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A Centre for Human Environment backgrounder for the  
National Consultations of the High Level Commission on the Legal Empowerment of the Poor  
This is a more specific note on labour rights in Ethiopia. The paper is undergoing peer review to ensure its  
representativeness of coverage of the main Issues the Commission is entrusted with.

# Legal Empowerment of the Poor: Labor rights

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## **EXECUTIVE SUMMARY**

This paper attempts to summarize the existing body of knowledge regarding labor rights in Ethiopia, which is one of the main areas of focus of the Commission on Legal Empowerment of the Poor (CLEP). To address the key issues of interest to the CLEP in this particular area of focus - mainly the balance between decent work within the informal and formal economies and productivity - , the paper is structured as follows. An introductory section describes the methodology of the study; provides a brief background on Ethiopia's labor market; gives definitions of key concepts; and outlines conceptual remarks about labor markets in Ethiopia. Urban markets in Ethiopia are briefly assessed in the next section, with emphasis on labor supply, employment, labor demand, unemployment, underemployment, and informal employment. Section 4 analyzes the situation of relevant institutions and the legal framework of the labor market. The challenges for the informal sector to graduate to the formal sector, i.e. the costs of working formally were briefly assessed in the fifth section whereas another section focuses on suggestions on how to find a decent balance between protection of rights and productivity given the findings and observations of the study.

Whereas the principal impediments that hinder the informal sector to graduate to the formal do not seem to be found in the existing labor regulations, the main issues for discussions that emanate from this study are: the non-existence of linkages between formal institutions and informal organizations; the lack of sufficient social security coverage in the country; the inefficiency and ineffectiveness of employment services; the lack of capacity of social partners such as workers' or employers' organizations; the necessity for improvement of labor inspection services; the lack of coverage of risks such as health coverage which is one of the main factors that hinders productivity; the promotion of microfinance institutions to ensure security in employment; the need for tailored training targeting, inter alia, the informal sector to reduce unemployment, underemployment or informal employment; the need to make apprenticeship contracts more accessible; the possibility of introducing a non-discrimination clause for various types of labor contracts; as well as the provision of equal employment opportunities to persons with disabilities.

## **1. INTRODUCTION**

### **1.1 *Brief Background on Ethiopia's Labor Market***

The Ethiopian population has been rapidly increasing over time. Currently, the size of the population is estimated at about 70 million. Despite the fact that Ethiopia is still a predominantly agrarian society wherein an estimated 85 percent of the population lives in rural areas, and some 80 percent make a living through agriculture, over the last 10 years growth per capita in the non-agricultural sector has been more than two and half times higher than in agriculture. The share of agriculture in GDP declined by 7 percent over the period.

While there was better economic performance in the 1990s than in the 1980s for various reasons, employment creation in Ethiopia has been limited. In the 1980s, output growth was achieved through increased employment, at the cost of productivity, i.e. labor productivity was very low. A different picture has emerged in the post-reform period (1990s) in which output growth occurred through higher productivity, at the cost of employment, i.e. there was employment contraction, which resulted in massive unemployment.<sup>1</sup> In particular, employment contraction occurred in the agricultural sector and, as a result, a shift in employment from agriculture to other sectors, especially to the services sector was observed. The labor transfer was not large enough to reduce the size of the labor force engaged in agriculture as the sector still employs more than 80 percent of the total labor force followed by services. It should be noted that the contribution of off-farm and other public work programs to permanent employment has been limited in the country.

The informal sector represents an important part of the economy and certainly of the labor market in Ethiopia, and thus plays a major role in employment creation, production and income generation. The informal sector absorbs most of the expanding labor force in the urban areas. In Ethiopia, informal sector employment is a necessary survival strategy because of lack of social safety nets such as unemployment insurance or where wages – especially in the public sector – and pensions are low. In these situations, indicators such as the unemployment rate and underemployment rate are insufficient to identify inadequate labor market statuses. It is a challenge to policy makers faced with the following goals: improving the working conditions, legal and social protection of persons employed in the informal sector; increasing the productivity of informal sector activities; developing training and skills; organizing informal sector producers and workers; and developing appropriate regulatory frameworks, governmental reforms, urban development, and so on. Since many women and children are employed in the informal sector, issues emerge concerning child labor and women's contribution to economic activities. Understanding the problem will be of paramount importance not only for informed policy and decision-making, but also for selective interventions in the labor market. It can be argued that a well-functioning labor market is a prerequisite for sustained economic growth and poverty reduction.

### **1.2 *Methodology of the Study***

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<sup>1</sup> Mulat et al. 2003.

In order to produce current, updated and relevant information for discussion in the areas of focus of the High Level Commission on Legal Empowerment of the Poor, research, literature review, interviews of relevant actors, observations, discussions with stakeholders have been undertaken. Among those interviewed were government officials involved in the sector; representatives of the target groups i.e. the Poor through civil society organizations and directly; microfinance institute representatives and private sector representatives.

We would like to thank the following entities for their cooperation with interviews of key informants and/or provision of relevant information:

- Government representatives from :
  - Ministry of Labor and Social Affairs (MoLSA)
  - Federal Micro and Small Enterprise Agency (FeMSEDA)
  - Central Statistical Authority (CSA)
  - Enterprise Ethiopia
- Microfinance institutions:
  - Specialized Financial and Promotional Institution (SFPI)
  - Association of Ethiopian Microfinance Institutions (AEMFI)
- Non-governmental organizations
  - Women in Self- Employment (WISE)
  - Pro-pride
- Representatives of the main stakeholders

## 1.3 Definitions

### 1.3.1 The Concept of “Informal Sector”

The Ethiopian Central Statistical Authority (1999)<sup>2</sup> defined informal sector for purposes of sample survey as those house hold type establishments, mainly engaging marketed production; not registered as companies or co-operatives; have no full written book of accounts; engaging less than ten persons; and have no licenses.

On the other hand, ILO recognized four types of layers of informal sector businesses in Ethiopia:  
*Itinerant Micro enterprises:* This group is the lower- most layer, consisting mostly of itinerant, unlicensed, non-taxpaying and self-employed persons operating in the retail trade and service sector. Mostly, they are very low-income households with no other regular source of income including those relatively skilled persons who are unable to obtain sufficient contract on regular basis.

