



International
Labour
Office
Geneva

The Regulatory Framework and the Informal Economy

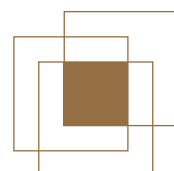


Making Beedi cigarettes at home, India.

International Labour Standards (ILS)

4.a3 UNDERSTANDING THE EMPLOYMENT RELATIONSHIP AND ITS IMPACT ON INFORMALITY

■ This brief examines the employment relationship – the cornerstone of labour law – and its enforcement. Within the informal economy employment relationships may be blurred, ambiguous, obscured by webs of subcontracting or deliberately disguised, making protection under the law immensely difficult and complicated. Emerging responses from various countries have seen efforts to clarify the law, extend its scope and improve its enforcement.



- **The employment relationship and informality**
- **Regulation at the international level**
- **Where problems arise**
 - **Clarifying the law**
 - **Access to courts**
 - **Labour law enforcement**

■ **The employment relationship and informality** Establishing an employment relationship has always been, in some cases, difficult. Indeed, it has been argued that work relations falling on the margins of the employment category has posed a problem as early as the eighteenth century.¹ However, the employment relationship has lately become more difficult to discern – or this difficulty has become more widespread – because labour relations and types of contracts have been changing, often in order to make the labour market more flexible. For example, businesses have increasingly resorted to contracting services and functions that were previously part of the enterprise through independent contracts, employment agencies or cooperatives (this is referred to as vertical disintegration),² and chains of production are more and more complex. Often, the rights and obligations of each party are not clear or, there has been an attempt to disguise the employment relationship or, there are inadequacies or gaps that exist in the legislation, its interpretation or its enforcement.³ This has major consequences for workers and for society as a whole. Indeed, because they are not recognised as employees, workers might lack labour protection and have less social security protection. They may also have difficulties securing the protection of labour inspections and have difficult access to courts.⁴

As has been noted, “it is widely believed that labour law is currently undergoing a “crisis” of core concepts”.⁵ Although there are many attempts to rethink labour law - some suggesting that the concept of the employment contract and the established difference between an employee and a self-employed should be abandoned and that rights and benefits should be granted outside its context,⁶ most agree that it is here to stay.⁷ Legal systems throughout the world adhere to the concept of the employment relationship and it is therefore of primary importance to bring clarity to the concept.

What is an employment relationship?

An employment relationship exists when services are performed under certain conditions in return for remuneration. It is the legal link between an employer and an employee which triggers many of the reciprocal rights and obligations contained in labour law in numerous countries with different legal traditions - with, however, variations. This insistence of the law on the employment relationship is explained by the fact that labour law seeks precisely “to address what can be an unequal bargaining position between parties to an employment relationship.”⁸ Most of the time, the law therefore makes a difference between a dependant worker who works under an employment contract and an independent worker (or self-employed) who works under a civil or commercial contract. This necessary state of affairs, combined with changes in the labour landscape, creates possibilities for abuses and exclusions.⁹

1 Deakin, 2006, p. 104 (referring to the situation in the UK).

2 This phenomenon dates from the 70s and has been widely studied (see for example, Collins 1990).

3 For more details see Resources section to access: Recommendation No. 198, preamble. See also ILO, 2002, Conclusions concerning decent work and the informal economy, Para. 16.

4 ILO, 2003, p.13. For an example of difficult access to court, see Sieng and Nuth, 2006 (in Cambodia, access to dispute resolution mechanisms for workers in a collective labour dispute is dependant on a clear employer-employee relationship).

5 Deakin, 2006, p.89.

6 See for example, Freedland, 1995 and Supiot, 2001.

7 See for example Benjamin, 2006, p.190; Deakin, 2006, p.104.

8 See Resources section to access: Recommendation concerning the employment relationship, 2006 (No. 198).

9 See for example Davies and Freedland, 2000.

● An ILO recommendation on the employment relationship was adopted in 2006 acknowledging “that situations exist where contractual arrangements can have the effect of depriving workers of the protection they are due”

■ **Regulation at the international level.** Discussions have been taking place within the ILO surrounding self-employed workers, home-workers, migrant workers, private employment agency, fishers, etc. All of these topics raised questions relating to the employment relationship. Moreover, discussions took place in 1997 and 1998, within the International Labour Conference, in view of adopting an instrument on the theme of contract labour (workers dependant on an employer but not defined as employees). However, no agreement was reached at that time. The disparities in the terminology used by States in the discussions – ‘contract labour’ is indeed understood differently in different countries – were highlighted but at the same time, it was noted that all delegates from all region repeatedly referred to the employment relationship.¹⁰ A recommendation was adopted in 2006 to tackle this important problem.¹¹ *The Employment Relationship Recommendation, 2006 (No.198)* explicitly recognises the difficulties in some cases of establishing whether or not an employment relationship exists and notes “that situations exist where contractual arrangements can have the effect of depriving workers of the protection they are due”.

