.uk/article/b/factories-supplying-biggest-names-fashion-using-covid-excuse-smash-unions-note>, accessed 12 June 2021. Also see Business and Human Rights Resource Centre (2020), 'Union busting & unfair dismissals: garment workers during COVID-19', www.business-humanrights.org/en/from-us/briefings/union-busting-and-unfair-dismissals-garment-workers-during-covid-19/, accessed 24 February 2022.
 17. See Andrew Lang, 'Legal Regimes and Professional Knowledge: The Internal Politics of Regime Definition', in M.A. Young (ed.), *Regime Interaction in International Law* (Cambridge University Press, 2012), for a discussion on the interaction between these seemingly independent spheres.
 18. According to Reinecke and Donaghey (2015: 725), 'Signatory firms agree to terminate contracts with factories that fail safety inspections. Companies assume responsibility for funding the activities of the steering committee, safety inspectors and training coordinators based on their annual volumes of garment purchases from Bangladesh on a sliding, pro-rata scale up to US\$500,000 per annum.'
 19. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.
 20. See www.globalwitness.org/en/blog/global-voices-join-together-call-corporate-accountability/, accessed 24 February 2022.
 21. See www.wiego.org/sites/default/files/resources/file/HNSA_HNSEA_WIEGO_EUPlatform.pdf, accessed 24 February 2022.

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8. Informal workers harnessing the power of digital platforms in India

Salonie Muralidhara Hiriyur¹

INTRODUCTION

‘I have been a domestic worker for the past 11 years. From when I started working, to now, things have changed a lot. Now, people now use their mobile phones to book domestic workers, and if I want to continue working in this sector, I will need to keep up with this new world,’ said Sarojben, a domestic worker in Ahmedabad city (India) and a member of SEWA (the Self-Employed Women’s Association) Homecare.²

Sarojben is one of many workers engaged in the paid care work sector, which employs the highest share of non-agricultural, informal women workers in the global South (ILO 2018). As Sarojben’s words indicate, the past few years have brought a significant shift in the labour market for domestic workers due to the emergence of digital platforms, which have become an instrumental intermediary, or middle agent, in connecting domestic workers to employers. In doing so, they have incorporated a significant share of the sector within the logic of the gig economy, exacerbating precarity, overturning older modes of operation and erecting new technological and financial barriers to the market (ILO 2021). They have also altered the power dynamics within the sector, as domestic workers are now negotiating not just with employers, but also with the platforms themselves. Such changes have had a dramatic effect in disrupting the income streams and levels of job security for domestic workers in the country.

While there are still significant portions of the economy that are not yet digitally mediated, considerable evidence indicates that these trends are accelerating. For instance, in India, while there is no public source of data on gig workers, the Associated Chambers of Commerce and Industry of India (ASSOCHAM) has estimated that India’s gig work sector is likely to grow at a compounded annual growth rate of 17 per cent to reach USD 455 billion in the next three years (Hiranandani 2020). Looking at the domestic work sector more specifically, reports suggest that on-demand domestic work platforms

are expanding up to 60 per cent month-on-month, with new platforms appearing regularly, particularly in Tier 1³ cities (Kadakia 2016; cited in Hunt and Machingura 2016). While the COVID-19 pandemic has likely affected this growth trend in the past year, there is a scarcity of data, so the size of the platform economy in the domestic work sector remains undetermined.

The transformations brought on by the digitization of traditional, brick-and-mortar economic sectors have been significant, and the informal economy has perhaps seen a more pronounced impact than most. In the context of India's women domestic workers, the on-demand work culture is disrupting women's routines and capacity to manage housework; intermediary platforms have sidelined those who lack literacy skills, smartphones or formal bank accounts; and the digital medium is giving birth to new forms of exploitation, surveillance, control and discrimination. On the other hand, for both workers who are new to the domestic work market or those who have few kinship networks to find employment (such as migrant workers), digital platforms have opened up the market and extended these work opportunities (Rathi and Tandon 2021).

This chapter will attempt to trace the contours of these problems. It will do so by briefly reviewing available literature on informal workers and digital platforms (mainly in the global South, and specifically in India). It will also draw on (unpublished) primary research conducted by the SEWA Cooperative Federation in 2019–2021 among members of SEWA Homecare – a cooperative of 175 domestic workers who are exploring the development of a digital platform. Interviews conducted with domestic workers also explored their experiences of the COVID-19 pandemic recession.

The chapter will begin by examining the manner in which the arrival of digital platforms has given rise to new struggles for those working in the informal economy. In doing so, it emphasizes that a social contract is not only negotiated between informal workers and the state, but also between informal workers and those who profit from their work. The chapter focuses on the case of domestic workers in India, looking at how they have been impacted by platforms. Following this, the chapter will consider whether the problem is not so much in digital platforms per se as in the arrangements under which they are currently organized. Using instances from platform cooperative models, and recent experiments from SEWA Homecare, the chapter will examine the potential of repurposing digital technologies to fashion platforms that can be worker-owned and worker-centric, democratically run and thereby empowering of workers. Finally, the chapter will reflect on the current limits of these alternative models, and the kind of steps that would be needed to make them viable for the future.

THE CURRENT NATURE OF THE GIG ECONOMY IN INDIA

The platform economy has been growing in India – according to the International Labour Organization’s (ILO’s) 2021 report on the digital economy, India had 8 per cent of global platforms in the taxi and delivery sector in 2020. There has also been an increase in both labour supply and demand since mid-March 2020, concentrated largely in clerical and data work, software development and other such high-skill sectors (ILO 2021). While these estimations indicate the growth trend for the gig economy, the size remains largely unknown due to the unavailability of reliable data for this emerging sector of the economy.

Platform workers are classified in different ways, but largely as self-employed (IWWAGE⁴ 2020). Platform owners tend to distance themselves from the responsibility for worker rights and benefits, such as minimum wages, regulation of working hours, occupational health and safety, or access to protections like insurance, healthcare and childcare (ILO 2021). This simple fact alone is already a strong indictment of current practices, for if the COVID-19 crisis has demonstrated anything, it is that access to basic social assistance can offer protection to informal workers from livelihood shocks.

To this end, regulatory developments in India have been mixed. In the past year, the country subsumed its various labour laws into four labour codes,⁵ of which the code on social security mentions the platform economy and gig workers. While their inclusion in the Social Security Code can pave the way to granting the workers social security benefits, the ambiguity in the remaining labour codes is a missed opportunity by the legislature to grant gig and platform workers access to genuine and substantive labour rights (ILO 2021).

DIGITAL PLATFORMS AND INFORMAL WORKERS

It is worth drawing out the contours of the digital platform business model, before looking at specific issues in detail, and in the context of the informal economy. Essentially, and much like other intermediary agents, the idea behind digital platforms is to match a large pool of workers with their customers, both efficiently and quickly. However, this impersonal and app-mediated system supplants an older system built on the cultivation of reputations, contacts, social capital and strong (though often exploitative and problematic) ties to employers. With digitized services, the relationship is intermittent and fleeting, lasting only until the good/service leaves the provider and reaches the end-user, after which the providers begin seeking their next customer (Gandini 2016, Prassl 2018). Gandini summarizes this as ‘the work in the platform economy is such that workers are not expected to socialize with or form any

relationship with the customer, but instead, the platform is aimed at reducing the relationship between the two parties into a ranking and reputation system' (cited in Behera 2020).

As one can imagine, such a shift is considerably disruptive to the informal economy, which generally relies on personal and social bonds to negotiate work arrangements that are not always standardizable. Conversely, there are arguments claiming that by allowing some degree of formalization, digital platforms do bring greater security to informal workers; and that the flexibility of platform work allows for greater female participation as well as easier entry of women into traditionally male-dominated trades. However, as research has shown, such incremental improvements are only found in certain countries, and they still do not secure conditions of 'decent work' (Hunt and Samman 2019). Moreover, the opposite is also found, wherein the volatility of on-demand labour actually makes it harder for women to organize their routines, and where added surveillance and control brought on by the digital medium lead to overwork and an increased sense of precarity (Hunt and Samman 2019).

Moreover, the introduction of digital mediation has created new barriers for informal workers to access certain jobs. Navigating apps requires literacy skills, access to smart devices and formalized banking. But informal workers are precisely the segment of the population that are likely to be lacking these very things. In India, for instance, the 'digital divide' is still fairly steep, with over 400 million people living without any access to the internet.⁶ Similarly, statistics from just a few years ago indicate that close to 190 million within the country continue to lack adequate access to formal banking services.⁷

Even for those who are able to overcome these hurdles, the siloed nature of gig work makes it more difficult to establish contact with other workers and organize collectively for better pay or working conditions. This leaves platform workers particularly vulnerable, especially given the opacity and lack of accountability from these digital platforms, and the fact that in places like India there are seldom proper grievance-redressal mechanisms in place to address workers' needs.⁸

Ultimately, while having the potential to alleviate some of the problems around informal labour, current models of digital platforms often end up doing the opposite – consolidating control over workers, intensifying productivity requirements, disrupting worker collectives and excluding many from being able to pursue the livelihoods they were able to before. Without strong regulatory interventions, these digital platforms are likely to only exacerbate the conditions of informal work.

GENDERED DIMENSIONS OF DIGITAL PLATFORMS

The experiences and challenges of women workers who engage with the platform economy are linked largely to access to digital technologies, work and income security and social protection. It is important to note here that all informal workers, not just those on digital platforms, lack social protection. However, the experiences of women workers on platforms are also influenced by policies of the platforms themselves on such issues as: the socio-cultural profiling of workers, customer control over reviews and ratings, surveillance and privacy, the isolation of workers and redressal mechanisms.

In a survey conducted by After Access to understand the digital gender gap, it was found that India (46 per cent), Pakistan (37 per cent) and Bangladesh (34 per cent) have the highest gender gaps⁹ in mobile phone ownership, with women having consistently lower levels of ownership than men. Further, these countries also have among the highest gender gaps in internet use – India 57 per cent, Pakistan 43 per cent and Bangladesh 62 per cent. These populous nations therefore account for a large number of digitally unconnected women in the global South (Aguero et al. 2018). In India, according to the Internet and Mobile Association of India, male users account for 67 per cent of India's online population, whereas women account for just 29 per cent (IAMAI 2019). This digital disparity is further amplified for workers in the informal economy as they face specific constraints and possess unique financial and digital needs that are not being fully addressed by mainstream solutions (Jhabvala and Harvey 2016).

Meaningful digital inclusion goes beyond access to data and technology, as the responses gathered in the primary research conducted among members of SEWA Homecare indicated. 'Even when the women do have smartphones or are given permission to use the family smartphone there is no or little internet connectivity to harness the potential of the technology,' said Gwaraben, a SEWA grassroots leader from Madhya Pradesh. Similarly, Nandini Chami, deputy director at a digital policy think tank, IT for Change, said, 'the idea that giving access to technology will directly equate to empowerment is reductionist'. First, efficient infrastructure for broadband and internet is largely absent in the semi- and non-urban pockets of the country, making the gig economy largely an urban phenomenon (Chaudhary 2020). The Government of India launched 'Digital India' to digitally empower every citizen, but the challenges of infrastructure, bandwidth and digital literacy have been a hindrance in achieving the full potential of digital investments (Sengupta and Krishnakumar 2018).

Second, in addition to infrastructural and training barriers, women are faced with financial difficulty and patriarchal socio-cultural norms that oppose

women's access to digital technology. Jayantiben, a SEWA grassroots leader from Uttarakhand, and research participant, said, 'there are few employment opportunities for women, and so they are unable to save enough money to buy smartphones,' and she added, 'since women lack formal education, the family does not trust them with smartphones'. The fact that the digital space is dominated by men leads to fear of online abuse and harassment among women, coupled with household surveillance of women's mobile and internet use and the lack of family support, are some other barriers to bridging the divide (Barboni et al. 2018).

Specific to the digital economy, jobs in the gig economy leave a large proportion of workers without income security. As mentioned in previous sections, platform workers are not offered wage protections by the state, as they have not been included in the Code on Wages Act (IWWAGE 2020). In a survey by the Observer Research Foundation and World Economic Forum, it was found that 35 per cent of the women surveyed in India were uninterested in joining the gig economy due to the lack of job or income security (Kasliwal 2020).

In a 2020 study, IWWAGE reported that many gig workers make less than minimum wage and hours of work are highly unregulated. In its study on beauty workers in India linked to the platform Urban Company, it found that women were most dissatisfied with the incentive structure and the lack of opportunity for increasing incomes (IWWAGE 2020). In contrast, a Centre for Internet and Society (CIS) paper reported that domestic workers claimed to receive higher wages through digital platforms, and many of those surveyed for the paper claimed that platforms did enforce a minimum wage, as outlined in the state law (Rathi and Tandon 2021).

Researchers have mentioned the variability of success across platforms in enforcing fair wages. Some Karnataka-based platforms have developed a rate card, combining factors such as hours worked and the number of people in the home, in order to calculate the minimum wage. Other platforms do not allow customers to register if they are not willing to pay workers a minimum wage (Mewa 2020). Out of the 50 companies identified by CIS in its research on platformization of domestic work in India, only one or two companies offered employment entitlements such as a provident fund and employee state insurance. However, many workers interviewed claimed that there was no guarantee that they would actually receive these benefits. This has led to greater resistance to platform work generally, with growing scepticism of its alleged higher returns.

Despite the challenges posed by the platform economy, it has had a profound impact on all aspects of life, from communication to access to services and job opportunities. In the future of work, where the value of labour may be

marked by the rate of technological adoption, women's reduced participation may be due to the digital gender divide (Mawii 2019).

WOMEN, DOMESTIC WORK AND DIGITAL PLATFORMS IN INDIA

Domestic work is a highly feminized sector, and 80 per cent of all domestic workers globally are women (ILO n.d.). Domestic workers are often paid below the minimum wage and lack social protection. One of the reasons for this is that domestic work is highly invisible and difficult to regulate, since the place of work is within a private household.

This also makes it difficult to count or estimate the size of this sector. In India, government sources like the National Sample Survey Office (2004–2005) and the Census (2001) estimate, respectively, that there are 4.75 million or 6.4 million domestic workers in the country. The National Skills Development Corporation predicted that the number of domestic workers in India would increase from 7.79 million in 2017 to 10.88 million by 2022 (cited in Tankha 2020).

In the platform economy, domestic work has been modelled in a few different ways: platforms acting as placement agencies (like BookMyBai¹⁰ in India), digital marketplaces (like JustDial in India) and on-demand platforms (like Urban Company in India, Australia, UAE, Singapore and the Kingdom of Saudi Arabia) (Rathi and Tandon 2021). The appearance of such platforms is changing the way domestic workers navigate the labour market. In certain cases, platforms have eased entry of workers into the market: for example, migrant workers who do not have access to informal networks to find work can now use platforms to do so (Rathi and Tandon 2021). It is important to look closely at the various ways in which digital platforms, whatever their model of operation may be, are altering domestic workers' experiences.

