Workshop Report  
Ministry of Labour and Employment/ILO  
National Knowledge-Sharing Workshop on ‘Way out of Informality’  
Regal, Hotel Royal Plaza, 19, Ashoka Road  
6 December 2012

Introduction
The Chairman, Dr. Sarangi, Secretary, Ministry of Labour and Employment, GoI, opened the inaugural session, emphasising the importance of the theme of the workshop.

Ms. Tine Staermose, Director, ILO DWT, in her introduction, highlighted the increasing importance being attached to the issue of informal economy in the global development agenda, and the ILO’s consistent commitment to and leadership in addressing the issue during the last decades. There is a worrisome trend that informal employment as a whole is on the rise, and has increased in the formal sector too during the last decade. Therefore, the challenge is to safeguard workers’ rights, which is further complicated by the blurring lines between the informal and formal sectors. Another important aspect of informal work, which needs to be addressed, is the higher proportion of women in the informal sector; as well as the differential nature and severity of the obstacles and vulnerability they face as compared with their male counterparts.

She further introduced the project and provided the context in, which this first project workshop is held, emphasising that there will be a series of future workshops, which address the different complexity and facets of the informal economy. Through the project, the ILO looks forward to supporting some of the critical priorities and activities of the government and social partners and seeking synergies with on-going activities, all of which will be assessed against quantifiable indicators. She also mentions that there are on-going initiatives by trade unions and employers to reach out into the informal economy, which can be further strengthened. In the case of Trade unions over 40% of the workers are from the informal sector. She further emphasised the need for active participation and involvement of all the three constituents; the ILO, GoI and the social partners (employers, trade unions and civil society) to engage equally and effectively to ensure that the project is sustainable and provides the expected outcomes. The ILO’s intended role during this particular workshop is to share good practices from global experiences, and to add to this list practices based on experiences in India, Nepal and Bangladesh.

Mr. N. M. Adyanthaya, Member-ILO Governing Body (Workers), pointed to the current employment crisis, which has resulted in a global rise in informal and precarious work and the decline in the share of organised and formal employment in the formal sector from nine to six per cent over a decade. This indicates the adoption of informality by employers in the formal sector, constant attacks on trade unions and labour rights, undermining of social protection which led to an unsustainable development path. To come out of this crisis, there is a need for more redistributive measures in favour of workers who are the main consumers and can therefore contribute to the revival of the economy. Such steps are in contrast to IMF prescribed austerity measures. Here, the Mahatma Gandhi National Rural Employment Scheme (MNREGS) has been successful in setting minimum wages, particularly in the plantation sector.
Mr. B. P. Pant, Secretary at the Council of Indian Employers, began by pointing to the large proportion (93%) of informal workers in the workforce and their crucial contribution to the GDP. Some of the disadvantages of the informal sector include unhygienic conditions, lack of safety, low productivity, hard labour, low income, no access to the market or finance, obsolete technology and majority of women who are more vulnerable. One of the advantages of the informal economy is the ability to grow without licensing or regulation. **Formalisation measures, therefore, should be enablers and not stifle, and go beyond the decent work agenda to include skill development, cooperative marketing mechanisms and access to finance.** Moreover, there is a need to keep in mind the different types of informal work- family ownership, independent contractors, self-employed etc. ILO’s programme ‘Start and Improve your Business’ provides a complete kit to the informal sector employer/manager.

Chairperson: Dr. Sarangi, Secretary, Ministry of Labour and Employment, GoI, started by emphasising the **inappropriateness of austerity measures in a context ridden with such disparity and low standards of living.** In a large country like India with a workforce of 470,000,000 (NSSO) one cannot wish away informality and must acknowledge its continuance even in the public sector. Keeping this in mind, however, decent work will have to be ensured. Most existing laws and schemes are not being implemented successfully. In an environment where enforcement is challenging he asks for solidarity and full engagement from the private sector to contribute to a more equitable society. While international experiences can be interesting to learn from, India needs to find its own solutions to deal with formalisation. The Right to Education can go a long way in enabling access to better wages through an increase in skills. The Prime Minister’s National Council on Skills Development has a target of 500 million people to be skilled by 2022.

