

## ILC 111th Session 2023 – Leaving no one behind: Building inclusive labour protection in an evolving world of work<sup>1</sup>

We welcome the ILO background report, which focuses on dimensions of labour protection,<sup>2</sup> certain forms of employment<sup>3</sup> and certain groups of workers.<sup>4</sup> It recognizes the need to extend the coverage and effectiveness of labour protection for workers in informal employment.

### Labour protection for ALL workers

The ILO sets labour standards for ALL workers, regardless of the status of employment. The Declaration of Fundamental Principles of Rights at Work, adopted in 1998 and amended in 2022, encompasses 11 conventions<sup>5</sup> that are deemed to be fundamental, and member states have an obligation, arising from the very fact of membership in the ILO, to respect and to promote them.

For the international networks of workers in informal employment and WIEGO, “leaving no one behind” means applying and implementing international labour protection standards for ALL workers. This includes the 61% of the global workforce who are in informal employment and the 64% of all informal-economy workers who are self-employed. Regardless of the employment status of these workers, who work across all sectors of the economies, public and private, they are currently – by definition - excluded from adequate labour protection.

### **Broadening the scope of the right to collective bargaining is key for extending any labour rights coverage and effectiveness for workers in informal employment.**

Whereas the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) does not refer to workers in an employment relationship but to workers generally, the Collective Bargaining Convention, 1981 (No. 154) defines collective bargaining as negotiations “between an employer, a group of employers or one or more employers’ organisations, on the one hand, and one or more workers’ organisations, on the other”. **There is broad consensus, however, that member states should “develop innovative approaches to ensure the exercise of freedom of association and the effective recognition of the right to collective bargaining are extended to, .....new and emerging forms of employment, ....”<sup>6</sup>**

Workers in informal employment, through their organizations, are already exercising “innovative approaches”. Among these worker-led organizations are those that organize own-account workers, such as home-based workers, street and market vendors, and waste pickers. They created new social dialogue spaces and now negotiate with local and national authorities for access to public spaces, infrastructure, social protection and other labour protection to improve their working conditions. **Street vendors** in India, for example, negotiated access and use of public spaces with local authorities and national governments<sup>7</sup> and the establishment of ‘Town Vending Committees’. These committees comprise street vendors’ organizations, which constitute 40% of committee members,<sup>8</sup> and various stakeholders connected to the local authorities. **Waste pickers** in Colombia were recognized as service providers by a ruling of the Colombian Constitutional Court and policies in several Colombian cities

<sup>1</sup> [ILO. 2023. Report V ILC 2023](#)

<sup>2</sup> Minimum wages, working time, occupational health and safety (OHS) and maternity protection

<sup>3</sup> Temporary work, platform work and telework

<sup>4</sup> Migrants, disabled workers, domestic workers, home-based workers

<sup>5</sup> The 11 fundamental instruments are: Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), Right to Organise and Collective Bargaining Convention, 1949 (No. 98), Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol), Abolition of Forced Labour Convention, 1957 (No. 105), Minimum Age Convention, 1973 (No. 138), Worst Forms of Child Labour Convention, 1999 (No. 182), Equal Remuneration Convention, 1951 (No. 100), Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Occupational Safety and Health Convention, 1981 (No. 155), Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

<sup>6</sup> [ILO. 2018. Resolution concerning the second recurrent discussion on social dialogue and tripartism](#), para. 3(k)

<sup>7</sup> [The Street Vendors \(Protection of Livelihood and Regulation of Street Vending\) Act, 2014](#)

<sup>8</sup> Khafa, Edlira and Serrano, Melisa. Forthcoming. “Workers in informal employment: Collective forms of representation and action”. Global Labour University Working Paper.

have been developed accordingly. This includes, for example, fees for waste pickers in return for their services, based on a percentage of the utility fees charged to subscribers for waste management systems.<sup>9</sup> A similar recognition of waste pickers was achieved in 11 municipalities across five provinces in Argentina. In Buenos Aires, for example, waste picker cooperatives, which are organized in the *Unión de Trabajadores de la Economía Popular* (UTEP), won several rights between 2002 and 2010 through negotiations with the local authorities. Among others, economic support in the form of a monthly income (“social wage”)<sup>10</sup> which backs up the income they receive through selling recyclables. In India, **domestic workers**, who are organized in the Self-Employed Women’s Association (SEWA), negotiate with representatives of welfare associations to improve their working conditions.

It is of utmost importance that, apart from the most representative workers’ organizations, organizations of workers in informal employment are included where labour issues that impact them are negotiated at national and local levels.