■ Where problems arise:¹²

- The **legal nature** of the relationship is **disguised** – the employment relationship has the appearance of being of a different legal nature (civil, commercial, cooperative, family-related, etc). These contracts may give it the semblance of self-employment. An abuse of the use of training contracts, for example, falls into this category.
- The **form** of the relationship is **disguised** – the existence of the employment relationship is not in question but “its nature is intentionally misrepresented” in order to evade the protection afforded by the law, social security and taxes. A fixed-term contract that is repeatedly renewed is an example of this type of disguised relationship.
- The relationship is **ambiguous** – some situations are genuinely unclear with the main characteristics of an employment relationship not apparent. Some workers might have been clearly independent but the relationship with a client might have slowly changed; in other cases, workers might have never set foot in the enterprise.
- The relationship is **triangular** – it typically involves a worker, an intermediary (such as a temporary work agency) and a third party, “the user”. The status of the employee is normally clear but the question that arises is “who is the employer”. This situation can lead to a lack of protection for the worker. Relationships falling in this category can as well be qualified as disguised or ambiguous, and they may involve more than three parties.¹³ It should be noted that it is not the use as such of temporary work agencies that needs to be curbed, it’s its abuse – sometime, employment with the user is prolonged for long periods of time while the legal employer is considered to be the agency – see on this topic the Private Employment Agencies Convention, 1997 (No. 181).

¹⁰ There are many complications related to the terminology used. Indeed, the ambiguities arising from the proliferation of terms referring to various forms of employment were raised in the 2003 Report prepared by the ILO on the employment relationship (atypical, precarious, flexible, non-conventional, contracting out, externalisation, outsourcing, temporary workers recruited for a temporary employment agency). Making comparisons is therefore not straightforward.

¹¹ See Casale, 2011.

¹² These were identified in the 2006 ILC report (ILO, 2006, para.42-57). See also ILO, 2003. See Resources section to access these reports.

¹³ On the topic of the triangular relationship, see Resources section to access: ILO 2003; ILO, 2006; Fenwick, Kalula and Landau, 2007.

The challenges faced are important. From a legal standpoint, they include clarifying the law in order to make its application more straightforward, extending its scope, and up-dating it to ensure its relevance to social changes, deterring attempts to disguise the employment relationship, improving labour inspection, improving access to courts, and providing training to the judiciary.

- **Clarifying the law.** Clarifying the law to make it more relevant is an important step forward. A workshop held by the ILO in Southern Africa in 2007 revealed that while most countries had a definition of “employer” and “employee” in their legislation, these definitions were deemed unclear and of not much use in practice. Moreover, none had a definition of the employment relationship.¹⁴
- **Access to courts.** Access to justice is particularly crucial in cases where the employment relationship is ambiguous, where disagreements or disputes are very likely to arise. However, in practice, access to courts is often limited for reasons that are not specific to labour issues – poverty, lack of education, lack of information about the law, uncertainty about the outcome, lack of infrastructures, etc. Some of the reasons are directly related to labour issues: the fear of losing one’s job, for example. Access to justice needs to be improved in order to implement the law, but also to deter the concealment of employment relationships.
- **Labour law enforcement.** It must be borne in mind, of course, that the problem is not a strictly legal one. As always, non application of the law is part of a wider issue (see brief on International Labour Standards). Indeed, non-enforcement is often a result of financial constraints in most countries. Labour inspection suffers in particular: as stated in the ILO 2003 report on the employment relationship, “in some countries, the probability that an inspector will visit a particular enterprise, detect shortcomings, impose corrective measures and enforce them is very low or non-existent”¹⁵ (see brief on Labour Inspection).