*Indigenous Micro enterprises:* These are residence based, fixed location enterprises that entirely depend on family labor and indigenous technology for the production of indigenous crafts work, food or beverage.

*Traditional Micro enterprises:* In this category, firms are found in a fixed location, and are municipality licensed, tax paying, middle to high income growth oriented family business, all belong to retail trade and service sectors

*Informal Small business:* are also growth oriented family business which engage mainly family labor and employ up to ten wage workers and possibly including a couple of apprentices.

While there is no consensus regarding the definition of the term informal sector, there is agreement that the sector consists of very small-scale producers and distributors of goods and

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<sup>2</sup> CSA. 1999.

services, and independent, self-employed persons in urban and rural areas. Informal activities also include activities that are carried out without formal approval from formal authorities and are therefore outside legal and regulatory frameworks.

### 1.3.2 Decent Work

According to the International Labor Organization (ILO), decent work is defined as “the aspiration of people in their working lives. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men.” In other words, decent work stands on four pillars which are employment remuneration and benefits, fundamental rights of work, social protection including occupational safety and health and social dialogue.

## 1.4 Conceptual Remarks about Labor Markets in Ethiopia

As in most developing countries, the labor market in Ethiopia is mainly composed of sizable proportions of unpaid family work and self-employment and a very low share of waged employment. Since rules and regulations do not have much influence on these types of employment, labor markets tend to be rather flexible and workers’ protection is often neglected. A largely prevailing informal economy employing most of the labor force and self-subsistence activities are among the characteristics of the Ethiopian economy. In particular, the large size of the informal economy determines a high level of flexibility through the provision of occasional work and irregular incomes, which is not compensated by measures targeting workers’ protection.

According to the International Labor Organization (ILO)<sup>3</sup>, a good balance between labor market flexibility, employment and income security, acceptable to both employers and workers is achieved when labor input can be easily and quickly adjusted to the needs of labor demand. However, a reasonable level of protection for workers should also be guaranteed. This balance is obtained through the interaction of several factors.

Following is a list of such factors:

- *An appropriate legal framework* – A legal system providing and enabling a rapid adjustment of labor supply to the needs of labor demand. However, this hardly applies in countries like Ethiopia as the urban labor market is mainly composed of unpaid workers in the informal sector and only a small part of the economy is formal. In addition, in the 1990s and early 2000s, labor market reforms in Ethiopia have turned what were deemed to be rigid labor laws into more flexible ones;
- *Sound social dialogue* – Although this factor is essential as a methodology, it is weak and ineffective in Ethiopia.
- *Well-functioning labor market institutions* – Labor market institutions are crucial for setting a good balance between flexibility and security. In Ethiopia, they are weak, inefficient and uncoordinated. A strong and effective supervisory system is particularly important to assure the observation of protection norms. A clear illustration of this is the low number of labor inspectors in Ethiopia nationwide, where there were only 44 in 2003 (ILO, 2006).
- *Effective labor market policies* – Used to mitigate the effects of adjustment to labor demand, which are rather weak or missing in Ethiopia because of the small state budget available to finance them.

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<sup>3</sup> Maria Sabrina De Gobbi. 2006.

- *Risk management mechanisms* – These measures can prove effective in countries like Ethiopia to increase the level of economic security of workers in moments of income loss and in situations where the State is too poor and weak to provide labor market policies. These are mainly savings; credit both for consumption and emergency needs and for productive activities; mutual insurance; and training; to provide an income in dire moments.

## 2. URBAN LABOR MARKETS IN ETHIOPIA

### 2.1 Labor Supply

In general, the labor force has been increasing faster in urban than in rural areas, probably because of high levels of rural-urban migration. The share of the urban labor force rose from 9.8 percent in 1984 to 12.4 percent in 1999.<sup>4</sup>

In urban areas, labor force participation has decreased from 65.4 percent in 1999 to 55.2 percent in 2004. This decline concerns women more than men. The participation rate for women reportedly decreased from 61 percent in 1999 to 34 percent in 2004, whereas the corresponding figures for men were 79 percent and 50 percent in the same years. As Table 1 indicates, the drop in participation rate is particularly sharp in the age group 10-24, which implies a positive trend linked to increasing levels of education for young people.

**Table 1: Labor force participation rates in urban areas (%) (1999-2004)**

Age group	1999	2003	2004
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<sup>4</sup> Tassew et al. 2005.

10-14	21.9	10.2	8.6
15-19	51.6	36.1	33.0
20-24	81.4	71.0	66.3
25-29	90.3	84.9	81.6
30-34	91.1	89.1	85.2
35-39	91.1	88.2	87.3
40-44	88.2	86.9	83.5
45-49	86.4	79.7	79.2
50-54	76.0	74.2	72.0
55-59	70.9	67.4	57.8
60-64	61.6	50.3	54.0
65 and above	40.6	33.0	28.9
<b>Total</b>	<b>65.4</b>	<b>57.9</b>	<b>55.2</b>

Source: Computed by Tassew Woldehanna, Fantu Guta, Tadele Ferede from CSA (1999, 2004).

## 2.2 Employment and Labor Demand

Since the 1990s, urban employment increased for persons aged 20-44, with the largest decline hitting the age group 10-19 (see table 2). Increased access to education may account for this phenomenon. Unlike in accepted international definitions, Ethiopian official statistics include children in the economically-active population. In 1999, 61.4 percent of children aged 5-14 were engaged in domestic and productive activities including household agriculture enterprises, household non-agriculture enterprises and paid agriculture and non-agriculture enterprises, paid domestic services and self-employment. Similarly, in 1999, 10.4 percent and 4.4 percent of children aged 5 years were employed in domestic and productive activities respectively. Children in rural areas are more likely to be participating in productive activities than children in urban areas. In 1999, corresponding figures for children aged 5 were about 5 percent in rural areas and 0.8 percent in urban ones.