Digital platforms seem to be reproducing systems of patriarchy and discriminations. It is notable that some platforms clearly identify women as domestic workers, both through the female-dominated imagery on their platforms and in the language used, which clearly identifies 'women' as domestic workers or uses the feminine form throughout in relevant languages (Hunt and Machingura 2016). An advertisement for BookMyBai, the popular Indian platform for domestic workers, reads, 'Diamonds are useless! Gift your wife a maid.' This commodification of domestic workers reinforced the idea that some kinds of labour were unworthy of being labelled 'work', which enabled the consumer/employer to exercise power and control over domestic workers (Hiriyur 2018).

On-demand platforms mirror gendered roles prevalent in the traditional domestic work sector, and can reproduce other power dynamics. Again, in the

example of BookMyBai, the platform allows customers/employers to select domestic workers based on religion and caste. One of the founders of this platform has stated that this was done in order to ‘protect’ workers from harassment by customers, but – in effect – it legitimizes, enables and exacerbates various forms of deeply entrenched discriminatory social norms and practices (Jain 2015).

The research conducted by CIS highlights that caste and gender play a definite role in the kinds of jobs and level of remuneration domestic workers receive. On-demand platforms like Urban Company offer specialized cleaning services (such as tile polishing, sofa vacuuming and mattress deep-cleaning) that require the use of mechanized tools, and a majority of workers who provide this service are male, while women workers who perform simpler, un-mechanized tasks like cleaning and washing do not get paid at the same level as the specialized cleaners. Further, tasks and associated wages are also allocated along caste lines. Women from the Dalit caste, the lowest caste in India, who were interviewed for the research shared that they did not get cooking jobs, unless they did not reveal their caste to the employers. Consequently, the women sometimes do not reveal their caste or change their names to hide their caste identity (Keerthna 2020).

Data protection and privacy has been a largely ignored issue, particularly for domestic workers. In most cases, there is only a unidirectional flow of information; that is, data on employers are not featured on the platforms (or made available to the workers), whereas worker details are not just easily available but are featured prominently. ‘Throughout the recruitment process, workers are asked to provide information about themselves along with identity proofs without being told what will happen to that data or the purpose for which it will be used,’ said Ambika Tandon, Senior Policy Officer at CIS. In an interview with this author, Ambika also shared that domestic workers had little to no agency or control over their data. During the research by CIS, it found that the workers were unaware about how and where their information was being used.

With the use of digital platforms, the levels of surveillance of domestic workers by security guards, employers and others has increased. Platforms themselves employ location tracking, mandatory check-ins and in-person house visits that generate fear among the domestic workers (SEWA Bharat and UN Women 2020). With advances in digital technology, applications such as MyGate are becoming common. This application publicly displays the schedule of workers to all the residents in the apartment block, collects details about their working hours and personal information, and allows employers to control the entry and exit of workers (Parijatha 2020).

Digital platform infrastructure deliberately isolates domestic workers, which makes it challenging for them to organize and bargain collectively (Mewa 2020). The CIS research highlighted two points with respect to collec-

tivization: first, many of the women gig workers interviewed appeared to have low levels of participation in labour unions, or even awareness of the existence of labour networks; and second, to overcome the challenges of unionization, workers are finding ways around platforms. For example, home cleaners from one of the platforms studied in the research project coordinated their pick-up time for equipment (cleaning supplies, tile-cleaning machines, vacuum cleaners) so they could collectively speak with platform management about their needs and concerns (Mewa 2020).

Finally, one of the main challenges that domestic workers face is the threat of harassment, particularly sexual harassment at the workplace (Gupta 2019). While the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) ('PoSH Act') of India does cover informal workers through the provisions of Local Complaints Committees (LCCs), these are inaccessible and there have been no or limited efforts made to change this situation. In a Right to Information application filed by the author in 2019, seeking information on LCC activities in Mumbai, it was revealed that between 2015–18 only six cases had been filed and resolved by the city's single committee. Digital platforms too offer minimum protection to women against workplace harassment and tend to offload risks and responsibilities onto workers themselves (Atal 2020). In a study published by the Observer Research Foundation that analyzed five on-demand service platforms, they found that all platforms were able to avoid legal liability in cases of workplace harassment. Additionally, there were no provisions on these platforms for formally registering a case of harassment (Kasliwal 2020).

Alternative models of platforms could vastly improve the working conditions of domestic workers – and informal workers more generally. This has been true in the past, as the vulnerability of domestic workers pushed organizations like SEWA to mobilize and organize domestic workers into unions and cooperatives. SEWA's Cooperative Federation has been promoting and supporting women-owned cooperatives – like SEWA Homecare – since 1992 and envisions itself as a support system for these businesses, enabling them to incubate, grow and innovate. As the domestic work sector is expected to become increasingly platformized, the manner in which this occurs will have a large bearing on the conditions of informal workers. The growth of worker-owned models could serve as an alternative trajectory of platformization, one that avoids the new obstacles and exacerbated vulnerabilities that currently dominant platform models tend to generate.

RESPONSE TO CHALLENGES: COOPERATIVISM

Cooperatives are one emancipatory alternative for organizing market-oriented economic activity that expands the scope for democratic processes (Wright

2019) since cooperatives are built on the values of self-help, self-responsibility, democracy, equality, equity and solidarity (International Cooperative Alliance, n.d.).

While looking at the cooperative model as a way of organizing women into their own collective enterprises, SEWA's founder – Ela Bhatt – also found that women who are organized were better able to navigate the market, access resources and generate decent work for themselves (Bhatt 2015). The literature supports this – after becoming involved in cooperatives, women report that they perform new and more productive labour activities and earn higher incomes (McMurtry and McMurtry 2015). Further, women report that after joining cooperatives they are more likely to make decisions and demand shared caregiving in the household, and to participate actively in community affairs. These achievements in gender equality by way of cooperatives stem from two defining characteristics of the cooperative movement: first, cooperatives are owned and controlled by members; and second, cooperatives are guided by values and principles that encourage democracy, education, concern for community and open membership. By promoting leadership and ownership among members, and enacting these values and principles, cooperatives are more responsive to the needs and demands of their members and local communities (McMurtry and McMurtry 2015).

Given the numerous difficulties with the current paradigm of platformization, and the fact that it is a phenomenon that is only likely to grow, the search for alternative models for the use of digital technology has accelerated over recent years. Globally, workers engaged in the platform economy, as well as those who are not, are responding to the challenges posed by this new form of work. One of these efforts is the movement of 'platform cooperativism' (Scholz 2014), which arose in response to the exploitative nature of most platform companies. The movement includes both brand new platform cooperatives and older cooperatives which have embraced the platform model. These platform cooperatives operate in a variety of sectors, including: care work, delivery and logistics, hospitality, waste recycling, the arts, IT and e-commerce. These cooperative platforms are designed keeping in mind the needs of workers and, by their nature, are very different from other digital platforms in their model of operations. The biggest difference between standard digital platforms and platform cooperatives is in governance, as the latter are fully owned, managed and governed by the workers themselves, as per the principles of cooperativism.

SEWA COOPERATIVE FEDERATION AND DIGITAL PLATFORMS

As a collective of women-owned worker cooperatives, SEWA Cooperative Federation has been tasked with responding to changing markets, and ensuring that women workers, and their cooperatives, are equipped to survive and compete. In 2018, the Federation began exploring how platforms could be co-designed, owned and operated by member cooperatives. One of these deliberations was with SEWA Homecare, a cooperative of 175 domestic workers in Ahmedabad city, registered in 2010 and a member of the Federation.

SEWA Homecare provides four kinds of care services to private households: child care, elder care, patient care and housekeeping (cleaning, cooking, laundry, and so on). It is a financially sustainable enterprise (that is, making a profits/surplus) but also faces external challenges and pressures to adapt to the new ways of working through digital platforms.

While SEWA Homecare largely relies on word-of-mouth marketing, the cooperative has been exploring the idea of digital marketing and platform development. The Federation worked with the cooperative to design such a platform. The workers described several features or provisions that are missing on existing platforms for domestic workers.¹¹ The following section describes these features, alongside the rationale given by workers for their inclusion. The section also describes provisions that are found on private platforms that the cooperative members actively did not want, and why.

One of the discussion points has been around worker protection, particularly what information is and is not made available to customers. Worker profiles have been a much-discussed topic *vis-à-vis* private platforms, which often display information on workers' religion and caste. In a stark contrast to BookMyBai's example, SEWA Homecare decided that religion and caste are irrelevant, unnecessary details on a platform which provides customers with information to discriminate against workers. Customers who explicitly ask for workers of a specific religious or caste community are discouraged from doing so, or not entertained. To this effect, SEWA Homecare workers did not want to display either their last names (common caste identifiers), religion or community on the platform. They did, however, want their area of residence (for location optimization), marketable skills, knowledge of languages and qualitative feedback from their customers. While they did want customer reviews, they only wanted this to be displayed among members and not to customers. They also wanted a similar profile of the customer: area of residence, number of members in the household, number of rooms in the house, ratings from workers and other reviews.

In terms of surveillance and privacy, while there has been a lot of criticism around location tracking on private platforms in popular discourse, the domestic workers of SEWA Homecare saw a purpose in making tracking available to employers. Often, domestic work employers would want to know where their worker was, and instead of calling, if they could track their locations; domestic workers thought this would be helpful. However, apart from the more obvious concerns around surveillance, workers did not (and would need to) consider issues of data usage. While workers did express that they would want location tracking, they were also clear that any data, which was being utilized on or for the platform, would belong to the workers – either directly by the cooperative or indirectly through the Cooperative Federation.

An important element that members of SEWA Homecare brought out was the idea of transparency and open communication. While platforms do not allow (and often discourage) workers from interacting with each other, cooperative members believed this would be a crucial function of a cooperative platform. Further, a federated platform would also enable cooperatives from different states to interact with each other.

Apart from supporting an entry into the platform economy, the Federation has also been working towards ‘meaningful digital inclusion’. Bhartiben, the Manager of SEWA Homecare, believes that if the cooperative received proper guidance and support, the cooperative would be able to bring more work and income security to domestic workers. Here, the role of cooperative federations (such as SEWA Cooperative Federation) and other enablers becomes vital.

This has started with basic digital literacy training, which enables cooperative members and other informal women workers to not only use digital technologies personally and professionally, but also to fully understand the scope and potential of these tools in building up their cooperatives. Similar to this, in Indonesia a cooperative called Koperasi Digital Indonesia Mandiri is trying to bridge the country’s digital divide by producing low-end smartphones and a platform for users to access the services of other cooperatives on their phones (International Cooperative Alliance Asia and Pacific 2019).

Workers have expressed (and it has been SEWA Cooperative Federation’s experience) that constant capacity-building and training is a requirement for domestic workers (and other women workers in the informal economy). Through the platform, the workers wanted to view and book available training sessions. While worker upskilling is a feature often seen on platforms, this is usually not demand-based, but largely based on what the customers want from the workers.

Finally, members of SEWA Homecare discussed worker recognition and identification. Domestic workers often do not have any form of identification as workers, which came out as an expressed need. If they had an ID, workers

stated that they would have relative ease of access into gated communities in addition to an increased sense of pride and ownership of the cooperative.

OVERCOMING BARRIERS FACED BY PLATFORM COOPERATIVES

Sarojben, a domestic worker, said:

Being in a cooperative, along with other domestic workers, allows all of us to make decisions collectively about how to cope with market changes. We are less vulnerable when we are together. Earlier, people would question how uneducated domestic workers would be able to run a cooperative. We proved them wrong. We will prove them wrong again and find a way to compete in this new digital market.

Platform cooperativism is one emancipatory alternative to organizing economic activity that expands the scope for democratic processes. Yet it does not come without its set of challenges and has to navigate three vital ‘problem spaces’: self-government, financing/resource acquisition and market competition (Doorn 2017).

Collective self-government is seen to be more feasible and frictionless when a cooperative is small, local and relatively homogeneous, which is also one of the reasons that the cooperative economy tends to be confined to niche markets on the margins of the contemporary economy. In contrast, platform cooperatives looking to reap the economic benefits of scaling up in a digital economy will need to accommodate a wider range of member identities, needs and interests, which will be more difficult to align and may encumber the distributed decision-making process (Doorn 2017). Here, the role of federations becomes crucial, since by federating platforms, cooperatives can remain small, local and sustainable (in terms of both profit-making and governance), and yet enjoy the benefits of a wider federated platform of several cooperative platforms.

Another challenge is that of financing. All businesses need a source of capital in order to build and sustain the business (McCann and Yazici 2018). The most notable challenge for a platform cooperative is acquiring capital. Unlike traditional platforms that offer tech investors scope for larger returns, platform cooperatives because of their values of self-help and solidarity towards their members do not offer scope for large returns. Furthermore, none of the alternatives, such as member funds, crowdfunding, cooperative loans, and so on, can compete with the mammoth funding that is pumped into capitalist platforms.¹² Lack of investment into platform cooperatives further leads to lack of access to technical expertise, human resources and upskilling for the platforms – also giving rise to the problem of market competition.

Competition between platform companies and platform cooperatives remains unfair. While the platform companies often pose themselves as ‘just a platform’¹³ to disclaim liability, a cooperative will take more responsibility, thereby increasing the liability. In generating positive externalities for the community, cooperative platforms cannot compete in the market in the same way as platform companies. Furthermore, unlike private platforms, it is likely that platform cooperatives will bear a higher cost, according to research participant Revathi Sharma Kollegala (ethical technologist and global business strategist at CoLab Cooperative). This is largely due to the costs of backward and forward linkages in platforms, investing in *both* workers and customers. For example, SEWA Homecare outlined design elements, including a larger investment into communication, capacity-building and meaningful digital inclusion of domestic workers. This increases the investment into the backward linkages with workers, which other platforms may not invest as much into.

Here again, federations become important stakeholders. By pooling their resources towards a common federated platform, cooperatives would be able to reduce the costs of developing and maintaining a platform through pooled resources, ensure a geographical reach in their model and widen their customer segment and base within the platform, and reduce pressure and risk on singular cooperatives to sustain the platform.

Using SEWA’s cooperatives as an example, each domestic workers’ cooperative has a well-defined governance structure and a business model. The board of directors and other leaders in the cooperative, who are embedded in their communities, organize and mobilize domestic workers to become shareholders and active workers in the cooperative. The board puts in place a manager to take care of day-to-day operations, while guiding the overall activities and vision of the cooperative. Over the years, the Federation has found that a domestic workers’ cooperative board can effectively manage a cooperative of 200–300 members. The way for them to expand would be to incubate more cooperatives, ideally specializing in different services: house-keeping, childcare, patient care, elder care and cooking, among others. These cooperatives become part of a larger care services federation, which links them together in the digital platform. On the supply side, customers book a cooperative’s services on the platform, and not the services of an individual worker.

