

# **INFORMAL WORKERS AND COLLECTIVE ACTION**

*A Global Perspective*

**Edited by Adrienne E. Eaton,  
Susan J. Schurman,  
and Martha A. Chen**

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## **BROADENING LABOR'S REPERTOIRE?**

*Adrienne E. Eaton, Martha A. Chen,  
and Susan J. Schurman*

**Sometimes you think that it is normal that the boss and the supervisors ride roughshod over you because you're from the lower class; it's normal that they tramp down on you. But when you hear someone tell you that this is not normal, that it's not normal that you should have to ask for your rights; that you have rights and you need to make sure that these rights are respected, well, you begin to say, what? What was I thinking? Was I asleep? Well, after this, you begin to wake up and see things differently.**

—Colombian Port Worker<sup>1</sup>

Around the world, in countries as far flung as Cambodia and Brazil and in industries as diverse as transportation and hospitality, workers in informal employment, who labor every day with no legal or social protection, are organizing and negotiating for better conditions. Some of them are self-employed; others work for wages in either formal or informal enterprises. Some used to have jobs in the formal sector with a union contract; others have always worked informally. To achieve their goals they are mounting collective action campaigns that draw on the repertoire of past generations of workers, but they often recombine them or innovate to fit their unique contexts. Informal workers, their organizations and their campaigns, represent the leading edge of the most significant change in the global labor movement in more than a century. This book tells the story of nine such campaigns.

- In Monrovia, the capital city of Liberia, street vendors, the majority of whom were youth who had lost their parents in the civil crisis and had no other means of support, organized the National Petty Traders Union of Liberia, a member-based organization (MBO). Over the course of five years, in the face of repeated attacks by police, their union succeeded in persuading the city of Monrovia to negotiate a memorandum of understanding that recognizes their positive role in the economy and protects their right to engage in their trade.

- In the Brazilian state of Minas Gerais, waste pickers organized producer cooperatives and, over a long period of sustained collective action, succeeded in obtaining recognition for their role in the waste management and negotiated the first recycling bonus law to increase their income.
- In Cambodia, young women who work on commission from Cambrew brewing company to promote the brand in bars and restaurants, in the process enduring sexual harassment and other indignities, have been joining a traditional but independent union and engaging in collective bargaining after a campaign led by nongovernment organizations (NGOs) and international labor organizations helped them to obtain recognition as formal workers.
- In the Colombian port of Buenaventura, workers, pushed into informal employment by a neoliberal regime and abandoned when their union morphed into a labor intermediary, organized a new union and succeeded in restoring formal status to crane operators.
- The South African Commercial, Catering, and Allied Workers Union (SACCAWU) persuaded its members to accept concessions in order to include the growing number of informal workers who were working side by side with them without the benefit of a contract.
- The Transport and Road Building Workers Trade Union of Georgia organized informal minibus drivers—some of whom are self-employed and others who are informal wage workers—to join the existing union in their sector and campaign to save their jobs in the face of vehicle upgrading and formalization of the enterprises operating in the transport sector. The union has negotiated collective agreements that provide basic wage, hour, and safety protections but don't necessarily override the self-employed status of many individual drivers.
- In Uruguay, with help from the Gender Department of the national trade union center, domestic workers organized the sole union of domestic workers in 2005 and, over the next decade, succeeded in obtaining both legislative and collective bargaining protections. In the process, they helped to develop an organization that can act in the interest of employers and as the bargaining partner for collective bargaining.
- In the aftermath of the Arab Spring, the Tunisian General Labor Union capitalized on regime change to restore formal status and collective bargaining rights for sixty thousand low-wage government workers whose jobs had been informalized through outsourcing to multiple labor intermediaries.
- In the Dominican Republic, Haitian migrants make up a large share of informal workers. Beginning in 2007 a major national trade union confederation

launched the country's first campaign to organize Haitian immigrants working informally in construction and domestic work. This campaign came in the context of intensified efforts by the Dominican government to undermine the status of Haitian migrants and Dominican-Haitians.

These stories represent only a small sample of the variety of responses by informal workers and by labor organizations to the challenges associated with the changing nature of employment in today's global economy. They are an integral part of a larger pattern of change in the labor market and in labor organizing taking place globally. We believe that the lessons contained within these examples add significantly to the growing literature about how workers' rights can be advanced in the context of a global economy. Above all, our examples suggest that there is no single "right way" for workers to organize but rather that varieties of employment arrangements require varieties of unionism and collective bargaining.

Informal employment has long been the predominant form of employment in the developing world. More recently, changes in trade and technology, neoliberal policies, and global competition have pushed a growing number of workers from formal to informal employment in both the developed and developing worlds. By definition, informal workers do not receive legal or social protection through their work; most earn below the minimum wage and are from poor households. For decades, many trade unionists considered informal workers to be outside the scope of their responsibility and unorganizable. But a growing body of research documents that informal workers are both organizable and organizing.<sup>2</sup> They are doing so in a variety of ways: forming member-based organizations (MBOs) of their own; using the assistance of existing trade unions or NGOs to organize; joining existing unions; creating new unions, sometimes in opposition to existing unions; or by combinations of all these methods. Like workers in more formal employment relationships, informal workers are demonstrating that collective action is possible and can result in improvements in their lives. At the same time, the goals they are struggling for, the targets of their struggle, their campaign and negotiating strategies, and the forms of organization they create are sometimes quite different from those of traditional trade unions.

