SOCIAL DIALOGUE AND INFORMAL WORKERS

What we can learn from 8 success cases

Mondiaal **FNV**

CONTENTS

EXECUTIVE SUMMARY

There is no one-size-fits-all when it comes to social dialogue practices of informal workers. Primarily because of the sheer diversity among informal workers in terms of working, living, economic and socio-political conditions worldwide. But also due to the different socio-political contexts in which social dialogue takes place as well as the distinct history of organising and industrial relations. The issues of street vendors in India are for instance very different from those of motor taxi drivers (in Uganda) although they both work in the informal sector.

Nevertheless, this research was presented with the difficult task of deriving overarching insights based on a comparative analysis of the following eight case studies of successful social dialogue practices:

- Domestic workers in **Peru** and their collective action towards the ratification of C189
- Indirect workers (or tercerizados) in Colombia's palm oil industry and their fight for formalisation
- Market and street vendors in **Ghana** and the initial steps made by UNIWA towards local informal workers' forums
- Boda boda (motor taxi) drivers in **Uganda** and the political tango they are in to protect their livelihoods
- Construction workers in **Rwanda** and the creation of various Memorandums of Understanding by tapping into the political priorities of the government
- Street vendors in **India** and their adaptations to Town-Vending Councils as new social dialogue arenas
- Guides and porters in **Nepal's** tourism sector and the sector-wide agreements that have been accomplished
- Informal construction workers and outsourced workers in the electricity sector in **Indonesia** making slow but steady gains in an unconducive environment

The commonly adopted definitions of social dialogue are grafted on the labour relations within industrial economies characterised by clear contractual links between workers and employers and well-organised social partners. Within the informal economy social dialogue, however, often runs along informal lines, is ad-hoc rather than structural and is regularly a result of conflictual labour relations, strikes, protests or court cases that have eventually driven the social partners to the negotiation table. Through long term struggles,

informal workers in the case studies have been able to claim negotiation spaces, which were never granted to them freely, and many of these spaces are still fragile as their preservation is dependent on the tireless pressure exerted by informal workers and the goodwill of the other social partners.

Out of the eight case study countries included in this report, the national social dialogue institutions in three countries can be considered to be functioning effectively or relatively effectively. These are: the Indian Labour Conference, the Nepalese Central Labour Advisory Board (CLAB) and the Economic and Social Development Council (RESC) in Rwanda. In all other countries these institutions are ineffective[1]. Although they exist on paper they fall short of serving as platforms of tripartite decision-making on national socio-economic and labour policies, despite their mandates, constitutional or otherwise. One of their main shortcomings is their inadequacy in terms of addressing issues related to informality and including organisations that represent informal workers. Although informal membership within the "traditional" labour movement is increasing, many unions still struggle to place issues related to informal workers on the agenda.

Collective bargaining in a setting of high informality is presented with a different set of challenges:
- The erosion of traditional worker-employer relationships and workplace attachment;
- The lack of or casual nature of contracts;
- The decline or absence of workers' solidarity;
- The difficulty in identifying the appropriate negotiation partners;
- The inadequacy of legal frameworks.

So how then have informal workers in the specific case studies been able to overcome these hurdles? Although there is no blueprint approach, a number of overarching insights can be drawn from the case studies:
- adopting mixed-method approaches at various levels (firm, local, regional, national) using a mix of dialogue, campaigning, awareness-raising and lobbying tactics bridging the formal-informal divide by creating alliances between informal and formal workers' unions/organisations
- selecting appropriate social partners based on the political context and history of labour relations

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[1] See annex 1 for an assessment of all SD institutions.

- investing in the creation of trust between social partners with patience, honesty and respect as the key ingredients
- identifying and using windows of opportunity which can be either national or international
- getting employers (and often also governments) on board and genuinely committed to social dialogue requires the demonstration of the positive economic effects

Based on the case study findings – and borrowing from the multiple streams theory on policy change – sustainable social dialogue requires the symbiosis of: a jointly recognised problem, a clear problem-solving agenda about which social partners are able to debate and the existence of genuine political will to collectively find a solution to tackle the problem. When all three elements are present a window of opportunity opens itself through which the foundations of social dialogue can be laid.

It is these political or economic windows of opportunity that have forced the social partners to actually sit-down at the negotiation table. In other words, whereas persistent pressure from the labour movement is important for creating awareness of a specific policy problem (in this case: informality and related precarious labour-relations) and some trade unions in our study have been able to present clear solutions to this problem, changing the political will of the other social partners is beyond their direct control. The change in mind-set and commitment of governments or employers is determined by windows of opportunities of a political, economic, national and international nature.

This however is not the end-point but the inception of a long process during which a culture of social dialogue is cultivated and nurtured. Honesty, trust and respect are key in this respect.

1. SOCIAL DIALOGUE AND INFORMAL WORKERS:
A BIRDS-EYE VIEW

It has become somewhat of a cliché statement but there is no one-size-fits-all when it comes to improving the working-conditions and livelihoods of informal workers. This is also true when it comes to the issue of social dialogue. Primarily because of the sheer diversity among informal workers in terms of working, living, economic and socio-political conditions. But also due to the different socio-political contexts in which social dialogue takes place as well as the distinct history of organising and industrial relations.

Figure 1: Defining informal employment, informal sector and informal economy
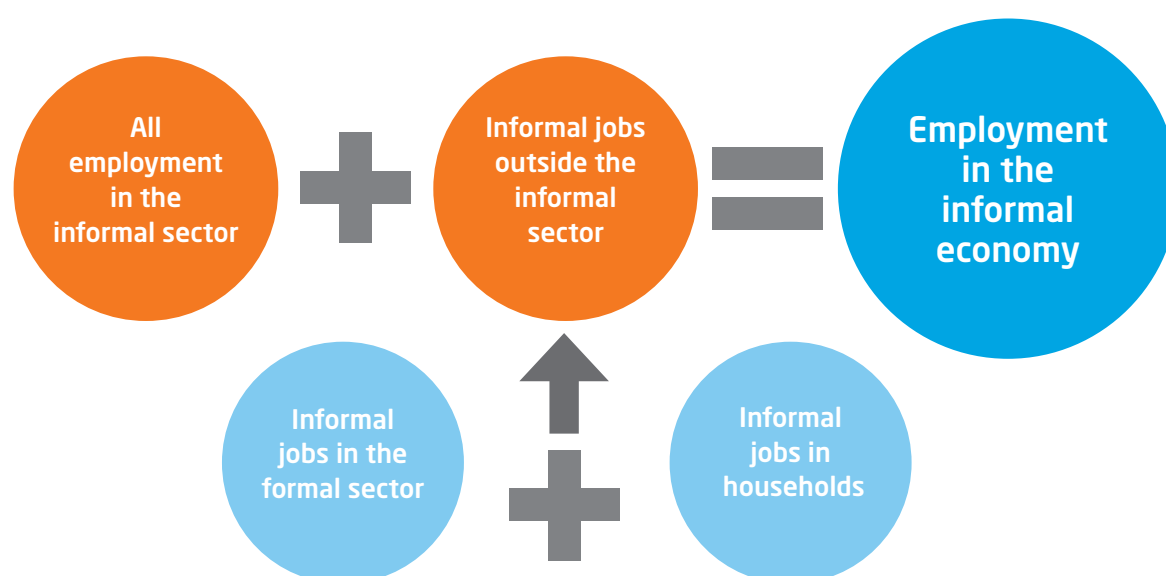
Source: ILO 2017

Even within the three generic groups of informal workers differentiated by workplace (informal sector, formal sector, households) we can find huge diversity. The issues of street vendors are for instance very different from those of boda boda drivers although they both work in the informal sector. Or let us take the group of domestic workers, where there are considerable differences between those who live inside the houses where they work or those who commute on a daily basis. A further example: the informal workers in the palm oil sector in Colombia have different ways of voicing their concerns than those operating in construction sites in Indonesia although both are informal workers in the formal sector.

Despite this diversity, this research had the difficult task of presenting a birds-eye view on the use of social dialogue by informal workers, unravelling the shared challenges and opportunities. To be able to distil this macro-perspective a micro-approach was adopted by zooming in on eight case studies across the world. The case studies were selected in order to represent as much diversity as possible; we have therefore looked into informal workers in the informal sector (Uganda, Ghana and India), in the formal sector (Colombia, Indonesia and Rwanda and Nepal) and in households (Peru); with sectors comprising large numbers of female workers (Ghana and Peru) as well as those that are male dominated (Colombia, Rwanda, Uganda, Nepal, Indonesia and India). Another selection criteria was the presence of successful social dialogue processes.

This resulted in the following eight case studies:
- Domestic workers in **Peru** and their collective action towards the ratification of C189
- Indirect workers (or *tercerizados)* in **Colombia's** palm oil industry and their fight for formalisation
- Market and street Vendors in **Ghana** and the initial steps made by UNIWA vis-à-vis local informal workers' forums
- Boda boda (motor-taxi) drivers in **Uganda** and the political tango they are in to protect their livelihoods
- Construction workers in **Rwanda** and the creation of various Memorandums of Understanding by tapping into the political priorities of the government
- Street endors in **India** and their adaptations to Town-Vending Councils as new social dialogue arenas
- Guides and porters in **Nepal's** tourism sector and their accomplished sector-wide agreements
- Informal construction workers and outsourced workers in the electricity sector in **Indonesia** making slow but steady gains in an unconducive environment

This report is based on a comparative analysis of the eight case studies and presents overarching insights regarding the social dialogue approaches, the negotiation strategies and the bargaining power of informal workers[2]. In addition, one page summaries of each case study are included to serve as background information. The conclusions will summarise the key lessons learned from the comparative analysis and the report ends with recommendations for possible south-south exchange and considerations that donors could take into account when supporting informal workers in their social dialogue activities. First, however, we will compare the research results with existing theories and frameworks related to informality and subsequently with social dialogue and collective bargaining.

[2] The country level data presented is derived from the case study reports, the references to which can be found in the bibliography.

2. EXISTING THEORIES AND FRAME-WORKS AND THEIR APPLICABILITY TO THE CASE STUDIES

According to the ILO, social dialogue includes all types of negotiation, consultation or simply the exchange of information either among the social partners, or by tripartite partners at the national level, on issues of common interest relating to economic and social policy (Ebisui 2012: 215).[3] Collective bargaining is an important part of Social Dialogue. Collective bargaining comprises all negotiations that take place between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more workers' organisations, on the other, for: (a) determining working conditions and terms of employment; (b) regulating relations between employers and workers; and/or (c) regulating relations between employers or their organisations and a workers' organisation or workers' organisations (ILO Convention No. 154).

These definitions are, however, grafted on labour relations within industrial economies characterised by clear contractual relations between workers and employers and well-organised social partners. Within the informal economy, these characteristics are much less present and in some cases absent. Social dialogue often runs along informal lines, is ad-hoc rather than structural and regularly a method of last resort after strikes, protests and court cases have driven the social partners to the negotiation table. Through persistent struggle, the informal workers in our case studies have been able to claim negotiation spaces, these never having been granted freely, and many of these spaces are still fragile; their preservation is dependent on the tireless pressure exerted by informal workers.

2.1 THE INADEQUACY OF NATIONAL SOCIAL DIALOGUE INSTITUTIONS

Historically, social dialogue (SD) emerged in industrialised nations to foster harmonious relationships between labour and capital, vested in the contractual link between workers and employers (Nansens 2011).

In developing countries, institutionalised social dialogue was imposed by the colonisers and moulded on the respective European coloniser's industrial relations' systems. This has left many former-colonies with social dialogue institutions which are not adapted to their socio-political realities (Cooper 1996).

Out of the eight case study countries included in this report, the national social dialogue institutions in three countries are functioning effectively, namely: the Indian Labour Conference, the Nepalese Central Labour Advisory Board (CLAB) and the Economic and Social Development Council (RESC) in Rwanda. In all other countries these institutions are ineffective[4]. Although they exist on paper – after decolonisation the ILO fervently promoted their re-installation or continuation – nonetheless, despite their constitutional mandates, they fall short of serving as platforms of tripartite decision-making on national socio-economic policies, labour market reforms and workers' rights and conditions. In some cases (namely, Peru and Colombia) discussions on economic and labour related policies take place but in the end the government (often in accordance with the employers) turns a deaf ear to the concerns of the trade unions. On other occasions the national tripartite institutions are, however, bypassed altogether in Peru and Colombia. In other cases (namely Indonesia, Ghana and Uganda), the national social dialogue institution has become a way to keep up appearances, but real negotiations between TUs and government occur through informal meetings[5].

One of the main structural limitations of these national social dialogue institutions is their bias towards formal sector unions and issues related to the formal economy. Informal sector' issues are very seldom discussed and informal workers have no direct representation within these national platforms (the exception being the ILC in India). This is particularly problematic in developing countries where between 80 to 90% of the active population is informally employed[6]. According to the ILO this is in fact the biggest hurdle for effective social dialogue and collective bargaining in developing countries (ILO 2018: 9).

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[3]Tripartite refers to government, employers and trade unions).
[4]See annex 1 for an assessment of all SD institutions.
[5] See Hendriks (2017), for example, for a study on informal negotiation practices of market women in Ghana and Titeca (2014) for examples from Uganda's Boda-Boda drivers.
[6]Add % of IW in each country.

