



SUPPORTING WORKERS IN THE INFORMAL ECONOMY:
A POLICY FRAMEWORK

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I. INTRODUCTION

A. Looking Back, Looking Forward

In the mid-1950s, W. Arthur Lewis elaborated a theoretical model of economic development premised on the twin assumptions that there was an unlimited supply of labour in most developing countries and that, as the modern industrial sector in these countries grew, this vast pool of surplus labour would be absorbed (Lewis 1954).¹ During the 1950s and into the 1960s, the Lewis model of economic development - reinforced by the successful rebuilding of Europe and Japan and the expansion of mass production in Europe and North America after World War II – dominated the economics discipline and development perspectives more broadly. It was widely assumed that, with the right mix of economic policies and resources, poor traditional economies could be transformed into dynamic modern economies. It was also widely assumed that, in this process, the traditional sector comprised of petty traders, small producers, and a range of casual jobs would eventually be absorbed into the formal economy and, thereby, disappear.

In many developing countries, however, planned economic development did not create enough modern jobs to reduce unemployment or erode the traditional sector. By the mid- to late-1960s, optimism about economic growth prospects began to give way to concerns about persistent widespread unemployment. Reflecting this concern, the International Labour Organization (ILO) mounted a series of large multi-disciplinary “employment missions” to various countries. The first comprehensive ILO employment mission to Africa was to Kenya in 1972 (ILO 1972). Through its field work, and in its official report, the Kenya mission recognized that the traditional sector, what it called the informal sector, had not just persisted but expanded; that the informal sector was not confined to marginally productive activities but included profitable and efficient enterprises; and that informal sector activities were largely ignored, rarely supported, often regulated, and sometimes actively discouraged by policy makers and governments (Bangasser 2000).²

Despite the fact that the 1972 ILO mission was very positive about the informal sector in Kenya - noting its efficiency, creativity, and resilience – the concept received a mixed review in development circles. Some observers argued that the persistence of the informal sector in Kenya and other developing countries was due to the fact that these countries had yet to achieve sufficient levels of economic growth. These observers continued to assume that the informal part of the economy would decline or disappear with modern industrialized growth. Other observers focused on the least dynamic segment of the informal economy – what has been called the “survivalist” segment - to the exclusion of more dynamic segments. Many of these observers subscribed to the

¹ Nobel Laureate Lewis elaborated this model in his classic paper entitled “Economic Development with Unlimited Supplies of Labour” (Lewis 1954).

²The concept of the “informal sector” did not originate with the foreign experts on that ILO mission, although they helped popularize it. The term was coined by Keith Hart in his 1971 study of informal income opportunities in urban Ghana (Hart 1973). It should also be noted that many African researchers, notably at the Institute of Development Studies, University of Nairobi, had been studying the sector prior to the ILO mission and the Hart study.

notion that the informal economy was marginal or peripheral and not linked to the formal economy. Largely due to such perspectives, the so-called “informal sector” failed to capture the attention of mainstream development economists in any significant way.³

During the 1980s, the informal economy continued to expand, particularly in countries undergoing economic transition - so much so that it has come to be recognized as a feature of economic transition. This is because retrenched workers often move into the informal economy when public enterprises are closed or the public sector is downsized. This is also because households often need to supplement incomes earned in formal employment with informally earned incomes in response to inflation or cutbacks in public services. Available evidence confirms that during periods of economic adjustment – whether due to economic reforms or to economic crises – the informal part of the economy tends to expand. Available evidence also suggests that, without appropriate institutions and policies, the informal part of the economy will persist or expand even after macroeconomic stabilization and economic growth (Johnson, Kaufmann, and Schleifer 1997).

During the 1980s, the informal economy also grew or appeared in unlikely places: notably, in economies with growing and established industrial sectors. Three dimensions of recent industrialization have contributed to the expansion of informal work. First, capital intensification often leads to a reduction of the workforce or, what in the US is referred to as, “downsizing”. Retrenched workers who cannot find alternative modern jobs typically join the ranks of either the unemployed or the informally employed. Often the so-called unemployed, especially in transition or developing economies, are actually engaged in informal work. Second, decentralization of production is associated with the formation of smaller, more flexible, and specialized production units as well as subcontracting of production to smaller production units, some of which remain unregistered or informal.⁴ And, third, cost-cutting measures in the interest of efficiency gains often include the subcontracting of services and an erosion of employment relations. In brief, the recent expansion of the informal economy is linked not only to the **capacity** of formal firms to absorb labour but also to their **willingness** to do so (Portes 1990). In the 1990s, increasing global integration and competition accelerated the emergence or expansion of the informal economy in different contexts. To increase their global competitiveness, investors often shift production to countries that have low labour costs or adjust employment practices to more informal arrangements. Furthermore, there has been a radical restructuring of production and distribution in many key industries characterized by outsourcing or subcontracting through global commodity chains. Under these chains, large retail or manufacturing companies subcontract production to suppliers

³ We prefer to use the term “informal economy” for the so-called “informal sector” for two basic reasons. First, the informal and formal parts of the economy are so interlinked that it is misleading to think of two distinct sectors of the economy. Second, the term “sector” is more commonly used as a classificatory device for industry groups or commodity chains. It is confusing to use the term “sector” as a classificatory device for both the formality/ informality of work status and for industry groups or commodity chains. In this paper, we attempt to shift towards using formal and informal economy, and formal and informal work and workers.

⁴ The decentralization of production into smaller, flexible, specialized units, referred to above, has been called “flexible specialization” (Piore and Sabel 1984).

in other countries who contract small (often informal) production units which, in turn, often contract out some of their work orders to isolated (often informal) workers. The strategy of subcontracting out production through global commodity chains can be thought of as a global variation of “flexible specialization”. This shift should, it has been noted, be accompanied by a parallel shift from regulation of **labour standards** to regulation of **commercial contracts** (Theron and Godfrey 2000).

For these and other reasons, the informal economy has persisted far longer than predicted in most developing countries and has expanded in many developing countries. Furthermore, the informal economy has expanded in many transition economies and in some developed countries. Over the past decade or more, informal work is estimated to account for more than half of the new jobs in Latin America and over 80 percent of the new jobs in Africa. The net result is that the informal economy today accounts for a significant share of employment and output and is comprised of a remarkable range of informal work arrangements, both resilient old forms and emerging new forms. The classical economists – both neo-classical and Marxist – did not predict the notable shifts in recent years from mass production to flexible specialized production or back to sweatshop production. Neither did they predict the persistence of traditional forms of non-standard wage work (e.g. casual jobs) and self-employment (e.g. street vending); or the emergence of new forms of non-standard wage work (e.g. temporary and part-time jobs) and self-employment (e.g. high-tech home-based work). Today, however, there is a remarkable convergence of interest in the informal economy as more and more development scholars and practitioners recognize that it is here to stay, in both new and old guises.

B. This Paper

The purpose of this paper is to provide a conceptual and normative framework – with promising examples - for developing an appropriate policy approach to the informal economy in different contexts. Before doing so, we briefly describe key aspects of the informal economy – its size and composition, its linkages with both poverty and growth, its legal status, and the risks and opportunities associated with it (Section II). In Section III, we then enter the debate over whether governments and other stakeholders should intervene in the support for and regulation of the informal economy (Section III). In Section IV, we outline a conceptual and normative framework for policy analysis. Then, we discuss how four different functional areas of policy relate to the informal economy: macro economic policies (Section V), urban policies and regulations (Section VI) labour policies and standards (Section VII), and social protection policies (Section VIII). In so doing, we seek to broaden the policy lens from an (almost) exclusive focus on micro-level interventions - including single “magic bullet” solutions and a myriad of targeted schemes – to a wider structural or systemic perspective. In Section IX, we describe two current examples of inclusive policy-making processes relating to the informal sector: the National Labour Commission in India and the Informal Economy Policy Review in Durban, South Africa. We conclude, in Section X, with some principles and guidelines for facing the challenge of undertaking inclusive policy processes to develop appropriate policies for the informal economy in different contexts.

This paper draws on the experience, knowledge, and findings of the activists, researchers, and policy makers in a global research-policy network called Women in Informal Employment: Globalizing and Organizing (WIEGO). WIEGO is part of the international movement of women in the informal economy inspired by the Self-Employed Women's Association (SEWA) in India. This movement also includes two international alliances of organizations representing (or working with) home-based workers and street vendors called, respectively, HomeNet and StreetNet.

II. THE INFORMAL ECONOMY

Given the recent expansion of the informal economy in unfamiliar – as well as familiar – places and guises, there is clearly, a need to better understand the informal economy today. However, given its heterogeneity and its evolving nature, describing the informal economy in any meaningful way is quite difficult. Moreover, this is not the time or place to attempt anything other than a brief, quite generalized description. In what follows, we briefly discuss the size, composition, and contribution of the informal economy; its linkages with the formal sector; its characteristics and legal status; its links with poverty and growth; and the constraints and opportunities within which it operates.

A. Size and Composition

Size –

Before the recent Asian financial crisis, during which large numbers of modern jobs were lost, official statistics indicated that the share of informal workers in the **non-agricultural workforce** ranged from over 55 percent in Latin America to 45-85 percent in different parts of Asia to nearly 80 percent in Africa (see Table 1). If one includes small farmers and agricultural labourers in the informal workforce, as many countries do, the share of the informal workforce in the **total workforce** is higher still: in India, for instance, the informal workforce (including agriculture) accounts for over 90 percent of the total employment.⁵ Another way to think about the size of the informal economy is to consider the share of informal employment in the **total urban workforce**. Available evidence suggests that the informal sector accounts for 40 to 60 percent of total urban employment in most developing countries.

⁵ The official international definition of the informal sector – adopted by the 15th International Conference of Labour Statisticians in 1993 – leaves it to the discretion of individual countries to decide what size of unregistered units to include in the informal sector and whether to include the agricultural sector and domestic workers in the informal sector.

TABLE 1
SIZE OF THE INFORMAL WORKFORCE
IN DEVELOPING COUNTRIES

INFORMAL WORKFORCE AS SHARE OF	LATIN AMERICA CARRIBEAN	AFRICA	ASIA
Non-agricultural employment	57%	78%	45-85%
Urban employment	40%	61%	40-60%
New jobs	83%	93%	NA

Source: Charmes 1998a (updated 2000).

Composition -

The term “informal sector” is invoked to refer to street vendors in Bogota; rickshaw pullers in Hanoi and Calcutta; garbage collectors in Cairo; home-based garment workers in Manila, Madeira, Mexico City, and Toronot; and home-based electronic workers in Leeds, Istanbul, and Kuala Lumpur. Some observers feel the sector is simply too varied or heterogeneous to be meaningful as a concept (Peattie 1987). Despite its heterogeneity, the informal economy can be usefully and meaningfully classified in either of two ways: by those who work in it (the workforce) or by the activities which take place in it (economic units). Those who work in the informal economy can be usefully classified according to the following **employment status** categories:

I. Non-Wage Workers

Employers, including:

- owners of informal enterprises
- owner operators of informal enterprises

Self-Employed, including:

- heads of family businesses
- own-account workers
- unpaid family workers

II. Wage Workers:

Employees of informal enterprises

Domestic workers

Casual workers without a fixed employer

Homeworkers (also called industrial outworkers)

Temporary and part-time workers

Unregistered workers

Of course, some people belong to more than one of these basic categories: those who change jobs or activities across any given unit of time (day, month, year) and those who hold more than one job or are engaged in more than one economic activity at any given time. Whether a person holds one employment status or multiple employment statuses - across time or at a single point in time - is often difficult to determine. And, clearly, the fact that some people hold multiple statuses complicates classification.

It should be noted that only one category of informal wage workers – namely, employees of informal enterprises – is included in the 1993 **enterprise-based** definition of the informal sector adopted by the 15th. International Conference of Labour Statisticians (ICLS). This is because the 1993 ICLS defined the informal sector as the sum of self-employed, family workers, employers and employees of informal enterprises but, thereby, excluded many wage workers who are hired causally and lack protection (Portes 1994). Some observers, including the international network WIEGO, recommend a broader **employment-based** definition of the informal sector to include all wage workers who work without minimum wage, assured work, or benefits, whether they work for an informal or formal firm. The employment-based definition recommended by WIEGO would include a) all employers of informal enterprises; all self-employed persons, **except** self-employed professionals and technicians; and c) all wage workers who work without minimum wage, assured work, or benefits, whether they work for formal or informal firms (including employees of informal firms, domestic workers, causal workers, homeworkers, temporary and part-time workers, and unregistered workers).⁶

The important point to keep in mind is that the informal economy, whichever definition is used, has two basic components: non-wage employment (comprised of so-called independent workers) and wage employment (comprised of so-called dependent workers). Of course, it is not always easy to determine whether a person operates as a fully dependent wage worker or as a truly independent entrepreneur. Consider the case of the industrial outworker or homemaker who does not control her raw materials or finished products but has to buy and maintain her own equipment and cover rent and utility costs. Also, many so-called independent operators do not exercise complete control or autonomy over their economic activities. But there is a need at all times to distinguish between how policies and regulations affect the self-employed (and their enterprises or economic activities) as opposed to how they affect informal wage workers (and their employers).⁷

For the purposes of policy analysis, in addition to their employment status, informal workers should be classified according to the **industry or sector** in which they work and their **place of work**. This is not the time to go into the technical details of industry sector or place of work classification. There is a whole sub-field of industrial classification in

⁶ There are two reasons for including homeworkers in the informal economy. First, a conceptual point, is that homeworkers work under informal contracts with no assurance of work and few benefits. Second, a methodological point, few homeworkers know whether the firm they work for – either the lead firm or, even, the immediate contractor – is a formal or informal unit.

⁷ The point here is that while an enterprise-based definition of the informal economy might be useful in statistical terms – for example, in calculating national accounts – an employment-based approach is useful in policy terms – for example, in considering who to target and how to finance social protection policies.

labour force statistics; and there is a current effort to improve place of work variables in labour force statistics.

B. Linkages with the Formal Economy and Regulatory Environment

Much of the literature on the informal economy focuses on the nature of the relationship between the informal and formal “sectors”. There are three well-known schools of thought regarding this relationship whose perspectives can be summarized in a stylised way as follows. The **dualists** view the informal economy as a separate marginal sector – not directly linked to the formal sector - that provides income or a safety net for the poor (ILO 1972). They argue that the informal sector exists or persists because economic growth or industrial development has failed, as yet, to absorb those who work in the informal sector. The **structuralists** view the informal sector as being subordinated to the formal sector (Castells and Portes 1989). They argue that, in order to reduce their labour and input costs and, thereby, increase their competitiveness, privileged capitalists in the formal sector seek to erode employment relations and subordinate petty producers and traders. The **legalists** view informal work arrangements – or, more specifically, unregistered businesses - as a rational response by micro-entrepreneurs to over-regulation by government bureaucracies (de Soto 1990). They argue that those who run businesses informally do so to reduce their costs and increase their wealth.