While the focus of this book will be largely the Global South, the issue of informal work is gaining attention in the United States as well. The news has been full of reports on the "gig economy," which makes substantial use of independent contractors who are not eligible for the protections of labor and employment laws in the United States nor for collective bargaining.<sup>3</sup> At the same time, Uber drivers and others in the gig economy have begun organizing and fighting back.<sup>4</sup> David Weil's important book on the "fissured workplace" highlights various

types of informal employment (without calling it that) and the forces driving their growth, though he has little to say about collective action by the workers affected. A recent collection of case studies edited by Ruth Milkman and Ed Ott describes several new approaches to the organizing of “precarious” (often informal) workers in New York City. Their overarching concern is to what extent these new organizing campaigns constitute a new labor movement and whether the “old” and “new” labor movements can create a new synthesis.<sup>5</sup>

This book joins a growing body of literature that documents and analyzes the organizing strategies of informal workers. Based on the findings from nine detailed and at least partly successful case studies of campaigns to improve the working conditions of informal workers, this book seeks first to shed light on the nature of collective action by informal workers. The focus is less on the organizing process and more on the types of organizations that are created and the types of negotiations that take place once workers achieve sufficient collective leverage to induce employers, contractors, and/or government to enter into negotiations. In our view the literature on informal workers’ collective action has emphasized the process of organizing but has paid less attention to the forms of organization that are created or the types of negotiation that take place.<sup>6</sup> The examples presented here illustrate that workers and labor organizations around the world are rediscovering the lessons of previous generations of workers who learned how to aggregate individuals’ sense of injustice into forms of collective action that achieve a level of power that can yield important changes in their work and lives.

## **Informal Workers Organizing**

Since the International Labor Organization (ILO) first called attention to the “informal sector” thirty years ago,<sup>7</sup> a growing number of labor scholars and activists have argued that organizing informal workers, especially women, in order to overcome the systemic disadvantages they face, is the best means for these workers to be seen and heard by decision makers with the power to affect their lives. A brief overview of this literature demonstrates the growing support for and efficacy of this view.

One strain of this literature approaches the issue of informal workers primarily through the lens of traditional unions. Much of this strain has relied on interviews with trade unionists and has focused on the barriers to organizing informal workers.<sup>8</sup> Some of this same work, nevertheless, concludes that unions should move toward inclusion of informal workers. In 1999, the ILO’s Bureau for Worker Activities (ACTRAV) published a set of nine cases covering all continents

that outlined the need for the trade unions to organize informal workers, and they followed up with another report in 2002.<sup>9</sup> In 2011, Bonner and Spooner were able to provide a variety of examples of trade unions organizing informal workers.<sup>10</sup> Nonetheless, their subtitle, “challenges for trade unions,” underscores the slow pace at which unions were reacting. Likewise, based on a scan across all regions of the world, Schurman and Eaton reported that “trade unions are beginning to respond . . . [but] the data reveal the real difficulties that existing unions face in adapting their approaches and structures to atypical and informal economy workers.”<sup>11</sup>

Meanwhile, informal workers were not waiting for existing unions to initiate campaigns. In 2007 Chen, Jhabvala, Kanbur, and Richards edited an important collection of papers on member-based organizations of the poor (MBOPs), many of which are worker organizations, noting that some have been successful while others have failed and examining the factors that account for success.<sup>12</sup> In 2012, Mather surveyed the literature on informal workers self-organizing in a variety of occupations and countries, calling attention to significant differences in organizing approaches in different sectors.<sup>13</sup>

Most studies of informal worker self-organizing are rooted in either single countries or single industries. Agarwala, for instance, focuses on informal workers' organizing in three Indian states. She argues that informal workers have been most successful in improving their lives by essentially giving up on attempting to bargain for better pay and standards with their employers and instead demanding state-provided social benefits such as housing, education, and health care.<sup>14</sup> In his book based on ethnographic studies of informal workers in different sectors in Brazil, Coletto discusses attempts at collective action among waste pickers and street vendors.<sup>15</sup> In contrast, Tilly, Agarwala, Mosoetsa, Ngai, Salas, and Sheikah examine informal workers' organizations as a strategy for improving subcontracted work in a single industry (textile and apparel industries) in four countries (Brazil, China, India, and South Africa). They conclude that these organizations have the potential to contribute to shoring up labor standards with the largest impacts coming from serving as “force multipliers” for government regulation, bringing collective voice to political and economic dialogues, and acting as advocates for sectoral economic development.<sup>16</sup>

The research presented in this volume builds on and extends much of this previous research. It differs from most of the research conducted so far in that it does not focus on a particular sector nor a particular country, although, interestingly, all nine cases involve the service sector, not by any intent on the research team's part. Rather, as one of the largest multicase studies yet conducted, it looks across quite divergent experiences in different industries, occupations, and countries and attempts to tease out new insights that can only be drawn from such a broad

scope. The relatively broad scope of these nine cases also provides an opportunity to contribute to the debate about “narrow union” versus “broader social movement” strategies and tactics. At least in these cases, the answer is “both–and” rather than “either–or.” The book also distinguishes between two broad categories of informal workers: the self-employed and the wage-employed, a distinction that is often obfuscated in the previous literature.

## Defining Informal Employment

In 1993, the International Conference of Labour Statisticians (ICLS) adopted an official definition of the “informal sector” that refers to *enterprises* that are unincorporated or unregistered.<sup>17</sup> Later, in 2003, thanks to the joint efforts of the International Labor Organization (ILO) and the Women in Informal Employment: Globalizing and Organizing (WIEGO) network, the ICLS adopted a definition of “informal employment” that refers to *jobs without employment-based social protection*. Individuals in these jobs may be working for formal firms, informal firms, or households.<sup>18</sup> In this volume we are concerned with informal employment, both self-employment in informal enterprises and informal wage employment for formal firms, informal firms, or households.<sup>19</sup>

Some observers refer to informal wage employment, especially in global value chains, as work that has been “informalized from above.”<sup>20</sup> The term “from above” refers to the fact that the work was formerly performed by workers in formal employment relationships but has been transformed into informal employment by various means as part of employers’ efforts to reduce risk, gain flexibility, and reduce labor costs. Several of our cases were selected because they fit this description: port workers in Colombia, hospitality workers in South Africa, and low-paid government workers in Tunisia.