However, we should add increasing "informalisation from above" (about which trade unions and governments have opposing views) to this analysis to have a more complete picture of how informality is paralysing national social dialogue discussions in many developing countries (Theron 2010). Whilst (at least on paper) governments have committed themselves to tackling informalisation from below, they have been simultaneously promoting "informalisation from above", by flexibilising labour markets. Although flexibilisation is not *de jure* the same as informal labour, it often does lead to *de facto* informalisation due to precarious working conditions in which many part-time, casual, or outsourced workers find themselves. This is most apparent in Peru, Colombia, Indonesia and India. Because of their relation to formal labour markets, issues related to labour flexibilisation have in some cases made their way to the national social dialogue agendas whilst those related to informalisation from below have not. Nevertheless, on the occasions where they have been discussed (e.g. Peru, Colombia, Ghana) trade unions have, as yet, not been able to make significant strides in curbing labour flexibilisation. There is currently a strong belief among policy-makers – with support from employers' organisations– that increasing competitiveness requires more flexible labour laws. From the governments and employers' point of view, if this "informalisation from above" occurs within legal frameworks, there will be no reduction of labour rights but adaptations thereof. From the trade union perspective however, flexibilising labour leads to fragmenting of the labour movement and erosion of worker-employer relations, which cripples the ability to bargain collectively, which in turn deteriorates workers' rights and conditions. Consequently, with discourses that are so far apart, finding common ground through social dialogue has proved to be extremely difficult.

If we place the basic requirements for effective social dialogue (ILO 2013) in a context of high incidence of informal employment, a number of challenges emerge, as outlined in the table below.

Table 1: Challenges of Informal Employment to Social Dialogue

BASIC REQUIREMENT	CHALLENGE REGARDING INFORMAL WORKERS
Strong, independent representative workers' and employers' organisations with the technical capacity and access to the relevant information to participate in social dialogue.	Although there are many strong informal workers' organisations it is fair to say that the majority of informal workers remain un-organised. And even if they are organised they often lack the necessary skills and knowhow to participate effectively in formal social dialogue processes.
Respect for the fundamental rights of freedom of association and collective bargaining (as enshrined in ILO conventions n.87 and n.98).	Although the freedom of association and collective bargaining has improved from a global perspective, many informal workers' organisations are excluded from formal SD and collective bargaining processes.
Political will and commitment to engage in good faith in social dialogue on the part of all the parties.	The presence of political will to engage in meaningful social dialogue is questionable in many developing countries. Many informal workers have little trust in institutionalised systems as they are weary of governments, which in general do not show much respect for informal workers. There is also little faith in the effectiveness of such negotiations. Because most informal workers lose income if they are not working or holding-up their shop they require extra reassurance that time spent negotiating will have positive effects.

BASIC REQUIREMENT	CHALLENGE REGARDING INFORMAL WORKERS
Appropriate institutional support.	Appropriate institutional support is often lacking in developing countries. Many SD institutions are under-funded and have little to no monitoring and evaluations resources.
The representatives of the social partners should be recognised as equal partners by each other.	Generally informal workers are not equally respected by the other social partners.

Source: Developed by author based on ilo (2013) and primary findings

Faced with these challenges the ILO and other development actors have pushed for the inclusion of informal workers in formal social dialogue structures, either through formal sector trade unions or direct representation (ILO 2018).

However, based on the case study findings the envisioned institutional change, as promoted by the ILO and other development actors, has had difficulty materialising. Although there has been increased policy-attention given to issues related to informal work – driven by the ILO's transition to formality agenda – there has been little progress in opening up national tripartite institutions to informal workers (the exceptions again being: India, where SEWA has a seat in the ILC and Nepal, and Rwanda where informal workers are effectively represented by TUs). The comparative analysis identified the following causes for the lack of progress:

- it is in the interest of the economic elites (which in most of the case study countries hold close ties with the political elites) to keep informal workers out of the negotiation room;
- trade unions fear they will be opening the gates to a Trojan horse by including informal workers, because they will be used as an argument by the employers to downscale the hard-fought-for gains of the formal working-class instead of upgrading the labour conditions of informal workers;
- there is a general lack of trust/belief in the national social dialogue institutions discouraging informal workers' organisations from seeking participation and formal trade unions from fighting for institutional change;
- real social dialogue does not take place within the clearly defined scopes of national tripartite institutions but through informal meetings, even if institutional changes are made, the practices of social dialogue will most likely still occur outside of their realm;
- more than being just an institutional change, making social dialogue inclusive for informal workers requires a change in mentality which is a long-haul process.
- in some countries (e.g. Colombia) violence and persecution of trade union leaders are among the biggest hurdles towards social dialogue; building mutual trust and respect in an environment characterised by fear is extremely difficult.

The figure one the next page illustrates a number of additional obstacles as presented in a recent ILO report.

Figure 2: Challenges of Social Dialogue in the Transition to Formality
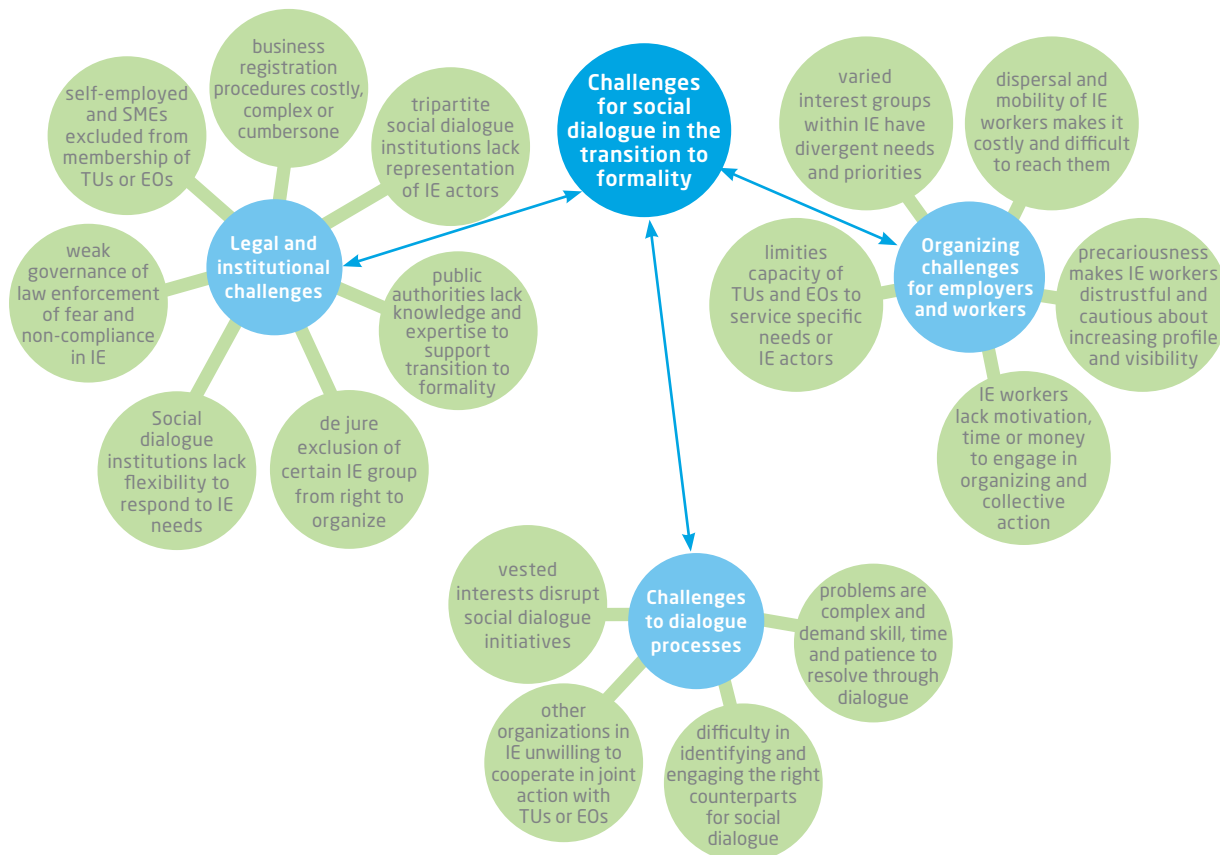
Source: ILO 2017

As the above challenges demonstrate, the inclusion of informal workers in social dialogue becomes a very complex endeavour in practice. This has led some scholars to see inclusive social dialogue as a utopia. Bernards (2017) for example has coined the mismatch with the ILO's policies and programmes towards social dialogue and the labour market realities in developing countries as a "tripartite-fantasy". He argues that re-moulding existing social dialogue institutions will not suffice to make them more effective. Rather, such structures should be built from the bottom-up, based on local organisation and negotiation practices.

However, it would be wrong to assume that the absence or underrepresentation of informal workers in national SD institutions signifies a lack of bargaining power over their working conditions, terms of employment or status (Chinguno 2011). The political leverage of informal workers cannot solely be measured on the basis of formal social dialogue institutions. Research has shown that informal workers are often playing multiple ball games through which they negotiate or renegotiate their space and rights within/towards the

state, market and society (Lindell, 2010). In many cases these games are played outside of formal institutions but along informal lines and personal connections (Lindell & Ihalainen 2014; Obadare & Willems 2014).

2.2 OBSTACLES TO COLLECTIVE BARGAINING IN A SETTING OF HIGH INFORMALITY

Collective bargaining in a setting of high informality presents a different set of challenges. The comparative analysis of the case study findings unravelled the following overarching obstacles:

• erosion of traditional worker-employer relationships and workplace attachment;
• lack of/ casual nature of contracts;
• decline or absence of workers' solidarity;
• unclear negotiation partners;
• In-adequate legal frameworks.

The table below demonstrates how each obstacle poses specific limitations for the practice of collective bargaining depending on the realities of different types of informal workers.

Table 2 Informal workers and collective bargaining: overarching obstacles

OBSTACLE	INFORMAL WORKERS IN THE INFORMAL SECTOR	INFORMAL WORKERS IN THE FORMAL SECTOR	INFORMAL WORKERS IN HOUSEHOLDS
Erosion of traditional employer relationship and workplace attachment	* the majority are self-employed and have no employer but have casual relations with buyers of their services/goods * those in labour relations often have limited attachment to the workplace/employer due to high levels of labour rotation & and short-term contracts	* limited attachment to single workplaces/employers due to high levels of labour rotation & and short-term contracts	* Worker-employer relations are often not defined as a labour relation but as a family-relation * household workers are seen as a "help" not as workers
Lack of / casual nature of contracts	* self-employed informal workers have no contracts, leaving them without a subject to bargain about those in labour relations often only have verbal contracts or short-term contracts which leads to fear of job loss when excercisitng rights to collective bargaining and little legal footing (as it will be the word of the employer against that of the worker)	* casual short-term contracts lead to fear of job losses * short term contracts discourage collective bargaining as workers are not sure they will reap the benefits of their negotiation efforts	* the majority have no contracts or only verbal, leaving them without a subject to bargain about, fear of losing their job if they do and little legal footing (as it will be the word of the employer against that of the worker)
Decline or absence of workers' solidarity	* high levels of competition among self-employed workers hamper solidarity * in some case high degrees of geographical dispersion hamper solidarity * IWs which are geographically grouped together (e.g. market vendors/boda boda drivers) find it easier to establish worker solidarity * generally low numbers of workers in a workplace hamper the creation of strong labour associations * survival mentality among IWs hampers solidarity	* the existence of both standard and non-standard workers in a workplace leads to the decline of worker solidarity and sometimes the exclusion of non-standard workers from the trade union and bargaining arrangements of standard workers	* household workers most often work alone and are invisible to outsiders * very little space & time for inter-worker contact due to long working hours and workers living inside the place they work -> extremely difficult to build workers' solidarity
Unclear negotiation partner	* self-employed workers have no employer and therefore local government entities that govern the spaces/laws in which they operate are often their negotiation partner * workers in labour relations ought in theory to negotiate with their employers but the latter often negates its responsibility to do so due to the high supply of labour (take it or leave it terms of employment)	* complex value chains hinder the identification of the influential negotiation partner * actual contractual employers are not necessarily the appropriate negotiation partner * employers in the value chain divert responsibility of acting as negotiation partner to companies higher-up or lower-down the chain * sector-wide agreements are difficult	* within the household it is relatively easy to identify the negotiation partner (although there might be differences of opinion between the male and female heads of the households, complicating negotiations) * because of the lack of employers' organisations sector-wide agreements are difficult

OBSTACLE	INFORMAL WORKERS IN THE INFORMAL SECTOR	INFORMAL WORKERS IN THE FORMAL SECTOR	INFORMAL WORKERS IN HOUSEHOLDS
Inadequate legal framework	* self-employed workers most often fall outside of the labour laws as workers are defined on the basis of the existence of a labour contract * in some countries specific laws have been developed for specific groups of informal workers (e.g. Street Vendors Act in India) but there are social, economic and political hurdles which prevent most IWs from exercising these rights * many labour codes include a minimum number of workers to be able to legally form a trade union and engage in collective bargaining. This minimum amount is seldom reached in informal enterprises * when workers with contracts (written/verbal) in theory fall under the labour law their precariousness often still hinders them from exercising their rights in practice	* ambiguous & unclear legal frameworks related to subcontracted/outsourced/temporary workers * workers are either outside of the labour law or only covered by it in theory as there are hurdles which prevent most workers from exercising their rights (mainly coming down to fear of job loss)	* in many countries household work falls outside the general labour code * some countries have specific laws for household workers but there are big hurdles to exercising them: fear of losing their job; difficulty of organising due to invisibility of work and lack of inter-worker contact, psychological abuse leading to lack of self-esteem to exercise rights, etc.

Source: developed by author based on ILO (2012) and primary data drawn from the case studies

These obstacles are embedded in the general history and socio-political and economic structure of each country. The discourse of the government towards informality as well as their position towards labour rights and workers' wellbeing frame the policies which can either enable or discourage inclusive social dialogue. In countries such as Colombia and Peru (to a lesser extent), the neoliberal development model that places increasing productivity and attracting foreign investors above all else, leaves little room for workers' concerns. Indeed, in Colombia the current president is actively dismantling the culture of dialogue which was built up by his predecessor.

