



*23-year-old Saranya does stitching and basket weaving from her home in Tiruppur, India.  
Photo: SAVE – Jothyraj, WIEGO archive*

## A chain is as strong as its weakest link: Strategies for international supply chain legislation to include homeworkers

Marlese von Broembsen

### Introduction

Home work<sup>1</sup> – industrial outwork – is as old as capitalism itself.<sup>2</sup> In a practice that began in the global North and spread to the global South, factories in many industries subcontract aspects of production to women and men who work from their homes. In the garment and footwear sector, homeworkers are intrinsic to global production. For example, in India, a survey of 340 garment factories in Delhi and Bengaluru shows that 58 per cent of the surveyed factories outsource to homeworkers.<sup>3</sup> And in Tiruppur – the “T-shirt capital of the world” – the Labour Resource Centre of Social Awareness and Voluntary Education (SAVE) has organized several hundred homeworkers who sew T-shirts; make screen-prints and embroider garments; cut threads, thread cords through track pants; and iron and package garments for over 400 European and North American brands.

In some supply chains, homeworkers work part-time or seasonally and in others they are full-time, permanent workers. According to a study of homeworkers in the Philippines, homeworkers work between three and six hours a day during the lean season, whereas in peak season they work up to 18 hours a day.<sup>4</sup> In Indonesia, half of surveyed homeworkers work less than 35 hours a week, but one-third work more than 48 hours a week. In Thailand, three out of every four homeworkers work more than 40 hours a week.<sup>5</sup>

Since homeworkers are generally excluded from labour laws, factories can pay them as little as one-third of the minimum wage. A six-province survey in Indonesia found that homeworkers in the garment sector earn just under half the minimum wage.<sup>6</sup> According to an International Labour Organization (ILO) study of 406 homeworkers in Pakistan, homeworkers worked 12.5 hours a day, six days a week and earned the equivalent of USD41.42 a month.<sup>7</sup> This is less than one-third of the statutory minimum wage. In Vietnam, homeworkers in the garment sector earn less than half the earnings of the average factory worker.<sup>8</sup> Homeworkers also absorb production costs: equipment (sewing machines, needles and scissors), electricity, and transport to and from the factory if they have to collect the raw materials and deliver completed goods.

Homeworkers are difficult to organize because of a fractured workplace – multiple homes – and they seldom think of themselves as workers who should enjoy labour rights. Also, their employers are not easily identifiable. Until recently, few traditional clothing and textile unions organized homeworkers. Despite these difficulties, homeworkers have organized themselves at local, national and global levels—as cooperatives, worker-owned producer companies, voluntary associations, community-based organizations and trade unions. In Asia, they have organized into two regional networks: **HomeNet South Asia** and **HomeNet South-East Asia**.<sup>9</sup> In 2021, home-based worker organizations around the world founded the global organization, **HomeNet International**.<sup>10</sup>

Organizations of homeworkers have fought for legal recognition as employees. In Thailand, **HomeNet Thailand** and its allies fought for The Protection of Homeworkers Act (2010), and in

the Sindh Province, Pakistan, the 4,500-member trade union **Home-based Women Workers' Federation** fought for the Sindh Home-Based Workers Act (2018).<sup>11</sup> Other homeworker organizations have fought for inclusion in labour laws.<sup>12</sup> But statutory recognition has not been enough. Employers threatened with enforcement simply move production to another country. Recognizing the need for a transnational strategy that would disincentivize employers and brands from moving production to another country to escape labour laws, Suntaree Saenggin, the coordinator of HomeNet South-East Asia, enlisted support from WIEGO's Law Programme. The sections below describe the steps we have taken together with WIEGO's Organization and Representation Programme, HomeNet South Asia, HomeNet South-East Asia and the newly formed HomeNet International to engage in a regional strategy for the recognition of homeworkers as legitimate supply chain workers entitled to labour rights, benefits and protections. Since this is an ongoing process, we offer this as a reflection and invite engagement. We describe the WIEGO network's strategies for homeworkers' inclusion in international law instruments in general and in the EU Human Rights Due Diligence legislative process in particular, under these headings:

1. Identifying sources of power
2. Building the capacity of home-based worker organizations
3. Building alliances
4. Identifying strategic inputs and key messages
5. The next phase of advocacy

### Identifying Sources of Power

Erik Olin Wright<sup>13</sup> famously argued that organized labour relies on two sources of power: *structural power*, meaning the power that organized labour possesses by virtue of being indispensable to industrial capitalism, and *associational power*, which labour exercises through collective action. Although homeworkers are intrinsic to global and domestic garment production, they are treated as dispensable. If homeworkers engage collectively with factories, they risk losing their orders and being replaced by other

homeworkers. Since they are excluded from labour laws, they have no legal recourse. We needed to identify other sources of power.