The Up & Go model in New York City exemplifies this – supported by the Centre for Family Life in Brooklyn, New York, Up & Go is a platform co-owned by three worker cooperatives: EcoMundo Cleaning, Brightly Cleaning Cooperative, and Cooperative Cleaning of New York (Anzilotti 2017). In how it appears to customers, Up & Go is not unlike any other platform used for booking services. The beauty is in its design – Up & Go uses cooperative principles to determine workers’ experience of the platform.

Tangibly, this means that pricing is decided by the domestic workers themselves. The report found that workers on Up & Go earned, on average, \$4–5 more per hour than other domestic workers in the same areas. While private home-service platforms keep 20 to 50 per cent of the service price, Up & Go worker-owners retain 95 per cent of the collected fee and only 5 per cent goes towards the platform's upkeep. Further, the worker-owners also remain in control of scheduling preferences and their terms (Anzilotti 2017).

COVID-19 AND DOMESTIC WORKERS' COOPERATIVES

The crucial value and support system of the cooperative model received strong validation in the face of the pandemic recession as well. The effects of COVID-19 have been far-reaching: sickness, deaths, disrupted economies and lost livelihoods. During the lockdowns, workers faced a high degree of vulnerability, as much of the work provided by them shifted from the paid to the unpaid economy, resulting in a severe decline in income for domestic workers and cleaners (Hiriyur and Chettri 2020). The pandemic recession only intensified workers' existing vulnerabilities as many were laid off indefinitely without any kind of social and financial protection to fall back upon. This was a disruptive experience for both platform and non-platform workers.

For most digital platforms, the problems faced by service providers were seen as individual issues for which the platform owner bore no responsibility and was not expected to provide any socio-economic support (Behera 2020). Whereas the cooperatives upheld their values of solidarity and unanimity by ensuring welfare of the members. According to Bhartiben, Manager of SEWA Homecare,

The cooperative's first priority was to ensure that the workers were getting paid, and for the first month, we were successful in negotiating salaries for a few of them. However, many members were left unpaid, so the cooperative collectively decided to pay the members from their savings (Hiriyur and Chettri 2020).

Cooperatives have proved efficient in mitigating the effects of crises since their core defining feature is membership, and the welfare of members is their utmost priority. Even historically, cooperatives have proved a great avenue for enabling socio-economic recovery post crisis (Parnell, 2001). SEWA's cooperatives have demonstrated the capacity of cooperatives to help members cope with the effects of crises. The sustainability of a SEWA cooperative operates not just on a traditional financial bottom line but also the net social benefit for the members. As pointed out by the report by SEWA Cooperative Federation, the cooperatives were quick in adapting to the crisis and efficiently gener-

ated alternative livelihood opportunities for members during the lockdown. Eighty-four per cent of SEWA Homecare members who were interviewed said that they received employment and work-related support from the cooperative (Hiriyur and Chettri 2020).

CONCLUSION

The digital economy is a revolutionary development that is rapidly transforming sectors of informal labour – such as domestic work – at a fundamental structural level. Yet, precisely because of this, it is important to dispel some of the technological optimism that is propelling its growth, and take stock of its actual impact.

Digitization affects the relationships between labour, capital and citizens which sustain the livelihoods of informal workers and, thereby, plays a key role in shaping the direction of local, national and global social contracts. As this chapter has shown, digital platforms can establish greater levels of access and overcome intersectional obstacles due to gender, caste and ethnicity, but in practice they often exacerbate these barriers to access by reproducing systems of patriarchy, capitalism and other sources of discrimination. In order to avoid these pitfalls, and the tendency for digital platforms to be used as a means to consolidate power and reduce workers' ability to bargain collectively, there is a need for deliberate models of digitization which build on principles of democracy and inclusion, such as the SEWA Homecare cooperative which has been described in detail.

As this chapter has attempted to demonstrate with the case of domestic work, platformization is a two-edged sword: opening economic opportunities, but without legal and social protections. Far from simply opening up a world of opportunities for domestic workers to connect with the market, digital intermediaries have created new barriers for women workers, escalated the precariousness of work, disrupted the capacity for collective negotiation, reinforced regressive gender roles and other forms of discrimination, and instituted regimes of intrusive surveillance and control. Left to their current trajectory, digital platforms could have an overall deleterious effect on the conditions of domestic workers within the country.

Yet, this is not an indictment of digital platforms as such, but of the manner in which they have evolved globally. The technologies themselves do in fact hold immense potential in coordinating large-scale economic activities in an efficient and regulated manner. Designed empathetically, they could become a strong force in organizing the informal economy and creating an infrastructure that allows informal workers to collectively bargain for a better deal. Thus, the chapter has also dwelt on and explored experiments for how the

cooperative model of livelihood, ownership and decision-making can make the digital economy more accessible to these workers and attain this potential.

While there are examples of great success here, platform cooperativism is an incipient movement, with many hurdles yet to cross. Yet, as the chapter attempts to argue, there is certainly scope for women in the paid care work sector to capitalize on such a model. In order for this to work, there needs to be a coming together of various stakeholders, both public and private, so there can be an investment into women-owned collective enterprises in general and platform cooperatives in particular. This investment includes access to financial resources, digital infrastructure, capacity-building, market linkages and an enabling policy environment.

While this chapter focused on the domestic work sector specifically, there are several other sectors and trades where this model can be utilized. For example, in sectors like agriculture (that are also highly feminized), cooperative platforms like those for supply chain management and market linkages would enable women farmers to enter the digital economy. This is similarly applicable in the beauty and wellness sector, as well as in the world of e-commerce through cooperative-owned digital marketplaces.

Women-owned, women-governed collective enterprises can become levers for the sustainable growth of the digital economy. Rather than widening inequality and increasing vulnerability of women workers, digital platforms could facilitate the inclusion of these workers into the new economy.

For far too long, women workers in the informal economy of India and other countries have worked with little to no income security or social protection. The current structure of gig work platforms does not address these gaps. Rather, without any state regulations, it has taken these gaps and created a model of work that further exploits workers through the platform intermediary. The gig economy *does not* empower workers but has the potential to do so, by connecting and collectivizing workers, protecting them, and enabling their ownership of their work and their data – the way worker cooperatives have long been doing.

NOTES

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2. SEWA Homecare is a cooperative of 175 domestic workers in Ahmedabad city, India.

3. Cities are classified into several tiers, based on factors like population density, which influences living expenses, urban planning and other indicators. Tier 1 cities are densely populated, with high living expenses.
4. Initiative for What Works to Advance Women and Girls in the Economy.
5. The Code on Wages, 2019; the Code on Social Security, 2020; the Occupational Safety, Health and Working Conditions Code, 2020; the Industrial Relations Code, 2020.
6. www.financialexpress.com/opinion/closing-the-digital-divide/2126724/.
7. https://globalindex.worldbank.org/sites/globalindex/files/chapters/2017%20Findex%20full%20report_chapter2.pdf.
8. <https://tandemresearch.org/assets/USAID-Consoladated.pdf>.
9. The gender gap has been defined in the study as male mobile phone owners/internet users as a percentage of the population, and female mobile phone owners/internet users.
10. In Hindi, the word 'bai' means 'domestic worker'.
11. To understand the features of platforms, the author conducted several in-depth interviews of workers on these platforms, and spoke with the senior management of two private platforms. This was substantiated by desk-based research on private platforms.
12. In 2019 Urban Company raised US\$75 million in a Series E funding round led by Tiger Global Management; in 2018 BookMyBai raised an undisclosed amount from Japanese investors and US\$6.4 million from Gray Matters Capital.
13. Urban Company in its terms and conditions refers to the platform workers as 'Third Party Providers'.

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9. “Essential and disposable? Or just disposable?” Informal workers during COVID-19

Sarah Orleans Reed¹

INTRODUCTION

During the COVID-19 crisis, the phrase “essential but disposable” became a rallying critique in global North countries against an economic system that demanded worker sacrifice without commensurate safety protections, wages, or access to health care. The slogan underlines that those workers considered “essential” are often employed under the lowest paid, riskiest, and most precarious forms of wage work (Rose 2020). But rather than granting enhanced privileges to such workers, it has been argued that the label “essential” acts as a “controlling mechanism used by employers to maximize labor” (Pandey et al. 2021: 3), among workers whose economic position makes it difficult for them to refuse this work (Lakeoff 2020).

“Essential but disposable” also underscores a feature of transnational racial capitalism, whereby in countries like the United States, immigrant workers, Black, Latina, and women workers are overrepresented in essential work and thus more exposed to COVID-19 infection and death (New York City Office of the Comptroller 2020, Rogers et al. 2020, Tirupathi et al. 2020). While these critiques refer most commonly to the experiences of workers in formal wage employment,² some worker organizations and researchers have spotlighted the dangerous intersection of immigration status and informality for groups like farm workers (for example, COVID-19 Farmworker Study 2021), domestic workers (Pandey et al. 2021), and other undocumented workers.

Less has been written about essential work and “essential” workers among the majority of the world’s workforce who are informal and in the global South, and less still about informal, *self-employed* workers in both the global South and North. That informal workers provide essential urban services in areas like food provision, care, sanitation, and transportation is well established, though severely underrecognized and undervalued (Tucker

and Anantharaman 2020). Since 2020, a large body of evidence confirms that the COVID-19 crisis resulted in catastrophic impacts on informal workers' livelihoods, earnings, and asset bases (ILO 2020, Chen et al. 2021). Yet few studies evaluate whether and on what terms informal workers were labeled as essential during the pandemic, how they provided essential functions, and how this affected their experience of the pandemic.

This chapter explores whether and how the policy label of “essential” had any meaning for informal workers during the COVID-19 crisis, based on the first round of a mixed-methods longitudinal study of informal workers from 11 cities across five regions. It evaluates whether the slogan “essential but disposable” describes the experiences of this worker group compared to their more visible counterparts in (more) formal wage employment. It concludes by considering whether discussions around essentialness are relevant, helpful, or unhelpful in establishing a more supportive social contract between the state and informal workers.

BACKGROUND: FROM ADVERSE INCORPORATION TO ESSENTIAL STATUS

Previous analyses show the ways in which informal workers are adversely incorporated into global, national, and local economies (Hickey and du Toit 2007, Meagher 2015, Alfes 2019). This characterization emphasizes the ways in which capital or other systems of power benefit from the exploitative terms under which workforces engage in markets or labor markets. As Phillips (2011: 386) says in relation to global value chains, “the imperative is the construction and maintenance of a labour force that is stratified in such a way to enhance the ‘disposability’ of workers.” Like firms within global value chains, households and cities benefit from the cheap and flexible labor of domestic workers, street vendors, and informal transport, sanitation, and delivery workers, among others. Adverse incorporation (and the “disposability” associated with it) has a mutually reinforcing relationship with social exclusion (Hickey and du Toit 2007), linked to gender; religious, racial, ethnic, or caste status; or migration status held by informal workers (Chen 2012, Steiler 2020).

In cities, a further important feature of adverse incorporation is determined by the impermanence, malleability, and unpredictability of state rules and norms that govern informal workers' livelihood activities. A diverse range of state and non-state actors create, enforce, or suspend formal rules allowing – or not allowing – workers like street vendors and waste pickers to operate at certain times and certain places, usually in ways that are sub-optimal or that extract benefits from them. Equally, these actors can exert discipline, dispossession, or violence when they deem these workforces undesirable, threaten-

ing, or otherwise inconvenient for the state or capital (Roy 2005, Devlin 2011, Roever 2016, Xue and Huang 2015).

Whether enacted under formal laws or by more informal means – or, most often, in the gray zone between these – punitive state actions against informal workers frequently have outcomes that contradict national development goals. Moussié and Alfes (2019) discuss this issue in relation to cash transfers, which are usually instituted by national agencies responsible for social welfare, poverty reduction, and/or gender equality goals. The benefits from transfers are undermined by the absence or substandard provision of locally administered services like sanitation, transportation, health care, and child care that are necessary for securing informal livelihoods. The everyday harassment of workers by authorities (Roever 2015) similarly conflicts with national social assistance measures, by limiting workers’ earnings or extracting earnings from them. Evictions from or demolition of worksites are the starkest examples of the contradictions between social development aims and local policies. Nevertheless, such punitive actions are extremely common, since at various times many cities espouse the explicit objective of eliminating informal settlements and removing informal workers from public space (Roever and Skinner 2016, Skinner and Watson 2020). Moments of crisis frequently exacerbate the state’s destructive position towards informal workers or other subaltern or working-class groups, as capital seeks to consolidate its control of space or other resources via “accumulation by dispossession” (Harvey 2004, 2008).

As a result, even under normal conditions, the constellation of laws, rules, and commercial relationships provides little or no economic or social protection to the well-being of informal workers or their households, and may likely put them at mutually reinforcing physical and economic risk – rendering them disposable (Lee 2018). The malleable rules of urban governments with regard to informal workers mean that during the best of times, these workers barely have the right to work and thereby survive, much less to thrive economically.

The classifications of certain workers as essential during the COVID-19 crisis had little consistency across countries, in terms of both how governments made such designations and who they included. Some national policy frameworks designated specific worker groups as “essential,” while others categorized by sector of work: transportation, utilities, and so on (Stevano et al. 2020, WIEGO 2020). Stevano et al. (2020)’s review of seven countries in the global South and North reveals how the concept of essential work is “much more ambiguous, politicized and fungible” than implied from its normative framing (p. 179). They highlight the tendency to exclude from essential categorization – and therefore, perpetuate the devalorization of – both productive and reproductive work that is performed within the informal economy.

Several studies by Women in Informal Employment: Globalizing and Organizing’s (WIEGO’s) Law Programme provide insight into how countries

categorized the work of informal workers, specifically street vendors, market traders, and domestic workers, during the COVID-19 crisis. An analysis of COVID-19 laws in 51 African, Asian, and Latin American countries confirms widespread omissions in essential designation of domestic workers or the services they provide (WIEGO 2020). In contrast, policy frameworks from most African countries (explicitly or implicitly) allow informal market traders and/or street vendors to continue working (Bamu and Marchiori 2021).³ In Latin America, rules commonly referred to food distribution systems at large rather than to informal food workers specifically, leaving significant room for interpretation by local governments and/or explicitly favoring trading in built markets over street vending (Marchiori and Prandini Assi 2021). Regardless of designation, Bamu and Marchiori (2021) noted that factors like barriers to accessing permits, reduced foot traffic, curfews, and transport restrictions could prevent essential workers from working or earning.

