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A new social contract inclusive of informal workers

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Abstract: This paper makes the case that current social contracts are often inadequate, irrelevant, or unjust for informal workers. It outlines three possible future scenarios: the bad old contract, an even worse contract, and a better new contract. Under the bad old contract, informal workers lacked legal recognition, were stigmatized and penalized, and were excluded as partners. The intensification of predatory capitalism, repressive state policies and the collusion of state and capital, in the wake of the COVID-19 pandemic recession, makes the possibility of a worse new deal all too real. The key changes needed for a better new contract are a change in mindsets and dominant narratives that stigmatize the informal economy and the inclusion of informal workers as key partners. The key features of a better new deal are recognition, responsiveness, and reciprocity, between state, capital, and informal labour (the majority of workers globally).

Key words: informal workers, informal economy, social contracts, state and capital

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1 Introduction

When countries experience fundamental changes to their economy and society, there is often a call for a new social contract—a new bargain—between the state, capital, society, and labour.¹ The public health and economic crises brought on by the COVID-19 pandemic have exposed and exacerbated the inequality between, and within, countries around the world. They have also exposed that, in many countries, the social contracts of the mid-twentieth century were never firmly in place and, in others, have broken down or are in serious crisis. This applies to both the social contracts between states and society (e.g. the welfare state) and between capital and labour (e.g. minimum wage and collective bargaining agreements).

There is growing consensus that there is a need for new social contracts for the twenty-first century which take into account both new and old political, social, and economic realities, including in the world of work. International institutions of various political stripes, from the International Labour Organization to the OECD to the World Bank, are calling for a new social contract. Also, in some countries, business associations are calling for corporations to take care of and share value with their employees, customers, suppliers, and communities, not just their shareholders. But these proposals for a new social contract vary significantly, with different degrees of recognition of informal workers and different consequences for them (Alfers et al. forthcoming).

The calls for a new social contract between capital and labour tend to focus on wage employment and the employer–employee relationship—as did previous formulations of the social contract, particularly in most high-income and several middle-income countries. However, nearly half (44 per cent) of the global workforce and nearly three-quarters (72 per cent) of the workforce in developing countries are self-employed and, among informal workers globally, 79 per cent are self-employed (Bonnet et al. 2019; ILO 2018b). Also, some existing and emerging forms of employment fall in between fully independent self-employment and full dependent wage employment.

This paper seeks to provide new concepts and insights, based on the knowledge and experience of the WIEGO network, to inform and motivate a new social contract that is inclusive of informal workers.² We are motivated by the following premises. First, there is growing inequality and injustice in the world of work, and the state has a role to play in regulating the relationship between capital and labour as well as its own relationship with labour (especially with the self-employed). Second, there are significant power asymmetries between state, capital, and labour, as well as significant wealth inequality between capital and labour, which make it impossible for all parties concerned to enter a voluntary rational agreement. Third, a new social contract that includes informal workers would provide a key pathway to reducing income inequality and economic injustice.

¹ In this paper, the state refers to government at all levels: national, state/provincial, and local. Capital refers to the owners of capital, not just employers per se. In the case of informal self-employed, the owners of capital may be suppliers, buyers, and/or competitors. Labour refers to both formal and informal workers, to self-employed, wage employed, and contracted labour.

² The authors of this paper recently co-edited a volume entitled *Social Contracts and Informal Workers in the Global South* to be published by Elgar in 2022 (Alfers et al. forthcoming). This paper is based on that volume, particularly the Introduction and Conclusion, which in turn are based largely on 25 years of joint knowledge generation and advocacy with organizations of informal workers by the Women in Informal Employment: Globalizing and Organizing (WIEGO) network.

While informal employment has always been the norm in the global South, the fact that it is re-emerging in the global North offers a window to rethink social contracts on a global scale. But dominant narratives about the informal economy, largely from the global North, have justified its systematic exclusion from social contract formulations by stigmatizing informal workers/enterprises as being non-compliant, non-productive, illegal, and associated with urban crime and grime. The COVID-19 pandemic recession has exposed and exacerbated pre-existing fault-lines of the injustices and inequalities faced by informal workers by reason of what they do and who they are (their class, race/ethnicity/caste, and gender).

This paper seeks to highlight the mismatch between the lived realities of informal work and mainstream approaches to social contracts to make the case for a new social contract that includes informal workers as a key party to the contract. Section 2 describes the size, composition, and characteristics of informal employment and the global movement of organizations and networks of informal workers. Section 3 summarizes different schools of thought on the informal economy, including what drives it, and how these schools relate to current debates on social contracts. Section 4 outlines what a new social contract that includes informal workers should consist of in terms of negotiating parties, overarching principles, substantive dimensions, and what processes are necessary for negotiating such a contract. Section 5 presents three possible post COVID-19 scenarios for informal workers: the bad old deal, a worse new deal, and a better new deal. The paper concludes with reflections on the way forward.