Labour rights organizations, such as the Clean Clothes Campaign (CCC) and the Worker Rights Consortium, represent another form of power for organized workers: *consumer power*.<sup>14</sup> For example, by campaigning against specific brands, the CCC creates reputational risk for companies.<sup>15</sup> We began by mapping labour rights organizations that fight for workers' rights in garment supply chains – their structures, objectives, ways of working, successes – to identify potential allies. We also noted our need to build stronger relationships with trade unions at national and regional levels.

### Building the Capacity of Homeworker Organizations

WIEGO has a long history of providing research, technical and other support to organizations of workers in informal employment to participate in the Worker Group of the annual tripartite International Labour Conference (ILC). Through building regional platforms of demands and supporting worker representatives to voice these demands at the ILC, the demands of workers in informal employment are reflected in ILO Convention 177 on Home Work, ILO Convention 189 on Domestic Work, ILO Recommendation 204 concerning the Transition from the Informal to the Formal Economy, and ILO Convention 190 on Violence at Work.

A WIEGO-organized global conference of home-based worker organizations held in Delhi, India, in 2015 adopted the “**Delhi Declaration of home-based workers**”,<sup>16</sup> which includes demands related to the conditions of work for homeworkers in global supply chains. A year later, in preparation for the ILC General Discussion on Global Supply Chains, WIEGO convened a meeting of homeworker organizations from 11 South and South-East Asian countries in Ahmedabad, India, to prepare a platform of demands to present to the Worker Group at the ILC. Their interventions at the ILC – where the Self-Employed Women's Association (SEWA) from India enjoyed trade union status and speaking rights – resulted in the recognition in the General Conclusions of the Conference

that homeworkers are intrinsic to global supply chain production. This laid the foundation for a module on home work in the **OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector**.<sup>17</sup>

To plan a regional strategy for homeworkers in global garment supply chains, we formed a committee comprising WIEGO's Law Programme, its Organization and Representation Programme, HomeNet South-East Asia and HomeNet South Asia (HomeNet International did not yet exist). The first task was to support homeworker organizations and their leaders to better understand the violation of their labour and human rights – insecure work at below-minimum wage, no social protection, long hours of work, threats of harassment and loss of earnings if the full order is not delivered on time, and no rights to bargaining collectively – from the perspective of dynamics in the supply chain. The next was to forge partnerships with trade unions and labour rights organizations at national, regional and global levels to bring them into the fight for the legal recognition of homeworkers as legitimate workers in garment supply chains who must enjoy the same labour rights and protections as factory employees.

The committee planned a five-day meeting in Bangkok, Thailand, in 2020 and invited 67 delegates from homeworker organizations, homeworker leaders, labour rights organizations, trade unions, the Asia Floor Wage Alliance (AFWA), the ILO and regional branches of SAVE and Oxfam. We planned two days of training for homeworker organizations and homeworker leaders and three days of dialogue with allies to begin the process of crafting Asia-wide strategies. But the COVID-19 pandemic intervened and the meeting was cancelled.

### Brutal cost of brands' failure to pay

At the start of the pandemic, when sales slowed in Europe and North America, many brands and retailers in the garment sector demanded lower prices from their Asian suppliers or simply cancelled their orders, including those that had already been shipped. Ninety-one per cent of brands that had procured garments from Bangladesh refused to pay anything toward the costs of production or toward wages for the workers who had produced their goods.<sup>18</sup> These cancelled orders, estimated at over USD3 billion in Bangladesh alone, meant that more than two million garment workers in Bangladesh lost their jobs or were furloughed without pay.<sup>19</sup>