3. OVERCOMING THE HURDLES: KEY OBSERVATIONS FROM THE COMPARATIVE ANALYSIS

So how then have informal workers in the specific case studies been able to overcome these hurdles? What has driven their decision-making processes regarding where, when, how and with whom to dialogue? Where does their bargaining power lie and with whom do they forge alliances to increase their political leverage? In this section we answer these questions based on the case study findings.

3.1 THE STRENGTH OF MIXED-METHOD APPROACHES

A comparative analysis of the case studies reveals a complex mix of methods adopted by informal workers and their respective unions or organisations. These include: social dialogue at various levels (national, local, firm level), lobbying of government officials (at various levels) and within international arenas (e.g. ILO), court cases, awareness-raising campaigns as well as marches, strikes and protests. In all these approaches, building coalitions with other actors from civil society, within politics or sometimes in the business world, have been key to their success. In some cases strikes and marches were necessary to bring social partners around the table (e.g. in Colombia´s palm oil sector and Peru's domestic

workers). In others, court hearings have been instrumental (e.g. India's street vendors) for increasing political leverage. But the red line throughout the various case study

findings has been the adoption of a mixed-method approach. In the following section we will take a closer look into the different methods and underlying reasons behind the choice of approach.

3.1.1 Picking your battle: identifying the appropriate SD arena and SD partners

Many informal workers adopt multi-level negotiation approaches and engage in several social dialogue arenas simultaneously. There are many possible battle-grounds to choose from at firm, local/regional or national level and successful social dialogue requires aiming at the right targets. The table below represents the different social dialogue arenas established by informal workers included in the case studies. As you may observe, there were no examples of social dialogue at the international level, although this does play a role in informal workers' lobby tactics.

Figure 3: Social dialogue arenas

LEVEL	FORMAT	EXAMPLE FROM CASE STUDIES
National	Tripartite-plus (gov´t, workers, employers & CSOs)	Indian Labour Conference in India (SEWA has a seat within the ILC)
	Tripartite (gov´t, workers and employers)	Central Labour Advisory Board in Nepal (Informal workers are represented through the TUs)
	Bipartite (between gov´t & workers)	Negotiation tables (mesas) between Domestic Workers Movement ´(DWM) and Department of Fundamental Rights Within Ministry of Labour in Peru
		Informal negotiations between boda boda drivers & President of Uganda
		MoU between STECOMA and Workforce Development Authority (WDA) in Rwanda
Local	Bipartite (between city/municipal/regional authorities and workers)	UNIWA and the Informal Workers Forum in Ghana
		Town Vending Councils in India
		MoU between STECOMA and Kigali City Authority
Firm	Between workers and company managers	Structural collective bargaining between SINTRAINAGRO & manager of Palmas de Cesar in Colombia
	Between workers and company owners	Structural collective bargaining between SINTRAPALMAS & owner of Monterrey S.A. in Colombia
	Between workers and foremen/labour brokers	Ad-hoc collective "bargaining" initiated by SBKI and SPLAS in Indonesia's construction/electricity sector

Source: developed by author based on data drawn from the case studies

The important question is: why do informal construction workers in Indonesia and indirect workers in Colombia's palm-oil industry opt for engaging in collective bargaining at firm-level? Whilst UNIWA has chosen to negotiate with the Accra Municipality Authority and domestic workers in Peru have invested in creating *"mesas"* within the Ministry of Labour?

A number of contextual factors influence at which level informal workers focus or able to focus their efforts. The first is the **political system of the country.** In highly centralised governance structures such as in Uganda, the most effective level will be the national one, and more specifically as close as possible to the President's office. In Peru where decentralisation has been implemented but local level government structures lack human and financial resources, the central level is also the most appropriate. In India, with its long **history of federalism,** the most effective approach is engaging in social dialogue at various levels. In addition its legal system implies that laws at the national level outline the **legal frameworks** adopted at state and local level. Therefor informal workers have first sought to change national policy (e.g. 2014 Street Vendors Act) and then act as watchdogs over its correct interpretation and implementation at state and local level. Rwanda seems to be following the same path. Rwanda's central government has placed considerable emphasis on **consolidating power and stimulating** unity within and across the different government levels. The central state is strong and delegates power to local government institutions. There is policy-coherence between both government levels and informal workers therefore engage at both levels, but face less challenges with correct implementation of national policies by local officials as there is generally less deviance.

However, it is not only the level of centralisation/decentralisation that counts but also the **history of civil participation** in a country or a specific sector. In Ghana, for instance, decentralised institutions also lack resources but since colonial times market vendors have held close ties with local government officials. UNIWA's natural negotiation partners are therefore the municipal authorities. In countries such as Colombia and Indonesia, due their respective **history of violent conflict or a long-dictatorship,** the ties with the government are very much strained and mistrusted. Informal workers therefore in the first place opt for solving their issues directly with their employers; there is little confidence in state structures. In contrast in Nepal, which also has a recent history of conflict the close ties

between trade unions and political parties have maintained a positive link between organised labour and government (although these ties are much politicised). Trade unions in Nepal's tourist sector have therefore engaged with various government departments at various levels (national/regional/local).

Accordingly, the history of participation and conflict as well as the present political system outline where best to create social dialogue spaces. Once the level or levels at which to negotiate are determined, the specific dialogue partners are identified. This choice first and foremost depends on **who holds actual power** over the laws or policies that the informal workers want to influence. This means that in cases with effective Ministries such as Peru and Rwanda, the Ministry of Labour is the most obvious negotiation partner. In Colombia, policy-changes regarding labour issues are also outlined by the Ministry of Labour but negotiations between trade unions and the Minister have only recently been reinitiated and are defined by mistrust. Therefore, at present negotiations regarding decent work in the palm industry are guided by external consultants. In Uganda, power is very much centralised around the President's office, which has the authority to overrule decisions made at ministerial level, so informal workers have an advantage in directly approaching the highest executive branch. The Indian case study demonstrates local social dialogue in a state of transition. Despite the fact that the Town Vending Councils are the new negotiation platforms for street vendors, street vendors still engage with their former social dialogue partners due to their sub-optimal functioning at present.

The Indonesian case demonstrates that at firm-level – due to a lack of institutionalised CB mechanisms – dialoguing partners are chosen on a basis of the power they have over the specific issue that the workers wish to address. The SD-partner may therefore change depending on the issue. However, **personal links** play an important role as well. For instance, in the Colombian cases, trade unions have decided to negotiate with the plantation manager or company owners respectively, based on the simple fact that they were more sympathetic to their cause.

3.1.2 From policies to laws: the importance of lobbying parliament/congress members
In all case studies, the lack of access to legal protection for informal workers appeared as a key cause of their poor working- and living-conditions. In consequence, adjusting or creating legislation that is appropriate to

the specific labour conditions found within the informal economy is key. However, legislative change is a messy and highly complex endeavour as it involves multiple state institutions, and creating consensus and collective action among various actors. Consequently, it requires an experienced group of policy-entrepreneurs with the necessary legal know-how (or connections with the people that have this know-how). As most informal workers' organisations do not yet have this skill set and formal sector trade unions are in many cases still in the phase of organising informal workers and strengthening their internal governance systems, only in three out of eight cases have legal changes been achieved (namely in Peru, India and Colombia)[7].

Where legislative change has taken place two key drivers can be identified. First, and most importantly, in the cases of India and Peru, **lobbying of members of parliament/congress** (depending on the political system of the country) has been essential. Such lobbying must be persistent and consistent. Persistent, in the sense that informal workers should be up for a long-haul process of thousands of phone calls, letters and meeting. Consistent, in the sense that the message that the informal workers hope to convey must be clear and unambiguous, in other words, all representative organisations must press for the same outcome. The second driver is the existence of a **window of opportunity** which is the ultimate trigger for policy change. In the Colombian case, this window presented itself in the form of **international pressure.** It is unlikely that labour intermediation by collective workers' associations (CTAs) would have been made illegal were it not for the pressure placed by the US Labour department for the compliance to the Labour Action Plan as part of the Obama-Santos free trade agreement. In the case of the domestic workers in Peru and the street vendors in India international pressure, through the influence of the ILO and the global networks of domestic workers/ street vendors, have strengthened national lobbying efforts but were not a determinant factor for change. Instead the windows were created by national political contexts of **extreme unpopularity of congress and general civic malcontent.** Adopting laws in protection of vulnerable groups in society (domestic workers and street vendors respectively) served a much needed and useful instrument for image damage-control. It placed the politicians in a positive light whilst the general public opinion of politics was at an extreme low.

3.1.3 From dead letter to real change: ensuring compliance with agreements or laws made

Perhaps the most challenging part of effective social dialogue in a context of high labour informality is the compliance with, and implementation of agreements, policies and laws made. In most of the cases it is still too early to assess whether the agreements made have been respected and implemented but based on previous experiences of the workers in the respective sectors, compliance is very hard to come by. Based on the comparative analysis, a number of overarching obstacles hindering compliance can be identified:
- lack of rule of law;
- lack of labour inspection;
- lack of legally binding agreements;
- party politics and volatility of agreements;
- lack of legal know-how of informal workers' organisations.

Firstly, in many countries there is a general **lack of rule of law**. Not only in informal sectors but also in formal sectors, legal responsibilities are often dodged by employers and workers' rights are frequently violated. In some cases this is linked to rampant corruption, also within the judiciary (e.g. Colombia, Uganda, Peru, Ghana, and Indonesia). In others, the state is still relatively fragile after years of conflict (e.g. Nepal). In others again (notably India), state bureaucracy, legislation and legislative-systems are so complicated and multi-faceted that it is all too easy for companies and employers to find legal loopholes. In all these contexts the respect of the law in informal settings becomes all the more challenging.

This is related to the second obstacle which is the **lack of labour inspection.** Many developing countries lack labour inspectors, even for the formal sector. Informal sectors are seldom or never inspected. Furthermore, there are some general characteristics of informal employment which make inspection difficult even if there were to be sufficient human and financial resources to do so:
- *Invisibility of informal workers.* There are often no records of informal workers (nor informal businesses) due to the absence of contracts making it hard for labour inspectors to locate them. This is particularly true for domestic workers who are physically out of sight.
- *High labour rotation.* This is particularly problematic for informal workers in the formal sector (e.g. con-

struction workers in Indonesia and workers in palm-oil plantations in Colombia). Whilst in some cases contracts might exist, by the time inspectors arrive at the company the same informal workers might no longer be present because of the short-term duration of their contracts.

- *Legal boundaries.* This is a specific challenge in the case of domestic workers where labour inspectors (in many countries) are by law not allowed to enter households. Labour inspection is limited to doorstep conversations with employers, which hinders their effectiveness.
- *Legal ambiguity of self-employed workers.* In the case of self-employed workers there is often confusion as to whether or not such workers fall under labour laws. They are seen as their own employers and so violations of rights are the doings of the workers themselves. Nevertheless, the regulatory authorities should in fact be held responsible for violations of rights, such as health and safety at work. For example, in the case of market and street vendors, munici-pality authorities should be sanctioned If they do not take the appropriate safety measures in markets or provide proper waste-collection and sanitary ser-vices. The same could be said for boda boda drivers, the responsibility for wearing a helmet and driving safely is placed in their hands, whilst the govern-ment is not held to account for not providing the nec-essary enabling environment. However, at present, labour inspectors mandates are based on formal work relations.

Thirdly, regrettably, the large majority of the agree-ments that informal workers in the case studies have managed to obtain **are not legally binding.** Non-compliance can therefore not have legal consequences and implementation is highly dependent on the good will of the social partners involved. The advances made by the informal workers are therefore very fragile. A change of government or management can annul the agreements and lobbying and dialoguing has to start from scratch. This is the lack of certainty or confidence in the following social dialogue outcomes:

- the Informal Workers' forum established by UNIWA (Ghana);
- the Memorandum of Understandings obtained by STECOMA (Rwanda) and trade union in Nepal's tour-ism industry;
- the informal agreements between the boda boda drivers and the President of Uganda;
- the collective bargaining culture created within Palmas de Cesar and Monterrey S.A in Colombia;

- the respect gained for basic workers' rights by infor-mal workers in Indonesia's construction and electricity sector.

In fact the only two cases in which social dialogue has had legal outcomes are the ratification of C189 in Peru and the Street Vendors Act in India.

Fourthly, and related to the previous obstacle, is the **influence of party politics** within the informal econ-omy. Especially informal workers within the informal sector are often used by politicians as electoral clout. Many promises are made, many agreements are signed, in order to gain more votes but after election time these commitments are all too often forgotten. Because most agreements have not been laid down in law, they are prone to political co-optation and lack sustainability. The establishment of the Informal Workers' Forum in Accra for instance is partly due to the connections between the current political party holding office in the AMA and directives of UNIWA. Differences in parties holding office at state and national level in India are hampering the implementa-tion of the Town Vending Councils. In Uganda the boda boda sector is divided between associations who are close to the political party of the President and those who support the opposition. During campaigning-peri-ods, both groups use these ties to get benefits for their members (e.g. helmets, motor-bikes, etc.). In Nepal, trade unions in the tourism sector have been able to make significant strides in recent years due to the left-wing government being in power but it is uncertain whether these agreements will survive a change of power.

The fifth and final obstacle to the implementation of agreements already made lies within the informal workers' movement as well as the broader labour movement, namely: **the lack of legal know-how.** In light of the importance of legal protection for informal workers, there is a lack of knowledge and skills within the respective associations regarding legislative and judiciary systems. A number of organisations such as the domestic workers' unions in Peru and the trade unions in Colombia's palm industry have therefore relied on external consultants and lawyers to assist them with legal matters. Out of all the case studies, the Indian street vendors organisations are the ones who have used the judiciary as a means of demanding the proper implementation of the laws governing their sector as well as a means to condemn illegal actions by police, government officials and other actors. In all

other case study countries (Uganda, Rwanda, Ghana, Indonesia and Nepal), legal actions are seldom or never taken by the informal workers' organisations under research.

