



Women's Priority Legislative Agenda for the 17th Congress

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Upholding the Rights of Women in the Informal Economy: Providing Measures for the Transition from the Informal to the Formal Economy¹

Philippine
Commission
on Women



POLICY BRIEF NO. 8

This policy brief provides the rationale and recommendations for upholding the rights of workers in the informal economy, particularly the women and other marginalized groups, by transitioning them to the formal economy towards the realization of decent work for all.

WHAT IS THE ISSUE? WHAT HAS BEEN OUR RECENT EXPERIENCE/S WITH REGARDS TO THE ISSUE?

The informal economy plays a significant and crucial role in job and income generation particularly in situations where there is high unemployment, inequality and poverty.² Persons who would otherwise be unemployed or without livelihood take refuge in the informal economy especially in developing countries that have a large and rapidly growing labour force.³ This is due to the “relative ease of entry and low requirements for education, skills, technology and capital” in most economic units and activities in the informal economy.⁴ In the Philippines, the Informal Sector Survey in 2008 estimated the number of persons employed in the informal sector to be at 15.68 million, which comprise 72.5 percent of non-agricultural employment.⁵ In addition, persons in informal employment outside the informal sector are estimated at 2.49 million, which comprise 11.5 percent of non-agricultural employment.⁶

While the informal economy provides reasonable economic opportunities to some,⁷ most workers in the informal economy are exposed to unsafe working conditions; are not provided adequate skill training; do not have security of tenure; have lower and irregular incomes; and lack collective bargaining and representation rights.⁸ This is because workers and economic units in the informal economy are not covered or insufficiently covered by social protection, occupational safety and health, and labour protection policies and programs.⁹ As such, most people enter

the informal economy out of the need for survival, rather than as an option or a choice.

At the same time, workers in the informal economy are not a homogenous group and, therefore, have differentiated needs and face varying levels of vulnerability. Women, in particular, who bear most of the burden of reproductive responsibilities or unpaid care work, tend to end up in the informal economy or take informal work arrangements.¹⁰ This is because the informal economy offers them greater flexibility, autonomy and geographic proximity to do paid work while fulfilling domestic duties.¹¹ Women in the informal economy, however, are mostly confined in low income activities, such as unpaid family work, industrial home work and street vending; have limited opportunities for organization and representation; and are inadequately covered by social protection especially in times of illness, disability, work injury, maternity, unemployment, and old age.¹²

The very nature of the informal economy, where most workers and economic units are not recognized nor registered, makes it also difficult and costly to collect statistics on its size, composition and contribution to the national economy. The invisibility in national statistics and the inadequacy of information on the informal economy limit the basis of government and other duty bearers for planning and programming to appropriately address the issues and concerns of workers and economic units in the informal economy.

WHY IS THE ISSUE IMPORTANT?

“Work is as much about human rights as about

income.”¹³ The right to decent work is equal, universal and inalienable for all workers. The reality, however, is that decent work deficits are more pronounced and rampant in the informal economy as a result of the absence of formal work arrangements. Workers in the informal economy are more vulnerable to violence, abuse and exploitation and face higher risks of poverty. This double standard needs to be eliminated and workers who are currently in the informal economy need to be granted equal rights with those who are in the formal economy.¹⁴

In relation to this, equality and non-discrimination are fundamental principles that should be observed in the recognition, protection, promotion and fulfilment of the rights to decent work. Women and other marginalized groups often end up in the informal economy, particularly in lowly-paid activities or unpaid family work, due to unequal structures and discrimination on the basis of gender, age, ethnicity, disability, migration or other status.