The defining feature of formal employment is that compensation, hours of work, and safe working conditions are covered by national labor codes and standards often further raised by union collective bargaining agreements. In most countries, formal employment presumes full-time work. By externalizing jobs to subcontractors—often termed “labor intermediaries”—employers sever the employment relationship and thereby gain what has been termed “external numerical flexibility.”<sup>21</sup> Likewise, by modifying work schedules of directly employed workers to reduce hours below full-time, employers acquire increased “internal numerical flexibility.” By escaping collective bargaining rules that limit their ability to transfer employees to different tasks and locations, employers gain “functional flexibility.” And by instituting individual rather than collective pay rates, employers gain “wage flexibility.” Combinations of these forms of increased flexibility allow firms to maximize profits and minimize risks. In the case of

external flexibility this can actually change the nature of their relationship with workers from an employment to a commercial contract. Internal flexibility can be used to create work schedules that are not regulated by wage and hour laws.

The key characteristic of this first category of informality is that these workers remain "dependent" on an employer even though the employment relationship may be disguised, ambiguous, or third-party, while those in the second category are "independent," selling their goods or services directly in a market.<sup>22</sup> The work arrangements of the dependent informal wage workers result from what David Weil has called "fissuring" in the context of the labor market in the United States.<sup>23</sup> Often, what could be or once was a formal employment relationship has been distanced or mediated by a subcontractor or labor intermediary. In other cases, employees have been redefined—sometimes illegally—as "independent" (self-employed) contractors. In still other cases, the employment relationship has been informalized through employer scheduling decisions where workers are employed for limited time periods, sometimes on a daily basis. Most of these arrangements have the effect of removing the workers from the protections of labor and employment laws and access to employment-based benefits like unemployment and health insurance or pensions. In the developing world, however, most wage employment was never formalized in the first place. Most wage workers in developing countries were and are still casual day laborers or so-called "nonstandard" employees without written contracts, workers benefits, or social protection.

The second category of informality includes those more generally understood as constituting the informal economy: the self-employed, including micro-entrepreneurs who hire others, and own-account operators who work on their own or with unpaid contributing family workers. In urban areas, the self-employed tend to be concentrated in manufacturing, trade, transport, and personal services; in rural areas, the self-employed are concentrated in smallholder farming plus artisan production, livestock rearing, and fishing.

In reality, like all sociological or statistical ideal types, there is no bright line separating the two broad categories of informal workers. Workers themselves often cross these work boundaries, sometimes on a daily basis, as they strive to piece together a livelihood. And formal enterprises may well contract work out to informal enterprises or to industrial outworkers in what Slavnic calls "the informal outsourcing chain."<sup>24</sup> In this volume, the transportation case study from Georgia may best illustrate the complications. Taxi, minibuses, and truck drivers—at least in the developing world—may be either self-employed, informal employees, or dependent contractors. In some cases, drivers may purchase a vehicle and set themselves up as owner-operators selling their services on the street or to companies (in the case of truck drivers). Or they may have been employees of a larger enterprise that changed their status—legally or not—to

independent (or actually dependent) contractor. Or they may rent their vehicles from an owner who sets their routes and earnings but expects them to pay for gas and maintenance. The Georgia case involves a union effort to organize drivers who fit into all three categories.<sup>25</sup>

## Unions and Informal Workers

When the Solidarity Center commissioned the case studies in this volume, it asked Rutgers University to focus on organizing waged informal workers by traditional unions and the WIEGO network to focus on cases of collective negotiations by organizations of informal workers regardless of organization type. In the Rutgers cases, the working hypothesis behind the focus was that traditional trade unions might find it easier to organize informal waged employees because they more closely resemble the unions' current membership and existing strategies. The WIEGO cases were motivated by Solidarity Center's interest in understanding the circumstances in which informal workers, especially the self-employed or those in disguised employment relationships, were self-organizing or organizing with the help of organizations other than traditional trade unions.

Here too clarity about terminology is important, in particular the definition of a union. While many labor scholars and labor leaders have come to equate unions with workplace organizing and the practice of collective bargaining, we do not. We prefer, with an important modification, the expansive definition of the renowned scholars and activists Sidney and Beatrice Webb, writing about the British labor movement almost a hundred years ago. They defined a union as a "continuous association of wage-earners for the purpose of maintaining or improving the conditions of their working lives." Our modification of their definition, for reasons that should be obvious at this point in the discussion, is to substitute the word "worker" for "wage-earner." Still, we find it useful to acknowledge that most unions throughout the world have focused on organizing and representing wage earners and doing so through collective bargaining. We follow Cobble in calling these "traditional unions."<sup>26</sup>

As discussed in our brief review above, for scholars of and participants in traditional unions, a crucial question is: How can those organizations depart from their historic position of "just saying no" to informal work arrangements, and therefore to informal workers as constituents, and embrace new organizing and negotiating strategies and structures? We see a shift from what Yun calls "exclusion to integration" or Heery calls "resistance to inclusion" as crucial to the future of labor movements around the world.<sup>27</sup>

