

The Law and Informality Project: An Introductory Note

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I. Introduction

Nearly two-thirds of the world's 3 billion workers are informally employed. For most, informal employment is associated with precarious working conditions, paltry incomes, and legal insecurity (OECD 2009). Yet in recent years informal workers in several regions have begun to fight — and win — battles to enhance their legal status. Street vendors in India, for example, achieved the first ever National Policy on Urban Street Vendors in 2004. Home-based workers in Pakistan saw a parliamentary resolution regarding home-based work passed in April 2007. And in April 2009, waste pickers in Colombia earned official recognition as self-employed entrepreneurs from the country's Constitutional Court. These examples suggest that while informal workers are traditionally understood to be “outside” the legal system and formal employment regimes, their position with regard to legal-regulatory frameworks is more dynamic, complex, and variable than commonly recognized.

This project explores how the relationship between informal workers and the legal system is negotiated and defined, and how it has evolved in contemporary Latin America.

Hypothesizing that the relationship is shaped by both constitutional reformulation and the ebb and flow of neoliberal reform, we focus on the experiences of Peru and Colombia since the early 1990s (although empirical research will center on Lima and Bogotá). The two countries are similar on a number of fundamental dimensions of relevance to our project: both have been democracies (if flawed democracies) for more than three decades, both have engaged in significant rule-of-law reforms and, in particular, carried out constitutional revision (in 1993 and 1991 respectively), and both have sought to implement neoliberal reforms over the past two decades.¹

The project proceeds in two parts. First, we will map the laws and regulations that domestic governments at the local, state, and national level in each country, as well as international institutions (legislative bodies or courts), have elaborated to guide informal workers and their work. We will both identify the contours of the framework as it existed

¹ Correspondingly, the country cases to which we would like to be able to generalize our findings are democracies that have undergone both neoliberal and legal reform as well as constitutional renewal – be they in Latin America, post-Communist Europe, or Southeast Asia.

prior to the onset of economic reform and constitutional change, and trace how it has evolved over the last two decades. The goal is to locate informal workers within this legal-regulatory matrix, shedding light on the extent to which they are covered or “reached” by legal systems and formal regulatory regimes. The premise of this aspect of the project runs counter to understandings of informality that either (a) assume an absence of relevant laws and regulations on the books, or (b) leave relevant laws and regulations unexplored. We anticipate being able to demonstrate that there is in fact a legal-regulatory framework impinging on informal work, whether or not it is implemented or enforced, and whether or not informal workers or those with whom they interact are aware of it or comply with it – and to suggest with greater precision where and how informal workers “fall through” the legal-regulatory system. In sum, we treat the disjunction between informal workers and legal-regulatory regimes as an empirical question (one of degree), rather than assuming it by definitional fiat.² Beginning the analysis at the moment of constitutional and economic reform will allow us to evaluate the impact that those reforms have had on subsequent shifts in the legal-regulatory framework for informal workers.

The project’s second facet explores a particular subset of the strategies informal workers employ to maintain and secure their livelihoods.³ These strategies, which we refer to as “legal strategies,” are those that informal workers have used in hopes of encouraging the state to create or modify legal norms relevant to them and their work, and those entailing the use of the legal system itself (laws and legal institutions).⁴ This component of the project also runs counter to conventional wisdom in a number of ways. First, it treats informal workers as agents of change with regard to their legal status, and views that status as dynamic rather than static. Second, it shows how individuals traditionally considered to be outside the legal system – who are often portrayed as evading it, and who traditionally have had little reason to believe in it and little experience with its benefits –

² This contribution of the project is elaborated further in Sections II and III below.

³ For this component of the project, we will limit the time frame to the past three years.

⁴ We anticipate that these two categories may at times overlap; for example, informal workers may file cases with the countries’ constitutional courts challenging the constitutionality of laws or municipal ordinances in hopes of changing them.

nonetheless seek to get the law on their side and use it to their advantage. We will weigh several alternative explanations for the evolution in strategy use over time, evaluating the role of national and local institutions,⁵ as well as characteristics specific to informal workers and their working conditions.

