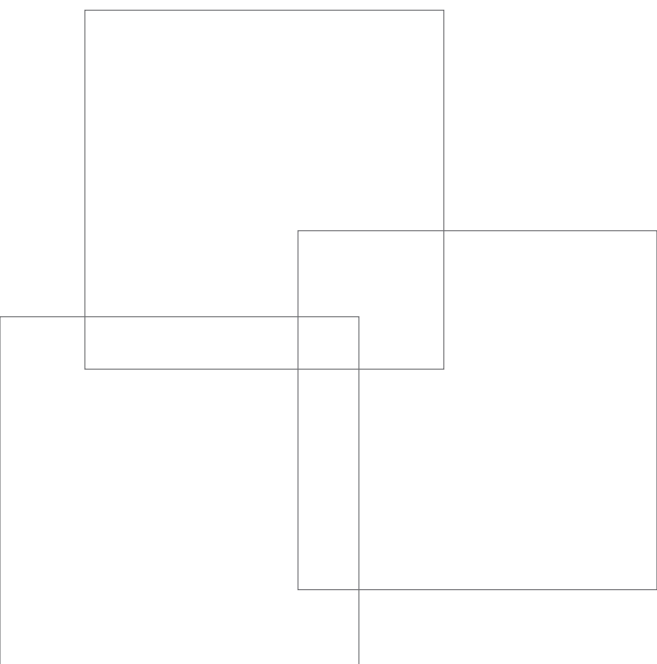




International  
Labour  
Office  
Geneva



# 6

## National employment policies: A guide for workers' organisations

Policy responses to  
the informal economy





**Policy responses  
to the informal economy**



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## Quick overview

*Maimouna lives in Ouagadougou in Burkina Faso. She sells home-made donuts and juice spread out on the pavement next to the supermarket. She operates outside the law, without a permit. Often, shopkeepers accuse her of unfair competition. She worries about confrontations with police or municipal authorities, and often pays bribes to escape eviction and the confiscation or destruction of her property. Her income is irregular, her hours are long, she has no social security, no health and safety standards. There is no organization of street vendors in her town.*

*Bopha is a rural migrant from the countryside to the city in Bangladesh. She has a job in a textile factory -- her first paid job. Bopha did not get an employment contract. She does not receive a payslip and has no permanent employment status. Her job is focussed on weaving, spinning and hanging fibres, whilst most men are employed in more skilled positions such as machine supervisors or fabric dyers. She works long hours. Her wages are low and she is not always paid on time. She does not know about labour laws and she is not entitled to social protection or employment benefits. Every month, Bopha sends money to her family.*

Maimouna and Bopha work in the informal economy. The ILO defines the informal economy as “all activities that are, in law or practice, not covered or insufficiently covered by formal arrangements” (ILO, 2002). This section explains what informality is and how we measure it. We summarize the various theoretical viewpoints on why it exists and look at some policy options for addressing informality based on its context and causes.

When the majority of the workforce in a country is active in the informal economy, policy-makers should consider the impact of every single policy decision upon this sector and these workers. This is why, when formulating a national employment policy, trade unions should be ready to engage in a discussion on the impact of the policy choices on the informal economy and be able to suggest some policy responses. The discussion on informality should not be relegated to policies specifically targeted at it, but should be embedded in every social and economic policy.

Trade unions are responding to informality in developing economies and informal workers are organizing. We look at a number of case studies in this section that show how collective action and collective bargaining have improved conditions in the informal economy.



# Contents

## Policy responses to the informal economy

<b>Quick overview</b>	v
<b>6.1. Defining the informal economy: The informal sector and informal employment</b>	
The overlap between informal employment and the informal sector	2
<b>6.2. Measuring informality</b>	
Collecting data about various features of informality	3
How big is informality?	5
<b>6.3. Why does informality exist?</b>	
Informality as exclusion	7
Informality as choice	7
Informality driven by competition	8
Is informality a dynamic force or does it contribute to low productivity?	8
Two-tiered informality	8
<b>6.4. How can policy respond to the informal economy?</b>	
Responding to informality as exclusion	9
Responding to informality as choice	9
<b>6.5. What are trade unions doing about the informal economy?</b>	
Inclusive strategies	11
Specialized trade unions	12
Examples of bargaining arrangements that extend protection and social security benefits to informal workers	14
<b>6.6. Collective bargaining and informality</b>	
<b>6.7. Progressing toward formality: An integrated package</b>	
<b>References</b>	17
<b>Resources and tools</b>	19





## 6.1. Defining the informal economy: The informal sector and informal employment

The ILO defines the **informal economy** as “all activities that are, in law or practice, not covered or insufficiently covered by formal arrangements” (ILO, 2002). That definition includes informality in terms of both:



- the enterprise someone works for (working in the informal sector) and
- the informal characteristics of the worker’s job (informal employment).