**The right to collective bargaining should be guaranteed for ALL workers’ organizations, including those whose members are in informal employment.**

## Dimensions of labour protection

### a) Minimum wages – working time

Minimum wages and working time regulations have been at the heart of labour protection measures since the founding of the ILO. The “provision of an adequate living wage”,<sup>11</sup> and the subsequent “provision of a minimum living wage”,<sup>12</sup> was the base for determining criteria for a minimum wage at national level, namely “the needs of workers and their families, the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups as well as economic factors”.<sup>13</sup>

Minimum wages play a pivotal role in ensuring that workers across all sectors receive remuneration that provides for social security and a decent level of living, including for their families. We notice a gender gap in fixing wages, including for wage workers in informal employment. Skills categorization, for example, are gender-biased because skills of women are often found in “low” categories of skills recognition. The regulation of the hours of work, including the maximum hours of work a day, was included as a strong mandate of the ILO from the very beginning and needs to be applied to workers in informal employment..

The application of these principles must be extended to wage workers in informal employment. For example, the Thailand Homeworkers Protection Act B.E. 2552 [2010] stipulates that the remuneration of homeworkers is based on the equivalent of a worker doing similar work in a factory.<sup>14</sup> Homeworkers are bearing the costs of infrastructure, such as light, heating and working tools, among others. Those costs need to be taken into account when calculating the piece rate based on a general minimum wage.

Domestic workers and homeworkers have provisions on minimum wages and remuneration in their respective conventions,<sup>15</sup> taking into account their specific work places and work environment. The Domestic Workers Convention, 2011 (No. 189), in addition regulates working time (Article 10). However, in practice, these rights are often not respected or violated.

#### *Minimum wages (income) and working time for own-account workers*

Own-account workers, such as street vendors, waste pickers and home-based workers working on their own account, often work long hours to reach the equivalent of a minimum wage as defined by the ILO (see above) – if they reach it at all.

The recognition of public space as a workplace (R204, clause 10o), the inclusion of own-account workers in social protection schemes (R202), the provision of affordable child care (R204, clause 21), among others, can contribute to higher levels of productivity and therefore higher income and decent working hours for own-account workers. The minimum wage setting in

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<sup>9</sup> Formalization as Public Service Providers: Achievements and Obstacles for Colombia’s Waste Pickers [WIEGO. 2021. Formalization as Public Service Providers: Achievements and Obstacles for Colombia’s Waste Pickers](#)

<sup>10</sup> [ILO. 2023. Negotiations by workers in the informal economy](#). Page 19

<sup>11</sup> [Preamble of the ILO Constitution](#)

<sup>12</sup> [Declaration of Philadelphia](#), Article 3d

<sup>13</sup> Minimum Wage Fixing Convention, 1970 (No. 131), Article 3

<sup>14</sup> [Thailand Homeworkers Protection Act B.E. 2552 \[2010\]](#), Chapter 3 (remuneration)

<sup>15</sup> Domestic Workers Convention, 2011 (No. 189): minimum wages (Article 11); Homework Convention, 1996 (No. 177) remuneration (Article 4)

a country is a benchmark for income of own-account workers. Through their adoption of ILO Recommendation 204 at the ILC in 2015, member states have already committed to making infrastructure interventions as catalysts for improved productivity of own-account workers, but these commitments have rarely been put into practice.

## **b) Occupational Health and Safety**

Governments are responsible for the application of ILO standards. With regard to wage workers, governments adopt laws that stipulate that employers are responsible for ensuring a healthy and safe working environment in workplaces. For own-account workers, the government has the obligation to directly ensure a safe and healthy environment, for example in public spaces, such as the provision of sanitation, access to water and electricity, storage facilities, market support, decent and affordable public transport, land-use rights and property-use rights collectively. The inclusion of the occupational health and safety conventions C155 and C187 in the core labour conventions (see above and footnote 5) in 2022, underlines the importance of occupational health and safety for ALL workers, including those in informal employment. In addition, the convention concerning the elimination of violence and harassment in the world of work C190, the accompanying Recommendation 206, and Recommendation 204 give guidance to governments on how to include workers in informal employment in this regard and need to be implemented.

## **c) Maternity protection**

The Maternity Protection Convention, 2000 (No. 183) applies to all employed women, including those in “atypical forms of dependent work”. Its principles should apply to all women in informal work, consistently with its definition of “woman” as “any female person without any discrimination whatsoever”. Governments need to ensure adequate maternity protection for women who are working on their own account.

## **d) Violence and harassment in the workplace**

Workers in informal employment, in particular women, are particularly vulnerable to violence and harassment at the workplace. Those working in public spaces are often victims of abuses of power by the police and other public authorities (for example, border control officials and dumpsite officials). Governments need to ensure adequate protection, including for those in informal employment, as in ILO Violence and Harassment Convention, 2019 (No. 190).