As discussed above, the literature is replete with interviews with trade union leaders producing long lists of the challenges to traditional unions that informal

workers present. These challenges include unstable relationships to the labor market and to any particular employer; workplaces outside factories or firms in public or private spaces; very low earning levels leading to low dues; demographic differences (by gender, race, ethnicity, and immigration status) between the formal workers who are typically union members and informal workers; and informal workers' suspicions of the motives of union representatives. A central issue—present most clearly in our South Africa case—is the relationship between formal workers, who are typically the backbone of the traditional union, and informal workers in the same sector or enterprise. Formal workers must come to see the poor conditions typically faced by informal wage workers working in the same enterprises or sectors as having the potential to lower their own standards rather than as a buffer that makes their standards possible. Yun developed his typology of union approaches to organizing and representing informal workers (exclusion, inclusion, proxy, integration) through an examination of the complex dynamics between formal and informal workers and their organizations in multiple cases in the auto industry in South Korea. Elbert describes a successful campaign to improve the conditions of informal workers (both internal and externally hired temporary contract workers) in a food processing plant in Argentina.<sup>28</sup> The campaign's success hinged in large part on the support from formal workers and their union. Interestingly, as the chapter on Haitian immigrant workers in the Dominican Republic in this volume demonstrates, the dynamics of union inclusion of informal workers closely parallels the dynamics of union inclusion of immigrant workers. We seek to build on this emerging literature by carefully documenting several more or less successful campaigns by traditional unions to bring informal waged workers into their organizations and to advocate for them.

For observers of traditional unions, an even more basic question exists concerning the second category of workers: Are traditional unions the right vehicle for organizing and advocating for those who are self-employed? Based on the South African experience, Theron concludes that nonunion MBOs, such as cooperatives, are a more effective form for raising standards for self-employed or own-account workers. Indeed, few would contest that the organization of informal self-employed workers is a heavy lift for traditional unions. Throughout the world, traditional unions have typically defined their membership as employees working for a particular employer or set of employers within an industry, or what can be called a "wage culture." Many trade unionists have come to equate unionism with collective bargaining for wages and benefits; this option may not always be the best or even a possible strategy for representing the interests of the self-employed. Fischer quotes a Tanzanian union leader who equates the informal sector with the self-employed in this regard: "What they need—those people

in the informal sector—they need to know something about business, they need to know how they can get loans, how they can administrate these kinds of things. And that is not what the union are experts in.”<sup>29</sup>

## **Extent and Dimensions of Informal Employment**

The ILO, the International Expert Group on Informal Sector Statistics, and the WIEGO network have collaborated for two decades to improve statistics on informal employment. More and more countries are collecting data on informal employment. Recent estimates indicate that it constitutes more than half of non-agricultural employment in most of the developing world. Recent estimates are 82 percent in South Asia, 66 percent in sub-Saharan Africa, 65 percent in East and Southeast Asia, and 51 percent in Latin America.<sup>30</sup>

## **Study Design and Methodology**

As outlined above, the two streams of research that yielded these nine case examples were initially conducted independently by the Rutgers and WIEGO teams. When the decision was made, in consultation with the Solidarity Center staff, to combine the two different streams of research into an edited volume as part of the final two years of the grant, we expected to find that there would be both similarities as well as differences in the strategies and tactics of these two different types of campaigns. The nine cases included in this volume were selected in large part because they were identified by the Solidarity Center as having achieved at least some demonstrable success in improving some conditions for some workers. Further, the organizations involved have proved sustainable; they continue to exist as of the time of this writing. The Rutgers research team was directly supervised by Susan Schurman and Adrienne Eaton, and the WIEGO cases were supervised by Chris Bonner and Marty Chen of WIEGO and analyzed initially by Debbie Budlender, an independent consultant in South Africa. Though each team had conducted its fieldwork with a separate protocol, all authors were asked to follow the same basic outline in putting their chapters together.<sup>31</sup>

This study thus falls in the category of multicase exploratory case study design, the goal of which, in this instance, is to discover patterns and add theoretical insights about successful informal workers’ organizing. In the conclusion, we seek to summarize the significance of our findings and suggest their relevance to theory building. “Theory” in this case does not refer merely to “cause-effect” relationships, though we will make some claims in this respect. The strength of the cases in this volume is the scope and depth of the descriptions of the campaigns

in different contexts but following similar case protocols, which allows us to use “replication logic,” the appropriate analytic method for multicase studies.<sup>32</sup>

## **Organization of the Book**

Following this introduction, this volume is divided into two sections focusing on the two main types of informal workers: waged workers and the self-employed. The chapters include case studies on a wide range of occupations and industries, each with its own particular economic realities. They are based on field research which relied primarily on interviews and focus groups with workers themselves and with organizational leaders and other stakeholders. A final chapter presents our concluding thoughts.

### **Section 1: Formalizing or Reformalizing Informal Wage Workers**

In chapter 1, Daniel Hawkins describes a campaign for both formalization and unionization among port workers in Buenaventura, Colombia. These workers had been subject to a complex web of subcontracting arrangements leading to widespread informalization following the privatization of that nation's ports in 1993. While Colombia is perhaps the most dangerous place in the world for workers and unions to organize, the port workers in Buenaventura, with support from transnational labor organizations, created a new union, Union Portuaria (UP), in 2009. A new union was necessary because the older unions that had represented port workers prior to privatization had either disappeared or converted themselves into fake cooperatives, which constituted a particular form of labor intermediation. With the help of the global trade union movement and the political opening emerging from regime change, UP has been engaged in an ongoing battle to restore some elements of decent work for a small number of externalized workers.