● The diversity of the informal economy makes a uniform response inappropriate

Improving the enforcement of the law is essential. Measures aiming at providing for appropriate and adequate training in relevant international labour standards, comparative and case law for the judiciary, arbitrators, mediators, labour inspectors, and other persons responsible for dealing with the resolution of disputes and enforcement of national employment laws and standard is essential (see Recommendation no. 198). For example, improving training of inspectors, increasing their number and clearly empowering them to identify cases of disguised employment relationship and remedy them by encouraging their collaboration with the social security administration and the tax authorities is of particular importance. As well, training judges on the problematic of the employment relationship may be fruitful as there are cases where the law is too narrowly interpreted.

14 See, ILO, Report of the Subregional Workshop on Labour Law Reform: New Forms of the Employment Relationship, Harare, 28-29 August 2007 (http://www.ilo.org/public/english/dialogue/ifpdial/downloads/harare_report.pdf).

15 See Resources section to access: ILO, 2003 The scope of the employment relationship

ILO Employment Relationship Recommendation, 2006 (No. 198)

In 2006, the International Labour Conference adopted the Employment Relationship Recommendation (No. 198). This non-binding instrument aims at providing guidance to States to extend the protection of labour legislation – therefore bringing workers back into the ambit of the law and out of informality. This detailed recommendation has three facets:

- It encourages States to formulate and apply a *national policy* for reviewing at regular intervals and, if necessary, clarifying the scope of laws and regulations in order to guarantee effective protection for workers who perform work in the context of an employment relationship. This policy should include guidance to the parties concerned, it should seek to combat disguised employment relationship, ensure standards applicable to all types of contracts, provide for adequate training of the judiciary, arbitrators, mediators, labour inspectors, etc.
- It suggests ways of facilitating the *determination of the existence of an employment relationship* - which should be guided primarily by facts relating to the performance of work and the remuneration of the worker - including providing for legal assumptions, deeming specific workers to be employees, and clearly defining the conditions applied for determining the existence of an employment relationship (such as subordination or dependence). It suggests as well a number of indicators that could be used to ascertain the existence of an employment relationship.
- It recommends that an *appropriate mechanism* for monitoring developments in the labour market and the organisation of work and for formulating advice on the adoption and implementation of measures concerning the employment relationship within the framework of the national policy.



A bricklayer on a construction site in Dar es Salaam, United Republic of Tanzania. The construction industry is another sector in which self-employment and free-lance work has become more common.

EMERGING APPROACHES AND GOOD PRACTICES

- Defining specific indicators as to the existence of an employment relationship
- Applying a national policy
- Including particular groups of workers in the scope of the legislation
- Expanding the definition of an employer
- Establishing presumptions of employee status
- Removing incentives to disguise an employment relationship
- Regulating particular employment relationships
- Shifting the burden of proof

● Legislation can define the employment relationship, specify the relationship in particular cases and remove incentives to disguise it

Legislation may provide for a definition of the employment relationship and for legal presumptions. It may also specify this relationship in specific cases and it may remove incentives to disguise the employment relationship. In most countries, the primacy of facts prevails on the form of the contract (the situation will be analysed looking at the facts and not at how the parties describe the relationship). The various initiatives put in place to facilitate the identification of an employer and an employee need to be evaluated in light of the local circumstances and cannot necessarily be reproduced in all contexts. These initiatives illustrate the various ways – through legislation, codes of practice, collective bargaining, handbooks, guides, judicial decisions - that the problem is tackled.¹⁶

● The most commonly factor used to determine whether work is performed under a contract of employment is subordination and/or dependency

■ **Defining specific indicators as to the existence of an employment relationship.** The law (whether legislation or judge made law) has developed many criteria, or tests, to determine the existence of an employment relationship. These vary of course from one country to the other. The most commonly factor used to determine whether work is performed under a contract of employment is subordination and/or dependency (these are used as different terms or as synonyms).¹⁷ However, they are not deemed sufficient. Other appropriate criteria include whether there are instructions, provision of tools, training, regular remuneration, financial risk, control of the work, integration of the worker in the enterprise, entitlements, work done mainly for another, work done within specific hours, a specific time or at a specific location, work carried out personally.¹⁸

■ **Applying a national policy.** Ireland's Code of practice for determining employment or self-employment status of individuals is a good example of a tripartite initiative which aims at eliminating misconceptions and providing clarity by suggesting a number of criteria that should help in distinguishing an employee from a self-employed.¹⁹ (See box).

