33 Informal domestic workers, informal construction workers and the state

What prospects for improving labour standards?

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Domestic workers are predominantly employed informally, and so are large numbers of construction workers. Both occupations are mainly wage workers, distinguishing them from self-employed informal workers. In many parts of the world, both professions are heavily populated with migrants, whether internal or cross-border. Beyond that, there might not appear to be many commonalities between the two types of work – one mainly gendered female and one mainly gendered male (though with important exceptions). However, in this chapter, I will emphasise their commonalities more than their contrasts. The chapter starts by describing developments on the ground, and then turns to recent theory and research, at which point the focus broadens to discuss informal work and informal worker organising. I draw on a growing literature and especially on work by collaborators in a six-country comparative research project on informal construction worker and domestic worker organisations, funded by the Ford Foundation.¹

Domestic work: developments on the ground

There is a perception in many countries that domestic work employment is on the rise, due to increases in inequality and in women's labour force participation. However, actual patterns are quite mixed: for example, in China, where domestic work had been reduced to a few enclaves by the 1970s, the occupation is exploding now, whereas in Mexico and the USA, long-term trends are still downward (Hu 2010; Tilly, Rojas and Theodore 2018).

In recent decades, this sector has seen the expansion of domestic worker organisations *and* the consolidation of regulation and governance of the terms of domestic work, the two advancing in tandem and fuelling each other. Both trends have advanced at local, national and international levels. The most dramatic milestones have been the International Labour Organization's 2011 adoption of Convention 189 on the rights of domestic workers (Mather 2013; Fish 2017) and the 2013 formation of the International Domestic Workers Federation,

which today has affiliates in over 50 countries (Mather 2014; International Domestic Workers Federation 2018). These accomplishments are rendered even more dramatic by the fact that the networking process that yielded them commenced in earnest in 2006 with the first international conference of domestic workers in the Netherlands. WIEGO (Women in Informal Employment: Globalizing and Organizing) has been intimately involved in these developments, at times seconding staff and providing advice, technical assistance, and funding (Bonner, Budin and Pape 2014; Fish 2017).

But more limited advances began long before. Peru passed domestic worker legislation in 2003, China issued its first occupational standards for the sector in 2000, and New York State extended collective bargaining rights to in-home workers employed by a third party (covering home care workers who are publicly funded) as early as 1976. The Latin American domestic workers' federation, CONLACTRAHO, had its first congress in 1988, and Mary Goldsmith (1992), Joaze Bernardino-Costa (2014) and Premilla Nadasen (2015) have documented domestic worker unions in Mexico, Brazil, and the United States, respectively, as early as the 1930s. At the same time, it is important to temper the optimism of the portrayal of recent gains by underlining that the vast majority of domestic workers, even in countries with laws on the books, labour with little or no actual organisation or protection.

Informal construction workers: developments on the ground

Construction workers started from a higher baseline of unionisation, but informal construction workers have not seen the same kinds of broad advances. To start with, there has been unambiguous growth of day labour and other informal construction employment in countries as different as China, Korea, Mexico and the USA. In construction, neoliberalisation has typically taken the form of the extension of subcontracting chains, avoidance of unions where they exist, and widespread flouting of labour and social insurance regulations, shifting more construction jobs into informal territory. Thanks to accompanying growth in inequality, high-end consumers have nurtured booms in construction and building rehabilitation, both residential and commercial.

Informal construction workers have mounted spirited, but mainly localised responses. Here is a quick sampling:

- At one end of the spectrum of effective responses are limited but symbolically important actions. Informal construction crews confront their supervisor or threaten sabotage to challenge wage theft (Swider 2015). A Guatemalan union, no longer able to engage in collective bargaining or even recruit members due to neoliberal policy turns and ongoing anti-labour repression, continues to advocate for workers and run workforce development programmes (Mora Salas, Sarmiento and Tilly 2015).
- In a middle range, organisations have scored more institutionalised gains. Organisations of informal women construction workers in India have won

tripartite welfare funds (Agarwala 2013). US day labourers also fall in the intermediate range, having won the legal right to solicit work in public, in some localities also gaining funding to run job centres and provide a variety of services (Sarmiento et al. 2016).

- A few organisations have overcome the odds to achieve even more substantial successes. Notably, the Korean Construction Workers Union has won strikes and secured collective bargaining rights for informal construction workers in a number of regions (Yi and Chun 2019).

But the overall track record is spotty at best. In Mexico and South Africa, colleagues and I have been unable to find present-day organisations of informal construction workers of any significance.

The global union federation embracing construction workers, the Building and Wood Workers International (BWI), has led campaigns supporting migrant worker rights, and pushing for labour standards in construction linked to mega-sporting events (the Olympics, the World Cup). BWI has notched up important successes, starting with the 2010 World Cup in South Africa and escalating to hammering out a comprehensive labour standards agreement with Qatar, which will host the 2022 World Cup. However, BWI has not yet been able to build a network, identity, voice and coordinated global programme for informal construction workers in the way that the International Domestic Workers Federation (IDWF) has done for domestic workers.

Theory and research relevant to these struggles

Four theoretical/empirical discussions are particularly relevant for formulating strategies to improve the situation of informal domestic workers and construction workers. I hasten to add that these discussions speak to informal workers more broadly.