We need to find **local solutions to our local problems** by:

- Creating awareness that formality increases productivity, efficiency and motivation
- Creating conducive conditions for the proper and transparent implementation of our employment and labour acts and regulations through self-compliance and enforcement.
- Maintaining a balance between labour and employer interest and improve social dialogue environment
- Understanding what enabled us to avoid the brunt of the economic crisis, and ensuring growth with social justice and higher levels of transparency

**Project Objectives and Outcomes: Setting context and presenting subregional programme**

Mr. S. Ozawa (ILO/Japan Programme, ILO- ROAP, Bangkok process) introduced the project ‘Way out of Informality’ and their interest in facilitating the formalisation process in India. Japan because of the nature of its hundred per cent formal workforce has no experience with informality, and therefore looks forward to **recommendations for appropriate approaches from the different stakeholders** to the ILO. Experiences in India will be documented and disseminated to Nepal and Bangladesh. (Refer to annexure 1 for the presentation)

Mr. Thomas Kring (Chief Technical Adviser, Programme on Way Out Of Informality: Facilitating Formalization of Informal Economy in South Asia) introduced the project framework, its objectives, components and logic. **Informality is a complex issue to address and there is no one approach that**
fits all. (Refer to annexure 2 for the presentation)

Discussion:

Some of the concerns and questions of different stakeholders:

- Where do self-employed informal workers fit in this project? (Arvind Singh- NASVI, M P Swamy, Hemlata- Centre for Indian TUs)
- What we need is legal protection and proper implementation of existing laws. (M P SWAMY)
- What mechanisms are going to be evolved to organize the workforce? (M P SWAMY)
- Agricultural workers’ formalization needs to be prioritized (NHRC- Mr Sahu).
- In the case of MGREGS, there is a need to check the appropriation of part of the wages by middlemen.
- Is informality always bad? Has over legislation led to informality? There is a need to debate about what types and forms of informality and formalization are going to be addressed by the project. (Mr. Das)
- How do we address informality in the agriculture sector? (Hemlata, Centre for Indian TUs)
- Formalization should not result in loss of livelihood. We need to address informality in the public sector as well, where there are app. 50% or 10 Mio workers disguised workers in the public sector. Self-employment, which is often another form of informality, needs to be addressed. (Hemlata, Centre for Indian TUs)
- The project does not intend to impose formalization such that it drives people to poverty through unemployment. Together, social partners need to identify key areas where the project can be leveraged. Agriculture may be too large a sector requiring large resources to be addressed. (Thomas Kring)

ILO’s Informal Economy Discussion and Selected International Practices Addressing Formalization

Chairperson: Mr. V. P. Yajurvedi, Director General, VV Giri National Labour Institute, emphasised that globalisation and the development of more elaborate value chains have led to the growing incident of informal employment and its characterisation by the lack of employer-employee relations. The absence of access to social security for the majority of the workforce; and on the need to be prepared for road blocks in the formalisation process if this is not being addressed. He emphasises the need to refer to the recent definition on informal enterprises and employment provided by NCEUS as a reference frame.

Ms. Sandra Yu, Decent Work Specialist, Bangkok, shared ILO’s discussions on the informal economy and spoke about the issues and paths towards formalisation. She presented ILO’s mandate, objectives, some milestones in ILO’s work on the informal economy, the new approach adopted from the 90th ILC resolution, regional priorities of ILO constituents, the blur between self-employment and dependent work, and areas of work to reduce deficits and seek formalisation. Formalisation can be sought through growth strategy and quality employment generation, through a legal regulatory framework, an emphasis on equity, and the use of local development strategies. (Refer to annexure 3 for presentation)

Ms. Sandra Rothboeck, ILO Consultant, presented an on-going effort of twenty plus innovative cases addressing formalisation from across the globe, while applying ILO’s integrated framework and
various forms of formalisation as selection criteria. She also spoke about India’s endeavour towards formalisation and ILO’s integrated framework. The types and areas of formalisation that are addressed through gender sensitive approaches were also highlighted. The cases discussed focused on experiences in improving the regulatory environment for enterprises, ensuring regulation and protection of unregistered employment or work through new approaches for employment relationships, the role of equity, organising and social dialogue in formalising, and sector wise initiatives. Recognition is a critical aspect of formalisation, which needs to be taken into account. Formalisation requires multi-dimensional and integrated initiatives, recognising formalisation as a gradual process cutting across several policy areas, addressing multilateral linkages and institutional capacity, skill development, growth of firms and productivity improvement and universal access to social protection (Refer to annexure 4 for presentation). The role of organising and participation should not be neglected and is critical for effective institutionalisation and implementation.