The **informal sector** consists of unregistered and small, unincorporated private enterprises engaged, at least partly, in producing goods and services for the market.



- ✓ An enterprise is **unregistered** when it is not registered under national laws, such as commercial acts, tax or social security laws, or professional associations’ regulatory acts.
- ✓ An enterprise is considered **small** when it has fewer permanent employees than a certain number (for instance five employees). The number is set in the national context.
- ✓ An enterprise is **unincorporated** if it is not a legal entity set up separately from its owners. This usually means that no complete set of accounts is kept.
- ✓ When people produce goods or services just for their own household’s consumption, such as food or childcare, this is not counted as an informal sector activity.

**Informal employment** refers to jobs that lack basic social or legal protections or employment benefits. Some examples of these protections are advance notice of dismissal, severance pay and paid annual or sick leave.

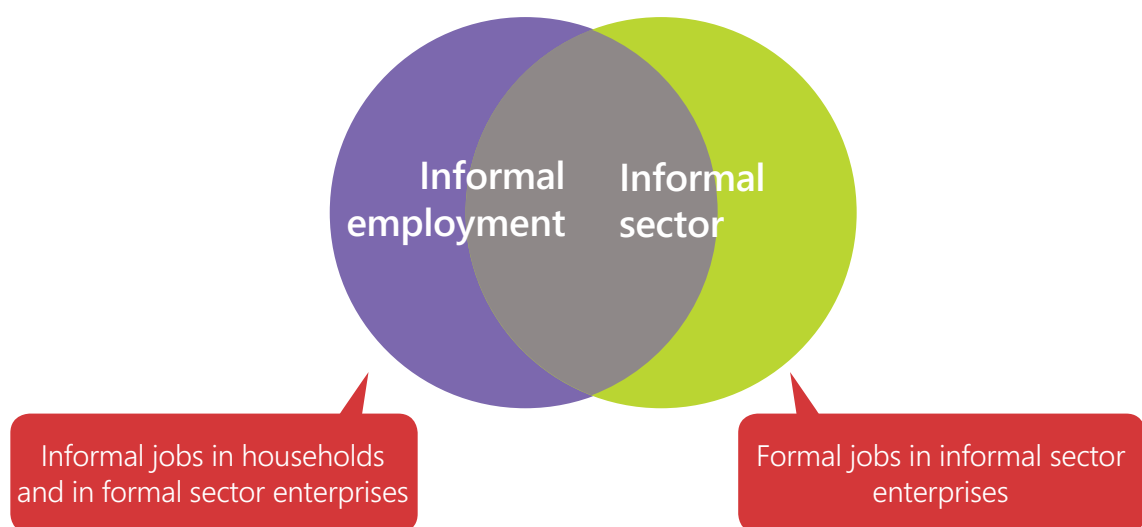


An example of informal employment would be casual day labourers, who earn wages without a fixed employer. This is often seen in agriculture and construction.

Informal employment also includes people involved in many kinds of self-employment or own-account work (self-employment with no employees). One example would be people who work on their own equipment at home for a piece rate without direct supervision. **Contributing family workers**—family members who help out with a family business without pay or without formal employment status—can also be included in this category. So are people who are indirectly employed through a temporary agency.

## The overlap between informal employment and the informal sector

A large part of informal employment is, of course, in the informal sector, but the two do not overlap completely. Workers may be working informally for enterprises that operate in the formal economy (for instance, casual daily labour for a large construction company). And some employees working for enterprises in the informal sector may be holding formal jobs. An example of this would be a salaried worker with a regular contract, employed by a small, unincorporated firm.



One example of this overlap is El Salvador's informal economy. In the latest year that data is available for this country, informal employment in the formal economy was 14.8 per cent of total employment (not counting agriculture). Informal employment within the informal sector was 53.4 per cent (ILO, 2012a). That means that a total of 68 per cent of the country's workforce were in the informal economy. When the majority of a country's workforce is active in the informal economy, policymakers should consider the impact of every single policy decision upon it.

## 6.2. Measuring informality

In 2003, the 17th international conference of labour statisticians adopted guidelines on a definition of informal employment as an international statistical standard. It is difficult to precisely measure informality, for two reasons. First, the informal economy involves people working in so many different sectors and in such different conditions, that it is hard to find ways to count them. Second, many types of informality are hidden:

- The actors involved may not be in official registers.
- Their work may be casual or small-scale and unreported.
- They may be concealing their informal activities.
- It may be very difficult for a surveyor to find unregistered small enterprises. Even if they are found, they may be reluctant to disclose information if they are operating irregularly.
- Migrant workers often have a more vulnerable status and are less likely to be registered.

### Collecting data about various features of informality

One way to collect data about informality is to conduct national surveys of households and enterprises. The enterprise survey can ask whether the firm is legally registered or a labour force survey can ask interviewees if they are registered with the social security administration.