In this debate on the linkages between the informal and formal “sectors”, there is a tendency to conflate a) the distinction between informal non-wage workers and informal wage workers and b) the distinction between the links of the informal workforce with the formal economy (or private sector) and with formal regulatory controls (or public sector). However, underlying each of the three schools of thought is an implicit model of how specific categories of the informal economy relate (or do not relate) to the formal economy and the formal regulatory environment. The structuralists focus primarily on the relationship of informal wage workers, as well as petty producers and traders, with dominant economic interests while acknowledging that the government has a role to play in regulating that relationship. The legalists focus primarily on the relationship of informal micro- entrepreneurs with bureaucratic or regulatory controls but acknowledge that powerful economic actors often influence bureaucrats and politicians, sometimes resulting in what are called “mercantile states”. The dualists tend to focus on micro-entrepreneurs and the self-employed, rather than informal wage workers, and to deny the existence of direct links between their activities and either the formal economy or the formal regulatory environment.

Relationship with the Formal Economy –

Contrary to the dualist perspective, most segments of the informal economy have direct production, trade, or service links with the formal economy. Consider the industrial outworkers who produce under subcontracts for formal firms, or the street vendors who sell on commission for formal firms, or the janitors who clean the offices of formal firms under a subcontract. The real question is not whether informal wage workers or informal

units have direct ties with the formal economy but what is the nature of those ties: benign, exploitative, or mutually advantageous?

Consider, on the one hand, the links between informal wage workers and formal businesses. In a 1990 article, Michael Piore described three basic business strategies: sweatshop production, mass production, and flexible specialization. According to Piore, sweatshop production involves minimum capital investment or units of capital that are general (rather than specialized) and divisible; and workers being paid by units of output (i.e., piece-rate) and being deprived of a minimum wage and basic health or safety standards. Sweatshop workers, Piore argues, include those who work in workshops (or sweatshops) and those who work from their homes (called homeworkers or industrial outworkers). Mass production involves capital investment and units of capital that are specialized; and workers being paid a minimum hourly wage and enjoying basic health and safety standards. While flexible specialization involves less capital-intensive technology or techniques with more general applicability; and a variety of work arrangements (Piore 1990). In an earlier book called The Second Industrial Divide, Michael Piore and his colleague, Charles Sabel, had documented that mass production in industrialized countries, rather than continuing to expand as Arthur Lewis and other neo-classical economists predicted, had given way to flexible specialization or, in some cases, had reverted to sweatshop production (Piore and Sabel 1984).

Of course, Piore and Sabel's analysis relates primarily to **formal** businesses in **industrialized** countries. From a developing country perspective, we would modify or adjust Piore's typology of business strategies in the following way. First, we would highlight that **mass production** - the only business strategy that ever gave rise to significant numbers of standard or formal wage jobs - never expanded significantly in most developing countries. Second, we would draw a distinction between **homework (or industrial outwork)** and **sweatshop production**. Sweatshop workers do not have to absorb many non-wage costs and often have some assurance of continuing work, whereas homeworkers absorb the costs of rent and other non-wage costs and have little assurance of continuous work. As such, homeworkers constitute the real reserve labour force. Third, we would add three other business strategies – **causal production, sub-contracted services**, and **global flexibilization** – to Piore's typology (see Box 1).

BOX 1
TYPOLOGY OF BUSINESS STRATEGIES
AND RELATED EMPLOYMENT ARRANGEMENTS

BUSINESS STRATEGY	EMPLOYMENT ARRANGEMENTS
Casual Production	Range of casual or day jobs: piece-rate and time rate
Sweatshop Production	Piece-rate jobs in sweatshops
Homework Production	Piece-rate jobs at home
Flexible Specialization	non-standard jobs with hourly wages but few benefits
Global Flexibilization	Piece-rate jobs in sweatshops Piece-rate jobs at home
Outsourced Services	Temporary and part-time jobs with hourly wages but few benefits

Source: modified version of Piore typology (Piore 1990)

If one accepts that the informal economy includes all types of “non-standard” wage employment – including sweatshop production, homework, temporary and part-time work, unregistered workers - there are clear links (both direct and indirect) between many informal wage workers and formal businesses. The question, then, becomes who is avoiding regulation: informal workers? or their employers in both informal firms and formal businesses?

Consider, on the other hand, the link between informal businesses and formal businesses. In general, the smaller and more informal a business, the less access its owner has to resources and markets and, therefore, the less competitive the business. There could be no greater contrast in terms of market access, power, and competitiveness than between the woman who produces clothes at home for local markets and the brand-name retail firm that markets fashion clothes in the US or Europe. The existing inequality between large businesses and small or micro business is often reinforced when governments offer incentive packages to increase business competitiveness. This is because most incentive packages, as we will discuss below, are targeted (primarily) at large formal businesses and (sometimes) at small business but (seldom) at micro businesses.

Relationship with Formal Regulatory Environment –

There is a widespread perception that those who work in the informal sector are avoiding regulation and taxation and, therefore, are operating illegally. This perception persists partly because the defining features of informal enterprises under the official

international definition of the informal sector are their small size (less than 10 or so workers) and the fact that they are not registered. This perception also persists because many observers equate parallel, black, and informal markets. Parallel markets in particular product or factor markets when certain economic agents seek to circumvent price and other regulatory controls by operating outside – but parallel to – formal regulated markets. The term “black” market, in contrast, has a distinct implication of illegality and it most often “refers to markets for prohibited goods, such as cocaine or firearms, for which there is no legal market, hence no parallelism” (Jones, Lindauer, and Roemer 1991:10). The linkages between those who work in the informal sector, the regulatory environment, and the parallel or black economy is far more complex than either the official definition of the informal sector or standard theories of parallel and black markets would suggest.

Legality, Illegality, and Criminality: There is a broad consensus that informal activities and employment relations take place outside the formal regulatory framework. However, there are marked differences in the diagnosis of informality, including: who or what remains unregulated, and why. The standard neo-liberal perspective is that informal entrepreneurs deliberately avoid compliance with the law and the regulatory environment. The legalist perspective, popularised by Hernando de Soto, is that informal entrepreneurs find it impossible to comply with the unreasonable bureaucratic procedures associated with registration. The structuralist perspective is that there are structural barriers – not just bureaucratic barriers – to formalization and that vested interests in the formal economy promote informal arrangements.

We endorse an alternative perspective put forward by, among others, Victor Tokman (1992) and J.J. Thomas (1995). According to this perspective, informal activities and relationships are well outside the criminal economy but fall on a continuum between illegal or underground activities and legal or formal activities. Informal activities and arrangements occupy, that is, the vast grey semi-legal middle between legality and illegality. In Tokman’s formulation, this semi-legal terrain includes activities/arrangements that represent “restricted illegality” and “restricted legality”. Thomas draws a distinction between the **output** (goods and services) of the informal economy and the **process** by which output is produced or distributed and, then, between legal or illegal output and processes (see Box 2). As defined by Thomas, **informal** operators are those who produce legal goods and services and, in the way they operate, do not violate the law; while **irregular** operators produce or trade in legal goods and services but do not register their businesses, report their output, or pay taxes; and **criminal** operators not only operate illegally but also produce or distribute illegal goods and services.⁸

⁸ Two additional complexities are not addressed in Thomas’ typology. The first is the legality or the illegality of the operator him or herself. Around the world, illegal migrants comprise one segment of the informal economy. What they do and how they do it may be legal while their own status remains illegal or undocumented. Although the problem of illegal immigrant workers is very real, often the number of “illegal” immigrants in a particular trade is exaggerated and used to divert attention from the poor working conditions of “proper” workers. For instance, it is often argued that the homeworkers are afraid to complain because they are illegal migrants. But the number or percentage of workers who are “illegal” migrants as opposed to legal migrants needs to be assessed in each context. Among homeworkers in

BOX 2
 TYPOLOGY OF ECONOMIC ACTIVITIES
 OUTSIDE THE FORMAL SECTOR¹

SECTOR	MARKET TRANSACTIONS	OUTPUT	PRODUCTION DISTRIBUTION
HOUSEHOLD	No	Legal	Legal
INFORMAL	Yes	Legal	Legal
IRREGULAR	Yes	Legal	Illegal
CRIMINAL	Yes	Illegal	Illegal

Source: J.J. Thomas 1992.

In this paper, we use - and would recommend - a definition of the informal economy that includes restricted illegal and restricted legal operations (as defined by Tokman) or legal and irregular operators (as defined by Thomas) but not criminal operators (e.g., those dealing in illegal drugs or firearms). We recognize that the dividing line between legality, illegality, and criminality is often quite fine. Most countries have laws and regulations to govern the informal economy, but these laws and regulations are often outdated or inappropriate. Moreover, depending on the context, existing laws and regulations are selectively enforced or not enforced at all. Also, in many countries, some informal operators are undocumented migrants and/or trade in smuggled goods. Are they irregular, illegal, or criminal operators? To complicate matters, many informal workers work for units – both formal and informal – that do not pay minimum wages, or provide standard worker benefits, or pay payroll taxes. In the later case, it is the employer or firm that is avoiding the law or regulations, not the worker.

Regulated and Non-Regulated: The dividing line between being regulated and remaining non-regulated is quite complex. The official international definition of the informal sector (ICLS 1993) defines an informal enterprise as one whose size in terms of employment is below a certain threshold (determined nationally) and/or which is not registered under specific forms of **national** legislation, such as factories or commercial acts, tax or social security laws, established by national legislative bodies. It does not refer to registration under regulations enacted by **local** authorities for the purpose of obtaining a trade license or business permit (Husmanns 2001). This gives rise to a common situation where a business is registered with a local authority – notably, a city council – but is not registered with a national authority and does not submit its records to the system of national accounts. Another not-uncommon situation is that a business may have to pay taxes to local authorities even if it is not registered with the local authority. For example, some city councils deploy tax collectors to collect daily market fees from all street vendors whether or not they are registered. And many city councils impose

England, whereas many are immigrant women, the number who are “illegal” migrants is small compared to the number who are proper residents. The second is the legality or illegality of smuggled goods. Many smuggled goods would otherwise be legal, except for the fact that they were smuggled into one country from another without an import license.

indirect taxes on street vendors in the form of fines and bribes. A related situation is that some city councils that impose market fees or indirect taxes on street vendors but do not allow vendors to register or, if they allow registration, do not allocate space or permits to street vendors.

To complicate matters further still, there are two broad types of regulations. First, there are regulations related to **becoming** legal: notably, registration and licensing. These are the ones referred to in the international definition of the informal sector. Then, there are regulations related to **remaining** legal: notably, taxation and labour obligations but also health and safety regulations.

The debate on regulation and taxation tends to focus on the costs (rather than the benefits) of regulation and taxation and on formal systems (rather than informal systems) of regulation and taxation. Does regulation only entail registering businesses and paying taxes? Or does it also mean allocation of space, permits, services, and other benefits by local or national authorities? Or does it also mean obtaining loans or obtaining information about the price, quality, quantity, and sources of particular goods and about potential markets or customers? What about various forms of informal regulation or self-regulation? Does taxation only mean direct revenue taxes paid by informal entrepreneurs? Or does it include indirect payments made by informal entrepreneurs? And does it include payroll taxes paid by the employers of informal workers?

The notion that informal workers avoid regulation primarily in order to avoid taxes is simplistic. More emphasis needs to be placed on an analysis, from the perspective of persons trying to develop a small enterprise, of the costs of and barriers to being regulated; and, from the perspective of wage workers hired under informal contracts with no protection, of the costs to them when their employers avoid labour regulations. In such analyses, the nature of existing institutions and policies – whether they are poorly or well designed – and their influence on informal activities and arrangements needs to be taken into account (Kuchta-Helbling 2000).

Some individuals and households take up informal economic activities for sheer survival. What attracts most of them to the activities that comprise the survival end of the continuum of informal activities are their relative ease of entry, reliance on local resources, small manageable scale, and minimum capital investment. Informal activities of this kind allow disadvantaged individuals or households to maximize what is often their only real asset, their labour power. Those who operate at the survival end of the informal continuum operate illegally either because the costs of formalizing their economic activities are simply too high or the procedures for doing so are too complicated, intimidating, and time-consuming. Another group of individuals or households takes up informal economic activities because of their potential for generating growth or wealth. What attracts some of those in this group is the fact that informal activities are thought to be unregulated and untaxed and, therefore, to have the potential for autonomy and profits. Still another group devotes part-time to informal activities while working full or part-time elsewhere. What attracts this group is typically the

flexibility – in terms of time and location – and the low-investment associated with informal activities.

It is important to recognize that a third category of informal activities or arrangements is initiated and governed by powerful economic interests in the formal economy. Consider the case of home-based workers. Whereas some women prefer or opt for home-based work because it allows them to balance work and home responsibilities; other women are forced to work from their homes under subcontracting arrangements because the industry will not hire them under more secure work arrangements.

To summarize this discussion, we would argue for a comprehensive policy framework that recognizes that the informal economy is linked to both the formal economy and the formal regulatory environment; analyses the nature of these relationships by different segments of the informal economy and by the context in which each segment operates; and recognizes the distinction between informality and outright illegality. More concretely, we would argue for a policy framework that recognizes that street vendors often have to vend informally either because they are not incorporated in existing regulatory frameworks or because existing regulatory frameworks are too punitive or constraining. That industrial outworkers typically have little (if any) bargaining power with the economic units or agents who put out work to them, especially when they work in global commodity chains that place a great distance between lead firms and their workers. And that self-employed, particularly home-based, producers typically have limited market knowledge, market access, or bargaining power compared to large manufacturers, especially in the competition for emerging global markets.

C. Poverty and Growth Linkages

Informality and Poverty -

The relationships between informal employment and poverty is often assumed but not well understood. Despite the heterogeneity within the informal economy and its contribution to growth, there are links between working informally and being poor. Average incomes are lower in the informal economy than in the formal economy. As a result, a higher percentage of people working in the informal sector, relative to the formal sector, are poor. However, there is no simple relationship between working informally and being poor, or working formally and escaping poverty (Charmes 1998, Sethuraman 1998, and Thomas 1995). For example, millions of South Africans worked all their lives for the gold mining or commercial agricultural industries – yet never escaped poverty, because there was no living wage for unskilled but formal workers, and because upward job mobility was restricted through apartheid legislation. The relationship between informal employment and poverty appears only when informal workers are classified by employment status and by industry or trade. Informal incomes worldwide tend to decline as one moves across the following types of employment: from employer to self-employed to informal and casual wage workers to industrial outworker.

The link between working in the informal sector and being poor is stronger for women than for men. A higher percentage of women than men worldwide work in the informal sector. Moreover, there is a gender gap in incomes and wages in the informal sector. This is because women worldwide are under-represented in higher income employment statuses in the informal sector (employer and self-employed) and over-represented in the lower income statuses (casual wage worker and industrial outworker). For instance, relatively few women are employers who hire others; and relatively few men are industrial outworkers. Even within the same trade or industry, men and women tend to be involved in different employment statuses. In many countries, for example, men traders tend to have larger scale operations and to deal in non-perishable items while women traders tend to have smaller scale operations and to deal in food items.