3.2 BRIDGING THE FORMAL-INFORMAL DIVIDE AND BUILDING COALITIONS

One of the key insights from the case studies is the importance of collective action and the creation of coalitions; first and foremost, **between informal workers' associations/unions and formal sector trade unions.** The ability to bridge the formal-informal divide has in most of the case studies strengthened both the national trade unions and confederations as well as the informal associations which have been affiliated. Trade unions gain increased representativeness as in all case study countries there is a sizeable informal economy which encompasses between 60.6% (Colombia) and 94.3% (Rwanda & Nepal) of the countries' workforce. Informal workers increase their political leverage as trade unions often have historical political clout which informal workers lack (the exception here might be the Ghanaian market queen associations which have a history of political clout and bilateral negotiations from local to national levels). This backing by the labour movement has supported informal workers in their political activities towards better working and living conditions. Many government officials in the various case study countries started to take their demands more seriously because of their connections with trade union confederations.

Interestingly, and contrary to what the ILO has envisaged to be the solution to making social dialogue more inclusive, these ties (in the majority of the cases) **did not lead to the inclusion of informal workers in formal social dialogue spaces.** Within the national social dialogue institutions, only India's Labour Conference includes representatives of informal workers (through SEWA's seat). In all other cases there is no direct representation of informal workers. In addition, whereas many trade unions have an increasing number of informal workers among their membership, issues related to the informal economy still seldom reach the agenda. There is still a bias towards formal sector workers and a feeling among many unionists that the trade union movement should first and foremost fight against the deterioration of labour rights in a context of heightened globalization and related precarisation of work. The **exceptions can be found in the representation of formal trade unions of informal workers operating in the formal sector** in (1) in Colombia's palm oil industry; (2) in Nepal's tourism industry; and (3) Rwanda's construction sector. In Colombia, the unions of indirect-workers were able to piggy-back on the collective bargaining processes initiated by the direct workers' unions. In Nepal, formal sector unions with high numbers of informal workers in the tourism sector have established agreements with various ministries and government departments which also cover informal workers. In Rwanda, STECOMA has signed two MoUs specifically related to informal construction workers. In Uganda, initial steps have been taken by AGTWU and NOTU to establish negotiations between the Kampala Central City Authority (KCCA) and boda boda associations. Although in its infancy, it is the only example of a formal union creating SD arenas for their informal sector members. In all other cases the **social dialogue spaces used by informal workers have been created by the informal workers' associations/ unions.** UNIWA in Ghana created the informal workers' forum; the DWM in Peru established the working tables at the ministry of Labour; the boda boda drivers in Uganda uphold their own ties with the national government; the guides and porters in Nepal have achieved Memorandums of Understanding as informal workers' unions and the Indonesian construction workers' creative improvisations towards social dialogue stem from within the informal workers' associations.

In addition, in some cases **alliances with other members of civil society** such as community-based organisations, feminist groups and political parties have proved to strengthen the political leverage of informal workers even more. In Peru, the DWM has from the start been part of a broader civil society movement fighting for equal rights and treatment of women; there is therefore a strong link between the domestic workers' unions, feminist groups and women-centred community-based organisations, such as a number lawyers and rights-based organisations. In Colombia, building alliances with local communities, local merchants and suppliers to palm oil plants has been instrumental in strengthening the trade unions bargaining power. In India, Ghana, Uganda and Nepal, ties with political parties have enabled informal workers to open negotiation spaces. Although engaging in party-politics is a tricky business, if managed well, informal workers do not necessarily lose out. The key is to make use of the political ties and not be dependent on them. Achievements derived from political ties should be translated into sustainable solutions that transcend these connections by making them legally binding.

3.3 IDENTIFYING AND USING WINDOWS OF OPPORTUNITY

A useful analytical framework for understanding why in some cases informal workers have managed to foster change through social dialogue is Kingdon's (1984) Multiple Streams Theory. The theory stipulates that policy change comes about when three interdependent streams come together and create a policy window. The three streams are: the problem stream, the policy stream and the political stream. Effective social dialogue by informal workers requires the presence of a window of opportunity created through the symbiosis of: a jointly recognised problem, a debatable agenda with possible solutions and the political will from all parties to tackle the problem through collective action. The case studies suggest that only then will sustainable social dialogue materialise.

Figure 4 Multiple Streams Theory
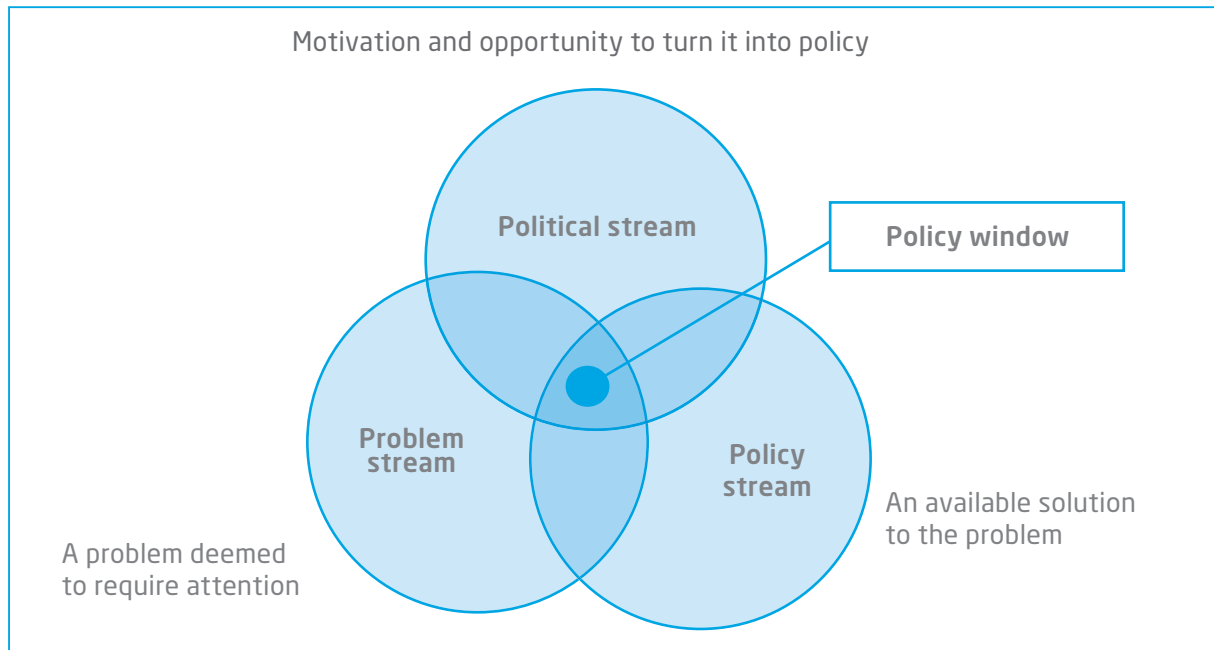
Source: Kingdon 1984

Most labour movements are good at flagging problems that need to be addressed (either by the government or employers) (problem stream). Some are also good at presenting clear (and realistic) solutions (policy stream). However, for many unions in developing countries, especially those in the informal sector, this is still a problem as they lack the human and financial resources to build well-informed, evidence-based negotiation agendas and arguments. What causes most of the difficulties is convincing the social partners that the problem is worth dialoguing about (political stream). This is because creating the political will to find a joint/collective solution to the issue lies partly beyond the control of the labour movement.

The case study findings suggest that the presence of political will does not so much stem from the pressure exerted by trade unions through industrial actions or lobbying but is influenced by broader political or economic factors. In the case of Peru, for example, the ratification of ILO Convention 189 was pushed through because Congress was in dire need of an image-boost. In Colombia, it was the international pressure from the US Labour Department that led to the introduction of fines for illegal subcontracting that incited a few companies to formalise their workers and start a new chapter in their labour relations by investing in social dialogue. In Rwanda, the ILO's formalisation agenda has been influential in setting the scene for collaboration with STECOMA although the economic potential and contributions of the construction sector presented the core argument for fostering rather than suppressing its workers. The same analysis can be made for the case of Nepal, whereas the tourism sector has been identified as one of the sectors with the most growth potential. The Indian case study is another example of how the realisation of the economic importance of informal workers or informal sectors can change the mind-set of policy makers. Here is was NASVI's study demonstrating the economic contributions of street vendors to

urban development which paved the way for the adoption of the Street Vendors Act in 2014 and the recognition of street vendors as vital economic-agents. In Ghana and Uganda it seems as if party-politics are overshadowing the political will of the government to genuinely address the precarious labour conditions of market and street vendors and boda boda drivers respectively. Social dialogue that has taken place has been driven by political priorities rather than a genuine commitment to tackling the issues of these informal workers through collective action. Lastly, in Indonesia, it seems as though the government and the employers do not even see the problem of the precariousness of workers in the construction and electricity sector. Here the labour movement still has the furthest way to go in terms of creating a window of opportunity for effective social dialogue.

4. KEY OBSERVATIONS AND LESSONS FROM EACH CASE STUDY

4.1 PERU: DOMESTIC WORKERS AND THE STRUGGLE FOR THE RATIFICATION OF C189
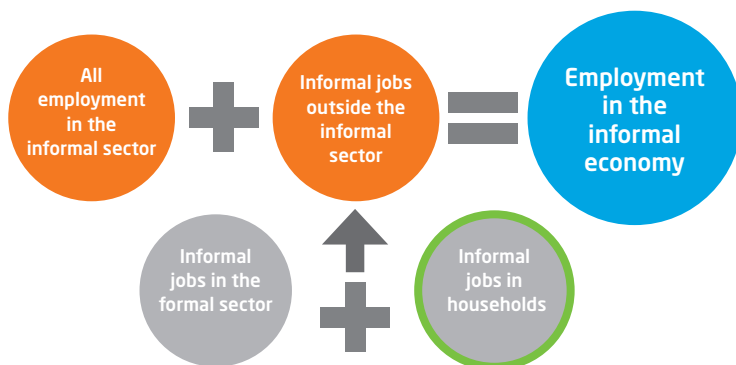
395,200 domestic workers in 2018 = 2.4% of total labour force (95.6% = women)

REPRESENTATION
Unions: SINTTRAHOL & SINTRAHOGAR. Affiliated to national (formal) trade union confederations (CGTP & CUT) -> 4000 members in total

NGOs: CCTH, IPROFOTH, Casa Panchitas

KEY VULNERABILITIES
- Invisibility, as the employer-worker relationship is hidden in private homes
- Discrimination based on intersectionality of class, race, gender and (nation-based) citizenship
- Discriminatory labour-rights based on 2003 law on domestic workers
- Low levels of organsation (only 4000 domestic workers are unionised across the county)
- Low levels of social security coverage

BACKGROUND
Domestic workers are in many ways oil for the wheels of the economy (Smith 2012: 158). In 2018 there were around 395,200 domestic workers in Peru, representing 2.4% of Peru's labour force (INEI 2018). These women have in many ways enabled upward social mobility for others but not for domestic workers themselves (Perez & Llanos 2017). Despite the importance of domestic work in terms of presenting an answer to the "care crisis", domestic work remains highly undervalued both in economic and social terms. Wages are low, social security coverage very limited and discrimination based on the intersectionality of class, race, gender and (nation-based) citizenship rampant.

ISSUES AT STAKE
Although the DWM reached a milestone in 2003 with the adoption of the Domestic Workers' Law (prior to the 2003 law they had no legal protection), their key issue remains their **legal and cultural discrimination in terms of labour rights.** Another core issue is the extension of social protection to domestic workers as well as creating certification schemes based on experience and expertise.

SOCIAL DIALOGUE PROCESS
Since 2011 both unions, in cooperation with a group of other civil society organisations, have lobbied, campaigned and eventually dialogued for the ratification of C189 in Peru. In July 2018 their goal was finally reached and C189 was ratified after **7 years of struggle.** The key sources of the Domestic Workers Movement (DWM) bargaining power are: their coalitions with other civil society organisations; their affiliation with national Trade Union Confederations and their international ties (e.g. ILO, Mondiaal FNV, FOS).

The DWM adopted a multidimensional social dialogue and lobby approach, including:
- Creation of working tables within various Ministries (although the one at the Ministry of Labour was the most influential)
- Presentation of ratification of C189 within the National Labour Council (without success)
- Creation of working table at Lima Metropolitan District focused on child and adolescent domestic workers
- Lobbying of representatives of Congress
- Court cases condemning violations of domestic workers rights

They also had various negotiations strategies:
- Building personal rapport with negotiating partners
- Accentuating the necessity of domestic workers for the economy but also the personal lives of their negotiation partners
- Being persistent policy entrepreneurs engaging In multiple SD arenas simultaneously

ENABLING CONDITIONS
- their persistency as "policy entrepreneurs" and multi-level lobby and social dialogue approach; the broad coalition they build with other actors in civil society;
- the opening of a policy window presented by the general discontent with Congress, mass protests in which the DWM was in the front line;
- and the international influence of the ILO and other Latin-American countries that have ratified C189.
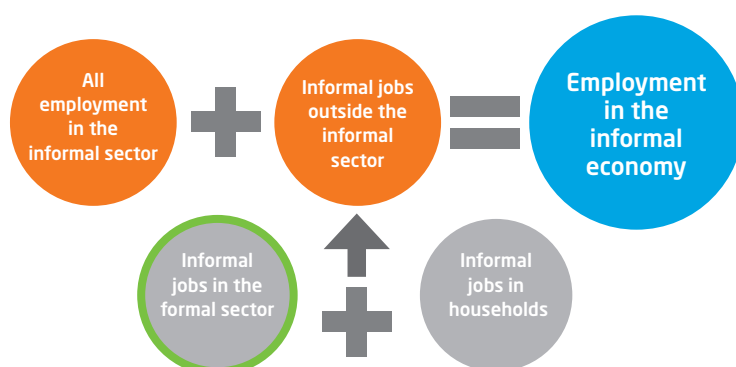
KEY CHALLENGES
- the lack of genuine political will within the National Labour Council and the government (many promises were made during election times but most were not kept);
- the political instability which resulted in many changes within the Ministry of Labour, implying that the lobbying and SD efforts need to start from scratch;
- the lack of resources within the Ministry of Labour and coordination among the various departments related to the sector;
- and the competition within the DWM.