**Table 2: Trends in employment by age in urban areas (%), 1999-2004**

Age group	1999	2003	2004
10-14	12.8	2.8	2.6
15-19	15.6	11.3	10.5
20-24	12.8	15.0	15.7
25-29	12.9	18.2	18.7
30-34	9.2	13.6	13.4
35-39	9.4	12.2	13.6
40-44	7.4	8.8	9.1
45-49	6.0	6.8	6.8
50-54	4.3	4.5	4.6
55-59	3.3	2.5	0.3
60-64	2.7	1.9	2.2
65 and above	3.5	2.5	2.5

Source: Computed by Tassew Woldehanna, Fantu Guta, Tadele Ferede, from CSA (1999, 2004).

The distribution of employment by sector is diversified in urban areas. Employment increased in manufacturing, construction, education, health and social work, and public administration and defense, whereas it declined in agriculture, wholesale and trade, and hotels and restaurants. A shift from wholesale and trade, and hotels and restaurants to manufacturing and construction is

likely to have occurred, especially because of the big construction projects that have recently been launched. Wholesale and trade, manufacturing, hotels and restaurants are the main sources of urban employment, with a high concentration of women in wholesale and trade, hotels and restaurants.

In urban areas, where a small proportion of the national labor force is concentrated, waged employment represents a rather large share of total employment (49.4 percent in 2004) and is dominated by permanent and casual work (about 46 percent each in 1999), with permanent positions being mainly in the public sector and dominated by men whereas women prevail in temporary jobs.

## 2.3 Unemployment and Underemployment

### 2.3.1 Unemployment

In Ethiopia, where massive poverty prevails, and where there is practically no social security coverage, and more importantly where dual forms - formal and informal - coexist, unemployment is a poor indicator of labor market conditions. In such an economy, the majority of the economically active population are underemployed, work long hours but earn an income which does not even meet basic needs; hence, labor is under-utilized. Moreover, many people of working age, who are not in full-time education, need to work to survive. The volume of employment generated has been insufficient to keep pace with continuing increases in the labor force.

Due to the rapid growth of the population and the weak economic performance, the number of unemployed population has been increasing over time in the country. The proportion of unemployed people has remained higher in urban than in rural areas. Urban unemployment rate has increased from 7.9 percent in 1984 to 22 percent in 1994, while the corresponding figures are 0.42 percent and 0.69 percent for the rural areas. The rapid increase in urban unemployment might be due to, among others, accelerated rural-urban migration, which has created additional pressure on meager urban infrastructure.<sup>5</sup>

In urban areas, the number of unemployed persons increased from 430,000 in 1999 to 667,000 in 2004, with substantial variations across age groups. In terms of age composition, the unemployment rate is highest in the age group 15-19 years, when secondary school leavers join the labor force and in the age group 20-24 years, when tertiary education graduates enter the labor market. Together these two age groups account for more than 45 percent of total unemployed persons, suggesting that unemployment in urban areas is essentially a youth phenomenon.<sup>6</sup> The gender composition of unemployment reveals that the unemployment rate for women has been higher than that for men both in urban and in rural areas, indicating that women are vulnerable to the incidence of unemployment.

**Table 3: Unemployment rates in urban Ethiopia (%), 1999-2004**

Age Group	1999			2003			2004		
	M	F	T	M	F	T	M	F	T

<sup>5</sup> Yeraswork et al. 2003.

<sup>6</sup> Tassew et al. 2005.

<b>10-14</b>	2.8	1.7	2.1	2.9	2.1	2.4	0.9	0.9	0.9
<b>15-19</b>	15.3	16.2	15.9	20.3	18.2	18.9	11.4	16.3	13.9
<b>20-24</b>	31.3	33.9	32.8	28.9	27.4	27.9	24.6	31.6	28.2
<b>25-29</b>	19.9	22.0	21.2	18.2	22.3	20.9	15.4	22.8	19.2
<b>30-34</b>	9.5	8.4	8.8	7.7	10.0	9.2	6.4	10.0	8.3
<b>35-39</b>	5.5	7.6	6.8	4.5	7.4	6.4	4.9	8.5	6.7
<b>40-44</b>	4.1	4.0	4.0	3.5	4.7	4.3	2.6	3.5	3.1
<b>45-49</b>	2.6	3.0	2.8	3.5	3.6	3.6	3.7	3.3	3.5
<b>50-54</b>	3.4	1.7	2.4	2.6	2.1	2.3	3.2	1.2	2.2
<b>55-59</b>	1.8	0.5	1.0	3.3	0.9	1.7	2.3	1.0	1.6
<b>60-64</b>	2.3	0.6	1.3	2.4	0.7	1.3	2.2	0.5	1.4
<b>65 and above</b>	1.5	0.5	0.9	2.1	0.5	1.1	1.8	0.3	1.1
<b>Total</b>	10.4	17.5	13.8	15.4	27.1	20.8	13.8	22.3	17.6

Source: Computed by Tassew Woldehanna, Fantu Guta, Tadele Ferede, from CSA data.

### 2.3.2 Underemployment

In the Ethiopian context, unemployment is not a good indicator of non-absorption of available human resources in the country. It coexists with underemployment, which is a common feature in public institutions and in the informal economy, and is associated with stagnant nominal wages and low productivity.

Available evidence indicates that apart from large open unemployment, hidden or underemployment has now become a serious problem in the country. One indicator of underemployment, among those classified as workers or employed, is the percentage of these workers who had sought or were available or searching for additional work on some days of the year. In urban areas, the mean hours worked increased from 36 hours per week in 1999 to 43 hours in 2004. In addition, underemployment was more rampant for male workers (48.3 percent) than for female workers (37.4 percent) in 1999<sup>7</sup>. The problem of underemployment is more severe in urban areas where about half of the employed population was seeking additional work. This is clear evidence of self-perceived underemployment and if this group of people is included in the unemployment category, then the number of unemployed people will increase substantially in the country.