Informality and Growth –

The relationship between informality and growth has been somewhat less explored than the relationship between informality and poverty. When it has been explored it has mostly been in terms of one dimension of the relationship: namely, whether and how individual informal enterprises are likely to grow. The potential for growth of informal enterprises has received particular attention in the related field of micro-enterprise development. For the purposes of classification and policy development, informal enterprises can be seen as falling at some point on the following continuum either currently or potentially:

survival activities
stable enterprises
dynamic growing businesses

Much less attention has been paid to the relationship of the informal sector as a whole to economic growth overall. The informal sector contributes to economic growth in at least two ways. First, the output – and the low wages - of informal wage workers subsidize the growth of industries – including key export industries – in many countries around the world. Second, the output of informal enterprises also contributes to economic growth. To illustrate these points, a compilation of micro-surveys in many different countries in Africa, Asia, and Latin America found that home-based workers – both own account producers and industrial outworkers - comprise a significant share of the workforce – anywhere from 30 to 60 percent - in several key export industries, including garments, textiles, and footwear (Chen et al 1999).⁹

Until recently, few estimations of the contribution of the informal sector to gross domestic product (GDP) had been carried out. With support from the Statistics Division of the United Nations Secretariat, Jacques Charmes recently calculated the contribution

⁹ This compilation had to rely on micro-surveys because few countries include the category of “homeworkers” in their labour force surveys. A 1990 review of 70 countries for which the ILO has data found that only seven countries had a separate category for “homeworkers” in their labour force surveys or population censuses – Morocco, Hong Kong, Japan, and four European countries (Schnieder de Villagas 1990).

of the informal sector to GDP in 21 developing countries (14 countries in Sub-Saharan Africa, 2 in North Africa, 7 in Asia, and 1 in Latin America). In Sub-Saharan Africa, the informal sector contributes anywhere from 7 percent to 59 percent of non-agricultural GDP and from 7 percent to 38 percent of total GDP: the lowest and highest shares of both non-agricultural and total GDP being, respectively, in South Africa and Niger or Mozambique. In Asia, the share of the informal economy ranges from 17 to 48 percent of non-agricultural GDP and from 16 to 32 percent of total GDP: the lowest and highest share being in Korea and India, respectively. In Mexico, the share of the informal economy in total GDP is around 12-13 percent. If account is taken of countries with specific economic structures (such as South Africa and Korea), then the range is much more narrow and at a high level (Charmes 2000). In India, a joint research project of the National Council of Applied Economics Research (NCAER), the Self-Employed Women's Association (SEWA), and the Gujarat Institute of Development Research (GIDR) recently calculated the contribution of the informal sector. The NCAER calculated that the informal sector – or the unorganised sector, as it is called in India - generates about 62 percent of GDP, 50 percent of gross national savings, and 40 percent of national exports.

D. Risks and Opportunities

The risks faced by those who work in the informal economy differ by their employment status, by the industry or trade in which they are engaged, and by the wider social, economic, and political context in which they live and work. However, four broad generalizations can be made in this regard. Firstly, those who work in the formal and informal economies face the same **general risks**, notably: illness, property loss, disability, old age, and death. However, informal workers often face **greater exposure** to these general risks given the nature of their work and living conditions. Secondly, those who work in the informal sector face greater **work-related risks** than those who work in the formal sector do. Dependent informal workers face little assurance or guarantee of work, low wages or earnings, few worker benefits, and unsafe or unhealthy working conditions. Independent informal workers often have insufficient market information, skills, or power and, therefore, less access to existing or emerging market opportunities. Thirdly, those who work in the informal sector typically have **fewer mechanisms** – including access to formal financial instruments – for dealing with risk than those who work in the formal sector do.

The opportunities enjoyed by those who work in the informal economy also differ by their employment status, by the industry or trade in which they are engaged, and by the wider social, economic, and political context in which they work. However, as a general rule, informal wage workers enjoy fewer career opportunities than formal wage workers; and informal entrepreneurs enjoy fewer market opportunities and are less competitive than formal entrepreneurs or businesses.¹⁰

¹⁰ Refer to a companion paper entitled “Globalization and the Informal Economy: How Global Trade and Investment Impact on the Working Poor” by Marilyn Carr and Martha A. Chen for a discussion of the risks and opportunities associated with globalisation for those who work in the informal economy.

The central concern of this paper is how to develop a policy approach that would support those who work in the informal economy to address risks and seize opportunities in their particular working environment. The starting place for developing such a policy approach is to identify the major interest groups that are involved.

III. POLICY DEBATE

A. Should Governments Intervene?

Orthodox economists tend to subscribe to one or both of the following positions in answer to the question: should governments intervene in the operation of the informal economy? The first position is that markets operate efficiently, that government interventions lead to inefficiencies and distortions, and that the informal sector will, in any case, decline with economic growth. The second is that the informal sector is beyond the reach of government, in part because those who operate in it want to avoid regulation and taxation (WDR 1995). Many heterodox economists, on the other hand, subscribe to the notion that the informal economy is here to stay and requires **appropriate** regulations, laws, and policies to correct for biases in existing regulations, laws, and policies that favour the formal economy and disadvantage informal workers.

B. Why Should Governments Intervene?

Those who subscribe to the notion that governments should intervene in the informal sector base their arguments on some mix of equity, efficiency, or political economy principles. Those who make the case on **equity principles** argue that the poor, especially women, who are concentrated in the informal sector face uneven market power and discrimination; have insufficient market information or skills; and have inadequate insurance against risk (unemployment, illness, disability, old age). They argue that the current process of informalisation – whereby more and more people are working under informal arrangements - threatens to do away with decades of social progress. They recommend the need for a new contract between the state, business, organized labour, and other social actors (including organizations of informal workers or producers).

Those who make the case for state intervention on **efficiency principles** argue that the informal sector contributes to GDP; produces a large share of consumer goods, particularly those bought by middle and low-income groups; represents a potential source of capital goods; and provides a training ground for entrepreneurs (Weeks 1975). They also recognize that growth in the informal sector is more labour-intensive and, therefore, more labour-absorbing or job-creating than growth in the formal economy. They argue that governments should intervene to promote productivity and growth in the informal economy.

Those who make the case for state intervention on **political economy principles** argue that governments **do** intervene in markets and in ways that are often biased – either deliberately or inadvertently - towards large industries: notably, trade and industry policies and fiscal policies. Why, they ask, should policies directed or biased towards

smaller businesses be singled out as distortionary? They also note that most economic policies, whether targeted or not, impact on the informal sector and that the impact of given policies on the informal sector is often different from that on the formal sector (Patel and Srivastava 1992). In sum, governments do intervene in markets. The outcomes or impacts of government policies depend on the industry or sector, the type of intervention, and the relative power of different economic actors.

C. Who Else Might Intervene?

If the government does not intervene, or even if it does, who else could or should intervene? There is a range of different stakeholders with interests in how the informal economy operates, and how workers are organised within it. A brief stakeholder analysis should help to set the stage for the policy analysis that is to follow.

International System: The international system has become involved in helping to “set the rules of the game” for the global economy. For example, the World Trade Organization (WTO) was established to regulate global product markets; the International Labour Organization (ILO) has been charged with regulating labour markets; and a new “financial architecture” to regulate capital markets is being designed. Currently, there is a debate as to whether the WTO (through trade sanctions) and/or the ILO (through labour conventions) should promote international labour standards. None of these international institutions has been charged with understanding or addressing how product, labour, or capital markets affect informal wage workers or informal operators.

Employers or Companies: In response to mounting pressures from consumer groups and others, the corporate sector has begun to adopt “voluntary” codes of conduct to self-regulate their treatment of labour. Not willing to entrust the corporate sector to monitor itself, existing consumer groups, non-governmental organizations, and worker organizations as well as new third-party monitoring groups have begun to monitor corporate behaviour. However, the codes of conduct and related monitoring efforts have not been extended, except in a few rare cases, to cover homeworkers and other isolated informal workers.

Industries or Sectors: Both informal own account operators and informal wage workers typically earn less than their counterparts in the formal economy and less than informal owner operators (hereafter referred to as micro-entrepreneurs). Yet, as has been argued, they often contribute to growth in different industries. How can they share in the benefits of growth in the specific industries or trades in which they operate? One mechanism is to tax the aggregate output of designated industries to finance benefits for the informal workforce in those industries. For examples of how this can work, refer to discussion of welfare funds in India under Section VIII, below, on Social Protection.

Private Insurance Industry: One dimension of welfare reforms over the past decade in many countries, particularly in Latin America, has been the privatisation of social insurance: that is, social insurance funds to cover pensions, health insurance, and other contingencies have been consolidated and replaced, wholly or partially, by individual

savings plans (Barrientos 2001). One dimension of economic reforms over the past decade in several countries including India, has been the privatisation of the insurance industry that, before the reforms, remained in government control. An associated concern is that workers with low wages/earnings and irregular employment – like many of those in the informal economy – are unlikely to be able to save (and contribute) enough to subscribe to private insurance schemes to protect themselves against even common core contingencies. Also, in some countries such as India, the privatisation of insurance has led to the loss of government-mandated coverage for informal workers. In India, so long as insurance companies were public corporations - that is, until 2001 - they had special schemes for workers in the "unorganised sector" (the official term in India for the informal sector).

Consumers and the Public: The collective action of consumer groups, student groups, church groups, and others in fair trade campaigns have contributed significantly to building awareness and building pressure on the corporate sector regarding the rights of workers in the global economy. However, from an informal sector perspective, these campaigns can have contradictory outcomes. To begin with, the campaigns usually focus on the conditions of workers in export processing zones and sweatshops but not on the working conditions of homeworkers or the self-employed. Secondly, the campaigns often do not consider the counterfactual – the quantity and quality of alternative work opportunities – when calling for a ban or restrictions on production in certain industries, companies, or countries. Consulting informal workers might help predict and prevent some of these contradictory outcomes.

Formal Trade Unions: Formal trade unions have traditionally organized around the conflict of interest between formal wage workers and employers. As such, they find it very difficult to deal, as comrades or colleagues, with informal workers whose employment status is uncertain. Given the recent expansion of employment in the informal sector and the decline in their membership, some formal trade unions have begun to consider and debate whether or not to intervene. A few have begun to organize informal workers, and others to collaborate with organizations of informal workers. However, many issues have yet to be resolved. Some of the serious strategic questions are: Should informal workers be organized in separate unions or organizations? Should trade unions get involved with the self-employed? What services can trade unions offer self-employed producers and traders? Can or should the rights won for formal workers be extended to informal workers? Many trade unions, particularly in developing countries, have limited funds and personnel. Should they stretch their resources to cover a new group of workers when they can barely serve their existing membership?

Informal Worker Organizations: There are growing numbers of informal worker organizations around the world, including unions, cooperatives, and other types of associations. However, many remain small, weak, and isolated and most are not recognized as legitimate worker organizations by formal trade unions in their respective countries or by the international trade union movement. Over the past decade, partly in response to globalisation, some of these organizations have begun to organize internationally. For example, two international alliances of grassroots organizations

working with home-based workers (HomeNet) and street vendors (StreetNet), respectively, were established in the early 1990s.

Non-Governmental Organizations: Large numbers of NGOs around the world provide services to, advocate on behalf of, and/or organize the working poor in the informal economy. However, rather than recognizing and organizing them as producers, traders, or wage workers, most NGOs treat those they work with as “the poor” and organize them as “clients”. For instance, few micro-finance institutions, which have grown significantly in number and influence over the past decade, classify their clients by trade or occupation group or address the non-financial needs of their clients as workers, producers, or traders.

Individuals, Families, and Communities: In the absence of formal systems of social protection, the working poor rely on informal systems of social protection (e.g. support from friends and relatives, social or kinship networks, rotating savings-and-credit societies) as well as their own resources (e.g. use of savings, sale of assets, sending children to work). However, the benefits from such informal sources are seldom adequate and often uncertain, especially during widespread or prolonged crises; and the associated costs and risks are often quite high. Furthermore, women worldwide do a disproportionate amount of this unpaid ‘community work’.

IV. FRAMEWORK FOR POLICY ANALYSIS

As used in this framework, a policy refers to an overall plan or course of action by national or local governments. Specific legislation, regulations, or sectoral policies should then derive from the overall policy and should be enforceable in a manner and style that conforms to the policy intent. Policy analysis refers to the process of assessing and analysing, first, what the overall policy should be and, then, what specific laws, regulations, or programmes derive from it. In developing an overall policy the issues to be addressed by policy makers in consultation with various stakeholders include: What stance should the government take towards the informal sector? What segments or categories of the informal economy are being targeted? Which specific areas of policy should be reformed to conform to the overall policy? How should the policy analysis be carried out?

A. Policy Stance

As part of the policy analysis process, governments need to analyse what their current stance, implicit or explicit, towards the informal economy is, and then decide what their future stance should be. The range of possible stances – illustrated here by alternative local government stances towards street vendors - include:

- dismissive: that is, to ignore the issue (e.g. hoping street vendors will go away)
- punitive: that is, to eliminate (e.g. evicting street vendors)
- restrictive: that is, to contain (e.g. issuing a limited number of permits and restricting vending sites)

promotive: that is, to support or protect (e.g. providing credit and storage facilities to street vendors)

It should be noted that governments may adopt different stances or mixed stances (e.g., “contain and promote”) towards different segments of the informal sector.

What follows assumes that national or local governments have decided to pursue an active approach, rather than a passive or dismissive approach, to managing and supporting informal enterprises and workers.

B. Target of Policies

In the debate and literature on the informal economy, there is a tendency to discuss only one of the two basic segments of the informal economy (independent operators or dependent workers) or, when talking about both, to conflate the distinction between the two. Those who seek to develop an appropriate policy approach to the informal sector need to distinguish clearly when they are targeting or referring to:

- self-employed and their enterprises/economic activities
- informal wage workers and their employers
- informal workers as a whole
- organizations or associations of informal workers

In targeting any of these categories, policy makers also need to consider whether they can redirect existing policies to support and protect informal workers, or need to reform existing policies in order to do so, or need to develop new policies.