Workers and economic units in the informal economy can be very productive and have huge potential. The diversity of workers in the informal economy offers a large pool of talents and skills, creativity, dynamism and innovation. Such potential may be harnessed if obstacles and various forms of discrimination are removed and the necessary enabling environment is created for all groups of workers to be able to contribute freely and meaningfully to economic development to the fullest of their capabilities. This, in turn, contributes in the attainment of the goals of poverty alleviation, social justice and equality. It has been particularly observed, for instance, that women’s economic empowerment facilitated by improved access to social protection and productive resources, including land, property, technology, skills development and credit, correlates positively with lower poverty rates.¹⁵

Given the realities in the informal economy, there is, therefore, a need to develop an integrated and coherent policy framework for the extension of social protection, the creation of a favorable regulatory environment, the protection of labour rights, the provision of support systems for entrepreneurship and skills development, and the strengthening of social dialogue to move workers and economic units from the informal to the formal economy.¹⁶

WHAT ARE THE EXISTING LAWS OR POLICIES RELATED TO THE ISSUE?

The 1987 Philippine Constitution upholds the right of all workers to decent work. Article II, Section 9

declares that “[t]he State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all.”

In terms of recognition and promotion of the human rights of workers in the informal economy, Republic Act 8425 or the Social Reform and Poverty Alleviation Act is the first national legislation to recognize the informal sector, through its inclusion as one of the basic sectors. It defines workers in the informal sector as “poor individuals who operate businesses that are very small in scale and are not registered with any national government agency, and to the workers in such enterprises who sell their services in exchange for subsistence level wages or other forms of compensation.” The law ensures, among others, the participation of the informal sector in the planning, decision-making, implementation, monitoring and evaluation of the Security Reform Agenda at various levels of government.

Furthermore, to guide the development of policies, programs and other interventions for the informal sector, the then National Statistical Coordination Board (NSCB), through its Resolution No. 15 Series of 2002, adopted and operationalized an official definition on the informal sector:

“The informal sector consists of ‘units’ engaged in the production of goods and services with the primary objective of generating employment and incomes to the persons concerned in order to earn a living. These units typically operate at a low level of organization, with little or no division between labor and capital as factors of production. It consists of household unincorporated enterprises that are market and non-market producers of goods as well as market producers of services. Labor relations, where they exist, are based on casual employment, kinship or personal and social relations rather than formal or contractual arrangements.”

R.A. 9710 or the Magna Carta of Women, likewise, includes women workers in the informal economy among the marginalized women sectors who shall be given particular attention, to guarantee that their human rights shall be respected, protected, fulfilled, and promoted. The law provides for the realization of decent work standards for women that involve the creation of jobs of acceptable quality in conditions of freedom, equity, security, and human dignity.¹⁷

In terms of extending social protection to workers in the informal economy, Republic Act 10606 or the National Health Insurance Act of 2013 ensures Philhealth coverage for all Filipinos. Section 5 of the law mandates the enrolment of members in the informal economy to avail of health benefits with the assistance of the financial arrangements provided by Philhealth. The law also allocated a seat in the Board of Directors of Philhealth for a permanent representative from members in the informal economy.

There are also laws that facilitate or provide for the transition of certain segments or sectors of the informal economy to the formal economy. These include Republic Act 9178 or the Barangay Micro Business Enterprises (BMBEs) Act of 2002, which encourages the formation and growth of BMBEs which serve as seedbeds of Filipino entrepreneurial talents and provide for the integrating of those in the informal sector to the mainstream economy;¹⁸ Republic Act 10644 or the Go Negosyo Act, which seeks to strengthen micro, small and medium enterprises (MSMEs) to create more job opportunities, promote inclusive growth, and reduce poverty; and Republic Act 10361 or the Batas Kasambahay, which protects the rights and promote the welfare of domestic workers or kasambahay by recognizing them as similar to those in the formal sector.

WHAT ARE THE EXPERIENCES OF OTHER COUNTRIES IN ADDRESSING THE ISSUE?

In terms of labor protection, similar to the Philippines, some countries have adopted laws that protect certain categories of workers in the informal economy such as domestic workers. In Argentina, Act No. 26844 of 2013 establishes a special regime of labour contracts for domestic workers; in Burkina Faso, Decree No. 807 of 2010 sets the working conditions of domestic workers; and in Brazil, Constitutional Amendment No. 72 of 2013 provides for equal labour rights between domestic workers and other urban and rural workers.¹⁹

In providing social protection, pension laws in countries such as Bolivia, Botswana, Lesotho, Namibia and Nepal provide for non-contributory universal schemes to both workers in the formal and informal economies.²⁰ On the other hand, there are countries that adopted specific schemes for extending pension and other social protection benefits to workers in the informal economy.