In her case study of union advocacy for casual and contract workers by the South African Commercial, Catering, and Allied Workers Union (SACCAWU) (chapter 2), Sahra Ryklief reviews the new work arrangements that retail and hospitality sector employers have used to remove workers from legal protections and social insurance funds. In responding, SACCAWU accepted a certain level of nonstandard employment while also attempting to bargain for equity in pay and benefits. SACCAWU is attempting to apply the leverage gained and lessons learned from its success in the retail sector to organize and advocate for workers in the hospitality sector.

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In the Dominican Republic (DR), as in many countries of the world, there is substantial overlap between being an immigrant and working informally: virtually all Haitian workers in the DR work informally but not all informal workers are Haitian immigrants. In chapter 3, Janice Fine and Allison Petrozziello examine this overlap and look at how organizing is taking place in the construction and domestic worker sectors. Beginning in 2007, with the encouragement and support of the Solidarity Center, the Confederación Nacional de Unidad Sindical (CNUS), one of the major labor federations in the DR, began to make migrant worker rights a major focus of its work, leading it to begin organizing informal workers for the first time.

In chapter 4 Mary R. Goldsmith describes the remarkable case of the domestic workers union in Uruguay, the Sindicato Unico de Trabajadoras Domésticas (SUTD), which has collectively bargained contracts with the housewives league (the Liga de Amas de Casa, Consumidores y Usuarios de la República Oriental del Uruguay). In November 2006, the Uruguayan legislature adopted a law (Law 18.065) that gives domestic workers the same basic labor rights as other workers. On November 10, 2008, the government, employer, and worker delegates in Uruguay signed the first collective agreement for domestic service in Latin America. The agreement applied to all domestic workers and their employers throughout the country and was renegotiated in 2010. These agreements set a minimum wage and provided for across-the-board wage increases and called for decent working conditions. The second agreement added a premium for night work.

In Cambodia, beer companies hire women on an informal basis, often on commission, to promote their brands in bars and restaurants not owned or managed by the companies. In chapter 5, Mary Evans describes the way exposure to HIV and sexual harassment and assault brought these workers to the attention of NGOs and labor organizations both within and outside Cambodia. They pressed for an industry code of conduct, which led to the formalization of some beer promoters under the protection of Cambodian labor law. More recently, the Cambodian Food Service Workers' Federations launched a campaign to formally represent beer promotion workers at Cambrew, a subsidiary of Carlsberg, a Danish global beer producer. The situation is complicated by the presence on the scene of government-dominated or government-affiliated unions.

The Tunisian revolution brought a new regime to power in 2011, promising, among other things, social and economic justice. In chapter 6, Stephen King describes the successful campaign by the Union Général Tunisienne du Travail (UGTT) and by workers themselves to restore formal employment to low-wage government workers whose jobs had been privatized and subcontracted during previous regimes. Under subcontracting arrangements, work had become informal and working conditions, pay rates, and benefits had been severely undermined.

## Section 2: Securing Livelihoods for the Self-Employed

The minibus sector in Georgia originally began with self-employed individuals purchasing vehicles and operating in an informal manner alongside the more traditional metropolitan bus companies. As the new regime that came to power in the “Rose Revolution” began to clean up corrupt local politics and formalize the minibus sector, a system of mediation arose with route operators or route owners bidding to control newly identified bus routes. The minibus drivers now operate in a mix of economic relationships: some remain self-employed owner-operators while others are employees of different minibus owners. Chapter 7, by Elza Jgerenaia and Gocha Aleksandria, describes the evolution of this sector and the campaign by the Transport and Road Building Workers Trade Union of Georgia (TRBWTUG), an affiliate of the Georgia Trade Union Confederation (GTUC), to organize and collectively bargain for drivers regardless of their employment relationship. This case examines the process and outcome of collective bargaining in three Georgian cities: Batumi, Rustavi, and Tbilisi.

In 2011, bargaining among various stakeholders including government representatives, leaders of waste picker cooperatives, and NGOs in the Brazilian state of Minas Gerais resulted in the passing of the Recycling Bonus Law. In chapter 8, Sonia Dias and Vera Alice Cardoso Silva describe the background to the passage of the law, which established a monetary incentive to be paid by the state government to waste pickers who are members of a recycling cooperative, another form of informal workers' association. It is the first law in the country that authorizes the use of public money for ongoing payments for work done by waste pickers. Provision of a monetary incentive aims to reduce loss of reusable materials and to supplement the income of waste pickers, who primarily earn money from selling recyclables within specific product markets. Some waste picker advocates view the bonus law as an important gain in their ongoing campaign to become a recognized and formal part of the waste-management system, while others are afraid it will divert waste picker energy away from more important goals such as bidding for solid waste contracts. This case also reviews bargaining around the initial implementation of the law.

Soon after her election as president of Liberia, Ellen Johnson Sirleaf appointed a new mayor of the capital, Monrovia, and gave her an explicit mandate to “clean up” the city and the city administration. This included reining in the activities and locations for street vendors, who allegedly contribute to congestion and uncollected garbage in the streets. In chapter 9, Milton A. Weeks and Pewee Reed detail how street vendors organized to fight back attempts to constrain their activities. Street vendors marched in protest of the repeated harassment from police, pushing the mayor to agree to negotiate with them. There have been

repeated negotiations between a street vendors union created out of a merger of two associations and various local authorities. In the fall of 2014, the negotiations with a new mayor of Monrovia finally resulted in a formal memorandum of understanding (MOU) between the city, the union, and the Liberian Ministry of Commerce and Industry. The MOU sets up a licensing system and protects union members from police raids and confiscation of their goods but commits traders to operate in designated areas to allow for free movement of pedestrian and vehicle traffic.