¹⁶ In 2008, DIALOGUE published an annotated guide to the ILO Recommendation No. 198 which contains many examples of good practices concerning each issue raised in this recommendation. See Resources section to access this guide

¹⁷ See Resources section to access: ILO, 2006, pp.20-21.

¹⁸ For example of legislation or case law which included some of these criteria, see ILO, 2008, pp.29-41

¹⁹ See Resources section to access relevant Code of practice from Ireland. See also, ILO, 2008, p.34.

Ireland – Code of practice for determining employment or self-employment status of individuals

Employees

An individual would normally be an employee if he or s/he:

- is under the control of another person who directs as to how, when and where the work is to be carried out
- supplies labour only
- receives a fixed hourly/weekly/monthly wage
- cannot subcontract the work. If the work can be subcontracted and paid by the person subcontracting the work, the employer/employee relationship may simply be transferred on
- does not supply materials for the job
- does not provide equipment other than small tools of the trade. The provision of tools or equipment might not have a significant bearing on coming to a conclusion that employment status may be appropriate having regard to all the circumstances of the case
- is not exposed to personal financial risk in carrying out the work
- does not assume responsibility for investment and management in the business
- does not have the opportunity to profit from sound management in the scheduling of engagements or in the performance of tasks arising from the engagements
- works set hours or a given number of hours per week or month
- works for one person or for one business
- receives expenses payments to cover subsistence and/or travel
- is entitled to extra pay or time off for overtime

Source: Code of practice for determining employment or self-employment status of individuals. Employment Status Group under the Programme for Prosperity and Fairness. Irish Tax and Customs.

Self-employed

An individual would normally be self-employed if s/he:

- owns his or her own business
- is exposed to financial risk, by having to bear the cost of making good, faulty or substandard work carried out under the contract
- assumes responsibility for investment and management in the enterprise
- has the opportunity to profit from sound management in the scheduling and performance of engagements and tasks
- has control over what is done, when and where it is done and whether he or she does it personally
- is free to hire other people, on his or her terms, to do the work which has been agreed to be undertaken
- can provide the same services to more than one person or business at the same time
- provides materials for the job
- provides equipment and machinery necessary for the job, other than the small tools of the trade or equipment which in an overall context would not be an indicator of a person in business on their own account
- has a fixed place of business where materials, equipment, etc. can be stored
- costs and agrees a price for the job
- provides his or her own insurance cover
- controls the hours of work in fulfilling the job obligations

■ **Including particular groups of workers in the scope of the legislation.** A number of countries have made efforts to include specific workers within the law. In Morocco for example the 2004 Labour code has explicitly included in its scope workers that are often unprotected: salespersons and home workers²⁰. In the Australian state of Victoria, legislation contains “deeming provisions” – the Outworkers (Improves Protection) Act of 2003 states that for the purpose of specific laws, outworkers (home workers) are employees²¹.

In Ontario, Canada, the Ontario Labour Relations Act deems “dependent contractors” to be “employees”. And in Panama the Labour Code considers the following groups to be “employees”: economically dependent sharecroppers and tenant farmers; agents, commercial vendors and similar workers, except where they do not do the work in person or only occasionally; performers, musicians and lecturers; transport drivers; teachers; ice-cream and other vendors; cooperative workers; and apprentices.²²

Morocco, Victoria (Australia) and Ontario (Canada) have made efforts to include specific workers under the law

20 See Resources section to access the Labour Code from the Kingdom of Morocco

21 See Resources section to access the relevant Act from the State of Victoria, Australia

22 For more information see the Resources section to access: ILO, 2003, Report V, The scope of the employment relationship p.23, footnote 9.

■ **Expanding the definition of an employer.** In its Labour Code, the Philippines defines the employer of a home worker as including “any person, natural or artificial who, for his account or benefit, or on behalf of any person residing outside the country, directly or indirectly, or through an employee, agent contractor, sub-contractor or any other person:

1. Delivers, or causes to be delivered, any goods, articles or materials to be processed or fabricated in or about a home and thereafter to be returned or to be disposed of or distributed in accordance with his directions; or
2. Sells any goods, articles or materials to be processed or fabricated in or about a home and then rebuys them after such processing or fabrication, either by himself or through some other person”.²³

A number of countries such as South Africa have established criteria for assessing employee status

■ **Establishing presumptions of employee status.** In South Africa in 2002, a rebuttable presumption of employment was introduced in the Basic Conditions of Employment Act. The law presumes that a person is an employee if one of the following factors is present:

- the manner in which the person works is subject to the control or direction of another person;
- the person’s hours of work are subject to the control or direction of another person;
- in the case of a person who works for an organization, the person is part of that organisation;
- the person has worked for that other person for an average of at least 40 hours per month over the last three months;
- the person is economically dependent on the other person for whom that person works or renders services;
- the person is provided with tools of trade or work equipment by the other person; or
- the person only works for or renders services to one person.²⁴

The worker only has to prove that one or more of these factors are present and the burden of proof shifts to the employer to rebut (contest and prove otherwise) this presumption (this approach has influenced other countries, including for example Tanzania).²⁵

Slovenia, the United States and China are among the countries which use penalties to discourage misclassification of employee status

■ **Removing incentives to disguise an employment relationship.** In Slovenia, the Employment relations Act of 2003, makes provisions for a fine that can be imposed on the employer if the worker carries out the work on the basis of a civil law contract.²⁶ Harsh penalties are also applicable in most states of the United States if an employee is misclassified as an independent contractor.²⁷

In China a written employment contract has traditionally been very important in establishing an employment relationship. The recent Labour Contract law recognises however that an employment relationship may exist even when

23 See Resources section to access: Labour Code of the Philippines, Article 155.

24 See Resources section to access: Article 83A of the Basic Conditions of Employment Act, 1997, as amended in 2002. The same amendment was made regarding the Labour Relations Act (for a discussion, see Fenwick, Kalula and Landau, 2007).

25 Fenwick, Kalula and Landau, 2007.

26 ILO, 2008, p.44

27 See Resources section to access for example: United States Treasury, Inland Revenue Service regulations on independent contractors <http://www.irs.gov/businesses/small/article/0,,id=99921,00.html>

there is no contract. Furthermore, the Labour Contract Law penalises firms for not signing written contracts with fixed term and project-based (but not casual) employees within one month of an engagement by an obligation to pay double remuneration.²⁸

■ **Regulating particular employment relationships.** Employment relationships through the use of “temporary employment services” (TES) are regulated in South Africa through the Labour Relations Act. Section 198 provides that the TES is the employer. However, the TES and the user are jointly liable if the TES contravenes the terms and conditions of employment of a collective agreement, a binding award, provisions of the Basic Conditions of Employment Act²⁹ and a wage determination flowing from the Wage Act. However, this protection is not sufficient as it does not extend to unfair dismissal protection.³⁰

In South Africa temporary employment services are considered the employer

■ **Shifting the burden of proof.** Shifting the burden of proving in court the existence or non-existence of an employment relationship from the employee to the employer is way to settle disputes more easily. In Singapore for example Section 131 of the Employment Act 1996 states:

Onus of proof. In all proceedings under Part XV, the onus of proving that he is not the employer or the person whose duty it is under this Act or under any regulations made thereunder to do or abstain from doing anything shall be on the person who alleges that he is not the employer or other person, as the case may be.³¹

28 Cooney, 2009, p.11

29 See Resources section to access: Fenwick, Kalula and Landau, 2007 for a discussion. Note that the applicable ILS is Convention No. 181.

30 Benjamin, 2008.

31 ILO, 2008. See Resources section to access the relevant law



Cloth cutter in the textile industry, working from home, Sri Lanka.



Seamstress working from home, Lao People's Democratic Republic. In some cases self employed persons may be in a dependent economic relationship with their contractor, thus making their employment relationship unclear.

RESOURCES

This section provides a list of resources which can enable the reader to delve deeper into the issue. Details of the good practices cited above can be accessed here. The section comprises international instruments, International Labour Conference conclusions, relevant publications and training tools. A bibliography of references in the text is further below. There may be some overlap between the two.

ILO and UN Instruments and ILC Conference conclusions

The Employment Relationship Recommendation, 2006 (No. 198)
<http://www.ilo.org/ilolex/english/recdisp1.htm>

ILO, 2002, Resolution concerning decent work and the informal economy, Provisional Record 25, ILC, 90th Session, Geneva: ILO.
<http://www.ilo.org/public/english/standards/relm/ilc/ilc90/pdf/pr-25res.pdf>

ILO, 2003, Report V, The scope of the employment relationship, ILC, 91st session, Geneva.
<http://www.ilo.org/public/english/standards/relm/ilc/ilc91/pdf/rep-v.pdf>

ILO, 2006, Report V (1), The employment relationship, ILC, 95th session, Geneva.
<http://www.ilo.org/public/english/standards/relm/ilc/ilc95/pdf/rep-v-1.pdf>

Relevant publications

Casale, G. 2011. The Employment Relationship: A General Introduction” in G. Casale (Ed.) The Employment Relationship: A Comparative Overview. Oxford and Portland: Hart publishing; Geneva: ILO, pp.1-33.