II. Concepts and Theories

Ia. The Informal Economy and its Formal-Legal Framework

One of the first significant challenges we will face is identifying the population of informal workers in each country. A wide range of terms has been used to describe the type of workers and employment conditions that dominate in the developing world and are notably present in the developed world as well. These terms — informal sector, informal economy, informal employment, informal work, informal economic activity, and so on — carry with them a correspondingly wide array of definitions and measurement approaches. While many have questioned the usefulness of the terms in light of ongoing conceptual muddles (e.g. Peattie 1987), discussions focusing on the “informal sector” and “informal economy” have not only persisted in academic and policy circles, but have attracted renewed interest in recent years. At last in part, this is because informal economies remain large and significant worldwide, because they are emerging in new forms and unexpected places in the context of global economic restructuring, and because they have become a focal point for efforts to promote growth and reduce poverty (Chen 2006).

The most significant conceptual advance in recent years has been the shift within the international statistical community, adopted in 2003 by the International Conference of Labor Statisticians (ICLS), from using the term “informal sector” to employing the term “informal economy.” The one-dimensional term “informal sector” sorted enterprises in and out of the informal category based on the nature of the enterprise. The two-dimensional term “informal economy” focuses on both the nature of enterprises and the nature of

⁵ Indeed, an important facet of this inquiry will be to map what formal legal strategies have been available to informal workers in each country.

employment relationships within them.⁶ The “informal economy” is understood to comprise all forms of informal employment — employment without formal contracts, worker benefits or social protection — both inside and outside informal enterprises. Adoption of this expanded conceptual framework⁷ addresses an obvious contradiction: that definitions of the ‘informal sector’ that include only enterprises that are themselves in some way outside the legal-regulatory regime exclude a vast array of workers whose employment relationships are likewise informal. Indeed, the recent proliferation of flexible employment arrangements resulting from global economic restructuring (Standing 1999, Rodrik 1997) makes the inclusion of informal employment relationships as part of the informal economy all the more sensible from a conceptual standpoint.

Yet the added focus on informal employment compounds measurement problems that have long plagued the literature. First, there are multiple approaches for defining and measuring in what way(s) an *enterprise is informal*, each of which raises measurement challenges. For instance, common attributes of “enterprise informality” are non-registration and non-taxation. Yet single enterprises are often registered in one domain or with one type of state service but not another; moreover, enterprises often pay, directly or indirectly, some taxes but not others, complicating identifying which enterprises are informal. Other authors define informal enterprises as those that *evade* registration and taxation requirements. This approach assumes that some relevant legal-regulatory regime exists on the books, and that entrepreneurs intentionally seek to avoid compliance with it – yet scholars rarely define what they consider to constitute the legal-regulatory regime or investigate to what degree such a regime exists. Without a clear understanding of what laws on the books are relevant to the different types of informal workers, it is difficult to

⁶ That is, informal employment is understood to include both (a) *self-employment in informal enterprises* (i.e., employment in small unregistered or unincorporated enterprises, including employers, own account workers, and unpaid family workers); and (b) *wage employment in informal jobs* (i.e., employment without formal contracts, benefits, or social protection in formal or informal firms, for households, or with no fixed employer). The latter category includes employees of informal enterprises; other informal wage workers (such as casual or day laborers, domestic workers, unregistered or undeclared workers, and temporary or part-time workers); and industrial outworkers / home workers (Chen 2006).

⁷ “Expanded conceptual framework” is the term used by the authors of the new definition of “informal economy” (see e.g. Chen 2006).

address the issue of intentional law evasion. Finally, some have expanded the criteria for “enterprise informality” beyond registration and taxation to other attributes such as level of capital formation, reliance on unpaid family labor, organizational form, and entrepreneurial practices (such as management techniques or accounting practices). Yet because gathering primary data on such attributes of enterprises can be complicated, many studies (in particular those that are based on survey data) use the size of the firm as a simple proxy for informality. This practice no doubt facilitates empirical analysis, but it also clearly violates standards of concept validity.