NEXT BIG STEPS
The implementation of the C189 is the next big step for the DWM. In this endeavour they will have to put considerable efforts into sensitising domestic workers, employers as well as the general public as to their new gained rights.

4.2 COLOMBIA: COLLECTIVE BARGAINING AND TERCERIZADOS IN THE PALM OIL INDUSTRY

| All employment in the informal sector | + | Informal jobs outside the informal sector | = | Employment in the informal economy |

Informal jobs in the formal sector + Informal jobs in households

67,672 direct & 103 112 indirect workers in 2018

Approx. 85% = male

20.7% have standard formal contracts (2016)

REPRESENTATION
29 unions representing 5% of all workers in the sector

KEY VULNERABILITIES -> KEY ISSUES TO ADDRESS
- High number of indirect workers with no collective bargaining coverage
- Low levels of unionisation (only 6,595 or 5% of the workers in the entire palm oil sector are unionised)
- Discriminatory labour rights based on a multitude of (conflicting) norms
- Low levels of social security coverage (5.75% are insured for work-related accidents

BACKGROUND
Colombia's palm oil industry is embedded in numerous contested issues (e.g. unlawful land-acquisitions & environmental degradation) and has a history of conflict-ridden labour relations since its inception in the 1960s. Notwithstanding, optimists argue that the industry has provided much needed employment in Colombia's rural areas (68,000 direct and 102,000 indirect workers in 2018) and is an important driver

behind the country's economic growth, representing 11% of the GDP in 2018 (Fedepalma 2019).

Large amounts of labour subcontracting and intermediation have always been part of the sector, taking on different forms over the years; from *contratistas* in the 1960 and 1970s, to *Cooperativas de Trabajo Asociado* (CTAs) in the 1990s and *Sociedad por Acciones Simplificadas* (SAS) from 2011 onwards. This has posed

specific difficulties in terms of labour organisation and collective bargaining. Despite the presence of trade unions in the sector, the history of violence and conflict as well as the high number of indirect workers has made social dialogue very difficult.

ISSUES AT STAKE

Since the late 1960s, palm oil workers have organised themselves into unions. Their core struggle has related to their precarious working conditions in terms of health and safety; low wages; and insecure working relations due to the significant proportion of short-term, casual or outsourced labour. With varying intensity, the issue of indirect workers or *tercerizados* has been part of many of the trade unions' campaigns (in the 1970s and since 2011 more overtly).

SOCIAL DIALOGUE PROCESS

Effective social dialogue and collective bargaining in the Palm Oil industry is still incipient. Despite the long history of labour organisations, sector-wide social dialogue has up to now never occurred and collective bargaining at firm level has from the start been strife with conflict, at times of violent nature. Based on our field data, only in two companies have there been genuine advances with regards to formalisation through collective bargaining: Palmera y Extractora Monterrey S.A. and Palmas de Cesar. The bargaining power of the respective unions (PALMAS de Cesar & SINTRAINAGO-MINAS) is vested in: (1) Importance of the economic sector (11% GDP); (2) coalition between direct and indirect workers; (3) support of the local community; (4) International backing through FTAs; (5) substantial economic impact of strikes/ lock-outs on the firm.

The SINTRANAIGRO MINAS and SINTRAPALMAS used the following negotiation strategies:
- Identifying people within the firm who are sympathetic to the cause and building trust (first at individual level)
- Accentuating the positive effects of direct hiring on worker productivity, quality & labour relations
- Accentuating workers' commitment to the wellbeing of the firm

ENABLING CONDITIONS

- Strong alliance between the indirect workers' union (SINTRATERCERIZADOS) and the direct workers' union (SINTRAINAGRO-MINAS and SINTRAPALMAS) and their numerous and persistent industrial actions (e.g. strikes and lock-outs);

- A realisation on the part of the companies that business as usual was no longer possible as it would lead to even more labour conflicts;
- Lnternational pressure through the Labour Action Plan as part of the Obama-Santos free trade agreement which lead to fines issues by the Ministry of Labour for using illegal subcontracting systems;
- Lastly, the mediation by external consultants and international trade union cooperation enabled the deeply entrenched mistrusts between both parties to be overcome.

KEY CHALLENGES

- Fragmentisation of the labour movement through high numbers of indirect workers; first and foremost, social dialogue should be stimulated within the trade union movement itself, hereby increasing the power of unity.
- Lack of national social dialogue strategy. There has been no meaningful sector-wide/ national social dialogue in the palm oil industry.
- History of violence and lack of trust between social partners. Bridging the entrenched mistrust has proved to be very difficult.
- Unclear legal framework crippling the collective bargaining rights of indirect workers.
- Lack of common understanding of the problem. The Ministry of Labour and FEDEPALMA believe flexibilising the labour force is key to the sector's progress whilst trade unions believe it is one of the main issues that needs to be addressed.

NEXT BIG STEPS

- Adapting the legal framework in order to diminish the ability to subcontract work that is part of the company's core activities
- Creating alliances between direct and indirect workers through union representation and putting the collective interest above individual interests
- Convincing the employers of the benefits of formalisation and social dialogue and breaking down the myths through presenting positive business effects (e.g. increase of productivity and quality of work)
- Gaining the support of the international trade union movement, able to lobby their governments to adopt conducive purchasing practices of palm oil
- Achieving an industry-wide collective bargaining agreement such as in the Banana sector
- Using OHS as a common agenda for SD

4.3 GHANA: UNIWA AND THE INFORMAL WORKERS' FORUM WITH THE AMA

All employment in the informal sector + **Informal jobs outside the informal sector** = **Employment in the informal economy**

Informal jobs in the formal sector + Informal jobs in households
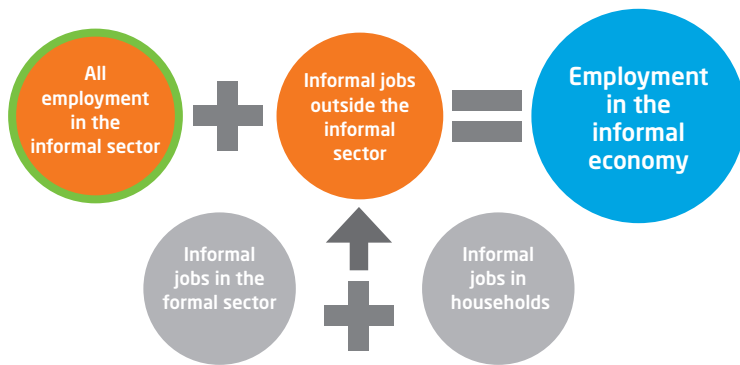
84.1% of all urban employment = informal

Approx. 52.5% = female

42.4% of all urban informal employment is in sales & retail sector (2015)

REPRESENTATION
UNIWA (approx. 2% of all IWs)

KEY VULNERABILITIES -> KEY ISSUES TO ADDRESS
- Low knowledge of rights among informal street & market vendors and other UNIWA members
- SD remains uninstitutionalised and outcomes are not legally binding
- Conflicts of power & representation between UNIWA and Market Queen Associations
- Low levels of social security (SS) coverage (5% of all informal workers have access to SS)

BACKGROUND
The Union of Informal Sector Workers (UNIWA) is an umbrella trade union of informal sector workers associated to the Trade Union Congress of Ghana, established in 2013. Although UNIWA aims to organise all informal sector workers in Ghana, its current membership is urban-based and comprises predominantly market traders/vendors operating within the capital city of Ghana, Accra. The importance of trading to the economy of Ghana cannot be overemphasised. In 2017, trade constituted 6.3% of Ghana's GDP[8] and provided employment for approx. 20.7% of the working population. Despite the importance of trading to the economy, vendors in Accra face considerable obstacles such as harassment, evictions, poor health and safety conditions, corruption, etc. This has motivated several market traders associations to join UNIWA. As a consequence, one of the preoccupations of UNIWA is to create a standing social dialogue with local assemblies within which its members operate. This report presents a case study of UNIWA'S Forum with the Accra Municipality Assembly (AMA).

ISSUES AT STAKE
- Low levels of Social Security (SS) coverage (12.3% of UNIWA members have access to pension)
- Lack of legal protection (own-account workers fall outside the national labour laws)

- High amount corruption (e.g. extortion of street vendors by police) & little to no government support for the sector (poor waste-collection, lack of sanitation, lack of maintenance of market areas, etc.)

SOCIAL DIALOGUE PROCESS
In July 2018, UNIWA held its first dialogue with the **AMA** under the theme: *Promoting Social Dialogue for Decent Work in the Informal Economy*. The General Secretary of UNIWA in her address to the Mayor highlighted that the choice of theme signified the lack of social dialogue between the two parties as a decent work deficit with negative consequence for their work. The dialogue was attended by UNIWA's executives and members and officials of the AMA. The Mayor served as the patron of the Forum. UNIWA's bargaining power is embedded in: (1) importance of the sector (10% of AMA's budget (Wiego 2015)); (2) affiliation to National TU confederation (TUC) and (3) political ties of some of its executive members. In their negotiation with the AMA they have adopted the following strategies:
- Presenting a clear set of demands which have been pre-approved by the union members
- Holding preliminary discussions between AMA and UNIWA leadership to scope the areas of agreement or disagreement
- Accentuating the importance of the services/goods provided by the informal street and market vendors

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[8]Provisional 2017 Annual GDP published by Ghana Statistical Services, April , 2018.

- Accentuating dual responsibilities: IWs must pay legal dues & fees and AMA should provide a safe and healthy working environment

ENABLING CONDITIONS
- Presentation of a Window of Opportunity through change of government (some members of UNIWA's leadership hold close ties with the political party currently in government)
- Common interest = formalising the sector -> increases revenue & order (AMA's standpoint) + improves working conditions (UNIWA's standpoint)
- Availability of donor funding (Mondiaal FNV) (although this raises questions of sustainability)
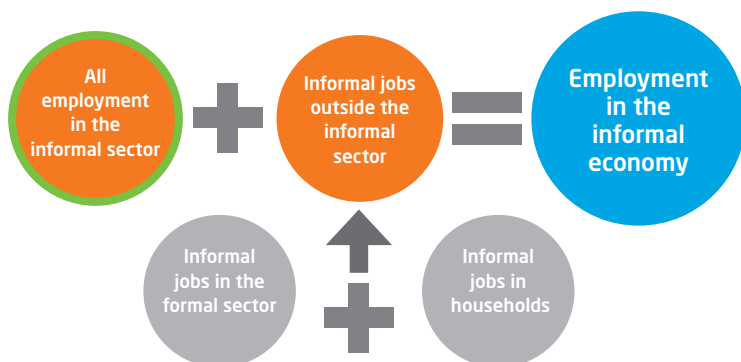
KEY CHALLENGES
- **Lack of Commitment:** events since the first dialogue demonstrate insufficient commitment on the part of both UNIWA and the AMA to institutionalise the dialogue on a regular basis.

- **No Legal Backing:** Ghana's Labour law provides a framework for social dialogue between persons in an employment relationship, largely excluding market traders. As a consequence, outcomes of policy dialogues are not legally binding.
- **Skewed Institutional Framework;** the institutional framework for social dialogue is biased towards formal sector workers.
- **Limited capacity:** Majority of informal sector workers do not belong to trade unions and do not have the capacity to negotiate. Therefore they are unable to exercise their rights to social dialogue.

NEXT BIG STEPS
A key priority of UNIWA should be ensuring continuous engagement with the AMA on issues that affect its members through the establishment of a quarterly forum; and to expand the initiative to other districts across the country. However, at the time of writing, the Memorandum of understanding of the first forum still is waiting to be signed by both parties.

4.4 UGANDA: BODA BODA MOTOR-TAXI DRIVERS FROM INFORMAL TO FORMAL NEGOTIATION PRACTICES?

All employment in the informal sector + **Informal jobs outside the informal sector** = **Employment in the informal economy**

Informal jobs in the formal sector + **Informal jobs in households**

150,000 boda bodas in Kampala (only 67,000 registered)

Male dominated sector

REPRESENTATION
Numerous informal associations with different political ties

AGTWU (a NOTU affiliate) has 40,000 boda boda members (since 2015)

KEY VULNERABILITIES -> KEY ISSUES TO ADDRESS
- High risk of work-related accidents and injuries
- Low levels of social security (SS) coverage (14% in formal sector; most IWs are excluded)
- High levels of police harassment

BACKGROUND
Boda bodas, are motor-cycle taxis, which are an indispensable part of Uganda's city transport system (40% of all inter-city commutes). In spite of the positive contributions of boda bodas, a number of challenges have also emerged especially regarding the safety of both passengers and riders. The increased use of boda bodas has resulted in an increased number of road accidents due to low compliance with traffic rules and regulations among boda boda drivers.

Boda boda drivers are organised in associations based on the stations from which they operate. These associations are often related to different political parties. In 2015, the Amalgamated Transport and General Workers' union (ATGWU), an affiliate of the National

Organisation of Trade Unions (NOTU), started registering boda boda associations as members.

ISSUES AT STAKE

Boda bodas key concerns are earning a living and being able to do so without many restrictions. Geographical restrictions imposed by city authorities on where boda bodas are allowed to operate are therefor often points of discussion as are the safety requirements such as the use of helmets. For many boda bodas helmets are seen as an unnecessary (expensive) nuisance due to the heat in the Ugandan cities.