## Broadening the Repertoire?

As mentioned above, traditional unions around the world are often viewed as almost synonymous with collective bargaining for wages and benefits; in the minds of many trade unionists and their observers, you cannot have a union without collective bargaining and you cannot have collective bargaining without a union. Our cases challenge this notion, as well they should. In the nineteenth century, the early labor *movement* had a broader repertoire. At least in Europe, the labor movement was understood to include trade unions but also labor parties and cooperatives. Unions themselves raised standards in a number of different ways and, at least in the United States, collective bargaining was not always one of them. The Webbs described three “methods” of trade unions: collective bargaining, legal enactment, and mutual insurance.<sup>33</sup>

Today, advocacy for legal reforms, or more broadly reforms in government regulation or public policy, is a common tool of unions around the world. As Eaton and Voos point out, mutual insurance may be the oldest method of trade unionism.<sup>34</sup> The Webbs had in mind funds organized by early unions that workers paid into collectively to protect members against sickness, accidents, death, and even unemployment. More recently, some labor scholars have revived the notion of “mutual aid unionism.”<sup>35</sup> For most of the past century the traditional labor movement globally has focused on workplace organizing and representing workers through collective bargaining with an employer or group of employers, often at the sectoral level. Given the centrality of collective bargaining to the repertoire of most unions, the main emphasis of their advocacy and representation of informal workers has been to structure collective bargaining relationships for them when possible, often by including informal workers in the legal framework that structures the collective bargaining regime in a particular country and by organizing an employing entity with which to bargain.

It is clear that diverse strategies are needed to effectively improve the conditions of informal workers. Rina Agarwala argues that informal workers in three

Indian states have been most successful in improving their lives by essentially giving up on attempting to bargain for better pay and standards with their employers and instead demanding state-provided social benefits such as housing, education, and health care. Agarwala argues that in states where the success of at least one political party depends on addressing the concerns of the poor, but where that party also supports economic liberalization policies, informal wage workers have been able to succeed in their demands for benefits by specifically accepting their informal status.<sup>36</sup>

Our cases also demonstrate the need for new approaches to collective bargaining. For instance, one of the central puzzles for any union of domestic workers that wants to raise standards through collective bargaining is: Who will act as the employer?<sup>37</sup> Our domestic workers case, set in Uruguay, provides a novel answer to this question: a national organization of "housewives." Whether they are self-employed or wage-employed or semidependent, many informal workers work in public spaces or their own homes without secure tenure and basic infrastructure services. So most informal workers need to bargain with government for tenure and services, not just in the market with employers, buyers, and suppliers.<sup>38</sup> The Liberian street traders provide an example: they had to negotiate with the country's president, the municipality, and both the national and municipal police. Other innovations might relate to what is being bargained for. The informal retail and hospitality workers in our South African case were organized into a traditional union that then attempted to represent their interests by bargaining for equity in pay and benefits with employers while still allowing irregular hours and shifts.

The ILO Convention 154 defines "collective bargaining" as "all negotiations which take place between an employer, or one or more employers' organizations on one hand and one or more workers' organizations 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 organizations and a worker's organization or workers' organizations." Although this definition, by referencing "workers" rather than "employees," can include informal workers' organizations, clearly the language is geared toward formal wage employment. Limiting the bargaining partner to "employers" excludes forms of collective negotiations between informal workers' organizations and the entities—usually a branch of government—that in fact have authority to determine the conditions of their members' work. Horn suggests that informal workers identify "the entity or authority most responsible for the issues over which they wish to negotiate."<sup>39</sup> Budlender suggests that the term "social dialogue," which the ILO defines as "all types of negotiation, consultation or information sharing among the bipartite parties in the workplace or industrial

sector or by tripartite partners at the national level on issues of common interest,” may better encompass the types of negotiations described in several of our cases.<sup>40</sup> For example, in the Georgian transport workers’ case, the traditional labor movement views its effort as an attempt to strengthen social dialogue in the country. In our view, however, “social dialogue” implies a process that is firmly established in law and therefore does not apply to any of our cases.

Self-employed informal workers have to bargain with multiple counterparts: suppliers, customers, and often government authorities. Taxi drivers’ organizations, for instance, may negotiate with the municipality that essentially regulates their conditions of work, rather than with an employer per se. Street vendors and waste pickers are other categories of workers who often engage in or attempt to engage in some form of collective negotiation with municipal authorities, as in our case involving street vendors in Monrovia, Liberia. Another of our cases concerns waste pickers (recyclers) who negotiated with state-level authorities in Brazil first over the passage and then the implementation of a law that created a state-funded bonus for registered recycler cooperatives funded at the state level.

Beyond the specific tactics employed or forms of organization developed, our cases highlight the crucial importance of the normative or moral claim that undergirds each of these campaigns. Each campaign draws on international norms of decent work and human and social rights to highlight the injustices faced by the group of workers involved.