It is also possible to collect data indirectly by using indicators that are proxies for informal employment. A proxy indicator is one that it is easier to collect data about but which has a good chance of delivering the same information you are looking for. For instance, one commonly used proxy for informal employment is self-employment. Self-employment is strongly correlated with informal employment, even if it does include some workers who are formal and exclude some who are informal. Another proxy indicator is the difference between a country's total employment and its registered employment, measured using administrative data. This can also reveal information about informal employment.

This table defines various features or indicators of informality and discusses how researchers can use data about the indicator, as well as what the limitations are.



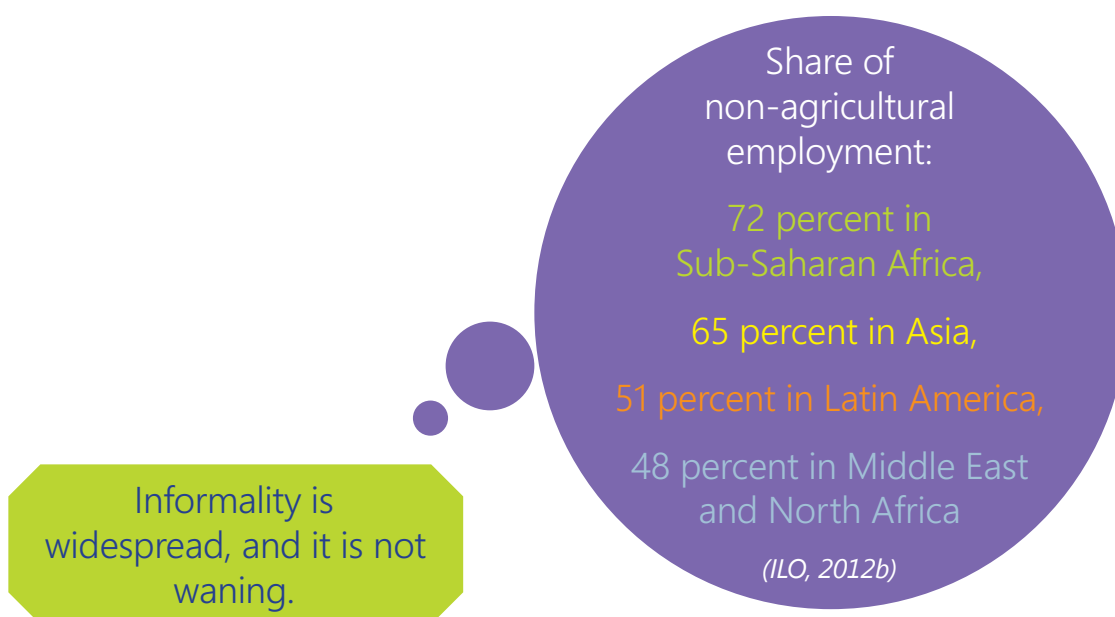
Definition	Research application and limitations
<b>Enterprise-based definitions</b>	
Registration status	Attempts to capture enterprises that operate without government recognition or regulation, both in fact and in law. Used to assess lack of access to government services and absence of regulation. Limitations: Registration with a government authority may not mean actual practices are formal.
Size of enterprises	Often used as a proxy indicator for informal enterprises. Potentially useful for analysing the economics of small-scale firms. Limitations: Size is an imperfect proxy for other aspects of informality. Size is often defined only in terms of number of paid employees.
Tax evasion and avoidance	Used in studies of the costs and benefits of informality. May be used as a proxy for other types of regulatory avoidance or evasion. Limitations: Tax evasion or avoidance may also be widespread among firms that would otherwise be considered formal. May not capture labour market vulnerability and lack of <b>social protection</b> . Often fails to take into account taxes that informal firms do pay.
Non-contribution by employers to social security programs	Similar to tax evasion and avoidance, but with a more explicit connection to social protections. Limitations: Different countries have very different social security systems. May not adequately capture labour market vulnerability and lack of social protection. May not be relevant for firms without paid employees.
Enterprise finances are not separable from those of the household	Captures many factors commonly associated with informal enterprises (small-scale, lack of formal organization, close link to household livelihoods). Limitations: Data is rarely available, making it hard to use this indicator.
<b>Employment-based definitions</b>	
Existence of social protections linked to employment	Attempts to capture precarious, vulnerable and unprotected forms of employment. Limitations: Often applies only to paid employees. Different criteria needed for self-employment. The nature of social protection varies across countries.
Illegal labour practices	Attempts to measure the extent to which labour laws are violated by employers. Limitations: Illegal labour practices are under-reported in statistical sources. Legal forms of employment may be precarious and lack protections. Labour laws are different across countries.
<b>Underground activities</b>	
Trade/production of illicit goods and services	Primary aim is to study illegal aspects of the economy. Limitations: Data on these activities is extremely limited. May not be closely related to other approaches to defining informality.
Unmeasured and unrecorded economic activities.	Primary aim is to document economic activities that are not measured or counted in official statistics—informal is equated to hidden or underground. Limitations: Since these activities are not documented, researchers have to use indirect measurements and make a lot of assumptions.