C. Types of Policies

As distinct from an **overall** policy approach towards the informal economy, **specific** policies can be grouped into functional areas as follows:

- macro economic policies: monetary, fiscal, price, trade and industry
- sectoral economic policies: small enterprise development, agriculture
- labour policies, laws, and standards
- infrastructure and services: housing, sanitation
- social services: health, education, and childcare
- social protection: social insurance, social assistance
- regulatory controls: licensing, registration, zoning, land/space allocation
- institutional reforms: institutional location of those dealing with the informal economy, representation of informal workers in consultative processes

D. Policy Analysis

A thorough policy analysis should include at least the following components:

context analysis: of the percentage of the workforce in formal and informal wage employment and in informal non-wage employment; per capita gross domestic product (GDP); degree of urbanization; share of non-agricultural GDP in total GDP; nature of state and regulatory environment, institutions, (a bit broad and vague)

stakeholder analysis: of the role and interests of the state, business, organized labour, unorganised labour, and civil society

‘winner-loser analysis: of who benefits or loses under alternative policies, including

employers versus workers

formal workers versus informal workers

large enterprises versus small or micro-enterprises

trade-off analysis: of the trade-offs that are likely to have to be made in accommodating various interests and interest groups

E. Policy Process

Ideally all relevant stakeholders should be involved or consulted in the formulation of the overall policy approach and specific policies. Realistically, those responsible for developing the policies should seek the ‘buy-in’ from as many parties as possible. Local and national governments are used to setting up processes that engage formal business interests. It is possible, though more difficult, to set up processes that are more inclusive, and that are designed to encourage the participation of informal workers and informal enterprises. It may well be more costly to management, over the medium term, **not** to engage in this inclusive consultation and negotiation.

Having outlined a conceptual and normative framework for formulating an overall approach to the informal sector, we turn now to four specific areas of policy: macro economic policies, urban regulations and policies, labour policies, and social protection policies. We have chosen these four areas for different reasons. We begin with macro economic policies because it is widely assumed that the informal sector is not affected by or cannot be reached by mainstream economic policies (World Bank 1995). We disagree. We then turn to the urban regulatory environment because it is also widely assumed that informal enterprises are unregulated and/or informal entrepreneurs try to avoid regulation. Again, we have a different view. We then address the issue of labour standards because of the growing evidence that recent economic reforms, economic crises, and global integration have contributed to the increased informalisation of employment relations. We address whether and how labour standards, laws, and policies – national and international - should regulate informal employment arrangements. Finally, we focus on social protection policies because informal workers seldom receive social protection either through their employers or from government.

V. MACRO-ECONOMIC POLICIES

Mainstream economists tend to subscribe to one or more of the following assumptions regarding economic policies and the informal sector. First, that the informal sector –

thought to be largely comprised of survival activities by the poor - is a topic for social policies, not economic policies. Second, that economic transactions and employment relations in the informal economy are governed by social customs and ties and are, therefore, beyond the reach of public interventions (World Bank 1995). And, third, that, if and when economic policies reach or affect the informal sector, the impact is predictably the same as for the formal sector.

There is sufficient and mounting evidence to challenge each of these assumptions. To begin with, even some mainstream economists have recognized the dynamic segments of the informal economy and have taken interest in promoting the more dynamic informal activities with appropriate economic policies. Secondly, more and more development scholars recognize that the informal economy has direct production, distribution, and service ties to the formal economy and is affected by the policies that govern the formal economy. And, thirdly, more and more development scholars, including mainstream economists, have begun to look at the processes by which formal regulated activities become informalised and, in some cases, informal activities get formalized.

Very few economists have tested whether the informal and formal economies respond to or are affected by economic policies in similar ways. In one such attempt, Urjit Patel and Pradeep Srivastava analysed how the aggregate behaviour of economic activity in the formal and informal sector - as measured by the output - responded to the same set of monetary and fiscal policies in India. In terms of **intra-sectoral responses**, they found that total output, total non-agriculture output, and total manufacturing output in the formal sector responded in similar ways whereas total output, total non-agriculture output, and total manufacturing output in the informal sector responded in different ways. That is, the formal sector proved far more homogeneous in behaviour than the informal sector. In terms of **inter-sectoral responses**, they found that the formal sector behaved or responded more or less as predicted to each of the macro policy interventions while the informal sector did not respond as predicted to any of the interventions (Patel and Srivastava 1992).

Patel and Srivastava argue that their analysis raises several important issues, both theoretical and policy related, for development economics. First, that the lack of homogeneity of the informal sector implies that, perhaps, a more accurate descriptor of developing economies, like India's, is "fragmented economies" rather than "dual economies". Second, that the predictive power of standard economic models in "fragmented economies" is weak at best. Of course, other observers question the predictive power of standard economic models even in non-fragmented or non-dualistic economies. And, third, that institutional details or arrangements are relevant to explaining aggregate economic activity or behaviour in both fragmented, dualistic, and non-fragmented economies. They conclude with the observation that, in the early 1990s, the informal sector was still virtually ignored: "no systematic data is collected to monitor these activities, nor are measurements of the activities (nor corresponding theoretical concepts) incorporated in analysing the behaviour of these economies and impact of various models. It is hoped that the analysis presented here will draw attention to these serious lacunae in understanding the process of economic development" (Ibid.: 32).

In what ways, then, do macro-economic policies impact on the informal economy? How might they be expected to impact differently on the informal and formal economies? To begin with, macro-economic policies regulate **aggregate demand** for domestic products by setting the price for competing imports (or imported raw materials), by setting the price at which exports can be sold, and by determining the scale and pattern of government procurement. Secondly, macro-economic policies regulate the **price of inputs and outputs** in capital, labour, and product markets by, respectively, setting exchange rates and interest rates; setting minimum wages and passing other labour legislation; and determining tariff rates, exchange rates, and price controls. Thirdly, macro-economic policies provide **incentives and subsidies** to businesses through trade and industry policies, tax and expenditure policies, labour legislation, and industrial relations regulations. In many countries, macro-economic policies are biased in favour of large businesses in the formal economy. One goal of the policy approach we propose here would be to shift the structure of aggregate demand, the prices of inputs and outputs, and the set of incentives and subsidies in favour of informal units, operations, and products.

A. Trade and Industry Policies

Around the world, with globalisation, trade and industry policies are increasingly geared to foster international competitiveness. These trends are associated with two sets of policies, namely: trade liberalization, and supply-side support to firms to increase their competitiveness. These policies impact on employment and enterprises in both the formal and informal parts of the economy.

The net impact on employment, measured in terms of the quantity and quality of jobs, depends on the specific mix of processes at work in different contexts. While increased investments, foreign or local, can lead to new job opportunities, capital-intensive investments may not create new jobs (i.e., jobless growth) and can result in downsizing or retrenchment (i.e., job loss). At the same time, the decentralization of production to more flexible specialized units and/or global commodity chains leads to more flexible or informal employment relations (i.e., “bad jobs”). The net impact on enterprises - large, small, or micro - depends on the range of supply-side support measures offered by government and to whom. These might include tax holidays, export licensing, technology upgrading schemes, research-and-development and innovation, depreciation allowances, and other measures. These measures are typically aimed at larger industrial enterprises.

In the worst-case scenario, export-promotion policies can lead to displacement of workers and erosion of employment relations; a shift of the ownership base towards large businesses due to biases in licensing and the costs of mechanization; and a distribution of raw materials away from smaller, more labour-intensive units to larger, more capital-intensive units. Export promotion policies towards the coir industry in Sri Lanka, for example, led to a shift in the type and ownership of units and to a shift in the supply of

coconut husks to mechanized units owned by men with access to credit away from manual units operated by women with little access to credit (Bajaj 1999).

What are the implications of such examples for an appropriate policy approach to informal enterprises? Policy makers need to look for – and take measures against – policy biases that favour larger enterprises in regard to tax breaks (e.g. deferrals or rebates), licensing for imports of raw materials, intermediate goods, or equipment and exports of goods, and subsidies and technical assistance for innovation and upgrading. Moreover, often what is seen or targeted by policy makers as micro enterprises are not micro enough: that is, micro-enterprise development programmes or policies often do not reach businesses with less than 10 employees; much less own account or family businesses that have no hired workers.

In a recent study, Caroline Skinner and Imraan Valodia describe how the South African government has used trade liberalization and supply side measures as policy instruments to promote the country's international competitiveness. They show that the restructuring processes in labour-intensive industries have led to massive formal job losses for women, in for example the clothing industry. How many of these retrenched female workers have found alternative work as homeworkers in the clothing industry is not yet known. They suggest that the short term costs of trade liberalisation are being borne disproportionately by women, whilst the potential longer-term benefits of the liberalisation process are likely to favour men in formal jobs (Skinner and Valodia, forthcoming).

Skinner and Valodia conclude that the nature of interactions between the formal and informal economies remains a bit of a black box. Fortunately, Skinner, Valodia, and some of their colleagues have recently launched a three year, multi-component study to analyse these interactions in South Africa. One related study, by Cross et al (2000), suggests that the industrial restructuring process is shifting women who are already in the informal economy into lower-income and less-secure segments of informal work. Cross and her colleagues document instances where women in home-based work, including home-based trading, are forced into less-secure street trading activities. This occurs either because male members of the household, recently retrenched from the formal economy, move into home-based work, or because lower levels of income in the local area lead to higher levels of competition in home-based trading activities (Valodia 2000).

Consider for a moment the case of India. Some of its trade and industrial policies have hindered the informal economy while others have helped, as follows:

Handicrafts: In India, there is a rich tradition of handicrafts and artisanal production. There is also large scale employment in these sectors. For instance, the total numbers of home-based workers in India, of which a large percent are handicraft workers, are estimated at about 30 million. This situation was also true in many other countries, but as industrialisation proceeded in these countries the artisans were displaced. In India however, there was a deliberate policy to promote artisans.

“(F)rom the 1960s onwards the crafts sector began to receive national and international attention because of prolonged efforts towards promoting certain artistic and highly skilled crafts traditionally patronised by the elite and aristocratic sections of the society. With extensive support from the government agencies, crafts enthusiasts and NGOs, a luxury upmarket, both domestic and foreign, has been carefully developed in these handicrafts over the last few decades (see Chattopadhyay, 1975 and Saraf, 1982). An important aspect of this process was the official recognition and rewarding the masters among the crafts-persons for their excellence in work. Thus a large number of masters were discovered from their obscure existence in the remote backward areas and brought to the centre stage” (Raj and Kapoor 2001).

Some policies that were put in place to promote artisan production were:

- Setting up of special Ministries for handicrafts
- Reservation of raw materials and markets for certain products such as handlooms.
- Research into designs and technologies.
- Special budgets and subsidies

Because of these policies, when India began to liberalise its economic policies, its artisan population was in a position to take advantage of opening global markets. The sector witnessed a dramatic increase in the number of skilled crafts-persons: from 4.8 million persons during 1991-92 to 8.1 million in 1997-98 (Annual Report, Ministry of Textiles, 1998-99).

Small Scale Industries: In India, beginning in the 1970s, there was also a deliberate policy to promote small-scale industries. These policies took the form of:

- Different excise rates for large, medium and small scale industries
- Stricter labour laws for large scale industry.
- Reservation of certain market items for small-scale industry.

The result of these policies was that the small-scale industries grew at the expense of large-scale industries, but also at the expense of micro-industries. An example of this is the growth of the powerloom (small-scale textiles) at the expense of the large textile mills and also at the expense of the handlooms. Currently, most of these policies are being withdrawn as the policy bias is beginning to shift back to large industry.

Agriculture: The bulk of India’s workforce is concentrated in the agricultural and rural sectors where they remain poor and, often, discriminated against. The founding fathers of Modern India directed India’s early developmental policies at industrial growth. They believed that the main role of the agricultural sector was to produce raw materials for the industrial sector. The prices and production of agricultural produce, both food grains and industrial raw materials like cotton, were therefore controlled in favour of the industrial sector. Although India’s developmental policies were later modified, many of these early policies are still in place. In particular, prices of ‘essential commodities’ such as basic

food grains and sugar are still controlled by a variety of policies. Free movement of many agricultural products is not allowed, and farmers are required to get permission if they want to take their products to sell outside their own State. For agricultural labourers, on the other hand, there is only one protective Act - the Minimum Wages Act - and that is rarely implemented. Of all the workers in the informal sector, agricultural labourers remain among the most vulnerable and insecure.

Another policy area that vitally affects the rural informal economy, especially small and marginal farmers, is policy on water. In spite of large investments in irrigation, most of the country's agriculture remains rain-fed and most farmers can grow only one crop or, at most, two. In many dry areas, farmers have to migrate away from their farms in search of manual wage work as they are unable to make their farms productive due to lack of water.

Forestry: About 90 percent of India's 64 million hectares of forests is under state ownership; the rest consists of community and private forests. These forests, of all types, provide homes and sustenance to poor, indigenous communities of forest dwellers. Altogether there are an estimated 100 million forest dwellers in the country living in and around forests and another 275 million for whom forests constitute an important source of livelihood support.

State intervention in the forestry sector in India has been pervasive and government policies have had a decisive influence on the management and health of forests in the country. Manjul Bajaj undertook a comprehensive analysis of the impact of six selected government interventions on forests in India, as follows:

- State ownership of forests
- Nationalization of the non wood forest products trade
- Subsidized supply of raw material to forest industries
- Tariff and non-tariff protection to domestic industry
- Regulation of movement of forest produce
- Restrictions on harvesting of trees on private lands

Bajaj found cumulative evidence of public policy failure and concluded that each of these interventions performed indifferently when evaluated against their original policy objectives. She also determined that the policies were unambiguously detrimental in their economic, environmental and distributional effects (see Box 3 for a summary of the negative impacts). In the conclusion to her study, she makes the case for a smaller and more focused government presence in the forestry sector (Bajaj 1994).

B. Fiscal Policies

Tax Policies: In analysing the likely impact of tax policies, policy makers need to consider the impact of direct and indirect taxes on the informal workforce as both consumers and producers. There are several forms of direct taxes, including: personal income tax, payroll tax, and corporate taxes. Personal income tax policies can, as is well

known, be progressive or regressive depending on whether a differential progressive rate or a flat rate is imposed. Informal sector work arrangements pose at least two challenges to thinking about how progressive or regressive personal income tax policies actually are. Should workers who do not have assured work or who do not receive benefits be taxed at the same rate as workers who do have regular contracts and receive benefits? Should income from self-employment be taxed as personal or corporate income, and at what rate?

BOX 3: THE BURDEN OF POLICY

Policy	Economic Impact	Equity Impact	Environmental Impact
All forests are the property of the state	a) Ineffective protection b) Disincentive to investments in afforestation	a) Harms long-term interests of forest dependent communities b) Affects farmers who may otherwise have engaged in rehabilitation of degraded private lands	a) Loss of forest cover
Nationalization of NTFP trade	a) High cost of administration. Reduces number of legal buyers Increased corruption	a) Favours government functionaries and middlemen. Disadvantageous to poor collectors	a) Reduces income from and therefore incentive to protect diverse multi-product forest systems. Leads to forest degradation via intensification of fuelwood extraction and grazing
Supply of industrial raw materials from natural forests at subsidized rates	a) Considerable loss of government income b) Reduction of incentives for industrial reforestation and proper forest management c) Distortion of choices vis a vis. farm forestry and alternate materials. Also between	a) Large enterprises benefit most b) Local communities lose access to multiple forest products c) Government loses income d) Farmers are deprived of investment opportunities e) Future generations subsidize current one	a) Excessive levels of cut b) Waste in processing c) Inadequate reforestation incentive d) Loss in forest cover
Protectionist policies: Tariff and non tariff barriers	a) Negative economic impact by limiting competition and thus allowing or even fostering economic inefficiency	a) Policy favours mainly large concerns b) Consumers are forced to pay higher prices	a) More resources are needed to produce a given level of output. b) Permits use of older, less clean technologies. c) Faster depletion of forests as imports not allowed

Source: Bajaj 1994

Payroll tax policies can also be progressive or regressive. This is because some countries charge different tax rates for standard versus non-standard wage work. South Africa, for example, charges a fixed or flat payroll tax rate (of 25%) for non-standard employment no matter what the level of earning. This means that the payroll tax rate for non-standard work is often higher than the rate for equivalent standard employment. If employees file tax returns, they are entitled to rebates. However, employers often do not inform non-standard workers. The result is that many non-standard employees do not file returns. Even if they do, they often have to wait months – even years – for their rebate.