Focusing on several cities from the WIEGO-led COVID-19 Crisis and the Informal Economy study,⁴ this chapter shows how even during the pandemic, the punitive arm of the state acted in ways that undermined its more protective functions: facilitating essential services and providing cash and food assistance. It begins by exploring how “essential” designations reflect existing biases and prejudices against informal workers in general as well as different segments of informal workers. It shows that the process of designating “essential workers” or granting other forms of work permission involved contestation and claim-making by informal worker organizations, in some cases successfully.

Yet in most of the cities where such designations were granted, these had little practical value in their main purported objective: allowing essential workers to continue working. This reflects the weakness of the mandates or designations compared to the larger policy context of intense restrictions, and/or policy latitude of local governments, which are frequently hostile to informal workers. It also reflects major disruptions in supply chains and business costs that render business activities of self-employed workers unviable.

Relief measures from national, provincial, and local governments helped to mitigate the harm to informal workers who received them, though they were limited in scope and reach, especially with regard to recognizing self-employed workers’ need for support to both meet basic needs and maintain businesses. As with the roll-out of essential worker designations, the relative strength of local political actors and grassroots organizations influenced the reach of relief measures. The actions of local authorities to undermine all informal workers’ livelihoods leading up to and during the crisis – and into the future – through demolitions of or evictions from informal workplaces undermine the scarce relief support received by informal workers.

With limited ability to work, active undermining of their livelihoods by local authorities, and patchy and inadequate relief, the phrase “essential but disposable” has arguably even more resonance for informal workers, particularly the self-employed, than for formal wage workers, to whom it is more commonly used to refer. As the conclusion highlights, the experiences of informal workers during COVID-19 highlight the negative and unpredictable position of informal workers within existing social contracts and strongly reinforce the importance of (re)constituting social contracts that actively include and protect informal workers and their livelihoods.

METHODOLOGY

The analysis in this chapter is based on the first round of a mixed-method longitudinal study of informal workers from 11 cities⁵ across five regions. The quantitative component consisted of a mobile phone survey of 2,292 workers from 10 different sectors of informal work.⁶ The survey was conducted in mid-2020 by phone, and was designed to collect information on earnings, working hours, and sector-specific constraints to livelihoods at three points in time. Respondents were asked to report retrospectively on their earnings and time spent working in February 2020 as a reference point for pre-COVID working conditions, and in April 2020 when all of the study cities were under some form of government lockdown or restriction in response to the pandemic. Finally, respondents were asked a series of questions about their current working conditions and earnings in the middle of 2020 (June–July). As a complement to the survey data, the study also included in-depth interviews with informal workers, their leaders and organizers, and other key stakeholders.

Among the cities where workers were surveyed, the severity and duration of restrictions varied considerably. In Durban, Lima, and the three Indian cities of Ahmedabad, Delhi, and Tiruppur, the government imposed lockdowns with heavy restrictions on basic mobility. In Accra, Bangkok, Dakar, Mexico City, New York City, and Pleven, the government imposed various forms of partial lockdowns, including stay-at-home advisories, curfews, and restrictions on the type of businesses able to operate, with varying degrees of enforcement.

In each city, the study was conducted by researchers associated with or recommended by organizations representing or supporting informal workers. The survey sample from each city was based on a purposive quota approach and was designed to reflect the key characteristics of the membership of the worker organizations participating in the survey. Based on a non-probability based sample, the data are not intended to be representative of informal workers in each city or even of the membership of each worker organization. For this reason, and because the respondents are members of worker organizations, the

sample is likely to have more years of work experience and higher earnings than other workers in their occupational sectors.

In addition to the COVID-19 Crisis and the Informal Economy study data, this chapter draws on various reports and internal documents produced by members of the WIEGO team through the COVID-19 pandemic period.

1. THE CONSTRUCTION OF ESSENTIALNESS

Asserting the economic contributions of informal workers has long been a strategy of claims-making for informal worker organizations and their allies. Worker organizations and their allies have argued persuasively before and during the crisis that much of the work performed by informal workers is essential and life sustaining. Pre-crisis research confirms, for instance, the essential nature of informally traded food (Crush and Frayne 2011, Skinner and Haysom 2017), care (Razavi and Staab 2010), informal waste management (Samson 2008, Dias 2012), and informal transport (Cervero and Golub 2007).

COVID-19 significantly raised the stakes for informal workers to gain recognition for these contributions, since this recognition determined their ability to continue working. Yet among the worker groups interviewed in the WIEGO study, COVID-19 did not lead to considerably greater recognition or valorization.

Table 9.1 shows the occupational groups which received some level of official recognition to continue working. The type of recognition granted to these worker groups varies from express designation as “essential” in national decrees, to weaker government advisories, to more tacit forms of inclusion as described further below.

Market traders and/or street vendors selling food goods were the most likely and the earliest informal workers to be recognized, though the designation typically applied to food vendors only (and frequently certain vendors within that category). Other sectors in the study which gained essential status included motorcycle taxi drivers in Bangkok and newspaper vendors in Lima. Waste pickers groups in two cities received recognition: in Durban in April 2020 (after restrictions were lifted in South Africa), and in Lima in January 2021 (during the country’s second COVID wave). No official recognition for domestic workers or home-based workers (the two sectors in the study with the highest concentrations of women) was identified in any of the cities.⁷

In several countries, the recognition of informal food vendors and traders was not automatic, but rather required organizations of informal vendors and traders to make claims on their essential contributions. In South Africa, the South African Informal Traders Alliance pushed the government to include informal vendors and traders under its definition of essential workers,⁸ via an existing International Labour Organization (ILO) platform and through the

Table 9.1 Occupational groups included in WIEGO survey recognized as essential

	Domestic worker	Home-based worker	Street vendor/ market trader	Waste picker	Other sectors	% women
Accra			*Food goods only			73
Pleven						68
Dakar						61
Ahmedabad			*Food goods only			100
Delhi			*Food goods only			65
Mexico City						59
New York City			*Food goods only			53
Lima				+	*Newspaper vendors	66
Durban			*Food goods only	+		56
Dar es Salaam						97
Tiruppur						93
Bangkok			*Food goods only		*Motorcycle taxi drivers	70
% women	98	88	64	51	63	

Notes: Tinted boxes indicate items included in the WIEGO survey. * Some or all members of sector formally declared essential by April 2021. + Formally declared essential after April 2021 (waste pickers in South Africa were given permission to work on 29 April 2020; waste pickers in Lima received permission to work in January 2021, during the second wave of the pandemic in Peru).

National Economic Development and Labour Council. Under this pressure and with concerns about a food security crisis, the government revised its Disaster Management Regulations on 2 April 2020 to recognize informal food vendors with written permission from a municipal authority (WIEGO Social Protection Programme 2020).⁹ In India, the government’s Urban Affairs Ministry on 3 April issued an advisory to allow certain vendors selling groceries, fruits, and vegetables to operate,¹⁰ following pressure on authorities from the National Association of Street Vendors of India (*Hindustan Times* 2020).

For informal food workers, these designations represented a long overdue acknowledgement and valorization of the role of informal sellers in food systems, and thus a victory for workers and activists (Skinner 2021). At the

same time, the rules they imposed reinforced existing stratifications or created new ones within worker groups, even beyond the distinction of food versus merchandise. In Mexico, rules allowed the operation of permanent markets but excluded *tianguis* (weekly markets) and street vendors (Marchiori and Prandini Assis 2021). In South Africa and India, the exclusions extended to vendors selling cooked foods rather than fresh foods. Merchandise vendors selling “non-essential” goods like clothing were omitted entirely.

Importantly, the national designations in South Africa and India also left room for maneuver by local governments, which are generally hostile towards informal vendors and traders, or reinforced local rules which were known to be exclusionary. The advisory from the Indian Ministry of Housing and Urban Affairs provided vendors with a particularly weak mandate, stating that food vendors could work “subject to the restrictions imposed by the district authorities,” and limited to those vendors with government identifications – despite the fact that the identification distribution process under the national Street Vending Law has yet to be implemented in most Indian cities (Majithia 2020). Arguably this ministerial advisory was particularly weak in contrast to the harsh national lockdown issued from the country’s executive a week earlier, which took effect immediately and was being widely enforced. South Africa’s mandate was stronger due to its inclusion in the Disaster Management Act Regulations, but nevertheless required informal vendors and traders to receive permission from municipal authorities to work during COVID. These weak, equivocal mandates presaged the challenges vendors and traders would face to actually provide essential goods.

Despite stratification among informal vendors and traders, these two groups enjoyed greater and faster recognition compared to other groups surveyed. The exclusions of domestic workers and home-based workers from the boundaries of “essential” designations reflects the relative invisibility of these groups (despite providing services such as care, cleaning, personal protective equipment (PPE) production,¹¹ and waste management) and the formal bias underlined by Stevano et al. (2020). As summarized by a waste picker leader in Accra, Ghana:

I think before the COVID, there was nothing like recognition from the government. The government did not know that some people do work like this. So I think that from lack of recognition, when the COVID came they couldn’t remember that there are some people who are left out.

Like street vendors, informal workers in the waste sector also pushed for recognition, in some cases successfully. Waste pickers in South Africa were permitted to work from 29 April 2020, following pressure campaigns from worker organizations and advocates.¹² In Peru, waste pickers received permis-

sion from the Ministry of Environment to continue during new restrictions in January 2021, after meeting with worker leaders and WIEGO representatives. In contrast, the Delhi Roundtable for Solid Waste Management sent letters to the Chief Minister of Delhi, urging the city to recognize waste pickers as essential workers.¹³ However, to date, Indian waste pickers have not gained official designation as essential.

2. ESSENTIAL, BUT “ONLY ON PAPER”

While it is symbolically significant that governments recognized essential services provided by informal workers, the practical implications proved limited. In the seven cities where informal workers received some form of recognition – Accra, Ahmedabad, Bangkok, Delhi, Durban, Lima and New York City – only 34 per cent of such workers were able to work during the peak lockdowns or restrictions in April 2020, as shown in Figure 9.1. Only in Accra and Bangkok did more than half of those workers continue to provide such services: a slim majority of 58 per cent in Accra (58 per cent) compared to 82 per cent in Bangkok. By mid-year when most restrictions had lifted, 30 per cent of essential workers across the sample were still unable to resume work. Figures 9.1 and 9.2 show that in several cities, workers recognized as essential were equally or less likely to work than their unrecognized counterparts, as discussed further below.

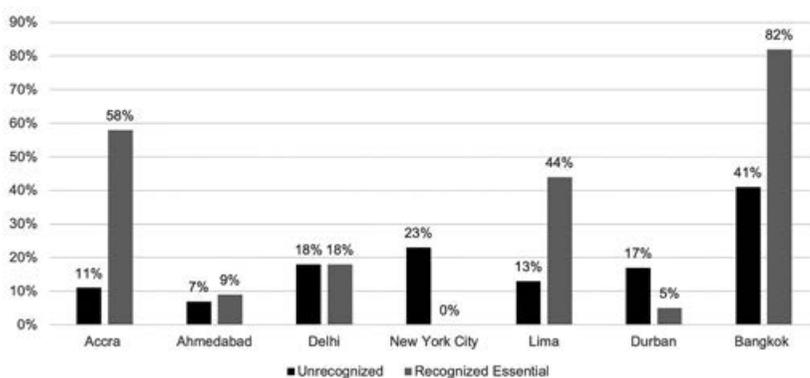


Figure 9.1 Ability to work in April 2020, by workers recognized as essential v. non-essential, by city: Accra, Ahmedabad, Bangkok, Durban, Delhi, Lima, and New York City¹⁴

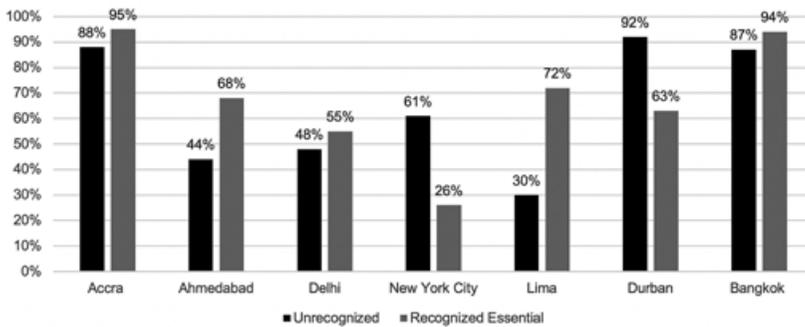


Figure 9.2 Ability to work by mid-year 2020, by workers recognized as essential v. non-essential, by city: Accra, Ahmedabad, Bangkok, Durban, Delhi, Lima, and New York City

The reasons for this inability of informal essential workers to provide essential services are twofold. First, results reveal a failure by local governments to enforce restrictions in a manner that allowed essential workers to operate, especially during the early days of the crisis. Essential workers most frequently cited government restrictions as the reason for not working in April 2020, in all cities except for Lima (where health concerns were slightly more prevalent among the only recognized group: newspaper vendors). Second, impacts of the COVID-19 crisis on demand and on supply chains also stymied workers, becoming a more important barrier to work by mid-year as government restrictions were eased. The role of market forces in mediating essential work underlines another major difference between formal and informal essential workers: that the latter are much more likely to be self-employed, requiring them to absorb not only the health risks of being “essential,” but all the economic risks as well.

The following sections provide deeper analysis into both of these issues.