Kyritsis et al. surveyed workers from 158 factories in nine countries that produced garments for over 100 brands and retailers. They concluded that workers' strategies of reducing their food intake and going into debt to stave off starvation are "[b]ecause garment factories operate on razor-thin margins and use the money from orders to pay workers and keep the lights on."<sup>20</sup> Indeed, the pandemic laid bare that "labor violations are not simply a factory-level problem that can be corrected by improved compliance monitoring; they are a pervasive and predictable outcome in an industry dominated by lead firms whose business model is predicated on outsourcing apparel production via highly flexible, volatile and cost-sensitive subcontracting networks."<sup>21</sup>

In the meantime, some brands declared dividends to shareholders. As one newspaper article put it, the failure by brands and retailers to pay for orders that they had contracted for amounts to "one of the largest transfers of wealth from the global South to the global North in recent history."<sup>22</sup> A year later, brands were demanding lower prices from their suppliers.<sup>23</sup> Supplier factories responded by retrenching their permanent, full-time workers and Asian states have unilaterally amended their labour laws to increase working hours and are engaging in union-busting.

In the wake of COVID-19's large-scale disruption of supply chains, homeworkers were left without work.<sup>24</sup> Since they are excluded from the labour laws of their countries, they were unable to access social security benefits. Together, organizations of home-based workers called on their governments, employers, contractors and the brands to "ensure their health, safety and economic survival"<sup>25</sup> and engaged in a range of strategies, including manufacturing masks,<sup>26</sup> to secure food and basic commodities for their members.

Despite the hardship homeworkers were enduring, our partners decided we should forge ahead with a series of online meetings. Fourteen organizations of homeworkers from seven countries participated, including many homemaker leaders – altogether approximately 45 people, mostly women. For many workers, this was the first time they had participated in an online meeting. HomeNet South-East Asia and HomeNet South Asia organized simultaneous translation for participants over WhatsApp. The webinars included presentations and dialogues with the Centre for Global Workers Rights, the Worker Rights Consortium, AFWA and the CCC. These allies explained the supply dynamics, their

own strategies and how they could join forces with homeworkers and their organizations.

During 2020, we learned of the human rights due diligence legislative process in the European Union.<sup>27</sup> The EU Commission was tasked with drafting a legislative framework to realize the UN Guiding Principles on Business and Human Rights that would oblige member states to enact legislation making it mandatory for enterprises to take responsibility for the environmental damage and violations of worker rights attributable to their business operations and relationships, including in their supply chains. The 14 homemaker organizations were well positioned to participate in this process.

### Building Alliances

We intentionally deepened relationships with two existing allies: the CCC and AFWA. These are important networks in the garment industry. Our goal was to build solidarity among all workers in the supply chain; and for homeworkers to be seen as intrinsic to garment production and therefore included in the CCC's strategies. Below we give an outline of these organizations and key milestones in joint efforts.



### The Clean Clothes Campaign

Established in 1989 by European activists, the CCC is a global network of more than 230 organizations – trade unions, labour rights organizations, women’s organizations, consumer advocacy groups and organizations of homeworkers. The vast majority affiliate at national and regional level, with a few transnational organizations affiliating as “global” members. The CCC’s international office is in Amsterdam and it has a satellite office in Brussels. There are national CCC coalitions in several European and Asian countries. The network “educates and mobilizes consumers, lobbies companies and governments, and offers direct solidarity and support to workers’ struggles.”<sup>28</sup> The CCC pressures brands and retailers to take responsibility for labour rights violations in their supply chains through research that maps supply chains and documents labour practices, pressure tactics against brands (such as protests at new branches and attending shareholder meetings) and campaigns aimed at consumers. Through its “urgent appeals” mechanism, it responds to workers’ requests for assistance in cases of rights violations.