As part of export-promotion incentive packages, many countries lower the corporate income tax rate. However, many informal entrepreneurs do not pay corporate income taxes but, rather, personal income taxes on the income from their enterprises. In such cases, informal entrepreneurs may not benefit from the lowering of the corporate income tax rate and may, in fact, be negatively affected in terms of their ability to compete with larger corporations who have benefited.

One common form of taxation, value added tax (VAT), affects those who work in the informal economy as both consumers and workers. Because they operate in highly competitive and price-sensitive markets, informal producers and traders often find it difficult to “pass on” the value added tax to their customers. As with a flat personal income taxes, a flat value-added tax rate - especially on basic food stuffs - can prove regressive for informal consumers. This is because low-income households spend a larger proportion of their income on food than higher-income households (see Table 2). However, it is possible as in South Africa to allow for zero-rating of certain essential foodstuffs, as well as fuel such as paraffin, which are consumed mostly by the poor, and this can serve to curb, although probably not overcome, the regressive effects of VAT.

TABLE 2
VAT BURDEN IN SOUTH AFRICA

	Household Income			
	R 18,000	R 30,000	R 75,000	R 140,000
Total VAT paid per household per annum	R 1,799	R 2,910	R 6,141	R 10,241
Total VAT paid as % of household income	10%	10%	8%	7%
Total VAT paid by % of total tax paid	86%	54%	25%	18%

Source: *Department of Finance, 1998* (cited in Smith and Valodia, forthcoming).

The costs and benefits of single, multiple, differential tax ratings have been widely debated. There are financial costs associated with implementing and monitoring multiple or differential tax rating policies. However, the costs need not be too high. The actual implementation of a differential tax policy involves only one-off costs. While monitoring requires on-going costs, all tax rating policies, single or multiple, require monitoring. Moreover, the benefits in terms of increased income redistribution and other reduced regressive effects may well outweigh the costs.

Expenditure Policies: Appropriate policy analysis should determine who benefits from government policies. In general, expenditures that are pro-poor, and gender sensitive, will also benefit informal workers. A national or local government may make expenditures and then provide the services directly – as in running training centres, providing child care, or running a public works scheme. Or it may allocate resources of intermediaries – through subsidies to welfare organizations and other NGOs, grants to private sector trainers, underwriting financial schemes, for example. Changing patterns of work mean more women are now working, even if under poor conditions. Yet changing demographic and household patterns mean that many women have more responsibilities on the domestic front as well. State commitment to a basic package of services such as child care facilities, primary education and health reduce immediate costs to women, and are a step to ensuring longer term security for children in the future.

Creative regulation of the conditions under which such expenditures are allocated to others can do much to drive services in the direction of poorer people. They can also do it in such a way as to assist in strengthening organisations or poorer people.

Procurement Policies: Whom does government buy goods from and who does government contract services from? Again, appropriate policy analysis should address these questions and determine whether there is a need to redirect procurement policies in favour of informal sector producers and service-providers. There is a range of goods and services that governments could potentially purchase from the informal sector, including uniforms for government workers or the military and garbage collection for city corporations (Weeks 1975). For instance, the Self-Employed Women's Association (SEWA) in India negotiated with government hospitals and prisons to procure fruits, vegetables, and eggs from street vendors and with government offices to contract cleaning services from rag pickers organized into service cooperatives.

In summary, macro-economic policies have impact on the informal economy and on the process of redistribution between the formal and informal economies. The new methods for assessing government budgets – called social audits or people-centred budgets – could usefully be directed to assessing differential impacts on the informal and formal sectors as well as on men and women or rich and poor.¹¹ A promising example is the informal budget audit carried out by Debbie Budlender (Budlender 2000) as part of the Durban

¹¹ Three types of people-centered budget audit tools have been tested in a growing number of countries: gender, environmental, and pro-poor budgets.

Policy Process to be discussed in Section IX.¹² An appropriate policy approach to the informal sector should seek to balance incentives to formal and informal businesses, to balance the tax burden of formal and informal businesses, and to balance the tax burden as well as statutory benefits – unemployment insurance and pension funds – to formal and informal workers.

VI. URBAN POLICIES AND REGULATIONS

By 2010, half of the world's population will be living in cities. Informal employment currently constitutes anywhere from 40 to 60 percent of total urban employment and will probably constitute an increasing proportion of urban employment (Charmes 1997). Parallel to the increase in homework, which we noted earlier, has been an increase in street vending in towns and cities worldwide. Informal trade, most of which is street trade, constitutes anywhere from 30 to 50 percent of total urban informal employment (Ibid.). Refer to Table 3 for the share of informal trade in total trade employment and GDP and for the share of women traders in informal trade employment and GDP. Just as private residential space is being used for income generating functions, so have public places such as parks, sidewalks, and (even) streets become new places of work for poorer working people. This presents new challenges for the regulators of urban space.

TABLE 3
SIZE AND CONTRIBUTION OF INFORMAL SECTOR IN TRADE
AND WOMEN TRADERS IN INFORMAL TRADE

	Informal Sector as a Share of:		Women Traders as a Share of:	
	Total Trade Employment	Total Trade GDP	Total Informal Trade Employment	Total Informal Trade GDP
AFRICA				
Benin	99.1	69.8	92.2	64.3
Burkina Faso	94.7	45.7	65.9	30.1
Chad	99.2	66.7	61.8	41.2
Kenya	84.9	61.5	50.2	27.3
Mali	98.1	56.7	81.3	46.1
Tunisia	87.6	55.6	7.9	4.4
ASIA				
India	96.4	90.0	12.4	11.2
Indonesia	93.0	77.2	49.3	38.0
Philippines	73.1	52.3	72.0	21.6

Source: Charmes, Jacques. 1998b. "Street Vendors in Africa: Data and Methods". New York: UN Statistical Division.

¹² The findings of Budlender's budget audit in Durban, South Africa contributed to the analysis above (Budlender 2000).

It has been the experience of both the Self-Employed Women's Association (SEWA) in India, and the Self-Employed Women's Union (SEWU) in South Africa, that establishing the right to vend is the first step, for small enterprises, in the ladder of building a sustainable and viable enterprise, even at a very low level. The costs to vendors of unpredictable harassment or eviction by officials or by formal operators is high. Once the right to vend is secured, a core of basic services make a significant difference to the viability and working conditions of trader spaces – and to the public who consume the goods and services on sale. Basic shelter against the elements, water and toilet facilities, garbage removal and lighting are common core demands. Affordable storage facilities near the place of work also reduce the costs to informal workers of being on the streets.

A. Range of Urban Policies and Regulatory Controls

Which urban policies and regulatory controls relate to these demands? At the broadest level is the determination of different areas of a city for different purposes – *land use policy, or zoning policy*. The growth of homework – where home space becomes work space – is less visible; street vending is more visible, and street vendors generally want to be at the heart of commuter and transport nodes. It is often the case that it is not a problem that there is not enough space – it is that there is high competition for the same desirable central locations.

A second set of policies is those to do with regulating *health standards*. A real institutional problem has emerged: the way in which local government health departments are structured has not kept up with changing patterns of land use and of work. On the residential front, a neighbour complains about smells and noise created by a backyard mechanic doing motor car welding. On the street, a formal business person complains about the flies and rats, which he claims are caused by an informal operator's fresh meat stall adjacent to his shop. The traditionally separate institutional domains of 'occupational health', 'public health', and 'environmental health' mean that the local authority cannot easily respond to either of these situations. Neither does the organisational culture of a bureaucracy and its officials easily lend itself to setting up the channels for negotiation and mediation that would be necessary to find a solution.

A third set of policies relate to *regulating and registering business* – through site licenses, or through licenses to operate. While the perception of many is that informal operators want to escape such registration, experience in Durban is that many traders want to register, and see the advantages of it. Having a registration card gives them the basic right to operate, which they want; having the identification card gives a sense of legal identity. Many vendors also want to pay reasonable site fees – but then want to know what they are entitled to in return, and what the avenues of appeal are if the service or benefit is not provided. Traders cite the high costs, to their enterprises, of becoming registered. This involves finding a way through a maze of departments, which require different forms, written in legalistic language, and not even in the first language of most traders. They cite the high costs to themselves of remaining registered. Monthly payments involve hours in long queues in one central treasury building, and on one day

of the month only. Thus usually coincides with when customers have just been paid on what would have been, if they had been able to vend, good income days for the traders.

A fourth set of policies relates to the provision of *basic infrastructural facilities* such as electric lighting, water, toilets, and garbage removal. With regard to street vendors, locating these where traders operate makes an immediate difference both to the enterprises and working conditions of traders, as well as to the general condition of the city for the general public. As far as homeworkers are concerned, having the basic services such as water and lighting are arguably as important a practical form of support to small enterprises operating from the home, as more commercially oriented ‘support to small business’ courses may be.

A fifth set of policies relates to the *establishment and governance of municipal markets* (whether these are owned by local government or the private sector). Local authorities have a role to play in developing policies for access which are designed to favour certain groups over others – very small operators, for example, or younger women. The location of such markets close to or in residential areas where the poorer sections of the population live, and designing them to be able to vend in goods which have high potential on the demand and the supply side may be a significant step in supporting both home and street based workers.

There are other groups of informal workers, not in fixed positions on streets, and not working from home, who fall under urban regulations. Garbage and paper pickers, for example, will be affected by local policies regarding recycling, sanitation, and environmental health. The informal transport sector will grow or decline in relation to levels of public transport policy and provision.

Local government, then, is coming to play an increasingly influential role in either putting constraints on, or opening up opportunities for, all categories of informal workers. Some of the scope for action by local authorities is itself constrained or opened up by national policies regarding, for example, the provision of child care or pro-poor education and health services.

B. Relationship between Formal and Informal Operators

While acknowledging the important new role for local government, it is important not to underestimate the power and influence that formal local business has in determining how, and where, the informal workers can operate. The relationship is often conflictual: local government worries that informal operators are ‘fronts’ for big business; big business thinks that informal operators drive potential investors, and consumers, out of the central city; informal workers feel and are excluded from structures and processes through which their own concerns can be expressed, and their rights to work protected.

Close investigation, as in Durban, revealed that there were co-operative relationships between formal and informal operators as well. A common mutual relationship is built around the needs of informal vendors for overnight storage, and the needs of formal

businesses to be protected against crime. So an informal operator outside a formal shop will play a surveillance and protection role; in turn, she is allowed to store her goods overnight in the shop, either for free, or for a reasonable fee. At the level of institutional relationships, Durban's Traders Against Crime is a partnership between an informal trader association and organised formal business interests – co-operating with each other to keep crime away from the central city area where both formal and informal enterprises want to succeed, and want to operate safely.

The attempt of the local authorities in Durban to develop a policy which would lay the basis for a regime of governance which promotes both orderly management, and the support of very small enterprises as twin goals, will be described in Section IX.

VII. LABOUR STANDARDS AND LEGISLATION

There is growing recognition and concern worldwide that global integration privileges those who can move easily and quickly across borders, to the disadvantage of those who cannot do so - notably, labour (especially low-skilled labour). This trend serves to strengthen the bargaining power of employers and weaken the bargaining power of employees or workers who can be substituted for each other across borders. Three likely consequences of this trend have been identified. First, that the bargaining power of workers erodes so they receive lower wages and benefits. Second, that workers now have to pay a larger share of the non-wage costs of improving work conditions and covering benefits. Third, that workers face greater instability and insecurity in terms of earnings and hours worked due to volatility in labour demand (Rodrik 1997). There is also growing recognition and concern that, in the interests of global competitiveness, many governments no longer enforce labour legislation or encourage labour organizing.

This concern about the erosion - or informalisation - of employment relations has put the rights of labour on the agenda of the human rights and anti-globalisation movements and has led to fair trade campaigns, calls for boycotting goods produced under sub-standard working conditions, and efforts to establish codes of conduct for multinationals. At the same time, provoked by the proposed inclusion of "social clauses" in international trade agreements, the global consensus on core labour standards is now overshadowed by a global debate on whether international labour standards should be linked to trade agreements (Lee 1997).

The system guiding the adoption of international labour standards, as well as monitoring and enforcing them, has been in place for over four decades. Moreover, a global consensus on core labour standards has been reached. The political debate surrounding the linking of international labour standards to trade agreements should not be allowed to undermine the global consensus on core labour standards or the existing system for adopting, monitoring, and enforcing international labour standards.

The current debate on international labour standards centres on several distinct but related issues: Should international labour standards be enforced? If so, which standards should be enforced? Who should monitor and enforce them? And should they be linked to trade?

The proponents of international labour standards include: those who base their arguments on a moral concern for exploitative labour conditions and child labour; and the protectionists from industrialized countries who seek to protect labour in their own countries from competition by cheaper labour in developing countries. As Kaushik Basu aptly puts it, “the idea of minimal labour standards is a Trojan horse that not only encompasses those who are genuinely concerned about workers’ well-being but also is a convenient hiding place for those with a much more selfish, protectionist agenda” (Basu 1999: 82). The opponents of labour standards counter with one or both of the following arguments: the neo-liberal argument that markets are efficient and fair and, therefore, should not be interfered with; or the anti-protectionist argument that linking compliance with labour standards to trade agreements is a disguised instrument of protectionism. The anti-protectionists, notably government representatives from developing countries, believe that industrialized countries seek to raise labour costs in developing countries in order to reduce their international competitiveness which is largely based on lower labour costs (Ibid.).

Let us leave aside, at least for the moment, the whole issue of whether international labour standards should be linked to trade agreements. This leaves us with the questions of: Which standards? And who should monitor and enforce them?

A. Which Standards?

The core labour standards, around which there is a global consensus and a set of international conventions, include:

- freedom of association
- right to collective bargaining
- prohibition of forced labour
- equality of treatment and non-discrimination in employment
- minimum age for employment (i.e., prohibition of child labour)

There is also widespread international agreement, reflected in international conventions, on the right to collective representation (Convention 87) and the right to free expression of grievance (Convention 98). The conventions which encompass these core fundamental rights are either directed at all workers or, if directed at formal workers, include provisions for coverage of other categories workers. It is important to recognize that these core rights are seen as the rights of all workers, including informal workers. At a minimum, extending these rights to informal workers is called for.