Likewise, there are multiple approaches for defining and measuring in what ways an *employment relationship* is informal. For example, when “informal employment” is defined as employment without contracts, benefits, or social protection, it remains to be determined which benefits or forms of social protection must be absent in order for the employment relation to be considered informal. Moreover, individual workers may be covered by some protections even without a contract, or may be eligible for some benefits and not others. Definitions and discussions of informal employment also frequently exhibit ambiguity regarding the relevant unit of analysis. As ‘informal employment’ refers most often to *individual workers* who lack contracts, benefits, and/or social protection, any empirical study of the ‘informal economy’ (defined as both informal enterprises and workers in informal employment relationships) would need to identify a sample or universe of cases of both enterprises and individual workers. Identifying the universe of employment relations that are informal and disentangling informal enterprises, activities or practices, and employment conditions (and the workers subject to them) are significant undertakings that require context-specific decisions, which in turn make systematic comparisons problematic. Again, proxies – with their attendant concept validity problems – are commonly employed for the purpose of measurement and comparison.

No matter in what way the informal economy is defined, the degree to which informal workers are reached by laws and regulations is a critical question that remains unanswered. This project takes as its starting point the premise that four “levels” of legal reach must be distinguished: whether “laws on the books” exist; whether those laws are

implemented (funded, staffed, and so on); whether those laws are enforced; and whether those actors whom laws intend to reach actually comply with them. The project's initial goal is to investigate the first level, asking what relevant legal-regulatory framework – what municipal, regional, national, and international-level norms written to regulate informal workers and their work – exist on the books in Peru and Colombia.

We recognize the limitations of focusing on “laws on the books” and hope to be able to expand beyond this focus as the project develops. Nonetheless, focusing initially on formal legal institutions allows us to make two contributions to literature on the informal economy. First, the fact that laws and regulations exist that specifically address informal workers or informal worker groups (such as street traders, home-based workers, or waste pickers) often goes unnoticed in the literature. For example, in the case of street traders, local governments frequently elaborate regulations intended to govern registration and taxation issues for vendors occupying public space. In these cases, the portrayal of street vendors as “outside” the legal-regulatory regime can be misleading. Also, in the case of laws and regulations intended to govern enterprises in general (and not informal enterprises in particular), few analyses break down their content in a way that reveals the empirical frontier between enterprises “inside” and enterprises “outside” the legal-regulatory regime or the degree to which such laws seek to regulate the latter. In sum, analyzing laws on the books will give us a critical baseline understanding of what laws and regulations are relevant to informal workers and their work and of the ways in which they reach those workers.

Iib. Legal Mobilization

Nearly three decades ago, Frances Zeman argued that the traditional perspective on law held by political science – law as “unidirectional action emanating from the state and imposed on citizens” (1983, 690) was far too narrow. She highlighted instead the *interactive* nature of law. Law, she suggested, can serve as a form of political participation – and a particularly democratic form, as it can involve individual contact with the state without collective action or intermediation. Despite Zeman's and others' admonitions, the question of why citizens and civil society groups litigate – why they turn to *courts* to try to get what

they want and need – remains underdeveloped in the comparative politics and comparative judicial politics literatures.

Legal mobilization entails a variety of dynamics and goals. On one hand, the phenomenon that Peruzzotti and Smulovitz (2006) label “social accountability” – societal efforts to hold elected leaders to their promises, and to laws and the constitution – might be considered legal mobilization, depending upon the strategies adopted by those carrying out such efforts. On the other hand, individuals and groups may use legal strategies in order to advance their own interests. Certainly these objectives can overlap, and particular empirical examples of legal mobilization may be driven by a combination of these goals. We are most interested in identifying and explaining behavior falling most clearly in the second category: why would informal workers engage in legal mobilization to maintain and secure their livelihoods?

One quite basic way of categorizing arguments that have been advanced in the political science literature concerning the causes of legal mobilization is to distinguish between “top-down” and “bottom-up” arguments. “Top-down” arguments are those that focus on state or institutional attributes that affect litigation; “bottom-up” arguments focus on attributes of the individuals or groups that litigate.