### The Asia Floor Wage Alliance

Founded in 2007, AFWA is a network of labour organizations and trade unions from Asian garment-producing countries and countries that are home to the leading brands. The International Coordinator, veteran trade unionist and feminist Anannya Bhattacharjee, is also President of the Indian Garment and Allied Workers.<sup>29</sup> As its name suggests, AFWA focuses on arresting the proverbial race to the bottom by establishing a regional living wage. Based on a food basket of 3,000 calories to support a family “with three consumption units” and with support from the CCC and the Worker Rights Consortium, AFWA conducted research in six countries and developed a regional living wage expressed in purchasing power parity, which is translated into local currencies and updated periodically.<sup>30</sup> A regional living wage addresses workers’ livelihoods, but it also addresses the structural issue of lead firms playing off countries to secure the lowest price. AFWA sees the living wage as “inextricably linked with freedom of association and the end of short-term contracts and gender-based discrimination.”<sup>31</sup> AFWA engages in both traditional union activities as well as campaigning. It documented the pandemic’s effects on different supply chain actors in its “[The Emperor Has No Clothes](#)” series.<sup>32</sup>

WIEGO joined the CCC in 2018 as a partner at the global level. As a network member, WIEGO contributed to the CCC’s report, “[Fashioning Justice](#)”,<sup>33</sup> which informs the network’s advocacy on supply chain regulation (with a focus on mandatory human rights due diligence) and which the CCC has shared widely with EU policymakers. “Fashioning Justice” makes clear that legislation should cover homeworkers and homeworker organizations should be consulted on all aspects of due diligence process. The CCC made a [podcast](#) on home work for its members and the broader public to better understand home work.<sup>34</sup>

As a member of a CCC working group that met bi-monthly to track and provide input to the EU human rights due diligence process, we made visible the extent of informality in garment supply chains, why it is important for legislation to include all workers in all

tiers of the chain, including homeworkers, and how legislation might do so.

The CCC belongs to an informal Brussels-based coalition of non-governmental organizations that are engaged in the human rights and environmental due diligence (HREDD) legislative process. Both the CCC and the broader coalition decided that it was a top priority for the legislation to include all tiers of the chain, including subcontracted workers in workshops and in homes.

When COVID-19 hit Asia, AFWA aggregated worker voices to demand a “one-time supply chain relief contribution”<sup>35</sup> from 15 of the brands that had cancelled their orders and failed to pay for orders already shipped when Europe’s pandemic began. With the support of US organization Global Labour Justice, AFWA began direct negotiations with

the brands. In July 2020, AFWA, WIEGO, HomeNet South Asia and HomeNet South-East Asia made a joint demand for a **one-time COVID-19 supply-chain relief contribution from brands for all garment workers**.<sup>36</sup>

## Identifying Strategic Inputs and Key Messages

From our engagement with the CCC, we learned that three issues were especially contested. First, the scope of the legislation: which enterprises should the legislation apply to? Only large corporations, or also small and medium enterprises? Second, which workers should the legislation apply to? How far down the chain should the legislation apply? Should it emulate France's Corporate Duty of Vigilance Law (2017) and Germany's Act on Corporate Due Diligence Obligations in Supply Chains (2021) that only regulate first-tier suppliers? Third, how should the laws be enforced? Labour rights organizations argued that enforcement of company codes through private auditing companies had not prevented gross human rights violations, including the death of workers in factories that burned down shortly after having received a clean audit.

We focused on areas two and three: "How far down the chain?" and "Enforcement".

### How far down the chain?: All workers in all tiers of the chain, including homeworkers

In a Business & Human Rights Resource Centre **blog**,<sup>37</sup> Marlese von Broembsen outlines the arguments for why human rights due diligence legislation must include subcontracted workers. The reasons are the following:

- If legislation only covers factory workers, it ignores the real structure of the chain. A **Cornell study**<sup>38</sup> shows that subcontracting aspects of production to workshops and homeworkers is ubiquitous in many sectors. In India, for example, almost 90 per cent of garment sector workers are employed in small and medium enterprises,<sup>39</sup> many of which subcontract to homeworkers.
- Suppliers are incentivized to subcontract and informalize the workforce if only part of the workforce is regulated. A study of 40 factories in eight garment and footwear

producing countries found that it is common practice for suppliers to maintain one factory that complies with brands' codes of conduct, while subcontracting to unaudited factories and workshops.<sup>40</sup>

- If labour rights are only for some, not all, workers, the cost of "upgrading" some workers' terms and conditions of work is borne not by factories or brands, but by other workers who are not covered by the legislation, namely informal workers in factories and subcontracted workers in workshops and homes.<sup>41</sup>

This is a gender issue: In the textile, garment and footwear sectors, 80 per cent of the workforce is female<sup>42</sup> and women are always found in the most insecure work: casual work paid by the piece and home work.