2 Informal workers and informal worker organizations

In today's globalized economy 61 per cent of workers worldwide (aged 15 and above) are informally employed: a total of 2 billion informal workers (ILO 2018b). Informal employment exists in all countries (developed, emerging, and developing) though the prevalence varies—from 90 per cent in developing countries to 67 per cent in emerging economies, to 18 per cent in developed economies. The prevalence of informal employment also varies across geographical regions—from around 90 per cent in sub-Saharan Africa and South Asia to 77 per cent in East and Southeast Asia (excluding China), to 68 per cent in the Middle East and North Africa, to 54 per cent in Latin America and the Caribbean, and to 37 per cent in Eastern Europe and Central Asia (ILO 2018b).

Informal employment includes a range of self-employed persons who work in unincorporated, unregistered, and often small enterprises; of wage workers who are employed without employer contributions to social protection (or paid sick leave) by formal firms, informal enterprises, and households; and of dependent contractors who work for supply chains or digital platforms (Chen 2012). They vary by occupation, including construction workers, domestic workers, home-based workers, street vendors, transport workers, and waste pickers in urban areas; and agricultural day labourers, agro-processors, artisans, fisherfolk, forest gatherers, pastoralists, and smallholder farmers in rural areas. The lower tiers of global supply chains often include a broad range of home-based workers and sub-contracted workers and enterprises (ILO 2018a). Many on-demand or gig economy jobs, mediated via digital platforms, share characteristics of informal work, including limited regulation and low levels of labour and social protection (Berg et al. 2018).

Most informal workers are from poor households, and informal workers face a greater risk of poverty than formal workers. Their working lives are regularly characterized by uncertainty of continued employment and by income insecurity. They are more likely than formal workers to face deficits in the four pillars of decent work: economic opportunities, legal rights, social protection, and collective voice and representation (ILO 2002). They frequently lack access to social assistance

or social insurance, as well as to public services such as basic infrastructure and transport services, and have low quality and unequal access to many state-provided social services (such as health care, child care, or education) (Agarwala 2018; Alferts et al. 2018; Behrendt et al. 2019).

Most people do not enter the informal economy voluntarily. Many do so because they have no other means of livelihood as there are limited job opportunities in the formal economy (ILO 2018b). Some are carrying on hereditary occupations, passed on by their parents or community. Compared to their male counterparts, women tend to be over-represented in the lower tiers of the informal economy by status in employment (e.g. dependent contractors and contributing family workers) and in the least visible and most vulnerable occupations, notably as domestic workers and home-based workers (Chen et al. 2005).

Although informal workers represent the majority of workers in many countries and are deeply embedded in global, national, and local economies, they tend to remain at the margins of negotiation and collective bargaining platforms. Informal worker organizations are often not recognized as equal partners within tripartite state–capital–labour structures; they are either excluded altogether or represented indirectly through affiliation to a trade union of formal workers. Yet, frequently, trade unions are not suited for, or amenable to, articulating the demands of informal workers (Alferts and Moussié 2019).

Fortunately, there is a growing social movement of international networks of organizations of informal workers from specific sectors (HomeNet International, the International Federation of Domestic Workers, StreetNet International, and the Global Alliance of Waste Pickers) with over 230 affiliated organizations in 94 countries and a total membership of over 4 million informal workers (Bonner and Carré 2013; Bonner et al. 2018; Carré et al. 2018; Chen et al. 2015). These broad-based networks are bringing together different types of organizations of informal workers with similar interests, such as trade unions, cooperatives, producer groups, trade associations, and other membership-based organizations (Agarwala 2018; Behrendt et al. 2019). This movement is embedded in the daily realities of informal workers and aims to empower informal workers to voice demands for economic and social justice (Biesecker and von Winterfeld 2018). These networks and their affiliates are actively struggling, with some success, for new social dialogue platforms in which the interests of informal workers can be represented alongside those of government, national and multinational companies, and formal wage workers.

3 Schools of thought on the informal economy

There is growing consensus among international institutions that the current system of social contracts is broken and needs to be fixed. But what they prescribe varies, notably, by whether they are calling for repairing existing social contracts or envisioning a new contract. Also, within and between these institutions, there are still a great deal of debate and misconceptions about the informal economy.

Historically, there have been four, quite distinct, schools of thought on the nature and composition of the informal economy, its origins, its relationship to formal regulations and the formal economy, and its ideal trajectory going forward (as detailed in Chen 2012), which resonate with different strands of social contract theory.

