

**Trade unions in the informal
sector: Finding their bearings**
Nine country papers

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Latin America

Colombia

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El Salvador

Trade union organizations must understand the important contribution of the informal sector to the country's social and economic life, the trend towards informalization of work, and hence the need to organize the sector, not only because of their role in improving the living conditions of workers, but also because the very future of the trade union movement largely depends on organizing in this sector, by José Víctor Aguilar Guillén

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Editorial

For a long time, the informal sector has been regarded as a passing phenomenon linked to the cycle of economic development. Current statistical data representing the product of over 30 years' analysis and experience have proved this not to be the case.

Throughout recent decades, instead of disappearing as the modern economy expanded, the informal sector has actually grown in the rural and urban areas of most developing countries. At the same time, the industrialized countries have witnessed a gradual evolution of the informal sector within their labour markets. This process has manifested itself in the burgeoning of more vulnerable forms of employment and income erosion in traditional sectors. Lauded by some experts for its job potential and the dynamism it brings to the economy, tolerated by others for its role as a social stabilizer, and often criminalized as a source of exploitation and social exclusion, the informal sector has not become any less of a reality in the context of globalization, which holds great promises as the century draws to a close.

Since the beginning of the 1970s the informal sector has been the focus of increasing attention in international discussion on economic development. The International Labour Organization has undoubtedly played a major role in understanding the phenomenon and in formulating policies governing the sector. The traditional policy advocated and implemented by the International Labour Office adopts a positive and integrated approach, combining the promotion of productive potential and employment in the sector and the improvement in the welfare of the groups concerned through the establishment of appropriate protective measures. Thirty years of ILO experience have demonstrated that the two above-mentioned objectives are not irreconcilable. It is worthy of note, however, that taking the developments on the international labour market in recent years into account, the ultimate goal of the ILO, namely, the gradual integration of the informal sector into the modern economy, is far from being achieved. This calls for reflection on the policies affecting the sector, on the part of the parties involved, including workers' organizations, and reinforcement of those policies.

The recent ILO report entitled "Decent Work", presented by the Director-General at the 87th Session of the International Labour Conference in June 1999, has once again sanctioned the constitutional mandate of the Organization with regard to the improvement of working conditions in both formal and informal economies. The informal sector therefore occupies a key position in the ILO policy agenda and will be at the core of the work of the Organization in the years to come.

For several years the discussions and work of trade union organizations have displayed heightened interest in the informal sector, both nationally and internationally. There has been more and more agreement within the trade union movement on the need to provide appropriate responses to the problems facing workers in the informal sector and this

need is a pressing concern for many trade unions in developing countries. Despite broad recognition of this fact, there remains some doubt, within the trade union movement, as to the most appropriate measures to be implemented. It goes without saying that the informal sector presents several challenges to the movement. From a strictly economic point of view, the existence of the informal sector is more of a survival strategy, in the absence of employment alternatives, than a viable response to poverty and unemployment. In spite of its often significant contribution to the GNP of developing countries, an economic sector operating in general outside the legal, administrative and social framework would be an obstacle rather than a vector for growth and sustainable development. On the other hand, the deplorable conditions under which workers in the informal sector operate violate the very principles which trade unions strive to uphold.

For a long time, some commentators have suggested that the unionization of workers in the informal sector is not within the competence of trade unions. Past and recent history disproves this claim: the situation facing most workers during the industrial revolution was strikingly similar to the plight of workers in the informal sector in developing countries today. They suffer all forms of abuse, long work days, unstable employment, low and irregular wages, and have neither rights nor protection.

The argument in favour of the creation of trade unions is inspired by the desire to grant these workers a "voice", to represent their interests and thereby lift the yoke of exploitation. This can be achieved only through the establishment of a legal framework, based principally on labour codes and industrial relations systems as we know them today.

Clearly, the environment in which informal sector workers operate is considerably different from the prevailing environment in the modern economy. Traditionally, trade unions have targeted workers in a relationship of net dependence with respect to their employers, in a fixed workplace, with contracts which were more or less stable. In reality, none of these features usually apply to workers in the informal sector. This is a partial explanation for the difficulties now facing trade unions in organizing workers in the informal sector. The rigidity of the regulatory framework, heterogeneousness of work relationships, mobility and often invisibility of the workforce, inadequacy of union structures, and a dearth of human and financial resources are some of the factors which impede the work of traditional unions in the informal sector.

Nevertheless, as stated in the following pages, union experience in this area is now multiplying and developing somewhat all over the world. Experience seems to show that the capacity of unions to take into account the needs and interests of these "new" workers can only expand through change at the level of policy, strategy, service, and even through changes of a structural or statutory nature. It is indeed a long-term process, but one which will ultimately reap benefits for the workers concerned, trade unions and for society as a whole.

A provisional edition of this issue appeared on the eve of the ILO International Symposium on Trade Unions and the Informal Sector (Geneva, 18-22 October 1999), aimed at workers' organizations to discuss the unionization of the informal sector. The ILO Bureau for Workers' Activities promoted discussion among the participants and, at the same time, stimulated broad thinking within the trade union movement with a view to formulating policies which respond effectively to the needs of workers in the informal sector. Through its wealth of information on actual

and diverse experiences, this publication complemented the more strategic document prepared by the Bureau to serve as a working paper at the Symposium.

The following nine national studies cover four regions of the world and reveal the stakes and problems which the multifaceted informal sector poses for the trade union movement, irrespective of the level of development in the countries under consideration. Without necessarily reflecting our position, the studies are based on the information available and represent testimonies which are worthy of consideration and exploration. On the whole, these studies convey a positive and encouraging message, which in practice illustrates the extent to which the involvement of unions in the struggle for the improvement of working conditions in the informal sector is much more advanced than many have imagined. We hope they will serve as reference material for the trade union organizations which decide to venture into relatively unknown territory on the route to a society founded on social justice and equity.

Manuel Simón Velasco
Director
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Ghana

Organizing informal sector workers requires nurturing dynamic links with the relevant public authorities and institutions, both national and international, that can provide the necessary support.

Kwasi Adu-Amankwah
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1. The informal sector in Ghana

1.1. Origins and recent expansion

The origin of the informal sector¹ in Ghana's economy can be traced back to the very beginnings of colonial capitalism in the then Gold Coast. Right from the outset, a dualistic economy with two distinct sub-economies emerged alongside each other. The key features of the colonial economy included primary commodity production for export, investments in mining, transportation and related services, infrastructure and public works, and social development.

On the one hand, a small formal sector covered essentially capital investment in mining, transportation, infrastructure, commerce, social services and administration with wage employment characterizing the existence and operations of labour therein. On the other hand, the promotion of primary commodities production for export and the import of consumer goods for domestic trade gave rise to large contingents of the labour force in both agriculture and petty trading who were either self-employed or hired under traditional or informal arrangements. Even at such an early stage an essential feature of labour in the informal sector was its heterogeneous character that provided for varieties of peasant proprietors and agricultural labourers, distribution agents, buyers, transport owners and employees, porters, repairers, etc. (Ninsin, 1991).

The informal sector has received increasing attention in the development discourse of Ghana since the middle of the 1980s and the beginning of the 1990s. It has, in effect, been the target of some policy initiatives and activities

by certain governmental and non-governmental institutions and organizations, including the trade unions. The attention to the sector at the intellectual and policy levels has arisen out of the realization that the sector has not only persisted from the making of Ghana as a new nation state, but has also been dramatically expanding.

One of the overriding consequences of structural adjustment in Ghana since the mid-1980s has been the shrinking formal sector and the expansion of the informal sector. This has arisen particularly as a result of public sector reform that had massive retrenchment of labour as an important component.

While labour retrenchment was pervasive in the public sector as a whole, it is interesting to note that there was a decline in formal private sector employment as well.

The table below demonstrates trends in formal sector employment between 1960 and 1991.

According to Table 1, total formal sector employment fell from 464,000 in 1985 to 186,000 in 1991, demonstrating a loss of 278,000 jobs over a six-year period. Apart from the relatively few persons who opted for voluntary retirement or redeployment, the majority of those who were retrenched included young workers, labourers, cleaners, drivers, sweepers, messengers and workers in the lower grades of the public sector. Part of the reason for the composition of those who were retrenched was the application of the principle of "last in first out". Among them were also many women workers because of their particularly low skills. Although women accounted for only 23.5 per cent of the total formal sector employment, 31.7 per cent of those who lost their jobs in 1987

Table 1. Trends in formal sector employment, 1960 to 1991 (thousands)

Year	Public sector formal employment	Private sector formal employment	Total formal sector employment
1960	184	149	333
1965	278	118	396
1970	288	110	398
1975	318	137	455
1980	291	46	337
1985	397	67	464
1986	347	66	414
1987	315	79	394
1988	252	55	307
1989	177	38	215
1990	189	40	229
1991	156	31	186

Source: See Gockel, 1998, p.18.

were women (ILO/JASPA (Jobs and Skills Programme for Africa), quoted in Galarraga and Gogue, 1997; Boateng, 1998).

While formal sector employment was falling fast, the economically active population was estimated to be increasing as well. One hundred thousand persons were estimated to be graduating annually from the educational institutions within the same period and entering the labour market. Of Ghana's labour force, 16.1 per cent is currently estimated to be in waged employment, with the remaining being in self-employment, including the informal sector. Meanwhile, the size of Ghana's informal sector is placed at 80 per cent of the total labour force (Hormeku, 1998).

The large-scale retrenchment of labour, coupled with the inability to provide employment for the emerging labour force has created a large pool of unemployed persons who have naturally gravitated towards the informal sector.

1.2. Features and characteristics of informal sector workers

The decline in formal sector employment during the 1980s and 1990s and the expansion of the informal sector during the same period have together constituted one of the most enduring features of the structural adjustment programmes that have been implemented in Ghana.

Most of the studies on the informal sector in the 1990s focus on the urban component which provides a haven for the working poor. They include aged, young and women workers who are essentially low-skilled and are involved mainly in the services sector, and only to a lesser

degree in the construction and manufacturing sectors. But in the last couple of years, interest has also grown in the rural informal sub-sector. A large part of that interest has been generated by the work of the General Agricultural Workers' Union (GAWU) of the Ghana Trades Union Congress (GTUC) in organizing rural workers, as well as through the intervention of some other non-governmental organizations (NGOs). Interest in the sub-sector is also underlined by the fact that among Ghana's relatively large labour force of self-employed workers, two-thirds are engaged in agriculture which is predominantly rural based (Adu-Amankwah and Tutu, 1997).

1.2.1. Rural informal labour

A GTUC leadership group survey in 1995 produced an interesting panorama of informal sector activities in Ghana. For the rural sector, the following were identified:

- (i) *Agricultural activities.* These are predominantly farming units dependent on family labour and are made up of a large number of small farmers in the rural and semi-urban areas. The farmers are mostly illiterate or semi-illiterate and have no formal training. Farming skills are acquired through apprenticeship.
- (ii) *Fishing and fish processing activities.* These are found mostly along Ghana's coastline and are mainly composed of married males aged between 18 and 40 years. These predominantly illiterate workers acquired their swimming skills through experience from their early childhood. The value added and processing activities that

include smoking and marketing the fish is basically undertaken by women.

- (iii) *Rural agro-based processing activities.* These include processing cassava into *gari*, cassava dough, of palm kernel, groundnut and copra oils, palm wine tapping, local pito brewery, local gin distillery, and traditional soap-making. These activities are dominated by married female workers, mostly over 30, and predominantly illiterate. Their skills are acquired from within the family. Their experience of seasonal underemployment is pronounced. Mostly married, with children, they lack social security protection. There are also the forest product workers, mostly male, namely, carpenters, rattan and bamboo craftsmen, wood carvers and woodworking machine operators.

In a case study on the informal rural agricultural sector (APADEP, 1998), six distinctive types of rural labour were identified as follows:

- (i) *Family labour.* A distinctive characteristic of rural informal labour. It permeates all the sub-sectors within rural agriculture. It is predominant in both food and cash crop farming, and in fishing and agro-processing. From a labour market and economic standpoint, family labour is considered crucial for the survival and viability of the enterprise. It is also used as a kind of apprenticeship for the transfer of skills from one generation to the next.
- (ii) *Casual labour.* Known in local parlance as “by-day”, it is the next major type of labour in the rural informal sector. It is prevalent in the food and cash crop sub-sector where it is needed to carry out work including land clearing, preparation of mounds, planting, weeding, fertilizer and chemical application, and harvesting. Casual labour exists under different kinds of contract, and has a high level of mobility migrating from the northern half of the country and even from beyond the northern borders (from Burkina Faso) to work on cocoa, coconut and oil palm farms in the Asante, Eastern and Western regions of Ghana. In the Brong-Ahafo region, these workers are engaged on maize and yam farms and perform a variety of assignments, such as land-clearing and preparation, the making of mounds, and planting. They return to their regions of origin to make use of the farming season there also. Where they are not migrant, many casual workers also

have their own farms where they grow crops for subsistence. Payment for casual workers is in cash, but can also be in kind.

- (iii) *Apprenticeship.* Systems of apprenticeship exist within the fisheries and the agro-processing sub-sectors – especially in oil palm extraction, coconut oil extraction and shea butter processing. Apprentices are normally not paid, but they may receive cash as pocket money or, as in fishing, be provided for in kind, for example fish.
- (iv) *Permanent labour.* This constitutes a relatively small proportion of the rural agricultural labour force. The size of the farm and the degree of permanence of the crop type determines to a large extent the permanence of labour. Perennial tree crops like cocoa, oil palm, coconut and rubber produce permanent workers.
- (v) *Communal labour.* This is an arrangement by which farmers within an area bound by common agreement pool their labour together to assist each other in turns.
- (vi) *Child labour.* This form of labour is an important component of the informal sector workforce. It is an integral part of family labour, especially in the rural set-up. Different categories of children were identified: those who had never been to school, those who had dropped out of school and those who were still in school but assisted their parents. Some children were engaged by a parent or a close family member and may be paid or not. They ranged between 8 and 10 years and more. There were also children employed by non-relatives. Such children, aged between 10 and 15 years, were usually out of school and fully on the labour market. Child workers are engaged in a wide range of economic activities. In the fisheries sub-sector across the coastal belt, these include mending nets, net dragging, scooping water out of a canoe, cleaning canoes and portage. In the farming areas, noticeably in the Northern and Upper East regions, child workers are engaged in land preparation, planting, weeding, harvesting, shea nut picking and processing. In the rice farms, both in the north and at Dawhenya in Greater Accra, children, especially girls, act as bird scarers and operate from sunrise to sunset.

The different kinds of employment contract under which the various types of labour are

engaged constitute their distinguishing feature. A separate study on contract labour in the agricultural sector in Ghana demonstrated the persistence and growth of non-standard patterns of employment relations in the agricultural sector. The study showed differences in the conditions of employment of different groups of agricultural workers. Factors that accounted for the differentiation included: nature of contract (written or verbal); employer responsibility to the work process in terms of provision of work tools; protective clothing and general health and safety; levels of skill of workers; levels of remuneration; and access to social security protection and other benefits. Health and safety as an aspect of working conditions is particularly singled out for poor showing.

The labour market reasons that are adduced for the growth of contract labour include employer concerns for productivity gains and cost effectiveness. As for the workers who labour under contract agreements, they essentially acknowledge them as rare opportunities for securing wage employment.

1.2.2. Urban informal workers

The urban informal sector in Ghana, as elsewhere in Africa (ILO, 1997), is remarkable for its heterogeneity and variety. Studies on the urban informal sector in Ghana reveal a wide range of operations in the urban informal sector that can be grouped under (i) services; (ii) construction; and (iii) manufacturing.

(i) Services:

- urban food traders and processors include food sellers in the market, itinerant wholesalers and retailers, bakers, caterers and cooked-food sellers. These workers are mostly women, predominantly illiterate or semi-illiterate. They acquire their knowledge and skills largely from family. They are also low-income earners and have no social security protection;
- health and sanitation workers – chemical sellers, drugstore operators, funeral undertakers, night soil carriers, refuse collectors, traditional/herbal healers, attendants in private maternity homes, and traditional birth attendants;
- domestic workers, who are also predominantly women;
- repairers of watches, refrigeration equipment, radios, mechanical or electrical/electronic equipment, mostly young male

workers under 45 and have either received some basic education or are drop-outs, but among whom are to be found skilled workers whose skills are largely acquired through years of apprenticeship;

- garages – auto mechanics, sprayers, welders, vulcanizers, auto electricians, many of whom received some basic formal education alongside many drop-outs, and acquired their skills through years of apprenticeship;
- graphic designers, mostly males between 25 and 50, about two to six workers in each unit who acquired their skills through limited vocational training and apprenticeship;
- audio-visual workers – photographers, cinema/video operators, performers, musicians, film-makers – are skilled workers who have received basic formal education but limited formal vocational training and apprenticeship – who are mostly male but among whom the number of females is increasing;
- hairdressers and barbers/private security men who are aged workers with very low educational standards, ill-equipped, lack job security and opportunities for career advancement, and without any social security protection.

(ii) Construction:

Construction workers – masons, carpenters, steel benders, small-scale plumbers, house-wiring electricians, and carpenters who are mostly male, aged between 20 and 40 and are mostly school drop-outs. Electricians often have some basic training, while all the other groups go through years of apprenticeship.

(iii) Manufacturing:

In this sub-sector of the informal sector, the predominant activities cover food processing, textile and garments, wood processing and metal works. Women dominate food processing while men constitute a clear majority in metal works and wood processing. Apprenticeship is the most common form of skill acquisition and employment in urban informal manufacturing units.

1.2.3. Common needs of rural and urban informal workers

In general, it can be said that labour standards in the informal sector are not in conformity with those that apply in the formal sector. Informal sector workers lack social security, economic support and legal protection.

There are common needs that are differentiated among various groups of informal sector workers, rural and urban. They include:

- (i) social needs – job security, health care facilities and the promotion of occupational health and safety, protective clothing, protection against income losses during sickness, annual leave and maternity rights, minimum wage, general infrastructure and environmental sanitation; and
- (ii) economic needs – training and education for skills development, basic tools, business premises, financial credit, marketing opportunities.

While labour legislation and practice widely provide for the interests of all workers, they none the less reveal some limitations with regard to informal sector workers. Labour legislation does not adequately cater for casual labour with respect to written contracts, worker's compensation, labour inspection, annual and maternity leave. With regard to regulatory institutions, the ineffective functioning, where they existed at all, of Public Employment Centres, Labour Inspectorate and Minimum Wage-Fixing and Monitoring Machinery have been noted. Similarly, the marked disuse of the wide discretionary powers of the public authorities for labour protection has been cited (Adu-Amankwah, 1997).

1.3. Institutions and programmes relating to the informal sector

Over the last 20 years, as the informal sector has expanded, so have a variety of institutions and programmes that relate to the sector been born. The plethora of established institutions and programmes include the National Board for Small-Scale Industries (NBSSI, see Box 1), the Fund for Small and Medium Enterprises Development (FUSMED), the Programme of Action for the Mitigation of the Social Costs of Adjustment (PAMSCAD), the Ghana Regional Appropriate Technology Industrial Service (GRATIS, see Box 2), TECHNOSERVE (see Box 3) and the Council for Indigenous Business Associations (CIBA). Institutions like the Internal Revenue Service as well as the Metropolitan and District Assemblies provide the regulatory framework for the operations of the sector.

The range of institutions and programmes that are geared to the informal sector provide different forms of credit and technical support to the sector. While the Government has recognized the importance of the informal sector and its potential contribution to employment, incomes and even a domestic industrial base, it has not demonstrated the corresponding financial commitment to it. The Government's budget for supporting the informal sector is at best inadequate.

On the other hand, non-governmental organizations also intervene in the informal sector, but again, inadequate finance is their overriding constraint.

Box 1. National Board for Small-Scale Industries (NBSSI)

The National Board for Small-Scale Industries (NBSSI) is the apex organization set up by the Government to promote and develop the small-scale industrial sector. The NBSSI was established by an Act of Parliament in 1981, Act 434, and is governed by a Board of Directors. The Government makes nominations to the Board, headed by an Executive Director who sees to the day-to-day running of the organization. It is subsidized and funded mainly by the Government of Ghana.

Act 434 gave the NBSSI the specific function to promote and develop micro- and small-scale enterprises because of the contribution that they can make to the economic development of Ghana. The NBSSI, however, lacks the funds to achieve its aims. The organization is poorly funded by its overall meagre budget allocations. There is also political interference, sometimes, with the management of the organization. Besides, workers are poorly remunerated, leading to low morale among its staff.

It collaborates with and receives support from the Friedrich Ebert Foundation, the German Development Services, GRATIS, the World Bank, the International Labour Office (ILO) and the United Nations Development Programme (UNDP).

Box 2. Ghana Regional Appropriate Technology Industrial Service (GRATIS)

GRATIS was established as a project in 1987 by the Government of Ghana under the Ministry of Environment, Science and Technology to promote small-scale industrialization and provide employment opportunities, improve incomes and enhance the development of Ghana. This is done through the dissemination of appropriate technologies by developing and demonstrating marketable products and processes for micro- and small-scale enterprises.

It operates through a network of Intermediate Technology Transfer Units (ITTU) established in the ten regions of Ghana.

GRATIS is managed by a Board of Directors which is responsible for formulating major policies and guidelines for implementation. An Executive Director provides general coordination, supervision and guidance to the GRATIS/ITTU network.

The project is funded by the Government of Ghana, which provides buildings for GRATIS and the ITTU in the ten regions. Government also employs and pays employees and bears all administrative costs.

GRATIS provides training and technical assistance to artisans. Since 1987, 22,221 persons have benefited from GRATIS/ITTU training. Out of this number over 4,000, including women, have benefited from the four-year technical apprentice training programme. During the same period, 452 students from the university and technical and vocational institutions, including 134 women, were attached to the ITTUs to gain practical experience. Training is provided in metal machining, foundry works, welding and fabrication, basket-weaving, and batik tie-and-dye.

GRATIS experiences a high rate of labour turnover in the project as a result of low remuneration and motivation for the workers. There is high level of worker dissatisfaction with poor conditions of employment. Many workers think that once GRATIS is a project they should have handsome packages in terms of salary and other emoluments.

GRATIS collaborates with the European Union (EU), the Canadian International Development Agency (CIDA) and TECHNOSERVE who provide equipment, computers and other inputs and logistic support.

Box 3. TECHNOSERVE

TECHNOSERVE Ghana is a subsidiary of TECHNOSERVE Incorporated, an international non-profit, non-governmental organization with headquarters in Connecticut, USA. TECHNOSERVE was established in 1971 by Edward Bullard, who worked in Ghana for two years as a hospital manager at Adidome in the Volta Region. It is governed by a Board of Directors drawn from the private sector in the United States. In Ghana there is a Country Director who manages the country programmes. TECHNOSERVE is funded by individuals, USAID and also monies accruing from contract projects undertaken for the Ghana Government and the World Bank.

TECHNOSERVE went into the informal sector because it was convinced that rural Ghanaians needed professional management skills and the technical means to generate more income from their hard labour.

TECHNOSERVE collaborates with extension officers of the Ministry of Agriculture and with various cooperatives and self-help foundations. Limited finances is the most basic problem in a situation where many people expect gifts and handouts as against TECHNOSERVE's stated objective to train them to acquire the required managerial skills for their field work.

2. Trade unions in the informal sector in Ghana

2.1. Trade union organization in Ghana

All categories of workers in Ghana have a right to organize in trade unions. The 1992 Constitution of the Republic of Ghana guarantees this right. Article 21 on general fundamental freedoms provides for the freedom of association, which includes freedom for the people to

form or join trade unions or other associations, national and international for the protection of their interests.

Ghana applies to international labour standards a considerable extent, particularly those concerning freedom of association and the protection of the right to organize as well as to bargain collectively.

By March 1999, the Government of Ghana had ratified six of the seven ILO Core Conventions. The Core Conventions adopted refer to

freedom of association and collective bargaining rights (Conventions Nos. 87 and 98), forced labour (Conventions Nos. 29 and 105), and equality of opportunity and treatment (Conventions Nos. 100 and 111). The official process of ratification of the Convention on Minimum Age of Employment (Convention No. 138) had already commenced.

In spite of the solid democratic and legal framework for the realization of workers' hopes and aspirations, informal sector workers in Ghana, regardless of their numerical strength in relation to the entire workforce, lack representation in the policy process and have no presence in the corridors of decision-making and power. They have neither the facilities nor the possibilities to influence the conditions and decisions that affect them in any systematic manner; nor do they have any access to the services they need to operate effectively and efficiently. Already, the issues at stake in relation to informal sector workers have been identified in terms of the nature of their relationship with the government, social institutions, trade unions and employers' organizations. There also remains the related question of the recognition of informal sector associations as legal entities, which is necessary to afford them access to government authorities and services (ILO, 1997).

2.2. Trade union organization in the informal sector

It has been noted that workers in the informal sector usually organize to overcome business constraints which include: high prices for inputs; low prices for the goods produced; difficulties in gaining access to credit and service; threats of eviction by city authorities; and the risk of income losses deriving from unexpected events such as death or illness (ILO, 1997).

In Ghana, the origins of trade unionism are rooted in organizing in the informal sector. Unionization in the then Gold Coast was found to be widespread among agricultural labourers, cooks, motor-drivers, mechanics, goldsmiths and several other artisans, especially after the First World War (Adu-Amankwah, 1998). When trade unionism became consolidated in Ghana, however, most members were found in the formal sector, especially urban. Even so, one affiliate of the Ghanaian Trades Union Congress (GTUC), the Ghana Private Road Transport Union (GPRTU), is a fully-fledged informal sector union. Besides, since the end of the 1970s, Ghanaian trade unions have been organizing consciously in the informal sector.

2.2.1. *The Ghana Private Road Transport Union (GPRTU)*

The GPRTU is composed mainly of hired drivers, owner-drivers and vehicle owners. The union also engages paramilitary personnel that it employs as guards with responsibility for monitoring the payment of daily income tax by private road transport operators.

The union provides a peculiar framework for the pursuit of the interests of its varied membership. It operates structures at branch, regional and national levels. The national and regional structures are dominated by the vehicle owners' component of the union while the presence of the owner-drivers in the union is established mainly at branch level. GPRTU branches cover virtually all the districts of the country. Hired drivers (and their apprentices) largely make up the numbers in the union.

The GPRTU serves as a medium for the road transport owners and operators who belong to it to relate to the public authorities. With the support of government, the union has been able to secure facilities to acquire vehicles for its members on credit. This has helped to improve the income-earning capacity and economic security of some members. (The perception, however, is that this facility has benefited more the vehicle owners and to a lesser degree the owner-drivers than the drivers.) The union also serves as the framework for determining private road transport fares. It also negotiates the fees to be paid for operating at road transport terminals. The GPRTU is also consulted by the public authorities on many operational issues pertaining to the road transport sector. The GPRTU is reputed to enjoy considerable patronage from the ruling party and Government in return for the loyalty and support of the union.

The union further provides a framework for resolving problems between hired drivers and the owners of the vehicles they operate. However, the persistent absence of social security protection for drivers – job security, health care facilities and the promotion of occupational health and safety, protection against income losses during sickness, annual leave, minimum wage, etc. – is a telling indication of which members' interests the union does not adequately serve. The balance of power in the union weighs in favour of the owners against the drivers.

The union operates a welfare fund for members in distress. The fund is normally accessed upon bereavement of members.

The GPRTU is a member of the West African Road Transport Union and the International Transport Workers' Federation (ITF).

2.2.2. *General Agricultural Workers' Union (GAWU)*

GAWU organized its Rural Workers' Organisation Division (RWOD) as early as 1979. The membership is national, with a higher concentration in the Volta and Greater Accra Regions, and the Northern, Upper East and West regions. By 1998 total membership was over 12,000, with 60 per cent being women. The members are peasant and landless farmers, farmers who hire out their labour, flywheel tractor operators, stone-quarrying workers and other self-employed rural workers. Apart from the flywheel tractor operators who have their own association which is in turn affiliated to the union, all the others have direct membership of the union and pay dues directly to it.

GAWU supports members, particularly women, with revolving loans, and also facilitates members' access to other forms of institutional credit. It further assists with the provision of access of members to basic tools and inputs like cutlasses, fertilizer and other materials, as well as basic necessities like lanterns and kerosene. GAWU has further set the example in the Upper East region of Ghana by providing sewing machines to a group of female members to assist their efforts at providing clothing for their families.

The union also puts up building structures to be used as storage facilities and classrooms for literacy classes that it organizes for members. It also provides education and training for its members through seminars and workshops on the following topics: bee-keeping, food processing, bookkeeping and trade union finance, ploughing techniques to reduce soil erosion, equipment maintenance, health and safety on how to handle chemicals, and environmentally sound farming practices.

Rural workers who are members of the union can now mobilize themselves to speak up for their rights in their communities as well as undertake joint efforts at self-help projects. They demonstrate a considerable degree of confidence in the union. They can invite GAWU to give them advice and sometimes lead them in negotiations, for example, over the acquisition of land. The union also indicates that it will not hesitate to provide legal assistance to members should the need arise.

However, the absence again of social security protection for rural workers like guaranteed incomes, annual leave, minimum wage and health care facilities underscores the enormous distance yet to be covered by the union in assuring the enjoyment of minimum labour standards by rural workers. Because of the low incomes in the rural sector, the union has to invest more finances in organizing the rural workers than it can hope to realize from dues (rural workers pay dues of 1,200 cedis annually, approximately US\$ 0.50). Finance constitutes a major limitation on GAWU's organizational capabilities.

The union collaborates with the Ministry of Food and Agriculture (MOFA), the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), the International Federation of Building and Wood Workers (IFBWW), the Netherlands Federation of Trade Unions (FNV), and others that address rural workers.

2.2.3. *Timber and Woodworkers Union (TWU)*

TWU began its organizational efforts in the informal sector in 1988. This was after the TWU quadrennial conference in 1987 which adopted a resolution for organizing self-employed woodworkers in the informal sector. The objectives for organizing were:

- to promote the interests of all the self-employed and to secure united action on all issues affecting or likely to affect those interests;
- to regulate their operations through education; and
- to secure both national and international recognition of their socio-economic role in national development.

The first group of the self-employed targeted for organization included the power chainsaw operators, firewood cutters, charcoal burners and the canoe carvers whose activities are carried out right in the forest. The TWU organized the **National Sawyers Association (NSA)** to cover all of them. Since 1991 the NSA has been on its own in terms of organization. It is affiliated to the TWU and is represented on its National Executive Council by two persons. The union has employed one of its members as a full-time official responsible for the informal sector. There are 12,000 members spread over

six regions in the southern sector of the country. Few are, however, found in the Northern Region.

The union provides training and education to members. This has enhanced their ability to register their businesses with the Registrar General's Department, the Internal Revenue Service, the District Assemblies and the Forestry Department as a prerequisite to obtaining a felling permit to operate. The TWU finances conferences of the NSA (pays for food, accommodation and organizational costs) and the printing of membership cards.

Small-scale carpenters are also organized in the **Small-Scale Carpenters' Association**. They are the users of the products of the chainsaw operators – the carpentry, joinery and furniture workers. According to the union, a recent national survey estimated the number of these workers at 1.5 million. The union has organized 30,000 of them nationwide, concentrated in Kumasi and Accra. They are spread in all the ten regions at local, district and regional levels.

The **Wood Working Machine Owners' Association** is the third group of self-employed operators to be organized. Their operations are centred in the six forest regions of Ghana. While approximately 6,000 workers are estimated to be in the sector, the union's efforts at organizing them is proceeding steadily with 3,000 already under coverage.

The **Cane and Rattan Workers' Association** is made up of suppliers and weavers in the sector. The union's organizational activities started in this sector in February 1996, and are ongoing. The union now covers the Greater Accra and Eastern Regions where about 1,000 workers have been signed on. The union is also looking forward to organizing wood carvers who are concentrated in Accra and Aburi.

Informal sector members of TWU have a sense of recognition. They support the union in their fight against government legislation and policies that run counter to their perceived interests. The union on many occasions helped them to retrieve some of their tools seized by the public authorities. This contributes to instil in them a sense of social protection. In terms of working conditions and standards of living, the operators have fared differently. Some members have improved their working conditions through better arrangement of tools and benches in their shops (e.g. carpenters), wearing of nose masks, aprons and boots. Electrical arrangements and fittings have also improved. For the chainsaw operators, on the other hand, their level of income has dropped in the last two

years because of a new regulation which limits their operation. However, woodcarvers and cane/rattan workers' incomes have increased. Their products are largely patronized by tourists who offer high prices. Some carpenters have also been exposed to the international market through trade fairs.

The bargaining strength and representativeness of the TWU have gone up even though there exists no direct relationship between the union and members. The union, however, accepts members who try to access it directly; but generally it deals with members through their associations. Since the unionization of the informal sector workers by TWU, anybody who wishes to deal with the workers therein involves the union. Examples of such bodies are the Timber Export Development Board (TEDB), the Ministry of Lands and Forestry, and Parliament. TWU negotiates with District Assemblies and the Internal Revenue Service (IRS) on tax rates for members. It also negotiates with District Assemblies for land to resettle carpenters.

The TWU intervenes to settle members' cases out of court. For instance, when a chainsaw operator was implicated in an illegal operation of felling of timber, the union intervened to have the case settled outside court. Similar assistance was given to carpenters when a contractor refused to pay the cost of jobs he sublet to them. The union also provides members with education and training on tree planting, felling, harvesting and extracting techniques, health and safety, timber laws and regulations, forest management, marketing, and financial and business management.

The major constraint to the organizing efforts of the TWU is the fact that most of their potential membership have no previous experience of union organization and do not readily see the value of organization. The other significant constraint with regard to the organizational efforts of the union is the absence of a ready package of benefits to attract members.

The TWU collaborates with the IFBWW and the TEDB.

2.2.4. *The Industrial and Commercial Workers Union (ICU)*

The most organized informal sector group of workers in the ICU is the Ghana Hairdressers and Beauticians' Association (GHABA). They include hairdressers, beauticians and barbers. GHABA has a membership of 4,000 spread all over Ghana with special concentration in Accra, Kumasi and Takoradi. The association

has its own structure from district through regional to national levels. In Accra, the district is divided into zones because of the density of the population and range of activities. Each member of the association pays 200 cedis per month to the national executive committee who collect dues and in turn pay an affiliation fee to the ICU. The association has a representation of three persons on the National Executive Council (NEC) and on the women's wing of the ICU.

ICU conducts elections of officers for GHABA at zonal, district, regional and national levels which always result in free and fair outcomes. Although GHABA does not receive direct financial support from ICU, the union meets the secretarial and organizational cost of their conferences and provides legal services for members when they run into problems in the course of performing their duties. The ICU also organizes workshops and seminars on basic trade union subjects, bookkeeping, health and safety, and how to protect clients. Training is also provided in leadership roles and rights and responsibilities both within the union and the society at large.

For GHABA, working conditions entail the setting up of a shop – provision of equipment, products, sanitation, environment of the shop, and health and safety. Members' working conditions have improved to some extent since joining the union. They now wear gloves when handling chemicals. They have also improved the ventilation of their shops. GHABA also organizes entrance examinations for those wishing to operate as hairdressers, and with the support of the public authorities has instituted regulation that allows hairdressers' salons to be sited at least 50 metres apart.

Executive members of GHABA visit their members' shops regularly to ensure that they keep their environment clean and also have the required number of combs, towels and the right types of cream. Members have improved upon their human relations with their clients and apprentices. GHABA has also helped members to acquire equipment and tools for their shops.

The living standards of members of GHABA have not, however, improved significantly in spite of increased income levels. This is because not too many people visit the salons nowadays. Because of the general high cost of living most clients prefer to style their hair by themselves in their homes.

Undoubtedly, the informal sector has increased the numerical strength of the ICU, but the union has no close relationship with the members. The ICU represents the workers and

leads negotiations with the IRS and the Accra Metropolitan Assembly (AMA) on tax rates and rents to be paid on shops. However, GHABA members of the ICU have developed confidence to express their views at meetings. The district zones and regions hold their own meetings with or without assistance from union officials. Some of the members can now chair meetings and write reports. For welfare, the union also makes donations upon the death of members of the associations.

The organization of GHABA has had its difficulties. There have been some problems with internal democracy and accountability that tended to undermine confidence and lowered the morale of members. Among executive members who had had no prior organizational experience of accounting for their activities, the demand of accountability to members has not been easy to accommodate. On the other hand, default in accountability of executives affected members' willingness to pay dues and even led to poor attendance at meetings and withdrawals from the association.

There are also some members who continue to feel socially insecure because they are not able to get financial assistance.

Tie-and-dye workers as well as domestic cooks and stewards have also been recently organized into the ICU. The ICU collaborates with the International Federation of Commercial, Clerical, Professional and Technical Employees (FIET) and the Women Workers' Union (KKD) of Denmark in furthering its initiatives in the informal sector.

2.2.5. Other trade union initiatives in organizing informal sector workers

Other trade union initiatives in organizing informal sector workers include the **Ghana Union of Professional Photographers (GUPP)**. Constituted into a body in 1987 with a membership of 1,150, it became affiliated to the Public Services Workers' Union (PSWU). GUPP is national in character but has high membership concentrations in Kumasi, Takoradi and Accra. It operates regional and national executive structures. Members pay dues through GUPP to PSWU but they are not represented in the structures of the PSWU, e.g. the National Executive Council (NEC) or the Regional Councils.

The GUPP has unrealized expectations from its affiliation to the PSWU. It expects education, training and exposure through photo exhibitions from its association with the PSWU.

It also expects the PSWU to assist with direct organizational work in contacting potential members around the country. Membership of GUPP has dropped to 400 because of low morale and absence of recognition of the value of belonging to the association. GUPP has a welfare scheme for compensation in times of bereavement, but this has so far only benefited a few persons.

The other group of informal sector workers to be organized by a trade union in Ghana is the **Butchers' Association**. It is affiliated to the Local Government Workers' Union (LGWU) and currently has membership only at the Kumasi Abattoir. The LGWU provides legal advice and assistance. For instance, when the Butchers' Association went to court over their right to join the LGWU rather than the Cooperative Butchers' Association as proposed by the Ashanti Regional Minister, the union paid their legal fees. The LGWU has organized members of the association to join the Social Security and National Insurance Trust (SSNIT) Pension Scheme. The union is also supporting the association to develop a pension scheme to supplement the SSNIT Pension Scheme. The association has also been assisted by the union to form a credit scheme from which members take loans to finance their business. The LGWU collaborates with the Kumasi Metropolitan Authority (KMA) in organizing the butchers in the metropolis.

3. Recommendations for future trade union action

3.1. Products of trade union intervention in the informal sector

The discussion of trade union organizational efforts in the preceding section provides interesting evidence of differentiated support for economic outcomes, social protection and the provision of a voice for informal sector workers.

GAWU, GPRTU and the LGWU facilitate varying degrees of credit and financial support for informal sector workers who belong to or are associated with them. This is through loan guarantees or credit facilities. GAWU also facilitates access to inputs for its members. GAWU, TWU and ICU provide education and training that improve the skills and capabilities of their members in the informal sector. TWU facilitates participation in fairs as market promotion for its members, while the GUPP pronounces its

expectation of union support for marketing promotion through photo exhibitions. GAWU and TWU negotiate for land as part of the general infrastructure.

In terms of social protection, a number of the unions have raised awareness of rights and standards among their members. TWU, ICU, GAWU and GPRTU have raised awareness among their members of the potential for organization and collective bargaining. ICU, LGWU and TWU have provided legal support to members. TWU has protected its members from harassment by the public authorities. LGWU has encouraged its members to join the national social security and pension scheme. Work conditions, particularly health and safety, have improved among ICU, TWU, GAWU and LGWU members in varying degrees.

The main obstacles to union organization as they have emerged from the initiatives in the informal sector have to do with, firstly, the low financial returns from the sector as against what unions have to spend organizing there; and, secondly, the absence of ready packages of benefits to attract informal sector operating units coupled with their absence of previous experience of union organization.

The trade unions in the informal sector have served as the medium for representing the workers in negotiating for tax rates, rents, fees or fares. The GPRTU is widely consulted, while GAWU and TWU make themselves heard on a wide range of issues before different public bodies. The unions all show evidence of acting as channels for collective bargaining with the public authorities or any other body on one matter of interest or the other. These, however, only open the window on to the existing opportunities for different groups of informal sector workers to intervene in and influence the policy process.

The examples of trade union organization in the informal sector, though impressive, do not yet measure up to the sector's demands for clear support for its growth as well as the provision of social protection for the workers and the application of minimum standards thereof. The possibilities for trade union organization in the informal sector that have been demonstrated by the existence and operations of unions signal the need to pursue vigorously the quest for further organization of the sector. This should contribute to the creation of the conditions for the elimination of child labour and discrimination in employment as well as the attainment of social protection for all workers.

3.2. Trade union perspectives on informal sector organization

In its policy on organization and internal democracy, the GTUC acknowledged in 1996 that the informal sector is an important part of Ghana's economy and that the trade unions need to step up organizational work there. The policy objective was set to pursue vigorously the organization of workers in the informal sector.

Already in 1995, the GTUC had identified the needs of the informal sector that required servicing. They included:

- organization – to promote the self-organization of informal sector workers and encourage them to: organize within existing trade unions; organize and affiliate to existing trade unions; organize and affiliate to the GTUC; organize on their own and develop relations with the trade unions and the GTUC;
- capital – to provide information on existing credit and financial schemes for the informal sector; help develop group collateral for credit from financial institutions; promote savings and credit schemes; undertake campaigns and advocacy for increased financial opportunities for informal sector operatives;
- training and education – to investigate and provide information about existing facilities and opportunities; facilitate access to existing programmes; facilitate the institution of relevant programmes and appropriate schemes where they do not exist; utilize adult education methods through the print and electronic media;
- the market – to promote high standards; undertake market surveys and information dissemination; undertake marketing promotion through trade fairs;
- social protection – to explore the possibilities of the Social Security and National Insurance Trust (SSNIT) as well as other insurance schemes as the framework for guarantee against income losses during sickness, and for workers' compensation and pension;
- input supplies – to promote cooperatives as a means of improving access to inputs; and
- legal protection – to undertake advocacy and a campaign to secure a legislative framework that guarantees minimum standards for all workers, and campaign for the

effective functioning of regulatory institutions to assure the application of labour standards.

In laying out the needs of the informal sector that required servicing, the GTUC also outlined how the trade union stood to gain by organizing informal sector workers. Such gains were evaluated in terms of membership, finances, greater legitimacy as representing the constituencies of both formal and informal sector workers, and therefore a chance for stronger intervention in national development. By organizing informal sector workers, it was agreed that the trade union could achieve the following:

- help build up membership, particularly at a time when trade unions are losing members through retrenchment and deregulation;
- make trade unions more representative;
- strengthen the bargaining position of trade unions;
- acquire broader appeal and increase trade union capacity for mass action;
- extend trade union recognition and enhance union image both nationally and internationally;
- improve the human power base of the trade union;
- improve the union's financial and resource base; and
- reduce ignorance about trade unions and their role.

3.3. Approach to organizing

In October 1997, the Pan-African Conference on Democratic Participation organized by the African Workers' Participation Development Programme (APADEP) in Arusha, Tanzania, affirmed the need to organize informal sector workers. The conference undertook an overview of African workers and the trade union situation in the light of structural adjustment programmes that have been implemented in a number of African countries since the 1980s and throughout the 1990s as well as the current trend of globalization.

The workers' situation was characterized by rising unemployment and the attendant insecurity for most workers, low and insufficient incomes for workers, poor working conditions in terms of hygiene and health and safety, the absence of canteens and poor transportation

facilities, unsatisfactory grading and promotion, inadequate provision for training and education, and deficient workplace management. As for the trade union situation itself, the shrinking base of the trade unions raised questions about the unions' legitimacy as the most representative organizations of workers. Furthermore, there was a grim record of inaccessibility of many workers to labour laws and trade union statutes, inadequate budgets for the functioning of trade union committees, especially at local levels, inadequate provision of trade union education, marked under-representation of women in trade union structures, and weakness of internal trade union democracy.

The emergent challenges facing the movement raised a set of policy options including the following:

- improving internal democracy and the representation of women within trade union structures;
- strengthening collective bargaining and workplace negotiation;
- promoting workplace participation;
- expanding organization to cover the informal sector; and
- developing workers' participation beyond the workplace.

The strategy for strengthening the trade union movement combines the appropriate mix of building on and consolidating the existing functions of trade unionism as well as extending the boundaries of trade union existence and operations. The injunction to organize informal sector workers that emerged from the Arusha Conference was based on the recognition of informal sector workers as a new partner in the workforce community. Because the informal sector is a new area for trade union organization, the conference called for a creative approach that took account of the differences between the informal sector and the formal which so far had been the traditional domain for trade union organization.

Already, the GTUC has laid out its own approach for organizing workers in the informal sector as follows:

- affiliated unions that have already started organizing informal sector workers should be encouraged and supported by the GTUC;
- affiliated unions that have not started organizing in the sector should be encouraged to explore possibilities;

- the GTUC should identify existing informal sector organizations and seek to develop relations with them;
- existing informal sector organizations should be encouraged to affiliate either to national unions or directly to the GTUC; and
- the GTUC and affiliated unions should identify specific informal sector workers and undertake pilot organizational projects to draw lessons for further organizational work.

The GTUC has also underlined the need for a redefinition of trade union membership and the introduction of different categories and levels of membership to introduce flexibility that accommodates informal sector workers.

3.4. Relevant initiatives

Trade unions in Ghana have some important activities to undertake to fulfil the needs of servicing the informal sector in a meaningful and consistent manner. The two main elements of the strategy for building organizations in the informal sector include, firstly, building the capacity of the trade unions to function appropriately and, secondly, coordinating the initiatives pertaining to the informal sector. Specific activities for the GTUC and the trade unions in Ghana include:

- setting up a database on the informal sector which would encompass features, needs, composition and geographical profile; setting up another database on existing institutions and programmes and their profile for assisting the sector;
- linking informal sector organization to national development, which would mean paying particular attention to agriculture and manufacturing, and demonstrating how organization of workers therein can contribute to the growth of those sub-sectors, and developing a policy for intervention in the informal sector as part of the strategy for national development, focusing on the support of the State and others for business growth and for social protection for workers and the generalized application of labour standards;
- implementing trade union education for cadre development, i.e. organizers, publicists and campaigners; and
- developing financial and credit schemes; training and education programmes for interpersonal and vocational skill develop-

ment; insurance schemes to promote social protection; and campaigns for the application of labour standards.

The consistent pursuit by the trade unions in Ghana of the challenge of organizing informal sector workers requires the nurturing and conscious development of links with the relevant public authorities and institutions, both national and international, that can provide the necessary support. To be most effective, such relations must be dynamic, and must move essentially towards policy support that is both technical and financial.

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Note

¹ This paper will take the definition of the "informal sector" as the range of economic units in both urban and rural areas which are largely owned and operated by individuals with little capital and labour, and which produce goods and services to generate income and employment.

Kenya

To represent informal sector workers, the trade unions need to set in place an enabling legal environment by using their channels of communication with the Government to bring the plight of these workers to the attention of those in authority.

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The ILO Bureau for Workers' Activities has undertaken a number of research/case studies whose findings are to be discussed in an International Symposium on Trade Unions and the Informal Sector in Geneva, Switzerland, scheduled for October 1999. The findings shall be applied in developing trade union capacity, within their existing and planned policies and programmes, to extend assistance to workers in the urban and rural informal sector, home-workers and those engaged under contract labour. The following report on Kenya gives a national situational analysis of the informal sector and indicates some strategies trade unions might adopt to reach out to the sector.

This study is divided into three parts. The first part provides an overview of the extent and characteristics of employment in the informal sector in Kenya as well as factors contributing to its expansion, while also clarifying the upstream reasons for the existing process and trends prevailing in the sector. Institutional and legal aspects form part of this section which ends with an analysis of the major problems faced by workers, the level of their organization and the extent of government and non-governmental organization (NGO) involvement.

The second part concentrates on the consequences the expansion of the informal sector has had on trade unions in Kenya and on their responses. Institutional, organizational, legal, financial and attitudinal obstacles that prevent actions by trade unions in the informal sector are identified. Examples of attempts by the trade unions to reach out to the informal sector are given.

The third part points the way forward and provides guidelines for the future action that

the Central Organization of Trade Unions (COTU) and its affiliates could do to reach out to the informal sector workers. The role, contribution, means and alternative strategies sum up the tasks ahead for the trade union movement.

1. Characteristics of the informal sector in Kenya

1.1. General background

Today, the informal sector is recognized for its significant contribution to Kenya's economy. The small-scale enterprise sector (*jua kali*) provides goods and services; creates jobs; develops skills; strengthens forward and backward linkages; creates demand as well as supply; facilitates indigenous entrepreneurship; supports industrialization policies; increases savings and investments; and uses local resources and quickly adapts to market changes (see Republic of Kenya, 1992).

When the informal sector first came under scrutiny following an ILO mission to Kenya in 1972, it accounted for only 10 per cent of total employment. By 1996, 63 per cent was in the informal sector. It is now estimated that the informal sector is absorbing about two-thirds of annual new employment opportunities in Kenya.

The informal sector in Kenya, principally defined as "all enterprises employing between one and 50 workers", comprises small-scale units characterized by very little capital, low levels of technology and skills, low productivity, and poor if any access to services. The workers are mainly engaged in manufacturing, construction, retail trade and transport. By

1995, retail trade engaged some 62 per cent of the workers followed by manufacturing with 28.5 per cent.

1.2. High proportion of women

The sector is also dominated by women operators. The proportion of women in the informal sector rose from 39 per cent to 56 per cent between 1977 and 1986 respectively (ILO, 1997). Women are traditionally found in retail trading (for mainly second-hand clothes, vegetables and fruits), food processing and services such as hairdressing and dressmaking.

In terms of geographical distribution, Nairobi Province has always had the highest number of informal sector workers with the Rift Valley and Central Province coming second and third respectively. The majority of informal sector workers have been in the urban areas.

1.3. Factors for the expansion of the informal sector

Several factors have been adduced to explain the declining importance of formal sector employment and the increasing dominance of the informal sector. The main reasons have been the inability of the Kenyan formal sector economy to absorb labour and the failure of the Kenyan economy to improve the incomes and living standards of the population. For instance, it is estimated that, in the 15-year period between 1982 and 1996, overall wage employment increased by only 561,000 against the labour force which was expanding at almost 500,000 per year.

There has been a noticeable dramatic fall in public sector employment which fell from 36 per cent in the 1970s to 20.5 per cent in 1994 (ILO, 1998). The same downward trend has been taking place in parastatals and some private companies, under the guise of restructuring. Against the background of an economy which has failed to create adequate jobs, a large proportion of the retrenched workers in the economy continued to join the expanding informal sector (Ngusi, 1994).

Coupled with the fact that deliberate policies towards rural development were not adequately articulated, people found opportunities in the informal sector of the urban centres. Similarly, lack of coordinated policies and programmes for human resource development have led to a mismatch between the demands of the economy and output from the education system. This mismatch led to the non-absorption

of the irrelevant skills which found their way into the informal sector.

The emergence of the informal sector has also been attributed to the sheer need for survival combined with the relative ease with which one can enter the sector. In effect, the informal sector gained prominence not just for those who were full time in the sector but even to part-timers from the formal sector. As the cost of living began to escalate, formal sector workers discovered that their salaries could no longer cater for all of their many needs.

1.4. Major problems facing the informal sector in Kenya

The informal sector is currently beset by a number of problems which hinder its development. In the first place, failure by the Government to coordinate effectively activities related to the informal sector among government-implementing institutions and departments, aid agencies, the business community, NGOs, etc., constitute a major bottleneck to the sector (Republic of Kenya, 1992). Consequently, much of the growth of the small-scale sector has been spontaneous.

Other factors inhibiting the development of the sector include lack of capital, limited markets for the sector's products, complaints about the quality of products, harsh and hazardous working conditions for informal sector operators, constant harassment by the authorities, tedious licensing procedures, poor and deteriorating infrastructure and deficient skills.

While in many respects the problems, challenges and opportunities are similar for male and female entrepreneurs, women face a number of special constraints. For example, most do not own land, which is a prerequisite for access to credit. Women borrowing money need their husbands' clearance if they are to borrow easily. Women lack the necessary skills to enable them to engage in business effectively. All the above constraints make it more difficult for women to operate in either the formal or informal sector.

1.5. Government and NGO intervention in the informal sector

The most comprehensive and specific government initiative on the informal sector was Sessional Paper No. 2 of 1992 which provided a policy framework for promoting small-scale and *jua kali* development in Kenya. The policy document extensively dwelt on the role of the

informal sector in Kenya's economy, improving the enabling environment, gender-specific issues, credit for the sector, non-financial promotional programmes and agenda for action.

Before this major landmark, past government interventions did not yield any satisfactory results, due to poor coordination among implementing agencies and failure to base programmes on adequate needs assessment. Government documents, until the Sessional Paper, only made mention of the informal sector in the context of the overall employment problem in Kenya. Among these were:

1. the Report of the Parliamentary Select Committee on Unemployment of 1990;
2. the Sessional Paper No. 10 of 1973 on employment – as a response to the ILO 1972 mission report;
3. the National Development Plans (various);
4. the Presidential Committee on Unemployment of 1983; and
5. the Sessional Paper No. 2 of 1983 on Unemployment.

Sessional paper No. 1 of 1986 and the Sixth National Development Plan (1989-1993) highlighted the development of the small enterprise sector as a primary means of strengthening Kenya's economy. Following these, the Government launched the Small-Scale Enterprise Development Programme with the intention of addressing the problems of lack of diversity, easy saturation of the market, lack of market information, low capacity to adapt to changing circumstances, and inherent uncertainty in general.

Prior to the launching of the above programme, the Government's support (mainly training and skill formation) for various small and *jua kali* enterprises, especially women's groups through the Women's Bureau, was minimal. In terms of financial support there exist several financial institutions, some of which have been specifically designed for lending to the small and medium enterprise sector. They include Kenya Industrial Estates (KIE), the Joint Loan Board Scheme (JLBS) and the Small Finance Company (SEFCO). In addition, other institutions have developed within their portfolio special credit programmes for the small sector: Industrial and Commercial Development Corporation (ICDC), Kenya Commercial Bank Limited, Barclays Bank of Kenya Limited, and National Bank of Kenya Limited. Other sources of credit have been provided by over 600 NGOs like K-MAP and PRIDE and a few small enterprise associations.

Institutions like the Kenya Industrial Research Development Institute (KIRDI), universities, UNDP and UNIDO have contributed to financing promoting, marketing and product development in these areas. In its Sixth Country Programme for Kenya extended through to December 1998, UNDP sought to support employment creation through small enterprises' development (*jua kali*) as one of the three programme areas. This was on the strength of its relevance to the attainment of the objectives outlined in Kenya's Eighth National Development Plan (1997-2001). The Federation of Kenya Employers (FKE), too, is interested in the activities of the informal sector, sometimes viewing them as a likely source of membership, especially so since they are regarded as entrepreneurs. The Federation of Jua Kali Entrepreneurs continues to benefit from the ILO project "Improve Your Business" being implemented by the FKE. Interventions by COTU and its affiliates will form part of the next section.

2. Level of organization and trade union interventions in the informal sector

2.1. Organizing the informal sector in Kenya

Prevalent problems facing the development and growth of the informal sector reflect either the lack of any organizational structures in the sector or the very fragile structures existing within the sector. This may partly be due to the history of the sector including the negative stigma that has characterized it.

In whatever respect, the informal sector came into being as a spontaneous response to the need for survival. In most cases enterprises in the sector have been the result of individual and highly personalized decision-making. Coupled with the fact that it has a history of suffering discrimination and is perceived as an unhealthy, dangerous, precarious, insecure and vulnerable sector of the economy, it has been severely marginalized and exploited.

2.2. Obstacles to the emergence of organizational structures

Firstly, owing to the survival motive of the informal sector activities and the resilience of the persons owning these businesses, organizations have been very slow to evolve. Secondly, as they are seen as operating outside the law, they were not ready to expose themselves to organizations which would make them easily

identifiable for victimization. Thirdly, they do not wish to be taxed: being organized would make it difficult for them to evade taxes. Also militating against the evolution of organizational structures is the fact that most people involved in this sector had until recently very little formal education, so their access to information was always limited, let alone the fact that their comprehension of the values of being organized was equally poor. Added to this list of unfavourable factors against the emergence of organizational structures is that those operating had/have no registration or licence which would have speeded up the process of organizing activities in the sector.