Local Restrictions Obstruct Essential Work

Survey results and interviews indicate that during peak restrictions in April 2020, the priorities and actions of local governments and law enforcement agencies strongly conflicted with mandates to allow informal workers to operate, and/or took advantage of the weakness of those mandates to implement anti-worker actions. In Durban, South Africa, only 5 per cent of essential food traders continued to work in April 2020. Ninety-one per cent of those who stopped working did so due to stay-at-home orders and/or market closures; a quarter of those specified further that they were unable to obtain municipal

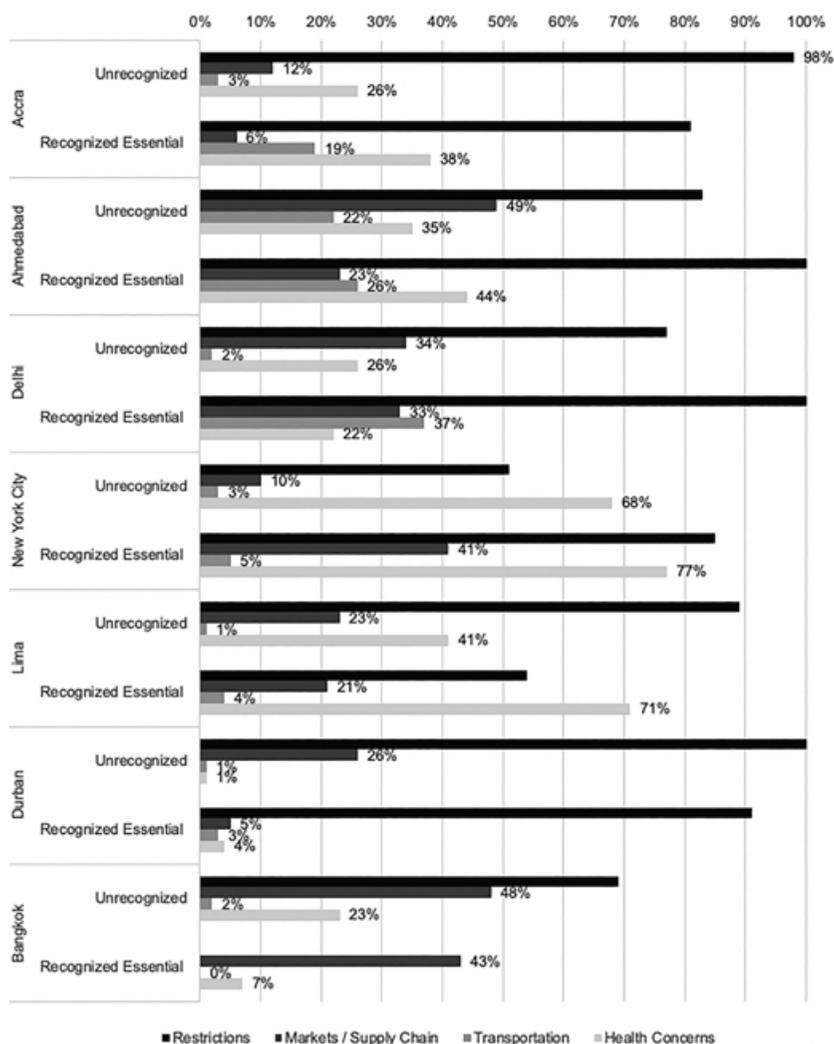


Figure 9.3 Reasons for not working in April 2020, by workers recognized as essential v. non-essential, by city: Accra, Ahmedabad, Bangkok, Durban, Delhi, Lima, and New York City

work permits necessary for work. As one trader reported, “Although our sector was declared essential, no official was prepared to issue us COVID-19 permits”; another complained of the “incompetence” of municipal officials in

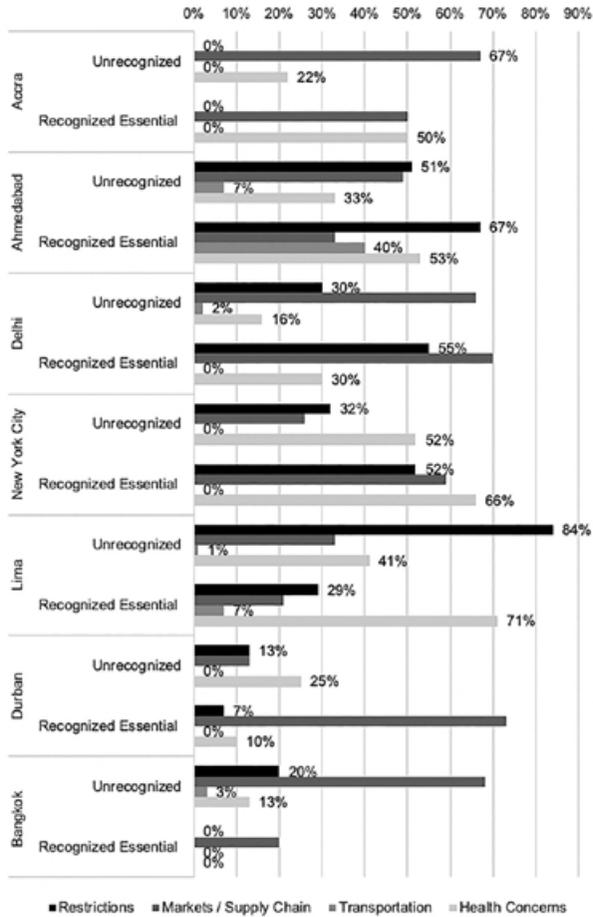


Figure 9.4 Reasons for not working by mid-year 2020, by workers recognized as essential v. non-essential, by city: Accra, Ahmedabad, Bangkok, Durban, Delhi, Lima, and New York City

issuing permits. The situation of food traders and vendors in Durban was not unique in South Africa, according to Skinner et al. (2021: 17), who describe “municipal offices being closed and declining requests for meetings, and traders reporting harassment of fresh food traders as they lawfully returned to work.” In addition to the difficulty in securing permits, the extended closure of the Warwick Junction Market in Durban by the eThekweni Municipality made

it impossible for many to return to work after restrictions were lifted (Heneck 2020: 3).

In the Indian cities of Ahmedabad and Delhi, only 9 per cent and 18 per cent of food vendors, respectively, continued working during the lockdown. As noted above, the provision that only vendors holding IDs could sell considerably narrowed the number in Indian cities with official permission to work, even if they were providing recognized essential services.¹⁵ Almost all food vendors reported that they were unable to work because they were not permitted or because of stay-at-home orders, and approximately 89 per cent of essential workers in Ahmedabad and 62 per cent in Delhi reported market closures as an additional impediment. Worker leaders and key informants recounted how the implementation of strict “containment zones” in areas with high COVID rates prevented workers from reaching those markets, even if they were open. In both cities, vendors described attempting to set up stalls or carts but being turned back by police, and violent forms of enforcement (as detailed further below). This accumulation of deterrents amounted to “a de facto ban on vending,” with vendors essential status “on paper only,” as described by one key informant.¹⁶

In Accra, only 58 per cent of street and market vendors designated as essential workers were able to work in April. More than 80 per cent of those not working cited official restrictions as the reason. In interviews, street vendors and market traders described how restrictions on travel between municipalities prevented them from purchasing goods or accessing their trading locations. One leader described:

The security officials would not allow even those who were designated as essential workers to go beyond to trade. This is due to the planning in our city where not all towns within the city have markets. Some workers stay as far as Ablekuma and could be trading at Makola or Central Market. The security will not allow you to cross to the market in spite of your designation as an essential worker ... They will just ask you to stay within your area of residence and sell, in spite of the fact that that may not be your trading zone (Street vendor leader, Accra).

In April, trader organizations and transport unions in Accra negotiated with the Ministry of Local Government to issue special identifications for traders and transport workers. Their demands were eventually successful, although the IDs were issued to a limited number of informal workers, and only shortly before most restrictions were lifted.

Respondents also highlighted ambiguities in local policy and inconsistency in application. A merchandise vendor in Bangkok noted that the enforcement regime varied considerably from location to location within the city: “At present, the municipal officials are quite lenient, but it is not like this everywhere. In some areas, they would take pictures and report to their boss every

day.” In some cities, this led to a higher rate of work among groups without essential status or permission to work. In Accra, waste pickers were able to enter the landfill where they normally worked because their association T-shirts and IDs gave them the appearance of being formal sanitation workers. In Ahmedabad, Delhi, Durban, and New York City, waste pickers and/or domestic workers were *more likely* to work in April and by mid-year 2020 than were food vendors recognized as essential in those cities. Among domestic workers, workers who lived with their employers could frequently continue to work, since their job did not demand regular travel (though these conditions resulted in considerably deteriorating working conditions and exploitation; Ismail et al. 2021). These findings suggest that the relative invisibility of domestic workers and waste pickers, as highlighted above, had a flip side: a greater ability to operate below the radar than street vendors and market traders.

Markets, Supply Chains, and Health: Taking on the Risks of Essentialness Without the Reward

Beyond limitations imposed by local authorities, falling demand and broken supply chain linkages prevented many informal workers from providing essential services. These supply and demand factors became the more central barriers to work for informal workers as restrictions increasingly lifted towards mid-2020. By mid-year, the percentage of essential workers reporting market and supply chain issues as factors in their inability to work had risen from 21 per cent in April to more than half (53 per cent).

The demand for goods and services was impacted by the declining purchasing power of individual customers, their restricted mobility and social activities, and by the limited economic activities of the food and beverage industry such as restaurants, hotels, and bars. Ninety-two per cent of essential vendors reported that their sales had decreased by mid-year as compared to pre-COVID (February 2020). Disruptions to supply chains also impacted vendors’ ability to purchase supplies, due to restrictions and/or price surges, with three-quarters of essential workers (73 per cent) reporting that it became harder to buy their stock. A street vendor in Durban highlighted how the economic impact of the pandemic on the general public impacted street vendor’s earnings: “people don’t have money and some have lost their jobs, and that’s not good for our businesses.”

These issues underline another key difference between formal and informal essential workers: namely, that the latter are predominantly self-employed. This status in employment means that despite being essential, the informal self-employed bore not only the health risks of COVID-19 (similarly to formal wage workers), but also the economic risks and business costs. Thirty-nine

per cent of essential vendors reported an increase in travel costs due to travel restrictions, and 55 per cent reported additional costs to purchase PPE and sanitation materials.¹⁷ Market traders in Durban described fellow workers borrowing money from lenders in order to restock or pay for other basic business expenses like transportation. A third (30 per cent) of vendors designated as essential workers reported losses of perishables. Yet unlike formal *businesses*, most bore risks and costs without government support mechanisms like special loans and grants, as described further in Section 3.

The convergence of all these risks and costs meant that for many, doing business was simply not worthwhile. A trader in Accra noted that “food sellers who sold to workers ... were forced to stop work because their patrons had all gone home and [they] would not have anyone to sell to.” In Delhi, a vendor said, “I used to sell food on the road for the workers who used to eat my food. In the pandemic they have also gone back to their village. However, if the workers are not there, then how will I do my business?” A vendor in Bangkok described terminating one of his two workers, whom he could no longer afford to pay.

Thus, while few workers experienced the valorization of essentialness in practical terms, almost all felt the sting of disposability. The material outcomes of this are striking, for recognized and unrecognized workers alike. Across 11 study cities, respondents experienced an average drop in earnings of 79 per cent in April and 45 per cent by mid-year, compared to pre-COVID. Essential workers fared only marginally better than those without such recognition: in the seven cities where any workers were declared essential, 68 per cent of “essential” workers suffered an income loss of 90 per cent or more compared to pre-COVID, versus 82 per cent loss of non-essential workers, in April. Based on the analysis above, this appears to reflect the comparably better market for food goods during the crisis, rather than any favorable treatment or support from the state due to their status. Essential workers were slightly *more likely* than non-essential workers to resort to asset-depleting strategies: borrowing money, drawing down savings, and/or selling assets (81 per cent versus 72 per cent). The use of these strategies might indicate economic capacity as well as economic hardship – but regardless, they hinder informal workers and their households from economic recovery.

This section confirms the disconnect between essential work on paper and in practice. It shows how the priorities of local government, combined with market forces against which workers had no buffer, stopped many workers designated as essential from providing essential goods and services. These factors had negative consequences for workers’ ability to sustain themselves and their families without resorting to coping strategies that are likely to entrap them in poverty. The next section explores how the state stepped in for infor-

mal workers in other ways that, mirroring essential worker status, were steeped in contradictions between different parts of the state.

3. RELIEF VERSUS REPRESSION: TWO FACES OF THE STATE

This section reviews another facet of the “essential but disposable” schema, by revisiting how the state both supported and actively harmed informal workers during the crisis. The provision of relief is an important component of this story, since it affected workers’ ability to survive the crisis.

While the COVID-19 pandemic recession led to some recognition of the essential goods and services provided by informal workers, it led to greater recognition of the need of informal workers for adequate social protection during crises and beyond. The COVID-19 period saw an unprecedented global expansion in systems designed to distribute relief, with the creation of new cash transfer programs, topping up of benefits under existing social protection programs, and expansion of existing programs to cover a greater number of people. Many of these policies included or targeted informal workers specifically (Gentilini et al. 2020). This chapter argues that similarly with the roll-out of essential worker policies, local actors in some cases mediated access to this relief, both negatively and positively. Where they reached workers, relief measures helped to mitigate the harm to informal workers and their households. However, these benefits were not adequate and did not outweigh the negative impacts of the “other face of the state”: the negative impacts of confiscations, evictions, and destruction of work sites.

RELIEF FOR INFORMAL WORKERS: IMPORTANT BUT IMPERFECT

For informal workers, receipt of relief indicates a certain, base level of state recognition – an acknowledgement that informal workers exist, that their earnings have been sharply curtailed, and that they have claims on a certain basic level of provision for survival. While this falls short of recognizing them as workers (with rights equal to those of formal employees), or as businesses (with claims equal to those of formal businesses), receiving government support signifies that one is not fully “disposable.” It aligns with an analysis of informal work as adversely incorporated, rather than fully excluded, from the political economy.

The roll-out of relief measures for informal workers was evident in some of the study’s 10 countries and 11 cities, with a diverse array of interventions. Some, like Peru and Thailand, created new cash assistance programs, some aimed at informal workers. South Africa both expanded existing cash grant

schemes and created a new program for those not covered by those schemes. In India, the government provided a one-time cash grant through an existing financial inclusion scheme (Jan Dhan) aimed at informal workers, and food aid, building on an existing public distribution system. It also created new relief grants for certain groups, such as informal transport workers. In contrast, Bulgaria provided no specific cash grants and limited food aid aimed at informal workers, despite imposing heavy restrictions on movement and business.

As with essential worker designations, the design of relief programs reflects the relative visibility of as well as biases for or against different groups of informal workers. This is expressed succinctly by members of the Delhi Roundtable Network, which represents waste pickers, in their letter to the Chief Minister of Delhi:

During the lockdown, auto-rickshaw drivers, construction workers, public transport drivers of the informal livelihoods have been provided by the Government, the necessary monetary compensation of Rs. 5000/- due to the loss of work ... However, the most important work of maintaining hygiene and cleanliness in the city is being done by informal waste pickers who have not been included. It is to be noted that most waste pickers belong to the low caste and are already on the margins of existence.¹⁸

In Mexico, domestic workers registered in the social security system could apply for a federal relief grant, and street vendors could apply for loans through a national program, whereas no national programs were available to non-salaried workers.¹⁹ In New York City, a federal relief package included universal cash transfers and a new unemployment scheme aimed specifically at self-employed workers. But both packages explicitly excluded undocumented individuals and their family members, and thus an important and vulnerable segment of the country’s informal workforce (including street vendors and cannery workers involved in the crisis study).

While most relief measures originated from the national level, in some cases local or state governments stepped up to fill gaps. Mexico City enacted a small grant program for non-salaried workers in response to demands from these workers, and Tamil Nadu, as well as several other states in India, announced its own small cash grant program. In both cases, however, the cash amounts were very small and offered only once or twice.