Dualists see the informal sector of the economy as marginal, distinct, and with few linkages to the formal sector in a segmented labour market. The informal economy is viewed as providing income for low-income, self-employed workers and a safety net in times of crisis. The dualist perspective

calls for the creation of more jobs, the provision of credit and business development services to informal operators, as well as basic infrastructure and social services to their families. Otherwise, dualists would see informal workers as marginal to social contracts.

Legalists highlight the agency and entrepreneurship of informal operators who cannot afford or negotiate the costs, time, and effort of formal registration in a hostile legal system. They argue that governments should introduce simplified bureaucratic procedures, encourage informal enterprises to register, and extend legal property rights for their assets. Legalists also see informal workers as marginal to social contracts.

Voluntarists view informal workers as entrepreneurs who deliberately seek to avoid regulations and taxation for personal gain. The proposed solution is to regulate and tax informal enterprises. Delinking social protection from employment is also proposed to avoid creating perverse incentives for firms and workers to operate informally through targeted interventions. This school of thought aligns with a Hobbesian, interest-based, contractarian view which prioritizes freedom and frames informal workers as autonomous and self-reliant agents who trade their goods and/or labour, who in an efficient market system are paid what they are worth, and whose ‘active citizenship’ arguably decreases their dependence on public welfare provisions (Dean 2013).

Structuralists regard informal and formal economies as intrinsically and inequitably linked. They argue that capitalist development actually fosters or perpetuates informality by coercing micro-enterprises and workers to provide cheap goods and services and to work for low wages by opposing the power of organized labour and state regulation of the economy and by supporting global processes of industrialization such as off-shore industries, subcontracting chains, and flexible specialization. They call for regulating the relationships of production, not the informal economy. The structuralist view is more aligned with a Rousseau/Rawlsian, rights-based, egalitarian approach and a social justice approach which takes account of informal workers as agents of change and calls for a radical restructuring of current political, economic, and social institutions to allow informal workers to have a seat at the table and for reshaping institutions and the terms of the social contract (Rawls 1971).³

Each school of thought applies to one or more segments of the informal economy, not the whole of it. In promoting a social contract that is inclusive of informal workers, it is important to know the relative size of each segment of the informal economy in different countries or contexts: survivalist operators; plucky entrepreneurs; regular or casual wage workers; and dependent workers, contractors, and enterprises. And it is important to diagnose which school of thought regarding the informal economy is espoused by the different proponents of a new social contract.

But more centrally, negotiating a new inclusive social contract will require engaging with the core values of equity and justice; envisioning new roles of, and relationships between, the state, capital, and labour; and a more equitable distribution of rights, responsibilities, and power between them. Further, and most importantly, the negotiations around a new social contract inclusive of informal workers should be informed by their perspectives and be prepared to re-envision and reinvent social contracts. Informal workers, through their organizations, challenge the simplistic idea that the current situation represents the unravelling of what was a good social contract which needs to

³ This is not the time and space to go into the scholarly literature and debates on the informal economy since these four schools of thought emerged. For an early rethinking of the dualist school, see Singer (1970). For an important variation on the voluntarist school by Maloney and others, see Perry et al. (2007). For a persuasive structuralist argument, see Sanyal (2007). For evidence from India which shows that the informal economy, given its size and heterogeneity, is a means of both exploitation and accumulation, see Maiti and Sen (2010).

be revived and repaired. Rather, they highlight that current (and past) contracts are inadequate, irrelevant, or unjust, and that radically new conceptualizations of not only state–society and capital–labour relations but also state–labour and state–capital relations are required.

4 A new social contract—inclusive of informal workers

In this section we summarize the actors, substantive content, and processes necessary for realizing a new social contract for informal workers, informed by WIEGO’s research and engagement with organizations of informal workers over 25 years.

4.1 Necessary actors, jurisdictions, and relationships

The main actors in a better new contract for informal workers include an accountable state (local and national); responsible capital (employers of informal workers and those who profit from the work of informal workers); formal labour; and (recognized) informal labour. But other actors are also needed: organizations and networks of informal workers; social movements which fight for human rights, including those of informal workers; non-governmental organizations which support informal workers and their organizations; academics, statisticians, and data analysts who promote improved statistics and policy-relevant research on informal workers, units, and activities; and lawyers and legal resource centres which support the legal struggles of organizations of informal workers.

Accountable state

In regard to the informal economy, it is necessary to acknowledge the often-hostile attitude of local and national government towards informal workers and their economic activities. Indeed state actors often penalize informal workers and abuse their authority to extract bribes and confiscate goods from informal workers and periodically evict them from their workplaces and/or residences. Instead of an adversarial or coercive state, informal worker organizations are calling for fair relationships characterized by recognition, responsiveness, and reciprocity and for a balanced vision of shared rights and responsibilities (Roever and Ogando forthcoming). These organizations seek to hold the state accountable for contributing to decent and dignified work, especially for the self-employed who are directly impacted by government policies, plans, and practices.