2.3. No legal force to compel membership

Notwithstanding the foregoing, there have emerged several organizations representing various groups of informal sector operators and workers. Some of these came to the fore as a reaction against the oppression perpetrated by the establishment, and others have been encouraged to develop so that they can be assisted by the authorities. The majority of the organizational structures referred to are found mostly among informal sector activities within urban centres and have their origins in Nairobi. Branch development in other towns and urban centres has started and is still rudimentary at these levels. This is due largely to the fact that organizations are still in their infancy, have low levels of membership, limited resources at their disposal and in any case it is left to an individual to enrol as a member. In other words, most of those organizations do not have any legal force to compel membership from those in the relevant sectors they represent, underlining the need to sensitize and create awareness among the informal sector participants.

Given that most of the workers found in this sector have low levels of education, the quality of leadership is still low compared with leadership representing workers in the formal trade unions in Kenya. Most of the leadership is composed of workers with at best primary school education, i.e. standard eight/KCPE. Others are self-made leaders. This implies that the quality of leadership in this sector leaves a lot to be desired.

Another important feature to be noted about the nature of the informal sector organizations is that they are heterogeneous organizations which combine many shades of trade. For example, the Nairobi Hawkers' Association

comprises all hawkers such as vegetable sellers, kiosk operators, "mitumba" (second-hand goods) dealers, tailors, textile sellers, open-air garages, woodcarvers, watch repairers, furniture makers/carpenters; charcoal dealers, etc.

2.4. Donor-funded activities in formative stages

Workers in the informal sector organize to overcome business constraints and to overcome problems that threaten their very existence. A survey (Ngusi, 1994) identified the following informal sector organizations in Kenya: Nairobi Hawkers' Association, Matatu Operators' Association, Malindi Boards Association, the Young Farmers' Clubs and the Small Traders and Entrepreneurs Society. These associations are still predominantly urban.

The ILO project gave rise to the emergence of the Kenya National Federation of Informal Sector Associations as the apex organization of informal sector associations in Kenya. Similar organizations exist in other East African countries: FISA (Uganda), and the Tanzania Federation of Informal Sector Organisations (TAFISO). The three organizations are all members of the East African Confederation of Informal Sector Organisations, based in Mombasa, Kenya.

These organizations are still in their formative stages and their activities are donor-funded. However, it is a positive step forward in terms of addressing and coordinating informal sector issues at national and subregional levels.

2.5. Trade union intervention in the informal sector

As already mentioned above, the growth of the sector was spontaneous and in response to factors mostly beyond the control of the larger economy as a whole. As such, its complexities and dynamism dictated the rejoiners, as it were, from government and other institutions that studied it. The trade union movement's response to this scenario was not an exception. On this account, one British academic observed as follows:

Indian buildings are not the only ones to have been surrounded by the rising flood waters of African *jua kali* development. Just down the road from the Gujarati stone gateway stands the headquarters of the ... (Central Organisation of Trade Unions). Doubtless, when it was built ... it was seen as a very appropriate site. Now, its compound is surrounded on the one side by a sea of second-hand clothes

sellers, with their wooden stalls, and their special trade cries ...

The Central Organization of Trade Unions – Kenya (COTU) is the sole national trade union federation in Kenya to which all industrial unions must affiliate. Currently, 30 unions are affiliated to COTU, comprising a total membership of 240,000 workers down from a peak of 350,000 in 1986.

COTU was formed in 1965 and constitutes trade unions registered under the Trade Union Act whose membership consists of non-managerial employees of companies and local authorities but excludes casual employees and those in the informal sector. Since its inception, COTU's role has remained traditional. It has focused on negotiating for improvement in salaries, safety in the workplace, fringe benefits and, generally, better working terms and conditions. COTU has not been able to adapt to the newly forming working class, let alone to the trends in the development of new economic systems which have been responsible for the informal sector in Kenya.

Due to current economic reforms including massive retrenchments, the trade union movement has experienced a severe decline in its membership. Yet, other than donor support, COTU's financial resource base has remained the membership fees collected from its members. Against such a background COTU has to reorient its sources of membership and rev-

enues and develop linkages with the informal sector (see Box 1).

2.6. Definition of "trade union"

The Trade Unions (Revised Edition, 1984) Act defines a trade union as "an association or combination, whether temporary or permanent of more than six persons, the principal objects of which are the regulation of relations between employees and employers". It also defines an employee as a "person who has entered into or works under contract with an employer". This means that only workers bound to an employer can form or belong to a union and hence claim membership of COTU.

Apparently COTU has so far been content with the legal status quo since at any time it could draw on a large pool of unorganized workers. The formal sector provided a mass of potential members for the unions to organize. Therefore, as long as the formal sector had secure and well-paying jobs, the unions were not inclined to organize the informal sector, choosing to consider it as disorganized, outside the pale of "organized labour".

2.7. COTU reviews position

Retrenchments in the formal sector led unions to review their position. Their members were losing jobs by the hour in a sector that sup-

Box 1. COTU (K) and organizing the informal sector

It was only in the early 1990s that COTU (K) initiated efforts aimed at organizing the informal sector. The overall aim of COTU has been to convert the informal sector organizations into formal recognition by the authorities. In 1993, COTU initiated an arrangement to sensitize the informal sector on the need for the sector to support the overall activities of the trade union movement. COTU opened an office for the commuter minibus (*matatu*) operators at its headquarters (the Solidarity Building) in Nairobi. However, this initiative proved shortlived.

COTU also arranged a workshop for trade union organizers in an effort to encourage them to approach the informal sector operators. Most of the national centre affiliates are now in the process of reviewing their constitutions to allow the membership of those operating in the informal sector. To date the Kenya Union of Food, Commercial and Allied Workers have organized 9,000 informal sector enterprises employing approximately 18,000 workers. Similarly, the Kenya Shoe and Leather Workers' Union has brought to its fold over 5,000 informal sector entrepreneurs with 10,000 workers. In addition, the Kenya Tailors and Textile Workers' Union has 20,000 informal sector entrepreneurs employing some 150,000 workers, while the Kenya Building and Construction Union has 10,000 establishments in the informal sector with 2,000 operators.

Since the majority of the workers in the informal sector are women, COTU has supported income-generating informal sector activities through its Women's Department. The main success stories lie with the Kenya Plantation and General Agricultural Workers' Union with informal sector women running off-farm activities. The Kenya Electrical Trades Workers' Union also runs a thrift organization where women borrow funds for investing in informal sector operations, such as selling vegetables in bulk, running *posho* (maize meal) mills, and grocery stores.

posedly provided permanent careers. Having lost their jobs, such workers automatically ceased to be union members since the formal contract binding them to an employer had come to an end. Unions therefore watched their membership dwindle in a situation where the structural adjustment programmes (SAPs) dictated the future of the enterprise rather than the existing industrial relations system.

Dispute settlement was watered down, making trade unions unable to defend jobs. While trying (albeit unsuccessfully) to do their jobs of ensuring that redundancies were not carried out, the best they tried to settle for was to ensure that those affected received compensation packages. Unions have argued that they should be part and parcel of the discussions on enterprise restructuring. In the event of any retrenchments, counselling, retraining, or timely payment of adequate terminal benefits, avenues for redeployment and a process of worker control should be worked out.

Having realized that they could no longer defend jobs and the fact that their membership was being reduced in the process, unions had to adjust their attitude towards the informal sector. They were all the more compelled to do so because the same workers ejected from the formal sector were actively involved in informal activities, yet they could not reach out to them.

The SAPs entailing privatization, closures and retrenchments brought to the fore the failure of trade unions in Kenya to live up to their aspirations of "improving the economic and social conditions of all workers in all parts of Kenya and to render them assistance whether or not such workers are employed or have ceased to be employed". So it turned out, paradoxically, that the new economic systems were to bring the trade union leadership to terms with their cardinal objective of defending workers wherever they may be. COTU's objective is to assist in the complete organization of all workers within the trade union movement. SAPs and the prominence of the informal sector provided further tests to this goal.

2.8. Legal obstacles, arrests and strategies

It was against the background of retrenchments, dwindling membership and a reduced financial base that the trade union movement sought to develop trade union policies towards organizing workers in the informal sector as part of the mainstream trade union movement.

But first it had to tackle the legal and attitudinal obstacles in their way.

Despite the explicit nature of COTU's constitution defining its obligations to workers of all categories as noted earlier, it could not overcome legal barriers: membership of a union is based on the existence of an employer-employee relationship which is not always guaranteed in the informal sector. Besides, informal sector workers are not covered by the Labour Act nor by the Employment Act. The fact that the existing legislation bars informal sector workers from unionization meant that the first task for the unions should be towards a change in the law itself opening up the informal sector to the established trade union movement. To date, this has not been achieved.

For instance, membership of the Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers (KUDHEIHA) extends to, inter alia, all employees engaged in private houses or homes and all establishments providing foods and beverages. By definition, therefore, housemaids and all food vendors (who are part of the informal sector) should be part of the union. The reality is that no workers in this category are unionized.

The closest COTU ever got in forging an alliance with the informal sector was in the run-up to the intended national strike scheduled for May 1993. With the severe economic difficulties facing their members, COTU had sought to provide leadership aimed at paralysing the Kenyan economy and subsequently forcing the Government to meet COTU's demands. As part of the strategy, an alliance was forged with the Matatu Operators' Association (comprising taxi drivers and operators) in order to make sure no worker turned up for work. A series of meetings were held, and an office provided for the leadership of the association. On May Day 1993, following a series of demands by the Secretary-General of COTU, he and other labour leaders were arrested and incarcerated. This, in effect, marked the end of the COTU/informal sector alliance.

The relationship between COTU and the informal sector workers was also observed by King (1996) as follows:

"The real paradox of COTU's location, however, is that they are now surrounded upon [*sic*] hundreds of small enterprises, many of which do have employees, and these micro-enterprises cover many of the different categories of industry and commerce that COTU's affiliated trade unions *claim* to represent. But almost certainly there may not be a single unionised

worker in the whole area now surrounding COTU headquarters, since most trade unions have not yet come to terms with the massive, and often highly exploitative, employment of people in the informal sector, and COTU itself has failed to develop any policy on informal employment.”

The first most comprehensive trade union initiative towards the informal sector was a subregional activity: strategies trade unions could employ in order to organize workers in the informal sector were discussed. The ensuing recommendations, to which COTU was a party, were, inter alia, that trade unions should:

- carry out more research on informal sector needs;
- help to set up some kind of workers’ representation structures in the informal sector;
- campaign and/or lobby for reforms in various pieces of labour and social legislation;
- extend their services in workers’ education and training in the informal sector; and
- convince governments and employers of the necessity of setting up social security systems, pension funds and saving schemes to which both formal and informal sector workers would belong.

Lack of meaningful follow-up actions at national level in Kenya was blamed on inadequate resources – both human and financial – to support the recommendations.

Later at an ICFTU-AFRO-financed activity, the question of linkages between trade unions and the informal sector was again discussed and trade unions were urged to reach out to the informal sector.

More recently, in May 1996, the ILO jointly with COTU organized a one-week seminar on the informal sector, one of whose objectives was to identify ways to organize the informal sector in the context of trade unions. This activity produced perhaps the best recommendations and strategies that were ever to form the basis for any future trade union role connected with the informal sector.

The seminar recommended that the following COTU affiliates were best qualified to reach out to the informal sector:

- Tailors and Textile Workers’ Union;
- Kenya Shoe and Leather Workers’ Union;
- Kenya Union of Printing, Publishing, Paper Manufacturing and Allied Workers (KUPRIPUPA);

- Union of Post and Telecommunications Employees (Kenya);
- Kenya Union of Commercial Food and Allied Workers;
- Kenya Quarry and Mine Workers’ Union;
- Kenya Electrical Trades Allied Workers’ Union;
- Bakery, Confectionery Manufacturing and Allied Workers’ Union (Kenya);
- Kenya Chemical and Allied Workers’ Union; and
- Kenya Jockey and Betting Workers’ Union.

The services identified that could be provided by the above unions included assisting informal sector workers to form groups and cooperatives and extending education programmes for the benefit of their own members. On the other hand, COTU was called upon to develop and adopt a national policy and guidelines for the informal sector in terms of workers’ organization. COTU was also expected to set up a department for the informal sector with the mandate to develop youth and women groups and cooperatives to engage in income-generating activities, train informal sector participants in enterprise development and improving their business, address the sustainability of the informal sector programme and be at the forefront in agitating for the establishment of a workers’ bank.

In the case of individual unions, the participants recommended that they should provide the human resources and support or cooperate with COTU in articulating the policy, strategies and approaches to organizing workers in the informal sector.

The ILO was called upon to provide technical support and advisory services targeting the informal sector, and arrange study tours for Kenyan trade unionists and their informal sector counterparts to countries that have had success stories in terms of organizing workers in the informal sector as part of the trade union movement. The Government was expected to review legislation that is relevant to the informal sector, focusing on the creation of an enabling legal framework.

2.9. Minimum requirements and strong kinship

However, most of the initiatives have come to naught. For instance, despite recent national agitation for national law and constitutional

reforms, COTU did not float any idea which, if accepted, would have facilitated trade union access to the informal sector.

Besides the existence of a legislative environment that is biased towards the formal sector, the failure by the unions in Kenya to reach out to the informal sector is also attributable to the small size of workers in the latter enterprises. Most are either family businesses or employ less than five people. In this way most of the units cannot therefore qualify to form individual unions since the minimum requirement to form a trade union is six employees. This seems to correspond to the observation that the informal sector is where family or ethnic loyalties count more than working class solidarity. Being family businesses or those run by close relatives, allegiance is first and foremost towards a family/relative. In Kenya, kinship is very strong and unions stand a very credible opposition from the workers for whom collective action would be interpreted to mean rebelling against one's family member/relative.

Interviews with various union leaders have alluded to insufficient funds as the cause of their failure to reach out to the informal sector. Given its segmented nature it would require a lot of resources to organize activities for the benefit of the informal sector operators.

A related reason is that trade unions cannot readily meet the needs of the informal sector: unions have educational activities that are not necessarily related to the requirements of the informal sector. Informal sector operators are more concerned with day-to-day survival. The NGOs on the other hand have done better because they have the funds and, sometimes, the political clout, and hence can provide the services that meet the everyday requirements of the informal sector.

2.10. Unions plead demands of formal sector

A further excuse on the part of the unions for not responding to the needs of the informal sector is that there is still a lot of work undone in the formal sector. Union leaders plead that with the increasing globalization of the economy and the ongoing structural reforms, there are more urgent challenges that trade unions should address first rather than turn to non-traditional membership recruitment bases like the informal sector. It would also mean overstretching the few resources to the limit. Rather, it is better to concentrate efforts on the "easy-go" areas before venturing into hitherto

unknown territory. Such a position, of course, is a result of failure to take risks and the general fear to experiment.

Other trade unionists interviewed explicitly stated that they were not comfortable working with "disorganization" of which the informal sector reminds them. To them, trade unionism involves organized labour and should function within its boundaries. Reminded of their responsibility to defend workers' rights, some responded that they would only be able to respond if and when the said businesses became formal and therefore readily accessible to trade unions.

Another reason why unions in Kenya have not ventured into the informal sector is that they find it awkward to face their former members who were once gainfully employed and part and parcel of the trade union movement and now fully in the informal sector. To the union leaders, this signified a weakness on their part as they had not been able to defend their members against retrenchments. They therefore anticipated resentment from these workers who would view them as associating with workers only during good times but who turn away when problems set in.

It can be seen from the above that trade unions in Kenya have partly failed to address the plight of workers in the informal sector owing to the national legislative environment which does not allow them access to the sector. Such failure, however, is largely imputed to the conservative nature of the unions which have not lived up to their role of defending workers wherever they are. Unions in Kenya have not taken up the challenge of reaching out to the non-formal sector nor assuring the non-traditional roles that are being called for all over the world. So in terms of changing their internal policies to deal with the changing times, trade unions in Kenya have not risen to the challenges.

3. Towards a new trade union agenda in the informal sector

We have seen from the preceding sections that the informalization of the Kenyan economy is bound to continue. With the formal sector shrinking, formal wage employment is no longer guaranteed. Each year, 500,000 new workers join the labour force and they cannot find jobs in the formal sector. Retrenchments and the need to maintain a small workforce have become normal in Kenya. The traditional base of the trade union movement is therefore no longer as secure as it was. This poses a serious challenge

for unions which depend on membership for their numerical strength as well as finances.

Trade unions in Kenya have not risen up to the challenges and to opportunities that the informal sector offers. Trade unions recognize that organization remains the ongoing task of any trade union. It has time and again been suggested that trade unions venture into non-traditional areas and try to organize workers in the informal sector, rural areas, export-processing zones, as well as contract workers, homeworkers, etc. Even if trade unions were willing to reach out to these groups, a massive organizational effort would be required to bring these workers into the ranks of the trade union movement.

The following recommendations could signal the way for trade unions in their future actions in the informal sector:

- There is no doubt that *the legal environment* is a serious limiting factor in developing trade union strategies in the informal sector. The Trade Union Act, the Employment Act and the Labour Act make no reference to the informal sector, so it remains unrecognized and unprotected by any legal instrument. The workers in the sector do not belong to any trade union, nor are any other industrial relations systems applicable to them. Any progress in terms of unions representing informal sector workers has to be backed up by an enabling legal environment. The definition of who an employee is and what constitutes a trade union has to be changed, making unionization open to all categories of workers without making it conditional on number of members or an employer-employee relationship. The leadership required to achieve these ends should be provided by COTU.

COTU, however, cannot afford to stand by and wait for a change in the relevant labour laws. Even before this is done, such a change should be seen to be of importance and relevance to the informal sector. *COTU should be the spokesperson for all workers* whether they are unionized or not. COTU has channels of communications with the Government which the informal sector does not. The Kenya Local Government Workers' Union, for example, has as its counterpart the city/municipal authorities that are very instrumental in making life better or worse for the informal sector. COTU is represented on all existing tripartite institutions. These are avenues through which COTU could

bring to the fore the problems of the informal sector and declare explicitly its intentions towards that sector. COTU will only be successful in reaching out to the informal sector workers if it can bring the plight of these workers to the attention of those in authority.

- Trade unions in Kenya have floated the idea of having a *high-level national stakeholders' forum*. Such a forum, akin to the National Economic and Labour Advisory Council (NEDLAC) in South Africa, would comprise all stakeholders, and would advise the Government on pertinent economic and social issues. The need to have a high-level forum should also be taken up within the framework of the Labour Commission of the Organization of African Unity and the United Nations Economic Commission for Africa. It is important that COTU continues with this debate and ensures that the informal sector, too, is represented on this organ in order for them to speak for themselves.
- The existence of an *apex national organization* representing the informal sector – the Kenya National Federation of Informal Sector Associations – is an opportunity COTU should grasp. An alliance should be sought between this federation and COTU to enable the two organizations to assess their needs, problems and strategies. The ILO should be instrumental in facilitating such an alliance. National unions could then give effect to any recommendations adopted which would guide them in dealing with national sectoral associations of informal sector workers. At subregional level, there exists the East African Confederation of Informal Sector Organisations and the East African Trade Union Council (EATUC). These two bodies are best suited to address workers' – formal and informal – issues at East African level. The ILO and the two workers' organizations in the African continent, i.e. ICFTU-AFRO (International Confederation of Free Trade Unions – African Regional Office) and OATUU (Organization of African Trade Union Unity) could play a stimulating role in this endeavour.
- What the informal sector needs are *credit, skills, markets* for their products, etc. The unions may not be in the best position to provide them but are best suited to be the link between those that can do so and the informal sector. Trade unions can link up with financial institutions and NGOs pro-

viding credit and skills training and can help informal sector producers identify markets for their products. Access by trade unions to the boards of some training institutions can be of assistance to the informal sector insofar as they can influence the content of the curricula for the benefit of the informal sector.

- *Mobilizing* is a great asset from which the informal sector could benefit as a result of its association with trade unions. Other forms of action like picketing and organizing, as well as the acquisition of bargaining skills, respect for democratic values, leadership skills, accounting skills, etc., are areas where trade unions excel and these areas could be mastered by the informal sector as well.
- Unions complain that they lack the necessary funds and human resources to assume further responsibilities. While this is true to some extent given the fact that some unions are barely able to survive on their own, they should also be aware that investing in the informal sector will yield returns in terms of larger membership with a bigger voice, let alone the financial implications involved. This means that unions must find ways to strengthen their financial base, for instance by organizing payment of adequate membership dues and engagement in small-scale enterprise development for income generation. Technical assistance from the ILO, OATUU and ICFTU-AFRO is important in this regard.
- It is also important that the capacities of the unions be enhanced in order to enable them to play a more active role in the informal sector. Some unions have not taken up the issue because they do not know much about the informal sector. Unions have to be sensitized on the importance of the sector not only in terms of the potential membership and finances it offers, but also in terms of its contribution to *general national development*. Study tours for trade union leaders and informal sector workers should be organized to countries like Ghana, Benin, Burkina Faso and Zambia where unions are already organizing workers in the informal sector.
- Trade union constitutions are usually very rigid. Furthermore, members are often ignorant of their obligations as stipulated in their union constitutions. The same is true with regard to national labour laws. It is therefore important that labour legislation and democracy be given more prominence in

trade union education to enable members to decide for themselves. Unions should take the first step to alter their constitutions and so acquire the freedom to reach out to the informal sector. Even then unions – COTU and its affiliates – should be encouraged to make their membership applicable to all categories of workers.

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India

The interests of the organized and the informal sectors are considered conflictual: organized labour, privileged and protected, sees unorganized labour in the informal sector as a threat to the perpetuation of their current position.

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1. Unorganized labour

The terms “unorganized sector” and “informal sector” are often used interchangeably. The distinction between the two is easy to describe, but difficult to define. The Employment Market Information (EMI) Programme of the Directorate General of Employment and Training (DGET), Government of India, defines the organized sector as comprising all establishments in the public sector and those establishments in the private sector which employ ten or more persons on any day of the reference period (usually three months). All other economic activities, by implication, could be considered unorganized. In common parlance, informal sector activities comprise those which are not (a) organized systematically; (b) made formal through mandatory registration or licence; (c) covered by legislation to protect minimum labour standards in employment; and (d) unionized.

In reality, however, all activities in the organized sector are not necessarily organized systematically and employment beyond a certain number in any one enterprise does not automatically guarantee protection or better labour standards. Many illegal activities can also be considered to be informal even if highly organized, like the underworld mafia. Micro-enterprises and the activities of a variety of self-employed persons are also usually considered to belong to the domain of the unorganized and/or informal sector. Those engaged in work in the unorganized and/or informal sector could be considered workers, but they could also be considered self-employed entrepre-

neurs. Some of them engage family members or hired labour and are therefore considered employers.

1.1. The subtleties of definition

Considering the heterogeneity of the sector in question, it is difficult to arrive at a uniform definition even within India. Such a definition would also need to be formulated around the objective of the search for definition. From a statistical and accounting point of view, the unorganized sector may refer to activities which are not reported or for which systematic data is not collected on a regular basis. From a regulatory point of view, it refers to activities which are not covered by the existing laws of registration, etc. From the point of view of labour market segmentation, it refers to unprotected (casual and contract labour) and non-unionized labour. Even in this regard, precise definitions are difficult because senior managers may not be unionized, but engaged in formal sector activities. From a public policy point of view, definitions become necessary when the State has a clear-cut policy. In India, however, although the State explicitly refers to the unorganized or the informal sector in its Five-Year Plan documents and elsewhere, it still does not have a clear-cut policy as such. It may therefore be concluded that in India, whatever the point of view or purpose for referring to the informal sector, no precise definition is provided. Baxi (1993) adds that unorganized labour is often divested of naturalistic overtones because attributes such as “bonded”, “child” and “landless” to the word “labour” highlight the terrible reality of the

material conditions of existence of the impoverished masses which become even worse due to their obscene exploitation.

1.2. Characteristics of the informal sector

While India's population has been growing in recent years at an average rate of 2.1 per cent, the labour force has been increasing at 2.5 per cent. However, the informal sector labour force has been increasing at 4 per cent, but without any corresponding increase in productivity, real wages, or working/living conditions of workers in that sector (Mishra, 1999). It has become a competitive and low-cost device to absorb labour which cannot otherwise be absorbed elsewhere, whereas any attempt to bring it into a legal and institutional framework may impair its absorptive capacity.

The Report of the Working Group on Labour Policy for the Ninth Five-Year Plan, 1997-2002 (India, 1997) observed that "the unorganized sector which represents 93 per cent of the total workforce is characterized by excessive seasonality of employment, the problem of denial of minimum wages, ... of indebtedness and bondage, the dislocation of home and family life caused on account of migration (inter-district, inter-state and inter-country) and the attendant problem caused on account of unplanned and unregulated urbanization and overcrowding, congestion and increase in human misery, privation and suffering."

The report also refers to agricultural workers who account for almost 25 per cent of the total workforce in India and are largely non-unionized and unorganized. It underlines the need to provide such workers with at least the barest minimum of health and safety protection and social security and welfare benefits, and guarantee a minimum number of days of employment and the enforcement of minimum wage regulations. It also refers to home-based workers "who continue to be the victims of social exclusion, deprivation and exploitation."

The same report proposed the following activities in respect of the unorganized sector for the 9th Plan: (a) undertake a survey of the unorganized sector; (b) conduct a study of the impact of structural adjustment on labour in the unorganized sector; and (c) set up a research wing in the Labour Bureau for providing comprehensive information on the needs and requirements of social security for workers in the unorganized sector.

2. The role of the unorganized sector in generating wage and self-employment and alleviating poverty

The estimate of the extent of the role of the unorganized sector in the Indian economy is based on the residual method. From the total employment estimates based on the National Sample Survey on Employment and Unemployment, the employment estimates of the DGET of the Ministry of Labour for the organized sector are deducted and the balance is taken as the estimated employment in the unorganized sector (Papola, 1998). On this basis, the employment rate in the unorganized sector is estimated to be around 92 per cent. The organized sector's share in employment has fallen from 9 per cent in 1981 to 8 per cent according to the 1991 Census. In the rural areas, it is even higher but estimated at around 65 per cent in the urban areas. In the non-agricultural sector, rural and urban taken together, about 79 per cent of total employment is in the unorganized sector.

The foregoing figures leave no doubt that the unorganized sector is the main provider of both wage workers and self-employed. The drop-outs from the formal education system constitute the bulk of those engaged in the unorganized sector. Yet they are the very ones who provide a major source of skill in the country. Although they comprise the bulk of the working poor, yet they help to reduce unemployment, alleviate poverty and contribute to the survival of the family.

The share of the unorganized sector in Gross Domestic Product (GDP) is estimated to be around 63 per cent. About 47 per cent of the value added in the non-agricultural sector and 35 per cent of the total value added in the urban economy come from unorganized sector activities which are much higher in agriculture and also high in construction and trade.

2.1. Statistical sources of information about the unorganized sector

The following are some of the major sources of data and information about the informal sector in India:

- The decennial Economic Census conducted by the Central Statistical Organization (CSO) of the Government of India since 1971.
- The periodic surveys of unorganized sector activities in own-account enterprises and

non-directory establishments conducted by the National Sample Survey Organization (NSSO) in the interim period between the decennial Economic Census.

- The surveys on Working and Living Conditions of Workers in different industries conducted by the Labour Bureau of the Ministry of Labour, Government of India.
- Independent surveys by researchers and institutions in selected métiers and occupations, for instance: Biplab Dasgupta (1973) and A.N. Bose (1974) in Calcutta; T.S. Papola (1977) in Ahmedabad; Satya Raju (1984) in Visakhapatnam; Sarathi Acharya and A.V. Jose (1991) in Mumbai; M.S. Ramanujam and I. C. Awasthi (1994) in five towns; the Institute of Social Studies Trust; and T. S. Sankaran and V.R. Rao (1997) in New Delhi.

The quality of data concerning the informal sector is a problem. For instance, as shown in Table 1, the proportion of informal sector employment in total non-agricultural employment was 61 per cent as per 1991 Economic Census and 72 per cent as per the estimate of the DGET. There is considerable variation – less than 50 per cent to over 70 per cent according to both the sources mentioned above – in the extent of informal sector employment in

different states. The coverage of various sectors in different rounds of the National Sample Survey has been varied (Table 2). There is a significant correlation between urbanization and informal sector employment (Table 3), and between industrialization and informal sector unemployment (Table 4). As the proportion of the workforce in non-household manufacturing increases, the size of the informal sector seems to shrink. The incidence of poverty has been higher in rural areas than in urban areas (Table 5), in mining, manufacturing and miscellaneous activities. The converse seems to be true in respect of workers in agriculture, construction, trade and transport. The incidence of poverty has been the lowest in the agriculturally (Haryana, Punjab and Andhra Pradesh) and industrially (Gujarat and Maharashtra) prosperous states (Table 6). The incidence of poverty has been the highest in Orissa and Bihar.

2.2. Anomalies in the way of making comparative assessments

Considering the underreporting in India's organized sector activities, the data on the contribution of the informal sector to employment and GDP could be considered moderate overestimates. Various papers published in the

Table 1. Informal sector employment

State	% of total employment in non-agriculture (Economic Census)	% of total employment in non-agriculture (DGET)
Andhra Pradesh (AP)	64.80	79.48
Assam (ASS)	51.20	44.79
Bihar (BH)	63.09	65.74
Gujarat (GUJ)	47.92	71.58
Haryana (HAR)	55.20	70.03
Karnataka (KAR)	61.27	75.56
Kerala (KER)	60.54	74.49
Madhya Pradesh (MP)	66.27	71.97
Maharashtra (MAH)	51.91	69.80
Orissa (OR)	71.05	71.66
Punjab (PUN)	58.62	71.12
Rajasthan (RAJ)	68.16	71.75
Tamil Nadu (TN)	63.34	74.47
Uttar Pradesh (UP)	67.59	76.12
West Bengal (WB)	64.46	73.12
India	61.03	72.36

Notes: 1. These figures for India exclude Jammu and Kashmir. 2. Total employment in the non-agricultural sector comprises employment in own-account enterprises and employment in the establishments.

Sources: *Employment Review, 1989-90*, DGET, Ministry of Labour, Government of India, 1996.

Table 2. Coverage of various sectors in different rounds of the National Sample Survey

Round	Period	Segments of the informal sector included among subjects covered in the round
1	10/1950-3/1951	Household enterprises
3	8/1951-11/1951	Small-scale manufacture, handicrafts, transport, trade and financial operations
4	4/1952-9/1952	idem
14	7/1958-6/1959	Small-scale manufacturing and handicrafts
15	7/1959-6/1960	Non-mechanized transport and non-registered trade
24	7/1969-6/1970	Rural building construction, non-registered distributed trade

Source: *Indian Journal of Labour Economics*, Vol. 41, No. 3, July-Sep., 1998.

Table 3. Urbanization and informal sector employment

Urbanization level (%) 1991	Informal sector employment (%), 1990				
	Less than 50	50-54.99	55-59.99	60-64.99	65 and above
10 – 14.99		ASS		BH	OR
15 – 19.99					UP
20 – 24.99			HAR		MP, RAJ
25 – 29.99			PUN	AP, KER, WB	
30 – 34.99	GUJ			KAR, TN	
35 and above	MAH				

Sources: Economic Census, 1990; and Population Census, 1991.

Table 4. Industrialization and informal sector employment

Workforce in non-household manufacturing (%) 1991	Informal sector employment 1990				
	Less than 50	50-54.99	55-59.99	60-64.99	65 and above
0 – 4.99		ASSAM		BIHAR	ORISSA, MP
5 – 7.99				AP	RAJ, UP
8.0 – 9.99			HAR	KAR	
10 – 12.49	MAH		PUN	KER, TN, WB	
12.5 – 14.99	GUJ				
15 and above					

Sources: Economic Census, 1990; and Population Census, 1991.

Table 5. Incidence of poverty across activities (1993-94)

	% of households below the poverty line	
	Rural	Urban
Agriculture	36.30	51.00
Mining	30.00	23.26
Manufacturing	28.50	24.88
Electricity	10.60	12.70
Construction	34.12	41.49
Trade	21.70	29.11
Transport	23.85	30.00
Services	17.06	18.72
Others	31.13	22.03
All activities combined	33.00	27.00

Note: The poverty line for the year 1993-94 is taken as per the estimate of the Expert Committee appointed by the Government.

Source: Based on NSSO (1993-94).

Table 6. Informal sector employment and poverty

Incidence of poverty (%) 1987-88	Informal sector employment (%), 1990				
	Less than 50	50-54.99	55-59.99	60-64.99	65 and above
Less than 30			HAR, PUN	AP	
30.0 – 34.99	GUJ			KER	RAJ
35.0 – 39.99		ASS		KAR	
40.0 – 44.99	MAH			WB	MP, UP
45.0 – 49.99				TN	
50.0 – 54.99				BH	
55 and above					OR

Sources: Economic Census, 1990; Population Census, 1991; and Planning Commission (1993).

special issues on the informal sector in the *Indian Journal of Labour Economics and Manpower Journal* explain the sources of data, provide analyses and highlight their limitations. As Kundu (1998) argues, some of the avoidable anomalies in the scope and coverage of the data-generating agencies at the national level have destructed making comparative assessments. He notes a strong bias in favour of the organized sector in the present statistical system and stresses that the myriad surveys on the informal sector often lack temporal comparability due to non-standardization of concepts and data presentation.

Suryanarayanan (1998) observes that serious efforts to collect data on the informal sector began in 1977. He identifies the following three major limitations in the present data base in India:

- (a) the Economic Census provides information on industries only for a limited number of indicators e.g. number of units, those using power or not using it, employment therein, etc.;
- (b) there is a considerable time lag;
- (c) the coverage under Employment Market Information being limited, it grossly underestimates the organized sector;
- (d) The National Sample Survey data is available for the State and the country, but not at the sub-state level.

Mishra (1999) concurs that the existing database in the informal sector has not been of much help in understanding the pattern or nature of interdependence or the sector's dynamics. He concedes that the estimates on the size of this sector and its correlates vary widely and irreconcilably and even suggests opposing trends/directions.

3. Organized capital and unorganized labour?

M. Singh (1990) argues that the "unorganized industry of India is a misnomer as far as capital is concerned; it is well organized and its various detailed, independent processes are connected either through the mediation of the market or through the introduction of various levels of intermediaries... The seemingly scattered production is well organized from within, progressively coming within the folds of world division of labour." He cites several studies of a number of industries to support this thesis: garment (Kalpagam, 1981), lace (Mies, 1982), beedi (Avachat, 1978, Abraham, 1980, Mohandas, 1980), sandal and cotton hosiery (Basu, 1977), coir (Issac, 1982), and carpet (Singh, 1979).

M. Singh identifies the following as the common key characteristics of all the industries mentioned above:

- (a) a very low organic composition of capital;
- (b) no clear differentiation between merchant and industrial capital;
- (c) dispersion of constant capital over a large number of small producers and wage workers;
- (d) the range of production extends from the petty-commodity to the small factory;
- (e) a scattered production process connected through a hierarchy of intermediaries;
- (f) payment of wages predominantly through piece-rates;
- (g) very low wage-rates, especially for women and children; and
- (h) poor growth of the trade union movement.

Table 7 draws a comparison between the organized and the informal sectors in terms of

Table 7. Compensation and contribution in the organized and unorganized sectors

Aspect	Organized sector		Unorganized sector	
	1990-91	1994-95	1990-91	1994-95
Compensation to employees Rs. crores	105 198	177 626	58 253	99 400
Operating surplus and mixed income Rs. crores	48 749	111 250	213 419	375 422
Ratio of operating surplus and mixed income to compensation to employees	46.3%	62.3%	366.36%	377.69%

Source: CMIE (1998). *National Income Statistics*. Mumbai. Feb. 1998 (Chapter 14: Factor incomes).

compensation and contribution. Compensation is the total remuneration paid to the employees in the respective sectors. Contribution is measured in terms of operating surplus income generated in the respective sectors.

In the intervals 1990-91 and 1994-95, the percentage change in compensation to workers in both the organized (168.5 per cent) and the informal sector (170 per cent) was more or less similar. The informal sector fared marginally better. Contribution, as measured by the operating surplus income, has, however, increased by 228 per cent in the organized sector and 176 per cent in the informal sector. Compensation to the employees in the organized sector was 2.16 times and 1.55 times the operating surplus income generated in the organized sector during the periods 1990-91 and 1994-95 respectively. The corresponding figures for the informal sector were 0.27 and 0.26.

On average, 28 million employees in the organized sector received, annually, Rs. 20,805 and 35,500 in 1990-91 and 1994-95 respectively. Their counterparts in the informal sector, who approximately number 282 million, received Rs. 9,297 and Rs.17,257 respectively during the corresponding years. The compensation gap between the organized and the informal sector has been narrowing during the five-year period 1990-1995. In the 1990-91 period, employees in the informal sector received 44.69 per cent of the compensation received by the employees in the organized sector. By 1994-95, the percentage rose to 48.6 per cent (CMIE, 1998).

It appears from the data shown in Table 7 that: (a) compensation to employees in the informal sector was less than half that paid to their counterparts in the organized sector; (b) the percentage increase in compensation for the unprotected employees in the informal sector was higher than their counterparts in the organized sector; and (c) in terms of operating sur-

plus income, the organized sector fared much better than the informal sector.

3.1. The Government and unorganized labour

The National Commission on Labour (1969), the National Commission on Women (1987), and the National Commission on Rural Labour (1992) have highlighted the problems of workers in the informal sector and of women workers and rural workers in the informal sector respectively. These National Commissions have also made valuable recommendations for action by both governmental and non-governmental organizations (NGOs).

India has ratified ILO Convention on the Right of Association (Agriculture) Convention, (1921), No. 11 concerning Freedom of Association (Agriculture), but neither ILO Conventions on Freedom of Association and Protection of the Right to Organise (1948), No. 87 nor the Right to Organise and Collective Bargaining (1949), No. 98.

3.1.1. Legislation

The Directive Principles of State Policy, enshrined in article 39 of the Constitution of India, envisage that the State shall, in particular, direct its policy towards securing:

- (a) that the citizens, men and women equally, have the right to an adequate means of livelihood;
- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

- (d) that there is equal pay for equal work for both men and women;
- (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age and strength; and
- (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

The legislative intent and content of the Government should be seen against the background of the Directive Principles of State Policy. The Government of India and some state governments have enacted separate legislations for several categories/subcategories of workers in the informal sector in both urban and rural areas. Some of the most important legislative provisions covering unorganized labour include the Workmen's Compensation Act, 1923; Payment of Wages Act, 1936; Minimum Wages Act, 1948; Beedi and Cigar Workers (Conditions of Employment) Act, 1966; Bonded Labour System (Abolition) Act, 1976; and Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (Box 1). As the years of enactment of several of these laws indicate, the articulation of the intent of the State to protect the unorganized came rather late in the day. Several other laws such as the Provident Fund Act, etc., apply to the informal sector.

As D'Souza (1994) notes: "Having laid down basic regulations governing conditions on labour and collective bargaining rights, extensive exemptions are made to exclude categories of employment from these legislations. In the case of certain exempted categories, further special legislations have been enacted to govern the conditions of service at different levels and the others have been left outside the scope of all legislative protection." As D'Souza stresses, the legal basis of such segmentation in the legislation is founded on various tests or criteria such as: (a) numbers employed; (b) activity; (c) agency test, i.e. whether workers are directly employed or otherwise; (d) region test, i.e. laws applied to particular areas, regions or localities; and (e) wage limit test, i.e. applicability restricted to workers earning below a certain income. Ironically, in some cases, workers are best able to safeguard their interest and

secure the protection of the legal provisions if they exceed the threshold limits imposed in law (such as the numbers test whereby unless workers cross a critical mass size, they would not have adequate bargaining power; or in instances where wages are low in smaller/tiny establishments but usually higher than the minimum wages for the regular workers in the larger establishments). Those who are within the threshold limit are unable to realize the benefits under the law in view of the adverse labour market situation where, for every worker who is refusing to work for less than the minimum wage, there are many who are willing to work whatever the wage, because the very poor cannot afford to be unemployed. Even the Planning Commission data concedes that the incidence of poverty is higher among the employed than among the unemployed!

The plethora of laws have thus been able to rid the informal sector of its negative characteristics such as lack of stability, durability or security of employment, low wages, the absence of social security, exploitative conditions of work, non-payment of overtime wages, unhygienic and unsafe working and living conditions, and vulnerability to various occupational diseases, accidents and injuries. Low unionization and high unemployment render the instrumentality of the State and other agencies inadequate.

Legal compliance/enforcement remains an area of concern even when the State is the employer. Baxi (1993) refers to this as the phenomenon of the lawless state: "The State, whether acting as an economically productive enterprise or for public works or for development projects (whether through [a] government department, government companies or statutory corporations) typically either exempts itself from the operation of laws protective of 'unorganized' labour or acts as a chief saboteur of its own legislatively enunciated aspirations. This has a multiplier impact on civil society. The Indian State has failed to fulfil the fundamental duties of just governance as an economic agent; to this extent, the State is, in effect, an unconstitutional employer – whether the domain is that of contract or migrant labour, gender-based discrimination, child labour or safety of the weak."

Compliance with laws is even poorer in sectors where labour is small (in terms of a critical mass being present in a single establishment at a given location), scattered and unorganized (such as, for instance, brick kiln, stone quarries, minor forest produce, etc.). In recent years, the judiciary has become activist, has admitted public interest litigation, has been giving deci-

Box 1. Select labour laws applicable to the unorganized sector

No.	Enactments	Objectives
1.	Minimum Wages Act, 1948	To fix and revise minimum rates of wages in scheduled employments. (There are 40 such types of scheduled employment.)
2.	Payment of Wages Act, 1936	To regulate payment of wages to certain classes of workers. It seeks to provide speedy and effective remedy to employees arising out of illegal wage deductions or unjustified delays in payment of wages. Wage periods and methods and modes of payment are also stipulated.
3.	Contract Labour (Regulation and Abolition) Act, 1970	The act seeks to regulate employment of contract labour in certain establishments and provides for registration of establishments engaging contract labour, licensing of contractors, provision of welfare and health amenities for contract workers and stipulation of liabilities of principal employers.
4.	Inter-State Migrant Workmen (Regulation of Employment and Conditions of Services) Act, 1979	This law regulates employment of inter-state migrant workmen and provides for their conditions of service, registration of principal employers, licensing contractors engaging inter-state migrant workmen, and lays down the manner of regulation of wages, provision of welfare and other facilities.
5.	Bonded Labour System (Abolition) Act, 1976	Provides for the abolition of the bonded labour system so as to prevent economic and physical exploitation of the workers; termination of liabilities to repay bonded debts; liberation of encumbered properties from encumbrance; and protection against eviction from homesteads, etc.
6.	Child Labour (Prohibition and Regulation) Act, 1986	Provides for prohibiting employment of children in hazardous occupations and processes and regulates conditions of work in all others.
7.	Children (Pledging of Labour) Act, 1933	Prohibits pledging of the labour of children.
8.	Beedi and Cigar Workers' (Conditions of Employment) Act, 1966	Provides for the welfare of workers in beedi and cigar establishments and regulates all conditions of their work.
9.	Welfare Cess and Fund Acts (Covering Workers in Beedi Industry, Cine Industry and in Iron Ore, Manganese Ore, Chrome Ore, Limestone, Dolomite and Mica Mines)	Provide for collection of cess and creation of funds out of such collections to provide welfare for the respective categories of workers.
10.	The Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and Building and other Construction Workers' Welfare Cess Act, 1996	Regulate employment and conditions of service of building and other construction workers and provide for welfare matters connected therewith or incidental thereto.

Source: *Annual Report 1996-97*, Ministry of Labour, Government of India, p.82

sive rulings, and has been directing the concerned authorities to act fast as per time limits and directions prescribed. Still, "practical" difficulties came in the way of bringing these directives to their logical conclusion.

However, the 73rd Amendment to the Constitution of India has entrusted powers, duties and responsibilities to local self-government institutions at the village level. Such empowerment of grass-roots level democratic institutions should eventually lead to the betterment of the conditions of life and work in the informal sector.

3.1.2. *Child labour*

The problem of child labour is pervasive in India. According to the 43rd Round of Survey conducted by the National Sample Survey Organisation, the total number of working children was 17.02 million in the early 1990s. The Government, and workers' and employers' organizations in recent years, have been taking several measures to eliminate child labour progressively, first and most urgently in hazardous forms of work. The Government is implementing the ILO's International Programme for the Elimination of Child Labour and has enacted the Child Labour (Prohibition and Regulation) Act, 1986. Child labour cannot be organized/unionized because minors are not allowed to become members of a trade union.

3.1.3. *Legal aid*

Mishra (1997) suggests that legal aid centres be established with the following objectives:

- (a) to make, remake and unmake the law and ensure people's participation in the enforcement of the law and the administration of justice;
- (b) to provide better access to legal information which in turn would mean more justice for workers;
- (c) to create alternative institutions of people's law; and
- (d) to combat increased abuse of power and authority.

Mishra further suggests that such legal aid centres should prevent/deter:

- (a) instances where false cases are filed by the police;
- (b) instances of torture and violence by law enforcement agencies;

- (c) unauthorized use of force by private militia and landlords of dominant interests; and
- (d) open complicity by local officials with the vested interests operating in violation of the law.

4. **The informal sector and wage policy**

If there is at least one legislative provision which should have benefited workers in the informal sector, it is the Minimum Wages Act of 1948. Yet in many situations compliance and enforcement are weak; but even when the act is enforced the minimum wages declared became the maximum wages in the informal sector.

Anant and Sundaram (1998) observe that: "From a purely ethical consideration, better enforcement of minimum wage laws and the possibility of extension of legislative protection would enhance the returns to labour. However, as the case of Kerala – which is probably the only State where collective bargaining is seen to occur at the farm level – suggests, better enforcement of law or unionization without the corresponding rise in the demand for employment may only serve to shift disguised unemployment into more open forms."

There is considerable evidence to substantiate the fact that compliance with the minimum wage legislation has been minimal. The minimum wages in many cases have also been below poverty level. In several cases, they were barely revised. Real wages in the informal sector have been declining over the years. There has, however, been a change in the Government's approach to minimum wages; while the Third Five-Year Plan (1960-65) stressed the need for strengthening labour inspection, the Eighth Five-Year Plan (1992-97) called for a greater role for workers' organizations and non-governmental voluntary organizations in ensuring the implementation of minimum wages instead of enlarging any of the minimum wage inspections for the purpose. Similar views were expressed by the National Commission on Rural Labour (1992).

The wage differentials between the organized and the informal sectors have been widening over the years. There is also considerable evidence to suggest that the workers in the organized sector have gained at the expense of the workers in the informal sector.

Brahmananda (1999) argues, based on the analysis of data presented by the Finance Ministers of India in their Economic Surveys since 1990-91, that whereas per capita real income

increased by about 254 per cent from 1990-91 to 1996-97, the real wages of unskilled agricultural labour increased by about 6 per cent. The proportional growth rate of the real wages of unskilled labour divided by the proportional growth rate of per capita real income is the crucial elasticity of real wage rate to per capita real income. The elasticity for the period referred to was about 0.28. Brahamanda suggests that to the extent that farm labour puts pressure on employment opportunities in rural areas, the real wage per day in this sector is also pulled down. Even if money wages did not decline, the real wages often became negative in several states, and by a high percentage point over the previous year throughout 1990-97 due largely to inflation. He also asserts that "by its very nature, unskilled agricultural labour cannot organize itself into powerful trade unions. This means that, given the aggregate wages fund, when the organized trade unions raise their share, less remains for unorganized labour. This is a concealed form of exploitation at the national level by the powerful organized trade unions. The latter obtain a higher share for themselves by pushing unorganized labour to the wall."

Collective bargaining is rare in the informal sector. In a climate of vast unemployment and widespread poverty, bipartite collective agreements in the informal sector meant, in many cases, workers agreeing for less than the minimum wages in order to protect their jobs. This is so even in West Bengal and Kerala, where union density and union strength are supposed to be higher. Tripartite settlements arrived at during conciliation were considered to be more beneficial to workers because such agreements would not be registered if the terms were less favourable than the applicable labour laws. Das (1998) argues that the tendency to fix minimum wages at unrealistically high levels should be checked. He further argues that wage rates should be different for different groups of employment. He also suggests uniform wage rates for a cluster of small firms in a region through collective bargaining to take wages out of competition. In such situations, he argues, the competition will be based on quality and productivity rather than on low wages/low wage costs.

5. Occupational safety and health hazards

Kumar (1997) highlights the fact that the unorganized casual workforce is increasingly being employed in hazardous jobs (such as

cleaning of furnaces, maintenance works, loading, unloading, and transport of goods, chemicals, etc.). The trade unions have expressed grave concern over the growth of this unskilled workforce which is ill-equipped to handle the tasks that they are supposed to perform; nor are the employers investing in the training and skills development of these workers as a result of which avoidable accidents have happened at many worksites or in transportation from one place to another. The trade unions have now begun to question the need for such forms of flexibility which entrusts hazardous jobs to unskilled casual labour.

6. Social security

The concept of social security is codified in terms of minimum standards in ILO Convention No. 102 (1952). The National Commission on Rural Labour (1987) had recommended old-age pension, life insurance, maternity benefit, disability benefit and minimum health care and sickness benefits to be provided to all as a matter of high priority.

The social security legislative provisions in India (see Box 2) basically cater to the needs of the organized urban labour force whose share is less than 8 per cent in the total labour force in the country. Workers in several informal sector establishments are supposedly covered under the five basic social security legislative provisions mentioned in the box. However, out of about a 350 million strong labour force, only 22 million are covered by the Employees' Provident Fund Scheme, 9 million under the Employees' State Insurance Scheme, 4.5 million under the Workers' Compensation Scheme and 0.5 million under the Maternity Benefits Act.

Public provision of social security benefits is rather scant in India. The expenditure on social security in India accounts for only 2.4 per cent of the GDP as against 6 to 7 per cent in Latin America and 25 to 30 per cent in Scandinavian countries. Though there is no dearth of social security and welfare schemes, low budgetary allocation, inefficient budget utilization, poor motivation, poor administration and other weaknesses further dilute the marginal nature of social security benefits even in the organized sector.

Both central Government and various state governments, notably Kerala and West Bengal, have several social security and social assistance schemes for the general public under poverty alleviation and social welfare provisions. Although many of them apply to the

Box 2. Principal social security laws of India

Laws	Objectives	Coverage	Eligibility	Benefits
Workmen's Compensation Act, 1923	To provide compensation for workmen in cases of industrial accidents/occupational diseases resulting in disablement or death	Persons employed in factories, mines, plantations, the railways and others mentioned in schedule II of the act	The benefits are payable in respect of work-related injuries to workers/dependants not covered by the ESI Act	<p>Compensation for:</p> <ul style="list-style-type: none"> - death - permanent total disablement - temporary disablement <p>Min. (in Rs.) 50,000</p> <p>Max. (in Rs.) 228,000</p> <p>274,000</p> <p>50% of wages for a max. period of 5 yrs</p>
Employees' State Insurance Act, 1948	To provide for health care and cash benefits in case of sickness, maternity and employment injury	Factories/establishments to which the law is made applicable by the Government	Employees drawing wages not exceeding Rs. 6500 per month	<p>Compensation for:</p> <ul style="list-style-type: none"> - death - permanent total disablement - temporary disablement <p>70% of pay as pension</p>
Employees' Provident Funds and Miscellaneous Provisions Act, 1952	To provide <ul style="list-style-type: none"> - compulsory provident fund - pension - deposit linked insurance 	Factory/establishments employing 20 or more employees in scheduled industries: other establishments notified by the central Government	Employees drawing pay not exceeding Rs. 5000/- per month.	<p>Provident fund: at the rate of 10% or 12% whichever is applicable. Monthly pension/family pension. Apart from terminal disbursement non-refundable withdrawals for life insurance policies, house-building, etc.</p>
Maternity Benefit Act, 1961	To provide for maternity protection before and after childbirth	Factories, mines, plantations, commercial and other establishments to which the law is extended	Five years continuous service is required for payment of gratuity	<p>15 days wages for every completed year service or part thereof in excess of 6 months subject to a maximum of Rs. 2,50,000/-. Seasonal employees are entitled to gratuity at a rate of 7 days wages for each season.</p>

Source: Annual Report 1997-98, Ministry of Labour, Government of India, p. 53.

informal sector workers, the quantum of benefits/relief provided is marginal and barely helps to lift the beneficiaries out of poverty. The Government of India has set up an inter-ministerial group to consider proposals for launching an Integrated Social Security Scheme for unorganized workers to provide for life insurance, medical and maternity benefits and old-age pension.

The Draft Labour Code prepared by the National Labour Law Association envisages the setting up of a coordinating high-powered National Authority and establishing boards at the level of states and union territories for bonded and rural labour and for unorganized labour. The assumption is that rural and bonded labour are essentially rural phenomena and that all workers in the informal sector, irrespective of their craft or category of vocation, can be covered through a unified and integrated legal framework of social security. If there is need, the coverage can be extended through a notification or schedule to the legislation and appropriate schemes drawn up for the purpose of limited social security even for the self-employed.

7. Trade union initiatives

All national trade union centres are aware of and conscious about the need to organize the unorganized, but although there is no dearth of effort the results are not manifest. As one trade union leader observed: "In the organized sector, 10 per cent work gets us 90 per cent result. In the informal sector 90 per cent work gives us 10 per cent result."

The possibilities for collective action in the informal sector have been rare due to widespread poverty and growing unemployment: too many labourers waiting to be called for any work in any location compared to the demand for labour (Breman, 1996). Regrettably, collective bargaining in the informal sector has often meant that workers have been receiving less than the minimum wages prescribed. This has particularly been the case with collective agreements signed outside conciliation proceedings. When the conciliation officer is present and a signatory to the collective agreement, he/she is supposed to have ensured that the terms of the agreement did not provide for less benefits than accorded by law, and that they were just and fair.

The solution to the problem of the informal sector in rural areas lies in the extension of the twofold strategy suggested by Sheila Bhalla

(1997): on the production side, the rate of growth of farm output must be pushed continuously, while on the labour supply side, the existing agricultural workers must be absorbed increasingly in non-farm jobs.

The most candid assessment of trade union approaches and achievements in organizing the unorganized came from the All India Trade Union Congress (AITUC). It has observed that: "...preoccupation within the parameters of economic demands of the already organized workers has led to neglect of the task of organizing the unorganized... The Bangalore Session of the AITUC held in December 1983 gave the call to 'organize the unorganized' as a priority task. This has been repeated at the Vadodara, Madras and Patna sessions. Some conscious attention has begun in a number of places to this task. There are few achievements on record. But these are altogether too little compared with the magnitude of the task" (AITUC, 1997).

AITUC has all the same made some dents in organizing unions/federations in beedi cigar, construction, *aanganwadi*, fisheries, and loading-unloading in some central Government undertakings like the Food Corporation of India and Central Warehousing Corporation, etc. It is now targeting the 30 million construction workers and concentrating on strengthening its All-India Confederation of Building and Construction Workers through formation of trade unions of construction workers in each district and state federations of construction workers in each state. AITUC also developed the following action plan at its national conference in Amritsar in 1997 to organize the unorganized:

1. Constitute a subcommittee at the state and the district levels to promote, coordinate and guide informal sector unions. The subcommittee should select a group of industries, trades, businesses, professions in the informal sector and fix targets for organizing them within a definite time-frame. Each state should select its own target group for action considering the scope and magnitude of the potential.
2. A fund should be created at state level to which the big unions in the organized sector should contribute generously and make available physical infrastructure for organizing the unorganized.
3. Special attention should be devoted to organizing migrant labour, forming cooperative societies/banks of self-employed persons/artisans as well as associations of pen-

sioners. Special emphasis should be laid on strategies to assist informal sector workers during the transitional phase of unionization.

4. Prepare a panel of advocates at central and state levels to provide proper legal aid for informal sector workers.

The subcommittee set up has met subsequently and has decided to organize workshops/conventions at district and state levels for workers engaged in informal sector activities with a view to mobilizing support and press for the following demands:

- (a) the floor-level minimum wage of Rs.75 with 100 per cent neutralization of price rise and separate legislation to ensure the payment thereof;
- (b) social security rights;
- (c) service/employment security and needs-based minimum wage;
- (d) a comprehensive law for agricultural workers; and
- (e) a suitable amendment to the Contract Labour (Abolition & Regulation) Act and the Industrial Disputes Act by incorporating the Supreme Court decision of December 1996 on the abolition of contract labour.