Where schemes should have reached eligible informal workers, they frequently failed to do so. Alfery et al.’s (2020) analysis of the WIEGO study data found that fewer than half of respondents had received cash or food aid in cities where such measures were available. For cash grants, this reflected exclusion errors from a variety of sources, as well as the “digital divide” given the dependence on digital application processes. In Lima, for instance, the vast majority of workers (half of the total sample) who did not receive cash relief

transfers believed themselves to be eligible. Only 15 per cent of waste pickers in Durban reported receiving cash grants as compared to more than half of market traders and street vendors, due more to lack of identification and digital access than to non-eligibility.²⁰

As with the implementation of essential status, informal modes of urban governance also played a role in mediating receipt of relief, especially for in-kind support such as food aid and utility support. Fifteen per cent of respondents said that political favoritism prevented them from gaining access to food relief. This perception was particularly strong in Lima (32 per cent), Durban (32 per cent), and Dakar (24 per cent). A street vendor in Accra complained that the food packages “were given to those who are political activists; that is, the two main political parties gave out food but to persons they identified as their core members.” According to interviews in Accra, it was frequently landlords rather than tenants who profited from water bill waivers and utility relief, by requiring tenants to continue paying them for these services.

For both cash and food relief, grassroots worker organizations provided an important local counterweight to exclusionary hurdles at all levels, by assisting workers to claim and acquire these resources. High rates of access to cash relief in Bangkok and food relief in all three Indian cities reflect assistance from worker organizations for members to complete digital application forms (in the case of Bangkok), and/or channel food relief to workers’ homes (in the case of Ahmedabad, Delhi, and Tiruppur) (Alfers et al. 2020).

Even for workers who accessed relief aid, its impact in cushioning the crisis was limited (WIEGO 2021). Cash relief measures were not designed to replace income or account for regular expenses like rent, loans, and school tuition, or special urgent needs such as smartphones for remote learning. A street vendor in Bangkok noted that the 5,000 baht per month cash handout (the largest across all the study cities) was “helpful” but “sufficient just for [a home] rental fee, but insufficient for food expenses.” A waste picker in Lima described how even after receiving the 350 peso relief, he and his family were forced to reduce their food intake to survive. Relief systems rarely recognize that many informal workers, especially the self-employed, require cash relief for meeting basic needs, *as well as* working capital to restart their business after a crisis. In Accra, Ahmedabad, Bangkok, Delhi, and Mexico City, vendors were eligible in principle for small loans, but struggled in reality to access them due to bureaucratic hurdles and slow roll-outs.²¹ In New York City, the street vendor organization, called the Street Vendor Project, reported that while many of its members received some relief assistance from programs aimed at individual workers, none of the vendors who applied for small business loans with the organizations’ help had their applications approved. As a result, some vendors who had received government cash transfers for their households

could no longer afford the operating costs of their businesses, as compared to brick-and-mortar restaurants that had access to low-cost loans.

The Other Face of the State

As with essential worker recognition, the importance of government relief measures for informal workers should not be understated. They set a precedent and provide invaluable lessons to governments on how to better design these systems.

Yet as highlighted by Moussié and Alfes (2019), it is common during normal times for these national-level protective measures to be undermined by punitive policies of other branches of government, particularly at the local level. Actions like confiscations, evictions, and demolitions of working sites, which are not uncommon during normal times, are evidence not just that informal workers are disposable in the eyes of local government. They reflect explicit policy goals to actively dispose of them, as highlighted in the introduction.

The global pandemic was no exception. Accounts show how actions by other state actors reduced workers' resilience prior to the crisis, threatened their ability to survive during the crisis, and put in jeopardy workers' long-term recovery prospects by dispossessing them of space, infrastructure, and/or labor rights. The latter aligns with the historical observations of Harvey (2008), on how capital leverages crises to reshape cities through accumulation by dispossession of the working classes.

Punitive enforcement was nothing new for informal workers. Leading up to the pandemic, sustained government evictions of street vendors in Bangkok had already reduced their sales volumes and earnings. One food vendor noted that his forced relocation several years earlier had cut his sales in half, and that COVID cut them further to one-quarter.

During the early months of the crisis, many law enforcement actions went beyond simply stopping workers from providing essential services as described in Section 3, but actively harmed them at a time of intense economic desperation. Vendors in Ahmedabad, Delhi, Durban, Lima, and Mexico City complained of confiscations and/or destruction of their equipment or merchandise. Almost all waste pickers and street vendors interviewed in Ahmedabad and Delhi described police beatings of workers; one waste picker explained that she and her husband endured daily beatings for selling vegetables as a supplemental source of income. In Durban, waste pickers described arbitrary confiscation of recyclables by police, who claimed waste pickers were stealing or littering. “The greatest fear that recyclers face at the moment is police harassment, and they fear walking on the street to collect waste,” described

one. An official in Mexico City boastfully posted a photo of over 100 tricycles confiscated from street vendors in August 2020 (Harvey 2020).

Workers' complaints about police violence during COVID-19 do not reflect a rejection of public health restrictions. In Ahmedabad and Delhi, the same worker leaders who described public beatings expressed appreciation for enforcement of mask-wearing or social distancing. One vendor in Ghana said he wished that police had been stronger in their enforcement, out of concern that some traders and clients were not respecting social distancing protocols. Yet actions like confiscations, destruction of workspace, and beatings had little value for public health.

Larger-scale dispossessions are presenting longer-term threats to informal livelihoods. In April 2020 in Accra, the government suddenly initiated the decommissioning of Accra's Kpone landfill site, where 300 waste pickers earned their living, allegedly as part of the World Bank's Greater Accra Resilient and Integrated Development program.²² According to Boampong et al. (2020), the state "has taken advantage of the distraction of COVID-19 to advance the landfill's closure, without adhering to their commitments to ensure viable livelihood alternatives or compensation for displaced workers." In this way, the onset of the COVID-19 crisis has become a permanent livelihood crisis for waste pickers at Kpone landfill.

In Delhi, street vendor leaders learned that the Delhi Municipal Corporation was considering implementing a legally mandated vendor census during the pandemic. While vendors have long demanded implementation of the national Street Vendor Protection Act, conducting the census at a time when few vendors were operating on the streets would undercut the law by identifying – and thus registering legally – only those present. One leader worried that "maybe after the survey they'll evict hawkers/vendors from their space." In a similarly ominous act, the municipal government has been removing or destroying important work sites in the processing chain of waste pickers (WIEGO Delhi Focal City 2021). These larger-scale instances of accumulation by dispossession strike a particularly startling contrast with the limited reach and paucity of cash and food relief.

CONCLUSION

The poor man fulfills all his needs from buying from hawkers, but the government has really not taken care of us (Street vendor, Delhi, India).

This chapter began by interrogating what meaning the policy construct of "essential" work had for informal workers, particularly in the global South. In doing so, it established a comparison with their largely Northern counter-

parts in formal wage employment facing the paradox of being “essential but disposable.”

In cities like Accra, Ahmedabad, Delhi, Durban, Lima, and New York City, recognition of workers’ essential roles, however weak, was an important symbolic victory celebrated by informal workers’ organizations, which in some cases fought during the pandemic for this recognition. The omission of other groups, particularly domestic workers and waste pickers who provide essential care and waste recycling services, reflects existing stratification and degrees of visibility within informal employment. This played out again in the design of COVID-related cash relief measures, which in many contexts implicitly or explicitly excluded all or certain segments of informal workers.

In most cities where essential status was granted, the ways in which local governments implemented COVID-19 restrictions during the restrictive periods meant that the majority of designated essential workers could not in practice provide essential services to the public. Ironically, groups with less visibility than the food traders and vendors who were granted essential worker status were in some cases better able to navigate the ambiguity of rules and enforcement. Major disruptions in markets and supply chains further hampered the ability to work, especially as restrictions were eased or lifted. A parallel can be seen in the gap between relief design and relief targeting, stemming from various types of exclusion errors and digital barriers, as well as mediator roles played by local actors in the distribution of relief.

Shifting rules, ambiguous boundaries, and multiple interests mediated the implementation of both essential worker status and relief measures for informal workers during the pandemic; this was not an exception to informal workers’ pre-COVID experience, but an intensification. In response, grassroots organizations of informal workers made claims on essentialness *and* relief for their members, both in the design phase and during on-the-ground implementation.

The ongoing experience of violence and harassment highlights a second paradox for informal workers, like waste pickers and street vendors, whose limited access to relief measures is consistently undermined by state violence against their livelihoods. The undermining of their livelihoods, their relative lack of social protection, and the absence of support for their businesses means that the phrase “essential but disposable” has arguably more resonance for informal workers, particularly the self-employed, than for formal wage workers. The loss of earnings and the coping strategies used by informal workers, both “essential” and “non-essential,” illustrate the real, material outcomes of their disposability, outcomes which need to be addressed in a new social compact for informal workers.

As such, this chapter brings to light several points which are relevant to the idea and reality of social contracts. The experience of disposability as

a persistent feature in the work and lives of urban informal workers, as evinced from 11 cities in five continents, is a contravention of the core principles of a fair social contract. A working social contract would not require individual workers to continuously negotiate their value and essentialness, in particular with the state at multiple levels. Rather, these should be guaranteed in regulatory frameworks and in practice by a fair social contract.

Second, the state is supposed to be the guarantor of the social contract. However, the findings presented in the chapter highlighted the diverse ways in which different levels and arms of the state may both promote and undermine informal workers and their livelihoods. The depiction of national and local governments as inconsistent, capricious and hostile to informal workers in their COVID-19 responses in several contexts demands a careful examination of assumptions regarding the role of the state in social contract models.

Finally, the chapter highlights the ways in which the self-employed status of many informal workers left them triply vulnerable, taking on health risks and business risks associated with the pandemic without any of the health protections afforded to formal wage workers and none of the economic or business protections afforded to formal businesses. This underlines the need for a social contract to encompass the multiple relationships with the state and other actors that informal workers have to negotiate on a daily basis.

NOTES

1. Ghida Ismail led the quantitative data analysis for this chapter, and contributed to the overall findings.
2. We qualify here the word “formal,” since the critique of “essential but disposable” implicitly highlights the ongoing informalization of wage work in the global North that has been underway for decades under neo-liberal labor, employment, and economic policies (see, for instance, Breman and van der Linden 2014).
3. Bamu and Marchiori (2021) find that regulations provided a “continuum” of permissions to work, from implicit permission by recognizing certain goods or services as essential to express permission to work or designation as essential.
4. Additional research outputs from the WIEGO-led COVID-19 Crisis and the Informal Economy study are available here: www.wiego.org/covid-19-crisis-and-informal-economy-study-0.
5. The cities included in the study are as follows: Accra, Ghana; Pleven, Bulgaria; Dakar, Senegal; Ahmedabad, Delhi and Tiruppur, India; Mexico City, Mexico; New York City, United States; Lima, Peru; Durban, South Africa; and Bangkok, Thailand.
6. The four main sector groups across the 11 cities include: domestic workers, home-based workers, street vendors and waste pickers. Other types of workers were also sampled in some cities, and these include: “non-salaried” workers in Mexico City, newspaper vendors in Lima, *kayayeis* (head porters) in Accra,

- market vendors in Durban, and motorcycle taxi drivers and massage therapists in Bangkok.
7. Table 9.1 is not an exhaustive scan of essential designations in all cities, but rather examines only those occupational sectors included in the study. For example, food vendors in Dakar were recognized as essential, but are not listed here since the study did not include them.
 8. On 25 March 2020, Joburg Informal Traders Platform and WIEGO released a joint statement arguing for the right to work on the basis of promoting food security and securing their own livelihoods.
 9. See Amendment of Annexure B to the Regulations, Section E, www.gov.za/sites/default/files/gcis_document/202004/43199rg11078-gon446.pdf.
 10. See Government of India, Ministry of Housing and Urban Affairs (3 April 2020): “Subject: Allowing identified urban street vendors to sell essential items during lockdown period due to COVID-19.” Available at <http://nasvnet.org/wp-content/uploads/2020/11/GoI-Direction-Essential-services.png>.
 11. Home-based workers in Ahmedabad and Delhi received orders to produce masks.
 12. See, for instance, https://awethu.amandla.mobi/petitions/demand-the-right-to-work-for-reclaimers-and-their-right-to-survival-during-COVID-19?bucket=&source=twitter-share-button&utm_campaign=&utm_source=twitter&share=31304651-9d93-4201-838a-5d2fa1103375.
 13. Available at: www.wiego.org/sites/default/files/resources/file/Letter%20to%20CM_Wastepickers_DRT.pdf.
 14. The “essential worker” grouping includes all food vendors/traders and motorcycle taxi drivers in Bangkok; all food vendors in Accra and New York City; vendors/traders selling fresh food in Ahmedabad, Delhi, and Durban; and newspaper vendors in Lima. For consistency, waste pickers in Durban are excluded although they received permission to work on 29 April.
 15. The WIEGO survey did not distinguish between vendors with pre-existing government identification and those without, and thus does not provide insight into whether this documentation made them more likely to continue working. In Delhi, only 1.3 million out of the estimated 3 million vendors currently hold an identification (Majithia and Sinha 2020).
 16. One initiative in Ahmedabad shows that there were alternatives to the repressive stance towards informal, essential workers in India. In late April, the Ahmedabad Municipal Corporation launched a “Vegetable on Wheels” program in collaboration with the trade union Self-Employed Women’s Association (SEWA). The program permitted participating fresh produce vendors to visit wholesale markets in the early morning, and to ride with rickshaw drivers to sell their products to customers at various stops on a specific route. Though small-scale, the initiative provided critical earning opportunities to both vendors and rickshaw drivers, as well as providing access to healthy foods in parts of the city affected by curfew (Chen 2020).
 17. Braham and Ogando (2021) provide an analysis of respondents’ access to PPE, noting that the vast majority supplied this themselves.
 18. See www.wiego.org/sites/default/files/resources/file/Letter%20to%20CM_Wastepickers_DRT.pdf.
 19. “Non-salaried worker” is a legal category of workers in Mexico, which covers a diverse range of occupational groups in public space, including shoe shiners and mariachi musicians, among others.

20. Forty-six per cent reported that they lacked documentation, and 26 per cent reported a lack of digital services, versus 28 per cent reporting non-eligibility.
21. See, for instance, Majithia (2021), who describes a vendor who had not yet received his small state loan after applying three months earlier.
22. As noted by Boampong et al. (2020), the World Bank denies financing the decommissioning, though “This may be a strategy to avoid World Bank safeguards for the livelihoods of displaced workers under its Operational Policies and Environmental and Social Standards.”

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Conclusion: Post-pandemic epilogue – the bad old contract, an even worse contract or a better social contract for informal workers?