Casale, G. (Ed.) 2011, The Employment Relationship: A Comparative Overview. Oxford and Portland: Hart publishing; Geneva: ILO.

Cooney, S. 2009. “Working conditions in an integrating world: Regulating time, money and family life – China”, paper presented at the ILO Regulating Decent Work Conference, Geneva, 8-10 July.

Davidov, G. 2006 “Enforcement problems in “informal” labor markets: A view from Israel”, in Comparative Labor Law and Policy Journal, Vol. 27, No. 1, pp. 3-25.

Fenwick, C., Kalula and I. Landau, 2007, Labour Law: A Southern African Perspective, IILS, ILO
http://www.ilo.org/wcmsp5/groups/public/---dgreports/---inst/documents/publication/wcms_193513.pdf

Freedland, M., 1995, “The Role of the Contract of Employment in Modern Labour Law”, in L. Betten (Ed.), The Employment Contract in Transforming Labour Relations, Deventer: Kluwer.

Selected Government websites on relevant laws

Australia: State of Victoria, Outworkers (Improves Protection) Act of 2003
<http://www.austlii.edu.au/au/legis/vic/bill/opb2003405/>

Republic of Eire: Code of practice for determining employment or self-employment status of individuals
<http://www.welfare.ie/EN/Publications/EmploymentStatus/Documents/codeofpract.pdf>

Kingdom of Morocco: Labour code
<http://www.maroc.ma/PortailInst/An/MenuGauche/Major+Projects/Labour+Code/>

The People's Republic of China: Labour Contract Law
http://www.fdi.gov.cn/pub/FDI_EN/Laws/GeneralLawsandRegulations/BasicLaws/P020070831601380007924.pdf

The Philippines: Labour Code of the Philippines, Article 155.
<http://www.cfo.gov.ph/pdf/PD%20No.%20442.pdf>

Singapore, Ministry of Manpower, Employment Act 1993, Section 131.
<http://www.mom.gov.sg/legislation/Pages/labour-relations.aspx>

South Africa: Basic Conditions of Employment Act, 1997, as amended in 2002
<http://www.labour.gov.za/legislation/acts/basic-conditions-of-employment/read-online/amended-basic-conditions-of-employment-act>

United States of America, Treasury, Inland Revenue Service regulations on independent contractors
<http://www.irs.gov/businesses/small/article/0,,id=99921,00.html>

Tools

ILO. 2008. The Employment Relationship: An annotated guide to ILO Recommendation No. 198, Geneva: ILO.
<http://www.ilo.org/public/english/dialogue/ifpdial/downloads/guide-rec198.pdf>

For further information see the ILO's Industrial and Employment Relations Department website <http://www.ilo.org/public/english/dialogue/ifpdial/areas/legislation/employ.htm>;
the International Labour Standards Department website <http://www.ilo.org/global/standards/lang--en/index.htm> and the Labour Administration Department <http://www.ilo.org/labadmin/lang--en/index.htm>

References

Benjamin, P. 2006. "Beyond the boundaries: Prospects for expanding labour market regulation in South Africa", in G. Davidov; B. Langille (eds): Boundaries and frontiers of labour law (Oxford and Portland: Hart Publishing), pp. 181-204.

Benjamin, P. 2008. "Informal work and labour rights in South Africa", paper presented at the Regulatory environment and its impact on the nature and level of economic growth and development in South Africa conference, Development Policy Research Unit, 27-29 October.

Casale, G. 2011. "The Employment Relationship: A General Introduction" in G. Casale (Ed.) The Employment Relationship: A Comparative Overview. Oxford and Portland: Hart publishing; Geneva: ILO, pp.1-33.

Collins, H. 1990. "Independent contractors and the challenges of vertical disintegration to employment protection laws" in Oxford Journal of Legal Studies, Vol. 10, No. 3, pp.353-380.