The subcommittee has also decided to hold industry-wide (for instance fishermen, weavers, toddy-tappers, private-school teachers, private transport, non-coal mines, *gram panchayat* workers, etc.) campaigns. It is also planning to convene a meeting of trade unionists working in different state-level panels of minimum wage committees to review experiences and evolve appropriate approaches for future action. The state-level committees on informal sector have been activated. The Punjab state unit of AITUC has contributed Rs.100,000 for the purpose of organizing the unorganized. Maharashtra has started agitation for the implementation of provisions for minimum wages which are below poverty level. The Bihar unit has organized protests by squatting before minimum wage law enforcement officers and has initiated steps to mobilize sugarcane growers and workers together with a view to get a closed sugar factory reopened.

Bharatiya Mazdoor Sangh (BMS) has been active in organizing unorganized workers in certain sectors. They have been successful in organizing beedi workers, for instance, in Andhra Pradesh. BMS, like the other national trade union centres, recognizes that it is diffi-

cult to organize the workers in the informal sector. Its strategy has been to request veterans from Government and organized unions to assist in the task of organizing workers in the informal sector. The union leadership believes that if the unorganized wished to organize themselves, they would face victimization from their employers which would usually result in dismissal or termination of employment.

At the same time, the leadership is conscious of the fact that it is for the workers in the informal sector to realize the need for joining the union. Organizing activity should not be considered by the workers in the informal sector as an act of charity. It was the experience of BMS (for instance in Delhi and Andhra Pradesh) that informal sector workers pay more dues and more regularly than the workers in the organized sector. Workers in the informal sector who join the union affiliated to BMS pay a day's wages in a year. The subscription rates in the organized sector vary from company to company. The usual rate of subscription is Rs.60 a year which is less than a day's wages in the organized sector.

The state units of the BMS help informal sector workers in several ways depending on the special needs of workers in different situations. The services which are common to most categories include the following: (a) deputing a leader from the organized sector to work with them in organizing on a voluntary basis; (b) helping unorganized/self-employed workers to obtain licences, etc.; (c) liaising with the public authorities, including the police, to ensure that their members are not subjected to any harassment; (d) distributing handbills and other printed materials among members to raise their levels of consciousness with regard to trade union rights, what their union can do and what they can do for themselves; and (e) conduct rallies, protests, etc., to focus the attention of employers, the public authorities and public opinion so that the members' demands are met and their grievances speedily redressed.

BMS has specialized and customized services for different categories of members which are provided on a needs basis through ad hoc arrangements. For instance, whenever there is a petrol price hike, BMS state units help the auto rickshaw drivers to secure a higher tariff. For workers in the informal sector who are covered (or waiting to be covered) by the minimum wage laws, the union's main work is to ensure that minimum wages are revised periodically and indexed to cost of living. The union has

organized construction workers and domestic workers in Mumbai and is planning to do so in Delhi.

The Indian National Trade Union Congress (INTUC) has launched a project on organizing unorganized workers in 10 out of 25 states in India with support from the International Confederation of Free Trade Unions – Asia-Pacific Regional Office (ICFTU-APRO). It held a national seminar of state organizers intended to further understanding of the problems of workers in the informal sector and develop approaches to organize them and improve their working and living conditions. The following nine categories of unorganized workers were targeted: beedi workers, building and construction workers, cycle rickshaw pullers and mechanics, handicraft workers, auto rickshaw workers, headload workers, fishing workers, rural workers and domestic servants. The action plan envisaged the following fivefold strategy: (a) hold mass contact programmes; (b) hold rallies and street corner meetings; (c) educate unorganized workers about their rights vis-à-vis the concerned authorities; (d) organize informal sector workers into a trade union and ensure they are registered with the concerned authorities; and (e) organize publicity campaigns to focus the attention of the Government on the burning problems of workers in the informal sector. In a period of two years, the project claims to have enrolled 179,799 members into 60 trade unions in ten states (INTUC, 1998). About two-thirds of the new membership reportedly came from two states, viz., Uttar Pradesh and West Bengal. A sizeable section of the informal sector workers being self-employed workers rather than wage labourers, their problems were outside the purview of employer-employee relations or union-management relations. Instead, the major thrust of the project was on liaison with the government authorities at various levels. The project recognized the value of cooperation from the non-governmental organizations and the role of the media in highlighting the sufferings of the informal sectors workers and stimulating greater awareness generally. Though the project claims some success in terms of new social security initiatives in some states and extension and better implementation of labour laws, the report did not substantiate the claim.

The Centre of Indian Trade Unions (CITU, 1994): at its General Council meeting held in 1990 in Kanpur (Uttar Pradesh), the CITU formulated a charter of demands for the informal sector. In 1991 the CITU formed an All India Coordination Committee of Unorganized Sec-

tor Workers during its Calcutta conference. At the All India Convention held in Calcutta from 1 to 3 November 1992, the CITU decided to organize an All India strike in pursuance of the 22-point charter of demands. The strike was organized on 14 July 1993. While all the demands included in the charter concern informal sector workers, the following were of special significance to them:

- stop infiltration of Indian and foreign monopolies in the unorganized and the small-scale sectors of industries;
- have the Minimum Wages Act included in the 9th Schedule of the Indian Constitution;
- issue an appointment letter to all workers;
- mete out stringent punishment to employers for violating statutory provisions;
- provide for an eight-hour working day and a 48-hour working week, statutory leave, holidays with wages for all the workers in the informal sector and payment of double overtime charges for extra work;
- constitute district level tripartite committees to monitor the implementation of the Minimum Wages Act;
- sanction bank loans within a short time to workers in the informal sector at a low rate of interest and issue licences for railway hawkers, street hawkers, railway porters, etc.; and
- titularize all casual, daily rate and temporary workers after 240 days of work including breaks imposed by employers in jobs of a permanent and perennial nature.

In 1997, the Hind Mazdoor Sabha has issued a social charter which seeks the extension of the living wage, employment rights and social security coverage to all workers including those in the informal sector. It has also been organizing workshops on organizing the unorganized.

Table 8 provides an illustrative list of HMS union affiliates' activities in organizing the unorganized.

Kumar (1997) observes that the new economic policies have pushed the agenda of "Organizing the Unorganized" to the forefront. He notes that the HMS is continuing its efforts to organize informal sector workers through:

- raising awareness through trade union education programmes;
- organizing certain home-based occupations on a producer cooperative model;

Table 8. Activities of HMS affiliates in organizing the unorganized

Name of union	Key achievements/problems
Visakhapatnam Port Employees' Union	Started four labour cooperatives to prevent exploitation of workers by private contractors; achieved a significant hike in monthly wages (Rs.300 to over Rs.1,000) and provident fund, medical and uniform benefits; won a court case that regularized 150 casual workers employed by the state-owned Food Corporation of India.
"Ban Bandhu" (Friend of the Forest)	Federation of 49 local organizations working in forest areas. Several self-help and cooperative ventures, including education and training, marketing of local handicrafts and other products of tribal and forest workers, are being organized.
Kendu Leaf Workers' Union (Orissa)	Potential membership: 1.8 million. Over 1 million blocked roads in "Rasta Roko" agitation to press for implementing the recommendations of a committee set up by the state government. Minimum wages revised. Social security issues under consideration.
Bhatta Mazdoor Sabha (Punjab)	Mainly covering brick kiln units. Secured higher minimum wages (although still inadequate), 15 per cent bonus and medical allowance after seven years struggle. Still not all employers pay minimum wages. Bonded labour system prevails. Activity is seasonal.
Rickshaw Mazdoor Sabha (Punjab)	Assistance in case of harassment by public authorities. Contributory insurance coverage arranged for 221 rickshaw drivers.
Sangli Zilla Parishad Kamgar Sabha (Maharashtra)	Secured legislative (Hamals Mathadi Act in Maharashtra) coverage extended to benefit 2,000 manual and headload workers. Minimum wages increased by Rs.500 per month.
Indian Railways (Western Zone)	Organizing contract labourers in the Western Railways.
Tri Sea Fishermen Union (Tamil Nadu)	Supported the cause of women fish vendors against middlemen in fish auctions and did away with the 5 per cent commission charged by middlemen with the cooperation of local village committees.
Mumbai Kamgar Sabha, Mumbai	7,000 printing workers, loaders and transporters in local markets. Mainly through legal action, secured improvements in wages and welfare amenities such as provident funds, gratuity, house rent, leave and other allowances.
Bastar Khandan Mazdoor Sangh (Madhya Pradesh)	Unionized iron ore, horticulture and forestry workers who are mostly tribal and women. Secured representation on several government committees at local level and improvements in wages and allowances.
Nagarcoil Fisherfolks Project (Tamil Nadu) run by Tri Sea Fishermen Union, Nagarcoil as a socio-economic project	Membership claimed to have increased from 2,000 in 1988 to 10,000 in 1994. Eliminated middlemen. Introduced a small savings scheme. Conducting regular education and training programmes. Seeking to establish small-scale centres for outboard machines and fishing crafts, and village-level infrastructure for fish-picking, hygienic drying, salting and storing dried fish.

Source: Kumar, 1997.

- petitioning and lobbying the Government to have minimum wage and social security extended to these workers using tripartite committees and the judiciary;
- launching a right-to-work campaign through the organized sector unions to press for political acceptance of the constitutional right to work for all;
- forging trade union unity on issues and policies for protecting workers in the informal sector; and
- launching a needs-based minimum wages campaign.

The International Federation of Building and Woodworkers (IFBWW) has also been carrying out research and has so far published three reports: (1) study of socio-economic conditions of construction workers; (2) study of migrant construction workers of Andhra Pradesh; and (3) modes of load carrying for women workers (ergonomic study).

8. Organizing the unorganized

Trade union activists should go to the field and organize the unorganized after surveying the locality, informal sector trades/businesses and the profile and problems of workers in the informal sector. They should shed the bureaucratic approach.

In quite a few cases it has been observed that urban-bred elite unionists go to rural areas and urban fringes to organize the unorganized. They wax eloquently on globalization, the World Trade Organization, intellectual property rights and such issues but forget to address the immediate needs of the target group. They act as aliens and it is little wonder that they become alienated from the target group.

The Ministry of Labour of the Government of India used to organize rural labour camps through the National Labour Institute (now called V. V. Giri National Labour Institute) to organize rural workers in the informal sector. This experiment was known as Rural Labour Training Camps. The experience of holding such camps, including the strategy, methodology and impact of such camps, was documented by the Institute. "It was considered one of the most unconventional, unorthodox and effective ways of social mobilization which had helped in spreading socially and politically relevant messages meant for the workers in the informal sector... (they) could bring about a closer interface between unorganized rural

labour and bureaucracy at various levels, awareness generation, organization getting an impetus and so on." There is a need to revive such camps.

The 73rd Constitutional Amendment has contributed to greater decentralization, delegation and devolution of powers, duties and functions to local self-government bodies in matters such as agriculture, irrigation, cooperation, primary education, health, hygiene and sanitation, watershed treatment and waste land development, etc. These measures can have a critical bearing and impact on the working and living conditions of unorganized rural labour.

The Ambekar Institute of Labour Studies, Mumbai (formerly Bombay), affiliated to INTUC has experimented with the concept of "Link Cadre Development Programme" seeking development through organizing in Ratnagiri and Sindhudurg, the coastal region in Maharashtra (Sawant, 1990).

Reddy (1998) studied the experience of organizing agricultural labour in India. He observed that there has been a shift in emphasis: instead of demanding higher wages and barren lands for allotment to the landless poor, the land under illegal occupation is identified and taken over by the Government who then redistribute it to the landless poor. To some extent, this approach has freed the poor from landlord-induced litigation. The trade unions are also fighting against specific practices of discrimination in the form of atrocities perpetrated against Dalits, particularly Dalit women. These changes, Reddy argues, emphasize the need for organizations with a very strong village-level base with the institutionalization (Kannan, 1998; Nadkarni, 1990) of the unions with a power to mediate not only on economic demands but also in realizing the cultural, social and political aspirations of the rural labour. The present diverse forms of rural labour action, whether it is in daily forms of resistance, "everyday patronage politics" to receive benefits from government-sponsored schemes, mobilization for the release from bondage, agitation for higher wages, access to land or fighting the oppression of the Dalits and women, often appear as sporadic movements with varying local specificities. The experience of the process of institutionalization of these forms of collective action suggests the plurality of possibilities.

Other studies present the case for worker cooperatives' potential to organize workers in the informal sector and cites several examples of such cooperatives including the contract

labour cooperatives in the opencast mines in Dalli Rajhara, Madhya Pradesh, fishermen's cooperatives in Kerala and slagpickers' cooperatives in Jamshedpur, Bihar. These studies highlight the critical role of trade union backing and of networking support of voluntary organizing in mobilizing resources and garnering support to make workers' cooperatives effective in raising political consciousness, providing protection and yielding tangible results to informal sector workers.

Gupte and Muthuswamy (1990) outline the following four-step programme of action for Central Trade Union Organizations (CTUOs) in organizing rural workers:

- (a) Trade union centres should create a central cell entrusted with the responsibility of organizing the rural workers. The cell must be fully aware of the various schemes of the agencies that could be of assistance.
- (b) Trade union centres must create a core of dynamic cadre either through social workers or through existing rural workers.
- (c) Trade union centres must provide thorough briefing to these dynamic cadre not only with regard to union organization but also the various services that could be provided to the needy poor.
- (d) Separate educational classes must be held either in the form of study circles or with a special curriculum suited to the target group. A special cadre of educators at regional levels should assist in this task. A time-bound programme extending over three to five years delivered by these educators will go a long way in taking the message of unionism to the rural people and organizing them.

Based on a survey of urban unorganized labour in the Mumbai metropolis, Gupte and Muthuswamy (1990) draw the following conclusions concerning the role of trade unions in organizing the urban informal sector workers:

- (a) Unions from the organized sector have to take a lead, approach these workers and organize them. They would be able to improve their service conditions only with the help of strong unions.
- (b) There is an urgent need for a social security scheme for the workers in the informal sector otherwise when they are old and can no longer earn they will be turned into destitutes.

- (c) Low-cost industrial housing has to be given top priority. Trade unions can help to solve the problem by cooperative housing schemes for workers.
- (d) Once the workers are unionized, unions have to take a very assertive role in looking after the welfare amenities and safety precautions for the workers. Merely improving the emoluments of workers is not enough.

Several micro-level case studies (Ruddar, 1997) on organizing workers in the informal sector point to the need for forging a wider platform and broad alliance to focus attention on the larger policy framework rather than the unit in isolation; the need for the organizers to integrate themselves into the larger social milieu of the workers; and to realize the personalized nature of power and authority in small units and its impact on the process of organizing workers. Grass-roots level initiatives alone are not adequate and sufficient. They need the back-up of highly visible campaigns and political support through wider coalition among different interest groups. Such initiatives ultimately resulted in Kerala, Maharashtra and elsewhere in legislative initiatives for setting up local committees and welfare boards at the apex level through legislation for headload workers, for instance (Nambiar, 1997; Sundaram, 1997). Others focus on the case of cooperatives for beedi workers in Kerala and Maharashtra and suggest that three factors have contributed to the success of Kerala Dinish Beedi Workers' Central Cooperative Society Limited: (a) the supportive role played by the left government then in power in Kerala; (b) the high degree of development of the trade union movement in Kerala; and (c) the interest and determination shown by the officers deputed by the government of Kerala to make the cooperative venture a success. The active participation of workers and the support of the Government are critical for the success of cooperative efforts to organize the unorganized.

9. Women workers in the unorganized sector

Ninety million of the 350 million labour force in India are women. Work participation and literacy rates are low among them. In rural areas, 18.8 per cent of the female workforce and 29.3 per cent in urban areas are literate. The majority of the women workers are engaged in casual/seasonal agricultural/rural jobs which

are low-paying and offer below poverty line wages. Most studies on women workers in the urban informal sector point out that though their number is large, their work is largely invisible in official statistics. Contrary to the popular notion, far from being marginal workers, they contribute significantly as the “real” breadwinners in most poor households. One of the striking observations in most studies on the subject is that the mean hourly wage rate for women workers in the informal sector are lower than the minimum wage rate for unskilled workers in any economic activity. This occurs notwithstanding the fact that India has ratified ILO Convention No. 100 on Equal Remuneration and also enacted a legislation, the Equal Remuneration Act, 1976. Although the law does not discriminate against women, law enforcement is weak against old traditions and societal forces. Gender discrimination is pervasive in access to resources and opportunities for educational, economic and social advancement.

The National Commission on Labour (1969), the National Commission on Women (1987) and the National Commission on Rural Labour (1992) have pointed to the low unionization of women workers. The few voluntary organizations that have been active in espousing the cause of women workers have been mainly concentrated in urban areas.

Reinforcing the argument of Moser (1989), Mukhopadhyay (1998) frames the issue in terms of standard feminist discourse and argues that the current discussion and approach to the problems of women workers are aimed at catering to women’s “practical” rather than “strategic” needs. Instead of looking at the issues relating to women workers in the informal sector as those who are compelled to enter the labour market as target-earners concerned with repaying outstanding debts or for meeting immediate consumption needs, it is important to strengthen their hands in resisting downward flexibility of earnings and other forms of discrimination in all aspects of work and employment relations. There is no dearth of examples of successful ventures in organizing women in the informal sector. The Self-Employed Women’s Association (SEWA) in Ahmedabad and the Women Workers’ Forum (WWF) in Madras are shining examples in this regard. Given the magnitude of the problem and the multitude of the odds these workers face, any form of organization – whether a cooperative, trade union, NGO or any coalition with other groups – which can substantially contribute to

empowering the women would be appropriate. Analysing the role of SEWA and WWF, Uma Ramaswamy (1997) considers that “women’s livelihood systems and status within the household and wider society have intricate linkages to a host of processes in the wider society and unless appropriate linkages are established, any interventionist strategy would merely promote insular processes.” She therefore stresses the need for developing networking and lobbies so as to impart greater visibility and political support for the women’s movement.

Women workers suffer not only from wage/employment discrimination but also sexual harassment. Despite recent judgements of the Supreme Court in *Visakha vs. State of Rajasthan & Others* and *Apparel Export Promotion Council vs. A. K. Chopra* in 1997 and 1999 respectively, which laid down elaborate norms, standards and guidelines for protecting women workers from sexual harassment, it will be a long time before their impact is felt in the rural areas.

10. Non-governmental organizations and unorganized labour

The National Centre for Labour (NCL) The National Centre for Labour is a forum of unorganized workers born out of the initiatives, during the period 1991-1995, of independent trade unions and academics engaged in the field of unorganized labour. The preamble to the Constitution of NCL asserts: “The traditional trade union forms and strategies often do not suit this (unorganized) sector. Despite the fact that innumerable constraints confront the workforce in this sector, there were attempts of organizing these workers. Some of them could go beyond the traditional form of trade union organizations. However, their number and reach are not very large.” The national centres of trade unions did not have a role or say in the formation of NCL. NCL sees itself as a membership-based organization, transcending political party affiliations. Trade unions, associations, cooperatives, federations and confederations of unorganized labour who agree with the aims and objectives of NCL are welcome to seek affiliation. Membership is open to both registered as well as unregistered organizations. The NCL has started making news even though it is not even registered yet.

NCL’s organizational structure comprises a General Council, an Executive Committee and a Secretariat. The proposed Constitution of NCL states that the General Council is a deci-

sion-making body, democratically elected by member organizations, who will have the right to recall or replace any representative. The membership of General Council will reflect the actual composition of NCL membership in terms of gender, caste and community.

The Executive Committee comprises up to 51 members, representing all sectors. The Secretariat comprises nine secretaries. The elections to these bodies for the first time were held at the Founding Convention on 28 May 1995.

The NCL's agenda is low on ideology and high on solidarity. Its target is to secure the informal sector the following rights: a national minimum wage, common to all sectors and regions; work; livelihood and full employment; access and control over natural resources; social security against sickness, disablement, death and unemployment – ESI (Employees' State Insurance), PF (Provident Fund), pension, insurance, unemployment benefit, etc; specific rights for women such as maternal benefits, crèche facilities, etc; adequate housing; equal opportunities for education, health care; access to adequate essential goods through the public distribution system; equal remuneration for equal work for all.

The NCL has generated euphoria in certain sectors and scepticism in others, including the national trade union centres. Overall, it could not sustain the tempo it had built up in its first year because even the workers in the organized sector have been at the receiving end in the wake of economic liberalization and globalization. The problems of the informal sector have become so daunting and complex that in the context of a weak economy, unstable government and growing poverty and unemployment, the State did not have either the will or the means to oblige the NCL or any other trade union body to undertake the necessary initiatives.

11. Conflicting interests of the organized and the unorganized labour

Given the dualism in the labour market, some tend to brand the workers in the organized sector as "labour aristocracy". The interests of the organized and the informal sector are considered antithetical or conflictual. The privileged and protected organized labour sees the underprivileged and unprotected labour as a threat to the perpetuation of their current position.

The inaugural speeches at the NCL make no secret of such antipathy where Ela Bhat (1995)

waxed eloquently: "How can I forget the day at an Annual Conference of one Centre Labour Union where I was a delegate of SEWA, representing the unorganized women workers and speaking about their problems of exploitation and I was hooted out. The others made me sound ridiculous! There was no delegate to support me at that time except my own members! We had to swallow the humiliation... what place it [the unorganized sector] has in the labour movement?... The labour of the unorganized sector remains totally unrepresented at all the significant forums of decision-making. We want our representation there... I say that the unorganized sector labour remains unrepresented because of the combined bias of our Government and the organized trade unions who have merely 7 per cent of the workforce of the country within which only 25 to 30 per cent are unionized... Let us build up our organized strength to reclaim our rightful place in the mainstream. When the unorganized labour is recognized by the mainstream (we are the mainstream, in fact), the whole structure of the society – economic and social – will be changed. Private and public sectors of course will remain, but the people's sector will become the most important backbone of the national economy. And we are the people's sector. We are the majority."

Sanyal (1994) observes that some hold the view that "the informal workers perceive their chances of joining the formal labour market as restricted by the high wages that the organized formal workers have managed to extract from the employer. As a result, the two labour sectors are inherently antithetical, and it is virtually impossible to create institutional linkages between them. Some have taken this argument further by suggesting that even if the level of antagonism between the two sectors were reduced, NGOs or unorganized workers should never join trade unions of organized workers because the former would be 'swallowed up' and used by the latter to pursue their own agenda."

Yet, till now – at least till the NCL formation received the publicity it got – the organized and the informal sector labour groups never confronted each other openly or directly. Sanyal (1994) offers the following evidence to explain such behaviour:

- (a) "Not all informal workers are interested in a job in the formal sector; on the contrary, many formal sector workers would like to move to the informal sector to start their own enterprise;

- (b) A growing percentage of workers may belong to both sectors;
- (c) Within the same household, one member – usually a male – may work in the formal sector while another member, generally a female, may either work in an informal sector job or run an informal sector business;
- (d) Low-income formal and informal sector workers usually live in the same neighbourhoods and experience similar problems associated with lack of basic services.”

The NGOs and trade unions in the organized and the informal sector will continue to have competitive, cooperative and complementary roles as described below:

1. **Trade union matters.** The attitudes of the leadership of the central trade unions in India towards the role of NGOs in organizing the unorganized, particularly in informal/unorganized sector activities has been generally positive. They recognize the task is gigantic and they need the support and collaborative effort of as many partners as are able and willing to lend a helping hand. It is not an exaggeration to suggest that trade union leadership in the organized sector has become somewhat unused to or has forgotten the fieldwork role of trade unions. Even where they seem to make an effort to organize the unorganized in the countryside, for instance, the methods they choose tend to be inappropriate. For instance, Sen (1996) refers to a rural educational camp for workers in the informal sector organized by the Centre of Indian Trade Unions (CITU) and cautioned: “In this camp, national and international issues like the Central Government’s new economic policy, industrial and foreign trade policy, Dunkel proposals, the history and development of the trade union movement in India, etc., were on the agenda. It is quite possible to visualize how unorganized, poorly educated workers, in fear of losing their jobs or involved in cut-throat competition amongst themselves would squirm as the sonorous speeches boomed out of the microphones. This is a typical failure of central trade unions and their organizing plans in the informal sector which have to be avoided in the future...”
2. **Litigation to legislation.** The role of trade unions, particularly the central trade union organizations (CTUOs), is significant in

pursuing the cause of the unorganized workers, particularly that of casual and contract workers who have a regular and day-to-day interface with the organized sector by the very nature of their work. For instance, the most recent case concerns the landmark judgement by the Supreme Court in Gujarat Electricity Board vs. Hind Mazdoor Sabha in 1995. This judgement gives labour courts the right to interfere when the contract is sham and trade unions and others the right to pursue the banning of certain types of contract work. The CTUOs have also played a major role in rushing through ordinances relating to building and construction workers and they have a major role to play in converting these into legislation and getting relevant rules and regulations passed and enforced. They also have a critical role in bringing amendments to the Contract Labour (Regulation and Abolition) Act, 1970, in the light of the experience gained in its implementation and the recent court judgements. Public interest litigation by individuals and NGOs also resulted in many positive outcomes for unorganized and unprotected workers. It dates back to the early 1980s when the Supreme Court passed strictures on the Delhi administration and ordered the payment of minimum wages to contract workers engaged in the preparation for Asian games in Delhi. Another important case is BMM vs. Union of India concerning the plight of bonded labour.

3. **Technology to cheap labour** Ramaswamy (1990) argues that organized sector workers are losing jobs not due to technology, but due to transfer of work to cheap labour through outsourcing, contract labour, ancillary work, etc.: “With insecure labour proliferating and taking over an increasing production of the work of permanent labour, trade unions and their members cannot remain protected enclaves for long.” Ramaswamy quotes a union leader in a fertilizer industry: “We have twice as many contract labourers as permanent workers. We man the process, while they perform all the labour-intensive manual jobs. This is beginning to erode our bargaining power. It is we who have become peripheral and dispensable. If we go on strike, officers can easily man the process. It is the contract labourers whom they cannot do without.” Ramaswamy then cautions: “When cheap

labour can be had for the asking, the emoluments of unionized workers would evoke envy, disapproval and hostility, and become impossible to sustain.”

12. Action agenda

1. Low literacy and low skills, growing poverty and the mounting problem of unemployment are the major barriers to the improvement of the condition of the workers in the organized sector. There is a need to pay attention to social development and aggressive employment promotion policies. So long as illiteracy, poverty and unemployment continue to increase, public policy, legislative or trade union initiatives and interventions do not bear much fruit. A tight labour market situation and a vibrant economy hold the key.
2. In the ultimate analysis, as Alfred Marshall argues, if the demand for labour is weak, if the demand for the product of labour is poor, the substitutability of labour with other resources is high, and if the proportion of labour costs to total costs is high, it would be difficult for trade unions to improve the conditions of life for their membership and protect their jobs and incomes. However, if labour policy and labour laws are extended to cover the informal sector, they could then set the direction.
3. Labour administration and labour inspection should also be strengthened and made more effective. Without a strong trade union movement/presence in the informal sector, labour law enforcement and labour inspection would not be effective.
4. Tripartite machinery on social and economic issues should provide adequate representation for the constituents from the informal sector.
5. Minimum wages should be indexed.
6. National trade union centres should have a separate committee/cell to organize the unorganized. Such a committee/cell should have a budget to undertake organizing campaigns and training programmes.
7. Trade unions should network with and form alliances with other interest groups such as the media and NGOs.

8. Collective agreements in the informal sector should be registered with the appropriate government. They should preferably be signed in the course of conciliation to make them legally binding and also to ensure that the agreed terms do not dilute the existing legal provisions.

Mishra (1997), Secretary, Ministry of Labour, Government of India, articulated the agenda thus:

“We would like to ensure that :

- (a) labour is not employed in subhuman conditions;
- (b) labour is not subjected to unfair practices in terms of payment of wages, discharge, dismissal and termination of employment;
- (c) wages paid are fair and reasonable and aim progressively to reach the level of living wages; and
- (d) minimum security is provided against risks such as injuries and accidents at work, sickness, maternity, invalidity and old age.”

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The Philippines

Trade unions can play an important role in bridging the informal sector and policy bodies and institutions and at the same time develop the sector's capacity to understand pertinent issues and to negotiate with the proper authorities.

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1. The Philippine informal sector

The following study examines the extent to which trade unions are responding to the expansion of labour markets in the informal sector, and identifies opportunities for and obstacles to the integration of informal workers into trade union structures. It surveys the types of initiatives implemented by Philippine labour groups, noting innovative approaches that are currently being practised or considered. The study will also shed light on the strengths and limitations trade unions bring with them into this new terrain and defines capacity building needs so as to enable them effectively to extend their reach to the sector.

Part 1 elaborates on the phenomenon of the informal sector as it has been evolving in the Philippines. It provides an overview of the magnitude and characteristics of the informal sector as well as the factors which have contributed to its growth. Part 2 analyses how trade unions are responding to the needs of the informal sector, their successes and difficulties, and how they are modifying their structures to accommodate such non-traditional types of workers. Part 3 defines the challenges and needs of the trade unions in reaching out to this sector, while Part 4 provides suggestions and guidelines for future action.

1.1. Introduction

In the Philippines, there has been a growing acceptance of the existence of the informal sector throughout the past decade. One has only to look at one's surroundings – vendors, pedicab drivers, street pedlars, food sellers, shoe repairmen – to appreciate the pervasiveness of informal work. This acknowledgement began with the economic crisis of the 1980s which

threw scores of workers out of their jobs. Lacking opportunities for productive employment, many were forced to create their own jobs through informal self-employment while those who were fortunate enough to keep their jobs found their wages eroded by double-digit inflation and therefore had to resort to informal activities. For some time, it was even commonly believed that self-employment had kept many households afloat as well as the Philippine economy.

Today, the Philippines is once again faced with the dreadful prospect of massive unemployment. Due to the competitive pressures of globalization and, more critically, in the wake of the Asian financial crisis, the Philippines registered 64,859 lay-offs in a period of only five months (January to May 1998) immediately following the first rush of the crisis in late 1997. This figure surpassed even that recorded for an entire year, 1997, which was 62,736. Equally disturbing has been the rise in the unemployment level in April 1998 to 13.1 per cent, representing 4.2 million, or an increase of 1.7 million from the previous quarter and 1.0 million from the same quarter in 1997.

As the experience of the 1980s would suggest, job losses in the formal sector will be accompanied by an expansion of the informal sector where conditions are, for the most part, unstable and unprotected. This situation is causing much concern among Philippine labour groups which increasingly find their ranks dwindling due to unmitigated retrenchment and contractualization. More constructively, this current wave is causing widespread rethinking about how trade unions should respond and utilize traditional trade union modes to respond to the changing forms of work in order to meet the expectations of workers in general and their membership in particular.

1.2. Evolution of the informal sector in the Philippines

As noted earlier, the informal economy further gains recognition during economic crises with the massive dislocation of workers. However, informal work is a long-standing phenomenon and has been growing for several decades. The roots of the informal economy can be found in the inability of the formal sector to create adequate employment for jobseekers and provide productive resources for small-scale entrepreneurs.

In a rush to industrialize in the 1960s, the Philippines had focused its development strategy on encouraging industries that are urban-based, relying on a few large enterprises and on capital-intensive processes. A combination of policy instruments were used to achieve this objective, including an overvalued currency which made importation of equipment cheaper but penalized agricultural exports; granting of tax exemption on the importation of equipment; and granting of privileges such as import licences, foreign exchange allocation and subsidized credit to selected industries. Credit was in fact rationed to big businesses in urban centres, siphoning off savings from the rural areas while denying small enterprises similar resources.

This strategy also tilted institutional development towards servicing larger firms. Formal institutions such as banks, government regulatory bodies, training agencies, marketing networks, traditionally designed their programmes and requirements to suit the scale and sophistication of larger enterprises, leaving small enterprises with little access to the resources and protection they offered.

The overall effect of this strategy was agricultural stagnation, oligarchic ownership of assets and massive unemployment. Local entrepreneurship was also stifled due to the uneven access to resources. Consequently, the informal sector can be said to have arisen from this situation characterized by limited opportunities for job creation and small business development.

Table 1 shows historical data of people migrating out of the rural sector in search of jobs (resulting in the reduction of the share of agriculture in total employment) only to find modern industry unable to provide them with the employment they had hoped for (as shown by the almost unchanging share of industry in total employment). Jobseekers therefore end up in the service sector which has absorbed much

of the labour force (as its share in total employment went up substantially). However, we also see that although a lot of people were employed in services, the latter do not constitute very productive activities (as shown by the service sector's stagnant share in GDP despite its larger share of workers). One can therefore infer that perhaps a large portion of the activities in the sector concerned consists of low-productive jobs in the informal sector (which is partly accounted for in the National Income Accounts).

Table 1. Sectoral shares in total employment and GDP (%)

	1965	1997
Share in total employment		
Agriculture	57	40
Industry	15	17
Services	28	43
Share in GDP		
Agriculture	26	21
Industry	28	36
Services	46	43

Sources: *Philippines Statistical Yearbook*, 1978 and 1998.

In economies where employment and entrepreneurial opportunities are relatively few, the distribution channels of economic growth are narrow. In such a situation, the informal sector is said to have a fixed character: the informal sector expands during economic contraction, but does not shrink proportionately during periods of economic growth and recovery because the same channels are not in place. Therefore informalization and underemployment remain a stubborn feature of the economy (Martinez, 1990).

1.3. Magnitude and characteristics of the informal sector

How large is the informal sector in the Philippines? The exact size of the informal sector cannot yet be determined given the existing statistical systems. Current statistical instruments are designed for visible enterprises, thus leaving out activities which are run on a very small scale, have unsettled locations, and are not readily recognizable. Estimates have been made, however, based on labour force categories which approximate features of the informal sector, namely, own-account work and unpaid family labour. The size of the informal

sector employment in the Philippines, using these categories, has hovered at around 50 per cent of total employment during the past years.

Another approach at estimating informal employment yields much higher figures. This method, called the "residual" approach, takes the economy-wide employment from the household-based labour force survey and the Census of Establishments or the Annual Survey of Establishments which cover enterprises with recognizable and fixed locations. The difference between the household-based and the enterprise-based data is presumed to represent informal sector employment. Based on this approach, informal sector employment was found in 1988 to account for 85 to 90 per cent of total employment in the private sector and, in 1993, from 80 to 91 per cent for the trade, services and transport sectors (the only sectors for which computations were done) (Alonzo, 1996).

As for the characteristics of informal sector employment, a survey conducted in Metro Manila in 1988 and updated in 1996 reveals some information about informal sector operators as well as their workers and business operations. Almost all of the operators (96 per cent) are at least 25 years old and 62 per cent are women. Around 21 per cent have been operating for less than three years while almost half have been operating for three to ten years. A slight majority entered an informal activity in order to supplement family income. Currently, half of the enterprises represent the family's main source of income (but 100 per cent in the case of repair services and 86 per cent in the case of other personal services). Around 84 per cent said they had one to two workers and over 80 per cent said they worked more than nine hours a day and more than five days a week. Reflecting the limited sources of technical and market information, 81 per cent said that their main sources of new ideas were themselves. Around 42 per cent were registered with the municipal authorities and only 10 per cent with the national social security system.

In a pilot survey of the urban informal sector conducted by the National Statistics Office (NSO) in 1995, in collaboration with the ILO, it was found that trade constituted 47 per cent of the informal activities surveyed, followed by services at 24 per cent (including hotels and restaurants), manufacturing at 11 per cent, transportation at 9 per cent, and construction and agricultural at 3 per cent each. The data is similar in the case of own-account workers and unpaid family workers in non-agricultural activities: in 1995, trade accounted for 52.7 of all

own-account workers and 63 per cent of unpaid family workers, services for 18 and 16 per cent respectively, and transport services, 14 per cent and 5 per cent. Manufacturing accounted for 12 per cent of unpaid family workers.

Alonzo found that trade organizations were dominant in transport where 89 per cent indicated the presence of such an organization and 78 per cent said they were members of such groups. Most cited lack of capital as their main problem. Others mentioned limited markets and the high cost of raw materials.

The 1995 NSO-ILO survey furnishes some insights regarding the working conditions in the sector and the kind of protection available (Joshi, 1997). Among the major complaints regarding working conditions are the presence of dust, noise, and chronic physical exhaustion and body pain. This specially applies to home-workers. Other problems noted were lack of ventilation, excessive heat, inadequate work-space, poor work tools and workplace design. The survey also revealed that most operators (93 per cent) do not use protective equipment.

Regarding social protection, the survey showed that only 15 per cent of operators are registered with the national Social Security System (SSS) (which is similar to the aforementioned findings of Alonzo). Among the reasons cited for not being members are the small size of their activity, the fact that SSS registration is not required, and that they see no need to register. However, women are more interested than men in social protection schemes. Those who are interested have expressed preference for health care to cover sickness and injury, old age pension and education benefits.

Over 90 per cent are not affiliated to any organization, their reason being that they do not expect to gain any benefit and that they lack knowledge about existing groups. As mentioned earlier, different circumstances obtain among transport workers, the majority of whom enjoy membership in an association mainly for routing purposes.

1.4. The legal and institutional environment

The legal and institutional framework in which the informal sector operates has often been criticized as responsible for perpetuating their status of informality since the difficulty of getting registered with government agencies can prevent an enterprise from gaining legitimacy and protection. While studies have shown that enterprises in some countries have

deliberately remained small due to the procedural complexities of registration, in general the legal and regulatory framework is less a problem for workers in the informal sector in terms of the required procedures, which have not been found to be a hurdle for those who did choose to register, nor a major constraint to those who did not (Mead, 1994; FREED, 1996).

In addition to exclusion from national registers, informality can also be perceived in terms of exclusion from institutional sources of productive inputs and from social protection systems and labour legislation. It is in these terms that the legal and institutional framework assumes greater importance, namely, in terms of access to mainstream markets, technology, financing, infrastructure, social security system and the protective arm of labour legislation.

1.4.1. Social protection

In the Philippines, a legal mechanism is in place which extends social security coverage to the informal sector through the SSS which offers a broad range of benefits including income replacements upon old age, disability, sickness, maternity as well as support for funeral expenses and hospitalization. However, there are a number of reasons why membership is low among informal sector workers. For many low-income informal sector operators, membership contributions on a regular basis are beyond their capability especially if they earn seasonal or unstable incomes, and even when some are willing, collection offices may be too far from their communities. For workers employed in informal sector units, their owners are, firstly, not required to register them if the former number less than five and, secondly, many of their work arrangements are not covered by a contract, linked to the fact that the employer-employee relationship in most cases is not binding.

In an effort to make social protection affordable to low-income groups, the Government came up with the National Health Insurance Program (NHIP) in 1995 which seeks to provide everyone with access to health insurance. Under this programme, one can apply for health benefit packages which are more limited and less expensive than that of the SSS which comprises a wide range of short- and long-term insurance benefits. This limited set of health benefits covers hospitalization, including room and board, professional fees, prescription of drugs during confinement, and laboratory fees. A more lim-

ited package is better suited to short-term concerns and affordability levels of low-income households as it covers more immediate and common hazards (as those cited above in the surveys referred to) and at minimal levels of contribution.

Furthermore, in pursuit of its mandate of universal coverage, the NHIP developed an Indigent Program whereby indigent households are enrolled through the municipal authorities, which act as conduits. Their premium is fully subsidized by both the NHIP and the municipal government (Bautista, 1998). This programme is still in its incipient stage.

1.4.2. Labour legislation¹

As regards laws on labour relations and worker protection in the informal sector, the country's labour laws are theoretically meant for the entire labour force. However, as stated in various labour relations provisions, including those on trade union organizing, collective bargaining and dispute settlement, it is clear that these rights are available only to those with clear employer-employee relations in the formal sector.² The same holds true for laws on labour standards as they are applicable to "employees in all establishments and undertakings whether for profit or not, but not to government employees, field personnel, members of the family of the employer who are dependent on him for support, domestic helpers, and workers who are paid by results" (Ofreneo 1996). Moreover, labour standards inspection by the Department of Labour is applied only to establishments with five or more workers. Those with less than five are instead given "technical advice" and have one year to comply with labour standards. There remains the question, however, of the desirability of inspection with respect to the informal sector as this may further drive workers underground.

While it is clear that, for purposes of collective bargaining, a clear employer-employee relationship has to be established, those lacking such privilege – workers, in general – can organize themselves into any type of workers' organization, including craft unions, cooperatives, and mutual aid associations. However, the latter groupings are "for purposes other than collective bargaining." In 1997, the Department of Labor and Employment issued Department Order 9, establishing implementing guidelines for registering such workers' organizations. In an effort to ensure proper labour standards in contractual work arrangements, the Labor

Department also issued Department Orders 5 (in 1992) and 10 (in 1997), spelling out the obligations of a contractor to a contracting employee, a relationship which, for a long time, had eluded the employer-employee category. While the effectiveness of these laws has to be tested, there is evidence of weak enforcement of Department Order 5. Homeworkers, for example, are generally unwilling to file complaints against their principals for fear of losing their means of living and of retaliation; and where complaints have been filed with government authorities, the latter has shown unwillingness to accommodate them, saying that they were not the competent bodies to handle such matters (ILO, 1997). This spells out the need for more advocacy work and vigilance among workers' organizations to ensure that these mechanisms are properly implemented.

In summary, there is now a broader range of options for organizing among informal sector workers, including craft unions, cooperatives, and workers' associations. However, for purposes of negotiation or collective bargaining involving the application of labour laws and standards, a clear employer-employee relationship has to be established – something that is elusive in informal settings. With this end in mind, there have been efforts to compel “employers” with subcontracting arrangements to meet their obligations to their “employees”, although the mechanisms in place still need to be tested.

Other than this, the application of standards within informal sector units has to be done in a developmental manner, that is, through incentives and awareness campaigns as well as productivity support, targeted at informal sector employers so that they are better positioned and encouraged to apply labour standards. Furthermore, informal sector workers may be assisted in enhancing their negotiating skills for arriving at agreements with their employers (Ofreneo, 1996). All these methods can be channelled through workers associations, craft unions or cooperatives, which are now being recognized through the laws and guidelines referred to above.

2. Trade union responses to the informal sector

2.1. Rethinking among trade unions

Today, trade unions are currently engaged in serious rethinking about their role amid the changing character of work. Antonio Asper, Vice-President for International Affairs of the

Federation of Free Workers (FFW) in the Philippines, articulates FFW's decade-long striving to become a trade union social movement, aspiring to achieve empowerment not only of workers in the formal setting, but also workers in all sectors of society, including the urban poor, the disabled and the elderly, and to integrate them into the trade union mandate and structure.

According to Asper, this thrust gains relevance today as companies are downsizing and adopting more flexible arrangements. Such measures mean that trade unions not only have to worry about being responsive to the needs of displaced workers, but must also consider the long-term and practical consequences of such a trend: falling membership and their eventual loss of political influence and financial base. Furthermore, trade unions risk becoming élitist if they choose to remain focused only on the fast-shrinking pool of rank and file workers. Asper reminds us that this reorientation to the basic sector of society represents, in fact, a return to the roots of trade unionism which began as a mass movement. As a concrete manifestation of its thrust as a trade union social movement, FFW amended its constitution in October 1998 to allow non-traditional types of workers access to membership.

The Alliance of Progressive Labor (APL), in collaboration with the Labor Education and Research Network (LEARN), likewise notes the failure of traditional unionism to include the vast majority of casual, informal sector and overseas workers, and is propagating the broader framework of what it calls “working people”. This reconceptualization seeks to include heretofore excluded sectors, namely, non-wage informal labour, reserves of casual or contract labour, overseas contract workers, houseworkers who are mostly women, and the unemployed. Like FFW, it calls its brand of unionism “social movement unionism” and identifies itself as a multiform labour centre that accommodates registered unions, area-based or industry-based alliances, national unions, general federations, community and trade associations, and working women's organization (APL, undated). Already, its affiliates include associations of jeepney drivers, vendors and construction workers.

To provide a legal framework for a multiform unionism, APL has actively supported the passing of Department Order 9 which, as earlier mentioned, provides for the registration of workers' associations with the Department of Labor, especially among own-account and contractual workers. This provision also enables

workers employed in various small enterprises to organize themselves into a single union (but, again, for purposes other than collective bargaining).

Other trade union centres and federations are in different stages of reformulation. The Trade Union Congress of the Philippines (TUCP) changed its constitution as far as back 1987 in order to include the informal sector within its membership. Likewise, the National Federation of Labor has been working among agricultural workers who have become small landowners as a result of the agrarian reform programme of the Government. The Lakas Manggagawa Labor Center (LMLC) is also faced with the urgency of assisting its displaced members, and has been mulling over the prospects of forming craft unions. And Trade Union of the Philippines and Allied Services (TUPAS), while participating regularly in policy discussions on the informal sector and assisting intermittently in training groups of vendors within the vicinity of its offices, is faced with the imperative of responding *institutionally* to the needs of displaced members within its membership and proposes, as a starting point for their expansion into the informal sector, reaching out to its unemployed members.

2.2. Review of trade union strategies

Trade unions employ different approaches in their efforts to extend assistance to the informal sector. It can be said that most of their efforts, at this point, are geared towards improving the productivity of informal sector operators inasmuch as survival is the urgent concern of most workers in this sector. At the present juncture their concern is aggravated as scores of trade union members are being displaced and are in need of alternative sources of income.

At this point, it is the informal sector *operator* who is largely considered as the *worker* inasmuch as most low-income informal operations are carried out by those who have been forced to create their own employment. Informal sector operators may have also come from the ranks of workers who had been retrenched or contractualized. Moreover, because of the very small size of their operations, they either do not hire workers or are simply assisted by family members. Hence, at a marginal level of operation, the employer and employee are assumed to embody the same interest, if not the same person; and it is the urgency of survival which most trade unions are trying to address.

Nevertheless, several other objectives are targeted alongside productivity improvement, as follows:

- (a) improving access to protection from hazardous conditions and from life's contingencies;
- (b) enhancing advocacy and bargaining skills of informal sector associations; and
- (c) capacity building of institutions and networks of informal sector operators, private sector and public authorities so as to enable them better to service the needs of the informal sector.

Among the different models or approaches currently being implemented are the following:

- (a) the creation of associations and craft unions for mutual support and advocacy;
- (b) coalition building and advocacy for the institutionalization of groups and policies favourable to the informal sector; and
- (c) the direct promotion of group and individual businesses, known as the programme approach.

These approaches are described below.

2.2.1. *The creation of associations or craft unions*

It was earlier pointed out that with the promulgation of Department Order 9, workers' associations can now register with the Department of Labor as such. A workers' association is defined as "any association of workers organized for the mutual aid and protection of its members or for any legitimate purpose other than collective bargaining."

For a long time now, trade unions have been organizing the informal sector as associations or cooperatives through which members support one another by means of loans, post-production services, affordable consumer goods, insurance and other mutual benefits. Many of these cooperatives are formed by trade union members themselves or are organized among informal sector workers. TUCP and FFW have long experience in this area, especially in organizing farmers and women, providing social credit and supporting their livelihood activities. They are further supported by the Workers' Fund, a non-profit organization created to service the three labour centres – TUCP, FFW and LMLC – in their socio-economic projects and the formation of workers' cooperatives.³

As mentioned, a marked shift has been noted on the part of several labour organizations towards the formation of craft unions. Along with industry alliances, as envisaged, these are the vehicles through which informal sector workers can articulate issues pertinent to specific industries, including policies on labour standards vis-à-vis small-scale employers and subcontractors. According to Antonio Asper, craft unions can address the following four areas of concern:

- (a) negotiating the terms and conditions of employment;
- (b) promoting standardization of skills and wages within each craft;
- (c) testing and certification of skills, so as to improve marketability; and
- (d) upgrading of the craft into recognition as a profession.

Currently, two distinct initiatives have been launched within this approach, as follows:

Craft unions and promotion of labour standards. The International Federation of Building and Wood Workers (IFBWW) has been promoting the organization of craft unions among construction workers who are employed on a project basis and often under adverse working conditions. Within this approach, its partner labour federations have organized five community-based associations of construction workers which have launched various initiatives including project identification, skills training, safety orientation, rental of safety equipment, mutual aid schemes and job facilitation.

IFBWW is currently working out a scheme for registering and accrediting construction workers, along the lines described above by Asper, in an effort to standardize and recognize construction skills and to upgrade standards of employment among skilled and unskilled workers. This scheme offers advantages to both employers and workers. At present, the lack of skills certification has allowed small contractors to deploy workers who may not have the necessary construction skills. The lack of standards, furthermore, places workers in a situation where they may possess a higher level of skills and wage grade after completing a project only to be downgraded again in the next assignment.

It is thus envisaged to provide a construction worker with an electronic identification card certifying his or her skills, say as class A carpenter, and indicating both the wage rate corresponding to the skill level and the insur-

ance premium which the company has to pay for the duration of the employment. The private sector has shown support for this scheme since it guarantees them the reliability and competence of the construction workers who would be engaged.

The scheme in question is being developed together with the Technical Education and Skills Development Authority (TESDA), the main government authority in charge of vocational training and trade certification. Under this scheme, IFBWW furthermore plans to enrol every certified worker with a national workers' federation which will support workers in skills training, safety orientation and social insurance. Likewise, the private construction sector has agreed to a construction levy amounting to 2 per cent of project cost. The fund generated from the levy will support training and insurance schemes for construction workers.

Industry-based unions and multiform struggle. Through its partner labour unions, the APL currently supports industry-based associations of market vendors, transport operators, construction workers and self-employed women. Through their active involvement in policy formulation, the transport operators' associations in Cagayan de Oro, Davao and Zamboanga participate actively now in their local government's traffic management office whereby they have a say in the setting of penalties, routing and traffic rules. Now they are working towards recognition by the Department of Transportation and Communication and will eventually be federated with the International Transport Workers' Federation. The market vendors' association in General Santos City also participates in the local government's setting of rules in public markets.

Under the framework of "working people" and given the variety of workers' groups that this broader conception accommodates (including company-, community- and industry-based associations), the workers' struggle goes beyond collective bargaining agreements in factories and plantations. According to Orlando Quesada, Executive Director of LEARN and partner of APL, the different arenas of struggle, especially as they apply to informal sector organizing, are the following:

- (a) legislative at local and national levels;
- (b) developmental, in terms of economic support, cooperative development and capacity building;
- (c) political and ideological;

- (d) electoral and concerning matters of governance;
- (e) the character of the sector as a mass movement or its role in pressure politics; and
- (f) cultural or awareness-development of the need for solidarity as opposed to individualism.

Taking the long view, Danny Edralin, Chairperson of APL, spoke of the vision of solidarity which is possible among different categories of workers who, in spite of their sectoral concerns, will act as one to espouse common, national concerns as working people. He recalls how, in the 1970s, the same industry-based approach was taken in conceptualizing a national trade union centre. Under this view, the national centre would be represented by the 12 major industries which, in turn, would be represented by its sub-industries on a one sub-industry/one union basis. This is the strategy and vision espoused by APL's social movement unionism – one which encompasses different types of workers, in contrast to the traditional conception of the worker as a wage employee, one which involves workers at different levels of struggle, and one which nevertheless strives towards an integration of common interests as working people.

2.2.2. *Coalition building and the institutionalization of support systems*

Organizing workers in the informal sector is not new to TUCP as it had changed its constitution as early as 1987 to take account of the growing reality of this sector and since then has been actively organizing cooperatives among agricultural workers and women workers. Recently, under the Informal Sector Coalition Project (ISP), it has taken upon itself the task of building coalitions within the informal sector that will advocate policies and regulations favourable to the sector.

The ISP is a USAID-supported project, beginning in late 1996 and spanning three years. It addresses three main issues, namely:

- (a) access to social protection;
- (b) access to productive resources; and
- (c) improved living and working conditions for children.

The main thrust of the project is the institutionalization of support systems and resources for the informal sector mainly through advo-

cacy and coalition and negotiation with government authorities. As such, it has undertaken the following main activities:

- (a) baseline research which enabled the coalition to determine the needs of the identified communities and the proper intervention strategies;
- (b) coalition building and membership expansion through which it strove to achieve a critical mass of informal sector workers that could bring pressure to bear for policy and legislative reforms;
- (c) capacity building of informal sector associations to enable them to service their members' needs and to advocate legislative and policy changes. A total of ten national trainers' training seminars were held by the ISP among local leaders and trainers who in turn would be responsible for echoing the inputs in the communities. Among the topics covered were community organizational development; leadership; advocacy; social mobilization; entrepreneurship; project planning; and paralegal training; and
- (d) advocacy and negotiation as its main strategy to obtain policy and institutional reforms.

So far, it has been able to build five area coalitions in Rizal, Cebu, Tarlac, NCR (National Capital Region) and Negros under which it has mobilized 184 grass-roots organizations and enlisted the collaboration of four non-governmental organizations: *Balikatan sa Kaunlaran*, a civic organization; *Patamaba*, a national federation of homeworkers; *Kababaihan Kaagapay sa Hanapbuhay (KAKASAH)*, a self-employed women's group; and *Youth for Empowerment and Solidarity (YES)*, a youth organization.

As a result of its advocacy, the coalitions were able to register the following gains:

Access to social protection. In the area of social protection, it was able to influence the lowering of the wage rate eligibility (to 1,000 pesos) for membership as self-employed in the SSS. In view of the dearth of SSS collection offices in some communities, talks are also now underway between SSS and the ISP regarding the accreditation of associations and cooperatives as collecting agents of SSS premiums. The ISP has also received commitments from some local government units under the Indigent Program of the Philippine Health Insurance Corporation (PHIC) to allocate a portion of their

budget as counterpart premiums for indigents. At the same time, the ISPhas held consultations with informal sector operators and workers regarding the value of social protection and has been able to impart an appreciation for such safety nets.

Incidentally, the TUCP, together with two cooperative insurance agencies (Coop-Life Mutual Benefit Services Association (CLIMBS) and Cooperative Insurance System of the Philippines (CISP)) and a leading cooperative federation (PFCCO), is seeking to expand its Worker Mutual Benefit Association to include more workers from both the formal and informal sectors, and more benefit packages within its insurance scheme. Currently, it is raising capital as required by the Philippine Insurance Commission for the benefit packages that it seeks to provide.

Access to productive resources. Under the banner of access to productive resources, the ISP has been able to access training and loan facilities of government agencies, namely, the Department of Social Welfare and Development, Technology Resource and Livelihood Center, and the Department of Health. It has also convinced local government units to implement the law mandating all local units and line agencies to allocate a portion of their budget for women workers' concerns.

More recently, it signed a memorandum of agreement with government financial institutions and other agencies, committing the latter to a reduction of requirements in lending to micro-enterprises and to open non-collateralized credit windows.

Protection of working children. In the area of child labour, the ISP has worked closely with the ILO's International Programme for the Elimination of Child Labour (IPEC) as well as the United Nations' Children's Fund. The ISP has helped to bring substance into 46 Barangay Councils for the Protection of Children (BCPC) in the five pilot areas. The BCPC is tasked with monitoring child labour in the barangay (village). The ISP has provided a number of seminars to the BCPCs including paralegal training, action planning and seminars on child labour. A number of requests have been received from other BCPCs for assistance, but the ISPproject is now trying to focus on a few pilot areas and passing on other BCPCs to the Department of Interior and Local Government with the institutional mandate for supporting and monitoring BCPCs.

Finally, as a result of a national consultation, the ISP has hammered out a legislative bill on working conditions for young workers. The bill stipulates specific standards on remuneration, working hours, occupational safety and health, and social security for child workers. Both ISP and YES will campaign for its passage. With the achievement of institutional reforms, the ISP ensures the continuation of benefits and access even after its project life in 1999. Moreover, it hopes that by creating a coalition and developing capacity within the network, it has been able to sow the seeds of empowerment and collective action so that the gains in place may be expanded and multiplied.

Likewise, the FFW launched a two-year action programme in 1996 called the Labor Initiative Towards the Elimination of Child Labor (LITECHILD), in collaboration with ILO-IPEC. Now in its second phase, spanning another two years, LITECHILD facilitated the creation of a network of anti-child-labour groups and a youth organization comprising students and working children. This programme aims to enable rural communities to address child labour concerns while building the capacity of community organizations to pursue development goals. LITECHILD is engaged in the following main activities:

- (a) *Organizing, networking and advocacy.* It works with a network of anti-child-labour groups – the Child Labor Action Network (CLAN) – as well as an organization comprising students and working children – the Youth Organization against Child Labor (YO! CHILD) which plans, implements and benefits from the activities launched.
- (b) *Training and research.* Village-level counselling activities are conducted with the participation of government officials, parents and youth in order to raise awareness on child labour and to explore ways to eliminate it.
- (c) *Direct services.* Scholarships, support for mutual aid and economic ventures, and technology-based training are provided.

LITECHILD is being implemented in three towns nationwide, namely, Quezon Province (Luzon), Samar (Visayas) and Lanao del Sur (Mindanao). Beginning in 1999 three more towns will be covered by the programme with agricultural and informal sector activities as the main focus. LITECHILD takes further a sectoral focus as each of the towns selected is involved in certain predominant activities. These towns

are in: Bulacan (Luzon; pyrotechnics area); Iloilo (Visayas; fish port area); and Cagayan de Oro (Mindanao; port area).