Expert comments: Ratna Sudarshan, Adviser, Institute of Social Studies Trust, shared her learning from research with informal economy women workers. It is critical to acknowledge the continuance of the informal economy and ensure benefits of the formal to those in the informal economy. The starting point in formalization is worker recognition, but a large number of women do not perceive themselves as workers. Moreover, formalization of contracts becomes difficult in a context of extremely low levels of literacy and even those lower of legal literacy. Regulation would also enable formalization, but deregulation is not the only barrier to formalization. Therefore, there is a need to adopt a broad definition of the ‘formal’ that moves beyond a narrow focus on informal enterprises and self-employment, registration, taxation and compliance with regulations; and also looks at informal wage employment and employment relationships and recognizes formalization as an incremental process of extending entitlements; and aims to reach workers across the broad continuum. The policy framework of WIEGO on formalization recommends the expansion of formal employment; formalization of as many informal enterprises and informal jobs as desirable and feasible; and increase in the returns to labour of the informal workforce through protection, promotion and participation in policy making. (Refer to annexure 5 for presentation)

Job Rich Growth from Macro Policies to Local Development

Dr. Sher Verick, Senior Employment Specialist, DWT, New Delhi, presented a macro perspective on the quest for decent work through a discussion on policies that promote job rich growth. There is a need to promote macro policies and an enabling environment that promote job rich growth through skill development, technological development, infrastructure development, labour market regulation and social protection. In India, growth has not been enough employment focused, as current increases in labour productivity and employment growth indicates. Further, whatever new employment has been created is not quality employment, but precarious. While productivity improvement is critical, there is a need to reverse the trend where the share of employment has continuously decreased against capital. Target sectors should be identified which have maximum impact and growth potential also for employment creation. Discussing the case of Brazil, where an enabling macroeconomic environment, combined with tax, registration and labour administration reforms led to the formalisation of a significant number of jobs, was discussed in more detail (Refer to annexure 6 for presentation).

Dr. Sahu, referred to the core challenges of India’s Economy, how employment creation can be
facilitated through policy interventions. **He stated that to a certain extent, measures towards flexi-**

security can be instrumental in increasing employment opportunities, since such interventions take into consideration the social dimension and the current economic transformation of business and production that is caused by globalisation. He also refered to the global jobs pact as a useful tool for reference. The current trend in India’s policy making is to move from welfare to a rights based approach, where employment, similar to social protection and education are an entitlement and basic rights for each citizen. Basic rights are further critical to be ensured across the continuum of formal-informal, as outlined in the National Commission of Labour. He strongly felt that workers’ rights and basic entitlements are critical for formalisation and should be accessible to all.

It is critical to look at informal formal as a continuum with women, migrants and children at the bottom of it.

Mr. Merten Sievers, Value Chain Development and Business Services Coordinator - EMP/SEED, Geneva (through video-conference), discussed an approach to formalisation through value chain development (VCD) and local economic development (LED). The reasons for ILO’s work on enterprise development and job creation include the inverse juxtaposition of the ‘employment contribution by enterprise’ pyramid, whose bottom layer is characterised by precarious conditions, against the ‘employment conditions by enterprise size’ pyramid. To get job creation right we need sustainable growth that builds on functioning marketing systems, social cohesion and value to different actors in the value chain. A market system is constituted by the sort of growth that is happening at the end of the value chain and what it means for the rest of the value chain, a business regulatory environment in which the value chain is embedded, and services needed for the functioning of the value chain. The selection of the right value chain is a crucial step for job creation; and uses the criteria of size, relevance and prospects, keeping in mind priorities and capacity. ILO’s VCD project has coverage across geographic areas and sectors. Local economic development tries to identify the priority sectors for the local economy. Value chain development and local economic development have a methodological overlap, that is, they are both participatory and aim at engaging different actors in the process to ensure ownership of interventions. **The sectoral and local perspectives of VCD and LED make complexity of market systems manageable and enable the process of dealing with the multiple causes of informality in a sustainable way.** Moreover, since the two processes involve a systemic approach, they should be better able to address the challenges of informality. This project is shifting the focus of value chain analysis from the end product to the value chain system and its end. (Refer to annexure 7 for presentation)

Moderator: Dr. T. S. Papola emphasised the need for clarity on concepts, definitions and data sources. **International statistics do not include agriculture, but since agriculture forms such a great proportion of the informal sector in India we should perhaps include it. He also suggest to refer to the more elaborate and adequate NCEUS estimates and definition of informality. For the project, it is critical to clearly define the scope of formalisation for enterprises and workers, besides the need to sequence the initiative in a wise way.** Over the past ten years though there has been a slight increase in the proportion of the formal sector in the workforce, absolute numbers show however a slight decline. Also, even **though 40 per cent of the membership of trade unions comes from the informal sector, within itself only one per cent of the informal sector is organised.** He confirms earlier presentations, which clearly propose integrated initiatives where registration of enterprises is not enough, but where incentives for worker registration and their access to social security can be ensured. Further, public contribution also needs to be ensured to workers, where there are no clear
employer–employee relationships. Workers’ wages of enterprises that form part of a global value chain seem to be higher, although profit sharing is unfair. This might need to be further researched.