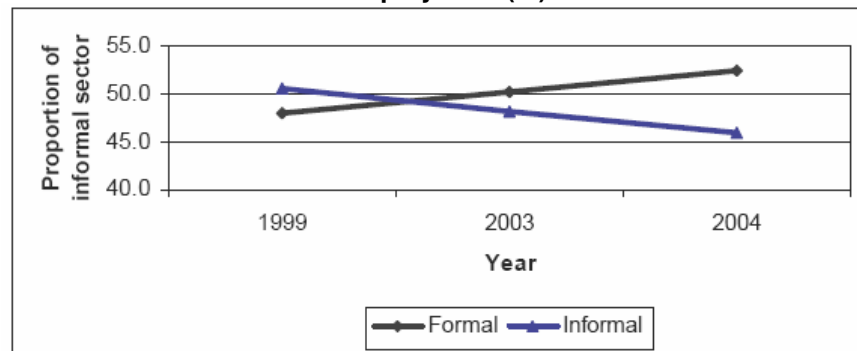
## 2.4 Informal Employment

The informal economy has become the most important source of employment for the growing population in Ethiopia. Approximately 1.1 million people were engaged in the urban informal economy in 2003 and 2004. It should be noted that the relative share of workers in the informal economy has shown an increasing trend in Addis Ababa in recent years: it increased from 15 percent in 1999 to 22 percent in 2004. This might be due to the fact that the City Government of Addis Ababa is expanding and promoting micro-enterprises and also allowing holiday and weekend markets for informal operators. Contrary to expectation, it seems as if the size of the informal economy tends to increase in regions where the level of poverty is relatively low. As for the gender dimension of urban informal workers, the concentration of female workers is marginally higher than that of male workers. The number of informal female workers was 58 percent and 51 percent in 1999 and 2004, respectively. Despite a declining trend, the urban

<sup>7</sup> CSA. 1999.

informal economy is the main source of employment and livelihood for the growing urban labor force, confirming the importance of the sector in terms of absorbing employment and income generation for a remarkably high percentage of workers in the country, owing to the weakness of the formal sector in creating additional job opportunities. Employment in the informal economy has shown a declining trend in recent years (see Figure 1). The principal reason for this is the recent adoption of a strategy for the formalization of the informal economy. Specific measures have been taken within a Micro and Small Enterprises Development Strategy, such as the promotion of micro-enterprises both at federal and regional levels.<sup>8</sup> One of the main objectives of this strategy is to create an enabling legal, institutional environment, as well as the provision of other support services, such as skill upgrading, strengthening the use of appropriate modern technologies boosting capacity to create long-term jobs, facilitating access to credit, improving access to markets including large business purchases and export markets.

**Figure 1: Trends in the distribution of the urban formal sector and informal sector employment (%)**



Source: Tassew Woldehanna, Fantu Guta, Tadele Ferede, 2005.

### 3. INSTITUTIONS AND LEGAL FRAMEWORK OF THE LABOR MARKET

#### 3.1 Labor Market Institutions

##### 3.1.1 State Institutions

In Ethiopia, the main State institutions which play a significant role in matching labor supply and demand and which bear responsibility in planning and coordinating employment promotion activities are the Ministry of Labor and Social Affairs (MoLSA), and the Labor Advisory Board.

Amongst MoLSA's responsibilities are:

- registering labor organizations (or refusing registration);
- registering collective agreements and assuring their enforcement;
- facilitating the settlement of disputes including assigning conciliators and arbitrators upon the request of the parties;

<sup>8</sup> Federal Democratic Republic of Ethiopia. Ministry of Trade and Industry. 1997.

- undertaking studies on the national labor force; collecting and disseminating information on the labor market; developing special programs for vulnerable groups of workers (women, youth, elderly, etc.); and
- issuing directives on working conditions, occupational safety and health at work.

Set up by MoLSA, the Labor Advisory Board is in charge of studying matters concerning employment, labor legislation, working conditions and occupational safety and health at work and is able to give advice to the Minister of Labor. The Board is tripartite and is composed of 15 members: five representatives of workers, five representatives of employers and five representatives of different ministries (Ministry of Finance and Economic Development, Ministry of Justice, Ministry of Education, Ministry of Trade and Industry, Public Enterprises Supervision Authority and MoLSA).

### 3.1.2 Employment Services

Ethiopia has ratified two ILO Conventions on employment services:

- Convention no. 88 concerning the Organisation of the Employment Service ratified in 1963; depending on MoLSA;
- Private Employment Agencies Convention, No. 181 of 1997 ratified in 1999; provided by private agencies.

Public employment services are provided through regional offices linked to MoLSA. The decentralization process, which was introduced in the mid 1990s when Ethiopia became a federation, led to the restructuring and reorganization of such services at a regional level. The limited resources available locally, coupled with the poor implementation capacity, determined the present situation of the almost absence of public employment services in some areas of the country.

In general, public employment services currently consist only of placing suitable registered job seekers in available registered positions. Although permitted by national legislation, other tasks, such as establishing links with employment and training programs for the unemployed and collecting labor market information, are not performed. Public employment services are more effective in urban areas than in rural ones. In Addis Ababa, between 1998 and 2002, 51,761 job seekers and 4,184 vacancies were registered and a total of 3,249 persons were placed in suitable jobs.

### 3.1.3 Social Partners

Social partners in Ethiopia are weak in terms both of membership and of experience. Although they were involved in the process of revision of the 2003 labor proclamation, their impact in the formulation of social and economic policies could be much stronger.

According to Ethiopian legislation,

- ten or more employees in an undertaking can establish a trade union;
- employees from different enterprises with less than ten employees can form a general trade union.

Founded in 1964, the Confederation of Ethiopian Trade Unions (CETU) is the only institution representing workers in the country. At present it consists of nine federations and has a membership of 181,647 workers organized in 445 basic unions. Be it 300,000 or 200,000 as at times debated, CETU's membership does not even reach 1 percent of the total labor force in the country. A large majority of the Ethiopian population is employed in agriculture often in unpaid jobs or in self-employment. This reality does not favor unionization.

The Ethiopian Employers' Federation (EEF) is the only employers' association in the country. It was founded in 1964 and was dismantled in 1974 by the military junta. It was re-established only in 1997. EEF's current membership is composed of 64 enterprises and 4 employers' associations. Workers employed in EEF's member enterprises are about 100,000 in total. The

principal challenges faced by EEF include lack of experience in social dialogue due to its recent formation, poor financial and material resources to run the organization efficiently, and lack of awareness of industrial relations and social dialogue among employers nationwide.