Cooney, S. 2009. "Working conditions in an integrating world: Regulating time, money and family life – China", paper presented at the ILO Regulating Decent Work Conference, Geneva, 8-10 July.

Davidov, G. 2006. "Enforcement problems in "informal" labor markets: A view from Israel", in Comparative Labor Law and Policy Journal, Vol. 27, No. 1, pp. 3-25.

Davies P.; M. Freedland. 2000. "Labour markets, welfare, and the personal scope of employment law", in Oxford Review of Economic Policy, Vol. 16, No. 1, pp. 84-94.

Deakin, S, 2006. "The Comparative Evolution of the Employment Relationship" in G. Davidov and B. Langille (Eds.), *Boundaries and Frontiers of Labour Law*, Oxford and Portland: Hart Publishing, pp. 89-108.

Fenwick, C., Kalula and I. Landau. 2007. *Labour Law: A Southern African Perspective*, ILS, ILO.

Freedland, M. 1995. "The Role of the Contract of Employment in Modern Labour Law", in L. Betten (Ed.), *The Employment Contract in Transforming Labour Relations*, Deventer: Kluwer.

ILO. 2002. *Conclusions concerning decent work and the informal economy*, ILC, 90th session, Provisional Record 25, Geneva, pp. 53-61.

ILO. 2003. *Report V, The scope of the employment relationship*, ILC, 91st session, Geneva.

ILO. 2006. *Report V (1), The employment relationship*, ILC, 95th session, Geneva.

ILO. 2008. *The Employment Relationship: An annotated guide to ILO Recommendation No. 198*, Geneva: ILO.

http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/generic-document/wcms_172417.pdf

Sieng, D. and M. Nuth. 2006. "Extending labour protection to the informal economy in Cambodia", in D. Tajgman, *Extending Labour Law to All Workers: Promoting Decent Work in the Informal Economy in Cambodia, Thailand and Mongolia*, Geneva: ILO.

Supiot, A. 2001. *Beyond Employment: Changes in Work and the Future of Labour Law in Europe*, Oxford: Oxford University Press.

Contents:

Acknowledgments / Foreword / Preface / How to use the Guide / Acronyms

PART I: Key concepts

1. Decent Work and the Informal Economy

1.1 Key conceptual issues

2. Measurement of the Informal Economy

2.1 Addressing statistical challenges

PART II: Policies to support transitions to formality

3. Growth Strategies and Quality Employment Generation

3.1 Patterns of economic growth and the informal economy

4. The Regulatory Framework and the Informal Economy

(A) International Labour Standards

4.a1 The Regulatory Environment and the informal economy: setting a social floor for all who work

4.a2 International Labour Standards (ILS): bringing the unprotected under the law

4.a3 Understanding the employment relationship and its impact on informality

(B) Specific Groups

4.b1 Domestic Workers: strategies for overcoming poor regulation

4.b2 Homeworkers: reducing vulnerabilities through extending and applying the law

4.b3 Street vendors: innovations in regulatory support

4.b4 Micro and Small Enterprises (MSEs), informality and labour law: reducing gaps in protection

4.b5 Strategies for transforming undeclared work into regulated work

(C) Labour Administration

4.c1 Labour administration: overcoming challenges in reaching the informal economy

4.c2 Labour inspection and the informal economy: innovations in outreach

5. Organization, Representation and Dialogue

5.1 Social dialogue: promoting good governance in policy making on the informal economy

5.2 The role of Employers' organizations and small business associations

5.3 Trade unions: reaching the marginalized and excluded

5.4 Cooperatives: a stepping stone out of informality

6. Promoting Equality and Addressing Discrimination

6.1 Promoting women's empowerment: a gendered pathway out of informality

6.2 Migrant workers: policy frameworks for regulated and formal migration

6.3 Disability: inclusive approaches for productive work

7. Entrepreneurship, Skills Development, Finance

7.1 Informal enterprises: policy supports for encouraging formalization and upgrading

7.2 Enhancing skills and employability: facilitating access to the formal economy

7.3 Microfinance: targeted strategies to move out of informality

8. Extension of Social Protection

8.1 Extending social security coverage to the informal economy

8.2 HIV/AIDs: overcoming discrimination and economic exclusion

8.3 Extending maternity protection to the informal economy

8.4 Childcare: an essential support for better incomes

9. Local Development Strategies

9.1 Local development: opportunities for integrated strategies for moving out of informality