The set of cases in this volume add to a growing body of literature suggesting that a significant change in global labor movement strategy long advocated by labor studies scholars and labor activists may finally be underway.<sup>41</sup> The new strategy is in fact not so new; rather, as our cases demonstrate, what is “new” are new categories of workers availing themselves of a broad array of “traditional” forms of unionism, including those that predate the post-World War II model, and traditional unions adopting the “new” tactics of direct action and member involvement associated with social movements. This change reflects a growing recognition that the changes taking place globally in work and employment are permanent and, hence, the role of labor movements as vehicles for representing workers’ interests must adapt.<sup>42</sup>

Our cases also clearly show why, after nearly three decades of debate about how to respond to globalized capital and neoliberal economic policy, there has been so little evidence of change on the ground. Caught on the horns of a dilemma between their historic *raison d’être*—the moral claim to advance economic and social rights for all workers—and entrenched, often competing, interpretations and institutional arrangements for how to achieve this in practice, most traditional unions have found it difficult to include new categories of workers in their organizations or to embrace new types of workers’ organization as part of the

structure of "organized labor."<sup>43</sup> We believe our cases represent an encouraging sign that traditional unions are learning a crucial lesson: informal workers are organizing and engaging in collective action with or without support from the existing trade union movement. Some traditional unions are also learning and adopting useful lessons from their efforts to organize informal workers, and organizations of informal workers are adopting useful lessons from traditional trade unions. We predict others will follow. In our concluding chapter we summarize the common elements of successful campaigns that we think are contained in this research. Our argument, in brief, is that if the global labor movement is to successfully adapt to the reality of work in today's global economy, it will need to recover its historic moral claim to seek human and social rights for all workers and to incorporate many new forms of organization.

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## **PORT WORKERS IN COLOMBIA**

### Reinstatement as Formal Workers

*Daniel Hawkins*

The privatization of Colombia's port sector in 1993 inaugurated a process of pervasive employment flexibilization. The thousands of port workers, previously unionized on a mass scale and protected by collective bargaining agreements and indefinite employment contracts, witnessed a rapid transformation in their working conditions, highlighted by the explosion of nonstandard work contracts, informal hiring and firing, and the gradual asphyxiation or transformation of labor unions. In Buenaventura, home to the country's busiest seaport terminal, the flexibilization of labor relations took on a decidedly robust form. A multitude of large, medium, small, and even one-person firms sprang up within the port, many of which specialized in nothing more than creating and expanding lines of labor intermediation: hiring out low-paid, temporary workers to the formally constituted port operating firms.

In response to the changing conditions at the port, the embattled labor unions, bereft of space for collective bargaining and faced with a dwindling pool of formally contracted workers, began to mimic many of the labor intermediation practices of other firms. Before long, the conversion process was complete: for all practical purposes these unions had become intermediaries themselves, and their registered members merely workers supplied to other firms under service contracts. As this small Pacific coast town grew at a staggering rate, unemployment reached untenable proportions. Intermediary labor firms responded by intensifying the exploitation of workers, lowering wage rates, hiring workers on day-based or even tasked-based oral contracts, most of which were entirely informal and did not adhere to the laws regarding social security benefits.

Faced with such deplorable working conditions, a group of longtime port workers in Cartagena came together eight years ago to discuss the founding of a new and novel union, one that would represent workers by pressuring the principal port operating firms—in Cartagena, Santa Marta, Barranquilla, and Buenaventura—to end labor intermediation and directly hire workers via fixed-employment contracts with all the associated legal social security benefits. This union, Union Portuaria (UP), formed with the support of the US-based Solidarity Center, began with a double-pronged campaign to affiliate port workers and also pressure for the formalization of work at the port. The year 2012 saw the recommencement of worker protest and strike actions, leading to the direct hiring of approximately eighty previously subcontracted machinery operators and the promise of future employer-union negotiations. But the employer response has been both furtive and assertive. New types of companies replaced the now outlawed, fictitious cooperatives, while leading firms continued their anti-union practices, seeking to fire or blacklist any worker affiliated with the UP.

At the same time, the long-stalled free trade agreement (FTA) between Colombia and the United States provided the political impetus necessary to begin a major reshuffling of the manner in which the Colombian state regulated the labor market. Pressured to more assertively protect and guarantee union rights and worker protections, the Colombian president, Juan Manuel Santos, signed a Labor Action Plan with President Obama in April 2011. Along with various normative reforms, this plan focused on improving the situation for workers in five key economic sectors, one of which was the port industry.

This chapter describes the multiple forms of contracting and resultant labor relations present at the Buenaventura port, focusing on the still prevalent anti-union tactics adopted by many port-based firms and the ambivalent role adopted by the Colombian Labor Ministry. The chapter first provides a brief overview of the economic, social, and labor contexts in Colombia and then illustrates the manner in which labor intermediation takes place, both normatively and in practice. This is followed by a detailed analysis of the UP's worker protest campaign for the formalization of work contracts and the termination of anti-union practices at the port. The chapter concludes with reflections on the successes, failures, and limitations of the UP-led worker formalization campaign.

## **Colombia's Economy and Labor Market**

In recent years, the economy of Colombia, Latin America's third most populous country, has displayed a worrying trend of sustained economic growth, measured by an increase in its gross domestic product (GDP), alongside a labor

market plagued by high levels of unemployment and informality. Indeed, while the economy grew 4 percent and 4.7 percent in 2012 and 2013 respectively, the unemployment rate was 10.4 percent and 9.6 percent for the same period, rates that are way above the regional average.<sup>1</sup> Alongside such high and ingrained levels of unemployment, the massive amount of labor informality throughout the country has meant that unprotected employment<sup>2</sup> and “indecent work” have become the norm for many of Colombia’s workers. According to the National Department for Statistics (DANE),<sup>3</sup> in Colombia’s thirteen metropolitan areas in 2013, 49.4 percent of all economically active people worked in the informal economy. If DANE included rural areas and used a more inclusive definition of informal work, this level would increase substantially.<sup>4</sup>

## The Colombian Labor Movement

Today, after decades of extreme repression and state-condoned harassment, Colombia’s union movement finds itself in a period of relative respite and even sees a glimmering of newfound possibilities for renewed organizational strategies. Nevertheless, in order to more accurately locate this recent flicker of opportunity, a brief synopsis of the systematic exclusion of Colombia’s union movement, both from the workplace and the formal spheres of politics, must be offered.