FFW-LITECHILD was one of the founding organizations of the Trade Union Coalition Against Child Labour which was formed in 1998 to consolidate labour action nationwide and facilitate a unified trade union position internationally. Other members of the coalition are TUCP, the International Textile, Garment and Leather Workers' Federation, the Philippine Public School Teachers' Association, the Brotherhood of Trade Unionists/Norm Program, and the Informal Sector Coalition Project.

2.2.3. Programme approach: *Direct promotion of group and individual businesses*

As pointed out earlier, much of the work of trade unions focuses on enhancing the productivity of the informal sector since many of its members are understood to live on a subsistence basis. Others look at productivity enhancement as an entry point to protection issues, as they may not be able to gain a foothold in a sector that is invariably preoccupied with survival needs if they overlook the basic overriding concern.

Some of the examples cited above, however, show how other welfare issues such as social protection and child labour are being addressed possibly in tandem with productivity initiatives. In their efforts to improve productivity in the sector, however, some trade unions realize that once their informal sector members become more progressive and begin hiring employees, there will develop a divergence of interest between owners and workers – a situation which may prove divisive for the trade union. They hope, however, that given their leverage as resource catalyst and service provider, they can influence workers-turned-employers to be good employers and to promote favourable worker policies. Furthermore, if the latter were to choose to set up a group business and adopt a cooperative structure of organization, their workers would then, like themselves, become part-owners of the enterprise, blurring the distinction between employer and employee.

In the next section, the more innovative approaches taken by worker organizations to enhance productivity among informal sector operators will be examined.

Collective enterprises. One such approach is the promotion of collective enterprises which may

be organized as cooperatives or corporations, possibly with preference for the former for reasons that will be explained later. For example, FFW is now assisting a group of 20 workers who have been retrenched from a pastry company to set up their own cooperative cake shop. The National Federation of Labor is also assisting rubber plantation workers who have been awarded individual land titles as a result of the government's agrarian reform programme and are now managing their land individually as well as the rubber factory collectively. NUHWRAIN Development Cooperative (NUWDECO), which is a development cooperative under the National Union of Workers in Hotel, Restaurants and allied Industries (NUHWRAIN), has set up a cooperative restaurant (now closed) and catering service managed by the former employees of a restaurant which had closed down. Another labour organization is assisting a group of garment workers who, as a result of a dispute followed by negotiations with their employer, have been given ownership of the factory and have organized it as a cooperative enterprise, funded from their separation pay.

One of the success stories using this approach is the Progressive Skills Multipurpose Cooperative (Proskills) which was established independently by a group of workers retired from a leading beverage company. Starting in 1993 with 19 workers and 900,000 pesos in capital pooled out of the members' retirement pay, Proskills convinced the company to grant them the distribution and warehousing contracts and to assist them through the developmental stage. Today, Proskills has a membership of 200, a workforce of 500, an asset size of 30 million pesos. It now services all the logistical and warehousing requirements of their former employer nationwide and acts as warehousing consultant to other companies. It boasts of relatively high salaries for its workers, including benefits such as health insurance, educational assistance and pension funds, including workers' participation as associate members and part-owners. Thus, workers also enjoy a share of the cooperative's profits. Its marketing manager, a former warehouse supervisor, talks about the benefits that he has received. He is now able to send his children to college, afford the convenience of a car, travel to his provincial hometown without incurring debts – all of which would not have been possible if he had remained a wage earner.

The foregoing supports the argument developed by Danny Ang of NUWDECO when he

speaks of the workers' cooperative as a way of escaping the "wage trap", a common situation where a worker is paid only for the days in which he has worked, earns no income during holidays or typhoons, and is unable to find substitute work for the short duration of the work suspension.

The option of the workers' cooperative is gaining interest among trade unions, but not without some misgivings.⁴ This approach can well gain wide acceptance among trade unions and potential beneficiaries. For trade unions steeped in the socialist tradition, collective enterprises may represent a strategic step towards the vision of worker-owned and worker-managed economy. For the less ideologically inclined, collective enterprises provide definite economic and social benefits as they achieve scale economies and added value otherwise unattainable by small individual enterprises. For still other trade unions who may think twice about business development as falling within their mandate, they find their place from the point of view of collective action – one which promotes the realization of their broader objective of securing employment, better incomes and enhanced living conditions among workers. According to Antonio Asper, trade unions can actually find their niche in worker cooperatives and collective action.

Among the potential beneficiaries, this option is an attractive one since the risks associated with setting up and running enterprises are diffused in a collective effort, which is an important consideration, especially for people who prefer and are accustomed to the relatively riskless hierarchical environments of the wage sector. In a group setting, owners and staff are also able to exploit skills complementarities, thereby boosting their confidence in running an enterprise.

The cooperative structure may also be favoured as it allows for greater equity in decision-making and in profit-sharing. No one individual can have a share exceeding 20 per cent of the entire capital, and every member has one vote regardless of his or her shares.

Such an approach can also capitalize on today's industrial trend to "rightsize" or cut costs associated with non-core functions of a company, such as trucking, warehousing, medical services. It thrives on the companies' corporate strategies to rely on external service providers for functions outside their core competencies (Yu, 1997; OECD, 1995).

Still, the process of developing such collective enterprises is fraught with challenges: uni-

fyng so many different motivations in a large group is daunting, and workers need to gain new competencies in running a business (to the point of hiring professionals which by itself can also create conflicts). However, the promise of improving people's lives through collective initiative, supported by successful experiments and concrete opportunities, propels trade unions towards replicating this model.

Support for individual businesses. Assistance given by trade unions to individual businesses has taken various forms, including training and consultancy, organizing cooperatives for joint business support services, and the provision of loans. The National Federation of Labor (NFL) is assisting beneficiaries of the agrarian reform in managing their own farms. One set of beneficiaries went into a banana-growing contract with their former employer after the land titles covering the plantation were awarded to the workers.

In another such instance, the former employer pays rent to the new owners, the former plantation workers, in order to continue using the land. The NFL is looking for ways in which the rent received by the beneficiaries could be used to help them earn additional incomes. Those beneficiaries who continued to work as plantation workers would also have to be prepared to support themselves by means of new economic activities after the lease of the company expires in ten years' time. Bong Malonzo of the NFL warns that the agrarian reform programme is only halfway through and the most productive and fertile lands are still to be distributed. This highlights the need for the continuation of post-employment assistance to farmers through the Department of Agrarian Reform. Currently, the NFL provides training and consultancy in various aspects of farm management and cooperative development.

The FFW, through its Farm Crop Program, also assists farmers in forming cooperatives, mobilization of savings and mutual aid, identification of land reform beneficiaries, training of beneficiaries in sustainable agriculture and relevant farming technologies, and provides social credit. It currently supports farmers' federations in Batangas, Nueva Vizcaya, Zambales (Luzon) Capiz, Antique (Visayas) and farmers' cooperatives in Nueva Ecija, Bicol (Luzon), Iloilo (Visayas), and Lanao del Norte (Mindanao). It also supports self-employed women through the FFW Women's Network (FWN). Since 1997, the FWN has been organizing and supporting women's cooperatives, providing

them with training in cooperativism and entrepreneurship, and extending loans to them when required. So far, FWN is supporting ten cooperatives and women's associations in various parts of the country, including Batangas, Zambales (in Luzon) Roxas, Iloilo (in Visayas), Davao, Iligan, Surigao (in Mindanao).

2.3. Learning from the trade union experience

Trade unions in the Philippines fully understand that the labour market can no longer accommodate a sizeable number of permanent workers. Rather, it is becoming segmented and atomized. Therefore, rather than simply attempting to preserve present forms of work and staying the hands of the market, labour organizations need to offer creative responses if they are to remain effective defenders of workers' interests.

Launching out afresh, they realize that with new forms of work, they would have to expand their definition of labour, which in turn demands more intense levels of involvement and commitment on the part of our labour organizations. While traditionally trade unions had to be steeped in the three basic levels of engagement: dealing with the employer (through collective bargaining agreements); dealing with government in terms of participation (through governance); and dealing with themselves (via mutual aid systems), today they have no choice but to expand the arenas for struggle.⁵

One angle for such expansion is establishing and maintaining their foothold among informal sector workers, a new terrain for most; another is their ability to help workers secure remunerative incomes through the latter's own productive efforts; and still another is their ability to help ensure adequate protection for workers, now self-employed, through innovative strategies. The field is now open for experiments, but one can learn from the challenges and successes that have so far been recorded.

2.3.1. *The challenges faced by trade unions*

The challenges trade unions have been facing involved the transition to a new set of clientele, mainly operators in the informal sector, and the associated adjustments and competencies that they need to develop. They may be identified as follows:

Clarity in direction. Among the major challenges faced by trade unions in their move to expand

institutionally to accommodate workers in the informal sector is the resistance among the more conservative leaders whose reservations spring from a number of factors. One of these is the difficulty of obtaining membership dues from the workers in the informal sector, thereby undermining the economic base of the union or federation. Another is the competition for resources among different union concerns, namely, mounting legal battles to defend threatened workers versus developmental programmes for the informal sector. Another factor is simply attitudinal: some traditional trade union leaders seem inclined to maintain their turf or at least leadership of the hierarchy even with the entry of informal sector members. This type of challenge can be met by thorough discussion and deliberations. Some leaders say that, with the passing of time, one really has no choice but to accept other types of workers because the reality is that their own membership will be shifting to these non-formal work options.

Distinctions between formal and informal. The distinctions that have now emerged between formal and informal labour have caused resistance not only within trade union structures. They have also created division among workers and advocates who should otherwise join forces to achieve common employment goals. There are several reasons for the distinctions and the lack of a common identity. One is the ideological differences among different groups or resistance on the part of neutral groupings, including community associations. Another is the lack of inclination among workers in the informal sector, for instance women in subsistence activities, to engage in mobilization and political action based no doubt on a common perception that trade unions advocate wage issues which are irrelevant to non-wage workers. Furthermore, the programmes and policies of the Philippine Government and of non-governmental organizations have unwittingly accentuated the distinctions between the two sectors, thereby causing unwillingness among some informal sector representatives to participate in labour activities and encouraging them to establish and guard their separate identity.

The APL is trying to dissolve such distinctions through the propagation of the "working people" concept, and by encouraging trade union federations to apply the same set of membership principles to both formal and informal sectors.

Inability to pay dues. The inability of the informal sector so far to pay dues is a valid concern.

Labour unions which have opened their membership to informal sector operators admit that only about 10 per cent pay regular dues. Perhaps what must be addressed is not the coercive mechanism of dues' payment but the increased effectiveness of the union's services so as to enhance the members' capacity to pay and to elicit the members' desire to secure union membership. For informal sector operators the trade unions' effectiveness relies on its ability to provide business support services, which incidentally can be a fund generator for a union. The NFL, for example, earns from providing business support services to its cooperative members such as bulk buying of raw materials.

Interestingly, those who are spearheading this type of work within NFL are forming a non-profit organization. This brings to the fore the union's option of forming a separate organization supported by grants for developmental purposes instead of expecting membership dues to pay for services rendered. This is an important consideration especially during the developmental stages of an informal sector association wherein members are still trying to boost incomes through joint action and have not yet achieved this first and basic objective. This option is an alternative to integrating the informal sector immediately as regular members of the unions with the same dues-paying responsibilities.

In the case of the craft unions, it is expected that members would pay dues in exchange for regular upgrading of skills and negotiations by the union on their behalf; or that those with unstable incomes, such as construction workers, would be expected to pay dues only when they are assigned to projects. The partner organizations of IFBWW require dues and insurance premium only when their construction-worker members are employed, and are increasingly finding ways to seek counterpart from employers.

Lack of technical capacity. Since the aim of much of the trade unions' activities is to increase the productive capacities of informal sector operators, they often cite their lack of technical capacity in the areas of business development. While their strengths lie in cooperative formation and organizational management, they admit the need to be more entrepreneurial. One of their most cited areas which needs to be developed is the ability to market their goods.

For instance, Bong Malonzo from the National Federation of Labor speaks of the need among workers to be good tradesmen, to

sell their competence well, to be good players in the labour market. He stresses that this market orientation is an imperative that has been lost among workers and unions. It is this very market orientation which displaced workers have to revisit and re-nurture in their effort to enhance their productivity and their markets. Prof. Jorge Sibal cites the excellent products of some trade union members, including the food catered by the NUWDECO. But he points out that while the workers are good in production, NUWDECO should scale up its marketing efforts since few people are aware of their products.

Attitude of the informal sector. Trade unions encounter a different set of attitudes in the informal sector as compared with formal wage workers. They find that they initially overestimate the capacity of workers to take charge of their working lives. For instance, those who suddenly find themselves out of work undergo a transition whereby their previous behaviour on the job is no longer relevant to their new environment. Malonzo cited the tendency among some farm workers who were awarded small landholdings, but who continue to expect entitlements without concomitant work and investment.

At the very least, the informal sector is governed by a different culture, similar to the distinctions between wage work and entrepreneurship. Some unions realize that the organizational processes involved are lengthier, that efforts have to be made to elicit and retain interest in the group processes. Work behaviour is also different since wage workers operate within a structure with a definite system of rewards and sanctions while the self-employed have to be motivated and driven from within. This has implications for the types of orientation and training to be developed and delivered by trade unions in order to motivate informal sector operators to be more productive, especially those who come from the ranks of the employed.

2.3.2. *The strengths of trade unions*

Trade unions, however, bring with them definite advantages and strengths which have underpinned their work with the informal sector. Such advantages largely derive from their experiences and skills as organizations, and they are transferred to their organizing work in the informal sector. They may be perceived as follows:

Organizational discipline. Their talent for organizational management is undisputed, including resource mobilization and fund management, all of which they bring with them as they promote craft unions and associations among informal sector workers. Some are steeped in the techniques of cooperative development and have been able to transfer their knowledge to cooperatives of informal sector operators and workers. Again, what may be further needed is entrepreneurial competence. Furthermore, the democratic structures of unions lend themselves well to organizing in the informal sector where the workers' capacity for self-management as an association must be further developed.

Established links with displaced workers. Trade unions furthermore have established links and relationships with informal sector wage workers who have come from the ranks of wage workers. Furthermore, these displaced workers are already organized which makes it easier for trade unions to maintain relations with them and to maintain their networks.

Established links with government and private sector. One definite advantage of trade unions is their strong links with government agencies and the business community, a characteristic which facilitates advocacy work in the informal sector. The president of FFW, for instance, is a commissioner of the SSS and Oliveros himself (National Vice-President of the FFW) represents labour in Pag-IBIG, another government-run insurance system. It is this linkage which also facilitated the work of TUCP under the ISP in securing agreements from government financial institutions to remove collateral requirements from micro-loans, and from the SSS for accrediting collecting agents within their coalition. It is also such a link which has facilitated the advocacy and eventual issuance of Department Orders 5, 9 and 10, which set in place the mechanisms for worker protection, including that in the informal sector.

Several members of the private sector have offered to help FFW in their efforts to assist the informal sector. IFBWW's collaboration with the Philippine Construction Association has won itself various agreements in favour of construction workers.

Established names. Cedric Bagtas, TUCP's Deputy General Secretary, thinks the established names of the unions help them in forging links with the informal sector. However, it can also work the other way, which is to turn

away some people. In the latter case, trade unions should allow other organizations to spearhead some activities even as the former provide support from behind the scenes.

3. The role of trade unions in the evolving world of work: Challenges and opportunities

3.1. The role of trade unions in today's world of work: A summary

One can see from the work of trade unions over the past few years that there have been serious efforts in the Philippines to extend trade union activities to the informal sector. More fundamentally, labour organizations are engaged in a process of rethinking, intensified if not triggered by the current wave of downsizing and casualization of the industrial work force. Such rethinking involves a reconceptualization and redefinition of labour to include evolving systems of work both in the traditional and non-traditional settings.

Operationally, trade unions are at various stages of expanding and servicing the informal sector. Some, such as FFW, TUCP, NFL and APL, actually began work several years ago and are now integrating the informal sector into the structures of their trade unions and federations. Others may have undertaken a programme approach, involving the setting up of new departments and institutions that are separate from the union itself and specially designed to undertake activities for the informal sector. At the very least, the current wave of downsizing forces everyone, including the reluctant, to reconsider their relevance to members who are forced to take on other types of work.

Trade unions find their role at two levels of informal sector workers – the owners and the workers. While much of their effort is focused on productivity and welfare concerns of the owners through productivity enhancement and social protection schemes, they are evolving ways to protect workers from substandard working conditions through the promotion of craft unions and worker associations and through advocacy for legal mechanisms to ensure their recognition and protection. For those whose members have begun employing workers, the work of the union entails simultaneous support at both levels, among owners and workers. The NFL has encountered this situation and has responded by convincing the new employers to allow their workers to

unionize. The potential conflict due to the simultaneous espousing of both owners' and workers' interests is not yet clear.

Most trade unions find that they have to gain competencies in new areas – areas which had previously been addressed by institutional employers and where workers have to take greater responsibility to provide support, along with government, trade unions and private agencies. The areas in question are productivity enhancement, social protection, occupational safety and self-organization. It must be noted that there exists a dilemma among some worker organizations as to whether they should leave the productivity aspects to other technical agencies steeped in such services and concentrate instead on protection issues and advocacy initiatives. In some instances the matter remains unresolved, but in others the solution is obvious. Those in the latter category believe that they should evolve responsive strategies to improve productivity and incomes and that, without these strategies and competencies, they risk losing union members to other organizations who can better service their members' economic sustenance.

3.2. The capacity building needs of trade unions

Once they recognize their need for capacity building, labour federations identify the types of skills and competencies that they need in order to service the informal sector more effectively.

Policies and services for workers in the informal sector. First and foremost, labour federations cite the need to be more acquainted with appropriate services for workers in marginalized sectors and for the self-employed. Because their services have primarily been concerned with labour relations, dispute settlement and collective bargaining on behalf of wage workers, trade unions cite the need for a better understanding of the issues and approaches relevant to small-scale producers, craftsmen and self-employed workers. For instance, they would need to understand the strategic options for intervening in the areas of improving productivity and worker protection in the informal sector.

They also need a clearer understanding of macroeconomic policies and their impact on micro-level realities of the informal sector as well as their consistency with laws and regulations. Such policies relate to sectoral interests as

well as common interests of “working people” as a whole. They need to be understood if trade unions and informal sector associations are to advocate for policies favourable to their economic activities more effectively. Currently, the World Confederation of Labor provides training on community-based trade unionism which covers, among others, services to workers in marginalized sectors.

Technical competence in business and cooperative development. Secondly, trade unions cite the need to learn the technical aspects of enterprise development, including business opportunity identification, management of enterprises, financial schemes or social credit. Some stress the more pressing need for technical assistance in cooperative formation and development, possibly with the assistance of an ILO expert in strengthening cooperatives among beneficiaries of land reform. One input that trade unions can benefit from is technical guidance in the monitoring and benchmarking of a cooperative's performance.

Organizing schemes for informal sector workers. Thirdly, given that the thinking among trade unions is converging around the idea of craft unions, it may be useful to learn from the experiences of other countries in this area. Positive examples of trade union centres and federations which have successfully combined informal and formal sector workers within their constituency would provide inspiration and guidance to worker organizations. Bong Malonzo cites the labour movement in Israel which, fired by the vision of creating their own state and society, had successfully brought together political parties, cooperatives, unions and worker-managed enterprises.

Popularizing debates on the economy, evolving work systems and a common basis for cooperation. Finally, there is a need for more participation in the debates on the economy especially in terms of its impact on households and work systems, and for clarifying issues which concern informal sector workers. This need for clarification goes hand in hand with the need to popularize economic issues so that workers may understand how the latter impinge on their working lives. Marlon Quesada (See Annex 1) points out, however, that much of this discussion takes place in academic circles and NGOs when it should be discussed at the grass-roots level as well. Furthermore, given the evolving character of trade union involvement in the informal sector, forums on

organizing working people and policies important to them can facilitate solidarity as well as the creation of a common basis for cooperation.

4. The future directions of the trade union movement vis-à-vis the informal sector

The growing reality of informal work systems is currently forcing trade unions to cross traditional boundaries of trade union engagement and move towards acquiring a better understanding of work itself, the definition of workers and the role of the labour movement. Some groups articulate this passage as that of reaching out to basic sectors of society – a thrust which in fact harks back to the origins of the labour movement – or to “working people” in general. Others may have a more limited perception of their emerging constituencies – informal sector workers or retrenched workers – but nevertheless one belying the fundamental reorientation that is in progress. Whatever the stance taken, the forecast for the future is a more all-embracing labour movement in the Philippines. As it happens, we are now at this crucial juncture where the means for such expansion is being framed and tested.

It was pointed out earlier that industrial development in the Philippines since the 1960s has been characterized by macroeconomic and institutional policies which tended to favour large industrial firms and capital-intensive growth to the detriment of jobseekers and small enterprises. While liberalization efforts have stepped up in the early 1990s, thereby opening up markets for smaller enterprises, much remains to be improved in terms of the character of most policies and institutions in terms of making them favourable to the requirements of smaller enterprises. Currently, various support schemes have cropped up in communities, such as those providing finance, training and mutual aid, which are in fact responses to a lack of institutional support. These schemes, incidentally, are now providing lessons on how institutions such as banks, technology centres and social security systems, may better design their services to reach this market.

Trade unions can play an important role in bridging the informal sector and policy bodies and institutions and at the same time developing the sector’s capacity to understand pertinent issues and to negotiate with the proper authorities. We have seen how some trade unions have facilitated policy and institutional changes by working closely with informal sec-

tor associations. However, most recognize their need to appreciate the actual needs of informal sector operators and workers and thus the policy and institutional framework within which they operate.

The following summarizes the expressed needs or areas which the ILO may consider for development, as culled from the discussion in this paper. Also indicated are the organizations currently doing some work in the identified action area, or that have expressed serious intent in initiating some action.

- Propagation, through seminars on trade unionism, of the concept of “working people” or a new concept of the “worker” that encompasses all types of employment. [FFW, APL]

The proposed seminars include discussions on:

- (a) the relevant concerns of informal sector operators and workers, namely, productivity, health and safety, social protection and child labour;
 - (b) strategic options for including informal sector workers in trade union structures, for organizing different types of workers and servicing their productive and protection needs, and for generating resources for the said purpose;
 - (c) the strategic role to be played by trade unions, government agencies, informal sector associations, non-governmental organizations and networks thereof; and
 - (d) planning and evaluation guides for trade unions as they set out to extend their reach to the informal sector.
- Model subcontracting in collaboration with participating employers and clusters of informal sector producers, based on the provisions of Department Orders 5 and 10, which mandate certain minimum standards in contractual employment. Such pilot projects may illustrate how specific subcontracting arrangements can produce positive financial and welfare results for both parties. They should also provide lessons on the validity and viability of mandated guidelines. [TUCP, APL]
 - The formation of craft unions in pilot sectors where standards of employment and social protection may be ensured through skills certification, rate determination and dialogue with employers. One of the services which craft unions may provide is

placement of workers, including training and possibly payroll management of deployed workers, for which the craft unions will be paid by the hiring company. This service may be organized as a cooperative enterprise from which workers, including those deployed, may earn a dividend. [IFBWW, LMLC, FFW, NFL]

- Pilot testing of a scheme by which the collection of the social security premiums from informal sector operators can be assigned to accredited trade union affiliates in locations where collection offices are absent and, through this process, test criteria for accreditation and control systems. Incidentally, there is only one collection mechanism for both SSS and NHIP coverage, which greatly facilitates workers' access to any of the selected options. [TUCP]
- Provide training and consultancy to trade unions in cooperative development and management, tapping the ILO's vast resources in this area and applying them in the context of collective entrepreneurship and business management. This should help test and replicate the option of forming collective enterprises, one which may be more appropriate and viable for erstwhile wage workers. [FFW, NFL, APL]
- Capacity building of trade unions to enable them to provide technical support to agrarian reform beneficiaries – plantation workers turned small landowners – in managing their farms, implementing joint action where certain efficiencies may be achieved and/or in collectively owning and managing plantations where such opportunities are provided. [NFL]
- Capacity building of trade unions to enable them to help their members create and maintain individual businesses. Although some workers' organizations remain ambivalent about their role in supporting the productive aspects of businesses (in effect, helping the employers), there is also great anxiety and helplessness among trade unions with respect to finding new income sources for displaced members and identifying external organizations that can properly provide such assistance. [FFW, TUPAS, Workers' Fund]
- Initiating policy discussions and popularizing debates relating to informal sector oper-

ators and workers, or more specifically, issues and regulations affecting the self-employed, homeworkers, contractual employees, workers in informal or micro-enterprises, and child labour.

- As is implicit in all the areas indicated above, the key areas for action are capacity building and alliance forging between trade unions and informal sector associations wherein trade unions play a supportive, in contrast to a paternalistic, role to informal sector associations as the latter's capacity for self-organizing and management is strengthened.

4.1. The risk of overcrowding the agenda

A starting point in this endeavour is to form a core group of trade union representatives to chart the directions and priorities of trade union action. It should include the major workers' organizations consulted for this study, pertinent government agencies⁶, and other workers' groups which may be recommended for inclusion. There is a danger, however, in involving too wide a representation in the initial stages of programme formulation as this approach may result in diffusing the action agenda to the point of overaccommodation and losing focus. The selection of informal sector associations may be left to the trade union centres but definite guidelines should be agreed upon initially.

Now is perhaps the best time as any to support trade union initiatives in expanding to reach the informal sector. The urgency of the moment coupled with the accumulated experience in the field of servicing this sector provide a rich and dynamic ground for new institutional systems to emerge out of the interfaces among informal sector associations, trade unions, government agencies and non-governmental organizations. This synergy also provides the momentum for continuous action learning, all geared towards evolving a policy and an institutional environment favourable to the progress and welfare of workers in the informal sector.

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Notes

¹ This section is largely culled from Ofreneo 1996.

² In Philippine labour jurisprudence, the following criteria determine the existence of employer-employee relations: (a) selection and engagement of the employee; (b) the payment of wages; (c) the power of dismissal; and (d) the control over the employee with respect to the work process. Among these powers, the most important is (d).

³ Among the main services of the Workers' Fund is capacity building of cooperatives through training; provision of social credit to cooperatives; support to the retail activities of workers' associations through bulk buying services; and provision of affordable housing. The bulk of its assistance so far has been given to cooperatives of union members and their families.

⁴ Some of these misgivings, as voiced in a forum, are: (1) the use of ownership transfer as a way of avoiding the company's obligation to its workers; (2) the use of workers' cooperatives as a union-busting tool or to weaken collective bargaining processes; (3) contracting out services to a workers' cooperative to lower wage costs; (4) the source of accountability for safety mechanisms and health standards previously addressed by the company; (5) possible accommodation of labour-only contracting under this scheme; (6) the use of workers' cooperative by management as a way of weeding out "misfits" and luring them into the cooperatives; and (7) whether employees of workers' cooperatives can form unions and enter into collective bargaining agreements.

⁵ Interview with Bong Malonzo, 13 January 1999.

⁶ The Department of Labor and Employment (DOLE) has overall responsibility for policy matters concerning informal sector workers. Relevant bureaux under DOLE cover Rural Workers, Labour Relations, Local Employment, Working Conditions, and Women and Young Workers. Other technical line agencies pertinent to the informal sector are the Departments of Interior and Local Government (DILG), Trade and Industry (DTI), Health (DOH), and Social Welfare and Development (DSWD). Specialized agencies concerned with specific issues are the Social Security System (SSS), Philippine Health Insurance Corporation (PHIC) which is in charge of the National Health Insurance Program, National Statistics Office (NSO), and Cooperative Development Authority (CDA). The National Economic Development Authority (NEDA) is in charge of socio-economic planning and has a key role in fostering the integration of the informal sector in the national economy. Local government units often constitute the first line of engagement for the informal sector and as such hold the most potential for intervention and support on behalf of the sector.

Annex 1

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Bulgaria

In conditions of declining industries, inefficient social dialogue and falling membership, trade unions need to mobilize potential local actors, social partners and interest groups and draw support from central policies which could provide the necessary dynamics for change at the local level.

Grigor Gradev

Director

Institute for Social and Trade Union Research

The Bulgarian path to a market economy and a democratic society in the 1990s has been marked by recurring periods of crisis and stabilization. The overall effects of these developments have been delays in the necessary reforms, increased social costs entailed in the transition process, and development of a nurturing environment for different types of activities in the shadow economy.

The year 1998 provides a very clear illustration of the complexities involved: one year after the introduction of the currency board (July 1997) successes have been unquestionably evident – financial stability, currency rate stability, extremely low inflation (inviting fears of deflation), budget surplus, etc. All the same, during the latter half of the year there was a serious decline in major branches of industry – metallurgy, chemicals, food, transport, etc., and mounting financial pressures in construction. In other words, owing to the current conditions, the achievements at the macro level failed to translate into positive dynamics and development.

Surprisingly enough, national statistics recorded an overall growth in the economy accompanied by an increase in real income of the population and stamped by higher figures for consumer spending, including in durable goods. A first reaction is to look at the wage policies and trade union behaviour in the enterprises or the real value of the statistical data. Some experts, however, have suggested that the growth figures, badly needed by the Government, may be more realistically explained by the cumulative effect of the different forms of the shadow economy.

Similar phenomena are not new to research and policy-making in both the developed and especially the developing countries. As a result, a quite clear distinction has been drawn between the formal economy and different types of activities outside the formal economy have been developed. As a result the “informal sector” can be rigorously defined in terms of statistical data¹ and differentiated from other types of activities outside the officially prescribed rules. For the purposes of policy development, however, the notion may be redefined more as a survival reaction to inconsistent official policies squeezing the individual to the periphery or beyond the territory of the society. Such an approach cracks the narrow framework of the legal/illegal dichotomy and shifts the basis for legitimization of informal activities to the realm of social consent and consensus policies directly related to the fundamental social rights of people.

This line of thinking has been convincingly demonstrated by the report of the Director-General of the ILO on the dilemma of the informal sector and expressed in concrete form, leading to win-win solutions on the spot.² At the same time it is interesting to cast a glance at the possible implications for the social and political context of individual and public behaviour. As I. Pardo suggests, the redefining of certain boundaries of legitimacy acceptable at the local level may turn useful in providing “cover-up” and justification for political corruption and undemocratic “solutions” for big players in higher circles of political power.³

The complexity of the problem of the informal sector in Bulgaria arises not so much from

certain unique features but from difficulties of interpretation: it is usually positioned within the general framework of activities variously labelled – black, grey, hidden, shadow economy, etc. The terms tend to be used interchangeably but most often retain the stigma of intentional illegality and social deception. This wholesale approach has been subject to the process of initial differentiation for the last two years. A pilot project on the different sectors of non-formal economic activities was launched by EUROSTAT and the Bulgarian National Statistical Institute in 1998 but the first results will only appear in the year 2000. It is expected that the results of the project will throw some light on the content of the different forms and draw certain boundaries between the informal sector and the rest.

As has been hinted above, the presence and output in the informal and other shadow sectors are sometimes tacitly taken into account in the process of formulating and implementing reforms as survival strategies of workers and enterprises. At the same time, these sectors are used to explain difficulties in social security systems, to argue in favour of tightening tax policies and discipline, or are blamed for erosion of competition, etc. Although for other sectors most of these effects are everyday truths, for the informal sector it quite often represents the “dilemma” in reverse: on the one hand, there are no public ideas or attempts to facilitate the operation of the informal sector, and on the other, it often comes under the fire of general condemnation of “shadow” types of operations, while actually contributing to the preservation of the social peace. The irony is that in some instances the thread of such logic goes as far as the decisions of the international financial institutions and the programmes they negotiate with a country. For trade unions, all these issues present challenges in both major areas – “hidden” and “informal”. They have been further complicated by the need to accelerate reforms and the persisting uncertainty of the structure and future of industry, agriculture, services, accompanied by a severe decline of living standards and continuing loss of members.

It should not be forgotten that the period of transition is a time of simultaneous changes in the power structures, legal frameworks, property basis, policy strategies and the actors articulating economic and social interests. These circumstances generate inevitable internal contradictions and “white spots” in all these areas and between them, which are immedi-

ately seized by existing or emerging networks of actors or individuals. In this sense the research is faced with a row of interrelated situations, a continuum of combinations of characteristics. It starts at one end with what might be termed “pure” informal activities and at the other is composed of activities which assume outright anti-social, sometimes criminal characteristics in the non-formal and the formal sector (both private and state).

This paper will focus on the functioning of the latter section of the continuum where the major features of the informal sector are dominant factors as far as it is possible to lift them out of the general understanding of the hidden economy. This is not to isolate it from the environment but explicitly to define its own nature and the interdependence between these defensive reactions for survival and the more general processes involved in the official policy of transformation. The second focus is on trade union approaches and policies with regard to these highly controversial questions compounded by their need to support the reforms, promote trade unionism and build up organizational power and their social status.

The paper is structured around several major topics. First, attention will be devoted to the dynamics which set in motion informal activities within the particular conditions of the Bulgarian transition economy. The second part will describe the most common and obvious forms of informal sector activities, along with the views of the corresponding branch or industry unions. Thirdly, the effects in the areas of trade union interests will be discussed – employment, industrial relations and social policy, and finally the positions and policy suggestions of trade unions concerning the informal sector.

This study is based on research – actually quite scarce – conducted using data from national and trade union institute statistics, interviews with trade union leaders and experts, representatives from the employer organizations, the Supervisory Board of the National Social Security Institute, Small and medium-sized enterprises (SMEs), the informally self-employed and official statements in the media.

1. Driving forces and size

The existence of unregistered and non-taxed economic activities has been an organic element of the command economy as well as an organic part of everyday life structures of “socialist society”. They quite effectively filled in the

numerous empty niches of the “deficit economy” of socialism – especially in the service sector and other small-scale undertakings to meet necessities of the households or individuals. Within this process, there gradually appeared specialized social structures to facilitate such exchanges – networks of people linked by kinship, friendship, craft interests, professional closeness or interdependence. Networking in this sense is aimed at enhancing mutual support to cope with existing problems or grasping new chances offered.⁴ As E. Sik convincingly illustrates, the effect leads to the formation of specific “network capital” – the ability of one unit of the chain (person, group, organization) to operate maximum resources by linking up to numerous other network structures. This potential is used as a counteracting strategy for overcoming the limitations imposed by the planned and the underdeveloped market – “a substitute for the market and the State, and it superimposes the market and the State”.⁵ In the conditions of the closed “socialist” society, the main actors and beneficiaries in the shadow sector have been engaged in small trading, hard currency exchange, household and car maintenance, home economy, etc. Along with them, networking (of directors) has proved to be an effective way for enterprises to cope with bottlenecks or failures in the planned exchanges in order to fulfil prefixed targets and report successes.

Over the years, this way of life has significantly reshuffled the moral base for “normalcy” by way of socially legitimizing informal transactions at practically all levels. Access to such transactions became a specific sign of distinction and measure of success for the person. In this sense, Sik also underlines the importance of such practice which has led to balkanization of Eastern European societies through networking, expressed in the meteoric rise of the informal economy and the visible trend towards a dual economy⁶ in the 1990s.

Within the Bulgarian context the debates are not about the validity of such conclusions but about the extent to which they are already real practice and the dynamics of their development. The key question that implicitly lies in the debates and occasionally floats to the surface concerns the scale of expansion achieved and its proximity to the point of no return, where the impact of non-formal factors on official economic processes renders them ungovernable by formal powers. Nowhere else has this been more vividly exposed than in an extreme but explicit statement of the Prime

Minister during his first days in office in June 1997, admitting that 60 per cent of the State is in the hands of hidden power structures: “We, the executive and judicial powers, have to impose a respect for the State and that the Bulgarian pays the State, not the criminals”.⁷

One year later, the Government could report that as a result of the success of the Currency Board they have won back the State. This clearly held true, at least about the open and visible forms of coercion – economic or physical. Still, the big problem remained – corruption and economic mafia structures that have formed the new main targets of government policies since the autumn of 1998.

As chance would have it in the course of research, during an interview with the owner/manager of a small trading company, he had to talk to the local tax inspector. The company had virtually no accounting or records and had to pay heavy fines as this requirement had been made clear during the previous meeting at the tax office in the municipality. The owner immediately consulted other business friends who advised that 10 per cent of the sum of the fines should bail him out. He then had to arrange another meeting by telephone on the following day. The response from the tax inspector was adamant: “Come at lunch time and there will be plenty of time to discuss your problem since you are *my only client* tomorrow.” The owner found himself close to disaster when it turned out the next day that 10 per cent was not enough.

There is nothing unique about the case just cited. It simply demonstrates the interplay of some key factors which underlie informal activities: first, the relativity of the necessity to pay taxes (independent of the particular amount). The lack of simple and efficient channels for solving problems, for avoiding complicated administrative procedures, contradictory norms and regulations which change several times a year (sometimes with reverse power for previous periods) can demotivate any good intention. On the other hand, the lack of resources to ensure the smooth operation of the formal channels merely invites unaccounted business transactions and unregistered labour.

Taxation policy

Bulgaria is no exception to the general argument that the existence and growth of the informal sector is a defensive reaction to overburdening economic agents with tax payments. The second most important factor is uncer-

tainty – of the laws, rules, procedures, etc., sometimes implemented with backward force or with contradictory requirements from different institutions. Constant changes in the framework, aimed exclusively at coping with the budget deficit, give rise to a feeling of “unfair play” on the part of the public authorities, the individual always losing in the end. Naturally, this approach shifts the ground for legitimization of activities away from officially prescribed principles towards the level of individual necessities and raises the question of the definition of “good” and “bad”. The main result is that small businesses perceive this situation essentially as a “hostile economic environment”. The same line of reasoning leads to progressive consolidation of a “low-trust” society, where personal self-respect and recognized success in business are more and more directly correlated with avoidance of formal obligations and procedures.

The puzzle of a shrinking tax base for collection versus high tax rates (32 per cent of GDP in 1998 is drawn from tax revenues) has been a challenge to all governments in the period of transition. In its current programme the Government envisaged gradual reduction of taxes over several years and in 1999 the corporate profit tax has been lowered to 28 per cent and VAT to 20 per cent – a 6 per cent overall reduction. At the same time, however, the social policy reforms led to an overall increase in social security taxes of 2.3 per cent with further rises anticipated in the second half of 1999 and later. In the end, part of what has been given with one hand has been taken back with the other. Changes in this area are by no means easy since it is not a domain of independent decision-making for the Government and its every move have to be blessed by the International Monetary Fund (IMF) within the current three-year agreement.

Sole traders are in a particularly unfavourable situation since they have to pay as physical persons, in line with the steep scale for personal income tax, which imposes higher rates for the same amount of income than the legal rates for corporate profit tax. In practice, under equal conditions, microfirms have to pay more than corporations.

Apart from the total tax burden, another major mechanism of exclusion of SMEs is the qualifying threshold for VAT registration and using tax credits, which requires a turnover of 75 million Bulgarian Levs (US\$ 42,600) for the previous 12 months. In the current conditions it is quite difficult to achieve this level, even in

trading. As information from interviews with companies and experts suggests, the situation forces bigger companies to avoid dealing with small ones. Unregistered small companies find themselves in a position of quasi end-users, since they have to buy and sell with VAT always included. At the same time they cannot issue transaction documents for the other side of the deal to restore the money paid for VAT even in cases when the other companies are registered. In theory SMEs do not incur direct money losses but in reality they lose customers, competitive positions and face narrower profit margins, with usually higher needs for operation capital. The situation is virtually dooming many newcomers to non-growth prospects and possible death. It is indicative that in the region of Russe, on the river Danube, half of the companies have de-registered for VAT in the course of the 14 months following January 1998.⁸ The escape option is engaging in unregistered transactions.

One such case is a printing shop of seven workers with long working days, reaching up to 10-12 hours and often Saturdays or Sundays, which in 1998 could normally make about 40-45 million Bulgarian Levs. Not surprisingly, however, the company is registered for VAT. The key is networking with other, similar companies through empty transactions, which enriches the concept of “network capital” (Sik, 1994). Such operations create a specific “virtual business” environment and a somewhat “virtual” network capital which finally leads to registration, secures survival of all members of the network and brings real money profit.

A positive move for easing the grip on SMEs, especially sole-traders, in 1998 has been the introduction of a one-off annual patent tax for a specific range of activities, mainly services (household, maintenance, beauty and pleasure, etc.) and small production facilities, suppliers for the service activities. This measure really provides a breath of air, but along with it again came the condition that for each hired worker after the first one (usually the owner) the patent tax is raised by 25 per cent, which means doubling for four employees. These decisions have been criticized by the major employers’ organizations – Bulgarian Industrial Association (BIA) and the Union for Private Enterprising (the major organization for SMEs). As the Director from BIA put it: “Obviously no one from the rule-makers sat down with pencil in hand to calculate that revenue from personal income tax could be bigger than the 25 per cent patent

tax.” Such regulations inevitably exert pressure for using informal labour or a mixture of formal and informal, paid at the level of the minimum wage as usual.

Employment and living standards decline

Due to the combined effect of different economic trends, mainly with negative outcomes⁹ – loss of traditional markets, financial and banking instability, high and hyperinflation – restructuring and privatization have led to a substantial fall in employment during the period of transition. In 1990 the total number of employed was 4.1 million people which dropped to 3.15 million in June 1998.¹⁰ Unemployment has been fluctuating over the years but around high levels – about 12.2 per cent for 1998.

There is one specific feature in the employment status in Bulgaria – employees on unpaid leave from the enterprises. This situation is a kind of trap, since people are not working but are not unemployed, and also because the labour contract is not terminated. So they receive neither wages nor unemployment benefits. In many cases such situations continue for months on end, during which people find other sources for earning a living, and even after they return to work these sources tend to be maintained – until the next spell of unpaid leave.

The third important factor is that being at work does not guarantee that one can secure enough income to maintain a decent living standard and in the last couple of years the phenomenon of the “working poor” seems to be more and more stabilized. These “bad jobs”

inevitably press people to search for another one to cover up necessities. However, the second job is also a “bad one”, since it is not the main source of income. Thus, “bad jobs” and inefficient work proliferate across all sectors of the economy. The tables below provide a brief illustration of these parameters.

Taken for the whole period of transition the figures are even more striking. According to estimates of the Ministry of Labour and Social Policy, the real decline of the average monthly salary for 1998 is about 56 per cent compared with 1990 and the decline of the minimum wage is 74 per cent for the same period.

These shifts in the sources of income of the population have exerted pressure for restructuring incomes. Over the years there has been a stable downward trend in the share of wage income to about one-third of total income and a substantial share of the home economy to above 20 per cent. The other feature of particular interest is the level of naturalization of incomes, which in 1996 stood at above 40 per cent in the villages and about 14 per cent in the towns.¹¹ With the slump in industry in the second half of 1998 and the beginning of 1999, the practice of paying in kind with products of the enterprise has been resumed in some instances (e.g. electric hand tools). Then the workers have to exert themselves to turn such articles into real money to live.

All the above factors have been described to explain the complexity of the origins of informal and hidden economy activities which suggest that even in a mid-term perspective these sectors will continue to play a decisive, even crucial role in certain cases. In this light it suffices to point out that according to the agree-

Table 1. Some main macroeconomic indicators as of December each year

Indicators	1992	1993	1994	1995	1996	1997	1998
1. Cost of living, 1 person ¹ in BG Levs	1 870	3 096	6 673	8 805	36 714	216 281	222 538
2. Total income, 1 person in BG Levs	1 597	2 385	3 885	5 318	11 966	125 576	
3. Average monthly salary ² in BG Levs	2 047	3 231	4 960	7 597	13 965	125 163	187 437
4. Minimum monthly salary in BG Levs	850	1 414	2 143	2 760	5 500	45 500	53 500
5. Exchange rate to US\$ 1	23.33	27.65	54.25	67.17	175.8	1 676	1 761
6. Unemployed – numbers	576 893	626 141	488 442	423 773	478 770	523 507	465 202

¹ Data from the quarterly surveys of the Institute for Social and Trade Union Research. ² Ministry of Labour and Social Policy data.

Source: National Statistical Institute (NSI).

The decline and the dynamics of change for the last several years are presented below.

Table 2. The dynamics of change in incomes and prices (1992-1997)

Indices at 1992=100	1992	1993	1994	1995	1996	1997
Total income						
– nominal	100.0	148.5	246.6	365.0	557.5	561.1
– real	100.0	95.4	82.7	77.3	53.3	79.1
Average salary						
– nominal	100.0	157.8	242.3	371.1	682.2	6 721.2
– real	100.0	101.4	81.4	78.6	65.3	94.8
Minimum salary						
– nominal	100.0	168.4	241.1	337.0	520.4	4 614.3
– real	100.0	108.2	81.0	71.3	49.8	65.0
Consumer prices						
– NSI index	100.0	155.6	297.5	472.4	1 045.4	7 094.1

Source: National Statistical Institute data (NSI).

ment with the IMF the Government has to pursue to the very end its economic reforms – close or privatize all loss-making enterprises and other state-owned ones by the middle of 1998.

Although trade unions and their experts praise the “safety valve” effect of the informal sector, they are at the same time particularly concerned with the growth of the hidden economy and its impact on the formal one, including the big public or private sector companies. In the last couple of years they have found themselves in the vice of high unemployment and further closures of enterprises, compounded by the need to intensify the restructuring of the economy and at the same time set in place and safeguard more diversified and loosely bound employee interests.

Size of the informal sector

The sustained interest in conducting research in the area of the informal and mainly of the hidden economy has been a relatively recent phenomenon. Estimates at present vary significantly as to where the boundaries have to be drawn. The National Statistical Institute (NSI) itself has two different opinions. The official figures it provides are 18 per cent of GDP for 1997 and 21 per cent for 1998. The increase has been attributed mainly to the expanded area of the surveys rather than to internal growth. Another survey, however, conducted by NSI specialists among 100 experts in both theory and practice, including 23 specialists from different departments of NSI, provided different results. The experts were in full agreement on three main issues:

- first, that expert opinion surveys cannot give exact parameters but for the moment are the most reliable approach to the study of the non-monitored economy;
- second, that the size of the hidden economy was about 27.8 per cent of GDP in 1996; and
- third, that the sector is growing and reached 31.2 per cent in 1997.¹²

The second and more reliable source of information is the survey conducted by the Institute for Market Economy, “Non-Institutionalized Employment and Self-Employment”, carried out in 1996.¹³ The main conclusion about the size states that one-third of all employed people are engaged in either the black (fully concealed) or grey (partly hidden) sector of the economy. At the same time every tenth employed person receives additional remuneration from the employer which both sides conceal.¹⁴

According to other specialists, such as E. Hursev, head of a financial and consultancy company, the hidden economy moves in the area of 30-50 per cent of GDP. Research associates from the Institute for Economics at the Bulgarian Academy of Sciences point to 40 per cent as a more probable figure and G. Minassyan considers it closer to 50 per cent.¹⁵

With all the differences of opinion it seems that a realistic assessment of the size of all economic activities outside the formal sector gravitate around two characteristics – firstly, a share of about 35 per cent of GDP and, secondly, that there is a clear tendency for this sector to grow. In any case it is not a negligible or side phenomenon within the process of transformation

and it is powerful enough to exert backward pressure on the way changes are carried out.

The share of the informal sector within the general formulations of the non-formal economy, mentioned above, is difficult to determine. Again, the expert opinion survey throws some light in that regard. The results suggest that 44 per cent of the non-monitored economy is the outcome of non-declared activities, incomes and tax evasion. A further 25 per cent constitute activities of the informal sector *per se* – household enterprises, freelance professions, etc.

2. Types and forms of informal sector activities

General view

The main form of participation in informal economic activities is through labour, hired or self-employed.¹⁶ The areas where these types of work are most often performed and visible are agriculture, construction, services, transport and trade. There are also forms of operation which are quite specific for the region of the Balkans and Bulgaria, like “suitcase” trading or private lessons on school subjects. In these areas the amount of hidden labour and hidden income as a percentage of the average for the country is also the highest.

One of the new characteristics is the involvement of child labour in the work process in all sectors of the hidden and informal economy. The Ministry of Labour and Social Policy did express its concern that in their opinion 50,000 children under the age of 16 have been working in 1998. Trade union experts added that the number is probably higher and cases where children have been used even for heavy physical work are becoming more common.

The next part will be devoted to some of the most common activities in the informal sector, ways of operation, conditions of work and their effects on the people involved.

Agriculture

This is one of the most controversial areas of development within the reform process. Following the forced and quick liquidation of the previous “socialist” collective farms, the necessary reforms, especially return of the land to the previous owners and creating infrastructural and financial conditions for a new type of agriculture, have been significantly delayed and are still under way at the moment of writing. Thus, working on the land is still characterized by a

considerable lack of clarity and uncertainty, about ownership rights, and domestic arrangements of use and prospects for development. There is still no market for land and a lot of it stays unused.

As a result of the rapid depopulation of the rural areas and a sharp rise in the average age of the people who remain, the major actors on the land now are cooperatives (newly created by restored owners or reformed ones), entrepreneurs who rent land, single farmers and family farms. All of them need hired labour for the whole season or for animal breeding, for some peak periods or for particular operations. Labour is of two types – local and migrant. Internal village networks for rotating assistance is an important source along with some hired hands. The second key supply source is migrant workers.

Labour migration in the period of transformation is not well documented. It is virtually impossible to arrive at any realistic figure as to the number of people involved. Two main groups can be identified: the unemployed from the towns who look for work in the villages, which is a relatively limited phenomenon; and those who migrate over long distances, even migrating more than 200 or 300 km to find work. The second group consists of predominantly ethnic minorities, mostly gypsies, and Turks in smaller numbers. Of course the groups are not strictly defined and over time people can change from one to the other.

Workers are hired mainly through direct bargaining for a particular time period or amount of work and no contracts are drawn up. Unclear ownership and renting (again for fixed periods) also strengthen the temporary character of the arrangements. In this way, both employers and hired workers are deprived of the possibility of a more permanent settlement both in terms of work and domicile, which could offer a chance for a total change in the life patterns of some of these migrating work groups. In the case of the gypsies, they usually move in big families as a whole. Thus, from very early on, children start working and most often are deprived of the possibility to attend school and their future life chances are reduced to similar types of jobs, low pay and poor living standards.

Even when people from the towns or the second generation come back to the village they find it difficult to settle. Families with children, in particular, find it too difficult to adjust to the lack of available medical services, schools, and other services within easy reach.

The problem of housing is usually solved by using farm buildings belonging to former co-

operatives or empty schools, kindergartens or hospitals. In some cases people stay for two to three years, especially when they are engaged in animal breeding. It is also common practice to move each year.

Payment is in cash or kind or a mixture of both. The average amount earned in money fluctuates between 70,000 and 90,000 Bulgarian Levs. In most cases of course workers produce food and they can use some for immediate consumption and to prepare stores for the winter, which considerably relieves the strain on the family budget. In these terms, animal breeding would appear specially profitable providing as it does milk and meat products. Working time is a very relative term in these conditions and depends on the degree of necessity as well as the overall strategy of the group. As a rule, no social security payments are made.

The labour code and other legal norms and requirements are often useless language in these conditions. Trade unions in agriculture suffered the most severe decline in the transition period – from about 1,200,000 members to less than 20,000 members in both federations of the two confederations. This also means that they cover a limited part of the country in terms of these types of agricultural work. In many cases there are temporary members for a couple of months only. In addition, the fragmented and unclear structure and status with regard to the identity of the owner/employer do not facilitate trade union membership.

Construction

The informal market for labour in this sphere is run mainly by officially registered companies. They have to be registered in order to qualify for participation in auctions or other forums to win orders for construction sites. There are also sole operators (“masters”) who are usually qualified in certain trades and provide services for small tasks – mainly internal house restructuring and repairs. They would also offer services for performing specific jobs on company construction sites.

Some companies are said to be used by the élite to whom they provide discreet services which are paid for without leaving any trace or evidence in any form. In these cases no accounting documents are kept and no one knows what services are offered nor how much is paid. Informal labour is very convenient for such purposes. Of course these operations are virtually impossible to prove in public.

Companies and entrepreneurs find projects through auctions and more often through contacts with owners of potential construction sites. They operate at an enormous profit – 200-300 per cent – but the risks they take are also serious. For these reasons they keep their network which functions like a guild through which they can transfer both construction orders and workers. It is also in the interest of the workers, especially the qualified ones, to leave telephone numbers where they could be reached for another period. The average employment period of informal workers stays in the range of 13-14 days a month regardless of weekends and holidays. It is not low since in the normal industry capacities operate 70 per cent of work time.

Different categories of workers are used for different tasks. The basic division is level of skill. Usually there would be a project manager who is close to the boss and monitors the rough work of the unskilled. Finishing operations are done by specialists (employed elsewhere or self-employed) who have acquired a name in the area.

Entrepreneurs prefer to hire workers from the north and south-eastern parts of the country – the Turkish regions – for the basic work. They have the reputation of being very conscientious workers. For excavation, preferences go to the pomak (Bulgarian-speaking Muslims) brigades, termed colloquially “the Japanese excavators”. For more complicated tasks – reading drawings or schemes – skilled Bulgarian workers offer their services but they avoid any dirty or low-paid work. It is curious that in this type of activities gypsies are not to be seen.

Payment is bargained on a daily wage basis or as a fixed amount for work finished. Weekends and holidays are normal working days and these can be as long as 12 hours. It is difficult to know whether contracts are drawn up but the guess is that in certain cases there are probably civil contracts for the need of accounting. This means that if social security contributions are paid for someone they will be at the minimum level. Wages are not considered bad since they are at an average of 20,000 Bulgarian Levs with 10-15 per cent fluctuation. In the words of the Turkish workers, one month’s work in a big city equals six months’ work in their native places.

Entrepreneurs have no interest to secure good working and living conditions for the workers. No one raises the question of health and safety measures. “Only God is keeping an eye on these workers.”

The workers live in special wheelers in primitive conditions and insecurity, since wheelers are in the open spaces. It is better when there is a chance to live in the building under construction. Entrepreneurs use special tactics to intimidate workers, especially the Turks. Sometimes just before payment they prompt the police to check workers' registration addresses, and when they have none, to force them to leave without pay. Thus workers avoid staying too long at the same place.

Cut off from their natural social and family environment, they quite often "give in" to the temptations of the big city, lose the money earned and "disappear". Women from several villages in the north-east raised the idea of rotating to have "on duty" periods with the group of their husbands in Sofia to preserve incomes and secure regular transfers to the families in need.

Freelance self-employed workers operate under much better conditions. They would normally work inside the flats or houses or around them. Their bargaining power is much bigger because they deal directly with the customer. They have professional authority to judge what needs to be done and how, which predetermines their payment. In addition, they can simply press the customer, especially less experienced people, because even in conditions of an expanding market economy such services are not easily available at guaranteed quality. The bigger firms avoid small offers as unprofitable.

Pay is usually determined by the amount of work to be done, measured by square metres or any other appropriate measure. Weekends and holidays do not make any difference and the workday continues for long as the manager wishes, but the workers still have to take into account certain commonly accepted rules in the blocks of flats like not making noise in the afternoon or in the evening. Rates (e.g. per m²) differ for the capital, major cities and other areas but they can reach 50,000 Bulgarian Levs a day. In addition, there are no records of the work done and no responsibility for the real outcome.

Trade unions recognize that most of the workers in the informal sector are their former members and probably future ones, so the people can at least earn a living. Both building federations of the Confederation of Independent Trade Unions in Bulgaria (KNSB) and the Confederation of Labour, Podkrepa, state that they are ready to intervene, especially with regard to contracts and conditions of work, but in the present conditions their influence has not produced many results. Private companies do not talk to trade unions and state ones are adopting a sim-

ilar attitude. Tip-offs to labour inspectors and offers for joint actions are sidetracked and if some inspectors still turn up at a particular site "they are met with a briefcase [with money] or with a gun". The workers also prefer cash payments and are not interested in social security or accident prevention, a position not in keeping with the trade unions' approach.

Private tutoring

The educational system in Bulgaria has in the last 50 years developed and maintained a number of schools specialized in teaching Western languages. Although they formed part of the élite of the school system, they were initially open to all those who could pass a selection examination, which gave an opportunity to the children who applied themselves. The quality of education was high and virtually guaranteed access to university. Since admittance to university follows a similar pattern of selection on the basis of an entrance examination, the rate of entry from these schools stand at about 95-98 per cent.