### 3.1.4 Informal Labor Market Entities

In Ethiopia, in particular in rural areas and where the informal economy prevails, some typical informal labor market entities are found in the form of community-based organizations. Mahebers (associations) and debos (farm work groups or “labor sharing organizations”) are the most common ones, especially in the Northern regions. Some of the main functions of Mahebers are mutual support and the resolution of small-scale conflicts also related to labor. Debos are agricultural work groups in rural Ethiopia based on labor exchange. The labor of a number of people from a certain area is offered to assist one or more individuals in tasks. This type of labor organization is very flexible and can easily and quickly adjust to the needs of agriculture. Group members pay for the labor they receive with their own personal labor, thus avoiding the payment of wages. Group members in a given community have a social obligation to comply with the request for their labor whenever it arises. Noncompliance entails ostracization in the community.

Urban informal sector employment is concentrated in the manufacturing, trade, hotel and restaurant sub-sectors and usually takes the form of self-employment. No structured social dialogue seems to occur among the self-employed or between informal sector workers and employers. Informal dialogue may occur, but it seems clear that informal sector employees have essentially no bargaining power.

## 3.2 Labor Legislation in Ethiopia

### 3.2.1 Labor Rights in the Constitution

The Constitution of Ethiopia contains a full chapter (Chapter 3) on fundamental rights and freedoms. Among these fundamental rights, a whole range of general principles of labor rights are firmly anchored in the constitution. The constitution provides for principles such as the right of the security of the person (Article 16 of the Constitution), the prohibition against inhuman treatment and the abolishment of slavery and servitude (Article 18 (2)) and forced and compulsory labor (Article 18 (3) and (4) of the Constitution). General Freedom of Association is laid down in the Constitution (Article 31, “for any cause or purpose”), and specified in Article 42, “Rights of Labor”. The Right to Strike is explicitly mentioned in Article 42 (1) b) of the Constitution. This article, in its paragraph 2, also lays down the right to reasonable limitation of working hours, to rest, to paid leave and to healthy and safe working environment.

Article 35 of the Constitution deals with the rights of women, such as equality with men (Article 35(1)), in particular in employment, promotion, pay and the transfer of pension entitlements (Article 35(7), and 42 (1) d)). The Constitution grants the right to maternity leave with full pay, as well as prenatal leave with full pay, in accordance with the provisions of the law (Article 35(4) a) and b)). Pursuant to Article 36 on the rights of children, “every child has the right not to be subject to exploitative practices, neither to be required not permitted to perform work which may be hazardous or harmful to his or her education, health or well-being”.

### 3.2.2 Labor Regulation

In order to adequately study the Labor Law in Ethiopia, it is necessary to briefly review the history of the last 40-50 years. Present-day labor law, as a specialized law designed to protect employees' welfare, only came into existence as a result of the modern industrial development and with the rise of the status of the employee as wage earner. Ethiopia's process of modernization and industrialization was progressive since the times of Emperor Menelik II (1889–1913), and was only interrupted by the Italian invasion in 1935. The post-war period allowed for the development of individual and social rights along with attempts towards economic development.

At the very beginning, the workers' movement in Ethiopia was rather corporative, taking the form of the traditional Ethiopian organizations, such as “ekub” and “edir”, local self-help societies that provide services and mutual aid and protection of the interest of their members. In 1963, the first formal labor law (on collective labor relations) was established with the “Labor Relations Proclamation No. 210/1963”.

During the Derg period (1974-91) as part of the socialist order of state and society, labor law was based on the public ownership of the means of production and was subject to central planning and central management. The Labor Proclamation No. 64 of 1975 superseded the imperial Labor Relations Proclamation, and contained almost all provisions of a socialist labor law. There was no autonomy with regard to the conclusion of collective agreements as a form of independent control over working life exercised by freely constituted trade unions. There were no employers' organizations, and no contractual freedom between employer and employee. Until recently, the main source of labor law, the Labor Proclamation, Proclamation No. 42/1993, was developed in the post-socialist time, marking the overcoming of the centralized state-economy towards a market oriented, pluralistic society.

### 3.2.3 The Current Labor Law

The existing Labor law of Ethiopia is referred to as the “Labor Proclamation No. 377/2003.” This text repealed Labor Proclamation No. 42/1993 (as amended by Proclamation 88/1994). It has become the principal source of labor law in Ethiopia.

The new statute represents an important tool for unions and employers to participate in all labor matters. The innovation concerns the right of workers, without distinction whatsoever, to form organizations of their own choosing and the right of these organizations to organize their activities without interference by the public authorities and not to be dissolved by administrative authority (Article 114 (1), (2) and (7)).

Remarkable differences in the level of flexibility and security in the Ethiopian labor market can be found, comparing the Labor Proclamation of 1975, which was one based on a socialist system, with that of 1993. Under the socialist regime, recruitment had to happen through public employment offices, which was no longer the rule after Proclamation No. 42/1993 was adopted. Other changes include the end of guaranteed employment in the public sector for college and university graduates; the ease of conditions allowing temporary employment; the shortening of probation contracts from 90 to 45 days; widening the range of cases where dismissal is not unlawful. Even if the level of employment protection has been increasing since the 1960s, beneficiaries are very few. Legislation is often disregarded in the private sector and is simply not applied in the informal economy. In addition, measures to combat abuses and violations of labor law are not effective, although their enforcement has recently improved thanks to slightly more efficient courts. Labor inspection services can inspect only enterprises with at least 1,000 employees and only every five years. In addition, although they are legally assigned several relevant tasks, their limited financial and human resources do not allow them to operate in an efficient manner. The decentralization process that started in the mid 1990s has further weakened this control mechanism due to its reorganization and to the very poor resources

available locally. In some areas of Ethiopia, labor inspection services are said to be only “nominal”. The total number of labor inspectors is reported to be 44, as of 2003.

One feature of the Ethiopian economy is that extreme poverty and decades of war have resulted in a high number of persons with disabilities. It is estimated that in 2003, 7.6 percent of the Ethiopian population was disabled. Ethiopia has ratified ILO Convention No. 159 on Vocational Rehabilitation and Employment (Disabled Persons) in 1991. The federal government has adopted several measures to address the needs of persons with disabilities in the country, including Proclamation No.101/1994 concerning the employment of persons with disabilities. While providing for equal employment opportunities, the law has not entered into effect as no regulations and directives have been adopted for its implementation. The proclamation makes it mandatory for employers to finance all necessary adaptations to make a job accessible to disabled workers. Such costs are perceived as a burden by employers and a factor discouraging the recruitment of persons with disabilities.