In an illuminating study of Russia, Jordan (2006) highlights a range of top-down institutional variables that encouraged Russian “advocates” to litigate consumer protection and commercial disputes between 1992 to 2002. She points to the strengthening of consumer protection law; a new civil code that strengthened consumers’ rights to demand full compensation for damages and to have contractual relations clearly defined; the creation of new rules facilitating consumers’ filing of suits; and the expansion of consumers’ procedural rights. She also highlights the creation of a system of commercial (*arbitrazh*) courts – and the fact that those courts began to rule for consumers in consumer protection cases. In a very different study that nonetheless points to top-down attributes to account for legal mobilization, Wilson and Rodríguez Cordero (2006) highlight how an expansion of the “opportunity structure” for litigation led to an increase in politically marginalized groups’ use of the legal process to safeguard their constitutional rights in

Costa Rica. Specifically, they describe how the establishment of the constitutional *sala* of the Costa Rican Supreme Court in 1989 – and the implementation of a new set of rules for accessing the Court that broadened standing and reduced the financial and intellectual costs of filing a claim – encouraged politically marginalized groups to litigate.

Perhaps the quintessential “bottom-up” argument concerning why new forms of litigation emerge is Charles Epp’s. In seeking to explain the genesis of “rights revolutions,” Epp suggests that while constitution-centered explanations, judicial-centered explanations, and “rights consciousness”-focused explanations have some merit, the crucial ingredient for a rights revolution is legal mobilization, understood as the “process by which individuals make claims about their legal rights and pursue lawsuits to defend or develop those rights” (1998, 18). The emergence of legal mobilization, he suggests, depends on potential litigants’ possession of various types of resources, which in turn depends on “support structures” including rights-advocacy organizations and lawyers, and a legal profession with particular features. These “support structures” help to convert potential litigants into actual litigants by providing expert legal research and counsel, financing, publicity, and networks of communication.

Of course, some scholars have combined top-down and bottom-up approaches to explaining legal mobilization. Seeking to account for the expansion of judicialization in Argentina since 1983, Smulovitz (forthcoming) points to both the evolving opportunity structure for rights claiming (including changes in Argentina’s bill of rights, in levels of judicial independence, and in rules regulating the selection/tenure of judges and access to courts), *and* the existence of support structures for legal mobilization that democratized access to courts (for instance, organizations dedicated to litigating rights abuses, willing and able lawyers, financial resources, and free legal services). Kapiszewski (forthcoming) makes a similar argument, showing how the degree to which the Brazilian high court was called on to engage in rights adjudication in the post-authoritarian period was influenced by the interaction of the “constitutional opportunity structure” (top-down), and the “socio-political incentive structure” (bottom-up) facing potential litigants.

As Michael McCann has suggested, “the legal mobilization framework envisions law as essentially neither just a resource nor just a constraint for defiant political action. Rather, the approach encourages us to focus on how, when, and to what degree legal practices tend to be both at the same time” (McCann 1994, 12). Identifying and analyzing the legal framework within which informal workers operate, and the particular legal strategies they employ to maintain and secure their livelihood will allow us to examine both facets of legal mobilization.

III. Research Questions

IIIa. Mapping the Legal Terrain

Although many definitions of the “informal sector” can be found in the literature, one common thread running through most is the idea that informal workers in some sense fall “outside” of a formal legal-regulatory environment. The content of that legal-regulatory environment, however, remains unknown in my contexts. This part of the project seeks to fill that gap. It traces the content of the legal-regulatory framework impinging on informal workers in Peru and Colombia from the early 1990s to the present. Once mapped, we will evaluate the impact of constitutional change and neoliberal reform on the content of the legal-regulatory framework.

DESCRIPTIVE QUESTIONS

Question 1a. What local, regional, national, and international norms “reached” or “covered” informal workers in Peru and Colombia at the time of constitutional change (1993 and 1991, respectively)?