With the opening up to the rest of the world in the 1990s, a good education, especially with Western languages, was no longer merely an advantage but became vital for access to good jobs. Correspondingly, competition became tighter and the examinations more difficult. This meant additional training of pupils in mathematics and literature outside the curriculum. The tendency probably started in the late 1980s but has since flourished as demand soared in the 1990s. The scheme for preparation for university entry examinations is quite similar but has been in place for a much longer time and encompasses almost every main subject offered.

Private tutoring usually takes place at the home of the teacher where a couple of children, rarely one child only, would be taught and drilled for one or two hours once or twice a week. These activities are extremely profitable since the rates fluctuate mainly around 4,000-5,000 Bulgarian Levs an hour (US\$ 2.5). The average overall amount received for one month in this way is the equivalent of the salary of a chief expert in the Ministry of Finance, but without taxes. Good teachers, especially those who participate in the marking of the examination papers (tens of thousands) and are clear about the criteria applied, build up fame over time and need not fear any scarcity of pupils. The system functions in a similar manner in the case of university entrants with the difference that rates tend to be double.

According to the Union of Bulgarian Teachers there are about 3,000 secondary school teachers involved in private teaching for language schools. As for university lessons, however, the figure must be much higher. The trade unions in the field of education from both trade union confederations do not see the phenomenon as seriously disturbing and tacitly support it as a means of compensating the extremely low salaries in education – teachers are at the bottom of the payment scales of the employment categories in the country.

In this sense, the attitude assumes the quality of a form of social revenge on an unfair state policy, one extending the limits of moral legitimacy to include private tutoring. Two problems emerge: the first is that the incomes received are additional and their size may go well beyond the justifiable compensation for losses incurred in the formal sector; and the second, which has become more evident in recent years and will be even more so in the future, is that these examinations act more and more as a mechanism for social exclusion, especially in the conditions of persistently low living standards. Willing or not, the corps of teachers, in fact the best ones, provide a social base for the system's functioning and reproduction each year.

Household and individual services

With the decline of full employment, a lot of people with technical and other skills have been released and are now engaged in providing personal and household services – repair and maintenance of home appliances, cars, mechanical devices, plumbing, carpentry, hairdressing, sewing, etc. The pattern of operation is similar to the one described earlier, that of freelance construction specialists. The major difference is that in this sphere people would often need a real workplace and equipment, and this leads them to register most often as sole traders. Thus, the informal part is usually constituted by unaccounted services and deals or the use of an unregistered workforce (as with the patent tax, explained above), or both. In 94 per cent of the 186,000 private firms monitored by NSI in 1998, the average number of workers employed does not exceed one person, i.e. they are pure family businesses.¹⁷

These considerations have underpinned the continuing reference in the foregoing description and analysis to the small enterprise sector for explaining developments in the informal sector. In fact, such companies oscillate all the time between formal and informal engage-

ments, blurring the line in real-life terms. They bear all the characteristic features of the informal sector *per se* – a low level of organization, virtually no separation of company and household finances and, most important, the prime goal – survival. As the evidence shows, small businesses are not inspired by any entrepreneurial urge, any particular drive or any itching to prove oneself or be “one's own boss”. In the most common case the aim is very simple – another chance for survival¹⁸ ... maybe.

Even after complying with the requirements of formal registration, workers find themselves having to maintain their presence in both formal and informal operations to keep floating. Thus, the question still remains as to whether they resort to informal activities from the base of their main business or whether they occasionally float up to the formal surface to show “proper” behaviour. As has been pointed out above, growth does not necessarily lead to any substantial change in their dual nature of such activity, since once they become more “visible” they have to start other types of “games” – with tax inspectors and the whole taxation system if they are to continue to survive.

Suitcase trading

This is a very specific phenomenon in the conditions of transition. Some roots lie deep in the times of the “deficit economy” of socialism. In those days it involved mainly Western-made, usually good quality, products that were impossible to find in the centralized, planned trading system and were distributed through informal networks. After the opening-up of the State and the economy after 1989, the nature, scope and form of activities in that area have thoroughly changed: with the sharp drop in living standards, they started to concentrate on low quality and low-price goods for everyday consumption. Many would bear famous brand names and look quite similar to the authentic product.

In the second place, what had previously been sideline activities have now, in the present state of high unemployment and poorer living standards, turned into life strategies for many people. The innocence of the previous networks operating on a friendly basis has been supplanted by operations of scale matching normal enterprise dimensions in the corresponding areas of trade and industry. They start a process reshaping the internal market and backfire negatively on the capacities of local producers.

Two major ways of operating can be identified, which illustrate the issue – individual

traders and groups. There are several destinations but the main ones involve axes as follows: from Bulgaria to Serbia; from Turkey to Bulgaria; from the former Soviet Union republics to Bulgaria.

The cases themselves provide a clear picture of such operations. A young man from Dimitrovgrad (near the border with Turkey) graduated from an art school just at the start of the transition period and found himself without a job or any prospects. After a couple of years of unemployment he started travelling to Nis in eastern Serbia (near the border with Bulgaria) to sell plastic kitchenware and household articles during the period of the embargo against Serbia at the time of the Bosnian crisis in the middle of the 1990s.

The schedule of the trips involves about one and a half to two days' travel by train, one to two days on average to sell the goods and a return trip. The pattern of operation allows two to three days for proper rest at home every two weeks and all the rest of his time is spent in trains, parks or at the marketplace to guard the merchandise. This goes on all year round even when temperatures are below zero in unheated trains. Stress situations follow upon one another – crossing the borders, overcoming problems with customs control and, to crown it all, the risk of confiscation by the Bulgarian authorities or worse by the Serbian police. Many obstacles are overcome by bribes for which there are established rates.

With the tightening of the regime after the embargo, it became impossible to carry as much as one could and he switched to car parts in one plastic bag only. Over a period of time he was able to develop relations with car repair workshops and actually act more as an informal supplier.

Shuttling in this way between Bulgaria and Serbia provided a source of considerable income for the young man. In conditions which are too difficult for starting a business of his own and the total lack of motivation, the youth devoted his energies to securing his basic needs. He bought a flat and a second-hand Renault car – an achievement after only three or three and a half years that is unthinkable in normal working conditions. The cost, however, is measured in the sacrifice of any personal life and serious health problems in the form of respiratory diseases; and, of course, the ever hovering menace of an uncertain future without any marketable profession. At the same time, there is no illusion that the day the Serbian market is normalized and informal demand can-

celled is very far off. Suitcase trading has acquired massive proportions for the Bulgarian population in a strip of about 60 km along the border between Serbia and Bulgaria. It first started at the time of the embargo and has continued until today. Currently, the citizens of Kula (at the north-western corner of Bulgaria) still cross over to Zaichar in Serbia and one visit with a handload of foodstuffs bring back a week's income at home in Deutschmark. Transferring fuel is even more profitable.

In the second case, there is a much more organized system for the transfer of goods from the cheap markets in Turkey to Bulgaria. The main pattern of operation seems quite simple. Several people travel in a "tourist" bus on an "excursion", often without other passengers. On the way back the bus is packed with merchandise, mainly foodstuffs and industrial consumer goods – clothes, knitwear, shoes, houseware and simple electronic items. At the customs there are usually rates for bribes for different sizes of bags or if they are presented as import, the goods are declared at symbolic prices. Once paid, the customs official may not even bother to check and stamp the passports of the passengers. In fact, in many cases both sides know each other well and arrange travel schedules to fit particular shifts of the officers. Afterwards, the goods flow to numerous stalls at open markets or just boxes or newspaper kiosks on the pavements of the streets.

Thus described, the case in question constitutes a clear symbiosis between the informal and the illegal, between the needy and the greedy. Still, rather than engage in arguments, it would be worthwhile to recall first and foremost the statement of the Prime Minister to avoid misinterpretation of the phenomenon. The customs service office at Svilengrad, the main gate to Turkey on the border, is a good illustration of the phenomenon.

Most of the traffic just described flows through Svilengrad. To render the operations more efficient, the head of the service issued a special order that determines the official rates for guarantees of imported goods – not on the basis of price of purchase but on the basis of the vehicle for transportation. Thus "a bus is taxed US\$ 500, no matter if it carries computers or canned fruit. If with a wheeler – US\$ 800".¹⁹

As a result, the circle of interdependent interests closes: it links the poor person at the informal end of the network, peddling all day in the street and selling de facto smuggled goods, subjected to intimidation by municipal authorities and police. His or her whole life,

and the family's, is quite depend on the money earned. At the other end are the networks of middlemen and the bosses of the operations, reaching the higher levels of state bureaucracy for whom these practices are simply one of the sources of lucrative income. It is not surprising that in March 1999 the prosecutor lodged a complaint against the present and the previous heads of the national customs services. It must be recognized that over a period of time such networks become the basis for survival of too many people and start building a social base for criminal activities.

For trade unions, these developments raise complex questions. The case with Serbia is straightforward and in a sense it may be considered to favour trade union interests and production in conditions of shrinking export opportunities. The inflow of Turkish goods, however, creates acute problems for the corresponding industries and thus threatens the core interests of members – jobs and salaries on the one hand and on the other their civil and political rights to a democratic, transparent and responsible state administration.

3. The impact on society and the economy

The departure point for this part will touch on the concept of “recombinant property”, developed by D. Stark.²⁰ The essential core of the concept is the blurring of lines between emerging property forms in post-socialism, which obey a different logic as they change and reveal a different set of dynamics when analysed. This is the result of the combined action of two processes: “decentralized reorganization” of property and “centralized management of liabilities”, creating a kaleidoscopic structure of ownership and society. The outcome of these processes leads to criss-crossing lines of interenterprise networks on the one hand and on the other debt consolidation, which transforms private debt into public liability. The approach will be applied in more general terms for the informal and hidden sectors of the economy. It must of course be underlined again that it is virtually impossible to disentangle the separate sectors and measure the contribution of each to these overall results.

Short-term effects

In the first place, there is a general consensus about the positive effect of non-formal economic activities on maintaining employment

levels, incomes and living standards. The production of the home economy and unregistered labour are still the main pillars of survival for large groups of the population and provide strategic time and space for the unfolding of the economic reforms. It must be borne in mind also that the hidden/informal sector can be a major reserve even for government policy, especially in financing the budget if in the near future conditions change and the income of some “shadow” activities is declared and taxed.

In a situation of sharp decline of the purchasing power of the large part of the population, informal activities constitute the major source of supply of goods at low enough prices, albeit of low quality, for maintaining life in the poorest groups in society. This in turn feeds back some resources and motivation and closes the cycle of reproduction of the informal and hidden sector in the economy.

One step higher, however, the argument becomes paradoxical in terms of the policy approach of the Government and the IMF. Very simply, it may be defined as follows: “Bulgarians do not protest against these tight conditions, which means they have additional resources so there is an opportunity to tighten the belts a bit more.” The natural outcome of such policies in a situation of lack of stable growth of the economy is a further effort to eke out additional income in the hidden/informal/black economy.

Long-term effects

It should be kept in mind that although the situation being analysed is the “post” socialist period, it still bears the stamp of a “socialist” character whereby many of the old social policy structures, based on the principle “free for all” and covered by the state budget, continue to provide the framework for action even now. Just two years ago social funds were still fully integrated in the budget, virtually drained off in a situation of diminishing revenues within an economy of recurring crisis and intensive ageing of the population.

On the receiving side, the legitimate expectations of the people for a decent life, quality education and efficient public services, and especially pensions and health care, which their former contributions are supposed to guarantee, still maintain demand rather high. Paying pensions periodically necessitated borrowing money from other sources, quite often from the unemployment and vocational training fund.

As has been pointed out in the assessment of the effects of non-institutionalized employment and self-employment,²¹ financial deficits demand new policies. The necessity for change, however, is interpreted mainly as a need for higher social tax rates, and this in turn strengthens motivation for tax dodging and informalization of the economy and industrial relations.

The case of the obligatory pension fund is quite instructive: due to the non-respect of minimum wage contracts, combined with “in-hand” payments and other similar tricks performed within enterprise social programmes, the revenues of the pension fund started falling dangerously in 1998. The structure of the revenues is also a point in question: registered paying people in the fund are almost equally divided between the public and the private sector, with only a few per cent more in the latter. The outcome, however, is that more than 90 per cent of the money comes from public enterprises and the rest from private companies. Around August 1998 the incoming flow was already substantially below the outgoing payments. Estimates of D. Tebeyan (member of the Supervisory Board of the National Social Security Institute and director of the main employer association) show that more than 1 million people were paying on the basis of the minimum wage. The persistence of the trend would have meant that around the end of 1998 the capacity to pay pensions would turn out to be next to zero.

For the unions, the danger was double since such practices also meant setting up anti-social coalitions for tax avoidance between managers, employees and often trade union organizations at the workplace.

The further evil takes the form of the distortions in competition and market structure by non-formal activities. Resorting to arguments about cutting labour costs and gaining market advantage to justify the position will probably sound quite traditional, but the following two examples will make the case more clearer:

(a) A leading clothes producing factory, exporting for major western European companies, ran into serious troubles as from the middle of the 1990s because many highly qualified employees left and started more than 40 private small companies around it. Through informal settlements, they started paying higher salaries and attracted other workers from the factory. It had to be quickly privatized, since, if this situation of raising costs to maintain quality and overcome mounting

market problems were to continue for two or three years, the factory may have to face closure.

(b) The combined effect of the suitcase trade and the de facto “smuggling” of goods from outside, mainly Turkey, has seriously undermined the market positions of local light industry enterprises which had to lower production and lay off people. In a joint letter, the Federation of Light Industry Workers and the corresponding branch chambers of employers expressed their serious concern about the strained situation in the industry to the Prime Minister and to Parliament. If the present trends persist and policies do not change, the prospects for these productions are quite uncertain.

Thus, the circle closes and everyone is in the trap. Naturally, the question arises: how far can this go? The answer most probably is “not very far”, because then the “hidden” or “informal” will become “visible” and easy prey for tax inspectors. So the problem is not one of market domination but of reliability in the ways of running and managing the economic and social activities in society and the structures at all levels.

4. Trade union policies

To address the question of trade union policies is in some ways a straightforward task but in others quite daunting. As has been pointed out, trade union approaches and behaviour differ across industrial sectors and organizational levels. The constellation of factors within the contradictory processes of transformation generates diverging dynamics of change in the separate areas of economic activities and the corresponding trade union structures involved.

The ones most directly concerned, the trade union federations at branch and industry levels, adopt a low profile, but their attitude is generally positive in terms of their sympathy with what is going on in the informal sector and trying to help wherever possible. Such sympathy reaches the point where informal activities start to be linked up to operations of scale in the hidden sector where criminal elements prosper, eroding markets, depressing industries and threatening members’ interests. Obviously, trade union policies towards the hidden sector require a different approach, without which identification of problems and priorities becomes an extremely complex process.

As for the general policies of the nationally representative confederations, the task may seem easier because no special policies have been developed with regard to the informal sector, either for the tripartite bodies at national level or in their bilateral relations with government and employers' organizations. In fact, the informal sector is not perceived as a separate complex of activities with a distinct survival rationale and logic, compared to the hidden and black sectors of the economy. It tends to be dissolved in the general perception of the "shadow" economy where cases of fraud, corruption and organized crime make the news, focus public attention and generate guilt across the board to include the informal sector.

Of course the other thorny question remains of what to do in such situations. In other words, to what extent can policies geared to priority issues involved in the process of creating a new system and culture of industrial relations contribute to improving working conditions and arrangements in the informal sector. The following brief account of ongoing activities in these areas will better illustrate the situation and the current approaches.

4.1. Campaign for fundamental social rights at the workplace

Following the adoption by the International Labour Conference in June 1998 of the Declaration on fundamental principles and rights of work, the Confederation of Independent Trade Unions in Bulgaria (KNSB) started a campaign in defence of fundamental social rights at work. The campaign was aimed at raising the awareness of people of their rights at the workplace and involved joint action by KNSB, local representatives of the labour inspectorate and, if necessary, police.

The initial stage has been quite successful: not only has the idea spread rapidly but support has been whipped up across levels and spheres of formal power. The campaign has been openly approved and the appeal signed by representatives of the executive, legislative and judiciary powers, members of all parliamentary groups, a number of NGOs, distinguished people and of course many trade unionists and organizations. This response can prove quite useful as it has laid a basis for consensus and a framework of reference for practical implementation of policies for improving working conditions and democracy at the workplace in real life.

Forms of direct action have accompanied the campaign from the very beginning. These

have usually been undertaken as part of bigger trade union events – conferences, seminars, rallies – on the same issues. They have been aimed at mounting pressure in the presence of television, other media, labour inspectors and police to open the gates of private enterprises, notorious for violations of workers' rights, labour laws or conducting anti-union policies. Since then, some form of action has been organized almost every month in different places.

The results have brought to the fore gross violations in numerous labour relations areas: health and safety; lack of contracts or fixed-term settlements; minimum wage, supplemented by much higher "in-hand" payments; people locked in throughout the working day; virtually no limits to working time; etc. Penalty orders have been issued by labour inspectors and imposed on these companies.

The effect of the campaign, however, has so far mainly involved bringing the facts to the fore. It has been confirmed that frightening stories about patterns of working in some foreign-owned as well as Bulgarian enterprises did not fall short of the truth. Still, it is difficult to say whether the remedies available can effect the changes required. Sanctions are marginal compared to the profits gained and it seems that other authorities dare to act only when such actions are led by the top leadership of the trade union confederation. So far, such actions have made no dents in the armour of invincibility of the employers practising nineteenth-century industrial relations. This raises the question of a strategy for change if the campaign is to succeed in real terms.

The success of the campaign is of key importance, not simply for the trade union cause but for laying the basis for a new industrial relations culture, practically from scratch, that over time will start exerting pressure for implementation of internationally accepted labour standards in Bulgarian enterprises. The creation of a more socially responsible economic environment can have some influence on pay levels, conditions of work, etc. With the current controversial trends in the economy these prospects seem quite distant.

4.2. Raising the level of the minimum wage

Taking into account the present practices of dodging taxes and social security payments, another approach has been suggested to contain the causes and guarantee a better functioning of the social policy structures. The main target has

been labour contracts drawn up on the basis of minimum wages as a ruse for companies to pay lower contributions to social funds. A substantial rise in that level could secure higher revenues for the funds and bring about some financial stabilization of social policy institutions.

In the summer of 1998, when preparations were under way for negotiating the three-year agreement with the IMF, the Ministry of Labour and Social Policy put forward a proposal to increase the minimum wage from 53,500 to 70,000 Bulgarian Levs. At the same time both trade union confederations, KNSB and CL Podkrepa, insisted on using a new methodology for defining the poverty level, developed within an ILO project, as a base for fixing the level of the minimum wage. According to the new one, the poverty line ran at 90,000 Levs and the unions insisted on compatibility between it and the minimum salary. In the final text, the IMF agreed on 61,000 Levs and the issue was closed.

4.3. The problem of "suitcase" trading

As mentioned earlier, the problem of "suitcase" trading led to mounting troubles in the internal market for the production of light industry enterprises. Signals for similar tensions came from food, tobacco and agriculture.

Reactions to such cases involved organized protest actions supported by joint letters to state authorities for a change of policies and strict customs regulations. The motor has been the Federation of Light Industry Workers, backed by KNSB and employers in the sector. The protest actions and letters have been accompanied by lobbying on the part of the confederation at the level of the highest political and legislative bodies. The pressure of the protests provided an opportunity and the customs boss in Svilengrad has been accused of misuse of administrative powers and replaced. It cannot be said that this effected a dramatic change in the situation in the industry immediately, but it is clear that corruption cannot be eliminated overnight.

4.4. Policies towards SMEs and individual entrepreneurship

Since the phase of transition set in, both trade union confederations have pressed consecutive governments to provide favourable conditions for developing the SMEs sector. The two weakest points, always criticized by the unions, have been tax policy and the availabil-

ity of credits on time and on relatively easy terms. With the financial and especially the banking stabilization measures in 1998, hopes for a new approach have been raised, but the banks have adopted very conservative credit policies and again relegated active strategies in the area of SMEs to the realm of wishful thinking. Still, with the patent tax, the adoption of a law for regulating SMEs, and the creation of an agency for SME development, some major positive strides have been made to set the ground for more positive expectations in the future.

Another significant achievement in solving the unemployment puzzle has been the setting up of the Fund for Regional Initiatives. The idea was launched in 1996 by KNSB following the experience of Bolivia and other Latin American countries with the Social Investment Fund as it was then called. The main purpose of such structures is to create a significant number of temporary jobs in order to cushion the negative effects of the restructuring of the economy. The fund will be financed through a World Bank loan and will support regional projects with grants in the range of DM 17,000-DM 335,000. The UNDP agency in Bulgaria will take responsibility for management in line with Government priorities and the policy of the Ministry of Labour and Social Policy. The composition of the board of the fund also provides for trade union representation.

All project proposals must be understood to contribute to the development of the economic and social infrastructure. The expected results are measured in tens of thousands of new jobs created through the operation of the fund. Many of them will probably be in small enterprises which may continue to function even after the fund has achieved its aims and has closed.

4.5. Initiatives of industrial federations

Our information does not suggest either that there been any particularly fruitful ideas or successful efforts by lower-level trade union organizations despite their attempts to intervene at one point or another.

Federations in the construction industry from both confederations did try to approach workers, especially migrant ones, but the latter's attitude has been predominantly one of lack of interest. The loose relation between the job and the person did not provide a basis for a more long-term rationality nor the necessary motivation. Attempts to use the second possible lever – labour inspectorates – and engage in

joint checks of terms and conditions of work directly on the sites failed to register significant progress since labour inspectors preferred to do visits on their own and purposely avoided trade union representatives.

In their search for ways to preserve jobs and raise wages in education, the Union of Bulgarian Teachers in KNSB put forward a proposal in February 1999 to restore the previous practice of out-of-class activities related to freely selected subjects in the schools. These have usually been organized according to groups of interests or subject circles and can provide alternatives to private tutoring, diminishing the effect of social exclusion.

In an attempt to cope with problems of informal labour in agriculture, the corresponding trade union federation, CLPodkrepa, managed to set up a Union of Tobacco-growers in the region of Kurdjali, next to the border with Turkey. The organization achieved considerable membership, around 11,000 people, but it turned out to be more on paper. The region in question is populated by ethnic Turks and many of them have their families or relatives on the other side in Turkey. The lack of permanent settlements is a source of considerable complications since around 7,000 of the members constantly move across the border and return only for the period of tobacco-growing. This duality of life inevitably generates diversified interests and difficulties in maintaining an organization.

5. Conclusions

As has been presented and analysed in this paper, the informal sector and the networks that support it are by no means a marginal or superficial phenomenon on the road of transition. They are integral elements of the emerging structure of the economy and society that will continue to play a role in maintaining jobs, incomes and a number of social integration processes. Unfortunately, they develop in interaction with other types of non-formal economic activities – the hidden, shadow economy which cast their sombre shades over the informal activities.

Viewed differently, the appearance and development of the informal and especially the hidden sectors are an open question in terms of consistency of the reform policies, based on the IMF's recommendations. These developments had not been part and parcel of the deal and their scale and influence over the formal economy and society will be posing a serious challenge to policy-makers in the transformation process as it evolves.

The second group of conclusions concerns trade union positions and strategies. In conditions of declining industries, inefficient social dialogue and falling membership, trade unions seem to be too overburdened with problems to pay proper attention to the issues at hand and develop innovative approaches to the informal sector. The core of the problem seems to be the multifaceted nature of the phenomena in the non-formal economic sectors which have become virtually indistinguishable from outright criminal methods of operation. This also outlines the first major necessity for trade union policy – disengaging and shielding off informal and small businesses from the pressure of criminal factors.

To achieve such a target, it would no doubt be more effective to mobilize potential local actors – local authorities, social partners and other interest groups could be much more efficient than large-scale operations, relying on the readiness of the State to act and the effectiveness of its policies. At the same time, central policies can provide a framework of rules that might well open up the space and provide a set of dynamics at the local level. Thus one does not dispense with the other but they act in a complementary manner.

As has been indicated, the central organizations of trade unions so far have tended to react predominantly in cases when the operation of the hidden/informal sectors starts to impinge directly on the state of an industry and on trade union interests. At the same time, some industry and branch unions, being closer to the issues, demonstrate more flexible and tolerant policies. Still, it is difficult to affirm that any type of efficient win-win solutions of the dilemma of the informal sector is included in the agenda, although a general will to do so prevails. The need to accelerate the search for other strategic and practical orientations inevitably prompts the necessity for more information and awareness about the real potential of the informal sector and in particular its potential for making a significant social and economic contribution in the current period of social transformation.

Notes

¹ ILO. 1993. *Statistics of Employment in the informal sector*, Fifteenth International Conference of Labour Statisticians, Geneva, 19-28 Jan.

² ILO. 1991. *The dilemma of the informal sector*, Report of the Director-General (Part 1), International Labour Conference, 78th Session, Geneva; C. Maldonado. 1995. "The informal sector: Legalization or laissez-faire?", in *International Labour Review*, Geneva, ILO, No. 6; ILO. 1997. *World Labour Report 1997-98 – Industrial relations, democracy and social stability*, Geneva.

³ Pardo. I. 1995. "Morals of legitimacy in Naples: street-wise about legality, semi-legality and crime", in *Archives Europeennes de Sociologie*, XXXVI, pp. 44-71.

⁴ Sik. Endre. 1995. *Network capital in capitalist, communist and post-communist societies*, Working paper, No. 212, The Hellen Kellog Institute for International Studies, University of Notre Dame, Notre Dame, Indiana, Feb.

⁵ *Ibid.*, p. 3.

⁶ Sik. Endre. 1994. "From multicoloured to the black and white economy: The Hungarian second economy and the Transformation", *International Journal of Urban and Regional Research*.

⁷ *Standart*, 26 June 1997, p. 2.

⁸ *Pari*, 22 March 1999, p. 4.

⁹ Minassian. G. 1998. "The Road to Economic Disaster in Bulgaria", *Europe-Asia Studies*, Vol. 50, No. 2, pp. 331-249; Bristow. John. 1996. *The Bulgarian Economy in Transition*, Edward Elgar, Cheltenham.

¹⁰ National Statistical Institute (NSI) data.

¹¹ NSI data.

¹² Kumanova, A.; Dimitrova, R. 1998. "Skritata ikonomika pres pogleda na eksperti", *Statistika* NSI, No. 2, pp. 64-76.

¹³ Hristoskov, Y.; Shopov, G.; Beleva. I. 1996. *Neinstitutionalizirana zaetost i samonaetost*, Institut za pazarna ikonomika, Sofia, unpublished.

¹⁴ *Ibid.*, p. 16.

¹⁵ Presentations and statements of these experts at public forums.

¹⁶ Hristoskov, Y.; Shopov, G.; Beleva. I., op. cit.

¹⁷ NSI. 1998. *Statisticheski barometer*, Sofia, 29 Oct., p. 4.

¹⁸ Union for Private Enterprising. 1996. *Development of small and medium-size enterprises in Bulgaria*, Sofia, p. 24.

¹⁹ Statement of the Ministry of Finance, Auditor of the Customs Services, Division of the Ministry, *Trud*, 26 Nov., 1998.

²⁰ Stark. D. 1997. "Recombinant property in East European capitalism", in Grabner, G. and Stark, D. (eds.), *Restructuring networks in post-socialism*, Oxford University Press, Oxford, p. 38.

²¹ Hristoskov, Y.; Shopov, G.; Beleva. I., op. cit, pp. 42-43.

Hungary

The major difficulty in addressing the issue lies in the broad alliance of strong interests to maintain the informal sector in place: while it undermines public services, weakens social protection, interferes with economic competition and enfeebles trade union strength, it also contributes to the survival of the most vulnerable groups of labour who have lost their positions in the labour market.

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1. Introduction

In discussing the topic of trade unions and the informal sector, it is necessary to make use of certain fundamental building blocks of which our analysis is structured. To analyse – and simply to understand – what is going on in Hungary, we are to discuss: (a) the informal sector; (b) the trade unions and the trade union institutions by which the workers' organizations have their impact felt on public policy formulation, on employers, on the behaviour of their membership and workers in general; and finally (c) guidelines for future trade union action. Owing to the nature of the topic itself, systematic, well-founded scientific information is extremely scarce: one should rely on estimations, perceptions and speculations.

2. The informal sector or “hidden economy”

2.1. Does Hungary have an informal sector?

Hungary is a country undergoing economic transition. It has brought to term its market economy institutions and has practically completed privatization process; it is a member of the OECD, the Council of Europe and is currently negotiating European Union (EU) membership.

In this context, it is difficult to pinpoint the presence of an “informal sector” as such, at least in the original sense of the ILO's definition, created primarily for the developing countries.¹ More precisely, like most of the industrialized

countries, Hungary is characterized by an “underground”, “hidden” economy – or in the euphemistic term of the 1970s – a “secondary economy”, where prevail the types of employment that are characteristic of such economic operations. It is true that those engaged in the “hidden economy” are primarily motivated by tax evasion and have much greater access to public services such as education, health, transport, etc., than those in the informal sector of the developing countries, but at the same time – as will later be argued – such activities are still associated with survival strategies of the poor. For such employment – although unrecorded, unregistered and unregulated, i.e. informal – the most appropriate term seems to be “undeclared” work as applied by the EU.²

Thus, the concept of informal sector is used in a wider sense than the original ILO definition in the present paper, covering primarily the “underground” or “hidden” economy and employment therein.

2.2. The nature and dimensions of the informal sector

Hungary has a vast “hidden economy” or informal sector. Research was first conducted on the sector – in some respect in cooperation with the ILO – as early as 1980.³ According to estimates by economic experts, its size in 1992 amounted to about 30 per cent of GDP and to date it remains at the same level.⁴ It considerably increased in the period 1985-92 when economic transformation gained impetus. It is extremely heterogeneous: it includes non-registered activities of (mostly small) business

organizations and of individual entrepreneurs, home work, seasonal and occasional work performed by unemployed and inactive people as well as by foreigners without any work contract, such as repair work done for the households, "private lessons" by teachers, moonlighting and "tips" which supplement income from legal activities (exercised by doctors, nurses, waiters, petrol-station operators), etc.

In terms of employment and income, two major categories of informal activities seem to exist: firstly, when both employment and income originating from it are undeclared (unregistered, unrecorded); and secondly, when employment and part of the income is declared (registered and recorded), but another part of the income is not. Such a combination of formal and informal, declared and undeclared, is reported to be extremely frequent. Its typical form among wage earners is legal employment (based on work contracts and sometimes even on collective agreements) and legal pay – at the level of the (legally obligatory) national guaranteed minimum wage – supplemented by additional payments "from pocket to pocket", as it is put in Hungarian everyday language. A wide variety of similar combinations also exist among self-employed entrepreneurs.

Such combinations have their definite advantages for those involved compared with those involved exclusively in either totally formal or totally informal activities. In the case of the employment relationship, they save labour costs for the employer (part of the contributions levied on gross earnings) and save costs for the employee (part of the personal income tax), while the employer remains legal (labour inspection checks the existence of work contracts and the payment of the national guaranteed minimum wage) and the employee retains his/her entitlement for most social security benefits. If the employment and income are totally informal and unemployed or inactive people registered as such are involved, they also remain mostly among those entitled to social security benefits.

When the entire production of goods and services or part thereof are kept informal, taxes levied on the production (general turnover tax) and on the entrepreneur can also be saved.

2.3. The foundations of the informal sector

As for the foundations of the hidden economy or the informal sector, the following major causes can be identified:

- (i) Economic transformation resulted in a sharp decline in employment in the first half of the 1990s. In 1997, of the total population of 10 million, according to calculations based on the ILO's methodology, 7.8 million could be qualified as of working age. Among them, 3.6 million (46.7 per cent) were employed, 0.4 million registered unemployed and 3.8 million inactive. In the last group 1.6 million were of pension age, while 2.2 million of working age.⁵
- (ii) Among the 3.6 million employed, only 2.99 million were engaged in a "classical" employment relationship, 69,000 were members of cooperatives, 137,000 members of joint (small) undertakings, 373,000 individual entrepreneurs and 41,000 were assisting family members.⁶
- (iii) Real earnings sharply declined in the 1990s, with drops occurring each year in the 1990s except 1994 and 1997. The real value of the national guaranteed minimum wage has suffered similar losses: drops occurred each year except for 1990 and 1997.⁷ As for actual labour costs in 1992-95, average industrial labour costs (for a full working hour per employee) amounted to 3 ECU compared with 27.8 ECU in the western parts of Germany.⁸
- (iv) There has been a growing gap between the national guaranteed net minimum wages and the minimum costs of living. Their ratio was 84.4 per cent in 1990 decreasing to 70.5 per cent in 1994. Minimum unemployment benefits, unrelated to minimum wages, have kept lagging behind the minimum costs of living to an even greater extent.
- (v) Gross earnings have remained subject to heavy duties levied on them, such as contributions to the social security (health and pension insurance) funds and to the labour market fund (amounting to about 50 per cent of gross earnings of which the greater part has to be paid by the employer) and personal income tax (which has to be paid by the employee). It should be noted that a portion of the minimum wage is already taxable.

2.4. The actors in the informal sector

The existence of the vast "hidden economy" or informal sector in Hungary is based on "the joint interest" of the unemployed, the inactive, individual entrepreneurs, of employees and

employers to survive by increasing their net income via the evasion of at least part of the duties and taxes levied on them. One can even risk the statement that most of the population is related, in one way or another, either as participant or a client, to the informal sector. Four major groups of its participants, however, can be distinguished:

- individual entrepreneurs as well as employers and employees of small undertakings (especially in sectors like construction, retail trade and catering, household services, etc.);
- the economically inactive population;
- the unemployed, especially the long-term unemployed in economically depressed regions where the rate of unemployment has consistently been high; and
- foreigners, entering the country mostly as “tourists”, without a work permit.

As reported by the trade unions, the younger generations of the population harbour far less reservations about being engaged in totally informal (black) forms of employment than the older generations who are sensitive to the prospects of pension and health care. The choice, however, is open to them only in regions where legal (or semi-legal) jobs are available. It is reported that in economically depressed areas such as in north-east Hungary, there are settlements where there seem to exist practically no other forms of employment than “black”. The survival of the families in such areas is often based on a combination of social benefits (unemployment benefits, income support, childcare allowance, etc.), occasional informal work and small-scale farming. We have no evidence at our disposal that engagement in the informal sector would be differentiated on the basis of gender.

Income from the informal sector is most probably much differentiated: for some groups it covers only survival, while for others it ensures higher than average earnings.

2.5. Contract labour

Tendencies to make the labour market and employment more flexible as a concomitant of globalization contribute to the appearance of certain legal forms of work which tend to promote undeclared, or partly undeclared, arrangements.

In Hungary, work for an employer is carried out within the legal framework of an employment relationship. Such a relationship can be

established on the basis of the Labour Code (1992) in business organizations, of the Public Servants’ and Civil Service Acts (1992) in public and civil services, and of the Armed Forces Act in the military and other armed forces. The pieces of legislation referred to regulate the rights and obligations of the employees arising from employment relationship.

In recent years, new legal work forms beyond the employment relationship have appeared in great numbers on the scene, their legal foundation grounded in civil law rather than in labour law. In the same way that civil law contracts instead of work contracts are drawn up with individual entrepreneurs to carry out certain activities, civil law contracts are drawn up with individuals to perform a definite task. Contract work has rapidly grown: it is believed (although reliable empirical evidence is lacking) that a large part of Hungary’s several hundred thousand individual entrepreneurs are employees “disguised” as entrepreneurs for the “glory” of the emerging market economy.

The major motivation underlying this trend is once again to evade (or reduce) tax burdens and, from the point of the employer, labour costs.

2.6. Dilemmas related to the informal sector

The existence of Hungary’s informal sector is closely related to the employment situation, depressed level of wages and social benefits (compared with the minimum costs of living), the heavy duties levied on earnings and income, and the inefficiency of state administration to enforce laws and regulations. Traditions which date back even to the 1970s and 1980s may also have exercised some impact.

The major difficulty in addressing the issue, reducing it to an acceptable 4-5 per cent of GDP, lies in the broad alliance of strong interests to maintain it in place. It is true, on one hand, that it undermines public services provided by the State by cutting their financial resources; weakens the social protection of the working population; contradicts the fairness of competition as it puts semi-legal or illegal entrepreneurs employers into an advantageous position; aggravates falling trade union membership; but at the same time it is also true that it provides employment, contributes to the survival of the most vulnerable groups of labour who have lost their positions in the labour market, and compensates other groups for losses in “official” real earnings.

That is why the trade unions too, when faced with it, have “divided opinions”: they are opposed to informal employment, but tacitly tolerate and accept its existence.

3. Trade union actions in the informal sector

3.1. Trade unions and institutions have their impact felt

Hungarian trade unions, at national level, are highly pluralized. The National Tripartite Council for the Reconciliation of Interests (CRI), in its workers’ negotiating group, has six trade union confederations as members.

The six trade union confederations are very different in their size, representativity, coverage and history. The biggest ones with several hundred thousand members, are MSZOSZ (National Confederation of Hungarian Trade Unions), SZEF (Trade Unions Cooperation Forum) and ASZSZ (Autonomous Trade Unions’ Confederation). MSZOSZ has a national coverage in the (mostly privatized) business sector of the national economy; ASZSZ has the chemical workers’ union as its backbone, along with unions in several public utility branches; SZEF unites employees in public services, its most important members being health workers’ and teachers’ unions. The League (Democratic League of Independent Trade Unions) has a couple of organizations in public utility companies, mostly in transport and education. ÉSZT (Intellectual Workers’ Trade Union Confederation) is a union of higher education personnel and researchers. As for the “dividing” line between “old” (successor) and “newly formed” unions, MSZOSZ and ASZSZ, and to some extent ASZSZ, can be looked upon as successors to the past National Council of Trade Unions (SZOT), the monolithic trade union confederation of the socialist period, while the League and MOSZ (the National Association of Workers’ Councils) are made up of newly formed unions, the same obtaining in the ranks of ASZSZ and ÉSZT. The level of unionization is estimated to be 20-40 per cent: it is higher in public services and lower in business organizations, especially in small and medium-sized enterprises (SMEs) where the unions’ presence is very rare.⁹

The unions’ ability to exert pressure on employers and Government is very different too: it is most probably strongest in the public utility branches (transport, electricity, etc.) and public services (education and health).

Hungary has developed a relatively well-functioning system of institutions at national level based on the involvement of unions and employers, an effort started in 1988-89.¹⁰

The national institutions include:

- the Tripartite Council for the Reconciliation of Interests (established in 1988). It is the stage for national-level wage bargaining and agreements. It takes decisions as to the national guaranteed wage, adopts recommendations with regard to the growth of gross earnings in business organizations, and is also a forum for pre-legislative consultation and agreements (with regard to labour legislation, draft taxation laws, the budget, etc.);
- the Bipartite Self-Governments of Health and Pension Insurance, established in 1993 to take care of the health and pension insurance funds, and dissolved in 1998; and
- the Tripartite Steering Committee of the Labour Market Fund. In 1996 it took over the CRI’s functions in the control of the Labour Market Fund out of which employment policies are financed.

Institutions at other levels include:

- trade unions, as the delegates of the national confederations, are present in the county-level Labour Market Councils which have an important role in the implementation of active employment policy programmes; and
- the trade unions are one of the two partners of sectoral- and enterprise-level collective bargaining and agreements; in business organizations the former cover roughly 10 per cent, while the latter roughly 30 per cent of the workers.

3.2. Trade unions and public policy formulation and implementation

3.2.1. Trade unions and income policies

Heavy burdens levied on earnings and income by the State and the existence of a large informal sector, in the view of most experts, are closely interrelated. To set contributions and taxes as well as related legislation belongs to the authority of Parliament. Still, it has been a generally accepted practice for the past ten years that they be annually discussed in the national tripartite council (CRI) with the trade unions and employers.

The CRI does not negotiate contributions and taxes separately but usually as part of income policy “packages”, including, other than contributions and taxes, the guaranteed minimum wage, recommendations for the growth of gross earnings in the business organizations, social policy issues and other items related to the budget of the coming year. On that basis, several tripartite agreements have been concluded in the 1990s – in 1991, 1992, 1993 and in 1994 and 1997.¹¹ The years in which negotiations failed to produce such agreements, or produced more limited ones, were the years of macroeconomic stabilization.

The Government, unions and employers have always had the common conviction that contributions and taxes should be reduced. In practice, however, the Government has had no other choice than to maintain them in the context of GDP and real-income drop in most years of the 1990s so as to be in a position to finance public services and to meet the international debt service, a burden which was somewhat eased by revenues from privatization. The trade unions, in their turn, have been in favour of tax reductions, but they also endeavoured to maintain social benefits. Public service unions, primarily the SZEF, were aware of the relationship between the level of state revenues and public service wages and employment. In addition, unions, together with employers, were part of the Bipartite Social (Pension and Health) Insurance Self-Governments in control of the social insurance funds financed by employer and employees’ contributions. In these self-government institutions MSZOSZ had a decisive role, which explains why tripartite “income policy package” agreements did not exert much of an impact on the general level of contributions and taxes.

The evasion of contributions and taxes has been a common concern for Government, workers and employers, especially in case of the contributions to the social insurance funds out of which the Health Insurance Fund has consistently had serious deficits for the past years met by the state budget. As a partial remedy, the tripartite CRI reluctantly approved the Government’s proposal in 1996 to introduce a so-called minimum contribution to the health insurance fund, targeting principally enterprises employing workers in the lowest wage brackets or close to the guaranteed minimum wage level. It was, and still is, much debated whether this minimum contribution to health insurance has had positive results in terms of containing tax evasion, or, on the contrary, it has

provided an additional incentive for employers and employees to move over to the informal sector. For the past years it has become obvious that profound changes in contributions and taxation cannot be realized without a fundamental reform of the health service and public services and their financing in general. The only important achievement so far has been the start of pension reform discussed and also approved by the unions and employers in the CRI in the spring of 1997.

Apart from their solidarity, the Hungarian trade unions’ approach towards contributions to social insurance and taxation has been rather differentiated, as illustrated by the preceding argument. The differences are also highlighted by the CRI negotiations of the past few years with regard to personal income taxation scales. With a large part of its membership in the lower earning brackets, the MSZOSZ has made consistent efforts to reshape these scales in such a way that those in the lower wage brackets could be the beneficiaries of such changes. One such instance occurred at the end of 1995 when Finance Minister Bokros had long discussions with the CRI about possible personal income taxation scales, yielding no results. The ASZSZ, with a membership mostly in the higher earning brackets, have been more reserved approach on this issue. The big public service confederation, the SZEF, has had a similarly reserved attitude as its membership is sharply divided between the lower (e.g. health workers) and higher (state administration) earning brackets.

3.2.2. *Trade unions and the guaranteed minimum wage*

In Hungary, it is believed to be a widespread practice on the part of employers, mostly in small enterprises, to hire workers at the minimum wage, as indicated in the work contract and to complete their earnings legally or illegally by additional payments not recorded in the work contract. If the additional payment is legal, it is based on a civil law contract, if not it takes the form of paying “from pocket to pocket” as is said in local parlance.

In Hungary, the national minimum wage, set by the Interest Reconciliation Council,¹² covers all those in employment relationships in both the private and public sectors.

Trade unions have consistently been agitating for an increase in the minimum wage for the past ten years to improve the income positions of the most vulnerable groups of labour in the lowest wage brackets, given the obvious social

policy mission of the guaranteed minimum wage. Employers, especially in the private sector, have tried to constrain any growth, referring as they do to the negative impact of growing wage costs on competitiveness and employment, as well as to the sensitiveness of certain traditionally low-wage sectors (such as agriculture). The Government, as the indirect employer of similar traditionally low-wage public services, tried to slow down minimum wage growth for many years in the early and mid-1990s owing to budgetary constraints. As minimum salaries in the public services started to exceed the national guaranteed minimum wage, for the first time occurring in 1997, the Government's "social sensitiveness" has become more acute: in national wage negotiations for 1998 both unions and Government supported the proposal for an above-average improvement in the guaranteed minimum wage.

MSZOSZ – the biggest trade union grouping – has had its own proposal for regulating the guaranteed minimum wage. It goes back to the early 1990s and is repeated in each new round of annual national-level wage negotiations. It proposes in essence to introduce a "three-grade minimum wage" instead of the present one-grade minimum wage, differentiating on the basis of the level of qualification of the workers. The first grade, would be on par with the present one, covering unskilled labour, while the second and third grades would be higher and would cover skilled workers and professionals respectively. The confederation argues that the three-grade minimum wage would have a positive impact on informal (illegal) employment: by radically increasing guaranteed minimum wages for qualified workers, it follows that it would reduce the dimensions of present practices of combining payments of minimum wages on the basis of work contracts and additional payments outside of work contracts. So far, the employers of the tripartite council have consistently rejected the MSZOSZ proposal.

While the unions seem to be united in their approach to the guaranteed minimum wage and maintain their solidarity, their stances on this question are different. While the commitments of MSZOSZ are obvious, other unions are less keen with regard to proposals in favour of the growth and structure of the guaranteed minimum wage, on at least two grounds. Firstly, their membership is drawn mostly from the higher wage sectors where the national minimum wage is less important. Secondly, these workers have strong bargaining positions and wages higher than the national minimum

may also be an item included in enterprise and sectoral level collective contracts. These conditions may offer an explanation for the more reserved attitude in the past of ASZSZ in the national-level negotiations on the guaranteed minimum wage. Public service unions have also lost interest since minimum salaries have started to exceed the national guaranteed minimum wage in their sector and ceased to function as a point of reference for them.

3.2.3. Trade unions and labour inspection

In the autumn of 1996, the Hungarian Parliament adopted an Act on Labour Inspection. It pinpointed the primary targets of labour inspection – the implementation of regulations concerning the establishment of the employment relationship and respect for the fundamental rights of trade unions. The Act extended the field of authority of labour inspectors and raised the upper limit of fines labour inspectors could impose on employers violating the law (to 3 million Hungarian forints¹³ in case of repeated violations of several legal provisions perpetrated against a great number of employees). This legislation was based on a long series of negotiations in the CRI as a result of which agreement had been reached on its contents. As a further follow-up of this legislation, a reinforcement of the organization of labour inspection was undertaken, one outcome of which was to double the number of inspectors in the first half of the following year (1997).

As for the Act's mission to be an instrument in the struggle against "black" employment, all three parties had a single common interest, as was repeatedly formulated in the debate. Black employment – from the employers' point of view – undermined fair competition in the market, as some employers could reduce their wage costs by evading duties levied on earnings; and from the unions' point of view, it reduced the number of jobs available for their membership by undermining legal employment. At the same time, the Government is at odds with job losses and ensuing losses in state revenues. In this sense, the Act of Labour Inspection and the reinforcement of its organization was a "child of tripartism", regardless of the differences of emphasis in the approach of the individual parties.

As for the implementation of the Act on Labour Inspection, the social partners have been much more divided. The Government, starting out from widely known western European

examples, called for close cooperation in this process. A proposal prepared for the CRI in the summer of 1997, urged cooperation in the following fields: (1) the dissemination of information about legal regulations; (2) the dissemination of information about problems discovered by labour inspection; (3) making public practices of “black” employment; and (4) working out programmes in sectors where “black” employment was primarily concentrated (such as commerce or construction). It was also suggested to set up an advisory body with the participation of unions and employers to assist the work of the National Labour Safety and Labour Inspection Agency (OMMF) and the Minister of Labour. These initiatives by the Government met with reservations on the part of the social partners: they restricted their cooperation to the annual discussion in the CRI of the report of the National Labour Safety and Labour Inspection Agency¹⁴ on its experiences in the implementation of the Labour Inspection Act.

In the spring of 1998, the Government initiated an informal expert meeting with the social partners to discuss the possibilities of joint actions once again. This time an informal agreement was reached that such cooperation could be promoted at local (county) level and it was decided that channels for cooperation be pursued on an experimental basis in the three regions (Baranya, Szolnok and Fejér).

3.2.4. *Trade unions and contract labour*

The trade unions are opposed to most forms of work activities based on civil law contracts, for at least two major reasons: firstly, because such arrangements, or most of them, tend to undermine the legal guarantees of the protection of workers; secondly, workers engaged in such activities are unlikely to maintain their trade union membership and remain part of organized labour. As the phenomenon is relatively new, its systematic discussion has just started, and involves the participation of the trade unions experts and leaders. For this purpose, an expert meeting was organized in the spring of 1998 by the Ministry of Labour.¹⁵ In terms of trade union response, the following appraisal may be ventured:

- (i) The trade unions are exerting pressure on the Government and labour inspection to stand up firmly against “disguised employment relationships” calling on the authority of the Labour Inspection Act.

This piece of legislation permits types of work based on entrepreneurial contracts and individual assignments, but it makes it incumbent on the labour inspectors to expose cases when these civil law contracts disguise employment relationships which are considered unlawful and impede application of the necessary sanctions. An obvious weak spot in the law is that it does not provide any definition of employment relationship.¹⁶

Labour inspectors have discovered some cases of obvious disguised employment relationships: for example, in a bakery in eastern Hungary, “wage-earner” bakers and “entrepreneur” bakers were found working side by side in the same workshops using the equipment and materials of the owner-employer. Such clear cases are, however, relatively rare.

- (ii) Trade unions pronounce in favour of the limitation or elimination of types of work based on civil law contracts. The best known and widely publicized debate on this issue took place between the Trade Union of Public Collection and Public Education Workers (KKDSZ), a militant well-organized small union of the employees of public libraries, museums, cultural centres etc., and the Ministry of Public Education in 1996-97, in connection with the drafting and adoption of the Public Collection Act.

The union, in a strong lobbying position both in Government and Parliament at that time, urged “guarantees of employment” for workers in public collections and public cultural institutions: in its interpretation, such guarantees could be provided by a legal provision permitting only an employment relationship on the basis of the Public Servants’ Act in this field. The fulfilment of this demand, however, threatened the institutions with serious financial difficulties and rigidities in running flexible programmes. Small institutions employ accountants, janitors, guards as well as professionals running fixed-term programmes on the basis of civil law contracts. The debate’s dimensions can be characterized by the fact that in a critical moment even the Chairman of the Parliament’s Cultural Committee, a supporter of the trade union’s demands, tendered his resignation when the chance of a positive outcome seemed remote. Eventually, the solution turned out to be a compromise which laid

down an obligation to employ public servants to perform activities considered fundamental for the functioning of the institutions concerned.

It still remains an open question for both unions and the Government how to treat the problem as outlined. The Workers' Councils urge that legal protection by the Labour Code be extended to cover contract labour. There are examples of collective contracts regulating this matter (e.g. Hungarian State Railways).¹⁷

3.3. Trade union actions geared to their membership and to employers

Although most trade unions in their action programmes put forward proposals for promoting legal employment and fighting against illegal/informal/black employment, there is at the same time a general absence of vigorous and coordinated action among their membership and in their contacts with employers.

It has been said by trade union leaders and experts that the trade unions' approach can be best characterized as "silent meditation", since "it is difficult for the unions to define their relationship" to the informal sector, owing to the fact that the very workers who lose their legal status as workers and join the informal sector "are lost to the trade unions". Therefore a major challenge for the unions is their absence from those fields of the national economy and from those groups of the population where informal employment is most widespread (SMEs, individual entrepreneurs, the unemployed, economically inactive people, etc.).¹⁸

While older generations of workers seem to be much more attached to legal employment and to the unions, anxious to secure their health and pension prospects, it is a "stillborn effort" to try to convince younger workers that "they risk their future and they lose their protection" in the informal sector. A related problem is the workers' extremely poor knowledge of labour legislation and workers' rights, and the gaps in such knowledge cannot be compensated by a few trade union training courses. On the contrary, employers hire the best legal advisers and human resources managers to set the terms and conditions of the employment relationship so as to fit their best interests, notwithstanding the labour law provisions.

The classical labour relations institutions, such as enterprise- and sectoral-level collective bargaining and agreements, have proved to be

mostly inadequate to deal with the problems raised by the informal sector. The weakness of employers' organizations and their poor co-operation, beyond the lip-service they pay to the fight against illegal employment, have been singled out by the unions as responsible for the present state of affairs.

According to trade union reports in the textile industry, employers had been consistently complaining about "unfair competition" and had been urging trade unions to stand up against informal (illegal) employment. As a response, the trade unions proposed a joint union-employer initiative to demand "targeted investigations" by the labour inspection authorities. The employers, however, quickly withdrew and refused to be part of such an initiative. Their major argument was that "labour inspection preferred carrying out investigations among legal employers, thus adding to their burdens, and failed to pursue illegal ones".

It was also noted that a number of middle managers in the textile industry have their own "garage workshops" based on old machines and are engaged in illegal employment.

For trade unions in the business sector, it is often difficult to ensure the cooperation of employers in collective bargaining, even on fundamental issues such as wages and "there is no hope to negotiate about such complex and sensitive problems as informal employment". Promoting collective bargaining and agreements at sectoral level could help to combat evils in the informal sector. All trade union representatives agreed that it would be worthwhile to extend multi-employer agreements to sectors.¹⁹

The representative of one of the confederations reported on the widespread practice of "informal collective bargaining" and the trade unions' dilemma of how to tackle the issue.

We are not aware, for our part, of the existence of any organization of workers in the informal sector.

Among NGOs the organizations of the unemployed have the closest links to those potentially concerned.

3.4. The strengths and weaknesses of trade union action

Trade unions have been highly active in public policy formulation and implementation bearing on the informal sector. The results of their efforts, however, are still subject to controversy. All the same, their efforts may be appraised as follows:

- (i) Trade unions have been active participants in policy formulation and drafting of legislation on taxation and contributions to the social (health and pension) as well as the unemployment insurance funds. While, in principle, they have been in favour of reductions, in practice they were in favour of maintaining the levies on earnings owing to their commitment to the maintenance of social benefits, their presence in the Self-Governments of Health and Pension Insurance and, in the case of public service unions, their commitment to the maintenance of employment in public services.
- (ii) Trade unions have made repeated efforts to raise the guaranteed and legally binding national minimum wage. There has been put to the floor a much debated proposal by a trade union confederation, MSZOSZ, referred to earlier, to introduce a three-grade, in fact a higher, guaranteed minimum wage as a possible means to reduce informal employment. This proposal, however, could not be implemented although it has had the support of the Government because it has consistently been rejected by the employers.
- (iii) Trade unions have initiated and firmly supported the reinforcement of labour inspection, both by legislation and other means, in order to ensure the implementation of labour law, and at the same time contain and reduce illegal employment. As a result of other efforts on their part, a new Labour Inspection Act was passed in 1996 and the organization of labour inspection consolidated in 1997. The question remained, however, whether the trade unions would be willing and able to participate in the actual implementation of the Labour Inspection Act and in the promotion of the practical work involved in labour inspection.
- (iv) Trade unions seem to be aware of the danger contract labour – work activities carried out on the basis of civil law contracts – involves in terms of eroding workers' protection and trade union membership. To put a brake on, or at least slow down, the swift spread of such practices, trade unions have tried to exert pressure on the Government to build up legal defences and make use of labour inspection. Apart from one or two notable exceptions, however, it is not known what efforts have been made by the unions to counteract these practices in contacts with their members and employers.

While trade unions have had an active and well-documented role in public policy formulation and implementation bearing on the informal sector at national level, they appear to be somewhat perplexed when faced with the definite forms assumed by informal employment in their everyday activities at the enterprises and among their membership. Perhaps it is their awareness of the complexity of the problems involved, of the importance of the informal sector in providing employment and income – and very frequently complementary income – for masses of working people which somewhat explains the trade unions' "mild" and "soft" approach to the problem, as owned to by the trade unions themselves.

4. Workers' protection and the role of international labour standards

The most sensitive issue in the area of the informal sector – undeclared work – is the protection of workers and workers' rights. Informal means unrecorded, unregistered and unregulated, i.e. situated outside of the scope of legal regulations, including labour law. From this point of view work activities related to the informal sector can be classified into at least three major categories:

- (i) Undeclared employment, i.e. totally informal or, as it is commonly called, "black" employment.

Workers engaged in such activities have no legal protection under labour law, although many of them qualify for a social protection once they are declared as unemployed persons, pensioners, etc.
- (ii) Declared employment and partly declared/partially undeclared income.

Legal protection covers all those elements of the employment relationship that are declared. As for payments, it guarantees that the workers get the national guaranteed minimum wage if it is included in the work contract but does not and cannot provide any guarantee for "payments from pocket to pocket". In case of the insolvency of the employer the workers have a good chance of receiving their payment if fixed in the work contract from the Labour Market Fund, but they have no chance whatsoever of getting more.

Workers have access to social security services.
- (iii) Contract work, i.e. types of work performed on the basis of civil law contracts.