“In India, the Unorganized Workers’ Social

Security Act, 2008, provides for the establishment of social security schemes (covering, for instance, provident funds, employment injury benefit, housing, educational schemes for children, skills upgrading for workers, funeral assistance and old-age homes) for unorganized workers. The Act covers the whole country and its broad definition of “unorganised worker” includes homebased workers, wage workers and self-employed workers in the unorganized sector, which ensures broad coverage of the informal economy. In Benin, the Social Security Code provides for the adoption of a specific law determining the organization and functioning of a special scheme for self-employed workers, agricultural workers and workers in the informal economy. The Social Security Mutual Benefit Society of Benin is a voluntary contributory social security scheme for workers in the informal economy providing sickness and old-age benefits. In Argentina, Decree No. 1602/2009 extends the provision of family benefits for children whose parents are unemployed or work in the informal or domestic sectors. In Jordan, a new Social Security Law has extended social security coverage to employers and own-account workers, and envisages the future coverage of agricultural workers and all firms, irrespective of size. Jordan is also the first Arab country to agree to introduce a social protection floor initiative.”

In terms of providing legal and regulatory environment for entrepreneurship, legislations in other countries such as Act No. 645 in Nicaragua and Act No. 28015 in Peru focus on creating an enabling, conducive and competitive business environment for MSMEs and providing incentives for employment creation for women, older workers, persons with disabilities and young persons.

WHAT ARE THE CONSIDERATION IN ADDRESSING THE ISSUE IN THE COUNTRY?

Promoting women’s rights and gender equality

The right to decent work should be enjoyed equally by women and men. The proliferation and segmentation of women in low-paid and vulnerable occupations in informal economy take its roots from continuing stereotypes on gender roles and the unequal access of women and men to economic opportunities and resources. Special attention should, therefore, be given in removing gender inequalities, particularly in terms of ownership and control of property, as well as in access to capital and credit.

The provision of services and facilities for child-care and the development of labour-saving technologies in the home should also be considered to ease women's reproductive responsibilities and give women more time and opportunity to participate in productive work.

Responding to International Commitments

The Convention on the Elimination of All Forms of

Recognizing that the informal economy is characterized by huge decent work deficit, and recalling international labor standards, the International Labour Conference adopted Recommendation 204 or the Transition from the Informal to the Formal Economy Recommendation, which provides guidance to:

- a) "facilitate the transition of workers and economic units from the informal to the formal economy, while respecting workers' fundamental rights and ensuring opportunities for income security, livelihoods and entrepreneurship;
- b) promote the creation, preservation and sustainability of enterprises and decent jobs in the formal economy and the coherence of macroeconomic, employment, social protection and other social policies; and
- c) prevent the informalization of formal economy jobs."

Facilitating the transition of workers in the informal to the formal economy following ILO Recommendation 204 upholds our commitment to the International Convention on Economic, Social and Cultural Rights (ICESCR), specifically under Article 9 to recognize and protect the right of everyone to social security, including social insurance. Specific to women workers, their transition from the informal to the formal economy promotes and strengthens the protection of their right to work as provided under Article 11 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

This also contributes to the realization of the Sustainable Development Goals (SDG), particularly Goal No. 5, which is to achieve gender equality and empower women and girls and Goal No. 8 on the promotion of inclusive and sustainable economic growth, employment and decent work for all.