Laura Alfers, Martha Chen and Sophie Plagerson

Since we started working on this book, the world has changed profoundly, calling further into question the fairness and adequacy of current social contracts. For informal workers, the COVID-19 crisis has had devastating economic and social impacts: it has upended livelihoods, accentuated health risks, interrupted schooling and forced many households into deeper debt. Many informal workers live in crowded informal settlements with little or no access to water and sanitation, and limited access to health care. Because informal workers depend on their daily earnings to survive, they face the risk of falling into extreme poverty as a result of government-ordered lockdowns and other economic disruptions. Women informal workers face additional challenges because of their care and domestic responsibilities. The pandemic recession intensified workers' existing vulnerabilities as many were not able to work indefinitely without any kind of social or financial protection to fall back upon.

The pandemic recession has exposed and exacerbated the underlying issues that we had planned to address in the book. Moreover, the evidence and testimonies that Women in Informal Employment: Globalizing and Organizing (WIEGO) has gathered over the past 18 months have allowed us to represent these themes with even higher resolution – many of the chapters demonstrate how inequalities have deepened, competition for scarce economic resources and opportunities have intensified, and government and corporate contempt towards informal workers has become more brazen.

Yet the pandemic has also brought unprecedented recognition for informal workers. Informal workers, and the vulnerability and stigmatization they face, are now more visible due to the essential life-sustaining work they do by collecting recyclables, producing and selling food and other basic commodities, and caring for children, the ill and older people. Many of the book's authors have been engaged in a 12-city study of the impact of the pandemic recession

and/or in advocacy and negotiation with organizations of informal workers, drawing on a platform of many years of network- and capacity-building.

As Martha Chen argues in Chapter 2, the pandemic has highlighted the fact that the social contracts of the mid-20th century were never firmly in place in many countries, and had broken down or were in serious crisis in other countries. This applies to both the social contracts between states and society (for example, the welfare state) and the social contracts between capital and labour (for example, minimum-wage and collective bargaining agreements). There is growing consensus that new social contracts for the 21st century are needed which consider both new and old political, social and economic realities, including in the world of work. The public health and economic tremors triggered by the virus have thus intensified calls for new social contracts by international institutions of a range of political perspectives, from the International Labour Organization (ILO) to the Organisation for Economic Co-operation and Development to the World Bank. As the fault lines of inequality between and within countries have become starker, the search has accelerated for new blueprints which can guarantee a more broadly shared prosperity. In her impressive book *What We Owe Each Other: A New Social Contract for a Better Society* (2021), Minouche Shafik draws on a wealth of evidence-based solutions to imagine alternative social contracts that can build on the collaboration between governments, businesses, civil society and citizens. In this volume we also note how the realization of fairly distributed rights and duties in contexts of exclusionary distributions of social, economic and political power requires deep questions to be addressed about how to deal with competing visions of state–society relations, how to overcome the vested interests which seek to preserve the status quo and how the process of “social contracting” can be extended to those whose identity as equal contractors has been forcibly devalued.

At this critical inflection moment, as we come to terms with the reality that the multi-wave pandemic lingers, causing ripple effects that will last for decades, we are still far from being able to make post-pandemic pronouncements. Tragically, as news cycles unfold, it has become apparent that we have not yet plumbed the depths of the social and economic turbulence – as we write this chapter in mid-2021 the protests around issues of justice that we witnessed in 2020 are giving way to visceral food riots, symbolizing the desperation of not being able to access the most basic resources for survival. Against this sobering backdrop, the chapters in the book alert us to the real risks of simply slipping back to the “bad old” contract, or even more ominously of regressing to an “even worse” contract. However, the stories of new patterns of emerging solidarities and of hard-won legal victories also pave the way for deeply rooted, politically savvy, tested yet pioneering paths towards a better social contract.

While successive waves of the virus and related restrictions continue around the world, we argue in this Conclusion that there is an urgency in drawing lessons from the pandemic recession which can serve to actively contest predatory forces, and direct the course of recovery towards a better new social contract for informal workers. Below we map three trajectories for the social contract and informal workers which have emerged as themes in this volume. The first scenario is the maintenance of the status quo, which we term the “bad old contract.” The second trajectory sees a worsening of the situation into what we term the “even worse contract.” A third possibility is more optimistic, building on the vision for a fairer economy and society as articulated by informal workers – one which we term the “better new contract.”

THE BAD OLD CONTRACT

The book offers a telling critique providing ample evidence to show how the prevailing political economy and policy environment are unfair, exploitative and discriminatory towards informal workers, confirming that the pre-pandemic state quo was bad for informal workers. The disparity between the reality of informal workers and the abstract unrealistic notion of the “universal” worker on which mainstream social contracts are based is startling and has enormous implications for informal workers. What we call the “bad old” contract can be summarized most simply by stating that while informal workers tend to be excluded from the protective arm of the state, they are more regularly exposed to its punitive arm. More specifically, this includes:

Lack of Legal and Substantive Recognition

Informal workers are not recognized as workers, and this means that they are excluded from labour and social protections, with severe consequences for securing their incomes. In Chapter 7, Marlese von Broembsen discusses the way in which homeworkers are excluded from labour protections because labour laws do not recognize them as workers, while Laura Alfes and Rachel Moussié (Chapter 5) highlight the ways in which informal workers have been excluded from systems of social protection. At the same time, Martha Chen (Chapter 2) raises the challenge that the urban self-employed face in acquiring the necessary licenses or permits they need from local governments to work legally.

Stigmatization and Penalization

At least in part due to this lack of recognition, but also because of misconceptions about the informal economy which are discussed in more detail below,

informal workers face stigmatization and penalization; are often blamed for illegality and criminalization, and low tax bases; and are seen to be a drag on economic productivity. This leaves them open to abuse, harassment, confiscations, evictions and destruction of workplaces; actions detailed by Sarah Orleans Reed (Chapter 9) even in the context of the COVID-19 lockdowns where the policy rhetoric (but not necessarily action) had shifted to the protection of incomes and livelihoods.

Lack of Institutionalized Spaces for Collective Representation

Informal workers do not have the right or the access to regular, institutionalized spaces to bargain with either the state (Alfers and Moussié, Chapter 5), or with the more powerful economic actors with whom they interact (Taylor Cass Talbott, Chapter 6; and Von Broembsen, Chapter 7). This entrenches their lack of visibility and voice in state policy, as well as their economic disadvantage.

What are the drivers of this “bad old contract”?

The chapters contained in this volume suggest that the fault lies with a combination of misconceptions about informality, which intersect with a political economy which entrenches economic disadvantage.

A first misconception identified is the idea that informal work is an abnormality. However, as Chen (Chapter 2) and Chen and Carré (2021) point out, both historically and today, informal work is the most consistent and dominant form of labour globally. Indeed, it could be argued that the real misconception is that economies are on a path leading to the prevalence of full-time, year-round wage employment with a single employer. This links to a second misconception, which is the idea that the employer–employee relationship should be central to social contracts. The mismatch between this idea and reality is exposed by the ILO’s statistics (2018), showing that nearly half (44 per cent) of the global workforce and nearly three-quarters (72 per cent) of the workforce in developing countries is self-employed. Moreover, many workers are neither full dependent wage workers nor fully independent self-employed, but rather dependent contractors, including homeworkers in global supply chains (Chen, Chapter 2; Françoise Carré, Chapter 3; Von Broembsen, Chapter 7; also see Monteith et al., 2021).

A third misconception is identified by Michael Rogan (Chapter 4), who examines the assumption that informal workers do not pay tax. It is true that informal workers may pay little/no personal or corporate income tax (the forms of taxation that are often understood as the instrument through which the social contract is negotiated), since their earnings usually fall below national income tax thresholds. However, as Rogan’s empirical work in Ghana shows, informal workers are subject to a range of fees, licenses and market levies, often levied at local government level, meaning that they are far from “tax evaders.”

A final – and very prevalent misconception – is the idea that informal work falls outside the reach of the state. As this volume has elaborated multiple times, this is simply not the case. The reality of the situation is that while informal workers fall outside the protective arm of the state, as Sally Roever and Ana Carolina Ogando (Chapter 1) and Reed (Chapter 9) so clearly show, they are often adversely incorporated under the punitive arm of state regulation. In order to see this, though, it is critical to move beyond the idea of the state as a monolith, and as either “good” or “bad.”

It is equally important to acknowledge, however, that while misconceptions are significant drivers of the “bad old contract,” this status quo also benefits many powerful economic actors. As Von Broembsen (Chapter 7) argues, in sectors such as the garment industry, the traction between labour and capital has yielded to complex global supply chains which transcend national boundaries, undermining the power of national law to regulate working conditions. This situation has not evolved by accident – it has arisen out of a drive for increased profits as brands exercise their coercive market power to download costs and risks onto poorer workers in places far removed from their home base.

The role of coercive economic power in marginalizing informal workers is also described by Cass Talbott in Chapter 6 in relation to the power of global brands to set the terms of engagement in Extended Producer Responsibility (EPR) policy, which can be to the disadvantage and exclusion of informal waste pickers. The theme emerges again in Chapter 8 with Salonie Muralidhara Hiriyur’s exploration of the shifts in the domestic work sector in India as a result of the introduction of digital platforms. Ultimately, while having the potential to alleviate some of the problems around informal labour, current digital platform models often end up doing the opposite – consolidating control over workers, intensifying productivity requirements, disrupting worker collectives and excluding workers from livelihoods – while at the same time providing little in the way of protection.

What this means is that it is not only misconceptions which need to be addressed if we are to move towards a more inclusive social contract for informal workers, but also the underlying political economy which exacerbates the situation. The social contract is not only constituted by the relationship between the state and workers, but also in the relationship between capital and informal workers. Without addressing this dual association, and the all-too-frequent collusion between state and capital, there is a good chance that the “bad old contract” will in time transform into the “even worse” social contract described below.

THE “EVEN WORSE” SOCIAL CONTRACT

Evidence has mounted up showing that left unchecked, the pandemic will reinforce inequalities and lead to the deepening of economic and other inequalities. Contributors to this book have indicated several plausible trajectories for an even worse contract. These include:

The Intensification of Predatory Capitalism

Beneath the unpredictable and fitful lurches of the pandemic, glimpses of callous and calculated forces of predatory capitalism which intentionally seek to counter efforts to institutionalize bottom-up solidarity efforts have become visible. We see this in Cass Talbott’s description of the formation of producer responsibility organizations, which can give companies considerable power to establish monopolies in the solid waste management sector to the exclusion of disenfranchisement of waste pickers and their collectives. However, such a regressive solidarity can also form between the state and capital, as we see in the way that national governments in Asia have capitulated to the demands of global brands for lower prices by unilaterally amending labour laws to increase working hours and engage in union-busting. This even after brands refused to compensate millions of garment workers for cancelled orders (Von Broembsen, Chapter 7).

Government Overreach

There are examples where governments have and are using the COVID-19 outbreak as an opportunity to further entrench repressive measures against informal workers. As Reed (Chapter 9) argues, during the early months of the crisis in 2020, many law enforcement actions went beyond simply stopping workers from providing services, but actively harmed them at a time of intense economic desperation. WIEGO’s 12-city study highlighted street vendor’s experiences of confiscations and destruction of equipment in multiple cities, while waste pickers in India reported enduring daily beatings from local government officials for the crime of selling vegetables. Alarmingly, some of the actions which took advantage of the “distraction” provided by the pandemic will threaten incomes well into the future, as is the case for waste pickers in Accra where the Kpone landfill site was suddenly decommissioned in response to the World Bank’s Greater Accra Resilient and Integrated Development programme (Reed, Chapter 9).

Overt punitive actions such as evictions, confiscations and destruction of workers’ worksites or productive assets are stark examples of how different

levels or branches of the state act in ways that are mutually counterproductive. While national governments were scrambling to provide social protection to informal workers to help smooth incomes over the crisis, local governments, or specific parts of national governments, were implementing actions which further undermined those incomes. Here again, the punitive arm of the state may ally with capital in a regressive solidarity to privatize space or commodities, ultimately dispossessing informal workers of their livelihoods (Reed, Chapter 9).

Inappropriate Application of Social Contract Ideas

A final component of the “even worse” contract is the possibility that arguably well-intentioned (in some cases) new social contract architects, including international institutions and national governments, apply elements of a new social contract to informal workers in an inappropriate manner. This would include, for example, the application of the type of formalization focused on registration and the levying of taxes such as those highlighted in the chapters from Chen, Rogan and Cass Talbott, but this has also been discussed from a gendered perspective in Jayati Ghosh’s (2021) edited volume, *Informal Women Workers in the Global South*.

As the impacts of the COVID-19 pandemic and related restrictions have contributed to one of the largest global economic downturns in generations, national governments are likely to search for additional sources of revenue to finance stimulus and recovery packages – and this may lead towards the prioritization of direct taxation on the self-employed in the informal sector. Yet, as Rogan (Chapter 4) argues, such interventions are often based on the benefits of taxation to both workers and state–society relations, while conveniently ignoring the crippling impacts and the broader system of contributions which informal workers make. Moreover, as Cass Talbott points out, formalization initiatives which eradicate independent informal entry points into the economy are more likely to lead to unemployment than eliminate the need for low-barrier informal work.

There is, however, one further inappropriate application of social contract ideas which should be highlighted here. It has not emerged as a theme in this volume but has been discussed by authors elsewhere (see Alfers et al. 2018; also see Staab 2020). This is the idea, promoted by multilateral institutions and often linked to the idea of a new social contract, that the presence of informality, and in particular self-employment, justifies the dismantling of comprehensive systems of social protection, which include both social assistance and employment-linked social insurance, in favour of a minimalist safety net and private insurance mechanisms (for example, see *World Development Report, 2019: The Changing Nature of Work*; World Bank 2019). While it is true that

non-contributory forms of social protection are important to providing a basic floor to cover informal workers, the dismantling of higher-order social protections may also have the perverse effects of ensuring that informal workers only ever have access to a very minimum level of benefits and reducing the overall fiscal space available for the financing of state benefits.

The testimonies of informal workers contained in Reed's chapter show how all of these components of the even worse contract – predatory capital, hostile (local) states and inappropriate regulation (and even protection) – compounded one another during the COVID-19 lockdowns of 2020. So that even where urban informal workers had been declared as essential workers, many were unable to work. The danger for informal workers moving forward is that these three elements are intensified.

A BETTER NEW CONTRACT

At the same time as providing a warning about what could become worse for informal workers, the authors in this volume have also presented a collective vision of a better new social contract: one in which informal workers are recognized as workers; laws and policies are relevant and responsive to the needs of informal workers; reciprocal relationships are established between the state, capital, and formal and informal labour at the municipal, national and transnational levels; rights and responsibilities are redistributed between stakeholders and expanded beyond a narrow view of social protection and national taxation; and, last but not least, spaces for policy dialogue are opened up to informal worker organizations and leaders.

In what follows, we summarize the necessary actors, rights and responsibilities and processes necessary to this collective vision.