Discussion:
GoI and state governments are not encouraging unionisation of the unorganised sector. Although agricultural workers form a majority in the informal sector, Indian policy has failed to address their challenges.

Innovative Practices in Employment Relationships

Mr. Coen Kompier, Senior Specialist on International Labour Standards, DWT-New Delhi, discussed innovative practices in employment relationships. He began by highlighting that the ILO conventions apply to all workers, thus the rights we discuss already exist and are mutually reinforced. Organisation of and ensuring entitlements to informal workers has been seen to result in increased productivity. In Gujarat, organisation of brick kiln workers was able to have a significant impact on social protection. Recognition of and visibility to domestic workers, working in different households, is critical, since their organisation poses a particular challenge. Wages of piece rate workers’ earnings do not even amount to half of the statutory minimum wage. **Organisation of informal workers is crucial, but we also need to look into sectors where employees are willing to engage with organised workers.**

Mr. H. Mahadev, Working President, All India Trade Union Congress, stressed on the importance of governance when it comes to addressing formalisation. He also mentioned that earlier recommendations made, draft bills, draft of India Labour codes have not been enforced and binding enough so that current decent work deficits and economic downturns can be addressed. There is a need for a comprehensive legislation. He clearly suggests that recommendations made during the ILCs, NLC as well as findings/recommendations from the crisis response initiatives should be included as a basis into this project. **There are basically 4 key areas which need to be addressed**

- Work and Employment: ensuring minimum wages, registration
- Rights and fairness: work is not treated like a commodity
- Representation and Dialogue: right to unionise and requirements for engagement of different stakeholders in the policy discourse
- understanding that flexibility does not imply informality or lack of rights but that basic rights of workers are applied in case of flexibility of work.

Innovative Practices in Social Protection

Mr. Pranav Prasad, SFU Geneva (through video conference), discussed the **RSBY and RFID for identification and claims control; and their success in mainstreaming access to insurance for rural communities and in skills transfer.** RSBY’s success in avoiding health related distress through risk pooling, enabling access to private health care services that were hitherto out of reach, its wide reach, implementation and emerging trends in its utilisation were shared. RFID is a cattle insurance scheme by technology intervention through dairies and cooperative banks. He spoke about the project’s success in identifying insured cattle, fraud reduction and faster approvals. (Refer to annexure 8 for presentation)

Michael Dias, spoke about the **need to re-evaluate legislations and implementation mechanisms.**
Employers are becoming more difficult to track because of the rapid growth of informality through different models. Capital intensive and mechanisation in production processes is on the drawing board. Banks are more willing to fund capital purchase and apply higher interest rates to firms where workers are unionised. No legislation deals with issues in a pragmatic manner, and moreover is implemented by departments with a dirty drain inspectors approach. For instance, despite the amendment of the Employees State Insurance Act in 2011, the realities and inspectors’ attitudes remain unchanged. There is a trust deficit between the stakeholders. There is a need to revalue labour laws and regulations, if want to change employer employee relations, while not compromising on Decent Work for all workers. The concept of life time employment also needs redefinition, and so do employment relationships. We need to recognise informality as a kind of employment and need to put into place statutory mechanisms to ensure informal workers’ rights.

Sandhya Suri (MFI) made a presentation on an action research project supported by the ILO ‘Social protection for Low Income Groups- Formalisation as an entry point.’ The project employed innovative methods in ensuring access to social protection and supporting income generation activities. The project reaches the women through micro credit, skill training for income generation, access to savings, pension and remittance and financial literacy programs. Majority of its entrepreneur clients, before the project, were unable to grow because they ran their businesses informally for the fear of taxes, complicated regulations and bureaucratic hurdles. The presentation discussed some of the risks and vulnerabilities of its clients, the project’s three way approach to formalisation as an entry point to reduce social vulnerability, its process of supporting ready to grow clients through formalisation, visible changes accompanying the project and the challenges faced in its implementation.