### Enforcement: Access to justice from below

Enforcement, access to justice and remedy for workers are key concerns for labour rights advocates and for EU policymakers who seek to improve on the weak enforcement mechanisms of social auditing – the enforcement strategy that enterprises and multi-stakeholder bodies use to monitor suppliers' compliance with their labour codes. It is widely accepted that social audits – private companies assessing suppliers' compliance with labour rights – have failed to protect workers from violations of their labour rights, and even from death.<sup>43</sup> Ali Enterprises, a garment factory in Pakistan, received a clean audit a mere three months before structural deficiencies led to a fire that killed 260 workers and left another 32 injured.<sup>44</sup> Similarly, the Tazreen factory in Bangladesh caught fire in 2012, killing more than 112 workers. And, in 2013, the Rana Plaza building in Bangladesh collapsed, killing 1,134 workers and leaving thousands injured and traumatized. In each case, the factory had received a clean audit.

Fifteen labour and human rights organizations, including WIEGO, wrote an open letter to the European Union on 13 September 2021<sup>45</sup> – "**Urgent request to ensure social auditors' liability and effective legislation on human rights and environmental due diligence (HREDD) and corporate accountability**" – that pointed out the deficits of social auditing and argued for

“a robust liability regime” that ensures victims of corporate abuse will enjoy access to justice and remedy.<sup>46</sup> The Brussels-based coalition has focused its energies on “judicial enforcement.” It argues that it must be possible for workers to take companies to court for human rights violations in supply chains and courts must hold directors of EU corporations liable for labour rights and environmental violations.

Most homeworkers, however, do not know the names of the brands for which they produce. Factories go to great lengths to hide the names of the brands and homeworkers risk losing their jobs when they try to identify different stakeholders in the chain. The WIEGO network’s focus is on “non-judicial enforcement”: we call it worker-driven access to justice from below.

Worker-driven enforcement embodies three ideas. First, it challenges enforcement strategies that are top-down and have been designed without the participation of the intended beneficiaries – the workers, who are uniquely positioned to know how their human and labour rights are violated. Outhwaite and Martin-Ortega<sup>47</sup> argue that “worker-driven” is a more comprehensive notion than “worker-centred”, which tends to limit worker participation to inspections. Worker-driven suggests that workers are involved in every aspect of supply chain governance – in the legislation intended to protect them, in designing and supervising complaints and grievance mechanisms, and in remediation processes.

Second, it champions “industrial democracy” for all workers, not only those protected by labour laws.<sup>48</sup> Third, it recognizes that “issues of decent work are inherently political, rather than technical.”<sup>49</sup> It reminds us that power relations are inherent in employment relations. In many industries, most supply-chain workers are first-generation female workers who are migrants from poor families. This intensifies the already unequal power relations between employer and employee. These power relations have to be mediated and compliance should not be outsourced to the private sector for profit.

Fourteen organizations of homeworkers, WIEGO and AFWA agreed on these three key access-to-justice arguments:

1. Legislation should cover all workers, irrespective of their employment status, in all tiers of the chain. Regulating only some (permanent) employees in tier-one factories, not only excludes most supply chain workers, but incentivizes suppliers to informalize the workforce.
2. Inclusion is a gender issue since women are over-represented in outsourced and subcontracted employment arrangements.
3. Access to justice is only realizable if there is “meaningful engagement” with all workers and their organizations on all aspects of due diligence, including the design and oversight of complaints and grievance mechanisms.

Gender-sensitive, worker-driven supply chain governance means that workers and their organizations are consulted in all aspects of due diligence, represented by organizations of their choosing, participate in the design of complaints and grievance mechanisms, and are represented on the bodies that oversee complaints and grievance mechanisms. Employers who retaliate against workers must face disciplinary proceedings. Our policy brief, [Supply Chain Governance: Arguments for Worker-Driven Enforcement](#), sets out these arguments more fully.<sup>50</sup>

## The Next Phase of Advocacy

HomeNet International, HomeNet South Asia, HomeNet South-East Asia, AFWA, Home Based Women Workers Federation, National Trade Union Federation Pakistan, and WIEGO sent a [joint open letter](#)<sup>51</sup> on 9 November 2021 to EU Commissioners to voice the demands of factory workers and homeworkers. Among these, the letter – “Workers in all tiers of supply chains need protections” – urged that the proposed human rights due diligence Directive hold directors and social auditors liable for human rights violations in supply chains; and that the enforcement mechanisms address access to justice barriers for workers from production countries.