Legally, workers are not perceived as workers in the strict sense of the term, but as one of the civil partners – usually entrepreneurs – of a civil law contract and enjoy the protection of civil law instead of labour law. They will only enjoy social protection if they pay for it as entrepreneurs.

What does this mean?

No regulations are in place with regard to working time, payment, termination of employment, etc. While the employer is obliged to pay at least the guaranteed minimum wage in the case of an employment relationship based on the Labour Code, or the minimum salary (which is slightly higher) when the employment relationship is based on the Public Servants' Act, in the case of civil law contracts, no such obligation exists. The individual worker has to take personal responsibility for his or her social security and he or she is excluded from unemployment benefits. In principle, civil law contracts may include even stronger protection for workers than labour legislation, as is the case with managerial contracts, but these instances extremely rare, taking into account the imbalance in the positions of the two parties involved.

What is the impact of informal or semi-informal employment on the implementation of core international labour standards?

It is extremely difficult to ascertain.

The labour inspection authority is empowered by the Labour Inspection Act to control the implementation of certain essential rights of workers (e.g. freedom of association, non-discrimination in employment). Its investigations are based on complaints usually lodged by trade unions functioning in some legal enterprises run by employers. The labour inspection authority has limited capacity: it is engaged annually in 25,000 to 30,000 investigations while the number of corporate and individual undertakings amounts to almost 1 million in the country.

We have no knowledge of workers' organizations in the informal sector and on the basis of the information at our disposal, trade union presence is also extremely rare in the SMEs. It remains an open and unanswered question whether this state of affairs reflects the free choice of the workers not to unite in unions and be engaged in collective bargaining, or whether it is the tacit expectation of employers in this field not to have trade unions on their premises.

In the past few years, Hungary has had a couple of rioting cases involving violations of trade union rights, mostly in middle-sized enterprises run by foreign employers. Apart from these cases, we are not aware of any other violations of fundamental workers' rights (e.g. the prohibition of discrimination in employment, or any practices involving child labour or forced labour).²⁰

5. Conclusions for further trade union action

Having gauged the dimensions, foundations and complexity as well as heterogeneity of the "hidden" or informal sector in Hungary, it is virtually impossible to arrive at definite and practical proposals or guidelines for further trade union action.

Even so, it would be well worth considering the following conclusions of an expert meeting which addressed the question:

- trade unions should pay more attention to the informal sector, its various forms of manifestation, and its impact on workers;
- trade unions should make more effective efforts not to lose the workers who lost their jobs and became absorbed in the informal sector;
- special attention should be paid to young workers;
- more education is needed in the areas of labour legislation and workers' rights;
- legislation should provide the protection of labour law for workers employed under civil law contracts;
- collective bargaining and agreements may contribute to the limitation and reduction of employment in the informal sector and should be promoted;
- better cooperation with employers and employers' associations is indispensable if trade union efforts are to be more effective at national, sectoral as well as enterprise level;
- the extension of multi-employer collective contracts to the relevant sector is a possible means to regulate the situation;
- it is necessary to bring Hungarian wage levels closer – in keeping with the performance of the national economy – to the European wage levels: the only effective deterrent to keep workers from turning to informal activities;

- reducing taxes and contributions on wages would be the only effective means to induce employers not to maintain informal activities; and
- labour inspection can have an important, albeit limited, role, if effective, in informal activities into the organized sector.

Notes

¹ In preparing this study, the author has drawn on the proceedings of a meeting of trade union leaders and experts (held on 25 November 1998 at the Labour Research Institute in Budapest involving the following participants: T. Wittich, Vice-President, MSOSZ, (National Association of Hungarian Trade Unions); J. Borsik, Co-Chairman, ASZSZ (Autonomous Trade Unions' Confederation); E. Szabó, President, SZEF (Trade Unions' Cooperation Forum); L. Horváth, Vice-President, LIGA (Democratic League of Independent Trade Unions); M. Révész, ÉSZT (Intellectual Workers' Trade Union Confederation); J. Iványi and M. Pásztor, MOSZ (National Alliance of Workers' Councils); I. Ékes, Trade Unions' Institute of Social and Economic Research; E. Berki, Senior Researcher, and L. Héthy, Director, Labour Research Institute.

² While the ILO admits that there is no definition of the informal sector based on "universal agreement", it underlines that it is "misleading to equate the underground economy of certain developed countries with the informal sector. Where an underground economy exists, it is generally constituted in order to evade taxes, control and regulation, sometimes perhaps because control and regulation are too bureaucratic and inefficient; but rarely is it a phenomenon associated with survival strategies of the poor as in developing countries. See *The dilemma of the informal sector*, Report of the Director-General, International Labour Conference, 78th Session, 1991, ILO, Geneva, 1991 and *Industrial relations in the informal sector*, *World Labour Report* (Industrial Relations, Democracy and Social Stability 1997-98), ILO, Geneva, 1997.

³ See *On Undeclared Work. Communication from the Commission*, COM (98) 219 final, Office for Official Publications of the European Communities, Luxembourg, 1998.

⁴ See Héthy, L. 1983. "The secondary economy in Hungary: its impact on industrial work and Government efforts to control it", in *Changing perceptions of work in industrialized countries: their effect on and implications for industrial relations*, Research Series No. 77, International Institute for Labour Studies, ILO, Geneva.

⁵ The most widely quoted estimates are drawn from a research project initiated by the Blue Ribbon Committee and supported by the OECD, the Canadian Government, the GKI Economic Research Company (Budapest) and the Hungarian Central Statistical Office; Árvay, J.; Vértés, A. 1993. *Summary Report on the major findings of the project entitled "Research Work on the Assessment of the Real Performance of the Private Sector in Hungary"*, Budapest, Dec. According to its estimations the hidden economy's size was 29.6 per cent of the GDP—of which 11.7 per cent was included and 17.9 per cent was not included in the official GDP.

⁶ Labour Research Institute. 1998. *Main trends in labour demand and supply*, Yearly Labour Market Report, Budapest, Apr.

⁷ Ibid.

⁸ See Héthy, L. 1998. "A megállaposásos bérpolitika Magyarországon", (Negotiated wage policies in Hungary) *Közgazdasági Szemle*, Budapest, Jan.

⁹ See Lindnerné Eperjesi, E. 1997. "A magyarországi munkaerőköltségek alakulása az EU csatlakozás tükrében" (Labour costs in Hungary in the context of its integration into the EU), I-II, Európai Tükör, Budapest.

¹⁰ For a detailed description of trade union characteristics and representativity, see Ladó, M. 1994. *Workers' and employers' interests as they are represented in the changing industrial relations in Hungary*, UCEMET, Working Papers, No. 3, Krakow.

¹¹ For a detailed description of the institutions see *National tripartite structures in the labour field in Hungary*, Ministry of Labour, Budapest, 1997. For CRI and related institutions, see Ladó, M; Tóth F. (eds.). 1996. *The State of Reconciliation of Interests 1990-1994*, Helyzetképez érdekegyeztetésről, 1990-1994. ET Titkárság – PHARE Társadalmi Párbeszéd Projekt, Budapest.

¹² A typical example for such deals is the 1992 November CRI agreement. For details see Héthy, L. 1995. "Tripartism and public policy formulation in Hungary", in Kyloh, R. (ed.). *Tripartism on trial: tripartite consultations and negotiations in Central and Eastern Europe*, ILO-CEET, ILO, Geneva.

¹³ The procedure for negotiating and setting it is as follows: (1) The Tripartite National Council for the Reconciliation of Interests is entitled by legislation under the Labour Code, 1992, to fix the national guaranteed minimum wage. (2) When an agreement is concluded concerning the guaranteed minimum wage, usually once a year, it is automatically turned into a Government decree with legal binding force. (The tripartite CRI does not have legislative powers.)

¹⁴ Roughly the equivalent of 15,000 US dollars.

¹⁵ In Hungary, the National Labour Safety and Labour Inspection Agency (OMMF) is an independent governmental organization under the supervision of the Minister of Labour (now also the Minister of Social and Family Affairs). It has local units in Budapest and in the 19 regions. The Agency itself has several decades of long tradition in safety supervision, but an extremely short history in labour inspection. Some of its labour inspectors belonged to the labour market service and controlled jobs in undertakings performed by persons declared as unemployed claiming unemployment benefits.

¹⁶ See "Munkavégzés különböző jogviszonyok keretében: átrendeződés vagy átváltás? (Work activities in various legal frameworks: restructuring or transformation?)", in Ónodi, I. (ed.). 1998. *A munka világa '98. Munkaügyi Kapcsolatok Társasága*, Munkaügyi Kutatóintézet, Budapest.

¹⁷ Ibid.

¹⁸ In the Hungarian State Railways the collective contract prohibits the employment of locomotive drivers on the basis of civil law contracts.

¹⁹ In recent years the Workers' Councils have made an attempt to organize small (self-employed) entrepreneurs. The League has tried to promote the re-employment of unemployed persons by trying to find jobs for them, but was horrified to learn that most jobs offered were "informal".

²⁰ On the basis of the provisions of the Labour Code, the Minister of Labour can extend collective contracts concluded by representative unions and employers (employers' associations) to the whole sector.

²¹ Hungary has ratified all seven core international labour Conventions and supported the adoption of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up (1998). It is also in the process of ratifying the Social Charter of the Council of Europe.

Italy

It is apparent that trade unions need to take steps to secure the representation and protection of workers engaged in the many new patterns of work which have come to the fore in order to avoid improper competition in worker-recruitment methods leading to segmentation and conflict in the representation of the federal trade union.

B. Angeloni/M. Giovine/M. Marocco/A. Mocavini/
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The following study was conducted by a working group consisting of ISFOL research workers and trade union experts. Coordinated by ISFOL (*Istituto per lo Sviluppo della Formazione Professionale dei Lavoratori* – Institute for the Development of Vocational Training for Workers) on the basis of guidelines set by the ILO, its aim is to analyse the growth of the informal economy in Italy.

Italy offers a continuum of work options: between unofficial employment and regulated and protected employment, there exists a series of intermediate arrangements – coordinated and regular collaboration, occasional collaboration, temporary work, training/employment contracts, job-insertion plans, job grants and training periods. These forms of work are at the origin of the debate currently under way in Italy on the subject of atypical work. The degree of trade union intervention varies according to the form in question, just as a system of rights and protection forms is in many cases yet to be developed.

Given this situation, the study which follows focuses both on the phenomenon of the underground economy, especially “unofficial employment in the sense of work not declared for tax and social-security purposes”, and on recent developments in coordinated and continuous work, otherwise known as “para-subordinate” work, “in the sense of an arrangement involving the performance of an activity not governed by a subordinate bond but within the framework of a single and continuous relationship”.

The study is organized in the following manner.

Section 1 analyses the aspects which have contributed to the growth of the informal economy in Italy from an economic and regulatory viewpoint.

Section 2 consists of a quantitative analysis of the phenomena described above using data from ISTAT (*Istituto Nazionale di Statistica* – National Statistics Institute) and INPS (*Istituto Nazionale della Previdenza Sociale* – National Social Security Institute).

Section 3 examines the role played by the trade unions CGIL (*Confederazione Generale Italiana dei Lavoratori* – Italian General Confederation of Labour), CISL (*Confederazione Italiana Sindacati Lavoratori* – Italian Confederation of Workers’ Unions) and UIL (*Unione Italiana del Lavoro* – Italian Labour Union) in devising certain strategies to safeguard the individuals concerned by these forms of work, and the extent to which those strategies have also led to the adoption of specific regulatory decisions. More specifically, we examine the creation of new trade union structures capable of overcoming the current lack of information and fulfilling the need for representation and protection of the workers involved.

The last section looks at the new challenges and main guidelines that the growth of the informal sector implies for future trade union action. Also provided is a description of the main provisions discussed during current parliamentary debate.

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CPO (Coordinamento Nazionale Per l’Occupazione – Coordination for Employment);

NidiL (Nuovo Identità di Lavoro – New Labour Identity)

1. The decisive economic and regulatory factors

1.1. Economic aspects and specific features of Italy's production system

The aim of this section is to highlight a number of elements relating to the production system which, combined with other factors, may help to explain the magnitude of the informal economy in Italy.

From the beginning of the 1970s on, innovations in the organization of production consisting, very briefly, in the transition from the Fordian model to the post-Fordian model, led to a fragmentation of production and a tendency to decentralize it by setting up networks of subcontracts and outsourcing. In Italy, in recent decades, this has triggered the development of small and medium-sized enterprises (SMEs), which are endowed with a greater degree of flexibility than large-sized enterprises. Their growth then prompted the creation of business districts, i.e. local networks of SMEs marked by a high degree of integration and coordination. Thus, at the end of the 1990s, Italy's industrial system is now characterized by a prevalence of small-sized enterprises. According to a recent survey of enterprises conducted by ISTAT in 1996 in industry and services, 95 per cent have less than ten employees. In industry alone, the proportion of small-sized enterprises is larger in Italy than in any of the other industrialized countries. Furthermore, the survey also reveals that in the early 1990s, 23.3 per cent of such enterprises had less than ten employees, which is more than in Germany (7.4 per cent), France (7.2 per cent), the United Kingdom (7.2 per cent) or the United States (3.3 per cent).¹ The enormous importance of SMEs in the Italian scenario is further confirmed by the proportion of workers they employ: 79.9 per cent of the total (in industry) compared with 65.9 per cent in the European Union as a whole.²

This majority of small or very small-sized enterprises (micro-enterprises) makes control by the State more difficult and increases the likelihood of evasion of tax and social security laws, as well as of labour-market regulations (safety, working hours, etc.). Moreover, micro-enterprises often have low rates of trade union membership, making the workers themselves more vulnerable, especially those belonging to the weakest segments of the market, and hence more willing to accept working conditions verging on the illegal. Another point to con-

sider is that in Italy many micro-enterprises arise from a need to create work activities which often border on subsistence levels and which, under the burden of tax and social security payments and general uncertainty, may well slip out of sight or into the informal sector.

Keeping in focus the production system, we believe that other elements characteristic of Italy may have contributed in recent years to the spread of unofficial employment.

To begin with, one should not forget that in Italy an important role is played by the agricultural sector where production is often organized around small units with a very low level of productivity. In terms of employment, whereas in the European Union (EU) agriculture accounts for 5.1 per cent of aggregate employment, in Italy the sector takes up 6.7 per cent of workers. Moreover, we should point out that in absolute terms Italy is the country with the largest number of workers in agriculture (1,332 thousand units) compared with the rest of the EU (7,514 thousand units), or in percentage terms, 17.7 per cent.³

Furthermore, in Italy, as in the majority of the industrialized economies, there has been an increase in the role of the services sector where the proportion of self-employment is greater than elsewhere. Although in Italy the share of employment in services is in line with the average for the EU (respectively around 62 per cent and 65 per cent according to Eurostat figures), this sector contains a prevalence of small traders, again often in response to the need to invent a job.

Taken together, these factors mean that the pressure of labour supply is greater than that of demand and, in the presence of the constraints we have described, it may move towards unofficial segments of the labour market.

Italy's unemployment rate is higher than the European average (respectively 12.5 per cent and 10.8 per cent in 1997) despite a lower activity rate (respectively 57.7 per cent and 76.7 per cent in 1997).⁴ Southern Italy appears to be the weakest, with an unemployment rate in 1997 of 22.2 per cent, compared with 7.3 per cent and 5.7 per cent in the north-west and north-east.⁵

Among the factors underlying the higher propensity to engage in forms of illegal work we should like, at this stage, to call attention to the impact of general taxation. There are three main elements which prompt recourse to forms of illegal work: high tax rates and social security contributions; a complex and generally unclear system as a whole; and little likelihood

of detection. In Italy, as indeed in the majority of the member States of the European Union, the past decade has revealed the limitations of a model of social state strongly based on a system of “guarantees” which, when exogenous conditions became unfavourable for population- and employment-linked reasons, brought heavy burdens to bear on the community in terms of a general increase in taxation. These effects have since been aggravated by the adoption of tight fiscal policies to support Italy’s convergence with the European Monetary Union. Thus, growing uncertainty as to the economic situation and the increasing globalization of our economies, where maintaining a competitive position becomes crucial, have forced some enterprises to resort to forms of illegal work guaranteeing lower costs and greater flexibility of production in the face of unexpected falls in demand. Finally, we would point out that while Italy’s tax system has become increasingly burdensome in recent years, reforms designed, on the one hand, to make it significantly less complicated in general and, on the other, to improve the tools for control have been slow in taking shape, thereby increasing the possibilities of elusion and evasion.

1.2. Main features of Italy’s regulatory system of labour protection

Italy’s legal system to safeguard the performance of work is anchored to the social figure of the worker in a large-sized enterprise, holding a stable, full-time job of indefinite duration.

In addition, there is a fair degree of rigidity in the actual system of safety measures. When an employment contract is stipulated, the parties (employer and employee) have little room for manoeuvre because the law and collective bargaining have fixed a set of rules which cannot be altered except by clauses favouring the worker, the aim being to ensure, once the relationship has begun, that economic and regulatory conditions favour the employee category (see Box 1).

However, this legislative framework has undergone substantial innovations, particularly since the 1980s, to adapt the body of regulations to the changes which have taken place in the organization of production, and has led, overall, to an increase in flexibility. Various phenomena have been involved, all interrelated and stemming from the developments in labour law mentioned above, and partly prompted by the need to fall into line with European Commission (EC) legislation.⁶

To begin, it is worth recalling the advent of certain models of legislation regulating labour which differ from the traditional one: the fixed-term contract, part-time employment, apprenticeship, the training/employment contract, job-sharing and, lastly, temporary employment.

Other typical features of this trend are the phenomena of “controlled deregulation” – empowering collective bargaining to make changes, even for the worse, in standards fixed by law;⁷ the curbing of labour costs (a significant step in this direction is the abolition of the

Box 1. Phase of minimum, unilateral and privileged protection

In a preliminary phase (1960s-1970s) the aim was to create, notably through legislative measures, a complex network of unavoidable protection in favour of subordinate workers. This stage includes the creation of a **public monopoly over placement**, accompanied by a requirement for employers to recruit using a **numbered application** (Law 264/49) and a **prohibition to contract manpower** (Law 1369/60); another feature is the body of rules governing **fixed-term employment contracts** (Law 230/62) and the laws on special employment relationships: **apprenticeship** (Law 25/55), **domestic employment** (Law 339/59) and **home-based work** (Law 264/58). This framework also embraces measures to limit the powers of employers: the **prohibition to dismiss for marriage** (Law 7/63) and the introduction of the “**justified motive**” requirement to limit the power to cancel an employment contract (Law 604/66).

Above all, the **Statute of Workers** (Law 300/70) represents the highest and most effective expression of protection for the individual and social rights of workers since its aim is to encourage the stable presence of trade unions in the workplace (anti-discrimination regulations, trade union rights, repression of anti-union behaviour, etc.).

With regard to wages, it is worth recalling the agreements on automatic wage mechanisms relating to the so-called **wage indexation scale** (inter-union agreements of 15/1/1957 and 25/1/1975) to protect real wages and the **reform of the labour process** (Law 903/77) to guarantee more streamlined procedures.

system of wage indexation); privatization of public employment; a gradual changeover from the “call by number” system of job insertion to one based on “named calls”; and, lastly, the abolition of the public monopoly over placement.

These new trends in labour law are accompanied, moreover, by growing recognition of the role of “coordination” between the Government and the social partners, with the result that the latest trends have often been the outcome of active participation by the trade unions. In other words, the transformation would not have been possible without industrial relations evolving from conflict to participation.⁸ Significant events in this process are the Agreement on Labour Costs of 1993 and the Pact on Labour of 1996.

The 1993 Agreement not only marked the end of automatic wage mechanisms and established a formal system of trade union relations designed to minimize conflict, but also contains large chapters dedicated to the need to encourage “active control” of the labour market: management of employment crises, youth employment and training, and reactivation of the labour market.

This same line is evident in the 1996 Pact which not only confirms the importance of the coordination method but envisages a number of instruments to combat unemployment and promote flexibility (working hours, training and research, temporary employment, training periods, part-time employment, employment

services, area-based contracts) which have effectively found their way into legislative provisions, as we shall see (Box 2).

This latter development in legislation has been accompanied by a number of important phenomena which have taken shape either in the gaps left by the body of regulations, outside it, or even against it. Indeed, the coexistence within Italy’s legal system of an area of rigid protection and regulation – as in the case of subordinate employment – and an area exempt from absolute rules, where the parties to the employment contract are free to establish themselves the conditions for the performance of work – i.e. self-employment – has naturally caused this second form to expand in recent years. In other words, Italy’s labour market seems to have found in self-employment the regulatory system needed to restore flexibility, almost as if this form offered a sort of “safety valve” against over-rigidity.⁹

The phenomenon gives rise to concern, however, when the choice of contract is not the outcome of the exercise of free will by the parties (especially the worker) but in truth conceals a subordinate employment contract, one without the costs and protection safeguards. In this case, improper use of this type of contract makes it justifiable to suspect a case of unofficial employment.

The rigidity of the system, along with adverse economic and productive factors, often makes it impossible for an enterprise to cope

Box 2. “Flexibilization” stage

After a period severely affected by the **economic recession** – typical examples of this stage are the agreements on the **curbing of labour costs** (trilateral agreement of 22/1/1983, Memorandum of Understanding of 14/2/1984) up to the **abolition of the wage indexation scale** (Memorandum of Understanding between the Government and the social partners of 31/7/1992) and creation of the **Wage Equalization Fund** (Law 164/75 and Law 427/1977) to protect employment levels – more recently, various pressures towards greater flexibility of the labour market have become evident. Expressions of this trend are the laws designed to incorporate **special forms of employment contracts** into Italian legislation or facilitate their use. This is the case, on one level, of the introduction of the **part-time contract** (Law 863/84) and the **training/employment contract** (Law 863/84) and more recently of the contract for the supply of **temporary work** (Law 196/97). At another level, collective bargaining has been designated for the establishment of other cases of eligibility of fixed-term contracts (Law 56/87), while the system of sanctions governing such contracts has been relaxed and the scope of contracts with a training content has been extended (Law 196/97).

Substantial innovations have been introduced on several occasions in public employment contracts to bring them gradually into line with the private sector, a process known as the **privatization of public employment** (Legislative Decree 29/93).

Lastly, other indicators of the progressive “deregulation” of the labour market are the generalized adoption of the principle of recruitment by “**named call**” (Law 608/96) and the **entry of the private sector in placement services** following the abolition of the public monopoly (Legislative Decree 469/97).

with excessive costs and this has led to the growth of a special form of underground economy due to over-regulation and heavy tax burdens. Labour law, in the sense of a rigid model of regulation for a single type of subordinate employment, has proved incapable of interpreting and keeping pace with the evolution of the economic and social context, thereby leaving scope not only for such phenomena as the “flight from subordinate employment”, but also for a “flight from labour law” in every sense.

In this framework, a so-called “reaction” has taken place, consisting, on the one hand, of the development of the concept of para-subordinate employment and, on the other, in the creation of the institution of wage realignment contracts.

2. Quantitative analyses

2.1. Unofficial employment in Italy

Although the phenomenon of unofficial employment is widespread throughout the European Union, in Italy it has reached worrying proportions and, according to estimates by the CEIS (International Centre for Studies on Economics and Growth) of Rome’s Tor Vergata University, in 1997 accounted for approximately 17 per cent of GDP.¹⁰ In this part of the study, we analyse in detail the proportion of unofficial employment in Italy and examine its evolution since 1980, using the term “underground economy” to denote the complex of paid legal activities which are not declared to the authorities and the revenues from which elude taxation. A quantitative evaluation of the phenomenon can be obtained from ISTAT data on illegal work units, divided into employed and self-employed units, and on work performed by non-resident foreigners (see Table 1).¹¹

The period in question can be separated into two sub-periods, the first covering the decade

1980-1990 and the second 1990 to 1997. Table 1 shows that the aggregate unofficial employment kept increasing until 1990 and then gradually declined. In the past three years, unofficial employment has tended to stabilize at around 2,200,000. As for non-resident foreigners, their numbers have increased substantially over the whole period (by 444,000 in absolute value and 162 in percentage terms).

The decrease in the number of illegal units which can be observed since 1990 (equal to 153,000) can be largely ascribed to a worsening of employment conditions in recent years, as evidenced by the drop in legal work units during the same period (down by 875,000). It is worth examining these considerations a little closer. As already pointed out, the underground economy is a varied phenomenon with a multitude of causes, and it is not always easy to tell which have exerted the strongest pressure. As has been stated earlier, one of the major factors sustaining an increased propensity to engage in unofficial activities is the heavy tax burden. Thus, given the increase in the impact of general taxation in Italy in recent years (it should be recalled that it was to support Italy’s entry in the European Monetary Union that a second progressive income tax was introduced in 1997, the Eurotax, which was added to the aggregate burden of personal income tax, IRPEF), one would have expected the underground economy to expand during the period 1996-97. Obviously, the employment situation deteriorated to such an extent as to counterbalance this effect and so produce, overall, a drop in the number of illegal units.

In Table 2, we show the distribution of illegal units between subordinate employment and self-employment.¹² It is apparent that the largest share of unofficial employment is made up of employed workers and that this trend remains stable throughout the period studied.

Table 1. Legal and illegal work units (total, employed, self-employed workers); thousand units

	1980	1985	1990	1995	1996	1997
Total legal	17 405.9	17 531.7	18 068.9	17 236.0	17 276.4	17 193.2
Official employed	13 054.4	12 831.1	13 237.9	12 629.1	12 640.6	12 600.2
Official self-employed	4 351.5	4 700.6	4 831.0	4 606.9	4 635.8	4 593.0
Total illegal	2 384.2	2 334.7	2 417.5	2 248.1	2 229.9	2 231.1
Unofficial employed	1 476.2	1 399.3	1 518.0	1 395.4	1 389.1	1 405.7
Unofficial self-employed	908.0	935.4	899.5	852.7	840.8	825.4
Non-resident foreigners	274.0	495.0	573.3	683.5	696.9	717.9

Source: ISTAT.

Unofficial employment breaks down into just over 60 per cent of employed workers and just under 40 per cent of self-employed workers. However, comparing the percentages of legal and illegal work units it appears that unofficial self-employed workers greatly outnumber the employed.

We can now extend the analysis to include the distribution of illegal work units among the main sectors of economic activity (agriculture, industry, private services). We refer to Table 3 showing the legal and illegal work units and non-resident foreigners.

A comparison of the percentages of legal and illegal units points to a heavier concentration of the underground economy in agriculture, while it tends to be under-represented in the services sector. An analysis over the whole period also indicates that compared with 1980, when unofficial employment was present to much the same extent in both agriculture and industry and less so in services, in 1997 there is a drop in the share found in agriculture but a

sharp increase in industry and services. On a sectoral level, the crisis which overtook agriculture led to a drop in unofficial employment which was also partly due to an outflow of workers towards industry. In industry, the growth of the phenomenon can mainly be ascribed to the sectors where production is traditionally organized around small-sized enterprises for which the constraint of remaining cost competitive was especially strong during the years of weak cyclical expansion; but in the services sector, on the other hand, it is the result of a sustained rise in demand for personal services and in the provision of business services, as evidenced, for example, by the spread of computer-related services, where there is a strong presence of self-employed workers often bordering on the unofficial.

If we now turn to non-resident foreigners, we can see that the largest concentration occurs in the services sector, which in 1997 alone accounted for approximately 60 per cent of their work units. In this case, the phenomenon

Table 2. Legal and illegal work units (total, employed, self-employed workers); percentage breakdown

	1980	1985	1990	1995	1996	1997
Total legal	100.0	100.0	100.0	100.0	100.0	100.0
Official employed	75.0	73.2	73.3	73.3	73.2	73.3
Official self-employed	25.0	26.8	26.7	26.7	26.8	26.7
Total illegal	100.0	100.0	100.0	100.0	100.0	100.0
Unofficial employed	61.9	59.9	62.8	62.1	62.3	63.0
Unofficial self-employed	38.1	40.1	37.2	37.9	37.7	37.0

Source: ISTAT data reprocessed by ISFOL.

Table 3. Legal, illegal (total) work units and non-resident foreigners by sector of activity; percentage breakdown

	1980	1985	1990	1995	1996	1997
Total legal units						
Agriculture	9.6	7.2	5.0	3.7	3.5	3.4
Industry	48.5	41.9	41.0	38.9	38.4	38.1
Private services	41.9	50.9	54.0	57.4	58.1	58.5
Total illegal units						
Agriculture	37.5	34.5	32.9	28.8	27.8	26.7
Industry	35.3	35.2	36.5	39.8	39.9	40.3
Private services	27.2	30.3	30.5	31.4	32.4	32.9
Non-resident foreigners						
Agriculture	24.1	19.2	18.0	23.5	23.7	23.7
Industry	21.7	18.5	16.5	14.7	14.8	16.0
Private services	54.2	62.3	65.5	61.8	61.5	60.2
Total	100.0	100.0	100.0	100.0	100.0	100.0

Source: ISTAT data reprocessed by ISFOL.

is mainly due to the increase in personal services (such as home help), where there is a greater proportion of foreigners. As for the other sectors, the phenomenon shows a tendency to stabilize in agriculture, while in industry it declined until 1996 and then picked up.

In Italy, the underground economy is not evenly distributed throughout the country but tends to concentrate in the south. The latest geographical breakdown of data produced by ISTAT dates back to 1994 and only relates to the aggregate of unofficial workers (employed) in the narrow sense and the sectors of industry and services. Out of the total work units per geographical area and reference sector, illegal work units account for 8.2 per cent and 35.3 per cent in industry respectively in the centre-north and the south, and for 4.4 per cent and 13.3 per cent in marketable services.¹³ Apart from the factors described earlier, this can be put down to the existence of other causes related to the structure of the labour market which have a stronger impact in the south and during periods of poor expansion. As far as the demand for labour is concerned, the following factors play a role:

- persistent situation of high unemployment with slack labour demand in the manufacturing sector and an inability on the part of the other sectors to take up the excess labour supply, combined with an increased demand for seasonal labour in the services sector which, failing adequate controls, often spills over into the underground economy; and
- the greater uncertainty which characterizes the economy of the south compared with the other areas of the country; this, on top of an inflexible labour market, prompts entrepreneurs to seek unofficial employment.

On the supply side, instead, we would highlight:

- the poor ability of weak labour supply (women and/or young people) to become absorbed in segments of the official market; and
- a growing propensity of young labour supply to engage in less regulated activities which are less subject to rigid rules regarding, for instance, working hours.

Basically, in Italy, the underground economy differs in nature and degree according to sector and geographical area. The causes of the phenomenon are multiple and this explains why it is so difficult to find the right tools to solve the problem within a fairly short space of time.

2.2. Para-subordinate employment: "Coordinated and continuous collaboration" contracts

The post-industrial models of production have given rise to new types of work which cannot be incorporated into the category of subordinate employment and have therefore remained for a long time on the margins of labour-protection law. The concept of para-subordinate employment arises from an explicit need to recognize all those "forms of self-employment with the characteristics of being predominantly personal, continuous and coordinated" by incorporating them within the scope of the legal system of guarantees for subordinate employment. In other words, it was originally intended that this category should lead to an enlargement of the scope of labour law rather than represent a regression. In this case, the debate is even couched in terms of an "expansion of labour law".

However, this legislative method of gradually "annexing" areas of self-employment or "grey" areas, as they may be, to the area of subordinate employment proved not only to have various shortcomings as a system and to be incomplete and inadequate (especially from the social security viewpoint) but also to make this type of contract too easily open to the interpretation of the parties. In other words, in situations where the worker is in a particularly weak position against the employer, the choice of work in the form of coordinated and continuous collaboration is not genuine but conceals a subordinate relationship without the associated protection forms and is therefore fraud in the eyes of the law. The proliferation of this form of work in recent years is probably the single event which has most helped to overturn a concept, that of para-subordinate employment, which originated at a time when the phenomenon certainly had less of a social impact.

The profiles in question and the related work thus become somewhat ambiguous; the borderline between characteristics of subordinate employment and self-employment tends to be very fine, to the point where regarding a job as subordinate employment or self-employment may depend on the worker's perception and not on any objectively assessable elements. The phenomenon can be explained in part by the fact that these forms of work often fulfil the role of support and/or reinforcement for competences and production skills already present in the enterprise, that they are discontinuous, duration and hours are short, social security

protection is minimal/absent, but the activity is coordinated by the contractor, there are fixed working hours and a wage which is often paid on a monthly basis.

A statistical analysis of these forms of work enables us to assess their volume and offers a useful key for interpreting phenomena of increasing labour-market flexibility. We can make this analysis of the volume of coordinated and continuous work using data gathered by the INPS (*Istituto Nazionale della Previdenza Sociale* – National Social Security Institute) when social security positions were created for specific categories of contributors.

As will be explained in greater detail further on, the law on the reform of the pension system (Art. 2, comma 26, Law 335/95) envisages registration in a specific social security fund set up by the INPS and hence the requirement to pay contributions for workers earning incomes from professional activities (the requirement does not apply to freelance professionals already insured with funds set up by that profession, but only as far as pertains to income on which contributions are paid to those funds), from “coordinated and continuous collaboration” contracts, and from door-to-door sales. The data provided by the INPS on positions open at 31 March 1998 (i.e. positions opened when the law came into force and are still open) groups the categories concerned into three major aggregates: freelance professionals, coordinated collaborators and mixed profiles: professionals/collaborators.

It emerges (see Table 4) that over a million workers are registered, 1,153,485 to be exact; 85.9 per cent of these are coordinated and continuous collaborators (990,304), while 12.5 per cent (143,906) are professionals and 1.7 per cent (19,275) mixed professionals/collaborators.

At this point, it is worth describing more exactly which workers are included in the three groups:

- coordinated and continuous collaborators are, first of all, directors and internal and external auditors of companies and organizations, contributors to newspapers, magazines, etc., members of examination boards and commissions, other collaborators entering into an arrangement with the contractor which envisages the performance of activities with an intrinsically professional content but conducted outside a bond of subordination, as part of a single, continuous relationship not using organized means and receiving a pre-established, periodical

payment. The INPS includes door-to-door salespeople in this category;

- freelance professionals are people who habitually perform an art or profession. The definition is fairly broad and may give rise to dubious interpretations, particularly in the case of the provision of services. The criterion used to distinguish self-employment from entrepreneurial activity lies in the organizational factor, i.e. in the context in which the work is performed (criterion of the prevalence of own work); and
- professionals/collaborators are freelance professionals registered with other social security funds who perform work which is not part of their main activity, the income from which is subject to INPS social security contributions. They are mainly directors and internal and external auditors.

The professional groups described above possess different characteristics as regards their position in the labour market. Among the freelance professions are concentrated the highly qualified levels, which are therefore in a position of *strength* on the market, while the “coordinated and continuous collaboration” category incorporates a small proportion of highly professional activities as well as a myriad of activities associated with tertiary or “poor-tertiary” sector services: cleaning, fast food, and functions contracted out by enterprises. The workers belonging to these groups are atypical insofar as the relationships they establish with the contractors do not possess the elements needed to constitute a typical work arrangement: inclusion in the company staff roll, definition of the time for performance of the work.

In the first group, these non-standard methods of performing work are regarded as a privilege, whereas in the second group the same conditions sometimes make it difficult to qualify the individuals. Collaboration may span short or even very short periods, earnings may be minimal, and there is little or no regulatory or contractual protection. The analysis which follows focuses on the dynamics and characteristics of the second group of individuals in order to highlight the growing flexibility of labour, including its precarious aspects. Comparisons will be made with the characteristics of the professional group to help explain the phenomenon.

As indicated earlier, 85.9 per cent of the data in question (990,393 individuals) refers to coordinated and continuous collaborators. The

Table 4. Atypical workers at 31 March 98 by type, age and sex

Age groups	Type											
	Professionals			Collaborators			Professionals/collaborators			Total		
	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total
<i>Absolute values</i>												
under 25 years	3 121	2 810	5 931	35 771	46 087	81 858	454	569	1 023	39 346	49 466	88 812
from 26 to 30	11 061	8 028	19 089	69 074	72 570	141 644	1 662	1 632	3 294	81 797	82 230	164 027
from 31 to 35	17 317	10 113	27 430	84 255	67 276	151 531	2 352	1 572	3 924	103 924	78 961	182 885
from 36 to 40	15 856	7 673	23 529	78 610	48 756	127 366	1 928	956	2 884	96 394	57 385	153 779
from 41 to 45	14 384	5 254	19 638	72 611	37 996	110 607	1 575	653	2 228	88 570	43 903	132 473
from 46 to 50	12 607	3 693	16 300	71 252	33 273	104 525	1 366	531	1 897	85 225	37 497	122 722
from 51 to 55	10 226	2 763	12 989	69 319	28 492	97 811	1 228	387	1 615	80 773	31 642	112 415
from 56 to 60	8 697	1 793	10 490	67 296	20 908	88 204	1 145	261	1 406	77 138	22 962	100 100
from 61 to 65	5 506	762	6 268	45 214	10 417	55 631	731	107	838	51 451	11 286	62 737
over 65	1 967	275	2 242	25 452	5 675	31 127	141	25	166	27 560	5 975	33 535
Total	100 742	43 164	143 906	618 854	371 450	990 304	12 582	6 693	19 275	732 178	421 307	1 153 485
<i>Percentage values</i>												
under 25 years	3.1	6.5	4.1	5.8	12.4	8.3	3.6	8.5	5.3	5.4	11.7	7.7
from 26 to 30	11.0	18.6	13.3	11.2	19.5	14.3	13.2	24.4	17.1	11.2	19.5	14.2
from 31 to 35	17.2	23.4	19.1	13.6	18.1	15.3	18.7	23.5	20.4	14.2	18.7	15.9
from 36 to 40	15.7	17.8	16.4	12.7	13.1	12.9	15.3	14.3	15.0	13.2	13.6	13.3
from 41 to 45	14.3	12.2	13.6	11.7	10.2	11.2	12.5	9.8	11.6	12.1	10.4	11.5
from 46 to 50	12.5	8.6	11.3	11.5	9.0	10.6	10.9	7.9	9.8	11.6	8.9	10.6
from 51 to 55	10.2	6.4	9.0	11.2	7.7	9.9	9.8	5.8	8.4	11.0	7.5	9.7
from 56 to 60	8.6	4.2	7.3	10.9	5.6	8.9	9.1	3.9	7.3	10.5	5.5	8.7
from 61 to 65	5.5	1.8	4.4	7.3	2.8	5.6	5.8	1.6	4.3	7.0	2.7	5.4
over 65	2.0	0.6	1.6	4.1	1.5	3.1	1.1	0.4	0.9	3.8	1.4	2.9
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: INPS data reprocessed by ISFOL.

analysis by age group indicates that the number of coordinated collaborators tends to increase among the younger categories. Specifically, from the youngest group (under 25 years of age) to the groups aged 26 to 30 and 31 to 35, the percentages range from 8.3 per cent to 14.3 per cent and to 15.3 per cent, for an aggregate total of 37.9 per cent, while in the case of workers aged from 36 to 40, from 41 to 45 and from 46 to 50, the percentages tend to decline, going from 12.9 per cent to 11.2 per cent and to 10.6 per cent, for an aggregate total of 34.5 per cent.

Particularly interesting is the datum on the age group of the youngest collaborators (under 25); here the percentage is more than double that for professionals (8.3 per cent to 4.1 per cent) and remains higher, although by a narrower margin, for the 26 to 30 age group (collaborators 14.3 per cent, professionals 13.3 per cent). Only after the age of 30 do freelance professionals begin to outnumber the coordinated collaborators, and continue to do so until 50 years of age.

Access to a profession implies a middle to high-level educational qualification and it is normal, therefore, that this should occur after the age of 25. Access to the market by way of a precarious or unstable employment, such as coordinated collaboration, takes place at a younger age and therefore is likely to apply to individuals with a lower level of schooling or less self-entrepreneurial ability and to less qualified jobs. The absolute figures capture more significantly the magnitude of the phenomenon: very young collaborators (under 25 years old) number more than 80,000, while professionals of the same age are fewer than 6,000. It would also appear to be confirmed that for young people entry into the labour market is an arduous process with uncertain results. On the other hand, the characteristics of this transition towards work vary according to individual situations as regards personal pathways, reference culture and level of training.

Lastly, the over-65 age group deserves comment. This category accounts for 3.1 per cent of coordinated collaborators (over 31,000 individuals); probably these people are already collecting a pension but continue to perform an activity (a very widespread phenomenon in Italy, but about which little is known) in the form of administrative work, dispatch of formalities in public offices, for which the contractors are often professional firms (lawyers, solicitors, accountants, etc.).

Finally, it is interesting to make a brief analysis of the gender distribution. The proportion

of active women has been increasing over the past 20 years and now accounts for approximately 40 per cent of the total workforce. There are many factors behind the growing presence of women and they include the expansion of the tertiary sector, the spread of a culture of equality among the young generations, and the increase in levels of schooling among women.

Possibilities of access to the labour market have increased, but as far as women are concerned the market itself continues to be highly segmented. Alongside groups of women who have largely achieved equality of access and young women with middle to high-levels of schooling, there are sections of the female population for whom this possibility does not exist or is very difficult to attain.

This group manages to enter the market through the new job opportunities offered by the unqualified tertiary sector, those with shorter working hours and a marginal position in terms of guarantees and protection, which are typical of coordinated work.

Women collaborators generally display the following characteristics:

- they outnumber men until the age of 40;
- in the youngest age group (under 25) the percentage of women is more than double that of men (12.4 per cent to 6 per cent);
- in the following three groups, the difference between men and women ranges from 8 per cent in the 26 to 30 age group, to 4 per cent in the 31 to 35 age group and 0.1 per cent in the 36 to 40 age group.

Surprisingly, the figures for professional women follow a similar trend: women outnumber men until the age of 40. This appears to indicate a fair degree of equality of access for women with a *strong* position on the market (professionals) as well as their entry into weaker positions, in discontinuous pathways, maybe with shorter working hours, in a world of precarious and/or marginal employment. Some research studies on the structure of working hours have shown that women regard forms of *self-employment* as a means of reconciling time for work with time for living. This does not apply so much to the possibility of shorter working hours but that of organizing the whole of their time. Thus, in the case of coordinated collaboration, the *disadvantage* of a place in the labour market offering few guarantees is offset by the *advantage* of flexible working hours.

This brief analysis reveals a pseudo-regulated market allowing access to the young gen-

erations and vulnerable sections of the population, but also points to a situation of difficulty and disadvantage among these same worker categories, for which possible measures need to be devised.

3. Trade union action

3.1. Para-subordinate employment: First protection measures and the creation of new trade unions

The first regulatory indication of the tendency to broaden labour law as described earlier can be found in the law on the reform of labour proceedings (Law 533/73), which extends the rules of procedure applying to individual labour disputes to “other collaboration arrangements involving the performance of continuous and coordinated work, mainly of a personal nature, although not of a subordinate type”. As an outcome of this measure, jurisprudence has intervened, in alternating periods, to define more precisely the characteristics of these types of work, thereby often remedying gaps in the body of regulations.

Along the same lines, as part of the reform of the social security system enacted by Law 335/95, we have the creation of a special INPS fund in favour, among others, of workers employed under “coordinated and continuous collaboration” contracts. Since January 1996, it has become compulsory for these individuals to register with this separate fund, which is designed to extend gradually to them, too, the compulsory, general insurance for invalidity, old age and survivors. The fund was initially formed from a contribution of 10 per cent of fees earned, to be paid by the contractor (the larger portion) and by the collaborator. Since then, and notably in the Finance Law for 1998, a plan to increase gradually the contribution to a maximum rate of 19 per cent has been introduced for individuals not registered with other compulsory social security funds. One of the purposes of this increase is to offer these individuals two further forms of insurance typical of subordinate employment: maternity benefits and family allowances.¹⁴

Prior to this measure, various proposals had been put forward for extending compulsory social security coverage to these individuals as well. At the beginning of the 1990s, it was suggested that a much higher contribution rate be applied to collaboration contracts (some proposals spoke of 27 per cent, others 15 per cent)

and it was not envisaged to administer these contributions separately, nor that the employer should pay in.

The role of the social partners was fairly limited throughout that phase. The Government imposed its decision to increase public finance revenues through the entry of a new subject and for everyone the overriding concern was to increase the guarantees for older workers about to leave the workforce. However, according to the trade union federations, one of the aims was also to achieve a public pension system which would prove more balanced and equitable, including the different generations. During those years, both the trade unions and the other political and social forces were becoming increasingly aware of the magnitude that the phenomenon of para-subordinate employment was attaining in Italy’s labour market, yet until a few months ago the subject never became a true centre of attention. From the mid-1990s, however, various associations grew up alongside the trade unions to represent these interests, although they never succeeded in sparking a wider debate or involving their potential reference group.

In recent years, with the intervention of the social security system, the new “economic subject” created by collaboration-contracted workers has managed to achieve greater visibility and the “phenomenon of para-subordinate employment” has at last become at least partially quantifiable, causing surprise – because of the broad spectrum involved – even among those who had always maintained it constituted a massive presence in Italy’s employment scenario. As the political and social forces began to appreciate the extent of the phenomenon from the preliminary figures published by the separate INPS fund, the idea took root that it would be necessary to adopt broader measures to safeguard these workers. In terms of trade union initiatives, this “awareness” has very recently led to the creation of special trade union structures with the statutory aim of protecting the new categories of workers.

CGIL – NidiL

The Executive Committee of the national CGIL approved, in March 1998, the creation of a new “trade union structure” entitled NidiL (*Nuova Identità di Lavoro* – New Work Identity) to organize and represent temporary workers and collaborators (i.e. those performing their activities under coordinated and continuous and/or occasional-collaboration contracts).

The fairly generic definition of “trade union structure” points to some of the difficulties and main features of the NidiL:

- it is not a trade association (in other words, it does not act within the context of a specific goods sector);
- although the structure has evident features of a federation, it does not concern itself with general policies but with those relating to the new forms of contract;
- it is not an association affiliated to the CGIL but an integral part of it and the workers belonging to the NidiL enjoy the same rights as those belonging to any other trade association of the CGIL; and
- it is a trade union body, not a service structure (although it is expected to organize and coordinate fiscal, social security and legal services).

The specific nature of the workers represented has therefore modified the traditional trade union models to give rise to an organizational body intended to follow its members during their vocational pathway rather than in their job. Whereas in the case of workers recruited under contracts of indefinite duration, trade union representation takes place within the workplace – which in most cases is the same throughout life – the new forms of contract often make it necessary to work for more than one contractor, to change work and workplace, to alternate periods of activity and periods of non-employment. This marked mobility and flexibility make it necessary to diversify trade union strategies, ensuring they are heavily decentralized and as widespread as possible. To fulfil these requirements, the NidiL – which began to operate in May 1998 – has set up a national centre and, to date, 40 decentralized structures have spread throughout the country.

The national centre consists of a coordinator and a coordination group, flanked by an executive board in which representatives of the CGIL trade associations and managers of the local operational structures take part. Locally, a coordinator and an executive board repeat the national model. As for the distribution of tasks, the national centre is responsible for national bargaining, the conduct and coordination of political and trade union activities (e.g. agreements with professional associations, agreements and pacts for joint action with other trade union structures, institutional relations, etc.), organizational matters (membership, creation

and support of decentralized structures, set-up and coordination of service activities, etc.) and support activities (training, communications, research, etc.). The local structures (which are present in all the cities and in the main provincial capitals) are in charge of decentralized bargaining and of other specific trade union and service activities at local level. The local structures are mainly responsible for the protection, organization and representation of workers who, as experience in recent months has shown, generally apply to the trade union at the beginning and at the end of an employment contract.

CPO – UIL

The *Coordinamento Nazionale Per l'Occupazione (CPO)* (National Coordination for Employment) is a non-profit association set up under the aegis of the UIL which operates at national and international level to promote labour actions and policies designed to aid the groups worst hit by unemployment, including young first jobseekers, unemployed workers seeking new jobs and individuals performing atypical work. The CPO promotes improvements in the effectiveness of labour policies by coordinating measures to combat social marginalization with actions to counter exclusion from labour. Members of the CPO include non-employed workers, unemployed workers seeking new jobs, workers registered on the mobility lists, unemployed workers engaged in “socially useful job” projects, individuals performing atypical work and temporary workers. The CPO offers a monthly certificate of trade union membership for individuals earning income and a yearly certificate for those without income. The association is financed with the membership fees paid by members, certain grants envisaged under national and regional legislation, EU regulations and measures, and grants provided by public or private bodies, as well as funds raised through initiatives designed to further its aims.

The structures of the CPO are as follows:

- National Coordination Units;
- Regional Coordination Units; and
- Provincial Centres.

The first purpose of coordination units is to prevent a form of social exclusion such as that caused by the lack of jobs compounded by another form of exclusion due to the lack of direct trade union representation. The need to organize a special structure certainly does not

stem from a desire to extend the association's representation, but to bind together a group of individuals performing work by coordinating their representation within the broader bargaining context of the trade union. The provincial centres incorporate the service centres, structures which provide first-level information and advice and give information about job and vocational training opportunities at national and local level: training/employment contracts, public competitions, projects for publicly useful jobs, job grants, practice periods, etc. They also offer information about labour-market regulations embodied in the law and in contracts and about existing provisions guaranteeing rights and protection, and also perform activities to protect such rights.

ALAI CISL

The ALAI (*Associazione Lavoratori Atipici ed Interinali* – Association of Atypical and Temporary Workers) is promoted by the CISL trade union and its purpose is to organize, represent and provide trade union protection for workers with atypical employment contracts, starting with socially and publicly useful jobs, temporary work, job grants, practice periods and job-insertion plans. Within this sphere of representation, the aim of the association is to safeguard workers from the viewpoint of working conditions, expertise, regulation of the labour market, training needs and social security services, partly through institutional discussion and coordination of the public authorities and social partners, and partly through contracts and access to the integrated system of CISL services.

The *Compagnia delle Opere* (“Company of Works”) has joined the ALAI in the form of a collective membership agreement. One of the reasons for this decision is the search for a social recomposition of the world of work and an association which shares the values and trade union strategy of the CISL in order to strengthen the role of social pluralism in democratic processes and its participation in social coordination policies. Because the association represents a specific area of the world of work, it accords priority to the following commitments:

- active policies regarding the labour market, guidance, training and first job insertion of young people, equality of opportunities;
- regulation of atypical work;
- development of policies for the “tertiary sector”; and

- promotion of vocational training policies as well as of social security and supplementary health-care funds for its members.

The ALAI CISL has therefore grown out of a desire to respond to these specific needs for information, services, representation and protection; it is structured nationwide in regional and local offices. Members of the ALAI can use the system of services and protection forms offered by the CISL on an equal footing with all the other members (social security assistance, tax assistance, etc.). Moreover, they may obtain answers to their specific requirements from operators at the local ALAI desks.

3.2. Wage-realignment contracts

In Italy's system of industrial relations, the model of negotiation for gradual alignment requires a provincial disclosure agreement (*accordo di emersione*) envisaging a coordinated procedure to regularize the situation which will gradually lead to full application of the national contract from the regulatory and economic point of view. The gradual alignment therefore takes place through a series of wage increases scaled over a fixed period of time. The trade unions agree to make a temporary exception to the basic rules embodied in the collective trade contracts with the final objective of achieving their broader application and coverage. On the other side, enterprises undertake to give up the advantages of eluding legal and contractual rules in whole or in part, on condition that they obtain significant benefits in terms of tax and social security contributions. By according a sort of “indemnity” for previous violations, the State achieves a positive sanction of disclosure (*emersione*) by making the indemnity conditional upon gradual disclosure while encouraging acceptance by means of reductions in tax and social security contributions.

In Italy, the 1990s have seen a revival of legislative initiatives to combat the underground economy, accompanied and encouraged by a growing preoccupation with the phenomenon on the part of all the economic and social forces in the country. A joint commitment by the social actors to combat unofficial employment (as will be further discussed below) was made explicit in the Pact on Labour of 1996. Throughout the agreement, and in many parts of it, the signatories reiterate their desire to encourage enterprises to regularize situations of illegal work, from the regulatory as well as the social security and tax point of

view. It is in this context that the wage-realignment contract, already conceived during the 1980s, has taken centre stage in the political and trade union debate; and it was during the interval 1995-97 that two regulatory measures played a crucial role in launching again the gradual-alignment agreements (Law 608/96 – Law 196/97).

Before any regulatory recognition was forthcoming, collective bargaining took steps to remedy a perverse practice which is widely adopted, especially in the south of Italy, and creates fertile ground for the spread of forms of illegal work. In fact, many enterprises, especially small and very small ones, constrained by a precarious economic and market situation, have adopted practices of “underpayment” by not applying the national trade contracts, especially the minimum wages they envisage. In this “uncovered” area, the ordinary mechanism for the reduction of labour costs paid by enterprises, consisting of contribution facilities in the form of the Treasury taking over part of insurance payments and of reduced contributions,¹⁵ fails to produce any effect. In order to combat these practices, the law makes the benefits of this mechanism conditional upon the payment of the minimum wages fixed by collective bargaining. To break this vicious circle while helping the trade unions to establish themselves in this area, the practice has begun to develop of drawing up company-level contracts centred around programmes for the gradual realignment of wages to the standards set out in the trade contracts so that the signatory enterprises can take advantage of the contribution facilities.

This system of gradual wage realignment was enacted in Law 389/89, which envisages for enterprises located in southern Italy (as well as for insufficiently developed enterprises in the centre-north) a suspension of the above legal requirement for the enjoyment of contribution facilities (i.e. compliance with the wage levels fixed by national contracts) if this is “based on a gradual programme of realignment” of wages. For this suspension to be effective, the Ministry of Labour had to intervene by issuing a decree to grant the benefit in question. Only later (Law 210/90) was the role of the Ministry eliminated. It then became sufficient for the enterprises concerned to draw up the minutes of a meeting receiving the provincial agreements stipulated by the most representative trade unions at national level in which was set out the programme of gradual wage realignment. The law set a deadline for taking

advantage of this offer: provincial and company-level agreements had to be deposited by 31 May 1991.

Under pressure from the social partners¹⁶, the mechanism was re-presented, after a long series of regulatory provisions which were only temporarily effective, in the form of Law 608/96, which reopened the possibility of stipulating these agreements for a period of one year. The regulations were to some extent innovative: on the one hand, the scope of the benefits was limited to enterprises in the south operating in the industrial and craft sectors; on the other, the incentives implemented in favour of employers envisaged not only a general “indemnity” against all previous unpaid contributions, but also the possibility of paying social security and health-insurance contributions on the basis of the reduced wage set out in the realignment programme. Moreover, an important novelty concerned the trade union organizations authorized to stipulate provincial agreements. To begin with, the requirement that they should be the most representative organizations was eliminated, thus extending the number of subjects authorized to stipulate agreements to include all those signing the national collective contract in question. In this connection, it should be pointed out that eliminating this requirement concerning trade union representation has caused concern among the trade union forces: there are fears that it may turn out to be an “unguided missile” within the Italian system of industrial relations. The “permissiveness” it implies could lead to the stipulation of “pirate” collective contracts: i.e. not only would trade unions lacking any link with the workers be able to stipulate provincial agreements (involving, as we have said, reduced wages) simply because they adhere to the national contract which is the object of realignment, but the national contract itself could be stipulated by trade unions “favouring employers or at least seeking to gain niches (...) by means of *unusual* strategies and contractual tactics (...)”.¹⁷ In this eventuality, the wage levels with which realignment should take place might themselves be lower since they represent the outcome of “pirate national contracts”.

The often-mentioned Law 196/97 (known as the “Treu Package” from the name of the Italian Minister of Labour who presented it) not only postpones the deadline for stipulation of the agreements until 19 July 1998, but also introduces further changes in the institution, enlarging its field of application and granting addi-

tional advantages to the enterprises taking part. Access to the system is again opened up to all sectors, as was indeed suggested in the Pact on Labour of 1996.

However, as we shall see, it is in the area of incentives that real progress has been made. Yet strengthening the tool in this way has aroused serious doubts and concern: there are indeed some who maintain that it should not be revived because by effectively extinguishing every past violation, it could generate perverse effects and encourage rather than combat the phenomenon of unofficial employment. Honest enterprises, which may be hit by competition from those participating in the realignment programme, could be prompted by the enormous facilities to veer towards illegality. It should be recalled, first of all, that the new regulations mark a change in the area of unofficial employment targeted by the legislator. Originally, the measure was addressed to enterprises which did not apply contractual wage levels and encouraged them to realign by offering contribution facilities; the range of subjects concerned has now changed and expanded. The premiums described below are in fact also addressed to enterprises which are entirely “underground”, enterprises which have never reported their employees to the social security institutes and therefore have never paid any of the contributions due.