First and foremost, many have pointed out the importance of winning recognition of these workers as *bona fide workers*, what Jennifer Chun (2009) calls a *classification struggle*. This has been particularly challenging for domestic workers, whose status as women (in large part), and often internal or cross-border migrants, doing reproductive labour in the home has widely barred them from worker status in law and in the public mind. Latin American activists' adoption of the term *trabajadora del hogar* (household worker), rather than *trabajadora doméstica* (which conveys echoes of servitude), and the US National Domestic Workers Alliance slogan "the work that makes all other work possible" are examples of contestation on this terrain. Demands for official identity cards also engage the issue (Agarwala 2013).

A second conceptual and strategic arena is the question of appropriate forms and levels of regulation. Regarding the *level* of regulation, schematically there is a perpetual debate between Hernando de Soto's view of the economy – regulation stifles entrepreneurship and should be minimised – and Daron Acemoglu's view – robust institutions ordering economic life are essential to growth, stability

and development, as well as equity. Regarding the *form* of regulation, one important choice is between bringing informal work into formal regulatory frameworks and upgrading labour standards while keeping it informal. As Rina Agarwala (2013), José Itzigsohn (2000), and others have forcefully pointed out, informal workers often prefer the flexibility of informal labour – while seeking to reduce the precarity associated with it. Day labourers, along with street vendors and waste pickers, introduce another dimension of regulation: control of public space. Through lobbying, negotiation, protest and simple *de facto* occupation, workers dependent on public space to ply their trades seek to rework urban governance to accommodate their activities (Sarmiento et al. 2016).

Third, researchers have examined informal workers' varied forms of organisation. WIEGO researchers have particularly contributed to this area, examining the range of forms that local and national organisations have taken but also extending the scope to global networks and global learning processes (Bonner 2010; Bonner and Spooner 2012; Bonner and Carré 2013). Domestic workers have adopted forms including community-based associations, cooperatives and trade unions, though over time there has been some movement in the direction of trade unions (Bonner 2010; Tilly, Rojas and Theodore 2018). Informal construction workers have more often opted for union forms, given the model of traditional construction trade unions, but have also built associations and worker centres (Agarwala 2013; Sarmiento et al. 2016). The watchwords for organisation building have been experimentation, pragmatism, and adaptation to local circumstances.

A fourth rich area of analysis is understanding *how* informal workers mobilise and win in varied settings. Many researchers cite Polanyi's (1944) notion of *counter-movements* that temper capitalism's tendency to strip away institutional protections from markets (Tilly et al. 2014). Most informal workers, and certainly the two groups focused on here, tend to lack structural economic power and therefore often turn to the state for support. Chun (2009) spotlights *symbolic power*, the garnering of public support by demonstrating worthiness and commitment. The intersectional status of many informal workers can be an important asset, yielding multiple identities that can facilitate mobilisation or issue framing. Over the last century, US domestic workers have at various times foregrounded identities as women, African Americans, low-wage workers, and immigrants; Mexican domestic workers have tapped a similar intersectional mix of roles (Tilly, Rojas and Theodore 2018).

On the other hand, traditional power politics is also in play. Agarwala (2013) emphasises electoral vote-banking by informal worker organisations. Many, including Sarmiento et al. (2016), document the critical role of alliance-building, and show how self-organisation generates the legitimacy and credibility necessary to attract allies, as well as the capacity to effectively use them.

In many settings, alliances of informal worker organisations with traditional trade unions are particularly important (Milkman, Bloom and Narro 2010; Fine 2011; Tilly et al. 2013; Sarmiento et al. 2016; Tilly, Rojas and Theodore 2018). But such alliances often build in two tensions. A first friction point is between

sympathy without solidarity and *solidarity without sympathy*. Broad middle-class publics often sympathise with the plight of the worst-off workers, those struggling to maintain subsistence and to achieve basic rights, but feel no solidarity for those (such as many unionised workers) who have managed to rise above subsistence and seek to further improve their bargain with capital – *sympathy without solidarity*. On the other hand, trade union memberships may feel solidarity for their fellow unionists, but little concern or responsibility for those, even in the same sector, who fall outside the union's safety net – a *solidarity without sympathy* that may exclude the majority of workers. A related tension pits *advocacy without accountability* against *accountability without advocacy*. NGOs, advocacy groups, and informal worker associations advocate broadly for the rights of marginalised groups of workers, but rarely are the leaders of these organisations *structurally* accountable in the sense of gaining office through election and/or sustaining a budget primarily through dues contributions – *advocacy without accountability*. On the other hand, trade unions, at least in principle, are structurally accountable (with elected leadership and dues-funded budgets), but that very accountability can mean that unions mirror members' reluctance to advocate for broader groups of workers – *accountability without advocacy*. Eade and Leather (2005) as well as Jenkins (2002) explore this second tension in depth. A growing literature examines cases in which pro-worker actors have overcome these tensions (e.g., Anner and Evans 2005; Milkman 2010), but the challenges remain substantial.

In closing

This chapter has ranged from nitty-gritty summaries of gains secured by organisations of informal domestic workers and construction workers, to reflections on cosmic contradictions confronting informal worker movements. Domestic workers and construction day labourers encounter distinctive challenges and have deployed distinctive strategies. But a growing body of evidence suggests that despite sectoral differences, some broader patterns hold – an encouraging indicator for possibilities of cumulative learning and building of strategic organisational capacity.

Note

- 1 The six countries are China, India, Korea, Mexico, South Africa and the United States.