Question 1b. How has this legal-regulatory framework changed over time?

EXPLANATORY QUESTION

Question 1c. What impact have constitutional change and neoliberal reform had on the legal-regulatory framework guiding informal workers in Peru and Colombia over the last two decades?

We approach the question of how to define the relevant legal-regulatory framework from the perspective of informal workers themselves. That is, we consider the full range of legal-regulatory domains that informal workers encounter in the day-to-day operation of

an enterprise, in the case of self-employed entrepreneurs, or in the day-to-day business of earning a wage, in the case of employees.⁸ To further narrow the scope of inquiry, we focus on three of the largest occupational categories among informal workers in Latin America: street vendors, home-based workers, and waste pickers.⁹

Table 1. Sample Legal-Regulatory Framework

Level of Government Category of Norm	International	National	Sub-national	Local
International norms (laws, agreements, treaties, frameworks, conventions)		—	—	—
Constitutional rights and guarantees	—		—	—
Legal recognition				
Legal protection				
Regulation				
Regulatory recognition				
Regulatory protection				
Judicial rulings				

In order to map this legal terrain, we envision a matrix of norms from the international, national, sub-national, and local levels, encompassing different types of norms from each level (see Table 1). The legal-regulatory framework we discover will form the foundation for the remaining parts of the project. The framework will consist of eight categories of norms, ranging from international norms (international laws, agreements, treaties,

⁸ We do not consider laws and regulations that would be relevant to these workers as citizens, but not as workers.

⁹ Home-based workers are also called “industrial outworkers” in the literature. We discuss this choice further in Section IIIb.

frameworks, and conventions developed by or through international legal-regulatory bodies), to national-level norms, to sub-national (regional, state, provincial, metropolitan, or municipal) level norms, to local norms. The range of local norms to be included will be determined after exploratory field research is conducted in each country.

IIIb. Identifying and Explaining Informal Workers' Legal Strategies

Most accounts of informal workers in Latin America suggest (implicitly or explicitly) that such workers have not typically employed legal strategies to maintain and secure their livelihood. That is, informal workers are understood to be law-evaders or law-takers, rather than law-makers or law-users. Yet empirical research carried out in Peru and anecdotal evidence from Colombia suggest that some informal workers in both contexts have begun to adopt legal strategies over the last two decades. Our project seeks to identify the contours, causes, and consequences of this phenomenon.

DESCRIPTIVE QUESTION

Question 2a. To what degree have informal workers begun to adopt legal strategies, what strategies have they begun to adopt, and how has the use of such strategies evolved over time?

EXPLANATORY QUESTION

Question 2b. Why have some informal workers but not other begun to adopt legal strategies, why have they done so now, and why has strategy use varied over time?

To further specify, our inquiry centers on a subset of the many strategies informal workers might employ to maintain and secure their livelihoods, a subset we refer to as “legal strategies.” That is, we are interested in strategies informal workers might employ *to encourage the state to modify some element of the legal framework* impinging on them, and strategies that entail *using the legal system* itself (laws broadly construed and legal institutions). We are not interested in strategies informal workers may use to change laws/ordinances that do not form part of the legal framework that impinges directly upon

them *as workers*, nor are we interested in strategies they may use to secure their livelihood that do not involve using the legal system.¹⁰

Identifying the workers on whom our inquiry will focus entails two steps. First, we will define which workers we will consider to be “informal.” As outlined in Section IIa, conceptualizing and measuring the “informal economy” (and, thus, identifying the population of informal workers) is difficult. We will adopt the expanded conceptual definition of the informal economy developed by the International Labor Organization (ILO) as our working definition of informal employment: employment without formal contracts, worker benefits, or social protection, both inside and outside informal enterprises (Chen 2006).¹¹ However, a central contribution of the project will be to problematize this definition by investigating empirically in what ways workers who are commonly understood to be informal are and are not “reached” or “covered” by laws and regulations that dictate rules concerning their operation, rights, benefits, and responsibilities. Second, because many informal workers are affected by laws and regulations that target a particular occupational group, we will identify particular occupational groups to study. Initially, our inquiry will focus on street traders, waste pickers, and home-based workers. We are sure to find workers pertaining to these large groups in Lima and Bogotá. Further, there is already some scholarship on these groups, in particular by an international NGO, Women in Informal Employment: Globalizing and Organizing (WIEGO).