More specifically, in addition to extending existing benefits, the Treu Package introduces others. The characteristics of the social security contribution “indemnity” are stated in clearer terms so that it now encompasses every contribution owed by enterprises, and all offences and administrative sanctions associated with

violations of the law on this subject are extinguished. The rule that the realignment wages are to be used as the basis for calculating social security and health-insurance contributions is confirmed and set out in detail:¹⁸ the law fixes a minimum percentage with respect to contractual levels, below which the benefit is not available. And as a crowning factor, the indemnity for enterprises also applies to fiscal matters. Employers are allowed to regularize in general all taxes evaded in respect of undeclared remuneration paid to workers involved in the realignment agreements.

Finally, again following a suggestion contained in the 1996 Pact, another large “premium” is awarded to enterprises which have successfully completed the programme of wage realignment to the levels envisaged in trade contracts stipulated by the “comparatively most representative” trade unions:¹⁹ for the workers participating in the company-level agreement, they may take advantage of the enormous facilities granted for new jobs.²⁰

As far as evaluating the impact of this instrument is concerned, the first thing to point out is that the majority of provincial agreements for wage realignment have been stipulated in precisely the least developed areas where we have seen that the proportion of unofficial employment is highest. The experience of the textile and agricultural sectors offers a good basis for evaluating the impact and the effectiveness of the instrument. In the textile sector, 46 provincial agreements have been stipulated: 12 in Apulia and 9 in Campania. The instrument has been used by over 600 enterprises and has involved nearly 14,000 workers. It is important to bear in mind that 77.7 per cent of the indi-

Advantages of applying gradual-realignment contracts for...

Enterprises

If they observe the employment contract, they can access financing, facilities and concessions envisaged for disadvantaged areas.

A new employment status is assigned to the “realigned” employee, thus giving access to the advantages envisaged for new recruitment of workers.

In agriculture, the contracts envisage the possibility of having wages which are not equal throughout the country, thus allowing locally structured wage policies

Workers

Payment of social-security and health-insurance contributions is guaranteed.

Immediate application of rights pertaining to sickness, leave, holidays and feast days. Gradually the wage reaches the same level as that fixed by the national trade contract.

The work experience is regularized and can be credited in the event of mobility between one job and another

viduals concerned belong to the first of the two regions considered. By contrast, in the agricultural sector the realignment has involved nearly 26,000 enterprises, 20,000 (77.4 per cent) from Apulia, and has affected over 131,000 workers (nearly 61 per cent again from Apulia), for 33 provincial agreements. A number of provincial agreements have also been stipulated in the trade sector (specifically, three in Sicily, Apulia and Calabria) but there has been no practical application.

There are differences in the application and impact of these contracts in the various sectors, closely related to the specific characteristics of the latter. In industry, illegal work often stems from outsourcing of single phases of the production process by large-sized enterprises (or leader enterprises) to the detriment of marginal outworking enterprises. In agriculture, many specialist workers are not just agricultural employees and work not only on farms but also in commercial and industrial companies, and therefore raise very special problems. Although a fair number of entrepreneurs had decided to follow the course of gradual realignment in the early 1990s and until the amendments of 1996, in recent months there has been a sudden fall-off in participation.

What are the reasons for this?

To begin with, it should be pointed out that for the vast majority of enterprises undertaking the disclosure process, realignment wages actually constitute a critical threshold, beyond which they do not wish to step, and this is why the instrument has failed to achieve its objectives. Moreover, now that the incentives have been reduced following Italy's new agreements with the European Union, many enterprises have been dissuaded from starting realignment. Another deterrent is the fact that the disclosure process has in the end worsened the competitive conditions of the enterprises concerned. An example may help to explain the phenomenon better. In Lecce, a town in Apulia where the largest number of realignment contracts has been recorded, it has been observed that contractors have moved some production activities to other provinces where a more or less total state of "unofficialdom" offers additional savings on production costs. Neighbouring provinces with a very low proportion of company-level realignment contracts in the end prove extremely attractive and offer a competition which is difficult to overcome. Moreover, a major factor in reducing participation in realignment is the fear on the part of many enterprises that the tax authorities or INPS

might later instigate proceedings against them for earlier periods. The cost of regularizing past violations might also prove too high and render vain any realignment process already initiated. Although the succession of laws enacted may be justified by a need to make the legislative rules accommodating, it threatens to produce a series of inequalities of treatment among enterprises falling under very different systems; and since the last law is always the most flexible and indulgent, for many subjects it is worth their while to await more favourable conditions.

Overall, however, the realignment contracts have proved to be of marked social usefulness, primarily because of the advantages gained by many workers, although they do not remove the danger of increasing precariousness of either employment or the economy. The concluding document approved by the Committee on Labour of the Chamber of Deputies upon completion of the "Inquiry into illegal work and child labour" expressly states that: "Illegal work does not create growth, but in some cases bears witness to a vitality and adaptability which do not produce real growth in the long term and therefore must be guided back to officialdom with the use of appropriate instruments."

4. New challenges and guidelines for future trade union action

Examining the situation as described so far and considering the speed with which the current processes are taking place, it is apparent that the trade unions need to take steps to bring the perspectives for representation and protection of the many up-and-coming forms of work within a more generally coherent structure. They will thus avoid improper competition in worker-recruitment methods, leading to segmentation and conflict in the representation of the federal trade union.

Apart from the problems raised by the many experiments in the tool of realignment contracts, which will be discussed further at the end of this section, at present the trade unions seem to be concentrating their efforts on matters relating to *atypical work*. Indeed, the identity and structure of the new work forms are still taking shape and it is therefore too early to outline a specific type of trade union as if it were definitive. Nevertheless, we can describe the basic features of the models adopted for the representation and protection of the new work forms.

The first step will be to make interactive use of a multitude of juridical sources, such as leg-

isolation, negotiation, bilateral and associative forms of mutual assistance, but each with a different value according to the type of employment contract and offering, at the same time, assistance in legal, social security, insurance, legal and relational matters. It is easy to imagine that this will lead the new workers to interact differently within the trade union organizations, especially at local level; thus, special care should be taken not only during the first contact with the subject, but also with the strategies for maintaining the relationship with the association. Consequently, it will be necessary to extend the relationship from the actual time of performing the work to the phases preceding job insertion.

As far as forms of protection are concerned, those which are essential and cannot be foregone will have to be distinguished from those open to negotiation. In other words, a general body of regulations should be maintained with ample provisions to allow possibilities of exchange when drawing up the individual employment contract. In particular, as far as protection and the validation/certification of the contract are concerned, it could be envisaged that in the event of conflicts forms of conciliation and arbitration will be used.

Secondly, it is important to consider the matter of representation in the exercise of autonomous bargaining power. The best solution in this case may be to adopt a similar system to that used for temporary work, i.e. the comparatively most representative trade union, as established by law²¹ or by negotiation. There do not appear to be any major obstacles here regarding the representation of the workers in question. There are some problems, however, on the entrepreneurial side. In fact, since these new forms of work are not exclusively linked to a single contractor, they cannot be absorbed and governed by traditional systems of trade union relations, which are organized by trade category.

As a result, it is more likely that the structure will be based on the representation of these workers using the forms of organization already adopted by the three main federations of trade unions. These forms of organization should envisage the following features:

- inclusion of health insurance among the services provided, with the help of the social security institutes;
- the trade union assumes the role of provider of assistance and service coherently, taking into account the autonomous nature of the work considered;

- facilitation of access to the labour market with measures such as information, training and guidance; and
- creation of pension funds and supplementary health insurance for these workers.

On these points, the trade union federations have begun discussions with the *Confindustria* (Italian Manufacturers' Federation), Parliament and the Government.

More particularly, at institutional level, the CGIL, CISL and UIL have attempted to introduce amendments in legislation now before Parliament designed to achieve the following aims:

- to prevent para-subordinate employment becoming a parallel and alternative channel of recruitment with respect to traditional methods;
- intervene directly in defined professional and operational areas;
- to allow negotiation to take place during the definition of the new forms of work and the structuring of protection in their favour; and
- to envisage, during the definition process, intervention by local bilateral centres for employment-contract validation/certification to prevent and resolve possible conflicts, as part of an approach based on the auxiliary role of the social partners and institutional bodies.

Furthermore, the trade union federations also believe measures should be taken as follows:

- avoiding para-subordinate employment being used for the performance of merely executive tasks;
- ensuring there is a close correlation between the fees of para-subordinate workers and the wage levels fixed by national bargaining for similar tasks; and
- raising pension contributions to levels which will allow enjoyment of the services.

The overall trade-union strategy should focus on strengthening certain services that the NidiL, ALAI and CPO have already made available to this vast army of workers: information, guidance and tutoring. Assuming that a para-subordinate worker is able to ensure continuity of employment if his/her expertise is up-to-date and competitive, the trade unions should set up a network of information, guidance, updating and vocational training services

as well as identify the professional profiles most in demand among enterprises resorting to para-subordinate employment.

Regarding the process of creating *new* forms of protection, it is worth noting that attempts have been made to introduce legislation on this matter; we refer more particularly to a government bill (presented by Senator Carlo Smuraglia) now before Parliament entitled "Rules for the protection of atypical work".²²

Before this development, the *Confindustria* and trade union federations had attempted to create an agreement for the contractual regulation of this sphere of employment, but without success. The aspects on which negotiations had broken down were the definition of the field of application of the agreement and the identification of the target group. The proposal of the *Confindustria* tended to restrict the application of the agreement to high-level qualifications. The reaction of the trade unions was that although this group constituted part of the world of para-subordinate employment, it would be wrong to limit regulatory intervention to this group alone, which apart from anything else is also the strongest. Only after the agreement between the social partners had failed did the attempt to achieve regulation by legislative means acquire importance. Obviously, the role of the social partners has diminished, since the initiative has passed into the hands of political decision-makers. Nevertheless, some of the early elements on which the debate has developed were in fact the work of juridical bodies operating within the trade union organizations.

One of the proposals suggested reorganizing the performance of work so as to overcome "the gradual marginalization of the employment contract safeguarded by law and by collective sources". The idea was to create an "employment contract *sans phrase*" in order to unite the various segments of employment and overcome the distinction between self-employment and subordinate employment.

The proposal centred on the notion of extending the protection forms typical of subordinate employment to the majority of para-subordinate employment in order to avoid sidestepping the typical protection offered by guaranteed employment, to the detriment of the individuals concerned.

The second project, also conceived within the advisory legal bodies of the trade unions, sought to redistribute the forms of protection, presently concentrated on subordinate employment; this redistribution implied that "at the

centre of the system of protection there is work without adjectives". However, in this second proposal, para-subordinate employment was to be guaranteed "a minimum threshold of common protection forms", while subordinate employment, insofar as it involves "*hard* subordination", would "enjoy the full and unconditional application of labour law as historically handed down".

Very briefly, then, these are the proposals and some of the positions adopted within the trade unions concerning the subject of regulating para-subordinate employment.

At this point we come to the Smuraglia Bill mentioned earlier, relating to what are known as "atypical work", the term being taken to mean the performance of work with characteristics which are very similar to those of the present category of coordinated and continuous collaboration.²³

The text of the law is at the centre of political debate, partly because it tries to fulfil conflicting requirements: fixing certain essential guarantees, but without over-constricting employment contracts to the detriment of the flexibility of production which is often at the root of their recent popularity. It is for precisely this reason that even the report accompanying the provision recognizes the "hesitancy" and "experimental" nature of the intervention. Further evidence of this difficult approach to the subject is the tortuous process of approval: to begin with, two "extraordinary" sittings of the parliamentary committee to allow the Government to present its major amendments,²⁴ then the many, new changes which weigh on the progress of the parliamentary debate.

To date, the Smuraglia Bill making its way through Parliament is a body of rules on which the opinion of the social partners, by no means uniform, has been either formally sought or heard. Again, the main differences concern the field of application of the law and other aspects not of secondary importance, such as the methods of certifying the employment contract, wages and the role to be performed by bargaining. The debate continues: very slowly in Parliament, more lively outside with the direct involvement of the trade unions. Not only have the trade unions promoted differently structured forms of organization of these subjects, as we have seen, but also research activity to put into focus, qualitatively and quantitatively, the characteristics of the phenomenon, the needs, the internal differences, the demands for representation and early forms of company-level bargaining, wherever there is a strong presence

Bill No. 2049, "Rules for the protection of atypical work"

Field of application: contracts for collaboration, not of an occasional nature, performed without any subordinate relationship, mainly personally, coordinated with the activity of the contractor and pertaining to work performed autonomously, at least from the operational point of view, for a fee.

Training and information rights: the collaborator has the right to receive all the information envisaged in the collective contracts, including that relating to the protection of health and safety. The collective contracts may envisage the financing of training initiatives with a contribution from the contractor as a percentage of the fee paid to the workers.

Form and duration of the contract: it must be stipulated in writing and may not be for a period of less than three months, except in special cases associated with the nature of the contract.

Notice and early termination: the contract must envisage a period of notice in the event of cancellation which is sufficient and proportionate to the total duration of the contract, and include an indication of the reasons justifying the early termination of the contract.

Right of preference and indemnity for termination of the contract: the person performing the work is recognized as having the right of preference if the contractor wishes to stipulate a similar contract and for the same type of work. Collective bargaining has the power to envisage an indemnity for the worker at the time of termination of the contract.

Social security: the requirement to register with the separate INPS fund (now applying to coordinated and continuous collaborators only) is extended to all workers, and a special fund shall be set up and run by a management committee consisting of representatives of the members, of the Ministry of Labour and of associations of entrepreneurs.

Trade union rights: in addition to the extension of certain provisions contained in the Statute of Workers (freedom of opinion, prohibition to investigate opinions, prohibition to perform acts of discrimination), collaborators are expressly accorded the right to organize themselves in associations, to join trade union organizations and to take part in trade union meetings held in enterprises.

of para-subordinate workers and the will of the parties to create preliminary forms of regulation for this condition and method of work.

With respect to unofficial employment, on the other hand, it should be recalled that the bill is linked to the Finance Law for 1999 and envisages renewing the institution of disclosure contracts for a year. This measure takes account, among other things, of the results reached by the Chamber of Deputies' Committee on Labour as part of the "Inquiry into illegal work and child labour" carried out during 1998. It contains some major novelties, although they are still being discussed before Parliament. Briefly, it would appear that the approach is not only one of promotion, as may be said of the body of regulations contained in the "Treu Package". Indeed, while the indemnity is extended, by a complex mechanism, to include the duties of employers regarding the health and safety of workers, it also embodies a greater degree of prudence.

First of all, the local area of application is narrowed (in practice, the regions of Abruzzi and Molise are excluded) but, above all, it would appear that the main advantage offered by the previous system has been abolished: the possibility to enjoy the benefits envisaged for

newly recruited workers at the end of the realignment programme. The Government has explicitly admitted that these limitations are the result of intervention by the EU authorities, concerned by the fact that an overly encouraging system could disrupt free competition among enterprises. The proposals of the Committee on Labour, on the other hand, are to be found mainly in the sections regarding "organizational measures in favour of the disclosure process" and in the "measures to repress illegal work". To deal with the first aspect referred to, a "committee for the disclosure of illegal work with the task of analysing and coordinating initiatives" is to be set up within the Presidency of the Council of Ministers. The creation of this body does not envisage the participation of the social partners. At regional and provincial levels, committees have been set up "with the task of analysing unofficial employment at local level". These bodies also offer assistance to enterprises stipulating realignment contracts "including through the presence of a special tutor". This presence of a tutor echoes a suggestion contained in the concluding report to the inquiry mentioned earlier.

Meanwhile, control measures against illegal work are to be stepped up by requiring that var-

ious public bodies (Ministry of Labour and Finance, INPS, INAIL – *Istituto Nazionale per l'Assicurazione contro gli Infortuni sul Lavoro* – National Institute for Insurance against Occupational Accidents) and local health agencies, all involved in repressing the phenomenon, should coordinate their inspection and control activities, including specific “training initiatives” for the personnel involved and the creation of “integrated operating units”. It would seem, therefore, that we are on our way towards a single, integrated system of coordination of all the bodies with inspection duties relating to violations of the laws for the protection of labour and the health and safety of workers, as well as of social security and tax legislation.

Notes

¹ These figures are quoted in the report to the Head of the Research Department of the Bank of Italy contained in the survey *Lavoro nero e minorile* (Illegal work and child labour), XI Committee, Parliamentary Acts, XIII legislature.

² Eurostat, *Yearbook 1997*.

³ *Idem*.

⁴ See OECD. “Statistiques de la population active 1997”, in *Perspectives de l'emploi*, June 1998. Please note that the activity rate and the unemployment rate are defined in relation to the active population (aged between 15 and 64 years).

⁵ These figures are the outcome of ISTAT data reprocessed by ISFOL.

⁶ One of the latest examples of this “arduous” adaptation is the abolition of the public monopoly over placement in Italy to conform with a sentence of the European Court of Justice, which declared this exclusive right to be illegal, being the abusive exploitation of a dominant position.

⁷ An example of this is allowing the social partners to introduce options for the stipulation of fixed-term contracts in addition to those envisaged by the law (Art. 23, Law 56/87).

⁸ Napoli. M. 1998 “*Dallo Statuto dei lavoratori allo Statuto dei lavori*” (From the statute of workers to the statute of work), in *Diritto della Relazione Industriale*, 3.

⁹ See Ichino. P. 1996. *Il Lavoro ed il Mercato* (Labour and the market).

¹⁰ Castellucci, L.; Bovi, M. 1998. *What do we know about the underground economy in Italy beyond the common wisdom? Some empirically tested propositions* (mimeo). According to the authors, since 1990 Italy’s underground economy has tended to stabilize and indeed to decline in recent years. Indeed, its share rises from 15.5 per cent in 1991 to 18.5 per cent in 1993 (when the increase can be ascribed to the first measures to rehabilitate public finances introduced by the Government) and to 18.9 per cent in 1994, then declines to 17.2 per cent in 1996 and 16.99 per cent in 1997.

¹¹ It is worth looking more closely at these definitions. Work units indicate not the number of workers in employment but a measurement close to employment in terms of hours worked where the work units are converted into homogeneous units. Regarding the definitions adopted by ISTAT, *illegal-work* units are work units (main or only) not recorded in the wage lists of enterprises or self-employees

and therefore not declared for tax purposes. These are then included in the broader category of *illegal units*, which includes, in addition to that segment, also the group of *undeclared workers in employment* (residents who do not declare they are employed in statistical surveys but whom subsequent investigations reveal to have performed work during the reference week), *non-resident foreigners* (not captured by the surveys) who perform work (including foreigners whose residence permit has lapsed and those without a residence permit and therefore illegally present in Italy), and *additional work units* with respect to the main unit declared. In the narrow sense, unofficial employment (i.e. work not reported for tax and social security contributions) is given by the aggregates of unofficial employment and, secondly, by the aggregate non-resident foreign labour, while the other components indicate subjects falling somewhere between unofficial and official employment. These aggregates are those considered for the purpose of our analysis.

¹² We should point out that this breakdown is not available for non-resident foreigners.

¹³ These figures are quoted in the report to ISTAT’s manager for employment estimates and are published in the survey *Lavoro nero e minorile* (Illegal work and child labour), XI Committee, Parliamentary Acts, XIII Legislature, 1998.

¹⁴ The Ministry of Labour has begun to make disbursements under a decree issued on 27 May 1998, which also establishes specific rules for the operation of the measures.

¹⁵ When the Treasury takes over part of insurance payments, this reduces the amount of the contributions due by employers for the national health system, while the reductions in contributions offer partial or total relief from social security payments.

¹⁶ In this connection, it is worth recalling the Pact on Labour of 1996, which expressly takes into consideration these gradual realignment contracts. The document, which recognizes the positive results achieved to that date, suggested extending the application of the system of encouraging the stipulation of other contracts by granting new incentives to enterprises. As will be explained, these measures are only embodied in subsequent legislation.

¹⁷ Details of this may be found in Bellavista, A. 1998. “*I contratti di riallineamento retributivo e l'emersione del lavoro sommerso*” (Wage-realignment contracts and disclosure of unofficial employment), in *Riv. Giur. Lav.*, 1, 1998, pp. 106 ff.

¹⁸ It is worth pointing out in this regard that the legislator had to intervene repeatedly in the case of this rule because, owing to doubts as to its interpretation, the National Social Security Institute (INPS) refused for a long time to apply it and continued to use the minimum wages fixed by trade contracts as the basis for calculating social security and health-insurance contributions.

¹⁹ It should be emphasized that in this case the legislator, probably in response to the problems of trade union representation raised earlier (i.e. the so-called pirate contracts), only grants the new benefit to enterprises realigning with the wage levels envisaged in contracts stipulated by the trade union organizations which are comparatively most representative at national level.

²⁰ For example, an enterprise in the south which has completed the realignment programme and fulfils the requirements may be exempted from paying social security and health-insurance contributions for three years.

²¹ The Italian system of industrial relations discusses the problem of the effectiveness of collective bargaining (known as effectiveness *erga omnes*). The solution most often adopted by the legislator in this regard is to attribute effectiveness to the agreements stipulated by the trade unions identified using a comparative evaluation of the degree of representation.

²² The text to which reference is made is that approved by the Senate Committee on Labour during the night session of 30 June 1998.

²³ Very briefly, it is worth recalling that the debate ranges from the "abstentionist" positions of some who fear, in reality, that the creation of new types of work will be the first step towards a further, general reduction in the protection for subordinate employment by attracting into the atypical employment contracts which are now qualified as subordinate employment, to those who suggest revising in various forms and ways the classical division between subordinate employment and self-employment in order to restructure the scope of the protection forms to be granted to the single types of work.

²⁴ The Ministry of Labour had commissioned a study on the gap in protection caused by the gradual narrowing of the

area of subordinate employment and development of new types of work (para-subordinate but also working partners, self-employment, etc.) provisionally entitled "Statute of Work" to indicate the fragmentation of the classical model of work. The project envisaged rewriting the Statute of Workers to incorporate a single, but articulate vision of subordinate, para-subordinate and self-employment. The idea was to extend part of the forms of protection at present exclusively pertaining to the first category to the other two as well, and at the same time to reduce the system of guarantees applying to subordinate employment (in particular, one idea was to amend the rules governing individual dismissal by suspending for two years, under certain conditions, the requirement of a just cause for dismissal). Part of this project has been transformed into a series of government amendments to the Smuraglia Bill.

Colombia

For Colombia's trade union national centres, the organization and claims of informal sector workers have not so far been a priority in their present platform and day-to-day business, but they must take prompt action to set up activities aimed at organizing and training informal sector workers and responding to their claims.

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1. The pattern of social development

1.1. Reasons for the predominance of the informal sector in overall employment

1.1.1. *Colombia's social inequalities and patterns of social exclusion*

Colombia continues to be bedevilled by acute social problems especially in catering to unmet basic needs. Since the 1970s, the coverage and quality of education has been losing dynamism. Social security coverage is still low (53 per cent); 1 million families have no dwelling and 34 per cent live in overcrowded circumstances; 15 per cent of the population has no access to drinking water and basic sanitary amenities; 9 per cent of the adult population is illiterate (not including functional illiteracy); 26 of every 1,000 live births die during the stage of breastfeeding; 18 per cent of children under 5 years are underweight, which is evidence of malnutrition; gross school registration at all levels does not exceed 70 per cent; the mortality rate among children under 5 is 50 per cent higher than in industrialized countries; there are 1,064 inhabitants per doctor, while in Mexico that figure is 621, in Argentina 329 and in Panama 562; 15 per cent of child-births are not assisted by trained personnel; and the maternal mortality rate is 100 per 100,000 live births.

In a nutshell, the country's Gini* coefficient remains high and stable and even though GDP figures show a gradual reduction of poverty, it

still remains high. In other words, the country has a pattern of social development that downplays the importance of combating inequality, instead attempting simply to reduce extreme poverty without trying to change inequality, distribution of economic power and, by extension, political power.

1.2. Dimension and make-up of the informal sector by age, gender, job category and geographical distribution

1.2.1. *Informal sector workforce*

The following factors were considered in determining the informal sector workforce:

- persons working in establishments, businesses and enterprises that employ up to ten staff across all their agencies and branches;
- domestic workers and unpaid family workers;
- self-employed workers not including professional independent practitioners such as doctors, lawyers, dentists, engineers and the like;
- private employees and workers employed in enterprises with a maximum staff of ten;
- employers with up to ten workers; and
- government workers and employees are not included in this sector.

1.2.2. Total workforce

In June 1996, the total workforce in the country's ten leading metropolitan areas¹ was 5,353,438, of which 2,497,049 were working in the formal sector and 2,856,389 in the informal sector.

1.2.3. Informal sector workers as a proportion of the total workforce

The proportion of informal workers peaked in 1988 at 56.1 per cent; in the other years, it fluctuated at around 54 per cent. The highest proportion of male workers in the sector was recorded in June 1988 with 54.4 per cent; in June 1996 the figure stood at 52 per cent. In turn, the highest proportion of female informal workers was also recorded in June 1988 at 58.8 per cent. Since then that figure has declined, then risen again in 1998 to 55.7 per cent (see Table 1).

1.2.4. Formal and informal sector workers as a proportion of the total workforce, by branch of activity

Over the period studied (June 1984 to June 1996), the highest proportion of informal sector workers in industry was recorded in 1988 at 46 per cent, and in June 1996 at 43.6 per cent. In the formal sector, that number remained at 56.4 per cent for the period of reference.

Within the informal sector workforce, the share of the construction industry increased by 6.9 points from 56.2 per cent in June 1994 to 63.1 per cent in June 1996; the number of formal sector workers declined by the same proportion (6.9 points) from 43.8 per cent to 36.9 per cent respectively.

Over the same period, the share of trading in the informal workforce diminished from 77.5 per cent in June 1988 to 72.2 per cent in June 1996. The share of formal sector workers has remained constant at 27.8 per cent since 1992.

Table 1. Informal sector workers as a percentage of the total workforce, by gender. Seven metropolitan areas 1984-1998 (June)

Gender	1984	1986	1988	1992	1994	1996	1998
Total	53.7	54.5	56.1	54.2	52.5	52.1	54.7
Men	51.4	52.1	54.4	52.6	51.3	52.0	53.9
Women	57.5	58.2	58.8	56.3	54.3	52.3	55.7

Note: Data expanded with population projections estimated on the basis of the findings of the 1993 census.

Source: National Administrative Statistics Department (DANE). National Household Survey, phases 76 to 100. Bogotá, Barranquilla, Cali, Medellín, Bucaramanga, Manizales and Pasto.

Table 2. Informal sector workforce, by gender and branch of activity. Ten metropolitan zones* (June 1996)

Branch of activity	Informal sector workers as a percentage of the total workforce		
	Total	Men	Women
Agriculture	53.1	63.5	20.0
Mines	29.1	53.1	19.1
Industry	43.6	41.4	46.8
Electricity, water, gas	3.9	3.2	6.4
Construction	63.1	65.1	32.1
Trading	72.2	73.7	70.5
Transport	59.0	62.2	32.8
Financial services	26.6	28.1	24.0
Services	49.4	56.0	52.3
No answer	17.5	13.7	23.6
Total	53.4	53.4	53.3

* Bogotá, Barranquilla, Cali, Medellín, Bucaramanga, Manizales, Pasto, Villavicencio, Pereira and Cúcuta.

Source: National Administrative Statistics Department (DANE).

During the period in question the number of informal workers in the transport sector reached a maximum of 59 per cent in June 1996.

In the financial services sector, the number of informal workers reached its lowest for the reference period in June 1996 with 26.6 per cent. The formal sector workforce was 73.4 per cent for that same year. Informal employment in the communal, social and personal services fell as from June 1988 (54.3 per cent); it stood at 49.4 per cent in June 1996. The share of the formal sector increased to 50.6 per cent in 1996. In the remaining sectors² the share of informal and formal workers remained at 34.2 and 65.8 per cent respectively as from 1992.

1.2.5. Formal and informal sector workers as a proportion of the total workforce, by age group

Apart from the 20-29, 30-39 and 40-49 age groups, the percentage of informal sector workers largely surpasses that for formal sector workers in all other age groups, the trend being much more marked in the age groups under 15 and over 60 years.

1.2.6. Distribution of formal and informal workers by occupational position

All 100 per cent of unpaid family workers are in the informal sector (June 1996), followed by domestic workers (99.8 per cent), self-employed workers (90.8 per cent) and small employers (84.6 per cent). Private employees account for the smallest share (36.7 per cent). The full 100 per cent of government workers and employees belong to the formal sector, followed by private workers and employees (63.3 per cent), employers with 15.4 per cent and self-employed workers with 9.2 per cent.

1.2.7. Formal and informal sector workers as a proportion of the total workforce, by educational level

Persons with higher education, followed by those with secondary and primary education comprise the bulk of the formal sector. In the informal sector, in contrast, those most represented are persons with no education at all, followed by those with primary, secondary, then higher education.

1.2.8. Average working hours for the overall workforce, by sector

Over the reference period (June 1984 to June 1996) the informal sector recorded higher average weekly working hours than the formal sector, though in 1992 and 1996 working hours diminished slightly.

In the case of private workers and employees in the formal sector, average working hours remained stable over the period (48 hours); the informal sector turned in a marginally higher figure (49 hours). Government employees maintained a constant figure of 46 hours. The average for weekly working hours is higher for self-employed workers in the informal sector than for their formal sector counterparts (47 versus 41 hours in 1996). The highest average was registered by the employer category, in both the informal sector (53 hours) and the formal sector (51 hours).

1.2.9 Average weekly working hours by educational level in the formal and informal sectors

For the reference period, formal sector workers with no education or primary education recorded the highest working hours at 54.6 hours in June 1994; next came workers with secondary education with 49 hours and those with higher education with an average of 44.4 hours per week. The average weekly working hours for these categories declined marginally in 1996.

1.2.10. Average working hours by branch of activity in the formal and informal sectors

Over the reference period, the transport sector posted the highest average of hours worked in the formal sector. In 1996, the figure was 53.6 hours, followed by construction (49.9 hours), trading (49.5 hours), other sectors³ (49.1 hours), industry (47.7 hours) and communal, social and personal services (45.6 hours).

In June 1996, informal workers in the electricity, gas and water sectors showed the highest average number of hours (56.4 hours), followed by transport (53.9 hours), trading (50.1 hours), construction (49.4 hours), other sectors (49.8 hours), industry (46.4 hours) and communal, social and personal services (46 hours).

1.2.11. Average years of schooling for the total informal and formal workforce, by occupational position

The highest average number of years of schooling within the overall working population was among government-employed manual workers, with 12.6 years (June 1996), followed by small-scale employers with 9.8 years; private manual labourers or employees with 9.3 years; family workers with 8.1 years, self-employed workers with 7.6 years and domestic workers with 5.0 years.

In the formal sector, self-employed workers posted the highest average number of years of schooling – 13.5 years in June 1996 – followed by employers and government employees with 12.6 years and private manual labourers and employees with 10.0 years.

In the informal workforce, small-scale employers turned in the highest average number of years of schooling (9.3), ahead of unpaid family workers and private manual labourers or employees with 8.1, self-employed workers with 7.0 years and domestic workers with 5.0 years.

1.2.12. Average years of schooling for the total formal and informal workforce, by branch of activity

Financial service workers displayed the highest average number of years of schooling (11.5) in both the aggregate workforce and in the informal sector (10.2). They are followed, in the total workforce, by electricity, gas and water workers with an average of 10.9 years, mines and communal, social and personal services (9.6 and 9.5 years respectively), industry, trading, mining, transport, agriculture and construction averaging 8.8, 8.4, 8.3, 7.8 and 6.9 years of schooling respectively in June 1996.

Over the period studied, the population with social security coverage tended to decline: in 1988 the percentage was 56.9, while in 1996 it was down to 53.4 per cent. The formal sector showed some improvement in this regard: in 1984 the proportion of formal sector workers with social security coverage was 20.8 per cent, while in 1996 it was 30.0 per cent.

1.3. Factors underlying the expansion of the informal sector

1.3.1. Causes of the surge in unemployment and the burgeoning of the informal sector

- High interest rates that keep the cost of borrowing prohibitive, stagnating investment by small enterprises owing to their lack of credit-worthiness and the impossibility for micro-enterprises to obtain loans.
- The disappearance of small and medium-size enterprises which find it impossible to stay afloat for lack of money to invest and owing to falling consumption of their products.
- Elimination of jobs as a consequence of falling output and dwindling sales.
- The slump in the construction sector.
- Contracting sales induced by the rising cost of using “plastic money” (credit cards) and of borrowing in general.
- The large numbers of jobseekers. Of a labour force of 6,672,904, a total of some 5,735,574 are employed, which leaves almost a million persons in quest of a job.
- The rapid and sharp increase in the urban workforce, swollen by internal displacement resulting from the armed conflict and the search for a better standard of living.
- Restructuring programmes that have cut the public sector payroll and led to declining real wages in many instances.
- The indiscriminate opening up of the economy undertaken by the Gaviria Government and continued by succeeding ones, which has meant the closure of countless small and medium-size enterprises for lack of competitiveness and markets.

1.4. Legal and institutional factors associated with the phenomenon: recognition, social security, access to funding and to services

1.4.1. *“Work is a right and a social obligation and enjoys the special protection of the State in all its forms. All persons have the right to a job in dignity and fairness” (Article 25 of the National Constitution)*

Colombia has no specific regulations governing work in the informal sector. In general, the relevant rules are embodied in the Police Code, the tax statutes and in the powers and functions of municipal and departmental authorities.

As the economy of solidarity embraces informal activities and for them represents some possibilities for organization, funding and technical support, mention should be made of the recently enacted Law 454 of 4 August 1998 “establishing the conceptual framework governing the economy of solidarity, transforming the National Administrative Department for Cooperatives within the National Administrative Department for the Economy of Solidarity, creating the Superintendency of the Economy of Solidarity, setting up the Guarantee Fund for Financial, Savings and Credit Cooperatives, laying down rules on the financial activities of cooperative entities, among other provisions.”

1.4.2. *Ordinary labour laws applicable to the informal sector*

- Law 188 of 1959, Article 1. Apprentices contracts;
- Law 36 of 1984. Definition of categories of craftsmen;
- Substantive Labour Code (CST);
 - Article 6. Casual labourers;
 - Article 23. Wages as recompense for services;
 - Article 34. Independent contractors;
 - Article 35. Intermediaries;
 - Article 37. Oral or written contract, forms of duration, casual or temporary work;
 - Article 46. Temporary and fixed-term workers;
 - Article 62. Termination of contract;
 - Article 89. Home work;

- Article 127. Basis for the payment of social security contributions;
- Article 145. Minimum wage;
- Article 161. Working hours;
- Article 233. Family workers;
- Articles 309, 310, 311. Construction workers.
- Law 10 of 1991. Partnership enterprises;
- Law 100 of 1993. Social security;
 - Article 15. Voluntary registration by independent workers bearing the full amount of contributions;
 - Article 91. Independent workers;
- Law 222 of 1995 setting out and authorizing the creation and operation of one-person enterprises;
- Decree 210 of 1953. Article 6. Home work;
- Decree 468 of 1990. Articles 1 and 2. Partnership enterprises;
- Decree 1100 of 1992. Partnership enterprises;
- Decree 2150 of 1995. Elimination of representations before the Public Administration.

1.5. Assessment of the regulatory framework, evaluation of interviews and review of successful cases

As stated above, Colombia has no regulations specifically governing informal work. Generally speaking, the relevant rules are embodied in the Police Code, the tax statutes and in the powers and functions of municipal and departmental authorities. This means that informal activities are regarded as a problem of public order owing to the insecurity that they generate and because of the encroachment on public areas. The legalization of these activities consists essentially of tax collection. The exercise of the right to organize is limited largely by the very characteristics of the economic and labour activities involved and by the low cultural level and scant solidarity among the workers themselves. In principle the formation of trade unions in this sector is not as problem-ridden for the Government or for employers as it is in the formal sector.

Regulations on health-related social security, the tax and subsidy system and the Pension Solidarity Fund would seem to be applicable to the informal sector of the economy, but

isolation, lack of timely information and the complexity of these systems do not make for timely access to these services.

1.6. Access to funding

The Government has set up a comprehensive credit system (*Sistema Integral de Crédito*) for micro-enterprises through FINURBANO, a line agency of the Industrial Development Institute (*Instituto de Fomento Industrial*), IFI. Users of the system must grapple with countless difficulties in gaining access to the funds; above all, in making the requisite presentation of investment projects, owing to the high cost of borrowing that considerably undermines profitability in a situation of ferocious competition. Financing is also being provided by some NGOs that administrate funds from the Inter-American Development Bank (IDB). Low competitiveness is suffocating micro-entrepreneurs who must compete with contraband goods entering the country or simply with foreign products present on the domestic market thanks to the indiscriminate opening of the economy.

Attempts are under way to provide systematic training to organized groups in setting up communal banks that would make it possible to constitute an active credit fund with simple, rapid and low-cost procedures. Similarly, support is being sought through the National Service for Training (*Servicio nacional de aprendizaje*), SENA, for coaching in project formulation.

In pursuit of its policy of stimulating job creation, the Colombian Government has given legal form to cooperative and partnership enterprises. The first category falls under the legal framework and principles of the cooperative movement and the second groups together associations of small producers or professionals operating on an individual profit basis. The motivation behind these legal forms of support for partnership work clearly emerges from the prescription that it must entail self-management (Article 1 of Regulatory Decree 468 of 1990).

Even though they are guided by the rules and principles of partnership work, working conditions in these enterprises or cooperatives are inferior to those that prevail when work is regulated by a work contract.

A comparative look at the terms and conditions of a work contract and those of a commercial contract between a cooperative and its members reveals the inferiority and precariousness in which this class of workers almost

invariably find themselves: uncertain wages, partial or incomplete financial rewards, partial fulfilment of their social security obligations, compulsory financial contributions that undermine wages.

1.7. The problems facing workers in the informal sector, level of organization and possible assistance from government, NGOs and other institutions

The fundamental problems facing informal sector workers may be described as follows:

- limited social security coverage, with the result that despite being sick and approaching retirement age, many of them are presently without protection.
- limited and difficult access to soft and timely loans;
- no possibility to avail themselves of protection against occupational risks;
- overwork and unpaid vacations;
- lack of time and resources for training themselves and improving their qualifications;
- low educational levels of the majority (having barely completed primary schooling);
- less than 5 per cent are organized into trade or professional unions;
- businesses not recognized by the Chamber of Commerce, which means that most of them operate beyond the scope of the law; and
- persistence of the phenomenon in developing countries over many years regardless of the number of coercive measures taken.

1.8. NGOs and trade union confederations: interest and concern

Some NGOs have taken an interest in supporting trade union organization in the informal sector, examples of these being the National Trade Union School, ENS (*Escuela Nacional Sindical*), in Medellín, the Maria Cano Trade Union Institute, ISMAC (*Instituto Sindical María Cano*), and other regional NGOs. Nevertheless, we consider that comprehensive assistance should be provided to pave the way for as many modules as deemed necessary to further the entrepreneurial and commercial development of human resources.

To that end a task force was set up in 1996 including representatives from second- and

third-level trade union organizations existing in Bogotá. The participants were: the Single Central Organization of Workers (*Central Unitaria de Trabajadores*), CUT, the General Confederation of Democratic Workers (*Confederación General de Trabajadores Democráticos*), CGTD, the Confederation of Workers of Colombia (*Confederación de Trabajadores de Colombia*), CTC, and the Union of Workers of Cundinamarca (*Unión de Trabajadores de Cundinamarca*), UTRACUN. The task force operated on a regular basis.

In that framework a series of seminars was organized so as to validate the diagnosis, compile the support needs stated by those concerned and to foster *rapprochement* with public and private institutions that establish policies and conduct programmes targeted at the informal economy. On the basis of the diagnosis and recommendations made, a strategic action plan was drawn up based on coordination amongst the representatives of the trade union confederations which, although sharing the general criteria, have their own action platforms based on their particular principles and concepts.

1.8.1. Updated diagnosis and *rapprochement*

At present there is at least one up-to-date diagnosis of the social, economic, cultural and organizational situation of unionized informal sector workers in Bogotá. The findings of that diagnosis were studied by the leaders of these same organizations in May 1995 and were enriched by further suggestions and recommendations. These actions also helped to bring unionized informal workers closer to government institutions that provide them with support services in the spheres of financing, training and technical assistance, commercialization, health and social security. This was aimed at securing resources to enhance the productivity and competitiveness of their enterprises.

Besides, preliminary contacts were made with the National Confederation of Micro-enterprises (*Confederación Nacional del Microempresarios*), CONAMIC, which represents micro-entrepreneurs at national level.

1.8.2. Lack of a positive and flexible attitude

The achievements of the federation of organized traders fell short of expectations, owing to the lack of initiative on the part of each of the parties in adopting a positive and flexible

attitude and reaching even minimal agreements. It is recognized that some headway has been made towards understanding the phenomenon and that it is useful to have a permanent forum of accompaniment by national and international organizations such as the ILO in combating the hitherto spontaneous evolution of this type of work, with a view to prompting informal sector trade union leaders to develop a more rounded view of the institutional problems they are facing, both individually and collectively.

1.8.3. Knowing the mechanisms of access and assistance

Furthermore, meetings with institutions of government control (Attorney-General of the Nation, District Inspectorships and Legal Representation Offices) have enabled the participants to familiarize themselves with the access and assistance mechanisms that those institutions can provide.

Between 7 and 25 September 1995, each confederation held a seminar that produced a document on their action platform in the informal sector.

After an ILO review of the document, some points were clarified and modifications made – above all concerning the factors underlying low trade union membership in the informal sector – and a modified and corrected version was submitted for eventual publication, with the request that it should include the following: “The trade union confederations expressed their concern over the large numbers of people working in the informal sector, a majority (54per cent in June 1998), bearing in mind that apart from the seven capital cities, internal displacement has affected over a million people and it is believed that, of that number, at least 800,000 are economically active, which would suggest that they operate in the informal sector or are jobless, a problem compounded by the fact that many of them cannot register themselves or fail to do so because of fear, their unstable situation or simply because there is no entity to register them.

“The aforementioned confederations are striving to promote and strengthen informal sector organizations so as to mobilize resources, offer protection for their members and to influence the policies that affect them. During the 1990s, they have been drawing up a diagnosis of the potential and demands generated by affiliated informal worker organizations, followed by a strategic action plan. To implement it, coor-

dination is indispensable amongst the trade union confederations and the affiliated worker organizations in the informal sector based on a diagnosis of the situation and their needs. Furthermore, the leadership of both umbrella trade union bodies and grassroots informal sector organizations should be trained in order to bargain effectively with the various government institutions, employers and business people in the main areas of interest identified in the diagnosis.”

2. Study of consequences and responses of the trade union movement to the spread of unorganized work, in the informal sector in particular

2.1. Institutional, organizational, legal and financial factors that have hampered the action of trade unions, and their successes

In Colombia the law provides possibilities for establishing trade unions in the informal sector (an example of this is the directory of over 800 trade unions created in the area of trades and services). This notwithstanding, the overriding institutional reason for the failure of these unions to progress to the point of becoming industrial unions stems from the problems facing the confederations in curbing atomization and in tabling a coherent national proposal, by branch of industry. Representations were initiated this year before the Ministry of Labour and Social Security in an attempt to bring about a law to support this process.

The goal of establishing industrial unions in the informal sector goes hand in hand with the aspiration to ensure harmonized social security services, occupational health, to find a way of formalizing employment and to create enterprises that generate occupations and services affording access to new technologies and the relevant training.

2.2. Directory of informal sector trade unions

The most up-to-date and reliable information on unions in the informal sector is the product of the ongoing endeavours of the ENS. The Ministry of Labour and Social Security – as the official body with which trade unions register – has no database in this domain.

According to ENS figures, there are 874 trade union organizations, with legal personality, with 116,523 members. On the one hand, these numbers show the very low level of trade union membership in the sector and, on the other, the high degree of atomization into tiny organizations (ENS, 1998).

2.3. Activities undertaken by trade unions, by sector and target group, in particular for women and young people

2.3.1. House for Working Women Heads of Household

In 1995, reacting to the massive wave of dismissals from government institutions, the Women’s Bureau of CUT started working out strategies designed to provide labour and vocational retraining. This gave birth to the House for Working Women Heads of Household (*Casa de la Mujer Trabajadora Jefa de Hogar*). Through SENA it later started to train women in non-traditional trades by means of programmes in finishing and silver plating, electrical fitting and graphic arts. An agreement was concluded with the *Universidad Pedagógica* for remedial courses for completion of the school-leaving certificate (*bachillerato*), a prerequisite for entering SENA training programmes.

Together with the Department of Social Welfare of the Capital District, a contract was signed with the “Bosque Popular” home for the aged under which general services would be performed (washing and ironing of clothes, preparing meals, among others), thereby employing a group of 22 women who also undertook to pursue SENA training courses. Given the tendency to think in the short term, the expectations of these women and their precarious home situations, of a group of 20, only five completed the programme.

Even so, this programme opened the way for discussions with other institutions, such as the *Universidad Nacional*, with which agreements now exist covering occupational therapy and internships for students from other universities who provide treatment programmes at the aforementioned house.

Today the house has programmes such as: (a) a maintenance unit (five women); and (b) a project for women from the informal sector as a proposed model of comprehensive services for production units, which implies support for the initiatives under way.

As far as the CUT is concerned, as stated by its president at the Third National Congress of Working Women (*III Congreso Nacional de la Mujer Trabajadora*) held in August 1998, the activities of the Women's Bureau and the house programmes are the most successful.

2.3.2. *Trade Union of Rural Women of the Atlantic* (Sindicato de Mujeres Campesinas del Atlántico)

This trade union was set up in Barranquilla at the initiative of a group of women trade unionists from the formal sector garment manufacturing industry. At present they have 36 organized groups comprising 2,224 rural women. This programme has been supported by the CTC and by international bodies such as the International Confederation of Free Trade Unions (ICFTU) through its branch, the Inter-American Regional Organization of Workers (ORIT). It has an active loan fund and is headquartered in Barranquilla. It has concluded training agreements with SENA and with Family Welfare and other institutions that provide services. The groups become management and bargaining resources in their communities.

3. Successes in traditional trade union activities: labour relations, bargaining, worker education, among others

3.1. National Federation of Professionals and Workers of Independent Associations of Colombia (FENGRICOL)

A CUT affiliate, this federation was established in 1985. It has had the support of ORIT-ICFTU and the Netherlands Trade Union Confederation (FNV) in organizing and developing its training programmes. According to its president, it has brought together as many as 120 unions. Plans are afoot to create the House for Informal Sector Workers (*Casa del trabajador del sector informal*). It is now preparing for its fifth Congress scheduled for 1999. Besides, this organization has submitted to the Congress of the Republic a draft law "regulating the most precarious forms of work in the informal sector, encouraging its organization, among other provisions".

3.2. National Trade Union of Child-care Workers in Family Welfare Homes (Sindicato Nacional de Trabajadoras al cuidado de la infancia en hogares de Bienestar Familiar), SINTRACIHOBÍ

The members of this union ("community mothers") are women from the community offering their services to care for an average of 15 children in their homes. The programme was launched in 1987 under the Barco Government to eradicate poverty and child malnutrition in level 1 and 2 districts. The Fathers' Association was set up in 1989 and encompasses between 10 and 25 homes.

Family Welfare provides 0.5 dollars per day in assistance to feed each child, 3 dollars per month for learning materials, a small supplement of 9 dollars per month towards fuel and refuse collection and an allowance of 80 dollars monthly for the "community mother" for the services rendered.

At present there are 76,000 "community mothers" throughout the country in urban and rural homes servicing the traditional programme: children of 6 months to 7 years and the Fami (Family and Children) programme, which involves caring for 12 children from birth to 2 years old, six pregnant women and six nursing mothers.

This union was established in 1989 when Family Welfare announced a cutback in the items being made available for care in homes. Initially an NGO (MENCOLDE) working with young people in Ciudad Bolívar advised them on organizing themselves. One of the basic problems was obtaining recognition for these mothers as workers. In 1992, at the suggestion of a teacher, they sought advice from CUT whose Women's Bureau assisted them in drawing up their statutes and in obtaining legal status. They started their operations with some regional offices in Bogotá, Florencia and Huila. CUT also began supporting visits to the regions and bringing "community mothers" together through its regional offices.

The Board of Directors of SINTRACIHOBÍ has completed several rounds of bargaining: the first was in 1989 when it obtained a 24 per cent increase in the allowance; the second came in 1994 when agreement was reached for their affiliation with the Social Security service and membership of the Pension Solidarity Fund under which the Government pays 80 per cent and the mother 20 per cent towards the grad-

ual constitution of a retirement pension. The third round took place in 1997 when a definitive agreement was concluded with the Ministry of Labour establishing a procedure for receiving medical attention under Social Security in which Family Welfare undertook to send updated diskettes with the relevant lists. Further, a compensation rate was negotiated of approximately 3 dollars to be collected for each child and allocated as follows: 34 per cent for recreation and 66 per cent towards the public-utility bills of their own home, which also serves as the community home.

3.2.1. *Agreements with foundations*

At present, the union has 36 sections nationwide and its members have received training courses in leadership, project design and recreational teaching, for which Family Welfare has concluded agreements with foundations. Its level of organization has now become attractive to political schemers and opportunists who make their appearance with a myriad of promises at election time. The trade union is now striving to improve its profile and to negotiate agreements for the validation of school-leaving certificates. In regions such as Barrancabermeja, the oil company *Empresa de Petróleos* (ECOPETROL) has supported the union in obtaining a trade union headquarters and attempts are now under way to systematize member contributions by direct deduction from wages (1 per cent of the basic wage), and to secure affiliation with an international organization.

3.3. National Trade Union of Construction Workers (Sindicato Nacional de Trabajadores de la Construcción)

During the construction boom, this union's membership rose to as many as 26,000. Now, as a result of the crisis, it has approximately 4,000 in the city of Cali. No data is available for other cities. Despite being casual labourers, they do join the union – whether employed or not – motivated by the comprehensive services it offers: sports, recreation, legal advice, agreements with evening schools for the validation of the school-leaving certificate and assistance with funeral expenses.

In 1997 an agreement was signed with the Ministry of Labour and with the Colombian Construction Chamber (*Cámara Colombiana de*

la Construcción), CAMACOL, for the follow up and enforcement of minimum rights, the implementation of the occupational risk prevention programme and the pension solidarity fund. It has become affiliated with the World Federation of Trade Unions (WFTU) and the UIS at the international level, and with the FLEMCOM at the Latin American level, where a range of policies have been discussed for coping with the situation. The union is now faced with the challenge of coming up with innovative strategies for tackling the crisis in the construction sector, a matter of interest to the confederations.

3.3.1. *National Association of Small Public Transport Vehicle Owners* (Asociación Nacional de Pequeños Propietarios de Transporte Público), APETRANS

This association came into being in 1995 based on Law 105 of 1993 which set 1990 as the cut-off date for the useful life of all public transport vehicles. Those concerned spontaneously came together and sought the advice of CUT. They launched a publicity campaign "Spread the Word" (*Pasela Voz*), using fliers, posters and meetings at bus termini. The cost of membership in the association is 3 dollars per vehicle owner.

It was clear that the majority of them were completely ignorant of the law and the regulations governing public transport. The association's membership now includes 5,000 owners and it has joined the Chamber of Commerce, of whose services it had been unaware.

This organization is presently setting up a fund for vehicle replacement, thereby being able to compete in the *Transporte Transmilenio* project now being organized by the Office of the Mayor of Bogotá and the Ministry of Transport. The strike of November 1998 won them recognition from these authorities and awakened their interest in talks with the association about its demands. Even so, the dispute continued and yet another strike was called in December 1998.

They are now establishing sectional divisions with their correspondent offices and an advisory team which is to be permanently available to users considering that none of them can pursue this activity on a full-time basis for the lack of any guarantee of a trade union allowance. Its president is a former CUT leader well known for his work in defending the interests of small transport operators.

3.3.2. *Public retail market (outside the "Paloquemao" Shopping Plaza), Bogotá*

A large group of vendors squatting on the ground and selling small amounts of fruit, vegetable and other products on the fringes of the Paloquemao Shopping Plaza in Bogotá have been and continue to be persecuted in two equally sadistic ways: on the one hand, the wholesalers (owners of the large department stores and warehouses inside the Plaza, armed and constantly hostile to this category of workers whose "capital" is more than laughable and barely enables them to remain alive); and on the other, the "confiscation" by the authorities (read "robbery") of their paltry goods which are a matter of survival for them and their large families.

3.3.3. *Proposed change*

These workers had a union that was set up after overcoming formidable stumbling blocks, including their total lack of education (illiterates), which was completely destroyed. FENGRICOL, the national federation with which they had been affiliated, proposed at a trade union meeting that they should opt for a programme to set up an integrated partnership-based enterprise (that could entail creating a fruit-pulp processing enterprise) once they could obtain the equipment needed for this. The Family Welfare Institute of the District (*Instituto de Bienestar Familiar del Distrito*) would loan them the equipment and provide them with premises for setting up the enterprise. For its part, FENGRICOL would provide cultural and administrative training through SENA for a small group of workers who would begin their business on the premises of the District Social Welfare Office (*Bienestar Social del Distrito*) at Plaza España.

After more than 60 workshops involving classes given by experts from SEDECOM, this tiny group of volunteers learned to read and write, elementary and practical accounting, the rudiments of marketing and the management and start-up of fruit-pulp production. At the end of one year of operation under the trade name "*Frutas y Conservas La Unión*", and after verification of supply contracts with some entities, the following were the results:

- (a) the Partnership Enterprise has purchased all the production equipment and returned to Social Welfare the loaned equipment;
- (b) rental of premises from which to meet the demand of an almost active market thereby

fully occupying the small staff (not the full tally of hours), whose wages were set on the basis of the legal minimum wage and all their statutory and labour contributions paid;

- (c) meticulous payment of the set rent, with services, of some 600,000 pesos monthly;
- (d) from the very beginning, appointment by the staff of their administrative organs, their accounting personnel, their auditor and their duly authorized salesperson; and
- (e) successful management of a programme of higher-level training and apprenticeship, improvement of equipment, more industrialized production and processing of fruit and fruit by-products.

A loan (soft and with a grace period) is now being negotiated for an already projected investment: the purchase of a warehouse with administrative annexes to which the present equipment will be moved, together with any other equipment that may be bought for the purposes of the new initiatives planned.

3.3.4. *The case of the second-hand garment vendors (former Plaza España), Bogotá*

Some 287 families are involved in this activity, representing 1,200 people who depend on it.

For 40 years now these vendors have been occupying the entire area of what used to be Plaza España. A series of meetings has been under way to discuss a special programme, with the advice of the National Federation of Professionals and Workers of the Independent Associations of Colombia (*Federación Nacional de Profesionales y Trabajadores de los Gremios Independientes de Colombia*), FENGRICOL, in quest of formula for shifting the second-hand garment market to another location in the city, based on unambiguous rules of the game for both parties. The programme involves assigning modules or premises by the District, together with a long-term solution, among others, for such aspects as cleanliness and coordinated programmes between the industrialists and the present occupants of the site. The aim is for the recovery of the public space to take place in an atmosphere of give and take.

3.3.5. *The case of food vendors within "sports stadiums"*

Some 400 workers make up three trade unions that have been providing their services to employers known as "resellers", who peri-

odically sign rent contracts for places such as the *Estadio el Campín*, the *Plaza de Toros*, the *Coliseo Cubierto* and the *Parque del Salitre*. Through their office staff, the employers demand that before every event or festival each union submit lists of member workers showing those who will be working at the location of the event.

Each worker is given an inventory of the amounts to be sold. They receive a small percentage on actual sales and whatever is missing is deducted. In spite of the time they have been doing this type of work, they are not registered with the Social Security, they have no vacations or any social security benefits whatsoever.

The present concern of these unions is, through their leaders, to enter into direct contracts with the District and thus eliminate the middlemen, provided that they demonstrate the ability to prepare the goods and handle sales distribution. The percentage saving would make it possible to set up a revolving fund that would minimally cover some aspects of social security. Again, this calls for coordinated action.

3.3.6. *Association of United Traders of Galería Antonio Nariño* (Asociación de Comerciantes Unidos de la Galería Antonio Nariño), "ACUGAN"

This association came into being in 1962, comprising displaced persons from Tolima, Santander and Los Llanos. It subsequently became the Small Traders Association (*Asociación de Pequeños Comerciantes*), APECO, and concluded Agreement 80 of 1962 under which the Municipal Council created the Restaurant Fund (*Fondo de Restaurantes*), which signalled the start of food sales.