SOCIAL DIALOGUE PROCESS

In February 2015, ATGWU leaders joined hands with Kampala Capital City Authority KCCA and the Police in negotiations which resulted in the suspension of police operations targeting boda boda operators who are not complying with the rules and regulations governing the sector as well an indefinite suspension of the plan by KCCA to ban boda bodas from operating within the city centre. Besides these formal SD processes, historically, boda boda associations have held informal negotiations with the national government and often directly with the President. These informal negotiations often occurred in the run up to elections as boda bodas are seen to have important electoral clout. Boda bodas' bargaining power can be traced back to their: (1) relatively high numbers of members (40, 000 boda bodas are affiliated to ATGWU and NOTU); (2) the structural importance of the sector in terms of ability to paralyse the city's transport system; and (3) their electoral clout and political ties. In negotiations they both use the importance of the service boda bodas provide in terms of mobility of city inhabitants and commuters as well as their electoral clout (in terms of potential votes and ability to round-up large numbers of people during campaigns).

ENABLING CONDITIONS

- Affiliation to AGTWU and NOTU has opened doors to formal SD negotiations which are less influenced by party politics
- ILO resolution 204 concerning transition to formality (2015) has made the government more open to engage with informal sector actors
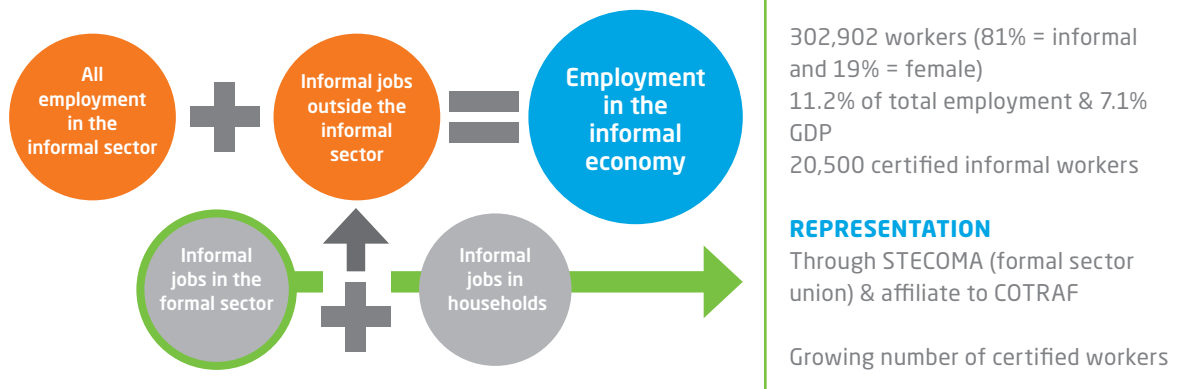
KEY CHALLENGES

- Inconsistent messages from politicians have undermined effective engagement of social partners. The president, members of parliament and various political parties have changed their opinion/policy regarding the boda boda sector according to their political agenda.
- SD remains uninstitutionalised without legal footing. As own-account workers boda bodas fall outside the national labour laws and collective bargaining/social dialogue rights.
- Lack of cooperation between various boda boda associations (influenced by party politics)
- Boda boda associations are very loose organisations with little accountability mechanisms between leaders and members. Furthermore, the associations do not really address working conditions/rights but offer informal social security to members. Boda bodas are lacking in social dialogue skills and are very focused on maintaining their autonomy.
- Boda bodas do not seem to place much importance on health and safety and other core trade union standards. Their primary concern is making as much money as they can in a day.

NEXT BIG STEPS

For sustainable social dialogue to occur, party political interests should be overcome on the part of government and collective rather than personal interests should be overcome on the part of the boda boda association/trade union leaders. At present, negotiations lack institutionalisation and a genuine political commitment to improve the working conditions of boda bodas, especially in terms of health and safety.

4.5 RWANDA: INFORMAL CONSTRUCTION WORKERS' STRIDES THROUGH SOCIAL DIALOGUE

All employment in the informal sector **+** Informal jobs outside the informal sector **=** Employment in the informal economy

Informal jobs in the formal sector

Informal jobs in households

302,902 workers (81% = informal and 19% = female)
11.2% of total employment & 7.1% GDP
20,500 certified informal workers

REPRESENTATION
Through STECOMA (formal sector union) & affiliate to COTRAF

Growing number of certified workers

KEY VULNERABILITIES -> KEY ISSUES TO ADDRESS
- Low level of unionisation (only 450 informal workers in STECOMA)
- Lack of legal protection
- High risk of work-related accidents and injuries
- Low levels of social security (SS) coverage (approx. 1% of the IWs have access to SS)
- SD remains uninstitutionalised and outcomes are not legally binding
- Lack of collective bargaining at firm level & absence of employers' associations at SD tables

BACKGROUND

Rwanda is a country with a high level of informality with around 94 percent of the people working in the informal sector. The country is experiencing a rapidly growing and highly informal sector fuelled by a rapid and an ongoing population shift from rural to urban locations. The building and construction sector is a booming business, forming the largest part of Rwanda's industrial economy on an annual basis and is outpacing the country's already exceptional economic growth (ILO, 2018). More than 50% of employment created for unskilled workers is situated in the construction sector. However, the large majority of construction workers (81%) remains informal with associated decent work deficits, including high levels of poverty, long working hours, absence of proper contracts, and lack of stability and security. The temporary nature of construction workers' contracts, informal or otherwise, increases these deficits.

A number of trade unions have fought to promote the interests and rights of informal workers. These include; the *Centrale des Syndicats des Travailleurs au Rwanda* (CESTRAR) and the Congress of Labour and Fraternity in Rwanda (COTRAF) among others. However, *Syndicat des Travailleurs des Entreprises de Construction* (STECOMA) is the main trade union focused on promoting the rights and interests of workers in the construction industry.

ISSUES AT STAKE

STECOMA has since 2015 primarily focused on formalising workers in the construction sector by creating certification mechanisms for workers without the relevant qualifications. Skill-based certification allows workers to demand fair wages. Apart from that, health and safety issues and extending social security have been key issues taken-up by STECOMA.

SOCIAL DIALOGUE PROCESS

STECOMA has been at the forefront of social dialogue in Rwanda with regard to engaging government to involve informal sector workers in the construction sector. This engagement resulted in the signing of a Collective Bargaining Agreement (CBA) with the City of Kigali in 2015 and the signing of a Memorandum of Understanding with the Workforce Development Agency (WDA)in 2014 which focused on competence-based certification mechanisms.

The CBA with the City of Kigali seeks to address the problems facing construction workers in the city by providing a platform for social dialogue; extending social security coverage (especially life insurance) through registration by employers; extending certification mechanisms and improving and inspecting working conditions in the city's construction site.

The MoU, signed in 2014, with the WDA commits the two parties to collaborate on activities concerning identification, training and certification of all informal workers in construction, carpentry and art & crafts, monitoring the performance and following up the workers certified for refresher training courses in the case of new technology and equipment and industrial attachment.

The informal workers were able to reach these agreements due to the Structural importance of the sector in terms of employment creation and urban development and their affiliation to STECOMA, which is a CESTRAR affiliate.

Their negotiation strategy relies on accentuating dual responsibilities; STECOMA assists government by flagging illegal construction sites & maintaining order among its members whilst government supports a multi-stakeholder approach, training & certification processes, inspects working conditions & encourages employers to register workers for social security.

ENABLING CONDITIONS
- ILO resolution 204 concerning transition to formality (2015) has made formalisation a key development goal of the government
- General respect of the rule of law. Rwanda has an effective government apparatus with a high degrees of unity among various government levels and departments
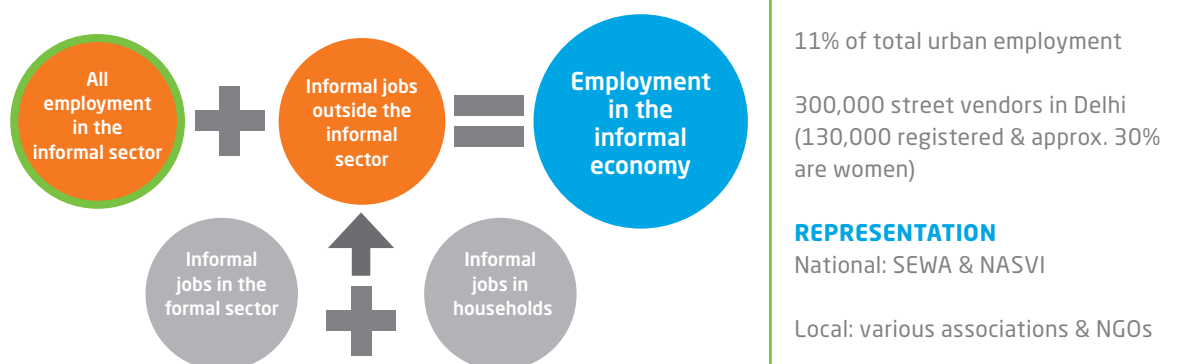- General culture of trust of trade unions and workers towards government

KEY CHALLENGES
- Lack of negotiation/social dialogue skills
- Lack of collective bargaining culture. Although the Rwandan government has been open to negotiate with STECOMA, at company level this is much less the case. This places questions regarding ith the implementation of the CBA with the Kigali City authority as well as the MoU signed with WDA.

NEXT BIG STEPS
The next big steps include involving the employers' associations and key construction companies in the SD processes, ensuring the implementation of the agreements through a monitoring and evaluation as well as labour inspection system and lastly upscaling the agreements to other regions and cities.

4.6 INDIA: STREET VENDORS' LOCAL LEVEL SOCIAL DIALOGUE PRACTICES IN TRANSITION

All employment in the informal sector + Informal jobs outside the informal sector = Employment in the informal economy

Informal jobs in the formal sector + Informal jobs in households

11% of total urban employment

300,000 street vendors in Delhi (130,000 registered & approx. 30% are women)

REPRESENTATION
National: SEWA & NASVI

Local: various associations & NGOs

KEY VULNERABILITIES -> KEY ISSUES TO ADDRESS
- High levels of harassments, evictions, confiscations of wares and impositions of 'fines' and bribes
- Lack of legal protection because as own-account workers they fall outside the national labour law and
- Low levels of social security (SS) coverage (exact data are not available)
- Street vendors are often victims of false promises during elections times
- Low level of knowledge of rights under 2017 labour act and 2017 SS act among informal workers

BACKGROUND

There has been a substantial increase in the number of street vendors in India, which now amount to approx. 14% of all informal urban employment. Delhi today numbers around 300,000 vendors, less than half of whom are registered. The quantum of employment provided through street vending becomes larger if we consider the fact that they sustain certain industries by providing markets for their products.

Despite street vending being one of the oldest sectors of work in the country, the urban policies of independent India largely neglect the activity and its practitioners. With threats of eviction, confiscations of wares and impositions of 'fines' and bribes, street vendors in India have had a long history of negotiation and dialogue to advocate for their right to livelihood. There has been evidence for years that informal workers, with few statutory rights as workers and with limited or no social protection as workers or citizens, have formed organisations to gain leverage over their economic circumstances. NASVI (The National Alliance of Street Vendors of India) created in 1998 and SEWA (Self-Employed Women's Association) founded in 1972 are the two most influential organisations that have been able to weigh on public policy.

ISSUES AT STAKE
- High levels of harassments, evictions, confiscations of wares and impositions of 'fines' and bribes
- Lack of legal protection because: (1) as own-account workers street-vendors fall outside the national labour law and (2) the existing ambiguity between central, state and local laws & regulations, their interpretation and implementation
- Low levels of social security (SS) coverage (exact data are not available)
- Pushing for the correct implementation of the town vending councils (TVCs).

SOCIAL DIALOGUE PROCESS

The strategies for street vendors to gain access to some form of negotiation are multi-pronged. Social dialogue at various levels (national, regional, local) is combined with legal approaches such as court cases and lobbying, pushing for legal change either to create statutory bargaining structures, or to establish formal agreements for regular negotiations, and/or to gain specific rights (e. g. social protection). National negotiations & lobbying are mostly driven by NASVI and SEWA and have in 2014 led to the 2014 Street Vendors Act, which stipulates the creation of TVCs, which should serve as participatory city-level SD platforms in which local street-vendors associations/unions can weigh on policies related to their sector.

Street-vendors' bargaining power stems from: (1) the collective strength vendors have built over the last 20 + years with a long history of collective bargaining between street vendors and local government authorities; (2) their Ability to mobilise large amounts of workers; (3) their electoral clout and political ties; (4) their coalitions with other CSOs. Their key negotiation strategies are: accentuating the importance of the services/goods they provide and using a rights-based approach by stressing their rights as laid down in the Street Vendors Act 2014.

KEY CHALLENGES
- The existing ambiguity between central, state and local laws & regulations as well as their varying interpretation and implementation has caused a lag on the establishment of the TVCs
- Party-politics and upcoming elections are further complicating the matter with promises made out of political interest rather than in the interests of the street-vendors
- At present, street-vendors' associations are in social dialogue limbo as the TVCs are yet to start operating effectively but the doors to their old negotiation pathways (through municipality officials/courts) are often being closed as stakeholders in these negotiations arenas claim street-vendors' associations should now deal with their issues through the TVCs.

ENABLING CONDITIONS
- The shift in government mentality from seeing street-vendors as dirty nuisances to vital economic agents
- The institutionalisation of social dialogue spaces (TVCs) for street vendors through the Street Vendors Act (2014)
- The respect for the rule of law and functioning judiciary

NEXT BIG STEPS

At the beginning of 2019, the TVCs in Delhi are still in the phase of setting-up and preparing for a survey of street-vendors in the city which will outline the way in which they will be represented in the TVCs. The key priorities are therefore: making sure that the survey-process occurs in a representative way (without political interference), after which clear negotiation agendas should be developed to be discussed in the TVCs.