Source: Heintz, 2012

## How big is informality?

Globally, estimates suggest that more than half of all jobs in the non-agricultural sector are informal, particularly in low- and middle-income countries.

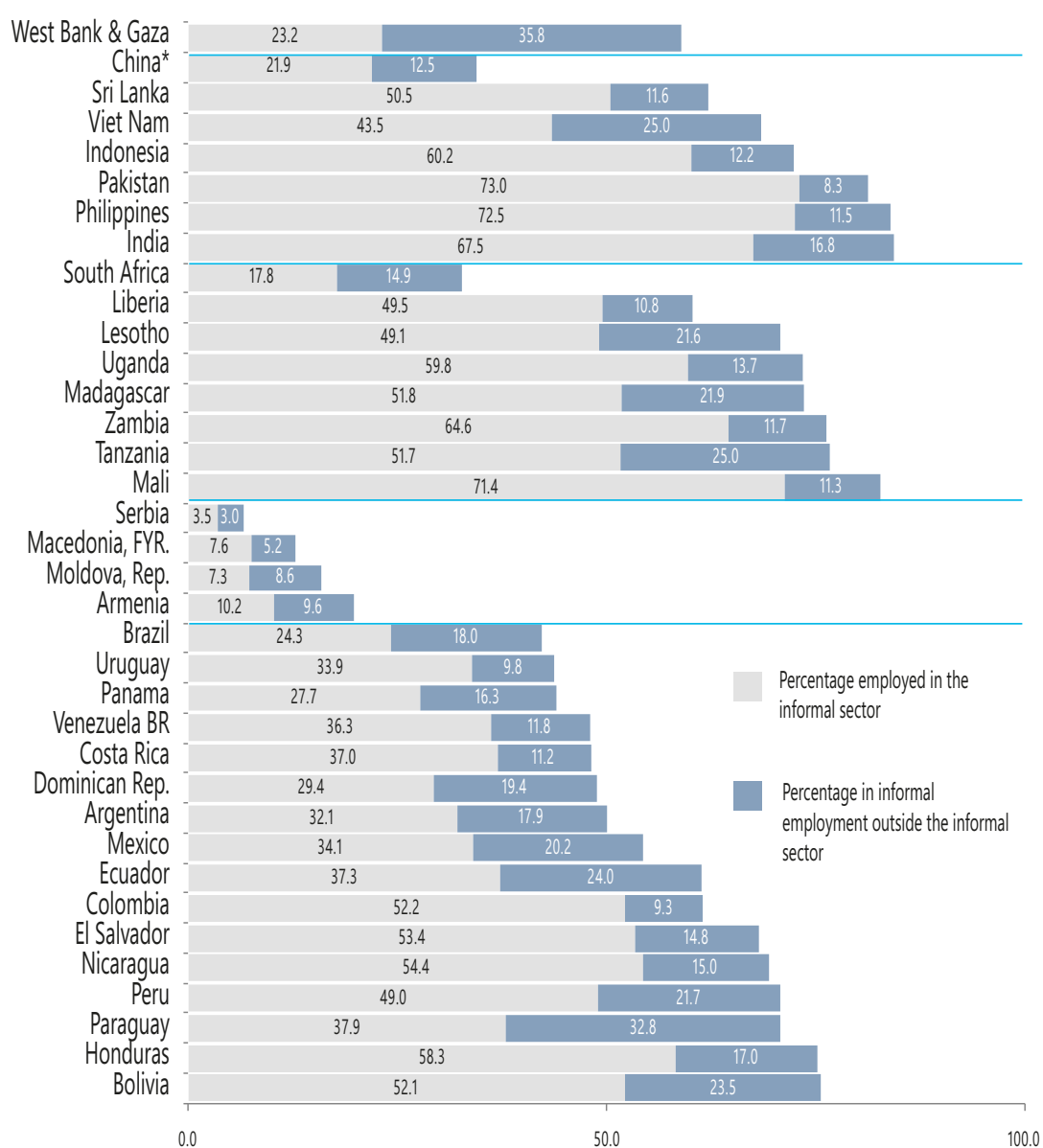
Countries often do not collect data on informality in their agricultural sector, and the ILO data refers to non-agricultural employment only. In developing countries, where subsistence agriculture is still significant, the figures for informal employment would increase greatly if this data were included.



**GDP per capita** is a measure of the total output of a country that takes the gross domestic product (GDP) and divides it by the number of people in the country. The share of informal employment decreases as GDP per capita increases. It increases as the share of population living below the poverty line increases.