Responsible capital

The owners of capital need to be held accountable by the state ‘for contributing to decent and dignified work’ (Bremner and van der Linden 2014 in Meagher 2018). Since the mid-twentieth century, there has been a shift in the power balance between capital and labour and between the globalized private sector and the state. In the process, the balance of political and economic power across national and international contexts has shifted in favour of the owners of capital, who have found new ways to avoid regulations including their obligations as employers, and ‘the employment relationship has become increasingly individualized, fragmented, de-localized and de-materialized, opening up new forms of vulnerability for workers’ (Daguerre 2014: 1). The globalization of the economy has accelerated and accentuated this imbalance of capital–labour relations, given the high level of transnational globalization of capital and the increasingly stringent limits on the globalization of labour (Uzbay Pirili and Pifpirili 2015).

Responsive formal labour

The old social contract between capital and labour was premised on a recognized employer–employee relationship. But today just under one-third of all workers globally, as low as 7 per cent in developing countries, are formal wage or salaried workers in a recognized employer–employee relationship. Nearly one-quarter of all workers globally are informal wage workers or dependent contractors outside a formal employer–employee relationship. Forty-four per cent of all workers globally and two-thirds to three-quarters of workers in emerging and developing economies are self-employed (Bonnet et al. 2019; ILO 2018b). Trade unions which represent formal workers are being called upon by membership-based organizations of informal workers, including trade unions, cooperatives, and associations, to join hands in their negotiations and struggles for a new social contract.

Recognized informal labour

Pre COVID, as informality re-emerged in the global North and in global supply chains across North–South divides, informal work became more visible and was omitted from social contract models. The COVID-19 pandemic recession further exposed and exacerbated the exclusion and vulnerabilities of informal workers. Fortunately, as noted earlier, there is a growing global movement of informal worker networks and organizations actively engaged in making local, national, and transnational demands—both sector-specific and more generally—for informal workers.

In an increasingly urbanized world and globalized economy, there is a need for ‘plural, overlapping social contracts at different levels’ with a broader set of actors to deal with different jurisdictions: local, national, and transnational (von Broembsen forthcoming). Because many urban workers are informally employed, there is a need for a social contract between city governments, urban authorities, and urban informal workers. But who will hold local governments accountable? Under administrative law, local organizations of informal workers can hold local governments accountable for transparency and fair treatment but need support from activist academics, lawyers, and journalists. Because many informal workers and enterprises are inserted into global supply chains, there is a need for a social contract at not only the national but also the transnational level. In large part this is because national governments are simply not willing or able to regulate employment in global supply chains and transnational corporations tend to turn a blind eye to the employment and contracting arrangements in their supply chains. There is a need for a broader set of actors, including global union federations and social movements, to negotiate transnational employment relations and a transnational social contract.

In sum, a broad spectrum of actors need to negotiate and a broad set of relationships need to be negotiated in envisioning a new social contract that includes informal workers and that is relevant to contemporary urbanization and globalization, including state–society, capital–labour but also state–capital and state–informal labour. Finally, it is important to acknowledge that all negotiating parties are not equal to each other and do not have an equal seat at the negotiating table and to ask who is at the negotiating table and who is missing, and who has the power to shape dialogue and who does not. Often the negotiation is only between those ‘who count’; in the past, when it came to labour as a negotiating party, formal workers were far more likely to be ‘counted’ than informal workers. Moreover, when informal workers are included, there are power imbalances between not only capital and labour but also between formal and informal labour.

4.2 Key principles and dimensions

Re-envisioning the social contract to include informal workers affects the actual substance of the contract: its guiding principles and key substantive dimensions. What follows are the guiding principles and substantive dimensions of a new social contract as articulated by informal workers and organizations in the WIEGO network over the past 25 years and especially during the COVID-19 pandemic recession.

Key principles

Through the qualitative component of the WIEGO-led COVID-crisis study in 11 cities around the world, which consisted of open-ended survey questions and in-depth interviews, informal workers, their organizers, and leaders articulated three principles of a new social contract (Roever and Ogando forthcoming):

1. recognition: of the role they play in sustaining households, communities, cities, and the economy;
2. responsiveness: to their needs—not only as workers but as members of society; and
3. reciprocity: so that the value that informal workers create for households, communities, cities, and the economy is met with some corresponding value—and benefits—from the state and owners of capital.

