

Social security for informal economy workers in South Africa: A quest for justice

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Overview

- ▶ The case for enhanced protection
- ▶ Demographic framework
- ▶ Limited access to contributory and non-contributory social security arrangements
- ▶ Constitutional considerations
- ▶ International and regional standards
- ▶ Comparative experiences
- ▶ Conclusions

The case for enhanced protection

- ▶ Concentrating attention on institutionally reforming that part of the social security system which covers only a particular part of the labour force active in the formal labour market at the expense of those involved in non-traditional work and in the informal economy is inherently unequal, as it directs the attention of government and other stakeholders away from a sizeable segment of the population with no or little social security coverage

Demographic framework

- ▶ In its recently published global overview of the magnitude of the informal economy, the ILO indicates that two billion of the world's employed population aged 15 and over work informally, representing 61.2 per cent of global employment (ILO *Women and Men in the Informal Economy: A Statistical Picture* (3rd ed, 2018) 13–14): " Among the five main regions, the vast majority of employment in Africa (85.8 per cent) is informal."

Demographic framework

- ▶ In South Africa, the total estimated figure of those operating in the informal economy is approximately 4 million (of a aggregate employed workforce of just over 16 million), not accounting for those involved in the survivalist economy and in the care economy
 - Low income levels a particular characteristic

Limited access to contributory and non-contributory social security arrangements

- ▶ (1) Restricted coverage through social insurance and social assistance arrangements
 - SA social assistance system: A category-based approach
 - SA social insurance system: Largely informed by the existence of a formal employment relationship (e.g., workers' compensation, unemployment insurance, occupational pension arrangements)
- ▶ (2) Limited relevance of 9 classical risks
- ▶ (3) Relevance of individual centred-risks?
- ▶ (4) Protection of an already-reached acceptable living standard?

Limited access to contributory and non-contributory social security arrangements

- ▶ (5) Insufficient provision for voice and appropriate representation: e.g., limited “trade union” definition
- ▶ (6) Exclusionary OHS approaches: Limited definition of “workplace”, “health”, etc.
- ▶ Overall effect:
 - poor working conditions
 - absence of legal protection and rights
 - low levels of coverage
 - shifting of burden to workers and their families



Constitutional considerations

- ▶ Key fundamental rights: to
 - access to social security,
 - equality,
 - human dignity, and
 - fair labour practice

Constitutional considerations

- ▶ State must put in place social security protection and policies
 - The vulnerability of informal economy workers, in view also of their exclusion essentially from social security, constitutionally requires measures aimed at coverage extension to them
 - Failure to do so could raise the possibility of major constitutional challenge
 - Measures to support formal-economy workers must not discriminate unfairly against their informal-economy counterparts
 - The Constitution also requires sufficient *budgetary support* to be available



International and regional standards

- ▶ International (UN; ILO) and regional (AU; SADC) standards confirm the right of all persons and all workers, including informal economy workers, to social security protection
- ▶ The primary and overall responsibility to ensure that such protection is available rests on the State
- ▶ Various modalities for providing social security protection to informal economy workers are indicated in these instruments
- ▶ These include contributory arrangements that are sensitive to the particular context and contributory capacity of informal economy workers

International and regional standards

- ▶ The South African Constitution affirms the importance of heeding these standards
- ▶ These standards require of Governments, when devising appropriate (social security) coverage frameworks for informal economy workers, to also consult with representatives of institutions representing the interests of informal economy workers
- ▶ International and regional standards advise the adoption of an appropriate policy and legal foundation to inform, support and mandate the extension of (contributory) social security to informal workers

Comparative experiences

- ▶ A range of measures have been adopted by countries to extend social security coverage to informal economy workers
- ▶ Innovative conceptualisation has been introduced to widen the application of social security (e.g.: India; Tanzania)
- ▶ Contributory schemes have been *extended* to achieve inclusion, at times even on a compulsory basis (e.g., domestic workers in SA)

Comparative experiences

- ▶ Some governments have introduced comprehensive arrangements to cover the whole of the informal economy – e.g.:
 - China
 - India
 - Indonesia
 - Ghana
 - Rwanda
- ▶ Health insurance arrangements

Comparative experiences

- ▶ Some countries have included informal economy workers sector by sector, usually on the basis of separate or dedicated schemes
 - Ecuador
 - Tunisia
 - Welfare funds in India

Comparative experiences

- ▶ Tailor-made design modalities have been introduced
 - Specialised contribution modalities (flexible contribution options (Ghana; Philippines); realistic income baselines (Tunisia); government subsidies (India; Rwanda; Tanzania))
 - Relaxed entitlement criteria (accessing benefits without complying with lengthy contribution periods or other onerous conditions)
 - Dedicated, context-sensitive benefit arrangements addressing the key short- and long-term needs of informal workers (Ghana; Rwanda – also provide models of early access to members)

Comparative experiences

► Supporting arrangements

- **Stakeholders consultation**, undertaken preferably by a high-level consultative team –
 - The importance of consulting with representatives of informal economy workers
- Carefully-coordinated **communication**
- An **enabling environment**, enhancing the ability to contribute to and access the new system
- **Involving cooperatives or unions** to achieve coverage inclusion (Dominican Republic)
- Adopting a **unified tax package**, optional, which includes both the payment of social security contributions and the payment of taxes (Uruguay)
- Providing **monetary and/or other incentives**

Conclusions

- Significant developments, indicative of a movement beyond traditional concepts, frameworks and institutions
- Important conceptual and policy shifts support the coverage extension agenda
 - Change in cultural values and perceptions (e.g. SSA and Asia)
 - Welfare enhancement is good for economic growth and must be specifically arranged for
 - A new perspective on the social contract between the state/government and citizens – dialogue, serving the interests of the people, and no longer merely focusing on economic growth



Conclusions

- ▶ In South Africa, constitutional considerations stress the need to extend social security coverage to informal economy workers
- ▶ This is strengthened by the requirements embedded in international and regional standards, which stress human rights dimensions and provide some guidance towards achieving coverage
- ▶ A range of modalities exist to achieve coverage extension, as is evident from the growing body of comparative experiences

Conclusions

- ✓ Advisable to provide tailor-made and informal worker-dedicated contribution and benefit modalities as well as entitlement conditions
- ✓ Social security measures for the informal economy should be strengthened by a supportive developmental framework, aimed at, for example,
 - Access to labour and credit markets;
 - Skills training and capacity-building
- ✓ In addition, there is need to enhance the representative organisation and capacity of stakeholder institutions

Conclusions

- ▶ The establishment of the ILO almost a 100 years ago was a direct response to the need to provide standards for the regulation of the employment relationship
- ▶ The emphasis then on the demodification of labour, repeated when the ILO was re-established after World War II, has acquired a new meaning in the wake of changes to the world of work, work relationships and the labour market

Thank you