In 2012, the International Labour Organization published statistical information on the dimensions of informal employment compiled for 47 countries from different regions (ILO, 2012b). Figure 1 shows the share of people in the informal sector and informal employment in 33 countries.

Figure 1: Share of persons employed in the informal economy as a percentage of non-agricultural employment, latest year available



Source: ILO, 2013b.

Notes: Horizontal lines separate geographical regions. The countries are displayed by ascending order of employment in the informal economy within each geographical region.

\*The data for China is for six cities: Fuzhou, Guangzhou, Shanghai, Shenyang, Wuhan and Xi-an.

### 6.3. Why does informality exist?

Why do enterprises and workers operate in the informal economy? There are several views on this. We summarize these below.

#### Informality as exclusion

One view is that, although workers and firms would like to operate in the formal economy, they do not have the opportunity to do so and stay in the informal economy to make a living. There are simply not enough jobs available in the formal sector, so people revert to what is available: jobs in unregistered enterprises or trying to survive through self-employment. Small enterprises with limited profit margins may seek to avoid taxes and regulations—including labour regulations—that add costs to their operations (Heintz 2012; Tonin 2013).

There are other ways that people are excluded from choosing freely among economic opportunities: poverty or lack of education, for example. There are also gender-based constraints. These include women's greater responsibilities for work in the home, how the society views gender roles, women's limited control over money, and unequal investments in educating girls and boys.

#### Informality as choice

Another view is that the decision to work informally is the result of people choosing among alternative sources of employment (Maloney, 2004, pp. 1159-1178; Loayza and Rigolini, 2006). According to this view, workers weigh the benefits of working formally against those of working informally, selecting the form of employment with the greatest net benefits.

This view does not imply that the workers are well off or happy with their situation. They may well be living in poverty while working informally. The point, however, is that, given their skills and prevailing labour market conditions, they would not be better off holding a formal job for which they are qualified.

Some theorists view informal firms as enterprises that could potentially thrive in the formal sector. They see avoidance of regulation as the main reason they are in the informal sector. One view sees these firms as "parasitic", calling for strict enforcement of regulation. Another view sees the informal sector as a way to avoid high entry costs, suggesting that strict enforcement may hold back a dynamic part of the economy.

## Informality driven by competition

Other theorists see informality as driven by the need to lower labour costs and protect profitability in a competitive global economy (Portes, et al. eds., 1989). For example, self-employed people working in the informal sector may be incorporated into global production networks as a source of low-cost labour. Similarly, the rollback of social protections in the face of competitive pressures leads to greater informality. In these frameworks, the demand for informal labour, rather than the lack of demand in formal labour markets, is the driver.

## Is informality a dynamic force or does it contribute to low productivity?

Should we see the informal economy as a vibrant, dynamic set of activities that support livelihoods in developing countries when the formal economy fails to do so? Or should we see it as low productivity work, providing subsistence for those excluded from better employment opportunities?

The choice between these two perspectives has important implications for how informal employment fits into national development strategies. Should policies aim to support informal employment and improve earnings and working conditions, with the aim of supporting broad-based economic development? Or should the long-run objective be to move people out of informal employment and into formal wage employment, cultivating economies of scale and high value-added activities within the formal sector?

These two strategies are not necessarily mutually exclusive but there are tensions between them. Support of the informal economy could feed into long-run structural change. However, widespread informality could reinforce low levels of productivity, hold back growth and prevent long-run improvements in the quality of employment. Trade unions in each country need to assess conditions and come to their own conclusions.

## Two-tiered informality

There has been an effort to gather these arguments into a single approach (Fields, 1990; Perry et al., 2007). In these frameworks, there is a low-end segment and a high-end segment of the informal labour market. At the high end, people voluntarily choose relatively productive activities. But at the low end, barriers to entering high-end informal jobs results in a portion of the labour force having no choice but to work in low-end, marginal activities.



## 6.4. How can policy respond to the informal economy?

There is no “one-size-fits-all” policy response that would be valid across countries or even across different parts of the informal economy within a country. Policy interventions depend on understanding the reasons people and firms work informally in a given context. It especially matters whether informality is a choice rather than a result of exclusion from the formal sector.

### Responding to informality as exclusion

When informality is due to exclusion from the formal economy, the policy response usually proposed is a mix of interventions aimed at:


- **Increasing the productivity of informal** enterprises
- **Increasing the employability** of informal workers
- **Introducing measures to reduce poverty**, such as non-contributory social protection programmes (for example the Bolsa Família in Brazil)
- Increasing overall demand so as to **promote new formal job opportunities**

### Responding to informality as choice

The policy response usually proposed when workers and enterprises choose to operate informally is a combination of ‘carrot’ and ‘stick’ (an old saying about training animals with both food and punishment).