### 3.2.4 Labor Contracts

Proclamation No. 377/2003 regulates the employment relationship in the private sector, while Federal Servants proclamation No. 262/2002 and other minor acts contain rules on the employment relationship in the public sector.

According to Proclamation No.377/2003, a labor contract can be for a definite or indefinite period or for a specific task. Unless specific conditions are met, a labor contract is presumed to be for an indefinite period. These specific conditions are:

- The performance of a task
- The replacement of a worker who is temporarily absent
- The performance of work in a situation of exceptionally high workload
- The performance of urgent work to avoid danger or damage
- The random occurrence of irregular work related to the permanent activity of the enterprise
- Seasonal work
- Occasional work performed intermittently
- The temporary placement of a worker who has suddenly lost a permanent job (or a maximum 45 days and not renewable)
- The temporary placement of a worker before a vacancy is filled through regular procedures (for a maximum of 45 days and not renewable)
- Possibility of employers to repeatedly recruit employees for a limited duration thereby avoiding the application for the higher protection standards provided to workers recruited with contracts for an indefinite period.

A valid employment contract can be entered into only by individuals who are over 14 years old. Therefore, no special form is required except written modifications of employment conditions attested by MOLSA, necessary for probation and apprenticeship contracts, which are particularly important for the recruitment of young unemployed people.

The labor proclamation establishes that the written contract must specify:

- The nature and duration of the training,
- The remuneration due to the trainee
- The conditions of work

Ethiopia ratified Convention No.158 concerning Termination of Employment at the Initiative of Employer in 1991.

- According to Proclamation No. 377/2003, the lawful grounds for termination of a labor contract are related to:

- The conduct of the employee
- The ability of the worker to perform his/her task
- The operational requirements of the undertaking
- A public sector employee can be lawfully dismissed after sick leave for 8 months in a year or for 12 months over 4 years, or after 6 months of absence, and as a penalty following disciplinary action. Negative annual performance evaluations may also lead to dismissal.
- Before actual dismissal takes place, training and job transfer are offered to improve a civil servant's performance.
- Lawful dismissal requires a notice period of between one to three months, depending on the number of years of service of the employee
- If the lawful cause for contract termination is the cessation of enterprise operations or labor force reduction, the notice period is of two months
- If contract termination is due to unlawful dismissal, permanent cessation of enterprise operations or labor force reduction, misconduct of the employer or disability, the employee is entitled to receive severance payments.
- The amount of severance payment ranges between 30 days of salary for a year of service, increased by one third per additional year of service, until a maximum of 12 months salary.
- If contract termination is due to the cessation of enterprise operations or labor force reduction, 2 additional months of salary are added to the said amount of severance payment.
- Non-compliance with dismissal rules makes contract termination unlawful
- Remedies against unlawful contract termination are either the reinstatement of the worker in the workplace and the payment of due wages, or compensation in addition to severance payment.
- A reduction of the labor force of at least 5 units makes it mandatory for the employer to consult trade unions or worker's representatives.

### *3.3 Risk Management Mechanisms*

#### *3.3.1 Savings*

In a national economy characterized by a high level of unemployment, underemployment and income insecurity, savings are crucial to alleviate the risk of sudden income loss. A survey conducted in 1999-2000 on household income, consumption and expenditure tried to estimate household's savings through expenditure on different items. According to this estimate, rural households save on average Birr 204 per year, whereas urban households save Birr 506 per annum. The average annual savings rate stood at about 3.6 percent of earnings in rural areas and 5.2 percent in urban areas. In rural households, some 54 percent of savings is in the form of household investment, followed by loans repayment and Equb contributions. Contributions to Equbs absorb 50 percent of urban households' savings, followed by household investment and Edir contributions. Equbs, church associations (Maheber), and Edirs are all traditional forms of savings and credit organizations. In all these community-based organizations, savings are collected regularly in order to assist members in need of financial help for health, funeral expenses, or to build roads, schools and even health centers.

#### *3.3.2 Microcredit*

Credit for productive activities is another essential tool which allows poor people to cope with income losses by developing alternative sources of income or by expanding their existing micro - businesses.

Particularly important for income and food security are also loans for consumption and emergency needs. In Ethiopia, the principal sources of credit are informal channels, such as moneylenders, relatives, friends, traders, etc. There are then traditional sources of funding, such as Edirs, church associations (Maheber), and Equbs. The share of credit provided by the formal banking system is very low and does not reach 0.5 percent at a country level. In urban areas, only 16 percent of households had a bank account in 1999-2000, whereas in the same year, 6.7 percent of urban households were members of a savings and credit cooperative. Corresponding figures for rural areas are not available, but they would be either negligible or non-existent. To confirm this trend, from table 3.5 above, it is possible to see that the highest concentration of cooperatives is to be found in Addis Ababa, the capital city. Microfinance institutions are an emerging viable and affordable source of funding for the poor in Ethiopia. In 2006, 26 MFIs were operational.

### 3.3.3 Social Insurance

#### 3.3.3.1 Social Security Schemes

In Ethiopia, existing social security schemes have a rather limited scope and cover risks related to work injury, sickness, old age and death. Statutory provisions assure social security coverage to civil servants employees in public enterprises; workers employed in the military and police force.

General norms establish that private sector employers must provide benefits for sickness, injury and death of their employees at work. Unfortunately, such rules are often neglected because there is no clearly specified legal obligation binding employers.

Some private social security schemes in the form of provident funds or cash benefits are in place usually where collective agreements have been concluded to this end. The percentage of private sector formal employees who benefit from social security coverage remains low and is not more than 10 percent.

According to statutory provisions, public pension schemes:

- Are financed 60 percent by the employer (the state) and 40 percent by workers
- The contributory mechanism for provident funds is not determined by law and varies from case to case.