While many of the international conventions relate indirectly to the informal economy, there is one ILO Convention that is specific to a large and important segment of the informal economy: the 1996 ILO Convention and Recommendation on Homework. This Convention (C177) sets out minimum standards for pay and working conditions for homeworkers (also known as industrial outworkers) that can form the basis for national

laws and policies.¹³ The related Recommendation (R184) details a whole programme of possible actions to improve the conditions of homeworkers and other home-based workers. Although only two countries (Ireland and Finland) have ratified the 1996 Convention, several countries are considering national legislation that would reinforce certain provisions of the Convention and related Recommendation.

Informal workers - and their advocates - around the world are demanding a holistic set of workers' rights, including the core rights listed above and other basic rights, including: the right to a minimum wage, safe and healthy working conditions, reasonable working hours, severance notice and pay, and other worker's benefits such as paid sick leave, paid vacations, and retirement compensation. Many of these are also incorporated in existing international standards. There are other workers' rights around which there is less international agreement and, therefore, less scope for international standard-setting and monitoring. Most notably, setting a minimum wage depends on local conditions and, therefore, does not lend itself readily to a fixed international standard. However, most countries have minimum wage regulations which can be extended to cover informal workers.

The real challenge is how to implement and enforce labour standards or workers' rights for informal workers? The existing international system should encourage member governments, especially those that claim to be democratic, to observe these international standards even for their informal workforce. There is no alternative to state intervention in the labour market. We recommend reviewing existing labour legislation to identify a) ways to extend them to cover informal workers and b) areas where additional legislation might be required. Refer to Box 5 for a list of recommended measures to modify and extend existing labour legislation in India to fit the working conditions of informal workers. We would add that it is important to involve organizations of informal workers – as well as other stakeholders - in the negotiations around setting, monitoring, and enforcing standards, both at the national or international levels. Refer to the discussion below, in Section IX, on the National Labour Commission in India (set up in late 1999) that was mandated to recommend an “umbrella legislation” for the informal workforce and that involved leading organizations of informal workers in drafting the umbrella legislation. The Group on Women Workers and Child Labour, one of the five study groups constituted by the Commission, has recommended specific changes in the labour laws to make them more positive towards women workers in the informal economy (see Box 5).

¹³ Advocates of the 1996 Convention were able to get the convention passed partly because there are recognisable employers for homeworkers (also known as industrial outworkers). For other categories of the informal economy – notably, the self-employed – the “equivalent of the employer” will need to be determined, if similar conventions are to be proposed. In the case of street vendors, the “equivalent of the employer” could include some mix of municipal officials, local police, and wholesale traders.

BOX 5
RECOMMENDATIONS TO EXTEND NATIONAL LABOUR LEGISLATION
TO INFORMAL WOMEN WORKERS IN INDIA

A. General Acts

1. Minimum Wages Act

Broaden definition of worker to accommodate more categories of informal workers

Include piece-rates not just time-rates under minimum wage

Set a common national minimum wage

Authorize designated local civil society organizations in each state to hear and review complaints from workers

2. Unprotected Manual Workers (Regulation of Employment and Welfare) Act, 1979 (Tamil Nadu)

Enact similar acts in other states

Expand coverage to include informal workers in the trades and industries covered by the Act

Set up Boards in the various trades and industries to administer benefits

Empower civil society organizations to identify informal workers, especially women, in the designated trades and industries

3. Inter-State Migrant Workers Act

Extend coverage of this Act to cover workers who have migrated on their own – not only those who were recruited through a contractor

B. Equal Remuneration Act, 1975

The Equal Remuneration Act should be amended to promote equal remuneration between all workers – men and women, formal and informal, as follows:

Extend application of Act to cover unequal remuneration not just within units/establishments but **across** units/establishments by occupational group, industry or sector, or region

Replace clause “same work or work of a similar nature” by clause “work of equal value”

Provide guidelines and mandate training for labour inspectors – e.g., to help them to identify discriminatory practices pertaining to the ERA

Authorize greater role and more power to civil society organizations in the implementation of the provisions of the Act – e.g. a role in the setting of wages or the power to inspect

C. Sector-Specific Acts

1. Bidi and Cigar Workers (Conditions of Employment) Act, 1996

Include those who work under “sale-purchase” system in definition of “employee”

Fix a National Minimum Wage for bidi rolling to be adopted by all states

2. Building and Other Construction Workers (Regulation of Employment and Conditions of Service), 1996

Extend the coverage of the Act to building projects involving costs below current minimum rupee value

Extend the coverage of this Act to contractors and construction projects involving less than 10 workers

Stipulate worker’s record of number of days worked will be registered, to meet the stipulated “90 days of construction work” requirement, unless challenged and proven otherwise by the employer

Extract levy from the contractor’s construction budget at the time that they submit it to the necessary authority (e.g. Municipal Corporation) for approval

D. Women-Specific Measures

1. Maternity Benefit Act – coverage needs to be expanded :

Expand sphere of this Act to cover:

Shops and establishments employing fewer than 10 employees

Informal workers who complete 180 days of work in a year

Increase amount prescribed as medical bonus

Increase authorized leave period from six weeks to eight weeks

Authorize 15 days of paternity leave

Extend maternity and paternity leave to employees who adopt a child of one year of age or less

2. Industrial Disputes Act

Include prohibitions against all forms of sexual harassment as per 1992 Order of the Supreme Court (W.P. CRL Nos: 666-70), including: physical contact and advances; demand or request for sexual favours; sexually-coloured remarks; showing of pornography; and other unwelcome physical, verbal, or non-verbal conduct of a sexual nature

Give proportionate representation to female employees in the Worker Committee

Include scope for convening Private Conciliation Boards to facilitate speedy disposal of grievances filed by female employees

Mandate separate Labour court to hear and decide the cases of female workers

3. Workmen's Compensation Act, 1923

Increase amount of compensation for women workers because of their dual work burden at home

Empower Workmen's Compensation Commissioner to pass interim relief orders during the hearing of such cases

Provide coverage for all female workers under medical insurance schemes

4. Factories Act, 1948 (and other Acts – with child care provisions)

Mandate provision of creches in all factories employing more than 10 workers (either men or women)

4. Employees State Insurance Act 1948 – cash benefit to insure women for pregnancy-

Extend coverage to units of 10 workers and to workers who earn less than Rs. 3000 p.m.

E. Advisory, Worker, and Tripartite Committees or Boards (mandated under most of these Acts)

Empower and expand the activities of these institutions to review and regularize irregular tactics by employers, such as shifting from sub-contract to sale-purchase arrangements to avoid employer-status

Set time frames for such reviews and for revising standards, such as Minimum Wage

Include at least one woman from all sides (employer, formal employees, informal workers, and government)

Include representatives of trade unions of informal women workers and formal women workers

Mandate appropriate levels of contribution from employers, employees, and state governments to help the Committees/Boards oversee implementation of benefits and services mandated under the various Acts

F. The Child Labour (Prohibition and Education) Act – to be amended

Source: Report of the Group on Women Workers and Child Labour to the National Commission of Labour (2001).

B. Who Should Comply with Standards?

Much of the current debate - and activism – regarding labour standards focuses on international labour standards and on multinational firms and their workforce, dispersed in factories or sweatshops around the world. Our intent is to broaden the focus to also include national labour legislation, domestic firms, and all informal workers – especially workers in the lowest rungs of global commodity chains who work from their home. We recognize that many lead firms in global commodity chains do not know how many workers work for them – or where and under what conditions – in often long and dispersed sub-contracting chains. But we would argue that the “real” employer of the workers down the chain – the unit that has responsibility for the rights and protection of all workers in the chain - is the lead firm that outsources production, even if it is only a retail firm.¹⁴

This brings us to the issue of labour compliance by informal employers or micro-entrepreneurs who hire others. If micro-entrepreneurs produce goods and/or outsource production for a global commodity chain, we would maintain that the lead firm – perhaps jointly with the intermediary firm – is responsible for the rights and protection of the workers down the full chain. If they produce independently, we would contend that informal micro-entrepreneurs have lower average profits than larger, more formal entrepreneurs and, therefore, less ability to pay reasonable wages, provide worker benefits, or make contributions towards the social insurance of their workers. In such cases, we would endorse a pragmatic approach to the application of labour legislation: one that seeks to balance the concerns for the health, safety, and security of the worker, and the broader community, with concerns for the financial viability of informal enterprises.

C. Who Should Monitor and Enforce Standards?

This brings us to the issue of monitoring and enforcement. We would contend that all standards – those that are fixed locally as well as those around which there is a broad global consensus – are amenable to various forms of monitoring - national and international, private and public – and that efforts on various fronts are required.

Collective Bargaining: Ideally, monitoring and enforcement of rights should be left to negotiations (or collective bargaining) between workers, employers, and governments in individual countries. However, informal workers are not usually organized by formal trade unions and informal workers organizations are not usually represented in formal

¹⁴ In India, several pieces of labour legislation – including the Contract Labour Act, the Bidi and Cigar Workers Act, the Inter-State Migrants Act – stipulate that both the principal employer and the contractor are “jointly and severally responsible”: that is, both the contractor and the person/firm that contracts the contractor to recruit workers or outsource production are jointly, and individually, responsible for complying with the labour legislation. In the U.S.A., in a civil lawsuit against the corporations that kept 71 Thai garment workers in virtual captivity for seven years, the labour lawyers representing the Thai workers argued that the lead retail firms that outsourced production to the sweatshop as well as the on-site operators of the sweatshop should be held accountable. It should be noted that the 1996 ILO Convention on Homework (C177) incorporates the same principle: namely, that not only the contractor but also the lead firm is responsible for protecting the rights of homeworkers mandated in the Convention.

labour negotiations. Moreover, globalisation is eroding the potential for collective bargaining in several fundamental ways. To begin with, as noted earlier, globalisation privileges capital or companies (which can move easily and quickly across borders) relative to labour or workers (who often cannot) leading to the erosion of employment relations, including the bargaining power of labour. Secondly, global competition creates disincentives for local governments to enforce labour standards or allow union organizing and collective bargaining. Thirdly, when globalisation takes the form of global commodity chain production, the primary or real employer may be located in a different country from the real workers who may be located in a number of different countries.

Corporate Codes of Conduct: Increasingly, the spotlight of concern about labour standards has shifted to focus on the corporate practices of multinational companies. Public pressure, by consumer groups and others, has led several multinational companies, notably Nike, to adopt so-called “voluntary” codes of conduct: that is, codes developed, adopted, and monitored by the companies themselves. In other cases, such as the Fair Wear Campaign in Australia, consumer groups have developed a code of conduct for specific industries and, then, negotiated with companies – or shamed companies - to subscribe to the code (see Box 5). Corporate adoption of codes of conduct, whether voluntarily or otherwise, has led to a debate as to whether or not the corporate sector can be trusted to monitor itself. Some observers believe that companies can and will begin to compete between themselves to prove who is more socially responsible and, thereby, “ratchet up” (or raise) labour standards (Fung and Sabel 2000).

BOX 5 FAIR WEAR IN AUSTRALIA

In 1995, the Textile, Clothing, and Footwear Union of Australia published a report entitled The Hidden Cost of Fashion in which it documented how the clothing industry in Australia was structured, involving over 300,000 homeworkers (mostly immigrant women) who were paid less than the minimum wage and received no benefits. Earlier, the Union had fought for a national legal agreement that laid down minimum wage and working conditions for homeworkers. But the study revealed that this legal agreement was rarely honored. This led to a year-long campaign, spearheaded by the Union in collaboration with various religious and consumer groups, to expose companies whose brand-label clothing was being made under exploitative conditions. The campaign included a high-profile media exposure and submission of grievances to the Australian parliament against companies who violated the national agreement. Because the campaign was nationally-focused and involved workers from all over the country, it was able to pressure most companies in the clothing industry to subscribe to the national agreement or code of conduct. Currently, a legal unit within the Textile, Clothing and Footwear Unit (TCFUA) monitors compliance of the national code and takes infringement cases to court (Delaney 1998).

Other observers believe that corporate codes of conduct need to be monitored and enforced. Non-governmental organizations, worker associations, and a new set of players – third-party monitoring groups – are increasingly involved in monitoring corporate behaviour either on behalf of companies or independently.

International Monitoring: International monitoring of labour standards can take two basic forms: monitoring by non-governmental organizations (e.g. consumer groups) in one country of labour standards in another country; and monitoring by international bodies – notably, the International Labour Organization – of labour standards in multiple countries. In either form, international monitoring tends to be perceived in “North versus South” terms: that is, as countries of the North monitoring countries of the South. Kaushik Basu proposes a “third approach” that involves “collusion among the southern countries for raising labour standards, which none of these national governments can do alone, without driving out capital” (Basu 1999: 84-85). What Basu proposes is cooperation between countries in the South to raise labour standards uniformly and, thereby, to avoid investors from turning from one country to another for cheaper labour markets.

A promising example of how to promote South-South solidarity on labour standards is a recent regional policy dialogue in South Asia on home-based workers and the 1996 ILO Convention and Resolution on Homework. This regional policy dialogue was convened in Katmandu, Nepal in October 2000 by the United Nations Development Fund for Women (UNFEM), the international alliance of home-based workers (HomeNet), and the international network WIEGO. Mixed delegations of government officials, non-governmental activists, and researchers from five South Asian countries – Bangladesh, India, Nepal, Pakistan, and Sri Lanka – discussed the numbers and condition of home-based workers, mainly women, in the five countries and the provisions of the Convention and Resolution on Homework. By the end of the workshop, designated representatives from each of the five countries had drafted a joint declaration which, at the suggestion of its Secretary General, was submitted to the SAARC Secretariat in Katmandu for circulation to the five governments: refer to Box 6 for the text of the Katmandu Declaration.

VIII. SOCIAL PROTECTION

The growth in numbers of people working informally means that millions of workers, worldwide, either have never had access to formal mechanisms of social protection - such as health insurance, disability allowances, or retirement benefits – or are losing the comprehensive forms of protection they once had, through their place of employment or from the state, or a combination of the two. At the same time, a characteristic of informal work is that it carries high risks, both economically and physically – for many, work is hazardous. Yet, demands by informal workers for better security and protection can easily lead to increased vulnerability of employment – as they can be easily replaced. This danger notwithstanding, we would make the case for social protection for the informal workforce on two grounds: first and foremost, in terms of their basic human rights; and, second, on that grounds that a healthier and more secure work force increases productivity.