Fundamental to a fair social contract is the critical need to recognize informal workers as ‘workers’—as legitimate economic agents—and to include them in relevant social dialogue platforms as well as policy-making and rule-setting processes. Informal workers seek recognition of themselves as workers, of their work and working conditions, and of the roles they play in economic and social life by state entities at all levels, by private sector firms who supply or buy goods to/from them, by their employers (if wage employed or dependent contractors), and by the general public (Roever and Ogando forthcoming). Ideally, informal workers seek *legal* recognition and identity of themselves as workers and of their organizations as representative labour organizations. This recognition and the need to call out the ‘wrongness’ of demeaning and stigmatizing policies and practice is also an important dimension of a normative framework.

Essential rights

The essential rights that informal workers demand and struggle for, and which should form the substantive dimensions of a new social contract, are summarized below:

- universal social protection: social protection which includes social insurance as well as social assistance for informal workers and which provides work-related protections and benefits that informal workers need, including childcare services (Alfers and Moussié forthcoming);
- access to public space, public services, and public procurement: regulated access to public space in order to pursue their livelihoods (especially for street vendors but also waste pickers); basic infrastructure and transport services at their worksites (including the homes of home-based workers); and public procurement (e.g., municipal solid waste management contracts for waste picker cooperatives; government procurement of masks and uniforms made by home-based workers) (Chen forthcoming);
- fair terms of employment and of trade: minimum wages, social protection contributions, and worker benefits including paid annual leave and sick leave for informal wage workers

and dependent contractors, including homeworkers/industrial outworkers who work from in or around their own homes for domestic and global supply chains and gig workers who work for digital platforms (Carré forthcoming; von Broembsen forthcoming); and fair terms of trade for informal self-employed, including fair prices for the supplies/stock they buy and the goods/services they sell; and

- just, progressive taxation: taxation systems and tax reforms which recognize that the earnings of most informal workers fall below the threshold for corporate or personal income tax; that many informal workers pay taxes, including VAT on supplies and stock, as well as operating fees; and that informal workers are willing to pay taxes and operating fees if they receive some benefits in exchange (i.e. the principle of reciprocity (Rogan forthcoming)).

Informal workers also want the right to be free from harassment, bribes, confiscation of goods, and evictions by government authorities and the police (Chen forthcoming) and, perhaps most fundamentally, the right to not be stigmatized as non-compliant and non-productive, even undesirable and illegal:

- freedom from harassment and penalization: freedom from harassment, bribes, confiscation of goods, destruction of worksites, and evictions by local authorities and police (Chen forthcoming); and
- freedom from stigmatization: freedom from the negative stigmatization of *what they do*, as their work is associated with non-compliance, low productivity, crime, or grime by policy makers, local authorities, the police, and the general public; and of *who they are*: as many informal workers are from disadvantaged racial, ethnic, caste, or religious groups or are migrants.

Finally, informal workers are also demanding that these rights—these substantive dimensions—should be considered as *reciprocal* to the contributions they make to taxes, the economy, and society. But state and capital are not likely to respond reciprocally unless, and until, informal workers are invited—and institutionally guaranteed the right—to negotiate as equals.

4.3 Necessary processes

But ‘how to get there?’. The actual struggles and several successes by informal worker organizations suggest the possibility of, and a road map for, realizing this vision for a better social contract. Building on knowledge generated and solidarity built over decades, informal worker networks and organizations have been able to negotiate effectively and secure legal and policy victories. They have done so by demanding and being offered a seat at the policy table and with support from activist academics, lawyers, and non-governmental organizations, including WIEGO.

For the past 25 years the WIEGO network has worked closely with organizations of informal workers to expose and address the exclusion of informal workers from legal recognition, from policy discourses, from negotiation platforms, from economic and urban planning, and from legal and social protection. The punitive and violent practices against informal workers by the state or by capital (allowed by the state) reveals that exclusion is not because informal workers are outside the reach of the state but because they are branded as undesirable for what they do (informal work) and for who they are (from races/ethnicities/castes that the elite and powerful choose to look down upon) as a deliberate state–capital policy. In short, in many countries, informal workers are deliberately kept outside the protective arm of the state but inside its punitive arm.

Importantly, membership-based organizations of informal workers, often with support from WIEGO, have been able to open spaces for policy and social dialogue for informal workers, which illustrate the possibility of an inclusive participatory approach to negotiating a new social contract at the national level. In some cases this has involved alliances with the formal trade union movement, which, although providing an avenue for the voices of informal workers to feed into institutionalized processes, has also revealed the tensions and power imbalances which exist in such alliances. Nevertheless such experiments in inclusion hold important lessons for formal social dialogue processes if they are to maintain relevance in a rapidly informalizing world of work (Alfers and Moussié forthcoming).