In the private sector:

- All permanent employees of an enterprise where provident funds exist benefit from their coverage.
- The employer has nonetheless the legal obligation deriving from the labor proclamation of compensation for any work-related injury, sickness or death of any of his/her employees' regardless of whether such funds exist.
- If a permanent, temporary and/or partial disability follows injury, besides payment of medical expenses, the employer owes the worker an additional compensation in cash, the amount of which is fixed by law.
- The same labor proclamation also determines the amount of compensation which is owed to survivors after the death of a worker

Because of the existing different social security coverage between formal sector public employment and formal sector private employment:

- It is impossible to claim that in Ethiopia formal sector employment means adequate social protection and informal sector employment involves lack of social protection
- Being formally employed does not necessarily mean having decent social security coverage
- Different employment contracts imply unequal levels of social security coverage.

For instance, workers with a fixed-term employment contract do not receive pension benefits. This becomes even worse for workers hired with a contract for a specific task, due to the fact that they often have no social security coverage at all, as is the case for construction workers.

It has been suggested that a national social security system both for formal and informal employees be designed and adopted, so that all workers both formal and informal and in both public and private sectors be duly protected.

In 1999, Ethiopian employees working in the Government and public enterprises totaled about 4.3 percent of the employed population in the country. Although in 2004 Ethiopians aged over 60 were about 4.5 percent of the total population, old age pension schemes were available only to public sector employees.

### 3.3.3.2 Pension Proclamation

- Two funds are mentioned, one for civil servants and another for military and police servants
- In both cases, old age pension and benefits for invalidity, incapability and survivors are provided
- The retirement age is fixed at 60 years
- Some exceptions for an earlier age are foreseen for military and police officers
- The basic pension is 30 percent of the salary.
- This amount can be higher if some specific conditions are met, but can never be over 70 percent of the salary.
- The amount of validity pension is the same as the old age pension.
- An incapacity pension due to a work related injury is assigned only when the incapacity level is at least 10 percent and causes a total loss of working capacity. It is equal to 45 percent of the salary.
- This pension is discontinued when the former employee engages in gainful activities and is granted again when such income-generating activity ceases.
- When the incapacity degree is at least 10 percent but does not cause a total loss of working capacity, the employee is entitled to receive a lump sum.
- A pension for survivors is 50 percent of the pension which the deceased worker would have received for the widow/er, 20 percent of the pension for children under 18, and 15 percent of the pension for parents who depended on the worker's income.
- No unemployment benefits exist in Ethiopia.

In 2002-03, government pension scheme expenditure was 2.4 percent of government revenue and grant expenditure and has been declining as a proportion of national gross disposable income since the introduction of the structural adjustment program in the early 1990s.

### 3.3.3.3 Informal Social Insurance

Community-based schemes such as Edirs and Equbs are particularly appreciated not only for the services they provide, but also for their flexibility in receiving contributions; it is possible to pay

more during the harvesting season, when farmers have a higher income, and less during other periods of the year.

Some other community-based insurance organizations exist in the country. Some mutual health insurance organizations are being established both in urban and in rural areas. They are used to extend health insurance to their members after individual contributions are made. There are also some community-based organizations which provide agricultural asset insurance to their members.

#### 4. CHALLENGES FOR THE INFORMAL SECTOR TO GRADUATE TO FORMAL SECTOR: KEY INFORMANT INTERVIEW

According to interview with relevant officials in the Ministry of Labor Affairs and Social Affairs (MoLSA), the costs of working informally are not new. The major costs are:

- Poor quality and unproductive jobs
- Unsafe work and insecure income
- Inadequate protection
- Denial of basic rights

The major impediments from graduating from the informal sector to the formal sector are:

- Lack of seed capital
- Unavailability of working space
- Inadequate skills
- Lack of entrepreneurship know-how
- Easy entry and exit offered by the informal sector
- Being unable to compete with the formal sector

The costs of being “informal” are:

- Cheap quality of production (as compliance to rules, regulations standards and norms are not verified)
- Lack of raw materials
- Lack of access to markets

Due to the poverty reduction policy, efforts are being made to protect the rights of the poor. This is done through:

- Job creation, providing working space and giving credit
- Urban capacity development
- Providing security. protection

- Supporting agriculture and non farm activities

It is interesting to note that the current labor regulation which allowed for more flexibility in employment does not appear to be the main hindrance for graduating from the informal to the formal sector.

## 5. FINDINGS AND OBSERVATIONS ON HOW TO FIND A DECENT BALANCE BETWEEN PROTECTION OF RIGHTS AND PRODUCTIVITY: SOME SUGGESTIONS

As can be observed from the Law and regulations previously described, there are:

- very weak and almost lacking linkages between formal and informal sector labor market institutions. MoLSA and the Labor Advisory Board are useful and well designed institutions which, despite their limited financial and human resources, are in a position to influence and determine crucial aspects of the labor market. The activities of MOLSA in support of social partners and public employment services are positive measures towards more labor market security, but both initiatives cover only the formal economy. The tripartite structure of the Labor Advisory Board is very well conceived, especially where it includes representatives of different ministries whose action somehow has an impact in the national labor market. As a matter of fact, a good level of flexibility and security can be reached in the labor market only if all concerned parties are involved in consultation and decision making. Even in this case, though, there is no representation of the informal economy.
- Employment services are very important mechanisms to provide assistance and protection, hence security, to vulnerable groups in the labor market. Their good connections with the world of enterprises and employers in general also contribute to promoting flexibility through a quick adjustment of labor supply to the needs of labor demand. There seems to be scope for improving the effectiveness of public employment services in Ethiopia. Efficiency in the placement task they currently perform could be increased and other complementary tasks could be added. Moreover, the social partners could be more involved in the implementation of the activities of employment services in order to enhance their effectiveness in the labor market. Considerations on expanding tasks performed apply to private employment agencies as well which at present only focus on job placement.<sup>9</sup>
- Workers' and employers' organizations in Ethiopia are very weak, in terms of membership and of the impact of their action on the labor market. Although their role could be important in striking a balance between employment, competitiveness and protection of rights, their voices are not heard nationally and their role should grow considerably for a better impact.
- The decentralization process (after the adoption of the Federal Constitution in 1994) has led to the inefficiency and almost non-existence of both public employment services and

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<sup>9</sup> De Gobbi. 2006.

labor inspection services. As already noted, public employment services can play a very important role both in increasing flexibility and in enhancing security.