BOX 6
KATHMANDU DECLARATION ON WOMEN WORKERS IN THE INFORMAL
SECTOR, PARTICULARLY HOMEBASED WORKERS
20 October, 2000

The South Asian Regional Meeting on Women Workers in the Informal Sector: Creating an Enabling Environment, participated by the Governments of India, Nepal, Pakistan and Sri Lanka; and by trade unions, Non governmental organizations, relevant UN and international organizations, community based organizations and research organizations from these countries, and Bangladesh, having met in Kathmandu on 18-20 October 2000 and having deliberated on the issues hereby resolve as follows:

Whereas, women workers in the informal sector, unorganised and agro-based sectors contribute significantly to the economic development of their respective countries, and acknowledging that home-based work has been growing rapidly worldwide due to globalisation and liberalization, particularly in South Asia,

And whereas available evidence suggests that homebased work is an important source of employment especially for economically disadvantaged women,

And noting that there are at least 50 million homebased workers in South Asia of whom around 80% are women, who carry out remunerative production and services in their own homes and include own account or self employed workers as well as those who do work for contractors or employers at the piece-rates,

And whereas such workers contribute significantly to the National Economy, these workers are mostly illiterate, invisible, unrepresented and voiceless, and are not generally incorporated in the National Development agendas.

Therefore, in order to bring these homebased workers into the national economic mainstream in accordance with the ILO Convention no. 177, this meeting recommends:

- A. Formulation of a National Policy and a Plan of Action on Home-based Workers by the Governments of the South Asian Region in consultation with the stakeholders, with the following components:
 1. Minimum protection, which would include right to organize, minimum remuneration, occupational health and safety, statutory social protection, maternity, child-care, skill development and literacy programme.
 2. Access to markets and economic resources including raw materials, marketing infrastructure, technology, credit and information.
 3. Set up Social Funds for homebased workers, which would provide insurance against risks of illness, death, old age, accidents, loss of livelihood assets and contingencies as locally required.

- B. Incorporate into official statistics baseline data regarding various categories of workers in the informal sector and in particular homebased workers and their contribution to national economies

- C. Urges SAARC to address the issues of homebased workers in the region and take measures to enable them to deal with the risks and opportunities of globalisation by:
 1. Setting up a Technical Committee for informal sector workers and home-based workers to promote:
 - National Policies
 - Bilateral co-operation
 - Regional Co-operation

 2. Promote increased integration of markets at the regional level so as to create more employment opportunities.

 3. Include homebased products in the SAFTA priority list.

A. Extending Formal Social Security

During the late 1800s and early 1900s, many (now) industrialized economies introduced a system of protection against social risks – called social security – that included: **social insurance** to protect the labour force against “normal” or “common” contingencies in a modern society (old age, disability, death of breadwinner; insurance against accidents at work and work-related illnesses; unemployment benefits); **social assistance** to protect those, who were assumed to be a minority, facing “subnormal conditions” or temporary “uncommon contingencies”; **family allowances** (benefits for families with children); and, in some cases, **national health schemes**. Social insurance, which covered the large formal workforce, was financed by a mix of taxation and contributions from employers and formal workers themselves (Mesa-Lago 1992), and countries differed widely in the relative contribution made by each party, and in whether the state, too, made a contribution.

Some assumed that developing countries would adopt this system either in full or in part; the ILO formalized this wish in its 1952 Social Security (Minimum Standards) Convention. However, extending this formal social security model to developing countries proved problematic. In developing countries, a smaller share of the labour force are wage workers – many are self-employed – and an even smaller percentage are formal wage workers. Therefore, social insurance schemes that depend (in part) on employer contributions cover only a minority of the labour force. And social assistance becomes financially unsustainable because the majority of the labour force (not a minority) lives in permanent or semi-permanent (not temporary) “subnormal” conditions. Consider, for example, the challenge – financially and administratively – of implementing an unemployment insurance scheme when the majority of the labour force is self-employed or informally employed and when many workers remain underemployed, or supplement formal wages with informal earnings.

Most developing countries have found it difficult to implement measures prescribed under the formal social security model (as embodied in the ILO’s core contingencies) given the high financial costs of providing social insurance and assistance; the limits on raising revenues and collecting contributions (due to the low incomes of most of the labour force and the widespread absence of a direct employer-employee relationship); and various operational problems (including verifying risks and contingencies, collecting contributions, and monitoring coverage). Furthermore, some countries have viewed social security as a ‘western import’, and a threat to indigenous social support systems.

However, some developing countries have found ways to extend selected components of this formal model to designated categories of the informal workforce. In Latin America, the mechanisms for extending the formal model have included at various times in various countries:

- legal provisions prescribing the obligation to cover groups in the informal economy: for all groups except unpaid family workers (Jamaica); for domestic workers (Costa Rica and Peru); and social insurance fund for self-employed people (Argentina)

legal provisions giving the possibility of voluntary affiliation: for self-employed and domestic workers (Mexico); for self-employed only (Costa Rica and Peru)

universal coverage systems that do not discriminate among population groups (national health systems in Jamaica)

social assistance programmes that provide non-contributory services to the poor not eligible for contributory services (e.g. pensions in Costa Rica and Jamaica) (Mesa-Lago 1992).

See Box 7 for additional examples of mechanisms to extend formal social security provisions to informal workers.

BOX 7

PROMISING EXAMPLES OF EXTENDING FORMAL SOCIAL SECURITY TO THE INFORMAL ECONOMY

Agricultural Workers Pension Scheme, India: Most states in India have pension schemes for destitute widows and other elderly people. During the 1980s, several states extended social security benefits to the largest occupational group, namely agricultural workers. For instance, the state of Kerala introduced an Agricultural Workers Pension Scheme in 1980. By the early 1990s, this scheme provided a modest pension to nearly 350,000 agricultural workers who were above 60 years of age and had incomes below a stipulated poverty line.

National Pension Scheme, Japan: In the early 1960s – while it was still a middle-income country – Japan succeeded in covering more than 90 percent of its population with health as well as pension insurance. Depending on an individual's employment status, the insured entered different tiers of the social security system. In the case of pension insurance, for example, employees of large companies would be insured by the Employee Pension System (EPS) with small subsidies by the government, while employees of smaller businesses, farmers, self-employed and retired persons would become members of the then newly-created National Pension System (NPS), benefits of which were financed by the government to 33 percent for general pensions and up to 100 percent for certain special types of pensions. While there are financial problems surfacing today that are compounded by the extremely rapid ageing of Japanese society, the NPS succeeded in quickly extending pension insurance coverage to more than 18 million Japanese previously uninsured, by far the majority of which were women.

Statutory Social Security for Homebased Embroiders, Madeira, Portugal: Since the mid-1800s, the Island of Madeira has been known for the handiwork of its many homebased women embroiderers. Until the mid-1970s, however, the embroiderers did not receive any legal protection as workers. In 1974, due to negotiations by the Sindicato dos Trabalhadores da Industria Bordados Tapeçarias (the Union of Madeira Embroiderers), the regional government passed a law that guaranteed basic social security benefits (for old age and disability) to the embroiderers. In 1979, another law was passed that integrated the embroiderers into the statutory social security system of Portugal and, thereby, awarded additional benefits – for sick days and maternity leave – to them. Since then, the Union has successfully negotiated two additional laws: the first guarantees unemployment insurance to the embroiderers; and the second lowers their retirement age (from 65 to 60).

Even in the absence of a direct employer-employee relationship, the principle or precedent of employer contributions to the protection of workers can be – and has been – used by informal worker organizations to leverage employer or state contributions to

special funds for informal workers. In India, there are Acts that empower the Government – both at the national and state levels - to constitute special funds to provide social security benefits to workers by imposing a tax (or cess) on the aggregate output of selected industries. The Bidi Workers Welfare Fund is one such national fund that is constituted from a tax on bidis (hand-rolled cigarettes). There are similar welfare funds at the state level, such as the headloaders funds in Gujarat and Maharashtra states, to which employers pay a levy. The social assistance benefits and services under these welfare funds, provided by government but monitored by tripartite boards, include housing allowances, school scholarships, health benefits, and more. These funds are designed to overcome the necessity of a clear employer-employee relationship and to redistribute some of the benefits of the industry to the workforce.

However, the government in India is not always willing or able to extend the coverage mandated under these welfare fund acts. The Self-Employed Women’s Association (SEWA) has negotiated and filed legal cases to guarantee that social fund and pension fund legislation mandating employer contributions to cover informal workers, notably in the bidi (hand-rolled cigarette) industry, is enforced. A further problem is the growing numbers of funds and boards, as more sectors get covered.

B. Reinforcing Informal Social Security

It was also widely assumed that developing countries benefit from the presence of informal social security measures. That is, that protection against social risks that were not prescribed by law or, otherwise provided by the state or through employers, would be provided by the family or community (caste, tribe, or occupational group) (Mesa-Lago 1992). In developing countries, where traditional social norms may still play a larger role in influencing social behaviour than in industrialized societies, there are many examples of informal social security mechanisms based on principles of either solidarity or reciprocity (as indeed there are in industrialized societies). However, as noted earlier, the benefits from such informal sources are seldom adequate and often uncertain, especially during widespread or prolonged crises; and the associated costs and risks are often quite high, and especially to women. Moreover, many of these have been eroded over time.

There is some scope for designing mutual insurance schemes building on or reinforcing local traditions of solidarity or reciprocity. See Box 8 for promising examples of group – or mutual – health insurance schemes.

However, workers with low pay/earnings and irregular employment – like many of those in the informal sector – are unlikely to be able to save enough to protect themselves against economic risk either individually or through informal group mechanisms. In sum, informal social security mechanisms and mutual insurance schemes should not be seen as a substitute for more formal mechanisms, especially given the increasing risks and volatility associated with globalisation and economic transitions more generally.

BOX 8 PROMISING EXAMPLES OF MUTUAL HEALTH INSURANCE

Mutual Health Insurance Scheme, Bolivia The Instituto Politecnico Tomas Katari (IPTK), a non-governmental organisation in Bolivia, instituted a mutual health insurance scheme in 1996. This scheme covers basic health care services, including preventative care and health promotion, out-patient care, medicines, and other services to its members and the general public. More than half of its members—including homebased workers and other informal economy workers—are people excluded from other social security systems or with income below the poverty line. IPTK had 2000 members by 1998, and handles approximately 35,000 consultations per year. Although members make individual contributions, the scheme is still largely dependent on donor funding.

Mutual Health Insurance Schemes, West Africa: This is an emerging and, with some exceptions, dynamic movement of mutual health insurance schemes in West Africa. These schemes have been created recently, cover only a small portion of the population (about 50,000 persons in West Africa), and are mostly still quite weak institutionally. But, if some of these schemes prove efficient and sustainable, they would represent a promising approach to community-financed health insurance for informal workers and producers.

C. Promoting a Comprehensive Approach

An analysis of existing social protection schemes that support informal workers suggests that even very poor workers are willing and able to save, as long as the transaction costs are not unreasonably high; that in many countries state transfers to older people play an important role in supporting small enterprises and in providing basic household security; that certain groups of workers – such as domestic workers, informal migrant workers – simply are more difficult to include; and that the best opportunities present themselves when large interest groups, such as the private insurance industry, and the government, are willing to negotiate with organized groups of informal workers who are themselves willing to carry some of the costs of schemes.

We know that it is very difficult to build schemes that reach ‘the poorest of the poor’ in a short time, and in ways that are sustainable. We know that social protection schemes are very difficult to sustain in the face of large-scale disasters, and in the face of epidemics such as HIV/ AIDS. We know that, with the exception of transfers, successful schemes depend on robust grassroots organizations and appropriate mainstream institutions, and that, for poor women, time spent organizing and in meetings means opportunities foregone both in income generating activities, and in domestic responsibilities such as child care and care for the elderly.

What is needed is political will - or political pressure - and innovative thinking to identify mechanisms to a) reinforce or strengthen existing informal social security schemes; b) extend existing statutory provisions; c) extend private insurance schemes; and c) develop alternative mechanisms. However, the challenge is immense, and it is clear that programmes and policies must be built on a careful analysis of different options for different categories of workers in specific industries or sectors. The scope for social protection for informal workers becomes manageable if it is grounded in an understanding of concrete reality: through, for example, commodity chain (sub-sector)

analysis, focusing on a gendered and life-cycle analysis of risks and contingencies faced by workers in different employment statuses and locations of work in specific commodity chains. The prospects for organizing around contributory schemes for health insurance for maternity benefits, for example, are very different for more isolated home-based workers at the lower end of the commodity chain in the highly competitive garments industry, than they are for groups of workers working seasonally in commercial agriculture.

In each commodity chain, and at different points along the chain, various institutional players will (or should be) more or less active. These players – such as organised labour, employer groups, chambers of industry, private insurance, government departments – will be differently placed with regard to how they view the salience of social protection, and consequently to what extent they will be willing to play an active role or contribute financially. In collaboration with the ILO-STEP programme and the World Bank's social protection department, to ground their on-going dialogue on social protection for the informal economy in concrete reality, the global network Women in Informal Employment: Globalizing and Organizing (WIEGO) has commissioned case studies of informal workers in different employment statuses in two global commodity chains – garments and horticulture. Each case study will analyse how different categories of workers in these chains, with a special focus on informal women workers, address three core contingencies: illness, disability, and old age. The purpose is to see how they currently address these core contingencies – whether they receive protection from the state, through their employer, from their family or community or have to cope on their own – in order to formulate more effective mechanisms – including appropriate roles and responsibilities for different stakeholders – for protecting them against these contingencies.¹⁵

In a background paper prepared for a joint ILO-STEP and WIEGO workshop on Social Protection for Women in the Informal Economy, Frances Lund and Smita Srinivas (2000) reviewed a number of schemes which demonstrate different types of partnerships and responsibilities for provision (some of which are described in Boxes 6 and 7). SEWA's Integrated Social Security Scheme, started in 1991, now insures more than 90,000 informal workers. The largest comprehensive contributory scheme in India for informal workers, the scheme includes health insurance, life insurance, and asset insurance. Contributions are made by workers themselves Life Insurance Corporation of India, and from interest on a revolving fund. This tripartite structure is similar to the conventional work-related social security in some countries, where the parties are workers themselves, employers, and the state. Many mutual health insurance schemes have been set up in a simpler partnership, between informal workers and NGOs, where neither the state nor employers play any role at all.

South Africa's Old Age Pension scheme is a programme of cash transfers which is non-contributory, means tested, and very well targeted on poor elderly people. It is a vital form of support for retired informal workers who were never able to save for their own retirement. In addition, and interestingly, studies show how the reliability of this state

¹⁵ These case studies should be completed by early 2002.

assistance means that it can be used as a form of collateral for agricultural and other enterprise inputs, as well as securing the position of elderly people in the (often) multi-generational households in which many live. Further, it is a gender sensitive benefit, in that women are eligible at a younger age than men (60 as opposed to 65), and women live longer thus draw it for more years (Ardington and Lund, 1995; Case and Deaton, 1998). In Brazil, the pension scheme is providing similar benefits to the informal sector (as cited in Barrientos, 2001).