¹⁰ The content of the first part of the project may raise the question of whether we will seek to evaluate or explain informal workers’ compliance with the laws/rules that impinge on them and their work. Much literature has examined how informal workers attempt to **avoid** the law (with the conventional wisdom being that they always do, by nature) and compliance is certainly an important dimension of the overall relationship between informal workers and the legal-regulatory system/state. Our goal, however, is to identify and describe *other* dimensions of that relationship – to highlight and problematize newer and potentially more interesting ways in which informal workers interact with law.

¹¹ According to the attendant “checklist” developed by the ILO to sort workers into and out of the informal category, an informal worker is one who works without a secure contract, benefits, or social protection in (a) a small unregistered or unincorporated enterprise as an employer, employee, own account operator, or unpaid worker; or (b) a formal enterprise, household, or without a fixed employer as a domestic worker, casual or day laborer, temporary or part-time worker, industrial outworker, or unregistered or undeclared worker.

We identify five dimensions of informal workers' legal strategies: focus, target, objective, tactic, and outcome. **Focus** refers to the broader end that motivated informal workers' use of a legal strategy. Did they wish to increase the social safety net on which they can count, for instance? **Target** refers to the aspect of the legal system informal workers sought to modify, or the actor(s) whose behavior they sought to affect through the use of a legal strategy. For instance, did they seek to change the rules governing taxation, social protection or licenses? **Objective** refers to the precise change they sought to effectuate through their use of the strategy. For instance, did they seek to broaden standing to file a particular case, or push for extension of a particular legal protection? **Tactics** refers to what, precisely, informal workers did in order to try to bring about the desired change. Did they meet with municipal leaders, for instance, or file an *amparo* with the constitutional court? Finally, **outcome** refers to what (if any) change occurred on the basis of informal workers' employment of legal strategies.¹²

A few examples should help to illustrate the different types of strategies we hope to examine. On one hand, we wish to know what informal workers do to encourage the state (at any level) to create, change, or repeal elements of the legal framework regulating informal workers and their work. For instance, they might meet with municipal leaders, coordinate with other workers or perhaps a lawyer to develop a *proyecto de ley* to submit to congress, protest, or try to replace existing law with bilateral, block-level solutions. On the other hand, we wish to know how informal workers attempt to use elements of the legal system to secure or maintain their livelihood. For example, in the 1990s, a group of street vendors in Lima filed a case with a third-party (non-judicial) state institution, the National Institute for the Defense of Competition and the Protection of Intellectual Property (INDECOPI), alleging that by charging them for a license *and* requiring that they pay a particular tribute (*sisa*), the municipality was interfering with open economic competition. The informal workers won their case. Moreover, other street vendors could

¹² Considering the outcome of strategy use raises a different explanatory question (why some strategies were effective and others were not) and a related conceptual problem (evaluating effectiveness). While we are interested in knowing whether the strategies employed by informal workers ultimately helped them to achieve their goals, accounting for why some strategies were helpful and others were not falls outside the scope of our inquiry.

subsequently point to the INDECOPI ruling in negotiations with state authorities, another use of the legal system. Alternatively, informal workers might pursue a rights-based strategy, filing *tutelas* (in Colombia) or *amparos* (in Peru) with the constitutional court, or organizing a march to protest the state's violation of a particular constitutional right. Finally, they might take their rights-based claim to the Inter-American Court of Human Rights, or to the Inter-American Commission. There are many other possibilities.