On 23 February 2022, the EU Commission published a draft Directive on Corporate Sustainability.<sup>52</sup> Unlike the French and German laws that, as mentioned earlier, only apply to workers in tier-one factories, the draft Directive applies to the “whole chain”. This was cause for celebration. Homeworker organizations felt that they had been heard by allies, by the NGO Coalition and by the Commission. Indeed, a letter written by the Director General on behalf of Executive Vice-President Věra Jourová and Executive Vice-President Valdis Dombrovskis – in response to the organizations’ November letter – stated the following:

*The Communication underlines the EU comprehensive approach to promoting decent work worldwide, **covering all workers** and supporting gender equality and non-discrimination. The Communication also points out that the garment sector is considered as sensitive in terms of decent work deficits and that the EU takes specific measures to promote decent work in the garment supply chains.*

*I thank you again for sharing your experience on the situation of workers and trade unions in global supply chains beyond the first tier. I have also taken good note of the principles that you have put forward in order to ensure access to justice for workers.<sup>53</sup>*

The draft Directive qualifies the commitment to all workers, however, by stating that workers are only covered if they are “not incidental” and are part of “an established business relationship.” This qualification has been critiqued by the **European Coalition for Corporate Justice**<sup>54</sup> and by the **lawyers for the trade union movement**,<sup>55</sup> since it provides corporations with loopholes. It is likely to incentivize the industry to restructure labour relations in supply chains to fall outside the ambit of the provision.

The draft Directive’s provisions on non-judicial access to justice – complaints and grievance mechanisms – are disappointingly top-down. They certainly are not worker-centred, much less worker-driven.

Civil society is now in the second phase of advocacy. The EU Council, EU Parliament and the Commission will negotiate the final instrument in the coming months, which will ultimately result in human rights due diligence legislation in every EU member state. There is resistance from a strong business lobby and the governments of the Nordic countries to regulating supply chains. Will EU policymakers agree to a Directive that will deliver on their intention of protecting all supply chain workers, including homeworkers, from the egregious and ubiquitous labour and human rights violations that they endure?



## Further Reading

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## Endnotes

- 1 The ILO Home Work Convention, 1996 (No. 177) defines home work as “work carried out by a person in his or her home or in other premises of his or her choice, other than the workplace of the employer; for remuneration; and which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used.”
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- 9 Homenet South Asia (<https://hnsa.org.in/>); Homenet South-East Asia (<https://homenetsoutheastasia.org/>)
- 10 HomeNet International (<https://www.homenetinternational.org/>)
- 11 HomeNet Thailand (<https://www.homenetthailand.org/en/home>); Home-based Women Workers’ Federation (<https://hbwwf.org/>)
- 12 See ILO *Working From Home: From invisibility to decent work* pp.1–279 at 191, available at: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---travail/documents/publication/wcms\\_765806.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_765806.pdf)
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## About Law & Informality Insights

Law and Informality Insights reflect on our work supporting informal worker organizations to know, use and shape the law, and analyze statutory developments, law-making processes and jurisprudence that impact informal workers and their advocacy strategies. In 2019 they replaced our legal briefs.

**WIEGO's Law Programme** strives to see a world in which:

- international instruments, national and local laws and regulations recognize, include and protect the rights and work of informal workers; and
- informal workers know, use and shape the law to realize secure livelihoods and labour rights. To advance these goals, we seek three mutually reinforcing outcomes at both global and national levels:

**Outcome 1:** Membership-based organizations of informal workers are better able to use the law (including international legal instruments and administrative justice) in their advocacy strategies.

**Outcome 2:** Legal and civil society organizations support the recognition, inclusion and protection of informal employment in law and policy at local, international and global levels.

**Outcome 3:** Legal scholars and labour lawyers advocate for informal workers in their scholarship and in policy contexts.

For more information, visit the Law programme page at <https://www.wiego.org/our-work-impact/core-programmes/law-programme>