4.7 NEPAL: INFORMAL GUIDES AND PORTERS AND THEIR PROGRESS IN TERMS OF SD

All employment in the informal sector **+** Informal jobs outside the informal sector **=** Employment in the informal economy

Informal jobs in the formal sector **+** Informal jobs in households

3.2% of total employment in 2017 & 7.1% of GDP in 2017

High levels of informality & seasonal labour (male dominated)

REPRESENTATION
3 Trade Unions: NTWU, ANTWU and UNITRAV
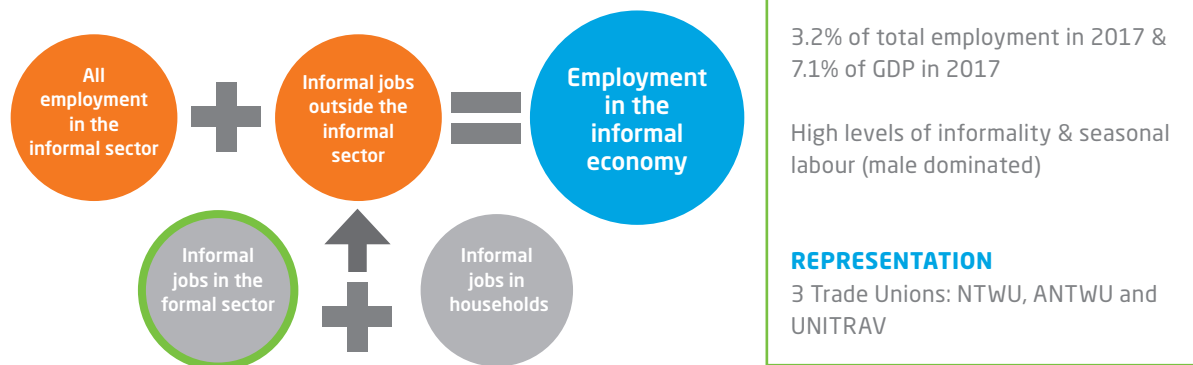
KEY VULNERABILITIES -> KEY ISSUES TO ADDRESS
- Low levels of unionisation (exact date is not available) due to high amount of labour rotation
- Low levels of social security (SS) coverage (no exact SS data is available)
- SD remains uninstitutionalised and outcomes (MoUs) are not legally building
- Low wages and high risks of work-related accidents and sickness
- Limited knowledge of rights in 2017 labour act and 2017 SS act among informal workers

BACKGROUND
The tourism industry in Nepal is growing very rapidly vut there is still a large amount of informal employment and decent work deficit. Informal trekking guides and porters have the riskiest jobs, yet they struggle to have a decent livelihood and economic sustainability. The Tourism Act, existing policies and even the newly introduced social security act (contribution-based) still fail to incorporate the issues of informal workers. For this reason, trade unions have been reaching out to informal workers in the sector. More recently they have also started to engage with government departments and agencies as well as employers' organisations in order to improve the regulatory framework of the sector as well as the health and safety issues.

ISSUES AT STAKE
The key issues addressed by the trade unions representing informal workers in the Nepali tourist sector are the low, and variable wages and high health and safety risks as well as low levels of social security coverage. In addition the trade unions are hoping to strengthen the Trekkers information management system (TIMS) and fight discrimination against female workers in the sector.

SOCIAL DIALOGUE PROCESS
Since 2017 some Nepali trade unions (namely: NTWU, ANTWU and UNITRAV) have engaged in social dialogue

with government departments at various levels and the Trekking Agencies Association of Nepal (TAAN) in order to improve the working conditions in the sector.

The bargaining power of informal workers' in the tourism sector stems from the structural importance of the sector (7.1% of GDP; 3.2% out of total employment) as well as their affiliation to formal sector unions. Their key negotiation strategies are: adopting a multi-level (firm-based, local/regional, national) and multi-stakeholder (e.g. tourist police, gov't authorities, employers' organisations, etc.) approach in which they accentuate the importance of guides and porters for the sector.

Examples of negotiations that have taken place include:
- Multi-stakeholder SD regarding price disparities for food (2019)
- Bi-partite SD between TAAN (employers' association) and three unions representing informal workers -> agreement including 20% wage-increase; commitment towards increasing SS coverage and trainings and capacity building
- Multi-stakeholder SD regarding coupon system -> agreement to give money instead of coupons for food
- Tripartite SD with various ministries, TUs and TAAN (2017) -> creation of welfare fund (TIMS)

- Agreements that have been reached have included informal workers porters and guides although implementation remains challenging.

KEY CHALLENGES
- Lack of knowledge among informal workers as to their rights and privileges
- Implementation of agreements made
- Discrimination of porters/guides without certifications
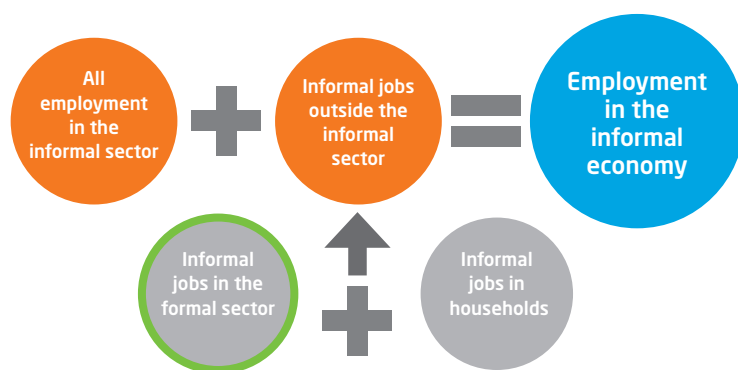- Gender discrimination

ENABLING CONDITIONS
- Fruitful political environment since 2013 due to labour-friendly government which is supportive of the ILO's transition to formality agenda.

- The structural importance of the tourism industry for Nepal's economic development has given trade unions leverage to open up negotiation spaces.
- Historically strong unions which have since the end of the conflict shown goodwill in improving their relations with the government.

NEXT BIG STEPS
The biggest hurdle to be overcome by the Nepali unions representing informal workers in the sector is the effective implementation of the numerous agreements they have reached through SD. At present it seems like many informal workers in the sector are not fully aware of their rights and many companies are not respecting the agreements made.

4.8 INDONESIA: OUTSOURCED WORKERS AND COLLECTIVE BARGAINING IN THE CONSTRUCTION AND ELECTRICITY SECTOR

All employment in the informal sector + Informal jobs outside the informal sector = Employment in the informal economy

Informal jobs in the formal sector + Informal jobs in households

Construction= 5.4% of all employment & 8.14 million IWs

Electricity = 4.3% of all employment (2010-2014)
Male dominated sectors

REPRESENTATION
Through trade unions: SBKI and SPLAS both affiliates of SERBUK

KEY VULNERABILITIES -> KEY ISSUES TO ADDRESS
- Low level of unionisation (SERBUK has 6,000 members across the country in different sectors)
- Lack of de facto legal protection because: (1) outsourced workers can fall under either the PKWT (Perjanjian Kerja Waktu Tertentu/ Employment agreement for a specific period) or PKWTT (Perjanjian Kerja Waktu Tidak Tertentu/ Employment agreement for an indefinite period); (2) most informal workers in the construction sector fall outside these categories of PKWTT and PKWT for their lack of contract
- Corruption & ineffectiveness of judiciary -> TUs avoid adopting legal actions in labour intermediation
- Poor health and safety conditions, low wages, lack of non-wage benefits (e.g. paid vacation)
- Erosion of worker – employer relations -> hinders collective bargaining

BACKGROUND
The construction sector contributes 10.53% to Indonesia's GDP. The number of IWs in the construction sector is estimated to be as many as 8.14 million, which represents more than 10% of the total number of IWs in Indonesia. Most of the informal workers in the construction sector are hired by foremen through short-term verbal contracts. The electricity sector is also characterised by labour intermediation, as labour-brokering companies provide workers to the national electricity company, PLN. The informal workers in both sectors are characterised by numerous

decent work deficits and a lack of representation. Due to the labour intermediation they are often ping-ponged between the principal employers and the person/company that has hired them whenever they want to address an issue. Indonesia's political history has also created high levels of distrust between the social partners, with social dialogue having a negative connotation for many trade unionists, who see it as a way by the government to coopt the labour movement.

ISSUES AT STAKE

The core issue that needs to be addressed in the construction sector is the lack of formal contracts. This has left workers with no legal footing to file complaints and little leverage to initiate negotiations over salaries or working conditions with their foreman/principal employer. In the electricity sector the temporary nature of the contracts and the unclear labour-relations due to the use of labour brokering companies has substantially weakened the negotiation position of workers in the sector. In both sectors the low wages and poor health and safety regulations are core priorities of the trade unions.

SOCIAL DIALOGUE PROCESS

There is no sector-wide social dialogue including informal workers in either the construction or the electricity sector in Indonesia. Informal workers are found in both sectors. Formal collective bargaining including informal workers is also nonexistent but in some cases trade unions have managed to negotiate with the employers by taking industrial actions such as strikes, lock-outs, roadblocks etc., which has forced them to hear the workers' demands. In this manner, SBKI *(Serikat Buruh Konstruksi Indonesia/* Indonesian Construction Worker Federation) has initiated ad-hoc, conflict driven firm-level negotiations between the union leader and the foremen or principal employers. SPLAS (Serikat Pekerja Listrik Area Solo Raya/ Electricity Worker Union in Greater Solo Area) has resorted to ad-hoc, conflict driven negotiations with the principal employer to put pressure on labour brokers to comply with the law.

In both cases the informal workers' bargaining power stems from: the high social cohesion within both SBKI and SPLAS, the political and social capital of the union

leaders and their affiliation to SERBUK. The key negotiation strategies are: (1) putting the foremen/company under economic pressure by organising roadblocks or confiscating industrial material until they are willing to negotiate; (2) using the ambiguous labour relations to their advantage by playing the principal employers and foremen/labour brokers off against each other.

KEY CHALLENGES
- Corruption & ineffectiveness of judiciary -> TUs avoid adopting legal actions in labour intermediation
- Erosion of worker - employer relations -> hinders collective bargaining
- Lack of de facto legal protection because: (1) outsourced workers can fall under either the PKWT (*Perjanjian Kerja Waktu Tertentu/*Employment agreement for a specific period) or PKWTT (Perjanjian Kerja Waktu Tidak Tertentu/Employment agreement for an indefinite period); (2) most informal workers in the construction sector fall outside these categories of PKWTT and PKWT for their lack of contract

ENABLING CONDITIONS
- Relatively strong unions whose strengths stem from long-time social trust/capital and clever strategic and tactical experience of dialogue and organising (community-based/residence-based)
- Affiliation to SERBUK could in the future open doors to more structural CB processes
- Economic importance of construction (7.2% GDP) and electricity (6.4% GDP) sector could be used as possible leverage as well as their importance in terms of employment creation

NEXT BIG STEPS

In both sectors creating clear labour relations with related rights and responsibilities as well as institutionalised collective bargaining is essential. For this workers in the construction sector should demand formal contracts based on the skills and competence and workers in the electricity sector should keep on demanding to be directly hired by PLN. In addition sensitisation of both workers and employers on the benefits of peaceful labour relations instead of ones based on conflict and hostility will reap better long term results.

5. CONCLUSION

Reading through the case study reports makes one feel both sombre and hopeful. They demonstrate the rampant precariousness of informal workers across the globe as well as the lack of political commitment to do something about it. Where some of the informal workers, included in this study, were able to create social dialogue spaces, this was based on their own merits with the support of crucial allies such as trade union confederations. **Governments play lip-service to informality.** They share a formalisation discourse but show very little commitment in practice. Not to speak of the ways in which many governments are actively and openly supporting "informalisation from above" through an amalgam of labour flexibilisation laws and policies and passiveness regarding non-compliance with existing laws.

Informal workers are left to fend for themselves and some have, by custom, become quite effective in doing so, as the successful cases in this report demonstrate. It is these cases that allow one to be hopeful. Whilst most informal workers' organisations primarily focus on supporting their members from within (e.g. via saving-groups) we have identified cases where informal workers have engaged in social dialogue. The form and nature of these negotiation-practices are as varied as the heterogeneous group of informal workers itself. The social partners targeted range from firm managers, to foremen, local city authorities and national presidents. If there is one conclusion that may be drawn from this research it is that there is **no blueprint approach** towards the inclusion of, or practice by, informal workers in social dialogue.

Based on the **specific political and industrial-relations context and labour history**, informal workers will choose different social dialogue arenas and partners. Frequently, a multifaceted approach is required. Unlike social dialogue in the traditional industrial relations-sense which is institutionally static, social dialogue involving informal workers requires a more flexible set-up. The lines between lobbying, awareness raising, and social dialogue are often blurry and all form part of informal workers' toolkit for change.

Their negotiation-strategies depend on the source of their bargaining power, the industrial-relations culture within a given sector and the general political environment and degree of rule of law. The creation of social

dialogue arenas and bringing social partners to the table is a result of a **symbiosis between three drivers:** the existence of a jointly recognised problem; the availability of an agenda with possible solutions to be discussed by the social partners; and the presence of a genuine political will on the part of all social partners to tackle the problem through collective actions. Influencing this last driver presents the biggest challenge for informal workers' unions/organisations.

Based on the case studies, national and international political or economic factors have been more decisive in creating political will among governments and employers than leverage exerted by the labour movement. In all cases, however, social dialogue has been a relatively recent development after a long (and still ongoing) process of oppression, conflict and demonstrations of force.

Although social dialogue is often depicted as a technical issue and its inclusiveness narrowed down to a policy-fix or a question of institutional engineering, **it is in reality a cultural, political and ultimately human process involving multiple power struggles.** Understanding existing negotiation traditions as well as public and political perceptions towards (specific) informal workers and the prevailing sentiments between social partners is key to unravelling how progress can be achieved. But what is primarily important is distilling where and how trust can be built and nurtured. Without trust between respective social partners, effective social dialogue will remain a castle in the sky.