In Colombia the union movement has experienced historical constraints of a severity more pronounced than in any other country of the world. While many unionists across the globe face harassment, employer and even state repression, and the structural hostilities wrought by neoliberal labor market flexibilization processes, unionists in Colombia have had to confront these issues in a socio-political and cultural climate of extreme anti-union practices. The number of trade unionists killed in Colombia is more than double that for the rest of the world combined. Between 1979 and 2010, 2,944 Colombian unionists were murdered, 229 disappeared by force, and a further 280 had attempts made on their lives.<sup>5</sup> Workers must contend not only with fear of losing their jobs when they embark on union organizing, but also fear for their personal safety.

In the face of such victimization, the Colombian union density and collective bargaining coverage have declined precipitously in recent decades. In 2014 the unionization rate came to only 4 percent of the economically active population, one of the lowest union density rates in the hemisphere. Furthermore, the vast majority of Colombian unions are small and therefore face huge obstacles when it comes to collective bargaining. Eighty percent of all unions<sup>6</sup> have fewer than one hundred members, and only a little more than 627,000 workers are covered by some form of collective contract,<sup>7</sup> a figure that comes to only 3 percent of the total workforce.

The industrial relations framework in Colombia offers little space for effective union organization. To create a union, there must be a minimum of twenty-five workers in the firm, and unions are not permitted to negotiate collective bargaining agreements (CBAs) by industry or sector, a factor that significantly lowers the rate of CBA coverage across the economy and the unions' ability to take wages out of competition.

The union movement in Colombia is institutionally divided into three confederations: Unitary Confederation of Workers (CUT), General Confederation of Workers (CGT), and the Confederation of Colombian Workers (CTC). The CUT is the largest of the three and was founded in 1985–1986.<sup>8</sup> The CUT is the most politically leftist of the Colombian union confederations and groups together some of the largest union federations of Colombia. The CGT, created in 1971, is numerically the second largest confederation and groups together twenty relatively small union federations. Lastly, the CTC, the oldest confederation, was created during the initial period of welfare-like political openings during the first Alfonso Lopez Pumarejo government (1934–1938). The CTC has seventeen affiliated union federations, all of which are relatively small both numerically and in terms of their political influence.

## Recent Developments

Following the trend to advance the global integration of economies, the first-term government (2002–2006) of President Alvaro Uribe launched an agenda that included the negotiation of various free trade agreements (FTAs), with emphasis on the world's largest and most prosperous economies, especially the United States, Europe, and Canada. Even though the Colombia-US FTA negotiations ended in February 2006 and the agreement was signed by both parties in November of that year, it took nearly six years before it received both US congressional approval and US presidential ratification.<sup>9</sup>

The principal reason for the slow passage of the FTA was the vociferous opposition to an FTA with Colombia, given the country's deplorable human and labor rights record. Indeed, the vehement opposition to the ratification of this and other FTAs by local and international unions and by social movements brought together, under a consolidated union front, a transnational advocacy network (TAN),<sup>10</sup> which simultaneously opposed the ratification of the FTA while also calling for concrete improvements to be made to both the Colombian legal framework and the state's effectiveness in enforcing its labor laws.

During Uribe's two presidential terms, there was little concrete improvement in the protection of labor rights. First, the Uribe government accorded the newly created Ministry of Social Protection the power to negate the registration

of 253 unions between 2002 and 2007, in clear violation of the 1991 Colombian Constitution and the International Labor Organization (ILO) Convention 87. Second, the Uribe government implemented a state-funded criminal web of espionage, harassment, and murder of numerous unionists, other human rights defenders, and leading figures of the Colombian opposition. Numerous unions and their leaders were illegally spied upon by the State Department of Security (DAS), and a list of twenty-two unionists was handed to paramilitary leaders by high-level DAS officials.<sup>11</sup> Last, the regime propelled a prolific expansion of associated work cooperatives (CTAs), legal entities that made a mockery of the historical conception of the cooperative movement inspired by Robert Owen in Britain in the early nineteenth century.

## CTAs in Colombia

CTAs in Colombia have a long legal history dating from 1931. It was not until the present millennium, however, that they really took hold, just as their “social objectives” became tainted. Initially, perhaps, CTAs were promoted as true cooperatives, offering workers the possibilities of forming collective associations of mutual benefit. Nonetheless, especially during the Uribe governments, this conception of workers’ cooperatives was set aside by a double drive to cut business costs while simultaneously crippling union activity.

CTAs were not bound by the Substantive Work Code (CST) because the “associated workers” were simultaneously workers and, in theory, owners of the cooperative. “Workers” in a CTA were thus not paid a salary but rather received “compensation,” which did not include any of the protections provided by the CST.<sup>12</sup> Firms took advantage of the legal status of CTAs by outsourcing work to them.

Under Uribe, the number of CTAs expanded from 710 (with 54,000 “associates”) to 4,000 (610,000 associates).<sup>13</sup> The expansion of CTAs during the Uribe period, especially the hundreds that obtained contracts with public entities,<sup>14</sup> opened up a new sphere for political influence and enrichment. At the same time, congressional proposals to reform the CTAs were unceremoniously dropped.<sup>15</sup>

Alongside the opportunities for patronage and corruption, the CTA model allowed businesses to save substantial money on wage costs. There were no requirements to pay parafiscal costs,<sup>16</sup> weekend pay rates, night rates and, prior to the 2010 and 2011 reforms, social security contributions, which created savings of up to 50 percent in overall labor costs. The Colombian port sector was one of the industries most plagued by the expansion of CTAs, especially after the privatization process the sector underwent during the 1990s. In 2011, it became illegal for CTAs to use personnel for permanent core business activities.