In 1972 Agreement 25 was concluded, setting up the Bogotá Public Vending Fund (*Fondo de Ventas Populares*). They started out with 62 stalls and now have some 640 registered stalls. The Inter-Union Committee was later set up and is now supported by the CGTD with 37 affiliate unions and some 8,000 members. The union collects rent of about 4 dollars per square metre. All members pay social security contributions. Their profit is roughly equivalent to two minimum wages. The stalls are passed down from parents to children and are regarded as family property. They specialize in garment manufacturing. Many of them have workshops attached to their own houses. In the light of the restructuring of public areas being carried out by the *Alcalde Mayor***, this union is

bargaining with the administration to obtain a lot, with suitable stalls, basic services and advertizing to ensure that information reaches customers.

4. The basic rights: ILO rules embodied in laws

The organized trade union movement has endeavoured to secure its rights under the existing body of ILO rules and conventions ratified by Colombia. Nevertheless, when it comes to safeguarding their jobs, all the arguments wielded are of little avail in the face of local agreements established – in most instances imposed – from the government side and which hardly leave room for legal actions.

Very strong pressure is exerted by the organized and formal business sector, which justifies its attitude: according to a 1997 study by the Bogotá Chamber of Commerce: "The overwhelming presence of the informal sector is helping to lower productivity levels, to the detriment of improved standards of living for Bogotá's residents. In one way or another, the informal sector affects all facets of life, the public at large and public spirit in the city."

The conventions have been applied in an attempt to formalize trade in the informal sector and in the pre-bargaining stages when the organizations are accompanied by the trade union confederations. But those conventions are basically drafted to protect formal work. The small gains made by the informal sector have gone hand in hand with organized protests and claims have tended to be favoured by the process of formalization, as in the case of the small-scale transport operators in Bogotá.

Freedom of association: Conventions Nos. 87 and 98

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), ratified by Colombia on 16 November 1976.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98), ratified by Colombia on 16 November 1976.

Forced labour: Conventions Nos. 29 and 105

Forced Labour Convention, 1930 (No. 29), ratified by Colombia on 4 March 1969.

Abolition of Forced Labour Convention, 1957 (No. 105), ratified by Colombia on 7 June 1963.

*Non-discrimination:
Conventions Nos. 100 and 111*

Equal Remuneration Convention, 1951 (No. 100), ratified by Colombia on 7 June 1963.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111), ratified by Colombia on 4 March 1969.

*Key Conventions not yet ratified
by Colombia*

Minimum Age Convention, 1973 (No. 138)
Worst Forms of Child Labour Convention,
1999 (No. 182)

5. The new challenges of the informal sector and thoughts on future action by trade union organizations

5.1. Interviews with trade union confederations: CUT, CTC and CGTD

5.1.1. The informal sector in the context of the trade union confederations

The Colombian trade union federations have been gaining in awareness of the importance of the sector, which makes up more than half the workforce. The vast majority of the people in it are without social security coverage, whether owing to the precariousness of their occupation or the absence of flexible mechanisms allowing them access to it. For a long time the confederations were reluctant to become involved in organizing informal sector workers, being daunted by the magnitude of the problems and because it was easier to act in the formal, structured sector. In some trade union circles the belief has taken hold that supporting the informal sector serves the interests of the very neo-liberal model that is at the root of the deregulation of the labour market and the loss of formal sector jobs.

Nevertheless, the various confederations are today endeavouring to find viable strategies for bringing these millions of people together and offering them real alternatives that will organize and give them a sense of direction and improve their living standards. For pragmatic reasons, it is also considered necessary to tap the informal sector for new recruits so as to offset the decline in trade union membership. It is often the initial group or the base union already created in the informal sector that approaches the confederation for its

support in one dispute or another. On many occasions the initiative to get organized has been spurred by an abuse of workers, by the need to defend themselves against the authorities, or in reaction to a regulation that workers consider to be prejudicial to their interests. It has also been observed that the leaders are former members of formal sector trade unions who are attempting to reproduce the trade union model in circumstances quite different from their own. One of the stumbling blocks to the more or less normal functioning of these organizations is the absence of union dues and of mechanisms for collecting and administering such dues.

5.1.2. Policies of the CUT

The Secretariat for Informal Affairs was formed when the CUT was created and, with the first amendment of its statutes, became the Department of Construction, Informal Economy and Cooperatives.

The head of this Department said in an interview: "In Colombia, the CUT has always worked with our comrades in the informal sector, but we have not achieved the needed level of integration and development; furthermore, the information we have is so sketchy that there are unions existing of which we have never even heard, although they are affiliated to some of our sub-offices. The rights of association and collective hiring are very limited in this sector and, together with cooperatives, we need to take up the matters of social security, training and presence in rural sectors so as to provide incentives for rural and development towards and with them."

The most important work in Colombia has undoubtedly been that done through the Informal Urban Sector (SIU) project carried out in conjunction with the ILO, the Ministry of Labour and the National Service for Training (SENA), the first phase of which produced good results.

5.1.3. Policies of the Confederation of Workers of Colombia (CTC)

At present, there is a "Secretariat for Self-employed and Independent Workers". The head of that Secretariat said: "Throughout its long history, this confederation's membership has included several groups of self-employed and independent workers who have set up their own organization, for example, watchmakers, photographers, hairdressers,

transport operators, carters, sand vendors, vendors of games of chance, craft workers, fishermen, itinerant vendors, washerwomen and rural working women. These sectors are organizing as unions to safeguard their work, starting with the legalization of their particular activity.”

The organization intends to overhaul the organizational model and examine how the labour law can be applied to informal sector workers and seek ways of creating trade unions by branch of industry so as to provide them with social security and occupational health coverage, housing plans and better guarantees for the management of loans. Its policies have paid special attention to organizing young people and informal sector workers as a matter of priority and efforts are now under way to devise suitable strategies.

5.1.4. *Policies of the General Confederation of Democratic Workers (CGTD)*

As stated in its magazine No. 107 of September/November 1998, this Confederation is deeply concerned about the growth of the workforce on the informal labour market and is therefore striving to continue to organize and provide opportunities for improving the quality of life of itinerant vendors, whom it has organized into the Inter-Union Committee, comprising 37 unions and sectional offices in several regions across the country.

One of its foremost leaders is a member of the Confederation's managing committee, which provides training opportunities, liaises with organizations and represents it at the different events.

5.2. Trade union action among home workers and those working under contract labour arrangements

The process of using contract labour in the case of home workers has hardly been studied in Colombia. Not much attention has been drawn to this particular form of work in the sociology of labour. Even so, based on a few isolated cases, we are able to understand the problems involved, as in the garment manufacturing sector in Bogotá for instance.

One essential feature of the garment-manufacturing industry is the system of subcontracting. A subcontract is a means of interlinking the formal and informal sectors whereby the production process becomes decentralized and

fragmented. The workers concerned have no trade union involvement, which, on the one hand, is consistent with the informal nature of the sector and, on the other, with the apathy and indifference towards trade union membership revealed by studies of the garment manufacturing sector as a whole. Most of the workshops are not registered with the Chamber of Commerce. The relationship between home workers and the big companies is minimal. Opportunities and time for training are very scant, with the result that qualification levels remain low, at any rate as far as modern technology is concerned.

5.2.1. *Types of workshops*

There are three types of workshops in the garment manufacturing sector:

- satellite workshops;
- independent workshops; and
- micro-enterprises in the form of partnerships and cooperatives.

The systems of contract labour, involving payment based on piecework, lack of worker guarantees, exhausting working hours, instability, casual labour, overcrowding, unpaid family work, women's work, lack of control over the process and means of production, the presence of middlemen, the lack of control over the market, as well as overexploitation and low salaries have all along characterized the garment manufacturing industry.

The launching of any organizational or participatory process is a very complex undertaking.

5.3. Trade unions and the expansion of the informal sector

Forms of informal sector work are increasing rapidly across all developing countries as a result of the policies for privatizing government enterprises, the trend towards reducing the payroll of government bureaucracies, adjustment and deregulation policies, the removal of subsidies protecting domestic industries against foreign products and the increasing use of technology without accompanying alternative employment policies. In absolute and relative terms, the number of formal sector jobs available for the workforce as a whole is dwindling steadily. The forms of collective hiring typical of the formal sector are becoming ever less applicable to forms of work in the informal sector. The trade union move-

ment needs to evaluate the impact of the burgeoning informal sector on its activities, espouse the sector's claims, support its demands and incorporate its needs into the movement's own action platform.

It is important for the trade union movement to support the claims of informal workers from the standpoint of professional associations in order to give some balance to the development of economic associations (micro-enterprises, co-operatives, and so on). The bargaining agendas of tripartite coordination processes or bargaining with governments should include topics concerned with work in the informal sector.

The leadership structure of federation- and confederation-level trade union bodies should include appropriate divisions for dealing with informal sector work. Such divisions should be under the responsibility of the sector's trade union leaders themselves.

Similarly, more flexible forms of organization of informal sector workers should be adopted, bearing in mind also the possibility of their direct membership in national trade unions, industry unions or even in the trade union confederations themselves.

5.3.1. *Elements for a list of claims for the informal sector*

Trade union organizations of the first, second and third levels should jointly finance slots in all the communications media – television, radio, newspapers, seminars, and the like – so as to foster a culture of democracy which, among other things, defends the right of association and offers a positive image of the trade union movement in Colombian society.

Trade union leaders must be trained by means of clearly defined projects and programmes so as to overcome the mistakes of the past. Here again, a vital role falls upon schools, institutes and in general the NGOs that support workers. Confederations, federations and trade unions must wage joint campaigns, at least each quarter, to set up new trade unions by branch of industry and to strengthen already existing ones.

All organizations must participate actively in national life, take positions and draw up proposals on the country's problems rather than restrict their activities exclusively to trade union or labour-related matters. For example, they should take positions and formulate proposals with regard to foreign policy, economic policy, monetary and fiscal measures, governance, the behaviour of political parties, the decisions of professional employer groups,

drug trafficking, peace, the guerrilla problems and so on, in an attempt to participate democratically in all forums of the country's economic, social and political life.

A battle must be waged for improved conditions of work, safety, stability, training, health, housing and so on. The trade union movement must resolutely support all draft laws in defence of stable work and eliminating casual or informal work.

Accordingly, the trade union movement should, *inter alia*, help shape the following economic, political, social and cultural claims:

(a) *Economic claims:*

- wages, that is, a wage policy for home aides, employees of micro-enterprises and domestic workers;
- benefits, that is, social security mechanisms that benefit all informal sector workers and being more flexible, make it possible to meet para-fiscal payments: to the National Service for Training (SENA), the Colombian Institute of Family Welfare (ICBF) and to Family Allowance Agencies;
- technological and legal order: upgrading production units to incorporate new technologies, both hard and soft, in order to make for genuine development;
- moderate interest rates, subsidized and easily accessible credit;
- tax policy: waiving some taxes (industry and trading, etc.) for micro-enterprises or self-employed workers with a view to redistributing income for periods of at least five years until a stable working capital is built up;
- retrofitting with special credit facilities, etc.;
- putting in place mechanisms enabling small production units to gain access to resources such as working capital, technical training, specialization and vocational training; and
- promoting and supporting forms of self-managed production within the framework of the economy of solidarity.

(b) *Labour claims:*

- employment and job stability for workers in micro-enterprises and domestic service;
- elimination of underemployment and the monitoring of service contracts under subcontracting arrangements; and
- implementing a regulatory framework in defence of workers. Apprising all informal workers of their labour rights and duties.

(c) *Political claims:*

- using all participatory mechanisms provided under the Constitution, such as inspectorships, legal capacity, attorneys, due process, etc. Inclusion in coordination and bargaining mechanisms that make decisions or discuss problems inherent in the sector; and
- demanding the practice and defence of human rights.

(d) *Social claims:*

- social security and health protection and pensions, promoting specialized mutual health enterprises in the sector;
- policies for covering the basic needs of health, nutrition, education and housing;
- defence of jobs and the right to work (itinerant vendors), taking care not to prejudice other sectors of the population; and
- generating processes for integrating the informal sector with the other organized sectors so as to pool endeavours.

(e) *Cultural claims:*

- providing training at all levels of the population, with preferential guarantees making it possible to overcome professional backwardness;
- providing recreational and cultural amenities at preferential prices; and
- running environmental improvement campaigns.

5.3.2. *Agreements reached under the Informal Urban Sector-ILO programme*

We should highlight the role of the trade union delegates in the various bodies of the SIU-ILO Programme, which ensured the inclusion of the viewpoint of organized workers in the Tripartite Orientation, Coordination and Follow-up Committee as well as their participation in the Inter-Institutional Task Forces on social protection, the legal and regulatory framework, social and labour conditions, productivity and organizational processes in the informal sector.

The first mission carried out by the ILO in December 1995 provided the occasion to initiate dialogue with the *Alcalde Mayor* of Bogotá, Mr. Antanas Mockus, with whom the following matters were discussed:

- the lack of a representative from the municipal authority with deliberative and deci-

sion-making capacity – specifically as regards policies and measures affecting informal trading – in the different forums and seminars held in 1995 with the support of the programme;

- the need to create permanent coordination mechanisms that guarantee constructive dialogue among the parties aimed at determining durable policies, forums and solutions;
- the urgency of knowing the results of a qualitative study on informal trading in Bogotá, the policies in place and their impact on that activity; and
- the importance of encouraging an initial meeting between the competent municipal bodies and the organizations representing stationary and itinerant vendors in the informal sector, in order to coordinate short- and medium-term actions.

During the ILO mission of March 1996, the dialogue was continued with the *Alcalde Mayor* of Bogotá with respect to two initiatives:

- holding a first “panel discussion on the problems of street vending in Bogotá”, with the participation of the *Alcalde Mayor* and his advisers (Departments of Social Affairs, Communal Action, Public Vending, Planning and the use of public areas) and representatives of organizations of stationary and itinerant vendors; and
- setting up mechanisms for cooperation with the Municipal authorities, to be responsible for the problems of incomes and urban productivity (Strategic Plan Bogotá 2000), designed to increase the productivity of micro-enterprises.

5.3.3. *Needs, challenges, strategies and means of trade union action in the informal sector*

Generally speaking it may be said that for Colombia’s trade union confederations, the organization and claims of informal sector workers are not a priority in their present platform and day-to-day business. Those confederations work essentially in formal sector enterprises, both public and private. The country’s largest confederation, the CUT, by virtue of its strong political presence and the number of affiliate organizations, mainly represents the public sector trade union movement.

Nevertheless, there has been constant concern over the phenomenon, both as an expres-

sion of the major structural economic and social dislocations and the precarious living and working conditions of the thousands of people engaged in informal sector activities. In recent years, the three Colombian confederations have been displaying greater understanding in interpreting the national reality and are exerting pressure so as to participate in those forums where decisions are taken on the country's fundamental problems, naturally including those arising in the process of negotiations associated with the internal armed conflict. This political vision undoubtedly makes it easier to tackle the problems of the informal sector, which are closely related to trends towards de-industrialization, deregulation and contracting employment. It is becoming increasingly clear that peace is a condition for reversing these negative trends in the nation's development and that the resolution of the internal conflict must entail sweeping economic, social and political change.

Nevertheless, the trade union confederations and organizations in general must insist on carrying out immediate actions aimed at the organization, training and support for the claims of informal sector workers. In that connection, the initiatives and proposals by trade union confederations arising from the SIU-ILO programme are important and we may highlight the following:

- (1) recognition of the sector;
- (2) safeguarding the right to work;
- (3) ending repression on account of using public areas;
- (4) coordinated relocations;
- (5) restructuring and regulation of the public vending fund;
- (6) designing and implementing concrete and socially fair and legal solutions;
- (7) taking a census to quantify the population in statistical terms, by gender, age, aptitude, work and intellectual capacity;
- (8) in the District, budgetary and planning measures, with the support of NGOs and other institutional agencies created to support programmes in the informal sector as a planned response to the problems of traders in the informal sector of the economy;
- (9) setting up a bipartite commission with equal representation (office of the *Alcalde Mayor* and trade union organizations of all levels) so as to study and analyse the problems comprehensively;

- (10) the Department of Social Welfare of the District (DABS) should draw up jointly with the trade union movement, a plan of action designed to offer services to independent workers and their families in the informal sector; and
- (11) SENA, in coordination with the DABS and the sector's trade union movement, should set up technical training programmes for workers and their families.

These initiatives, intended for Bogotá, can serve as guidelines for the development of labour nationwide, being tailored to suit regional or local conditions and using each area to the optimum, whether at the tripartite level (workers, government, employers or professional associations) or at the bilateral level (workers, national, regional or local government or with businesspeople), but on the understanding that what is essential is that workers should be capable of organizing to improve the correlation of forces and, from the trade union movement, forcefully to promote real possibilities for improving the working conditions and quality of life in the sector.

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Notes

¹ Bogotá D.C., Medellín, Cali, Barranquilla, Bucaramanga, Manizales, Pasto, Villavicencio, Pereira and Cúcuta.

² Agriculture, mines and electricity, gas and water.

³ Idem.

* Gini coefficient: measure of inequality based on the income distribution of the population. A coefficient equal to one (1) indicates perfect inequality, and a coefficient equal to zero (0) perfect equality.

** *Alcalde Mayor*: magistrate exercising ordinary jurisdiction in the city.

El Salvador

Trade union organizations must understand the important contribution of the informal sector to the country's social and economic life, the trend towards informalization of work, and hence the need to organize the sector, not only because of their role in improving the living conditions of workers, but also because the very future of the trade union movement largely depends on organizing in this sector.

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The burgeoning of the so-called unstructured or informal sector is a social and economic phenomenon now assuming global proportions. It is with good reason, therefore, that the International Labour Organization (ILO) has been taking an interest in the matter.

A vast informal sector is already in place in developing countries, but it is also growing in developed countries, albeit on a smaller scale. Accordingly, the Report of the Director-General to the 78th session of the International Labour Conference in 1991 states: "Developed countries also have pockets of urban poverty, with often fairly large numbers of people engaged in poorly remunerated marginal activities. Many developed countries have a large 'underground economy', and various forms of unregistered (or 'black') labour; and the trend towards deregulation and a greater decentralization of production, made possible by technological changes and induced by the efforts of enterprises to cut costs in the face of increased competition, has resulted, in developed as in developing countries, in greater recourse to subcontracting, in greater casualization of labour and, to some extent at least, in lower levels of social protection for the workers concerned."¹

Official figures on urban employment in El Salvador show that almost half the working population is to be found in the informal sector, which encompasses an array of activities and forms of job organization characterized by instability and precariousness, low incomes and the extreme poverty of the workforce.

This paper will focus on the role of trade unions in improving the working and living conditions of informal sector workers. It will also examine the organizational work for the

defence and representation of the interests of informal workers, within the context of the country studies being prepared by the ILO Bureau for Workers' Activities to buttress the work of trade unions on behalf of informal sector workers.

The first part examines the informal sector within the national context; the second part analyses trade union activity in the sector; and the third attempts to suggest possible strategies for strengthening trade union work in favour of informal sector workers.

1. The informal sector in the national context

1.1. Employment in the informal sector

The informal or unstructured sector can be described as "consisting of units engaged in the production of goods or services with the primary objective of generating employment and income to the persons concerned". These units typically operate at a low level of organization, with little or no division between labour and capital as factors of production and on a small scale. Labour relations – where they exist – are based mostly on casual employment, kinship or personal and social relations rather than contractual arrangements with formal guarantees.²

As in most developing countries, the informal or unstructured sector in El Salvador has become a significant source of employment and income for a large proportion of the economically active population.

Data from the Multipurpose Surveys carried out in El Salvador show that almost 50 per

cent of the urban working population is employed in the informal sector. Table 1 shows that in 1996, the informal sector accounted for 47 per cent of the working population.

A breakdown of the urban workforce by gender (see Table 2) shows that 59 per cent of the men work in the formal sector and 41 per cent in the informal sector, while 44 per cent of the women work in the formal sector and 56 per cent in the informal sector. Hence, more than half of the working women are employed in the informal sector. These figures attest to the less favourable working conditions for the female workforce. It is more difficult for women to obtain employment in the formal sector because of discrimination in employment and their domestic responsibilities.

An analysis of informal work by branch of activity reveals that the areas in which the bulk of the workforce is engaged in informal work are trade, agriculture, transport and communi-

cations, accounting respectively for 67, 66 and 55 per cent of the working population.

It is noteworthy that women make up 53 per cent of the total workforce in the area of trade. Besides, of the urban working population, 81 per cent of the women engaged in trade work in the informal sector (see Table 2).

A geographical breakdown of informal sector workers shows that 37 per cent work in the Metropolitan Area of San Salvador (AMSS) and the remaining 63 per cent in other urban areas. As to the importance of the AMSS in generating informal employment, it is observed that this area accounts for 37.18 per cent of informal work in industry as a whole, 26.71 per cent in construction, 41.36 per cent in trade, 43.72 per cent in transport and communications, 37.20 per cent in financial institutions and 50.50 per cent in services.

An analysis of the share of each branch of activity in informal job creation in the AMSS

Table 1. Employment in the informal sector by activity and gender (% of total employment)

Gender and sector	Total	Branch of economic activity								
		Agriculture Hunt. & Fish.	Mining	Industry	Elec., Gas, Water	Construc.	Trade	Transp., Comm.	Financial estabs.	Services
Total	100	100	100	100	100	100	100	100	100	100
Formal sector	53	34	75	53	100	61	33	45	98	73
Informal sector	47	66	25	47	-	39	67	55	2	27
Male	57	89	70	52	88	95	47	92	46	45
Formal sector	34	28	46	32	88	57	23	37	45	40
Informal sector	23	61	25	21	-	38	24	55	1	5
Female	43	11	30	48	12	5	53	8	54	55
Formal sector	19	7	30	21	12	4	10	7	52	33
Informal sector	24	5	-	26	-	1	43	1	1	22

Source: 1996 Multipurpose Household Survey, Ministry of the Economy, El Salvador.

Table 2. Urban working population by economic activity (% by gender and sector of employment)

Gender and sector	Total	Branch of economic activity								
		Agriculture Hunt. & Fish.	Mining	Industry	Elec., Gas, Water	Construc.	Trade	Transp., Comm.	Financial estabs.	Services
Total	100	100	100	100	100	100	100	100	100	100
Formal sector	53	34	75	53	100	61	33	45	98	73
Informal sector	47	66	25	47	-	39	67	55	2	27
Male	100	100	100	100	100	100	100	100	100	100
Formal sector	59	31	65	61	100	60	49	41	98	89
Informal sector	41	69	35	39	-	40	51	59	2	11
Female	100	100	100	100	100	100	100	100	100	100
Formal sector	44	59	100	45	100	89	19	91	97	60
Informal sector	56	41	-	55	-	11	81	9	3	40

Source: 1996 Multipurpose Household Survey, Ministry of the Economy, El Salvador.

Table 3. Employment in the informal sector in the AMSS

	Informal employment (% per branch)	Informal employment in total (%)
Agriculture, hunting and fishing	5.75	1.57
Mining	0	0
Industry	37.18	23.14
Electricity, gas and water	0	0
Construction	26.71	4.19
Trade	41.36	42.30
Transport and communications	43.72	8.90
Financial establishments	37.20	1.0
Services	50.50	19.79
Total	37.39	100.0

Source: Based on the *1996 Multipurpose Household Survey*, Ministry of the Economy, El Salvador.

shows that trade generates the bulk of informal employment, representing 42 per cent of the total for the AMSS. Industry generates 23 per cent and services 20 per cent (see Table 3).

Another important statistic is that 71 per cent of the female working population in the AMSS is employed in the informal sector.

2. The informal sector: social and economic indicators³

The social and economic conditions of informal sector workers are highly unstable. Some indicators in this regard are given below:

(a) Educational level

One of the major shortcomings of the informal sector workforce is its low educational level. According to the 1996 Multipurpose Household Survey, 17.3 per cent of both male and female informal sector workers have no education. Besides, another 47 per cent have schooling ranging between 1 and 6 grades.

(b) Wage levels

In 1996, 53.33 per cent of the informal workforce earned less than 1,000 colóns. The legal minimum wage that year was 1,150 colóns (or US\$ 115).

(c) The informal sector: social security coverage

Another critical problem affecting informal workers is lack of access to social security. In El Salvador, only 6 per cent of the working population in this sector is covered by the social security system.

2.1. Reasons for the labour situation in the informal sector

(a) Social and economic factors

The following factors provide some insight into the behaviour and scale of the Salvadorian informal sector:

- The inability of the structured economy to absorb the labour available. Agriculture, where most jobs are created, has always been of a highly seasonal nature and therefore unable to offer steady employment. This has fuelled the rural-urban drift, with the resulting labour surplus in urban areas and the growth of the informal sector.
- Another factor that contributed appreciably to swelling the ranks of the informal sector was the massive migration from rural to urban areas, mainly to the capital, triggered by the armed conflict in country during the 1980s. The result was that the urban population surpassed the rural population, thereby reversing the pre-war situation. In 1980, El Salvador's rural population accounted for 58 per cent of the overall population. By 1996, according to the Multipurpose Household Survey, that sector of the population represented 45.3 per cent of the total. Over the same period, the AMSS population grew by 67 per cent from 865,998 in 1980 to 1,448,240 in 1996.
- The displacement of the rural population with little or no academic or technical training has been one of the causes of the growth of informal trade, which is the sector most readily accessible to the jobless. In 1996, trading accounted for 38.2 per cent of all jobs in the informal sector.

- The reintegration of ex-combatants from both sides of the conflict into productive activity and the demobilization of the security forces following the signing of the peace agreements also contributed to the expansion of the informal sector.
- Furthermore, on account of poverty, a large part of the population is unable to save and build up sufficient capital to set up any other type of business. According to official figures, 51 per cent of the Salvadorian population live in poverty.
- The processes of privatization and State reforms have led to the shedding of staff. Many of those laid off have turned to the informal sector, some using their redundancy payments to start up their own micro-enterprises.
- Corporate restructuring and the introduction of new technologies for the sake of greater competitiveness and cost cutting have displaced labour, especially the least qualified.
- Owing to the low productivity and profitability of informal sector activities, many of which barely break even, it is difficult to give them formal legal status, as that would entail the payment of taxes and social security contributions.
- Another contributing factor is the absence of sectoral policies to underpin productive activities and this has led to the abandonment of important job-creating sectors such as agriculture and livestock. In addition, the Government has been unilaterally and rapidly opening up the economy, displacing national production in so doing.
- The lack of an active Government policy to generate employment and improve working and living conditions in the informal sector.

(b) Legal and institutional factors

Besides the social and economic factors that explain the size of the informal sector in El Salvador, there are also legal and institutional considerations at work, such as the financial cost of formally constituting an enterprise and the complicated red tape involved. Registration of a company must pass through at least six institutions: the Mayor's Office, the Superintendency of Companies, the General Office of Statistics and Censuses, the Ministry of Finance, the Trade Registry and the Social Security

Department, let alone the array of accounting books and systems that must be certified. All of this requires the work or counsel of lawyers and accountants, involving costs unaffordable to informal sector businesses. In addition, there is the high cost, in terms of money and administrative work, entailed in keeping accounts, paying taxes and social contributions, all of which are beyond the capabilities of low-income businesses with little or no profit.

(c) Government and NGO support to the sector

As stated above, the Government has no clear-cut policy to address the problems of the informal sector, though it is pursuing some programmes under agreements with international bodies. The European Union has helped to set up the Genesis Programme (Employment-generation in the Informal Sector in San Salvador) and the FOMMI Programme (Promotion of Micro-enterprises in Marginal Areas). These programmes provide support in training, technical assistance and credit. These are secondary programmes operating through various national NGOs.

Support to the informal sector is provided mainly through programmes set up by international cooperation agencies and NGOs that assist the sector through loans, education and vocational training, entrepreneurial advice and market-information services.

The institutions and NGOs working with the informal sector include:⁴

International institutions

- International Development Agency (IDA), which through an agreement with FINCA International has created the Centre for Support to Micro-enterprises (CAM) to assist low-income sectors through community banks and by means of individual loans for micro-enterprises.
- Catholic Relief Service (CRS), an international NGO that assists subsistence micro-enterprises through community banks.

National NGOs

There are several national NGOs that provide assistance to the informal sector. These include: the El Bálsamo Association, the Community Projects Association (PROCOMES), Women's Association for Organization and Entrepreneurial Education (OEF), Salvadorian Foundation for

Reconstruction and Development (REDES), Salvadorian Association for Integral Development (ASALDI) and the Duarte Foundation.⁵

These institutions provide services such as loans, marketing assistance, entrepreneurial advice and the promotion of trade union organization.

3. The trade union experience in the informal sector

3.1. Trade union organization in the informal sector

The organization of informal sector workers is a fundamental aspect of the defence of their interests and the improvement of their working and living conditions and incomes. The ILO states it as follows: "We must point out the importance of freedom of association because workers in this sector can only apply sufficient pressure to effect the necessary changes in the policies, attitudes and procedures which are impeding the development of the sector and the improvement of working conditions if they join organizations which they consider to be in their interest."⁶

Trade union organization in El Salvador is grappling with a number of problems which are weakening the movement: low membership, fragmentation, sectarianism, poor public image and lack of leadership, among other things.

As for trade union organization in the informal sector (see Table 4), in 1998, of 141 trade unions registered with the Ministry of Labour, 47 worked with the informal sector, representing a third (33.3 per cent) of the total. Yet when it came to membership, the informal sector accounted for a mere 5.67 per cent of the total, which reflects the degree of organizational fragmentation in the sector. Some of these trade unions are affiliated to both *de jure* and *de facto* federations or confederations. Besides the trade union organizations listed in Table 4, there is another type of organization, whether *de jure* or *de facto*, which operates like an informal sector workers' association. Several of these organizations are affiliated to different trade union confederations such as the National Union of Salvadorian Workers (UNTS), the Confederation of Democratic Workers (CTD), the Autonomous Confederation of Salvadorian Workers (CATS), and the Confederation of Salvadorian Workers (CTS). Although they do not have trade union status, they function as such and participate in activities organized by the confederations.

3.2. Organizational experience in the informal sector

As previously stated, a third of the trade unions registered with the Ministry of Labour belong to the informal sector. This study outlines some of the experiences of these trade unions but does not purport to paint a complete picture of the sector's richness or its problems.

3.2.1. Home workers

According to the Ministry of Labour, in 1997, the Trade Union of Self-employed Workers of Various Professions and Crafts of the West (SINDICO) had 324 members. Current information received from the leaders of the organization reveals that the number has since grown to 800.

The organization is mostly made up of home workers from the city of Santa Ana in the west, who are involved in home repairs, plumbing, domestic work and sewing. The trade union's work includes training construction foremen to improve their qualifications, representing workers before contractors, and providing members with legal counsel. The union has designed a model contract stipulating the type and duration of a job, details of payment, etc., which would cover workers should contractors breach the contract. Members pay the union a monthly due of 10 colóns (US\$1.15).

One of the services provided by this union for its members is that of a labour exchange. It prepares a curriculum vitae for each member, locates clients for them based on their trade, and signs up workers on construction contracts. Its membership includes 30 women engaged in domestic work and sewing.

3.2.2. Self-employed professionals and traders

The Trade Union of Self-Employed Workers of Various Professions and Trades (SITINPROVA) comprises self-employed professionals and traders. According to the General Secretary of SITINPROVA, membership currently stands at 190.

One of the outstanding features of this trade union is that it has promoted the training of other trade unions in the informal sector in the west of the country, including the *Sindicato de Trabajadores Independientes de Vendedores y Arrendatarios del Mercado de Santa Ana* (SITRANSA) and SINDICO.

Table 4. Informal sector trade unions, 1998

	Name of trade union	Membership	Economic activity
1	<i>Sindicato de Trabajadores Independientes de Comerciantes del Mercados Municipales de El Salvador</i> (Union of Self-Employed Traders of El Salvador Municipal Markets)	42	Trade
2	<i>Sindicato de Trabajadores Independientes del Comercio, Productos de Alimento del Mercado La Tiendona</i> (Union of Self-Employed Traders and Vendors of Foodstuffs of the La Tiendona Market)	35	Trade
3	<i>Sindicato de Trabajadores Independientes de Vendedores y Arrendatarios del Mercado de Santa Ana</i> (Union of Self-Employed Vendors and Lessees of the Santa Ana Market)	32	Trade
4	<i>Sindicato de Trabajadores y Pequeños Comerciantes Estacionarios y Ambulantes de El Salvador</i> (Union of Workers and Small Stationary and Itinerant Traders of El Salvador)	35	Trade
5	<i>Asociación de Trabajadores Comerciantes Independientes Cantón El Cuco</i> (Association of Self-Employed Traders of the Canton of El Cuco)	95	Trade
6	<i>Sindicato de Trabajadores Independientes del Comercio Cantón Penitente Abajo</i> (Union of Self-Employed Traders of the Canton of Penitente Abajo)	50	Trade
7	<i>Sindicato de Trabajadores Independientes del Comercio de El Salvador</i> (Union of Self-Employed Traders of El Salvador)	86	Trade
8	<i>Sindicato de Trabajadores Independientes del Comercio de la Ciudad de Santa Ana</i> (Union of Self-Employed Traders of the City of Santa Ana)	70	Trade
9	<i>Sindicato de Trabajadores Independientes del Comercio de Moneda Extranjera</i> (Union of Self-Employed Traders of Moneda Extranjera)	40	Trade
10	<i>Sindicato de Trabajadores Independientes del Comercio de Productos Varios de Zonas Francas San Bartolo</i> (Union of Self-Employed Traders of Various Products of San Bartolo Free Zones)	36	Trade
11	<i>Sindicato de Trabajadores Independientes del Comercio Informal</i> (Union of Self-Employed Informal Traders)	66	Trade
12	<i>Sindicato de Trabajadores Independientes del Comercio Informal de Acajutla (STICIA)</i> (Union of Self-Employed Informal Traders of Acajutla)	36	Trade
13	<i>Sindicato de Trabajadores Independientes del Comercio Lago de Ilopango</i> (Union of Self-Employed Traders of Lago de Ilopango)	41	Trade
14	<i>Sindicato de Trabajadores Independientes del Comercio Planes de Renderos</i> (Union of Self-Employed Traders of Planes de Renderos)	60	Trade
15	<i>Sindicato de Trabajadores Independientes del Comercio Quezaltepeque</i> (Union of Self-Employed Traders of Quezaltepeque)	50	Trade
16	<i>Sindicato de Voceadoras Independientes de El Salvador</i> (Union of Self-Employed Town Criers of El Salvador)	47	Trade
17	<i>Sindicato Gremial de Visitadores Médicos Salvadoreños</i> (Craft Union of Salvadorian Medical Sales Representatives)	41	Trade
18	<i>Sindicato Independiente de Vendedores y Comerciantes de El Salvador</i> (Independent Union of Vendors and Traders of El Salvador)	35	Trade
19	<i>Sindicato Nacional de Trabajadores del Comercio</i> (National Union of Traders)	367	Trade
20	<i>Sindicato Gremial de Trabajadores Especialistas en Pisos</i> (Craft Union of Construction Workers)	115	Construction
21	<i>Sindicato de Trabajadores de Productos de Cemento, Arcilla y Similares</i> (Union of Workers in the Cement, Clay and Similar Products Sector)	226	Manufacturing
22	<i>Sindicato General de Costureras</i> (General Union of Dressmakers)	535	Manufacturing
23	<i>Sindicato Gremial de Obreros de Productos de Cementos</i> (Craft Union of Workers in the Cement Products Sector)	47	Manufacturing
24	<i>Sindicato Nacional de Trabajadores Sastres</i> (National Union of Tailors)	293	Manufacturing

Table 4. (continued)

	Name of trade union	Membership	Economic activity
25	<i>Asociación de Luchadores Profesionales y Espectáculos Públicos de El Salvador</i> (Association of Professional Wrestlers and Public Performing Artists of El Salvador)	64	Services
26	<i>Sindicato de Fotógrafos Salvadoreños</i> (Union of Salvadorian Photographers)	35	Services
27	<i>Sindicato de Trabajadores de las Artes Fotográficas Independientes de El Salvador</i> (Union of Self-Employed Photographic Artists of El Salvador)	90	Services
28	<i>Sindicato de Trabajadores Independientes de Nueva San Salvador</i> (Union of Self-Employed Workers of New San Salvador)	119	Services
29	<i>Sindicato de Trabajadores Independientes de Profesionales y Oficios Varios de Occidente</i> (Union of Self-Employed Workers of Various Professions and Trades of Occidente)	324	Services
30	<i>Sindicato de Trabajadores Independientes de Profesiones y Oficios Varios</i> (Union of Self-Employed Workers of Various Professions and Trades)	91	Services
31	<i>Sindicato Gremial de Artistas Circenses de El Salvador</i> (Craft Union of Circus Artists of El Salvador)	321	Services
32	<i>Sindicato Gremial de Artistas de Variedades</i> (Craft Union of Variety Artists)	200	Services
33	<i>Sindicato Gremial de Artistas y Músicos Salvadoreños</i> (Craft Union of Salvadorian Artists and Musicians)	825	Services
34	<i>Sindicato Gremial de Electricistas Independientes de El Salvador</i> (Craft Union of Self-Employed Electricians of El Salvador)	41	Services
35	<i>Sindicato Gremial de Limpiabotas Migueleños</i> (Craft Union of Miguelenean Shoeblocks)	75	Services
36	<i>Sindicato Gremial de Pintores Salvadoreños</i> (Craft Union of Salvadorian Painters)	745	Services
37	<i>Sindicato Nacional de Músicos y Similares</i> (National Union of Musicians and Similar Artists)	80	Services
38	<i>Sindicato Unión de Empleados Particulares</i> (Union of Private Employees)	642	Services
39	<i>Unión Sindical de Matarifes de Oriente</i> (Trade Union of Matarifes de Oriente)	175	Services
40	<i>Asociación Sindical de Pilotos Automovilistas y Trabajadores del Transporte</i> (Trade Union Association of Drivers and Transport Workers)	53	Transport
41	<i>Sindicato de Trabajadores Transportistas Independientes de El Salvador</i> (Union of Self-Employed Transporters of El Salvador)	35	Transport
42	<i>Sindicato Gremial de Motoristas y Actividades Afines</i> (Craft Union of Drivers and Other Related Activities)	60	Transport
43	<i>Sindicato Gremial de Operadores y Conductores de Maquinaria Pesada en General</i> (Craft Union of Operators and Drivers of Heavy Machinery in General)	73	Transport
44	<i>Sindicato Gremial de Pilotos Automovilistas de El Salvador</i> (Craft Union of Drivers of El Salvador)	75	Transport
45	<i>Sindicato Nacional de Trabajadores de la Industria del Transporte, Similares y Conexos</i> (National Union of Workers in the Transport and Other Similar and Related Sectors)	107	Transport
46	<i>Sindicato Unión de Trabajadores del Transporte</i> (Union of Transport Workers)	50	Transport
47	<i>Sindicato de Trabajadores Independientes del Transporte Colectivo Liviano de Sonsonate (STICLIS)</i> (Union of Self-Employed Workers in the Collective Light Transport Sector of Sonsonate)	44	Transport

Source: Based on data from the Ministry of Labour, Department of Labour Organizations

SITINPROVA employs a team of legal experts who offer counsel to union members as well as workers of other labour organizations in both the formal and informal sectors. This union's plans include creating a market on wheels to boost the incomes of its members. It is also negotiating with the town council for the grant of a plot of land on which to locate stalls for selling food and other items, for the benefit of informal sector workers. It is furthermore making representations to the Ministry of Education for the introduction of a programme of formal education by distance learning for its members. It has arranged with the Salvadorian Institute of Vocational Training (INSAFORP) for its members to take courses in computer science and cutting and sewing.

There are two associations for stationary vendors, affiliated to trade union confederations: the National Association of Small Traders and Vendors of Light Snacks (ANPECOVAL), an affiliate of the National Union of Salvadorian Workers (UNTS) and the National Association of Vendors and Small Traders of El Salvador (ANTRAVEPECOS), an affiliate of the Autonomous Confederation of Salvadorian Workers (CATS). These associations have represented vendors on several occasions when they have been confronted with eviction orders issued by the municipal authorities, though they are usually unsuccessful in halting these measures. The organizations also assist members in obtaining loans, and with training programmes.

3.2.3. *Informal sector trade union experiences spearheaded by women*

One such case is the Acajutla Trade Union of Women in Informal Trade (STICIA), comprising 82 women who work as cosmetologists. The services the union provides for its members include technical training in cosmetology. In so doing, the union opens up employment and earning opportunities for women in a city where jobs are scarce, at the same time seeking to act as an intermediary between the workers and the municipal authorities who control the informal sector.

STICIA operates in a port city, which is a high-risk area for the spread of AIDS. In the light of this, the union has received training and organizes public AIDS prevention campaigns.

3.3. **Attitude of the second- and third-level trade union structures towards trade union organization in the informal sector**

Trade union federations, confederations and trade union centres recognize the importance of trade union organization in the informal sector. As can be seen in Table 5, of the 47 informal sector unions, 28 belong to a federation, and of the others not belonging to a federation, five are affiliated to a confederation and 14 are independent. In other words, over two-thirds are affiliated to a federation or confederation.

Virtually all the federations and confederations consist of trade unions and associations from the formal and informal sectors alike.

4. **Impacts and successes of trade union activity in improving the working and living conditions of informal sector workers**

Trade unions conduct a range of activities for the benefit of informal sector workers in general and of their own members in particular. These include:

- representing informal sector workers, mainly traders, before local authorities with whom they often have disputes over vending locations and municipal taxes;
- negotiating and arranging for credit and technical assistance and training programmes with government and municipal bodies, private companies, NGOs and other entities on behalf of their members;
- providing legal aid to informal sector workers in the interest of defending their rights vis-à-vis contractors or other parties;
- serving as a mouthpiece for the interests and proposals of informal sector workers with respect to economic and social issues or programmes instituted by government, town councils or private entities;
- channelling information on job opportunities by creating labour exchanges, as well as on market opportunities, inputs, etc.; and
- establishing regional and international networks for safeguarding and representing the interests of informal sector workers, in the context of regional openness and integration.

All these activities yield economic benefits for informal sector workers by opening up

opportunities for employment, income generation, loans and training. They also provide support in dealing with contractors and other players in the informal sector. All this makes for improved living standards and working conditions for the sector's workforce. Moreover, the trade unions provide workers with channels for airing their problems and interests and making proposals concerning the sector and even regarding broader issues such as participating in regional and national development plans.

5. Factors impacting positively or negatively on the development of trade union organization in the informal sector

5.1. Factors positively affecting trade union organization in the informal sector

In the Salvadorian context, these factors include:

The existence of legal machinery for establishing trade union organizations with informal sector workers. The Labour Code recognizes five types of unions:

- craft unions;
- company unions;
- industry unions;
- inter-company unions; and
- trade unions of self-employed persons.

The unions which favour organization in the informal sector are the craft unions, which are made up of workers belonging to the same profession, art, trade or specialization, and the trade unions of self-employed persons comprising own-account workers with only occasional employees. There are several craft unions in El Salvador, grouping, for example, painters, photographers, circus artistes and drivers among others, and a number of trade unions for self-employed persons, consisting mainly of traders, who are the largest group according to Ministry of Labour records.

Another factor spurring trade union organization in the informal sector is the prevailing vulnerability and the absence or paucity of economic resources and credit for its workers. They therefore organize to protect their interests and channel or manage resources for their activities.

The federations, confederations and trade union centres are aware of the importance of

organization in the informal sector and the fact is that all the confederations include unions from the sector.

5.2. Obstacles to trade union organization in the informal sector

These factors include:

- (i) The heterogeneity of activities and interests among informal sector workers, even within the same organization. For instance, during the discussions with the Municipal Council of San Salvador on how to deal with the problem of street vending in the city centre, the informal sector organizations were incapable of presenting a unified proposal in that regard. Indeed, some of the self-employed professionals representing informal sector unions took no interest in the matter as it did not concern them directly.
- (ii) The difficulty in getting informal sector workers involved in organizational work due to the resulting loss in income.
- (iii) Labour instability and movement in the sector. For example, subcontracted workers do not have steady, secure employment and are likely to change activity at any given moment. Geographical mobility also impedes organizational work in the sector.
- (iv) Some formal sector trade union leaders view their informal sector counterparts with contempt.

6. Strategic alliances between trade unions and other sectors of civil society to organize informal sector workers

An important aspect of the work of trade unions in the informal sector is establishing alliances with their counterparts in the formal sector and other organizations or bodies of civil society. One form taken by these alliances is the incorporation of informal sector organizations into *de jure* or *de facto* federations, confederations and trade union centres. All the confederations in El Salvador include workers' associations or trade unions from the informal sector. Several moves are now afoot to unite Salvadorian trade union organizations, including informal sector ones. These endeavours could do much to reinforce organization and safeguard the interests of workers in the informal sector.

Table 5. Informal sector trade unions by federation, confederation and trade union organization (TUO)

	Union	TUO	Confed.	Federation
1	Union of Workers in the Cement, Clay and Similar Products Sector	UNTS	CUTS	FEASIES
2	Independent Union of Vendors and Traders of El Salvador	UNTS	CUTS	FEASIES
3	Union of Salvadorian Photographers			FESINCONSTRANS
4	Craft Union of Variety Artistes			FESINCONSTRANS
5	Craft Union of Salvadorian Artists and Musicians			FESINCONSTRANS
6	Craft Union of Operators and Drivers of Heavy Machinery in General			FESINCONSTRANS
7	Craft Union of Salvadorian Painters			FESINCONSTRANS
8	Craft Union of Construction Workers			FESINCONSTRANS
9	National Union of Musicians and Similar Artistes			FESINCONSTRANS
10	Trade Union of Matarifes de Oriente			FESINCONSTRANS
11	Union of Workers and Small Stationary and Itinerant Traders of El Salvador		CGS	FESINTRABS
12	General Union of Dressmakers	UNTS	CUTS	FESTES
13	National Union of Tailors	UNTS	CUTS	FESTES
14	Union of Self-Employed Traders of the Canton of Penitente Abajo	CTS		FESTICES
15	Union of Self-Employed Traders of the City of Santa Ana	CTS		FESTICES
16	Union of Self-Employed Traders of Lago de Ilopango	CTS		FESTICES
17	Union of Self-Employed Traders of Planes de Renderos	CTS		FESTICES
18	Union of Self-Employed Traders of Quezaltepeque	CTS		FESTICES
19	Union of Self-Employed Transporters of El Salvador	CTS		FESTICES
20	Union of Self-Employed Traders of El Salvador Municipal Markets	UPD		FESTRAES
21	Association of Self-Employed Traders of the Canton of El Cuco	UPD		FLATICOM
22	Union of Self-Employed Workers of New San Salvador	UPD		FLATICOM
23	Union of Self-Employed Traders of El Salvador	UPD		FLATICOM
24	Union of Self-Employed Informal Traders	UPD	CUTS	FLATICOM
25	Union of Self-Employed Town Criers of El Salvador	UNTS	CUTS	FLATICOM
26	Union of Self-Employed Traders of Moneda Extranjera	UNTS	CUTS	FUSS
27	Union of Self-Employed Traders and Vendors of Foodstuffs of the La Tiendona Market	UNTS		FUSS
28	Union of Private Employees	CTD		FUSS
29	Union of Self-Employed Workers of Various Professions and Trades of Occidente	CTD		NONE FEDERATED
30	Union of Self-Employed Workers of Various Professions and Trades	CTD		NONE FEDERATED
31	Union of Self-Employed Vendors and Lessees of the Santa Ana Market	CTD		NONE FEDERATED
32	Union of Self-Employed Workers in the Collective Light Transport Sector of Sonsonate	OSILS		NONE FEDERATED
33	National Union of Traders			NONE FEDERATED
34	Association of Professional Wrestlers and Public Performing Artistes of El Salvador			NONE FEDERATED
35	Trade Union Association of Drivers and Transport Workers			NONE FEDERATED

Table 5. (continued)

Union	TUO	Confed.	Federation
36 Union of Self-Employed Photographic Artists of El Salvador			NONE FEDERATED
37 Union of Self-Employed Traders of Various Products of San Bartolo Free Zones			NONE FEDERATED
38 Craft Union of Self-Employed Informal Traders of Acajutla			NONE FEDERATED
39 Craft Union of Circus Artistes of El Salvador			NONE FEDERATED
40 Craft Union of Self-Employed Electricians of El Salvador			NONE FEDERATED
41 Craft Union of Miguelenean Shoeblacks			NONE FEDERATED
42 Craft Union of Drivers and Other Related Activities			NONE FEDERATED
43 Craft Union of Workers in the Cement Products Sector			NONE FEDERATED
44 Craft Union of Drivers of El Salvador			NONE FEDERATED
45 Craft Union of Salvadorian Medical Sales Representatives			NONE FEDERATED
46 National Union of Workers in the Transport and Other Similar and Related Sectors			NONE FEDERATED
47 Union of Transport Workers			NONE FEDERATED

Source: Based on Table 4.

Alliances are also being forged by joining regional or national civil society networks which include various labour sectors, peasants, communities, NGOs, small and micro-enterprises, women's movements and the like.

At the Central American regional level, there are two civil society groupings: the Civil Initiative for Central American Integration (ICIC) and the Central American Committee for Intersectoral Coordination (CACI) which bring together various organizations of Central American civil society. Workers' organizations from both the formal and informal sectors participate in these groupings through regional associations such as the Confederation of Central American Workers (CTCA), the Central American Coordinating Committee of Workers (COCENTRA) and the Latin American Central of Workers (CLAT). It is all the more important for labour organizations to be a part of these regional networks so that they can influence the integration process and promote regional programmes for improving working conditions, incomes and the quality of life of informal sector workers.

Trade unions can even strike alliances with private or state entities to provide training, technical assistance and credit for informal sector workers.

7. Conclusions and action guidelines for trade unions in the informal sector

7.1. Role of trade unions in the defence of informal sector workers

It is clear that trade unions can play an important role on behalf of informal sector workers in a number of ways, such as:

- helping to organize informal sector workers so as to protect their interests and foment programmes which will serve to improve working conditions, income levels and standards of living in the sector;
- representing the sector and negotiating with various government, municipal, private and civil society entities in relevant areas;
- promoting their own training programmes for workers in the sector or arranging for such programmes with other bodies that run them;
- providing information and advice on credit, employment, training and other opportunities that could benefit the sector;
- supporting sector organizations in formulating and implementing sectoral development programmes, either with their own funds or with cooperation funds negotiated for such activities; and

- promoting legal and institutional reforms related to the sector and formulating proposals with regard to policy or legal measures introduced by government, municipal or private bodies.

With regard to the potential role of trade unions in the informal sector, the ILO has stated: “The usefulness of informal sector producer and worker organizations is obvious as they make it possible to evaluate needs and difficulties and to devise appropriate strategic measures. The organizations assist economic units to pool their resources in order to attain common goals. They also serve as intermediaries with respect to the State and/or other institutions. They can help to correct market imperfections with regard to the supply of capital goods and raw materials or provide support services through collective bargaining on production prices in the case of subcontracting. They can even help to effect changes in standards. They can negotiate with other interest groups competing for the same resources and services, work towards achieving recognition and support their claims. They can also help to reaffirm the social identity of their members and facilitate regulation and social integration. Moreover, for practical reasons, public authorities prefer to deal with an organization acting on behalf of a group of people rather than with an ‘invisible’ segment of the population.”⁷

7.2. Resources currently available to trade unions for developing strategies for the informal sector

Trade unions have several resources at their disposal, albeit limited, to develop their activities on behalf of the informal sector population. These include:

- the setting up of labour exchanges;
- the creation of teams of legal advisors;
- the promotion of job-creation projects, for example markets on wheels or mobile fairs;
- agreements with government and private entities and NGOs that support informal sector workers in the areas of training and credit; and
- the development of credit programmes for the informal sector either with their own funds or by negotiating funds with cooperation agencies for that purpose.

7.3. What trade unions need to succeed in the informal sector

Trade union organizations must be aware of the significance of the informal sector in the country’s social and economic life, the trend towards informalization of work, and hence of the need for organization in the sector, not only because of their role in improving the living conditions of the sector’s workers but also because the future of the trade union movement largely depends on it.

The International Confederation of Free Trade Unions (ICFTU) and the Inter American Regional Organization of Workers (ORIT) see the work of trade unions in the informal sector as essential to the survival of the trade union movement. They have stated the following: “The trade union movement has been male-dominated and reserved for formal sector employees, and is structured accordingly. For its own survival, it must open up to women, without fear or prejudice. It also needs to open up to other specific groups, such as unsalaried informal sector workers, in-bond processing industry workers and those of service or subcontracting enterprises.”⁸

In practical terms, to implement their strategy vis-à-vis the informal sector, trade unions need to:

- analyse the informal sector and strategies needed;
- prepare teams for organizational work and support in the sector;
- strengthen ties of cooperation with non-trade union organizations of the informal sector, government, municipal and private bodies so as to promote joint development programmes; and
- foster unity between the different confederations, trade union centres and other trade union bodies.

7.4. Alternative organizational strategies for trade unions in defence of the interests of informal sector workers

These are:

- (i) Trade unions need to adopt new attitudes, actions and strategies to bolster their work in the informal sector and enhance any gains made on behalf of the sector’s workforce.
- (ii) As in the formal sector, trade unions must be the defenders of the rights of informal

sector workers, striving to ensure respect for their human rights, monitoring compliance with labour standards and promoting legislation suited to the circumstances of the informal sector.

- (iii) Trade unions must enhance their role as forums for the articulation and defence of the interests of informal sector workers vis-à-vis government and municipal bodies, the private sector, support organizations such as NGOs, youth and women's movements and so on. They should also assist these workers by providing opportunities for employment, training and education, access to credit and the like. Besides creating opportunities, trade unions can supply information to concerned parties on these matters.

As regards training and education, trade unions can promote programmes to improve the qualifications of informal sector workers, teach them how to use new technologies and to better manage micro-enterprises.

Programmes for the children of informal sector workers would yield good results in the short and medium term by improving the incomes and living conditions of families earning their livelihood in the sector.

- (iv) As legal entities, trade unions can carry out credit, training, employment-generating and other programmes jointly with lending agencies, special funds for assisting the informal sector, vocational training institutions, cooperation agencies and NGOs.
- (v) It is important for trade unions to address the immediate needs of the informal sector, though they must go beyond that to strive for the creation of inclusive development models that will change working conditions in the informal sector, the distribution of national income and hence living conditions.
- (vi) This means that trade unions must become active in formulating proposals, in discussion and coordination with other social and economic sectors and institutions engaged in policy-making and development programmes at the regional and national levels that include measures relating to informal sector workers. For this, trade unions must themselves be properly organized so as to have an impact on centres where economic and social policies are decided.

- (vii) Trade unions can offer services to various bodies engaged in education and technical training. In that way, while benefiting informal sector workers, trade union organization can also be strengthened and income earned for the unions. This they could use to finance efforts to improve both working conditions and organizational work in the sector.

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Notes

¹ ILO. 1991. *The dilemma of the informal sector*, Report of the Director-General (Part I), International Labour Conference, 78th Session, Geneva, p. 13.

² ILO. 15th International Conference of Labour Statisticians, Report of the Conference, Geneva, 19-28 January 1993.

³ See Ministry of the Economy, op. cit.

⁴ See Kandel, Susan; Lazo Francisco, op. cit.

⁵ See United Nations Development Programme (UNDP), op. cit.

⁶ ILO. *The dilemma of the informal sector*, op. cit., p. 45.

⁷ ILO. *World Labour Report: Industrial relations, democracy and social stability, 1997-1998*, p. 206.

⁸ ICFTU/ORIT. 15th Continental Congress, 22-24 April 1997, Executive version, Santo Domingo, Dominican Republic

Annex

Acronyms of Salvadorian Trade Union Organizations

CGS	General Confederation of Trade Unions
CTD	Trade Union Centre of Democratic Workers
CTS	Trade Union Centre of Salvadorian Workers
CUTS	Single Central Organization of Salvadorian Workers
FEASIES	Federation of Independent Associations and Trade Unions of El Salvador
FESINCONSTRANS	Federation of Unions in the Construction and Similar Sectors, Transport and Other Sectors
FESINTRABS	Federation of Trade Unions of Workers in the Food and Beverages and Similar Sectors
FESTES	Federation of Workers' Unions of El Salvador
FESTICES	Federation of Unions of Self-Employed Traders of El Salvador
FESTRAES	Federation of Workers' Unions of El Salvador
FLATICOM	Labour Federation of Independent Trade Unions of the Transport, Trade and In-bond Processing Sectors
FUSS	Salvadorian Single Trade Union Federation
OSILS	Free Trade Union Organizations
UPD	Popular Democratic Union
UNTS	National Union of Salvadorian Workers