Lund and Srinivas suggest the following criteria for the design of schemes if they are to be supportive of informal workers:

They should not download most of the responsibility for risk coverage on to poor people themselves

They should keep open the possibility for different contributions from different stakeholders

They should be able to go to scale

They should emphasize women's empowerment

They should take into account the unpaid work and domestic responsibilities that women have, and how this is often done simultaneously with informal paid work

They should address the local government context (Lund and Srinivas, 2000: 118).

Having reviewed four key functional areas of policy – macro economic, urban, labour, and social protection – we now turn to the policy making process itself.

IX. POLICY MAKING PROCESS

A. National Commission on Labour, India

The official policy stance towards the informal economy in India has gradually shifted from one of benign neglect to recognition and an attempt to bring the workers under some form of protection. The mandate and report of the First National Commission on Labour (1969) reflected earlier thinking. There was no mention of the “unorganised sector”, as the informal economy is called in India, in the terms of reference for the Commission and, therefore, very little attention was paid to it in the report submitted by the Commission. The objectives of the Report were stated as follows: Firstly, ‘review the existing legislative and other provisions intended to protect the interests of labour and to advise how far these provisions serve ...the national objective of establishing a socialist society and achieving planned economic development’ and secondly “our approach throughout has to be inspired by a quest for industrial harmony” The bulk of the Commission’s report dealt, therefore, with industrial labour; less than ten percent of the report (45 out of over 500 pages) explicitly referred to the non-industrial workforce.

However, by 1985, when the Government of India began a process of economic liberalization, it had come to recognize the size, importance, and persistence of the rural sector and the informal economy. The setting up of a series of Commissions to review the

working conditions in the informal economy reflected this official recognition. In 1986, the National Commission on Self Employed Women and Women in the Informal Sector was set up. In its final Report called Shramshakti, that Commission provided a wealth of information on women workers in the informal economy and proposed a comprehensive but pragmatic set of policies and programmes. In 1991, a Commission on Rural Labour was convened. Most recently, in October 1999, the Government of India established the Second National Commission on Labour. In setting up this second commission on labour, the Government of India recognized that the country had undergone major economic changes since the earlier Commission submitted its Report and that it was time to take a fresh look at the situation of labour in the new and fast-changing economy.

Reflecting the change in attitude of the Government of India to the informal (or unorganised) sector, the two main tasks of the Second National Commission of Labour were to:

- Review and suggest how to rationalise existing labour laws
- Recommend an umbrella legislation for the unorganised sector.

According to its Terms of Reference, in reviewing existing laws and recommended legislation to match future labour market needs and demands, the Commission was to analyse and address the following issues:

The emerging economic environment, involving : rapid technological changes, requiring response in terms of change in methods, timings and conditions of work in industry, trade and services; globalisation of the economy; liberalisation of trade and industry; including an emphasis on international competitiveness

The minimum level of labour protection and welfare measures, basic institutional framework for insuring the same in the manner which is conducive to a flexible labour market and adjustments necessary for furthering technological change and economic growth; and

The need to improve the effectiveness of : measures relating to social security; occupational health and safety, minimum wages, linkages of wages with productivity; and, in particular, the safeguards and facilities required for women in employment and handicapped persons in employment.

The Commission has set up five Study Groups to help with its task: one each on Labour Laws, Social Security, Umbrella Legislation for the Unorganised Sector, Globalisation and Women Workers and Child Labour. The Commission has toured the different states of the country - holding hearings with workers and employers organisations and meeting with government official and other interested persons - and has commissioned background studies and memorandums. The final Report of the National Commission is due by end 2001.

Some Indian states have also begun to focus on the workers of the informal economy, including how to improve their conditions and integrate them with the rest of the economy. The state of Madhya Pradesh has, for example, set up a task force on the unorganised or informal labour

B. Durban City Council, South Africa

The harbour city of Durban, on the Indian Ocean, has some 2 million residents. Under the apartheid regime, informal entrepreneurial activities by black South Africans were harshly over-regulated. Then in 1990, the business environment was rapidly de-regulated, adding to the already growing increase in the numbers of people trading in public places in the central cities. In 1994, the new South African Constitution mandated local government to take on three new tasks. It had to promote local economic development, and engage in pro-poor urban policies that opened up work opportunities. Second, the new city managers had to engage in a process of re-regulating the informal economy. Finally, local governments had to emphasize participation and consultation over new policy directions – the local government level was seen as one important site on which citizens, official and politicians would practice democratic governance.

In 1999 the two sub-structures (wards, or boroughs) which governed the central city area embarked on a one-year process of policy development to guide the city in its support for and control of the informal economy. This was an ambitious policy process, initiated by a few far-sighted senior officials and politicians. Previous attempts to do develop policy, and interact with informal traders, had been ad hoc, had not resulted in systematic and coherent institutional arrangements through which the city could negotiate with interest groups – such as organizations of employers, of informal workers, and of civil society. An inter-departmental team, with external advisers, was mandated to steer the work. Departments represented included development and planning, health, police, precinct management, small business support; and the team worked under the overall aegis of the local government's department of economic policy and development planning. Footnote the following sentence: The two external advisors had both previously been doing research for the Self Employed Women's Union (SEWU), under the WIEGO umbrella.

An important insight about policy work in bureaucracies is that many officials have a tendency to respond to attempts at transformation by wanting to change legislation and regulations in their own limited domains or line functions. However, to have a successful overall policy framework, one needs to spend time developing the **overall vision** of the role of the informal economy in the long-term economic plans for the city. That vision needs to be followed up by a management team and institutional structures that can carry forward the policy intent, and an implementation strategy that can practically build the new system and continue with the inter-departmental co-operation started through the policy development. It also needs either new budget allocations, or budget reprioritisation, such that resources can be made available to assist with the new policy direction. The legislation and regulations are then important in enabling all of the above.

A number of critically important components of the process can be identified. The first component was that the policy team, as well as senior politicians, had to come an agreement early on about the *role and importance of the informal economy*: that it was an important job creator and contributor to the city's economy; that it was especially important to poor South Africans; that the formal and informal parts of the economy are closely linked together, and the health of one depends on the health of the other. There were three keys to forging this agreement. The first key was in agreeing to move away from the term 'informal sector'. The interdependence of formal and informal parts of the economy are best understood when one conceptually removes the 'line of division' and understands it as always in flux, with parts of the formal becoming informalised, while different segments of a chain of the informal economy may become regulated. The second key was to forge agreement that street traders (the most visible of informal workers) should be seen in the first instance as workers - not as survivalists, not as welfare cases needing social services, not as city invaders – but as workers, albeit with precarious and sometimes unsustainable enterprises. The third key was there had to be acceptance that informal work and workers are a permanent part of the city's life and economy.

It was important for stakeholders to accept that it was not just Durban that was having a problem with management of informal trade, nor was it just South African cities – part of the overall globalisation process has been the growth in activity of informal activities, in public places in cities and towns. This was not an easy task, given the historically strong partnership between local government and formal business, and the strongly negative attitude by formal business and by many city fathers towards the informal workers – as purveyors of 'crime and grime', and as the cause of the hollowing out of the central city. At the heart of the contestation was a battle over the appropriate image of a city in 'the new South Africa'. Was it to be European and orderly and formal and bourgeois, or African and vibrant and bustling with trade and texture and noise?

The second component was that *research played an important role* in the work of the policy team. The following studies were undertaken: sub-sectoral studies on the clothing and accessories industry, and on the fruit and vegetable sector; an analysis of local government budgetary allocations to informal businesses; an investigation of the storage needs and strategies of city centre traders in different sectors; and an assessment of the quality and quantity of work done by training and support institutions, from the public sector Department of Labour, to private sector firms promoting small businesses.

Third, the policy team engaged in an *extensive system of consultation* with stakeholder groups, such as organizations of informal workers, trade unions, community-based organizations, civic associations and formal business. Special attention was paid to reaching out to less articulate, less centrally situated groups of informal workers. An Issues Document was widely disseminated and used as the basis for discussion in specially designed workshops. These were aimed at identifying the propriety needs of informal workers, as well as possible mechanisms for the integration of the voices of informal workers into local government structures.

Fourth, the team had much to learn from *work that had already been done in the city* in the previous few years. Durban had already allocated resources and imagination to pilot projects in urban renewal, and there was much to learn about street level management and negotiation. A unit for the development of small businesses had been set up, and had started the work of trying to support small traders. Most often, it was local government ownership of assets such as buildings which were key to enabling innovative work such as support for training and development. The City Health Department had done ground breaking work in negotiating with street traders about conditions of cleanliness, and providing certified courses for improving standards of stalls. Importantly, there were numbers of officials across different departments who had observed how wasteful it was to expend energy on controlling and punitive actions, when there was not the capacity to regulate properly. They knew that the way forward had to be one of negotiated actions with trader groups.

The Durban policy process identified a host of ways in which the local authority could be supportive using existing resources: translating documents; providing legal advice about how to formally constitute as an organization; providing secretarial assistance; disseminating information about training courses; brokering donations of containers for storage space; using local government media to inform about meetings and events; arranging affordable meeting places in local authority buildings; holding meetings in the appropriate language; insisting that organisations include women in their delegations; holding meetings at the appropriate time of day; ensuring that the same officials, invested with some authority, are assigned to these processes in a continuing way – these measures all proved helpful.

The policy regarding informal trade has been accepted by the city, and an implementation team has been set up to take the work forward. Some practical aspects of the policy are:

- Combine but understand the difference between area based management, and sector-based support
- Understand the potential of pavement space as a development tool, to be valued by both traders and the city
- Simplify registration costs (lowering the cost to the vendors and home based workers of becoming regulated) and attach incentives to registration
- Develop an information system which can link management, registration and support functions
- Have informal trader organisations represented on planning and policy committees in the same way that formal business associations are represented
- Offer concrete support to trader organisations – legal advice, secretarial help, low cost meeting places – using existing resource
- Link new built markets in outlying areas to local economic need
- The city, through its extensive communications channels, and traders, through use of public media, can both contribute to improving the image of informal work.

Implementation will be a slow and inevitably uneven process. There is still a distance between the policy, its implementation, and then its becoming institutionally consolidated. The city continues to undergo a pre- to post-apartheid transformation of administrative structures, and there is limited capacity within local government. The South African economy is fragile; the importance of the informal economy, and also the strain on local government resources, will inevitably grow in the face of the severe AIDS epidemic (one in four South Africans is estimated to be infected). Nevertheless this policy process builds on what had already been started, and used ‘do-able actions’ as a guiding principle. These proactive steps by local government will need to continue to be matched with the strengthening of organisations of informal traders, so that the government has strong partners with whom to negotiate.

X. CONCLUSION

Globalisation of the economy is often equated with deregulation and the withdrawal of the state from the economic realm. However, in today’s world, the importance of regulation should not be underestimated. There is growing evidence that regulation of economic activities, including an active role for governments, is needed to deal with the impacts of globalisation on labour relations and on the environment. Moreover, globalisation itself has created new needs for regulation. Consider the concern about regulating capital markets after the Asian financial crisis or about protecting intellectual property rights in the new “knowledge economy”. Clear rules and appropriate legislation to regulate the relationship between governments, foreign investors, local enterprises, and the workforce in today’s global economy are needed. The policy challenge in today’s global economy is not whether to regulate but how to determine the right balance between national and global regulations.

What we have attempted to do in this paper is present an overview of how to develop, in specific contexts, an improved and appropriate policy approach to the informal economy. We have tried to avoid proposing specific policy prescriptions but, rather, have sought to provide guidelines and examples for developing a policy approach in different contexts. In closing, we would like to emphasize several principles that we feel should guide any policy development process:

Context-Specific Approach: To understand the scope for change, one needs to understand how policies (and history) mould the present, presenting both opportunities and barriers. We have seen how India made the decision to actively support crafts-persons and artisans, and how this has led to thriving activity. In South Africa, the apartheid government as a matter of policy restricted entrepreneurial possibilities for black people and restricted the development of small businesses. This legacy – reflected in limited knowledge of and access to markets and, therefore, limited ability to compete with migrant traders from other African countries - will take years to overcome.

Gendered Approach: A gendered approach does not mean ‘adding on women’. It means understanding the relationship between men and women, their different positions in the economy, including for instance: how street sites are allocated and controlled between

men and women; how women's access to resources, services, and (even) social protection benefits may be mediated through her husband and his work.

A gendered approach should also be mediated with or tempered by a class analysis so that it allows for a recognition of the hostility and conflict in market places or transactions between women of different classes and between women of one class and men of other classes. In regard to the informal economy, the gendered approach we would recommend is actually a pro-poor approach that is gender sensitive and focused on work-status. If you look for women in the informal economy and find out where they work, this will lead you to poor households and poor children as well.

Institutional Approach: The informal economy needs to be mainstreamed in the institutions (and associated rules) that govern market transactions, market sites, commercial contracts, and industrial relations. Learning from the Durban policy process, this means locating the urban informal economy with the Planning and Economic Development departments, rather than in Traffic or Police or Health departments; integrating a consideration of informal economic activity in medium and long term development plans of the city; and allocating resources for both managing and supporting the informal economy.

Other measures that are important are to retrain government officials in conflict resolution, negotiation and mediation skills, and in understanding the economics of the informal economy; instituting affordable mechanisms for appeal against unfair harassment; and developing information systems for registration and licensing that cut across different departments, so that there is a shorter feedback loop into management.

Democratic and Participatory Process: In addition to mainstreaming the informal economy as a policy issue in relevant institutions and government departments, we recommend involving those who work in the informal economy in the formulation of relevant policies. Ideally, this should be done through a democratic process involving the representatives of organizations of informal workers. This would mean guaranteeing the right to organize and recognizing the organizations of informal workers. The principle here is that informal workers should be allowed to be represented wherever formal business is represented. In addition, it may be necessary to set up special fora to ensure the voices of informal workers, especially the most isolated and disadvantaged, are heard. There are a number of ways in which local governments can provide practical support to organizations of informal workers and involve representatives of informal workers in policy formulation (as illustrated by the policy process in Durban, South Africa and the Second National Labour Commission in India). We recognize that the way forward is not going to be easy. History has shown that successfully improving conditions depends on building organisations, and this takes time; that changing bureaucratic institutions is difficult; and that changing negative public perceptions is not easy. However, this seems to be a propitious time because on a range of fronts, as we have shown in this paper, the significance and contribution of informal work, and informal enterprises, is being recognised – by trade unions, by governments, and importantly, by the ILO. A close analysis of the way the global economy operates

reveals not only growing inequality but also commonalities between (and within) North and South. The fact that an increasing share of the global workforce, in both the North and the South, is in the informal economy is one such commonality and a key determinant of growing inequality.

The way forward needs to involve organizations that represent – or work with – the poorer informal workers, especially women. There is growing evidence that concerted action by organizations of low-income informal workers, especially women’s organizations, have had positive outcomes in improving the working conditions of poorer informal workers and the welfare their families.

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