**Increasing the benefits** of formal status is an incentive for firms and for workers to register (the carrot). This can be done by facilitating access to credit or markets for such firms, or by giving informal workers access to health insurance benefits.

**Increasing the power of public authorities to enforce regulations** is the ‘stick’. If inspection systems are strong and reliable, authorities can curb non-compliance with labour legislation, and with civil, commercial, administrative, fiscal and social security rules.



Some countries, such as Chile, have introduced variable penalties, with fines that increase with the number of workers affected. But fines can be replaced by training for enterprises with fewer than nine workers. Other countries have increased the number of labour inspectors. For example, their numbers have been doubled in Guatemala and El Salvador, and tripled in the Dominican Republic and Honduras (ILO, 2013a, p. 40).

## 6.5. What are trade unions doing about the informal economy?

Informal workers face legal and practical obstacles to exercising organizational rights:

- Protection of these rights may depend on being defined as an employee. (Some may be defined as “autonomous workers” or hired as apprentices and trainees to avoid unions.)
- The temporary nature of employment means that their contracts can be terminated before they are able to form a union or bargain. In a number of countries, temporary workers are fired when they reach the threshold days of service which would entitle them to be hired permanently with the benefits of organized workers.
- They may be in an indirect employment relationship and unable to bargain directly with the principal employer. This is called fragmentation of the bargaining unit.
- Most often, informal workers are self-employed workers such as street vendors or taxi drivers with no direct employers to negotiate with. In such cases, negotiations might take place with local authorities to facilitate the trade activities or avoid harassment. Trade unions can help with such negotiations and can provide access to support services such as credit and savings, health insurance and training.
- Informal workers are more difficult to organize than regular employees. This is due to the instability of work and income, and in the case of some workers, such as home workers, the broad dispersion of work sites.

Those in the informal economy need organisations and representation to pursue their employment interests. They also need a voice to lobby policy makers on issues such as access to finance, property rights, taxation and social security. Here we discuss the strategies that informal workers and trade unionists are using to develop representation.



## Inclusive strategies

Union membership has been falling and informal employment is growing. This has caused many unions to shift their focus from the employment relationship to workers needing protection and representation. Here are some examples:

**FNV Union Confederation, Netherlands:** This confederation has seen a dramatic increase in membership of affiliates organizing self-employed, domestic and agency workers.

**Ghana Trades Union Congress:** The congress has encouraged associates to change their constitutions so that informal workers' organizations could associate. It has made recruitment and dues collection simpler and has a proposed plan to cross-subsidize membership. In negotiations on the 2003 Labour Act, the congress proposed that the act should cover all workers rather than employees, thus extending protection.

**South African Municipal Workers' Union:** The union is increasingly recruiting non-standard or informal workers. It recently launched a court case to review tenders awarded to contractors of local authorities that did not follow the municipal act requiring that the union be consulted and that contractors comply with the bargaining council.

**All India Central Council of Trade Unions:** This recognized central trade union organization is concerned with contract workers and trainees in Tamil Nadu, especially in the Sriperumpudur area where multinational corporations like Nokia, Hyundai, and satellite units like Foxconn and Hwasin are located.

**Trade Union Centre of India:** This all-India federation has 200,000 members in 14 states. Its main target group is the unorganized workers. Around three-fourths of its membership belong to the unorganized sector. Contract workers account for 25 to 30 per cent of its total membership. Two objectives of the union are "to fight against the policy of promoting the contract labour system and casual labour in the name of 'flexibility' and "To fight for the eradication of all unjust labour relations like casual labour and contract labour systems especially where the work is perennial" (TUCI, 2008).



## Specialized trade unions

Specialized organizations of informal workers are emerging and building alliances with regular unions:



### **Tanzania Informal Construction Workers Association:**

This is an umbrella organization of self-employed workers. It has made funds available to members in times of sickness or death. It has also lobbied government to reserve a share of contracts for informal workers and campaigned for adoption of labour-based technologies.

**Association of home-based workers in Bulgaria:** An associate member of the Confederation of Independent Trade Unions.

**Trade Union Co-ordination Centre, India:** Recognized by the All India Central Council of Trade Unions, this organization had more than 600,000 verified members in 2002, most from the unorganized sector. It is a state unit in Bengaluru, and has concentrated on organizing contract and casual workers and women in the garment industries. It has organized contract workers in well-known industries in the state like MICO, BHEL, Escorts, Bosch, Toyota Kirloskar Motors, ABB Private Ltd., as well as workers in the hotel industry and government departments.

The union has successfully fought for regularization of contract workers in both the government sector and in the private sector. It does not resort to litigation, as it does not have confidence in the courts and it is time consuming. "By the time the court gives its verdict [minimum 5-6 years] the contract and casual workers will lose their jobs," explained a union representative. Instead, the centre collects information from government agencies.