In the global waste sector, there has been a significant increase in recent years of extended producer responsibility (EPR) policies and systems, in which producers are responsible for the waste their production and products generate. Attempts to integrate informal waste pickers into these EPR systems on fair terms illustrate the power imbalance between capital and labour and the struggles required to shift this relationship to more favourable terms for informal workers, including the need for new lines of accountability. A global working group of several waste-picker organizations and researchers is actively discussing and planning new, more equitable systems through which EPR can help integrate waste pickers into more formal waste management systems on favourable terms (Cass Talbott forthcoming).

In the global garment sector there is a movement by labour lawyers and activities for a transnational social contract for garment workers. The European Union, through its ‘mandatory human rights due diligence’ legislative framework, which draws from and is aligned with the UN Guiding Principles on Business and Human Rights (UNGPs), seeks to hold corporations accountable for labour rights violations in their supply chains. This framework, institutionalized through human rights rather than labour law, performs several functions: its transnational character addresses labour law’s jurisdictional limitation to the nation state; its human rights framing extends protection to all workers, not only employees; and it recognizes other actors besides the state–capital–formal labour triad, including informal worker organizations as legitimate participants in social contracting processes (van Broembsen forthcoming).

These examples illustrate both the desirability and the feasibility of plural, overlapping social contracts for informal workers at the city, national, regional, and global levels.

5 Three possible future scenarios

At this critical inflection moment the global community is still coming to terms with the reality that the multi-wave pandemic lingers, causing ripple effects that will last for decades. Tragically, it has become apparent that many social and economic impacts are not yet receding and may get worse. Against this sobering backdrop it is important to highlight the real risks of simply slipping back to the ‘bad old’ contract, or even more ominously, of regressing to an ‘even worse’ contract. However, the stories of new patterns of emerging solidarities and of hard-won legal victories also pave the way for deeply rooted, politically savvy, tested, yet pioneering paths towards a ‘better new’ social contract.

While successive waves of the virus and related restrictions continue around the world, there is an urgency in drawing lessons from the pandemic recession, which can serve to actively contest predatory forces and direct the course of recovery towards a better new social contract for informal workers. Below we map three possible trajectories for the social contract and informal workers. The first scenario is a return to the status quo, which we term the ‘bad old contract’. The second

trajectory sees a worsening of the situation into what we term the ‘even worse contract’. A third possibility is more optimistic, building on the vision for a fairer economy and society as articulated by informal workers, one which we term the ‘better new contract’.

5.1 The bad old contract

There is ample evidence to show how the prevailing political economy and policy environment are unfair, exploitative, and discriminatory towards informal workers, confirming that the pre-pandemic status quo was bad for informal workers. The disparity between the reality of informal workers and the abstract unrealistic notion of the ‘universal’ worker on which mainstream social contracts are based is startling and has enormous implications for informal workers. What we call the ‘bad old’ contract can be summarized most simply by stating that, while informal workers tend to be excluded from the protective arm of the state, they are regularly exposed to its punitive arm. More specifically this includes (as detailed before) lack of legal and substantive recognition, stigmatization, and penalization, and lack of institutionalized space for collective representation.

What are the drivers of this ‘bad old contract’? WIEGO research and experience suggest that the fault lies with a combination of misconceptions about informality which intersect with a political economy which rewards powerful interest groups and entrenches economic disadvantage. The first misconception is the idea that informal work is an abnormality. However, both historically and today, informal work is the most consistent and dominant form of labour globally. This links to a second misconception, namely the idea that the employer–employee relationship should be central to social contracts. A third misconception is the assumption that informal workers do not pay tax. It is true that informal workers may pay little/no personal or corporate income tax (the forms of taxation that are often understood as the instrument through which the social contract is negotiated), as their earnings usually fall below national income tax thresholds. However, empirical work in Ghana shows that informal workers are subject to a range of fees, licences, and market levies, often levied at local government level, meaning that they are far from being ‘tax evaders’ (Rogan forthcoming).

A final, and very prevalent, misconception is the idea that informal work falls outside the reach of the state. This is simply not the case. The reality of the situation is that, while informal workers fall outside the protective arm of the state, they are often adversely incorporated under the punitive arm of state regulation. In order to recognize this it is critical to move beyond the idea of the state as a monolith and as either ‘good’ or ‘bad’.

It is equally important to acknowledge that, while misconceptions are significant drivers of the ‘bad old contract’, this status quo also benefits many powerful economic actors. In sectors such as the export garment industry, the relationship between capital and labour has yielded to complex global supply chains which transcend national boundaries, undermining the power of national law to regulate working conditions (von Broembsen forthcoming). This situation has not evolved by accident; it has arisen out of a drive for increased profits as brands exercise their coercive market power to download costs and risks onto poorer workers in places far removed from their home base (von Broembsen forthcoming).