Expert Comments: Mr. Markus Ruck, Senior Social Security Specialist, DWT-New Delhi, proposed that the project should support a campaign for the improvement of registration and service delivery of current social protection schemers, with a focus on the workers, government, employees and media. It needs to adopt a life cycle approach addressing the different stages of human development, with particular attention to women empowerment. Standalone micro finance schemes cannot be sustainable in proving social protection to a large audience. It is important that we have a diversity of actors, approaches and mechanisms that fit into a wider policy framework reaffirming the role of the state in ensuring health protection. RSBY could be used as a platform to extend social protection to informal workers. It is critical to ensure that public security interventions are supported and accessible to the entire population. Similarly, improving access and implementation of the CESS Act could have a significant on formalisation of construction workers. He briefly refers to the Social Protection Floor, which has a developmental perspective in mind and also addresses the life cycle of a person. Linking Social Protection to Employment Interventions and active labour market interventions (skills, placement, enterprise support etc.) has the potential that informal workers graduate from receivers to contributors of formalisation.

The Way forward and Closing Remarks
- Discussion and feedback on planned project by Government, Workers and Employers
- Views from tripartite constituents and other stakeholders on priorities and possible intervention areas.

Observations from floor:
- Proper Implementation and enforcement of labour laws and regulations is critical
- Gender needs to be addressed more prominently within the project, There is a need to better statistical tools to capture the gender dimension
- To begin with, government and public sector need to stop practicing informality themselves and ensure decent working conditions to all its employees.
- MNREGS expenditure is being continually reduced and is increasingly not being able to meet the minimum requirement of the provision of hundred days of work to each household. There is need to better monitor and reflect on the findings and improve implementation.
- Construction Welfare Boards need to be strengthened and CESS Act needs to be better implemented. ESI needs to be extended to construction workers and other informal sector workers
- VV Giri Institute is conducting a study on the lacunae in the implementation of the RSBY, which can be shared

Workers’ representative: Mr. Mittal: Should the formalisation process succeed, there is a need that the right to association and collective bargaining is addressed immediately. There is a need for change in the attitude of all stakeholders. Labour rights, social security, job security and minimum wages for workers. Trade unions are open to discuss flexibility in employment, provided contract workers and casual workers get access to the same benefits like formal employees. Self-employment needs to be added to formalisation aspects. There is a need to acknowledge that formalisation requires incremental improvements to ensure that all workers are getting minimum protection.

Ms. Tine Staermose, Director, ILO CO-DWT ND, underlined the need for a realistic, integrated, holistic and human rights focused project that focuses on the seven key policy areas identified by the ILO. The formalisation project needs to identify local triggers (like schemes such as MNREGS), game changers, to make an impact and needs to provide solutions for local problems as in the context of India. The 7 policy areas as outlined in the integrated ILO Framework on formalisation can be a useful guide. The initiative will be rights based and focus on quality employment, as there a need to reduce the manifestations of informality, in its worst forms, where workers are facing severe and exploitative working conditions. Social Protection will be a critical policy area of intervention, and the project needs to identify the right niche areas where it optimises its impact. The role of employer-employee relations; and of productivity in generating employment and creating a space for formalisation should be looked into. Capacity building and the identification of policy inconsistencies which cause exclusion and informality could be areas of intervention. The current challenges Unions face on registration must be addressed. Flexibility of employers needs to be unpacked through dialogue in good spirit. The gender dimension could also be taken up by the gender task force. The ILO director invites the social partner to think about setting up a tripartite advisory committee for the project very soon.

Mr A. C. Pandey, Joint Secretary, Ministry of Labour and Employment expressed his supports the project and refers to the structural aspects which pose the current challenges of formalization. He emphasized that when talking about formalization, agriculture that constitutes a major chunk of the informal economy, self-employment that in India unlike in the West does not mean own enterprise but the lack of access to an employer, and domestic workers where the employers are numerous and impossible to track, must also be included. He also underlined the importance of addressing
informality in the Manufacturing sector particularly among Micro and Small Enterprises, as well as skills development of informal workers. The cost of formality would also need to be evaluated. Mr. Pandey found that there was a need for new legislation, but also a need to improve the implementation of existing legislation. Given the large numbers in the informal economy, the decent work agenda will have to be taken up with a diversity of actors and gaps identified in existing programmes and policies. He invited the ILO to support the GOI in identifying the gaps which prevent inclusion, for instance in programmes such as RSBY. He finally referred to the need to take Indian Definition of unorganized sector as reference.