

## **LEGAL MECHANISMS TO EMPOWER INFORMAL BUSINESSES**

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

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### **I. PROBLEM STATEMENT**

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

## II. LEGAL MECHANISMS TO EMPOWER INFORMAL BUSINESSES

2.1 Policy Stance – WG# 4 should encourage the Commission to highlight and endorse that...

- legally empowering small informal businesses run by poor individuals or households should be seen as a central pillar of a just society and a central strategy for reducing poverty and inequality
- most policies and the global economy privilege large firms/enterprises over small firms/enterprises (as well as capital over labor, theme of WG#3)
- informality is here to stay and is an essential feature of the global economy
- while national governments and the international community should seek to create as many formal jobs as possible and formalize as many informal enterprises and jobs as possible, informality is not going to disappear
- the real challenge is to reduce the Decent Work “deficits” of those who work informally, especially the working poor
- commercial rights for informal entrepreneurs/operators should be seen as an essential part of a package of rights for the working poor in the informal economy that also includes property rights, labour rights, the right to social protection, and the right to be organized and represented in policy-making and rule-setting institutions and processes
- other than social protection (property, health, life, disability, old age) which is relevant for wage workers as well as the self-employed in the informal economy, commercial rights are relevant to the half of the working poor in the informal economy who are self-employed
- of the half of the working poor who are self-employed, the larger and more vulnerable group are own account operators, including: both single person operators and those who work in family businesses or on family farms
- productivity and protection can and should be promoted together
- economic policies should address issues of redistribution

2.2 Policy Position – WG # 4 should encourage the Commission to highlight and endorse...

- *basic commercial rights*: right to work, including right to vend; right to a work space (including public land and private residences) and related basic infrastructure (shelter, electricity, water, sanitation)
- *intermediary commercial rights*: right to government incentives and support (including procurement, tax holidays, export licensing, export promotion); right to public infrastructure (transport and communication)
- *advanced commercial rights*: the ILO set of legal tools are, I think, most relevant for larger more advanced informal enterprises

2.3 Policy Process – WG # 4 should encourage the Commission to recommend a policy process that...

- seeks to reduce the Decent Work “deficits” of those who run informal businesses
- includes representative voice of the working poor in the informal economy

- recognizes and addresses the bias in existing commercial policies, regulations, laws, and procedures that favor larger firms/enterprises
- seeks to extend government incentives and procurements to the smallest informal enterprises
- seeks to build backward and forward linkages on fair terms between larger and smaller firms
- seeks to promote market access and fair trade for smaller firms and enterprises
- promotes social protection for informal operators (property, health, life, disability insurance) plus retraining, life-long learning, and other support to mobility

2.4 Practical Strategies – WG# 4 should assemble a critical set of good practice examples that illustrate the desirability and feasibility of such a policy position and process. These should be grouped according to what constraint or need is being addressed and the policy lesson should be highlighted.

- Cocoa Farmers, Ghana
- SEWA, India
- VEG Care, Kenya
- Grameen Telecom, Bangladesh
- Transport case study (South Africa)
- other relevant case studies

2.5 Policy Debates re Formalization of Informal Businesses - WG# 4 should point out to the Commission the fact that formalization can and should take different forms, including the following:

#1 – Expanding **formal employment opportunities**

#2 – Creating **incentives** for informal enterprises to formalize, including:

- simplified **registration procedures**+ progressive **registration fees**
- supportive **investment climate**
- fair **commercial transactions** between informal enterprises and formal firms
- appropriate **legal and regulatory frameworks**, including
  - enforceable commercial contracts
  - private property rights
  - use of public space
- **tax-funded incentives**, including: government procurement + tax rebates + tax-funded subsidies and incentive packages

#3-- Providing **financial, business development, and marketing services**

#4 – Creating mechanisms and financing arrangements to provide **social protection** to informal producers

#5 – Promoting participatory **policy processes** and inclusive **rule-setting institutions** that include representatives of associations of informal entrepreneurs

Final note. I think the best way to illustrate how this approach would work is to feature 2-3 categories of informal businesses: notably, street vendors, informal manufacturers, informal transport providers, and small farmers.

Take, for instance, street vendors of several types:

- those who sell fruit and vegetables: they need basic and intermediate commercial rights
- those who sell cooked food: they need basic commercial rights and intermediate commercial rights but also need to be regulated for public safety concerns
- those who sell small domestically-produced manufactured goods: they need basic and intermediate commercial rights and may also need to be regulated to ensure the goods are not pirated
- those who sell more valuable imported manufactured goods: they need basic and intermediate commercial rights and may also need to be regulated to ensure that the goods are not smuggled or pirated

Few street vendors would worry about advanced commercial rights unless and until the basic and intermediate commercial rights are taken care of.

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