The explanatory aspect of our inquiry seeks to account for why some informal workers have begun to adopt legal strategies now, and why the use of these strategies has varied over time. In short, what factors make available, condition, or encourage the use of legal strategies such as those just outlined? We advance the following tentative hypotheses:

“Top-down:”

- H1: Strategy use is affected by the legal/constitutional opportunity structure; this hypothesis may also explain within-country variation in strategy use (either among informal workers or over time) should the legal/constitutional opportunity structure vary across workers or over time (as it has in both Colombia and Peru);
- H2: Strategy use is prompted, encouraged, or pre-empted by the behavior (illegality, antagonism, openness, etc.) of state actors.

“Bottom-up:”

- H3: Informal workers in different occupational categories may use different strategies (or not use legal strategies at all);
- H4: Informal workers with different levels of legal or regulatory protection may use different strategies (or not use legal strategies at all); similar hypotheses might be developed based on any other operative trait of informality;
- H5: The establishment and activities of “support structures” (a la Epp) that help informal workers to engage the legal system may affect strategy use. Such support structures may make informal workers more aware of their rights and of the mechanisms they could use to manage their livelihood; as such, the effect of other structures with the potential to affect informal workers in these ways (such as transnational advocacy networks or movements) will also be evaluated;
- H6: An evolving perception of the degree to which law can offer protection and security may affect strategy use.

IV. Expected Contributions

This project addresses a number of broader questions and issues of empirical, normative and theoretical concern. We are at a point historically where state-led development models – and the notion that the state should be responsible for employment-generation – have been deemed bankrupt by the international community, while the economic solutions based on more competition and freer markets that replaced state-led development after the 1970s have also failed to generate formal employment. Moreover, shocks such as the recent global financial crisis periodically lead economies around the world to contract, generating unemployment and displacing migrant workers to their home countries, generating dramatic spikes in the size of the informal sector. These dynamics induce renewed concern about how to generate employment so that citizens can generate income. Our inquiry should help to reveal to what degree informal workers have *themselves* begun to seek solutions, using legal strategies to produce a more secure environment for the employment category into which more and more of the world’s citizens fall.

A finding that informal workers – people who have never had much reason to believe in law, and have benefited infrequently from legal support – are increasingly employing legal strategies to maintain and secure their livelihood would be highly unexpected – and unprecedented. Literature focusing on the “demand for law” in contemporary Russia and other post-communist polities (e.g., Hendley 1999, Galligan and Kurkchian eds. 2003), for instance, has suggested that while people recognize that they must comply with formal legal requirements, legal strategies have not been considered a viable means to address problems; indeed, filling out paperwork and obtaining the requisite stamps and notarizations are often understood to be the requisite steps one must take before the actual process of (informal) problem-solving can begin. Likewise, the literature on the “un-rule of law” in Latin America (e.g., Pinheiro 1996; Mendez, O’Donnell, and Pinheiro eds. 1999) suggests that the underprivileged are “abused” by the law far more often than they are protected by it, and suffer from very unequal access to justice. Even in such contexts where law is under-used and may in fact be a source of continued repression after the transition to democracy, informal workers represent legal institutions’ “least-likely users” as they are often *defined* by their status as “legal outsiders.”

Of course, an important goal of the rule of law programs that were unfurled across Latin America and other parts of the developing world in the 1990s (see, e.g., Carothers 1998) was to establish legal institutions that people could use to resolve disputes and in which, it was hoped, they might eventually come to believe. This inquiry thus also offers an opportunity to evaluate empirically the degree to which these extraordinarily expensive reform programs served to address the region's endemic legal problems.

Further, identifying the causes of the hypothesized increase in the use of legal strategies among informal workers will offer insights on how attitudes about law change, and on when and how a "tipping point" is reached at which people switch from using informal practices exclusively, to also (or only) using formal practices to advance their interests. When does the formal route become a viable route to change (if not the definitive route) rather than the route one must avoid at all costs, or traverse simply to access informal means to change and problem-solving? Finally, if legal security is the foundation of economic security (De Soto 1989), the increased use of legal strategies may not only solidify informal workers' status as legally endowed citizens, but may augment the likelihood of economic security, perhaps representing a first step toward addressing global poverty and inequality.

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