- Labor inspection services, the generally high level of insecurity which prevails in the Ethiopian economy would require a decent degree of control in order to avoid or sanction the violation of existing norms.
- The fact that fixed-term contracts can be concluded between the same two parties (employer and worker) for an unlimited number of times makes it possible for employers to completely avoid the protection costs that permanent employment may involve. Considering what has been said so far on labor legislation and employment contracts, workers may even lack sufficient protection and be subject to abuses of fixed-term contracts. For example, employees recruited with a fixed-term contract are not entitled to pension benefits as well as most of other social security benefits. One measure which could somehow protect workers in this regard is the strengthening of labor inspection services which at present are very weak and function according to rules which could be improved.
- In order to tackle youth unemployment and make entry into the labor market easier for young job seekers, more efforts could be made to facilitate the use of apprenticeship contracts.
- Only 5 percent of surveyed firms by the World Bank in 2002 considered that labor legislation is an obstacle to doing business. It seems that real obstacles to enterprise creation and expansion are rather to be found in the slow bureaucracy, which characterizes public administration, and access to land and capital also because of poor financial services available in the country.

## 6. CONCLUSIONS AND ISSUES FOR DISCUSSIONS

### 6.1 *General conclusions*

Several issues emerge from the study:

- the need to enhance productive employment and income security;
- the need to target rural development to limit migration flows to urban areas and to improve living standards for the rural population;
- national social security system does not even provide adequate protection and coverage to formal sector employees;

- The high level of employment and income insecurity of informal sector operators can somehow be mitigated through alternative channels or risk management mechanisms, such as savings, credit, social insurance, public works and training.

In examining the legal and institutional framework of the Ethiopian labor market, three major issues can be raised:

- the need to establish linkages between the formal sector and the informal economy;
- the need to increase the efficiency of some existing institutions;
- the need to improve some parts of the regulatory framework.

## 6.2 *Issues for discussions*

The following are suggestions for discussion on how to reach a decent balance between labor market flexibility, employment, income security, protection of rights and productivity in Ethiopia. It is only through social dialogue and general consensus among the main national stakeholders that priorities can be established.

**Establishing linkages between formal institutions and informal organizations:** State institutions and the social partners should make more efforts to establish linkages with informal entities. The federal structure of Ethiopia and existing decentralization should constitute elements creating a conducive environment in this regard. The role of social partners such as trade unions and employers' associations should be discussed along with their possible alliance with existing informal sector organizations.

**Social security coverage:** Options on increasing social security coverage at the national level should be discussed. One option is to extend the social security system which is currently applied to civil servants and police and military forces to private sector employees; another one is to set up a social security system for private sector workers with similar characteristics as the one currently available for public sector employees. A decision on the extension of social security coverage in formal sector employment is urgently needed. Special attention should be given to the extension of social security to informal sector operators. Specific social security schemes for particular categories of both formal and informal sector workers (farmers, construction workers, the self-employed, etc.) could be established as has happened in other developing countries.

### **Strengthening employment services:**

- Ways and means to improve the efficiency and effectiveness of employment services, in particular of public ones, should be discussed.
- Direct involvement of social partners in the activities of public employment services should be discussed;
- Extension of the tasks of these institutions should be discussed to at least placing job seekers in suitable existing training and employment programs. This could be done only by improving collaboration and information exchange with other institutions which deal with such programs. More efforts could be made also to include informal sector operators in employment services' activities, at least by placing them in training and employment programs.

**Capacity building of social partners:** discussions should be held on how to strengthen the capacity of social partners such as workers' or employer's organizations. Extending membership to the informal sector should also be discussed.

**Improving labor inspection services:** To prevent and avoid or detect abuses of workers' rights, discussions on how to strengthen labor inspection should be held especially by revisiting existing rules governing their functioning. For instance, the possibility of inspecting enterprises of less than 1,000 workers should be discussed. In addition, the enhancement of the organizational structure of inspection services on a regional level should be discussed.

**Covering social risks:** Discussions on how to promote the coverage of risks such as health should be discussed as it impacts productivity. Coverage of risks could also be an incentive for informal sector operators to become formal.

**Promoting microfinance institutions (MFIs):** It has sometimes been stated that the 1996 regulatory framework for MFIs is somewhat restrictive for the fast proliferation of the microfinance industry. Discussions should be held on whether or not MFIs should be allowed to take organizational forms other than that of a share company.

**Promoting training:** Many more efforts are required in the area of training in order to reach a good balance between labor market flexibility and employment and income security. In particular, training programs should take into account the needs of informal sector operators by offering courses in literacy and numeracy as most operators cannot read and write.

**Making apprenticeship contracts more accessible:** Many unemployed people in Ethiopia are young first job seekers. Apprenticeship contracts can be a very useful way to train young persons and to facilitate their entry into the labor market. Abuses of this type of contract should certainly be avoided, and this could be done inter alia by strengthening labor inspection services; at the same time, however, the conclusion of apprenticeship contracts should not be discouraged if hindered by cumbersome procedures. At present, the 2003 labor proclamation states that MoLSA must attest such contracts to prevent abuses. Practice shows that MoLSA is usually not consulted, as envisaged by law, for the approval of this type of contract. It may be useful to consider whether MoLSA's intervention is really necessary, or if other forms of control could be more viable for the prevention of abuses of this type of contract. The social partners, for instance, could be better sensitized on the usefulness and proper use of apprenticeship contracts.

**Introducing a non-discrimination clause for different types of labor contracts:** Discussions should be held on whether or not to adopt a non-discrimination clause, or a clause on equal treatment. This would help guarantee equal employment terms and conditions in employment relationships based on labor contracts for an indefinite period and for a limited duration.

**Assuring equal employment opportunities to persons with disabilities:** Proclamation No. 101/1994 concerning employment of persons with disabilities makes it mandatory for employers to finance all necessary adaptations to make a job accessible to a disabled worker. The revision of this provision should be revisited, since it creates the undesired effect of imposing additional costs on employers

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