Necessary Actors, Jurisdictions and Relationships

The main actors in a better new contract for informal workers include an accountable state (local and national), responsible capital (employers of informal workers and other owners of formal firms), formal labour and recognized informal labour. But other actors are also needed: non-governmental organizations which support informal workers and their organizations; social movements which fight for human rights, including those of informal workers; academics, statisticians and data analysts who promote improved statistics and policy-relevant research on informal workers, units and activities; and lawyers and legal resource centers which support the legal struggles of organizations of informal workers.

Given the globalization of production and the fact that many informal workers are inserted into global supply chains, as Von Broembsen points out in

Chapter 7, there is a need for “plural, overlapping social contracts at different levels” with a broader set of actors to deal with different jurisdictions: local, national and transnational. In large part this is because national governments are simply not willing or able to regulate employment in global supply chains; and transnational corporations tend to turn a blind eye to the employment and contracting arrangements in their supply chains. There is a need for a broader set of actors, including global union federations and social movements, to negotiate transnational employment relations and a transnational social contract. Fortunately, there are global networks of organizations of informal workers by sector – domestic workers, home-based workers, street vendors/market traders and waste pickers: all part of a global movement of informal worker organizations actively engaged in making local, national and transnational demands – both sector-specific and more generally – for informal workers.

Defining the nature of the relationships between actors is also a key contribution of informal workers and their organizations (Chapter 1), who describe how, instead of adversarial or coercive engagements, fair relationships (for example between informal workers and municipal workers) characterized by recognition, responsiveness and reciprocity need to be in place to support a balanced vision of shared rights and responsibilities.

Necessary Rights and Responsibilities

The common rights that informal workers demand and struggle for include the right to legal recognition and dignity as workers; the right to work and pursue their livelihoods; the right to public goods, including public services, public space and public procurement; the right to social protection; and the right to collective representation. They also want the right, a negative freedom if you will, to not be subject to harassment, bribes, confiscation of goods and evictions by government authorities and the police (see Chen, Chapter 2). These rights, as summarized below, are the necessary elements of a better new contract for informal workers.

- Legal recognition – recognition of informal workers, their work, their working conditions, and the roles they play in economic and social life: by state entities at all levels, by private sector firms who supply or buy goods to/from them, by their employers (if wage employed or dependent contractors) and by the general public (Roever and Ogando, Chapter 1). Ideally, informal workers seek legal recognition and identity as workers – as economic actors. Further, legal recognition needs to address the stigmatization and penalization of these workers due to *what they do*, as their work is associated with crime or grime by policy makers, local authorities,

the police and the general public; and to *who they are*, as many informal workers are from disadvantaged racial, ethnic, caste or religious groups or are migrants.

- Universal social protection – social protection that includes social insurance as well as social assistance for informal workers and that provides work-related protections and benefits that informal workers need, including childcare services (Alfers and Moussié, Chapter 5).
- Access to public space, public services and public procurement – regulated access to public space in order to pursue their livelihoods (especially for street vendors but also waste pickers), basic infrastructure and transport services at their worksites (including the homes of home-based workers), and public procurement (for example, municipal solid waste management contracts for waste picker cooperatives; government procurement of masks and uniforms made by home-based workers) (Chen, Chapter 2).
- Fair terms of employment and of trade – minimum wages, social protection contributions and worker benefits, including paid annual leave and sick leave, for informal wage workers and dependent contractors, including homeworkers/industrial outworkers who work from in or around their own homes for domestic and global supply chains, and gig workers who work for digital platforms (Von Broembsen, Chapter 7; Carré, Chapter 3); and fair terms of trade for informal self-employed, including fair prices for the supplies/stock they buy and the goods/services they sell.
- Just and progressive taxation – taxation systems and tax reforms which recognize that the earnings of most informal workers fall below the threshold for corporate or personal income tax; that many informal workers pay taxes, including value-added tax on supplies and stock, as well as operating fees; and that informal workers are willing to pay taxes and operating fees if they receive some benefits in exchange (that is, the principle of reciprocity; Rogan, Chapter 4).
- Freedom from harassment and penalization – freedom from harassment, bribes, confiscation of goods, destruction of worksites and evictions by local authorities and police (Chen, Chapter 2).

In short, what is needed is an enabling policy environment at the local, national and international levels: a policy environment that recognizes and values informal workers as economic agents; builds informal workers, their activities and places of work, into local, national and international economic plans; guarantees legal rights and social protection to informal workers; and invites representatives of informal worker organizations to the policy table.

In terms of responsibilities, informal workers express a strong expectation that the state should guarantee these rights in policy and in practice, at the national and at the local level, and hold the private sector accountable for

ensuring fair work conditions (Chapter 1). Increasingly, informal workers are also clearly articulating that the private sector (across supply chains, national and transnational) needs to take responsibility for the fair treatment of workers, even when the necessary legislation is not yet in place (chapters 6, 7 and 8). In return, informal workers confidently highlight their social and economic contributions in terms of job creation and goods and services provided; their efforts to comply with burdensome or inappropriate regulations; and their provision of essential services, investment in public health and social protection and broadly serving local communities (chapters 1, 2, 8 and 9). The payment of taxes is often viewed as a primary responsibility of workers towards the state; however, taxes are not considered a feature of state–citizen reciprocity in the narratives of informal workers: although evidence has determined their willingness to pay taxes, they see little return for the multiple forms of tax and levies that they already contribute (Chapter 4).

Necessary Processes

For each dimension of the better contract, we have also asked: “How to get there?” The actual struggles and several successes by informal worker organizations towards the achievement of this vision for a better social contract have been documented in a large number of case studies in this book (see Box C.1). Building on solidarity established over decades, through local, national and global networks, informal worker organizations have been able to negotiate effectively and secure legal and policy victories. They have done so by being offered a seat at the policy table and with support from activist academics and lawyers and non-governmental organizations. These case studies illustrate potential strands of collaboration which can begin to unravel unfair systems.

Right through the book, two major processes of change have been highlighted:

A change in mindsets and dominant narratives regarding the informal economy

Most policy makers and economic planners tend to see informal workers, their enterprises and activities, as a problem to be dealt with, asserting that they: evade taxes and regulations, deal with illegal goods and services, represent unfair competition to formal enterprises, have low productivity, represent a drag on the economy, and, in urban areas, represent a source of crime and grime, a blight on the urban landscape. Yet most informal workers are trying to earn an honest living, often without social or legal protections; without basic infrastructure, transport and social services; without access to public space or public procurement bids; without financial or business development

services; and without tax breaks and other incentives, in the face of systemic discrimination and violence by local authorities and the police, as well as stigmatization and neglect by planners and policy makers. Although there remains a long way to go, international (and in a few cases local) advocacy efforts have started to shift the dominant negative narratives and change the mindsets of policy makers and other stakeholders so that informal workers can be seen as part of the solution to reducing poverty and inequality and also to growing the economy (chapters 3, 6 and 9). While COVID has exposed and exacerbated the inequalities and disadvantages informal workers face, it has also shone a spotlight on the essential goods and services provided by informal workers and served, in many countries, to strengthen informal worker organizations (chapters 3 and 9).

Inclusion of informal worker organizations/leaders in governance and policy processes

Most fundamentally, a new social contract for the informal workers requires that policy-making and rule-setting processes are made more transparent and participatory, inviting representatives from organizations of informal workers to the policy table. Informal workers need representative voice in the processes and institutions that determine economic policies and formulate the “rules” of the (economic) game. Representatives of organizations of informal workers have the ground-level knowledge and experience to negotiate a new social contract that is appropriate – and better – for informal workers. The common motto of the global movement of organizations of informal workers is “Nothing for Us, Without Us.”

Box C.1 summarizes a few of the promising examples of change processes presented in this volume, including several ways in which informal worker organizations have been able to open up wider spaces for participation in policy platforms from which they had previously been excluded.

BOX C.1 EXAMPLES OF CHANGE TOWARDS THE BETTER SOCIAL CONTRACT

Actors, jurisdictions and relationships: Case studies of strengthened relationships between actors across power differentials include collaboration between trade unions and membership-based organizations of informal workers in several African countries (Chapter 5) and between the Self-Employed Women’s Association (SEWA) and local-level government officials in Gujarat, India to improve their members’ access to social protection benefits and to health and childcare services. At the International

Labour Conferences (ILC), transnational networks of informal worker organizations have successfully advocated for two ILO Conventions (for homeworkers and domestic workers, respectively) and key provisions in ILO Recommendation 204 on formalization (chapters 5 and 7). More recently, civil society organizations in Europe, Asia and the United States launched a campaign to pressure brands and retailers to “#PayUp” in solidarity with informal workers whose wages were suddenly suspended by large corporations during the COVID pandemic (Chapter 7).

Legal recognition: The addition of a new statistical category – Dependent Contractor (neither employee nor self-employed) – to the International Classification of Status in Employment employment status category – neither employee nor self-employed – sets an important foundation for recognition in legal frameworks (Chapter 4). In several countries, lawyers have successfully argued using existing legislation in order to defend the rights of urban informal self-employed, such as the “right to vend” of street vendors in India and the right of waste pickers to compete for municipal solid waste management contracts in Colombia. In Bangladesh, after the collapse of the Rana Plaza factory in 2013 a legally enforceable agreement was concluded to improve the occupational safety of 2.5 million garment workers (Chapter 7).

COVID-19 relief: During the COVID-19 crisis, organizations of informal workers have mobilized relief measures. For example, informal workers in Argentina were incorporated into a national dialogue to tackle issues of food, income and job security. Also during the crisis, informal worker organizations have supported governments in the provision of relief: through the identification of beneficiaries in Sierra Leone, and by helping informal workers apply for social protection and/or relief benefits in Thailand. In other cases, the direct provision of relief services by informal worker organizations to their members has led to government funding, such as the provision of childcare services by the Asmare Waste Picker Cooperative in Brazil.

Recognition as essential workers: Negotiations conducted by organizations of informal vendors and traders during the COVID crisis are symbolic of the challenges they face in securing the right to conduct essential work (Chapter 9). In South Africa, following advocacy efforts by the South African Informal Trader Alliance through an existing bargaining platform, the National Economic Development and Labour Council, the government recognized informal food vendors as essential workers. In India, the government’s Urban Affairs Ministry allowed certain vendors selling groceries, fruits and vegetables to operate, following pressure on authorities from the

National Association of Street Vendors of India. Waste pickers in Peru and South Africa were permitted to work, following pressure campaigns from waste picker organizations and advocates. Despite being designated as essential workers, not all informal workers in all contexts were allowed to operate, and few who were allowed to work received personal protection or vaccinations. However, in Accra, Ghana the government provided personal protective equipment to street vendors; and in Lima, Peru informal workers were tested for COVID-19 (Chapter 1).

Fair terms of employment and trade: In the face of intense opposition, coalitions of civil society organizations are seeking to ensure that legislation being drafted by the European Commission, to make it mandatory for companies to take responsibility for the violation of workers' rights in their supply chains, should apply to all workers in all tiers of the chain, and that corporations should face both civil and criminal liability if they fail to address human rights violations (Chapter 7). The movement of digital platform cooperativism in a variety of sectors (care work, delivery and logistics, hospitality, waste recycling, the arts, IT and e-commerce) is seeking to reflect the needs of workers: for example, the SEWA Cooperative Federation provides a promising model for women-owned platform cooperatives with access to financial resources, digital infrastructure, capacity-building, market linkages and an enabling policy environment (Chapter 8). In EPR negotiations, organizations such as the Global Alliance of Waste Pickers are working at the national and international levels to seek inclusion provisions in the form of fair and stable prices, social and labour benefits, opportunities for advancement in formal supply chains, and access to land and infrastructure for storing and processing materials.

Just and progressive taxation: In the face of pressure for regressive taxation measures, some examples of the way in which reciprocity can lead to effective negotiation between workers and the state have been reported in Ghana, Senegal and Peru (Chapter 4). Case studies indicate that for tax measures to be fair, organizations representing informal workers need to be involved directly with the formation of tax policy, benefits need to offset the costs and effective institutions need to ensure that the benefits are received.

CLOSING REFLECTIONS

The COVID-19 pandemic recession has exposed and exacerbated economic injustice and inequality around the world. But it has also shone a spotlight on frontline workers who provide essential goods and services to all of us. What is not well recognized is that many of those who provide essential goods and

services do not enjoy essential rights, including health insurance, as most of them are informally employed.

So long as informal workers, the majority of all workers globally, are stigmatized, penalized and criminalized both for what they do and who they are, poverty and inequality will not be adequately reduced and economic growth will not be optimal. What is required is a better new contract that redistributes wealth through appropriate tax policies; invests in strengthening local systems of production and consumption; ensures universal access to social protection and to good-quality public services, including basic infrastructure and care services, with well-remunerated workers; regulates markets to limit the power of capitalists to download costs and risks on informal workers; ends state violence against informal workers; and challenges the dominant narrative that stigmatizes informal workers as a problem rather than recognizing their contributions in providing essential goods and services.

This will require the organized strength of informal workers to demand change, and an accountable state as well as responsible owners of capital that listen and respond to the demands of informal labour (that is, reflecting the principle of responsiveness; Roever and Ogando, Chapter 1). Since long before COVID-19, informal workers have been organizing, negotiating, bargaining and joining hands to make their demands known. In April 2014, in preparation for the standard-setting discussion on formalization at the 2014 and 2015 ILC, 54 organizations of domestic workers, home-based workers, street vendors and waste pickers from 24 countries developed a common platform of what informal workers need and want from efforts to formalize the informal economy. The better new social contract called for in this volume builds on the demands of informal workers in that common platform (see WIEGO 2014).

Finally, and importantly, what the authors of this volume envision, building on the demands of informal workers, is not a separate contract for informal workers but a new social contract for society which recognizes informal workers as central. This vision draws on a realistic view of work today: namely, that 61 per cent of all workers globally, 90 per cent in most low-income and some low-middle-income economics, are informally employed. It embeds informal workers within concentric and dynamic circles of relationships, rights, responsibilities and spaces at the municipal, national and transnational levels. This larger canvas for social contracts allows for new patterns of engagement, accountability and reciprocity between the different faces of the state, capital and labour as well as civil society and social movements.

The blend of normative ideals and tested theories of change by actors at the margins is an important contribution to social contract discourses, which are often disconnected from the political economy of capitalism (Chapter 7). Shifting power relations requires multiple strategies, and the often less glamorous actions at the frontline of the state–society relationship are just as crit-

ical as participation in coalitions and formal dialogue spaces. Ultimately, the book argues and practically demonstrates that the way forward is to recognize, value and listen to informal workers and to support grassroots organizations who build the relationship between the state and the people, empowering their members to engage more fully in movements which can translate global commitments into local realities.

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