POLICY RECOMMENDATION

Workers in the informal economy are not fully covered by the Labor Code and other legislation that could protect their rights and promote their welfare. The Philippine Commission on Women (PCW) advocates for the adequate protection and empowerment of workers in the informal economy, particularly the women and marginalized groups, through the enactment of a law on the transitioning of workers and economic units from the informal to the formal economy, in line with ILO Recommendation 204, which:

1. Provides for the conceptual and operational definition of the informal economy and its components in the Philippine context based on the framework set by the ILO international definition;
2. Recognizes the roles and contributions of workers in the informal economy, particularly women in the care economy, and makes them visible in national and local statistics;
3. Promotes the total well-being of all workers in the informal economy and ensures their human dignity, economic advancement and access to justice;
4. Recognizes, promotes, protects and fulfills the rights of every worker in the informal economy, which include but are not limited to, the right to self-organization, decent work, just and humane working conditions, and access to social protection;
5. Develops and expands the entrepreneurial potential, creativity, dynamism, skills and innovative capacities of workers and economic units in the informal economy during the transition to the formal economy;
6. Promotes gender equality and eliminates gender-based discrimination in entrepreneurship and employment to ensure equal access of women and men to economic resources and to development results and outcome, as well as equal pay for equal work; and
7. Pays special attention to those who are especially vulnerable to the most serious decent work deficits in the informal economy, including but not limited to women, young people, migrants, older people, indigenous peoples, persons living with HIV.

CONCLUSION

Formalizing the work arrangement of workers who are currently in the informal economy contributes to poverty reduction, social justice, inclusive growth and

development. It is hoped that our legislators will finally pass a law that will promote, protect and uphold the right to decent work of all through the transition from the informal to the formal economy.

²² Ibid 32.

²³ ILO, "Transitioning from the Informal to the Formal Economy," 51-52

ENDNOTES

¹ This policy brief builds on the recommendations of PCW Policy Brief No. 1, series of 2013, "Extending Social Protection for Women in the Informal Sector: Enacting a Magna Carta of Workers in the Informal Economy."

² ILO, "Transitioning from the Informal to the Formal Economy," Report V (1), International Labour Conference, 103rd Session (Geneva: ILO, 2014), 3.

³ Ibid, 69.

⁴ Ibid, 3.

⁵ ILO, Women and Men in the Informal Economy – A Statistical Picture, Second Edition, (Geneva: ILO, 2013), 158.

⁶ Ibid.

⁷ Background studies for the 90th Session of the International Labor Conference on Decent Work and the Informal Economy showed cases where self-employed workers in the informal economy earned more than unskilled or low-skilled workers in the formal economy. Refer to ILO, "Decent Work and the Informal Economy," Report VI, International Labour Conference, 90th Session (Geneva: ILO, 2002), 31.

⁸ ILO, "Transitioning from the Informal to the Formal Economy," 3.

⁹ Ibid

¹⁰ In the Philippines, 67.8 percent of women workers in non-agricultural employment are in the informal sector. Furthermore, 70.2 percent of them are into informal employment in both the informal and the formal sectors. Refer to ILO, Women and Men in the Informal Economy – A Statistical Picture, Second Edition, (Geneva: ILO, 2013), 158.

¹¹ ILO, "Transitioning from the Informal to the Formal Economy," 46.

¹² "Informal Economies and Micro, Small, and Medium Enterprises," in Women's Empowerment, Development and Gender Equality (Women's EDGE) Plan, 2013-2016, Philippine Commission on Women (Manila: PCW, 2014), 33-36.

¹³ ILO, "A global agenda for employment: Summary," Global Employment Forum, Geneva, 1-3 Nov. 2001.

¹⁴ ILO, "Decent Work and the Informal Economy," 44.

¹⁵ "Why are we pursuing women's economic empowerment? A Situationer on Philippine Enterprises and Women," GREAT Women Project (Manila: PCW, 2012), 5.

¹⁶ ILO, "Transitioning from the Informal to the Formal Economy," 11.

¹⁷ Republic Act 9710 Implementing Rules and Regulations, Section 25.

¹⁸ Republic Act 9178, Section 2.

¹⁹ ILO, "Transitioning from the Informal to the Formal Economy," 30.

²⁰ Ibid, 31.

²¹ Ibid.