This means that any move towards a more inclusive social contract for informal workers must address not only the misconceptions about the informal economy but also the underlying political economy which exacerbates the situation of informal workers. It also means that the new social contract must be negotiated not only by the traditional parties (state and society, capital and labour) but also by parties in other key relationships (state and informal labour, capital and informal labour, and state and capital). Without addressing these multiple relationships, and the all-too-frequent

collusion between state and capital, there is a good chance that the ‘bad old contract’ will in time transform into the ‘even worse’ social contract described below.

5.2 The ‘even worse’ contract

There is growing evidence of several plausible trajectories for an even worse contract post COVID-19, based on what has transpired during the successive waves of the pandemic recession in both 2020 and 2021. These include the following.

Predatory capitalism

Beneath the unpredictable waves of the pandemic recession, glimpses of callous and calculated forces of predatory capitalism which intentionally seek to counter efforts to institutionalize relief, recovery, and solidarity for informal workers have become visible. In the process, a regressive solidarity can form between the state and capital, as we see in the way that national governments in Asia have capitulated to the demands of global brands for lower prices by unilaterally amending labour laws to increase working hours and engage in union busting. This has occurred even after brands refused to compensate millions of garment workers for cancelled orders during the COVID-19 crisis (von Broembsen forthcoming).

State overreach

There are examples where governments have used and are using the COVID-19 crisis as an opportunity to further entrench repressive measures against informal workers, in the name of public health or economic recovery. During the early months of the crisis in 2020, many law enforcement practices went beyond simply stopping workers from pursuing their livelihoods but actively harmed them at a time of intense economic desperation. The WIEGO-led crisis study identified confiscations and destruction of street vendor goods and equipment in multiple cities, while street vendors in India reported enduring daily beatings from local government officials for the crime of selling vegetables. Alarming, some of the actions which took advantage of the ‘distraction’ provided by the pandemic will threaten incomes well into the future, as is the case for waste pickers in Accra, Ghana, where the Kpone landfill site was suddenly decommissioned in response to the World Bank’s Greater Accra Resilient and Integrated Development Programme (Reed forthcoming) and for street vendors and market traders in Dakar, Senegal where the largest popular ‘African’ market was destroyed by government, in the name of public health, to be replaced by a mall that the government had long planned.

Overt punitive actions such as evictions, confiscations, and destruction of workers’ worksites or productive assets are stark examples of how different levels or branches of the state act in ways that are mutually counterproductive. While national governments were trying to provide cash or food aid to informal workers to help smooth incomes over the crisis, local governments, or specific parts of national governments, were implementing actions which further undermined those incomes. Here again, the punitive arm of the state may ally with capital in a regressive solidarity to privatize space or commodities, ultimately dispossessing informal workers of their livelihoods (Reed forthcoming).

Inappropriate application of social contract ideas

A final component of the ‘even worse’ contract is the possibility that arguably well-intentioned new social contract architects, including international institutions and national governments, apply elements of a new social contract to informal workers in an inappropriate manner. This would include, for example, the application of the type of formalization focused on registration and the

levying of taxes without any reciprocal benefits (Cass Talbott forthcoming; Chen forthcoming; Ghosh 2021; Rogan forthcoming).

As the impacts of the COVID-19 pandemic and related restrictions have contributed to one of the largest global economic downturns in generations, national governments are likely to search for additional sources of revenue to finance stimulus and recovery packages, and this may lead to the prioritization of direct taxation on the self-employed in the informal sector. Yet such interventions ignore the taxes and operating fees that informal workers already pay, the economic contributions that they make, and the crippling disproportional impacts of the pandemic recession on them.

There is one further inappropriate application of social contract ideas which should be highlighted here. This is the idea, promoted by multilateral institutions and often linked to the idea of a new social contract, that the presence of informality, particularly self-employment, justifies the dismantling of employment-linked social insurance (for example, see World Bank 2019). While it is true that social protection should be extended to informal workers regardless of employment status, the arguments and evidence for removing social protection from the ambit of labour regulation are not as straightforward as the World Development Report insists (see Heintz 2008; ILO 2018c). Furthermore, removing the contributions of employers (or owners of capital in the case of self-employed informal workers) cuts off a potentially important source of financing for benefits above the very basic minimum provided by the state (Alfers et al. 2018; Staab 2020).

The testimonies of informal workers in the WIEGO-led crisis study show how all of these components of the even worse contract—predatory capital, hostile (local) states, and inappropriate regulation (and even protection)—compounded one another during the COVID-19 lockdowns of 2020 and the successive waves of the virus and restrictions during 2021 so that, even where urban informal workers had been declared essential workers, many were unable to work (Reed forthcoming). The danger for informal workers, moving forward, is that these three elements are intensified.