The adherers of the technical interpretation of social dialogue also tend to adopt rigid frameworks regarding the formal-informal divide. The case studies however over and over again illustrate the **blurry lines between the formal and informal** when it comes to social dialogue, with informal negotiation-practices (e.g. based on party-politics) running through formal institutions and vice-versa.

To conclude, the biggest challenges for social dialogue in a context of high levels of labour informality are: the lack **of legally-binding agreements and the lack of macro-perspectives.** Without legal footing the outcomes of social dialogue are fragile, prone to political interference and their implementation dependent on

the good will of social partners. Without the adoption of a macro-perspective, the core reasons for the precarious working conditions most informal workers find themselves in remain unaddressed. Whilst improving the working conditions through collective bargaining/ social dialogue is essential, these efforts should go hand in hand with a broader discussion on the macro-economic course of a country that is creating informality and precarious labour conditions in the first place. I believe this macro-perspective could also be used as a tool in bridging the formal-informal divide. Many formal sector workers and their respective unions still view informal workers' issues as being detached from, or in some cases opposed to, their own struggles. However, the deterioration of workers' rights in the formal sector and the precarious labour conditions of informal workers are generally two sides of the same economic discourse which favours capital over labour.

6. RECOMMENDATIONS

In accordance with the Terms of Reference of this research commissioned by Mondiaal FNV, the recommendations will focus on the desirability and set-up of possible exchange visits or workshops based on the successful social dialogue practices examined.

Based on the diversity in contexts, nature of informality and social dialogue approaches adopted, I believe an **international exchange between all partners involved would be superfluous** and costly when set against the benefits the various partners would gain. Although there are overarching tendencies (as stipulated in the above), the translations of these red-lines within the specific contexts are too diverse for domestic workers to be able to take away valuable lessons from the construction workers in Indonesia that they could adopt/adapt to their social dialogue approaches. Nevertheless, as I believe one can always learn from different histories/contexts I would suggest **translating this report** (or the executive summary) into the various languages used in the various case study countries.

What might be interesting and more useful in terms of practical lessons to be learned from the one case to the other is the organisation of **international exchange workshops between the case studies that present greater similarities:**

- Construction workers in Rwanda and construction workers in Indonesia: although both have adopted very different social dialogue approaches, the key vulnerabilities of workers are the same. And perhaps Indonesian construction workers can be made aware of the fact that more peaceful social dialogue processes do not necessarily mean handing over power to employers/foremen. While, on the other hand, the Indonesian government could see TUs more as partners in formalising the sector than as nuisances.
- Street-vendors in Ghana and street-vendors in India. I believe UNIWA could perhaps take away some lessons from their Indian counterparts in terms of creating a legal framework for local level social dialogue institutions. The informal workers' forum at the AMA is an important achievement but without legal foundations its sustainability is fragile. Perhaps NASVI could serve as a partner/example in supporting UNIWA to lobby for legal change?
- Nepal's tourism sector unions, Colombia's palm oil unions, Indonesia's and Rwanda's Construction Workers Unions. It might be interesting to facilitate

an exchange workshop between the unions representing (former) indirect/outsourced/casual workers in formal sectors. This workshop could specifically focus on the establishment of sector-wide agreements such as the ones achieved by the unions in Nepal and Rwanda.

Apart from these international exchange workshops I would recommend organising **national dissemination workshops** including representatives of all relevant and potential social partners (also those that are presently not actively engaged in the social dialogue processes) and existing and potential partners. These stakeholder meetings could not only be used for knowledge dissemination based on the case study findings (with reference to this comparative report) but also as a foundation for mapping other possibilities for social dialogue and the creation of new alliances which will assist the informal workers' unions/associations in their struggle for decent working and living conditions. In relation to supporting trade unions representing informal workers in their efforts to establish and nurture social dialogue it is important to take into account the three drivers mentioned above: the problem, policy and political stream. In practice a holistic approach to supporting social dialogue processes could include the following programme compartments:

- Assisting informal workers' organisations/unions to effectively place their problems on the policy agenda and make the relevant social partners recognise them as such. This requires an appropriate framing of the issues so that they are made "unavoidable" or "attractive" to governments and employers.
- Assisting informal workers' organisations/unions to develop, and clearly communicate, an agenda with possible solutions to the identified problems. These solutions should also be framed in a "business" jacket. Besides a rights-based approach, an economic approach seems to work better in convincing governments/employers to accept proposed solutions. In other words: trade unions should demonstrate the economic advantages of solving the problem.
- Assisting informal workers' organisations/unions to identify external factors that could serve as leverage for fostering genuine political will among the other social partners. Once these factors are identified, support could be focused on establishing the necessary alliances to influence these external factors.

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ANNEX 1
ASSESSMENT OF SOCIAL DIALOGUE INSTITUTIONS IN CASE STUDY COUNTRIES

	NATIONAL SD	EFFECTIVENESS	REPRESENTATION OF IWs	REGIONAL/LOCAL SD	EFFECTIVENESS	REPRESENTATION OF IWs
Ghana	1) National Labour Council (NLC) 2) Ad Hoc discussions between TUC-leaders/IWOs leaders.	1) In theory the NLC sets the minimum wage. But in practice it does not do so on a structural basis. 2) When the TUC wishes to address an issue, they request a meeting with the respective gov't official/ the president. The agenda is set by the government as they have the prerogative to accept/ decline the request for consultation. Because these talks are not institutionalised/gazetted, the gov't is free to decide whether to follow-up on them or not. They will act according to their own political interest at the time. 3) IWOs such as MQAs also have talks with government officials for instance regarding the influx of Chinese textiles.	1 & 2) IWs are represented by the TUC who has many IWs members. However UNIWA would like to have a separate seat within the NLC. 3) MQAs represent the market vendors who are to a large extent OAWs.	1) There are no regional/local SD institutions but UNIWA is experimenting with SD with city authorities. They have held informal workers' forums with the AMA and the KMA. These have led to commitments from the mayor to attend IWs forums twice a year and so add UNIWA to the assembly committee. 2) Market queen associations (MQAs)/ GRTU (transport) also discuss issues with city authorities on an ad hoc basis. The Queen mother of Makola Market has a seat in the AMA assembly.	1) The effectiveness of the Informal Workers Forum is difficult to assess at this point as these are recent developments. 2) MQAs have been occasionally effective in setting daily toll-rates, and organising waste management in some markets. However their effectiveness is influenced by party politics.	Both UNIWA and MQAs are IWs organisations and represent solely IWs.
Rwanda	Economic and Social Development Council (RESC)	The RESC has been effective in introducing labour issues to the gov't/parliamentary agenda. The council meets when policy issues arise. It is unclear who sets the agenda under discussion now.	THE RESC is a Tripartite-plus structure. IWS are represented through CESTRAR.	There are no regional/local SD institutions but social dialogue does take place at the level of city councils as some issues concerning IWs are the policy domain of local governments.	In general the rule of law is well respected in Rwanda. So Agreements made with city authorities are therefore generally respected and implemented. There is however a lack of labour inspectors to follow-up implementation.	It is the IWO or unions of IWs (e.g.) which initiate the SD processes at local level.

	NATIONAL SD	EFFECTIVENESS	REPRESENTATION OF IWs	REGIONAL/LOCAL SD	EFFECTIVENESS	REPRESENTATION OF IWs
Rwanda		The RESC is currently discussing two issues: - 1) Minimum-wage and the inclusion of IWs 2) Extending social security to IWs (retirement benefits etc.).	There has also been a CBA between SECOMA (the construction sector union) and Kigali City Authority.			
Uganda	1) 5 parliamentary seats for trade unionists. 2) Labour Advisory Board (advises Ministry of Labour) 3) Ad Hoc discussions between TUC-leaders/IWOs leaders.	1) Whether the 5 representatives of workers in parliament are an effective leverage for placing workers issues on the national agenda is debated. Political partisanship and personal benefits are sometimes stronger than collective labour interest. 2) The LAB is not effective as an SD platform in which all social partners have equal footing. 3) When TUs/IWOs wish to address an issue they request a meeting with the respective gov't official/the president. The agenda is set by the government as they have the prerogative to accept/ decline the request for consultation. Because these talks are not institutionalised/ gazetted, the gov't is free to decide whether to follow-up on them or not. They will act according to their own political interest at the time.	1) There have been no representatives from the IE in parliament (although this is legally possible). The fact that many IWs don't have the required educational degree is one of the entry-barriers. 2) IWs are represented through the Tus. 3) TUs can speak on behalf of their IW members or IWOs can represent them when granted permission to see the gov't official/president.	There are no institutionalised SD forums at local/ regional level but IWs do negotiate with city authorities (CAs) regarding trading spaces, driving restrictions and taxes, for example. Partisan politics are important in these negotiations. When the talks with the CAs reach a deadlock, it is not uncommon for IWOs to reach out to the President and request mediation. The President has in some cases backed the IWOs against the CAs.	IWs have been effective in negotiating agreements but the political partisanship also runs the risk of political co-optation.	These negotiations are conducted by IWOs or informal workers unions.

	NATIONAL SD	EFFECTIVENESS	REPRESENTATION OF IWs	REGIONAL/LOCAL SD	EFFECTIVENESS	REPRESENTATION OF IWs
Colombia	Comisión Permanente de Concertación de Políticas Salariales y Laborales (CPCPSL)	Ineffective. The CPCPSL has never worked since its creation in 1991. There is no SD but "mendigación colectiva" (collective begging) in the words of the TU leaders. TUs have to be happy with what the Gov't agrees to give them. The gov't and employers are in cahoots. There is no level playing field.	IWs are not directly represented but some trade unions have IWs members. Although, the emphasis is still on formal workers. Improving the working conditions of formal workers is already such a big challenge that the IWs are not a priority.	There are no institutionalised SD forums at local/regional level but through party politics IWs is sometimes able to reach agreements with local politicians.	The effectiveness heavily depends on the political ideology of the mayor.	These negotiations are conducted by IWOs or informal workers unions.
Peru	1) Consejo Nacional de Trabajo y Promoción del Empleo (CNT) 2) Asociación para el Trabajo	1) Because the CNT is under the Ministry of Labour the platform is highly politicised and doesn't serve the long-term interests of the country. The gov't sets the agenda and often does not comply with agreements that have been made, because of short term political interests. In 2018 the CNT was paralysed for 5 months because no agreement could be reached on the increase of the min wage. 2) The Labour Association is a bipartite SD platform between CGTP and SNI. It hopes to strengthen the position of workers and employers vis-à-vis the gov't. It has only just been created so its effectiveness is difficult to measure.	1) IWs are not directly represented but the TUs present can represent their informal members. SME are not represented, leaving the OAWs without representation. 2) CGTP represents IWs. And they have created a work group on IE.	There are no institutionalised SD forums at local/regional level but IWs do negotiate with city authorities regarding trading spaces, driving restrictions and taxes, for example. Recently the Porters in the Gran Mercado Mayorista in Santa Anita went on strike to open up SD. The EMSSA has agreed to speak with them and has invited the Min. of agriculture & Work to participate in the negotiations.	The effectiveness of these negotiations is closely related to the general political environment and political interests of the mayor and local politicians.	IWOs lead these Ad hoc negotiations.

	NATIONAL SD	EFFECTIVENESS	REPRESENTATION OF IWs	REGIONAL/LOCAL SD	EFFECTIVENESS	REPRESENTATION OF IWs
Indonesia	1) National Tripartite Body 2) National Wage Council	1) SD has a negative connotation in Indonesia because only the large (politically partisan) trade unions are allowed to take part. It has become a ceremonial process, with low real impact. The government and employers are in cahoots. There is no level playing field. The most recent policy outcomes are the Job Pact in 2011 and the DWCPs (2006 & 2011). The Social Security Act (2011) was not negotiated in the NTB but on the streets (with mass-demonstrations) and in court. 2) The minimum wage is now set via a formula based on inflation and productivity.	IWs are represented through trade unions. There is no direct representation. The mass protest around the SS act has been effective in representing IWs needs by making the SS system open to them (although indirectly access barriers do exist).	Indonesia has institutionalised SD bodies at district level and regional level.	Their effectiveness is debatable because there is no level playing field. It is unclear how often these institutions meet.	IWs are represented through trade unions. There is no direct representation.
Nepal	Central Labour Advisory Board (CLAB)	The CLAB is functioning. The new labour law and SS law was adopted through SD in the NLAB.	Informal workers are represented through the TUs. Trade union confederations have many IW members. And these members are successful in placing items on the agenda. The new laws the IWs, such as domestic workers, take into consideration. And the SS is open to informal workers.	There are no regional/local SD institutions at the moment but the decentralisation of SD is in the political pipeline and supported by TUs. It is unclear whether MBOs take part in informal SD at local level.		

	NATIONAL SD	EFFECTIVENESS	REPRESENTATION OF IWs	REGIONAL/LOCAL SD	EFFECTIVENESS	REPRESENTATION OF IWs
India	Indian Labour Conference (ILC)	The ILC meets each year to discuss national labour issues such as social security for all, Labour law amendments, reforms and codification, employment generation policies and policies regarding transition to formal employment.	Informal workers are represented through the TUs and SEWA has 1 seat.	Each region has its own SD structures. Some institutions focus of SS, others are per sector (e.g. street vendors) and yet others are locality-based IW forums.	Many of the SD platforms are effective because they have been created to address the specific needs in a certain locality or for a certain group of IWs.	Informal workers mostly represent themselves through their organisations/TUs.

	NATIONAL SD	EFFECTIVENESS	REPRESENTATION OF IWs	REGIONAL/LOCAL SD	EFFECTIVENESS	REPRESENTATION OF IWs

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