**Certain groups of workers tend to lack labour protection or to be more exposed to inadequate labour protection than those mentioned in the ILO report.**

## **Domestic workers**

81.2% of all domestic workers work in informal employment relationships, which leaves them without any labour protection. The Domestic Workers Convention No. 189 was adopted in 2011. Whereas much progress has been made regarding ratification of C189 (to date, 36 countries have ratified), many countries have yet to do so – and many of those that have ratified have not yet taken steps to implement the provisions. Historically, domestic workers have often been among the sectors, like agricultural workers, excluded from the coverage of labour laws because they were not regarded as workers. The spirit of C189 is to provide for “equal treatment between domestic workers and workers generally”, for example regarding working time (Article 10) and the inclusion in minimum wage coverage (Article 11).

Ratification of C189 and its implementation, together with R201, are key for the inclusion of domestic workers in the labour protection systems. Decent work and the care economy is on the agenda for the ILC 2024. The specific vulnerable situation of domestic workers, among them migrants, and migrant workers generally, needs to be addressed in the ILC 2024 discussion.

## **Homeworkers**

Globally, there are 260 million home-based workers. Among them are 49 million subcontracted homeworkers in supply chains. According to the ILO, this is a conservative estimate because it excludes industrial outworkers, who are often incorrectly classified as self-employed. Current initiatives, such as the process for the establishment of an EU Directive on due diligence along the supply chain, must apply to the whole chain including homeworkers. Ratifying C177 and implementing it together with R184 is the best way to ensure adequate labour protection for homeworkers.

Both conventions, C189 and C177, take into account the specific characteristics of both categories of workers (domestic workers and home-based workers), in particular their place of work, which is usually the private home.

Most domestic workers and home-based workers are women. Their earnings are low and working conditions poor. Because of their isolated workplaces, it is difficult for them to organize and fight collectively for their rights.

It is important to highlight that own-account workers, including waste pickers, home-based workers, street vendors and market traders, are equally or more exposed to inadequate labour protection than the groups reflected on in the ILO report.

## Conclusions

Workers in informal employment are either excluded from the scope of existing labour protection rights or these rights are often not implemented even where they exist. Governments play a crucial role in ensuring the coverage of labour rights for workers in informal employment. Employers of informal wage earners need to be held accountable for the provision of equal treatment of workers at the workplace. In the absence of an employment relationship, governments need to adopt laws, regulations and enforcement mechanisms that provide labour protection for own-account workers.

### The following principles and practices need to be applied:

- Waged and own-account workers in the informal economy need recognition as workers or as economic agents, as per ILO Recommendation 204.
- All ILO labour protection standards must be applied or extended, as appropriate, to workers in informal employment. Those include the core labour standards (see footnote 2), *which have to be promoted by the governments*,<sup>16</sup> among them the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). Other conventions particularly relevant to workers in the informal economy are C177, C189 and C190. The relevant recommendations are R204 and R202. An additional pathway to provide for labour protections for workers in informal employment is the implementation of the 2022 ILC conclusions on the social and solidarity economy (SSE)<sup>17</sup> and the implementation of the Promotion of Cooperatives Recommendation, 2002 (No. 193).
- The extension of social protection as reiterated in the conclusions concerning the second recurrent discussion on social protection (social security) in 2021<sup>18</sup> must be implemented for workers in informal employment, among them those working as own-account operators.
- There must be access to labour justice for all informal economy workers: judicial and non-judicial dispute resolution mechanisms, such as complaints and grievance mechanisms or those established by the social partners must be accessible and at no cost for workers in informal employment and their organizations.
- We support the “conclusions and the way forward” as outlined in the ILO report for this discussion<sup>19</sup> with a special emphasis on the inclusion of those who have so far been left without labour protection.
- Further research by the ILO is needed to provide a more comprehensive picture of innovative approaches to provide labour protection for those who are still excluded, in particular new approaches regarding collective bargaining between organizations of workers in informal employment and governments at all levels.
- The ILO should continue further research on [innovative approaches to extend maternity protection to all women, including those in informal employment](#).<sup>20</sup>
- The ILO should include the knowledge of innovative approaches into their technical assistance to ILO constituencies, including in ILO Decent Work Country Programmes.

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<sup>16</sup> According to the [ILO Declaration of Fundamental Principles and Rights at Work](#), Article 2

<sup>17</sup> [ILO. 2022. ILC.110. Resolution II](#)

<sup>18</sup> [https://www.ilo.org/wcmsp5/groups/public/--ed\\_norm/--relconf/documents/meetingdocument/wcms\\_806099.pdf](https://www.ilo.org/wcmsp5/groups/public/--ed_norm/--relconf/documents/meetingdocument/wcms_806099.pdf)

<sup>19</sup> See footnote No.1; here: paragraphs 207ff.

<sup>20</sup> [Social security: Maternity cash benefits for workers in the informal economy \(ilo.org\)](#)