For example, the centre finds out how many licenses have been given by the labour department to companies like Toyota for perennial employment. It compares the workers' statistics, both sanctioned and actual, and then files complaints with the government agencies for giving licenses to firms that use informal labour. It conducts morchas (processions) and dharnas (protests) at factories and in public places, such as in front of the labour department offices, and seeks media coverage.



**The Malawi Union for the Informal Sector:** This union was formed in 2000 and was officially registered in 2004. As of 2012, it had about 14,550 members. They work in the following informal sectors: home-based workers, street vendors, waste pickers, construction workers, domestic workers and small-scale tea farmers.

The union is the national affiliate of StreetNet International in Malawi. It is also a partner of War on Want and an affiliate of the national labour centre of Malawi Congress of Trade Unions and Women in Informal Employment: Globalizing and Organizing. The union's vision is to assist, represent and educate its members to improve their businesses. Its objectives are to protect the rights and interests of members, encourage full participation by members in the union, promote legislation that is in members' interests, and affiliate with both local and international organizations that have similar objectives.



## Examples of bargaining arrangements that extend protection and social security benefits to informal workers

### *National agreements*

- National collective agreements on temporary agency workers in Spain (2007)
- Agency Worker Joint Declaration (2008) between the UK Government, Confederation of British Industry and Trade Union Council. This declaration ensures equal treatment after 12 weeks of employment.

### *Sectoral agreements*

- In 2010, the Construction Workers of Argentina and the Argentinian Construction Chamber agreed to ensure adequate prices and wages and promote registered employment and compliance with regulations.
- In 2009, the National Union of Metalworkers of South Africa and the Automobile Manufacturers Employers Organisation agreed to the extension of company arrangements for retirement, death, disability and medical aid to short-term workers.

### *Negotiations with enterprises using informal workers*

- In September 2009, the Milk Food Factory Workers' Union submitted two important demands to Glaxo Smith Kline in India: a wage revision and permanency of casual workers. After strong tensions between the union and management, a **collective bargaining** agreement was signed on 28 May 2010. All 443 temporary casual workers would be made permanent in a phased manner. Further, the management increased the daily rate of wages for casual and temporary workers to 300 Indian Rupees with effect from 1 May 2010.
- In 2009, South African Airways and the South African Transport and Allied Workers Union agreed on the employment of temporary agency workers.
- In 2008, the Neyveli Lignite Corporation and the All India Trade Union Congress, Center of Trade Unions, Labour Liberation Front, United Trade Union Congress, and Labour Progressive Front agreed on the regularization of contract workers.
- In 2009, Nokia India and the Labour Progressive Federation, plus two temporary work agencies (CEVA Freight and M/S Adeeco Flexicone Workforce Solutions) signed an agreement.

## 6.6. Collective bargaining and informality

This table describes the three large issues related to informality that collective agreements typically address and the types of clause they appear in. It gives some examples of collective agreements that have dealt with these issues.

Issue	Types of clause	Examples
Regulation of commercial contracts	All contractors registered and comply with collective agreements, labour standards, and existing regulations on wages and social protection	Building Industry Bargaining Council, South Africa  National agreement for promotion of social dialogue in construction industry (2010), Argentina
Employment security	Options:  Limiting externalization (strategy to protect employment status of regular employees)  Regularizing employment (pragmatic approach and phased implementation)  Continuity of service on temporary contracts	South African Local Government Association and South African Municipal Workers Union (2008): Local government to consult trade unions before contracting, extension to temporary agency workers of the same benefits (including salary)  Tamil Nadu Electricity Board & TNEB union (2007): Transition from temporary agency to permanent employment of 6,000 workers and progressive absorption of remaining (21,600 workers)  Jawaharlal Nehru Port Trust & Nava Sheva Bundar Kamgar Sanghatana (2006): Continuity of employment for agency workers affiliated to union, equal pay
Improvements in wages and benefits	Leave, equal pay for equal work, equal pay for work of equal value, social security	Port Authorities & Federation of Maritime Dockers' Trade Unions of Argentina (2005, 2006): Equal payment and working hours.  Hindustan Unilever Limited & Sarva Shramik Sanghatna (2008): Substantial wage increases for temporary workers

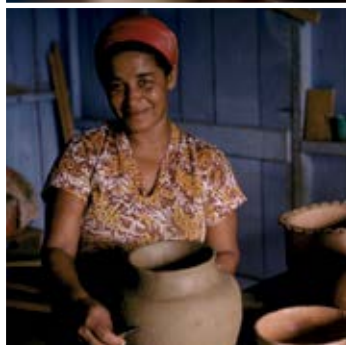
Sources: Hayter, 2011; Ebisui, 2012

## 6.7. Progressing toward formality: An integrated package

Here are seven main avenues towards formalisation that need **policy coherence**:

TRANSITION TO FORMALITY	→	Growth strategies and quality employment generation
	→	Regulatory environment, including enforcement of international labour standards & core rights
	→	Organization, representation and social dialogue
	→	Equality: gender, HIV status, ethnicity, race, caste, disability, age
	→	Entrepreneurship, skills, finance, management, access to markets
	→	Extension of social protection, <b>social protection floors</b> and social security systems
	→	Local (rural and urban) development strategies

INTEGRATED STRATEGY



### An example from Brazil

Brazil offers an example of a rapidly formalising country that has adopted an integrated policy package (ILO, 2013a). Over the past decade, job creation in the formal economy has been three times as rapid as in the informal economy. The policies that have contributed to this success include:

- non-contributory social protection programmes, such as the Bolsa Família
- a simplification of tax rules for small businesses
- increased incentives for firms to formalise their workers
- improved enforcement of tax and labour regulations.





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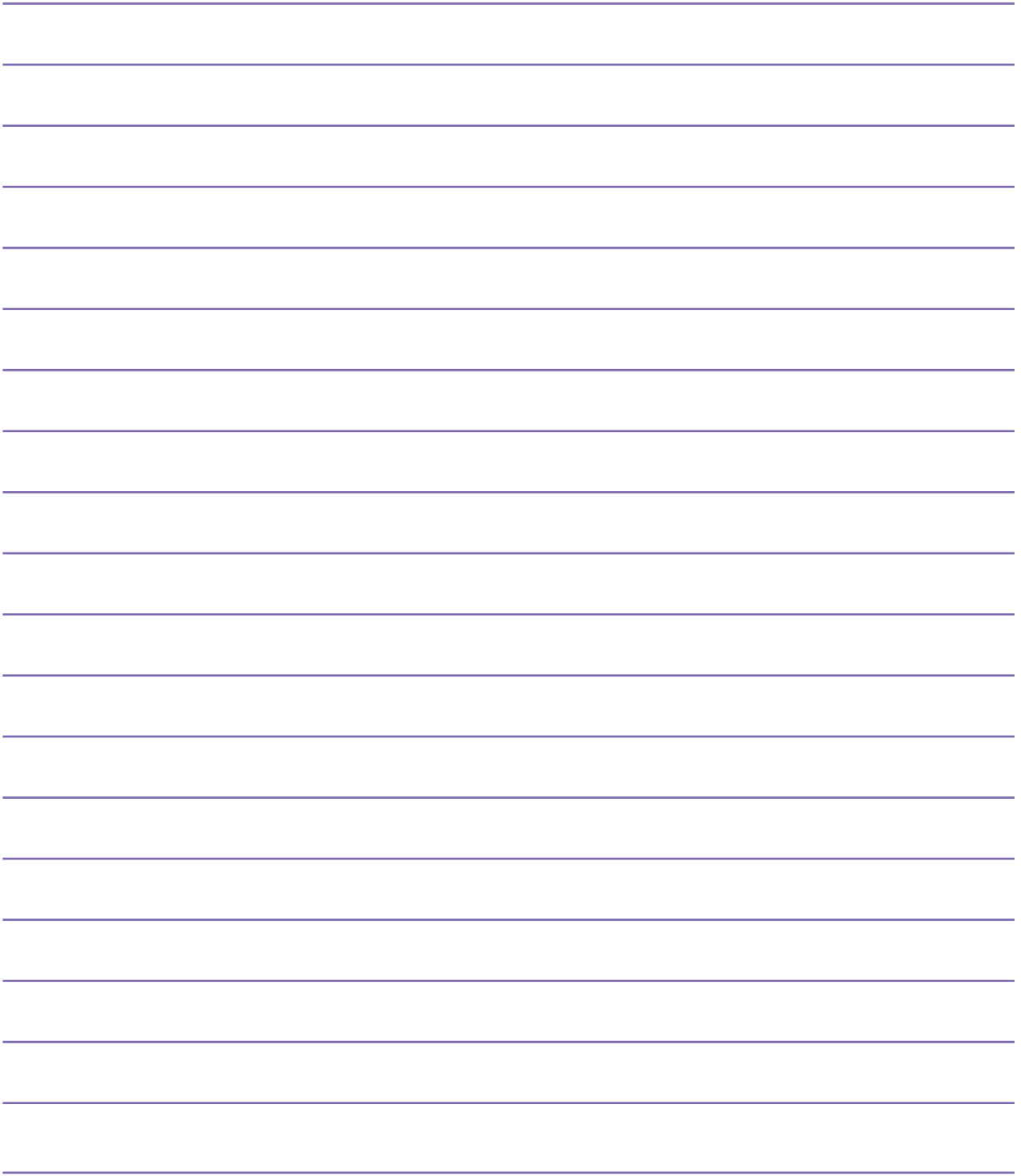
Learn more about organizing in the Malawi informal economy:

<http://wiego.org/wiego/malawi-union-informal-sector-mufis>

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