5.3 A ‘better new’ contract

At the same time as providing a warning about what could become worse for informal workers, we also presented in Section 4 a vision of a better new social contract: one in which informal workers are recognized as workers; laws and policies are relevant and responsive to the needs of informal workers; reciprocal relationships are established between the state, capital, and formal and informal labour at the municipal, national, and transnational levels; rights and responsibilities are redistributed between stakeholders and expanded beyond a narrow view of social protection and national taxation; and, last but not least, spaces for policy dialogue are opened up to informal worker organizations and leaders.

To realize this better new social contract, two major processes of change are needed.

A change in mindsets and dominant narratives regarding the informal economy

Most policy makers and economic planners tend to see informal workers, their enterprises, and activities as a problem to be dealt with, as the negative narratives suggest. Yet most informal workers are trying to earn an honest living, often without social or legal protections, without basic infrastructure, transport, and social services, without access to public space or public procurement bids, without financial or business development services, and without tax breaks and other incentives, in the face of systemic discrimination and violence by local authorities and the police as well as stigmatization and neglect by planners and policy makers. Although there remains a long

way to go, international (and in a few cases local) advocacy efforts have started to shift the dominant negative narratives and change the mindsets of policy makers and other stakeholders so that informal workers can be seen as part of the solution for reducing poverty and inequality and also for growing the economy. While COVID-19 has exposed and exacerbated the inequalities and disadvantages that informal workers face, it has also shone a spotlight on the essential goods and services provided by informal workers and has served, in many countries, to strengthen informal worker organizations.

Inclusion of informal worker organizations/leaders in governance and policy processes

Most fundamentally, a new social contract for informal workers requires that policy-making and rule-setting processes are made more transparent and participatory, inviting representatives from organizations of informal workers to the policy table. Informal workers need a representative voice in the processes and institutions that determine economic policies and formulate the ‘rules’ of the (economic) game, including both existing tripartite state–business–(formal) labour dialogues and special policy dialogues between state, business, and informal labour. Representatives of organizations of informal workers have the ground-level knowledge and experience to negotiate a new social contract that is appropriate, and better, for informal workers. The common motto of the global movement of organizations of informal workers is ‘Nothing for Us, Without Us’.

6 Closing reflections

The COVID-19 pandemic recession has exposed and exacerbated economic injustice and inequality around the world. But it has also shone a spotlight on frontline workers who provide essential goods and services to all of us. What is not well recognized is that many of the frontline workers who provide essential goods and services do not enjoy essential rights, including health insurance, as most of them are informally employed.

So long as informal workers, the majority of all workers globally, are stigmatized, penalized, and criminalized both for what they do and who they are, poverty and inequality will not be adequately reduced and economic growth will not be optimal. What is required is a better new contract that redistributes wealth through appropriate tax policies; invests in strengthening local systems of production and consumption; ensures universal access to social protection and to good quality public services, including basic infrastructure and care services, with well-remunerated workers; regulates markets to limit the power of capitalists to download costs and risks on informal workers; ends state violence against informal workers; and challenges the dominant narrative that stigmatizes informal workers as a problem rather than recognizing their contributions in providing essential goods and services as well as paying taxes and fees.

This better new social contract will require a change in mindsets and on-going negotiations. It will require the organized strength of informal workers to demand change as well as an accountable state and responsive owners of capital who are willing to listen and respond to the demands of informal labour (i.e. reflecting the principle of responsiveness (Roever and Ogando forthcoming)). Since long before COVID-19 informal workers have been organizing, negotiating, bargaining, and joining hands to make their demands known. In April 2014, in preparation for the standard-setting discussion on formalization at the 2014 and 2015 International Labour Conferences, 54 organizations of domestic workers, home-based workers, street vendors, and waste pickers from 24 countries developed a common platform of what informal workers need and want from efforts to formalize the informal economy (see WIEGO 2014). The better new social contract called for in this paper builds on this common platform of formalization demands as well as a common

platform of demands for COVID-19 relief and post COVID-19 reforms by 11 organizations of informal workers in nine cities around the world (see WIEGO 2020).

Finally, and importantly, what we and the organizations of informal workers are calling for is not a separate contract for informal workers but a new social contract for society which recognizes informal workers as being central. This vision draws on a realistic view of work today, namely that 61 per cent of all workers globally, 90 per cent in most low-income and some low middle-income economies, are informally employed. It embeds informal workers within concentric and dynamic circles of relationships, rights, responsibilities, and spaces at the municipal, national, and transnational levels. This larger canvas for social contracts allows for new patterns of engagement, accountability, and reciprocity between the different faces of the state, society, capital, and labour.

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