ESS — Extension of Social Security

Can productivity in SMEs be increased by investing in workers' health?

Taking stock of findings on health protection of workers in small and medium-sized enterprises and their impacts on productivity

Xenia Scheil-Adlung (Ed.)

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The editor of the series is the Director of the Social Protection Department, ILO. For more information on the series, or to submit a paper, please contact:

Isabel Ortiz, Director Social Protection Department
International Labour Organization
4 Route des Morillons
CH-1211 Geneva 22 Switzerland
Tel. +41.22.799.6226 • Fax:+41.22.799.79.62
email: ortizi@ilo.org

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Foreword

This stock taking exercise was developed in the context of the ILO Area of Critical Importance (ACI) on productivity and working conditions in small and medium-sized enterprises (SMEs). The goal of the ACI is to conclusively demonstrate how productivity in SMEs can be boosted by making an investment in workers and working conditions, accelerating economic growth and making it more sustainable.

The quality of jobs in SMEs, particularly in developing countries, is often poor, given, for example, the lack of social protection as well as inadequate physical working conditions, safety and health, education levels and opportunities for skills development and social dialogue. As a result, SME workers are frequently disadvantaged and SMEs are missing opportunities to compete, resulting in the loss of a potentially substantive contribution to sustainable growth. Thus, a key investment for SMEs relates to improving working conditions, particularly ensuring social protection coverage as outlined in the ILO Social Protection Floors Recommendation, 2012 (No. 202).

Focusing on social protection issues in SMEs, this study particularly examines the gaps in social protection experienced by workers. Its primary objective is to explore related impacts on productivity and their interrelation with other working conditions. As workers in SMEs in both the formal and informal economy make up the majority of the global workforce, this information is crucial for an encompassing global dialogue on universal social protection coverage, particularly in health.

The study investigates the major causes of inadequate or non-existent social protection coverage of workers in SMEs, in both the formal and informal economy, and identifies barriers regarding coverage and access to social protection in health, employment injury, paid sick leave and other social protection benefits. The review discusses the impact of social protection gaps on productivity and the subsequent cost borne by enterprises and society as a whole. In addition to global and national experiences, a specific country study on social protection of SME workers in India is presented.

Key findings relate to the lack of reliable and comparable empirical data regarding social protection in SMEs, particularly in low- and middle-income countries and especially of SMEs in the informal economy. As part of the conclusions, this study therefore outlines a research agenda of how to close some of these knowledge gaps.

The ILO would like to express its appreciation to the authors of the most significant inputs to this overall literature review, particularly to Konrad Obermann, Philip Post and Axel Weber; and to Adam Czewoja Sheikh for his valuable work on the case study of India.

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Employers often perceive obligations to apply social protection legislation to their workers as a burden in terms of financing and administration. This is particularly the case for small business owners and managers. This literature review aims to understand whether, and how, effective social protection policies in small and medium-sized enterprises (SMEs) with between 50 and 250 employees can generate positive outcomes for firms as well as for the broader economy. In particular, the review discusses social protection coverage and access as an enabler of productivity at enterprise level, and of growth and development at national level, as well as its relation to other working conditions. The review also discusses the consequences of potential gaps in social protection coverage.

Research directly relevant to social protection in SMEs is very limited. When social protection is analysed, there is often no information about the size of companies, and when SMEs are in the focus, frequently no detailed information on social protection is available. Much of the literature concentrates on developed countries, where thorough and standardized data collection allows for identification of important factors and trends. In contrast, the topic of the costs and benefits of social protection in SMEs has yet to reach research agendas in the developing world.

Findings

- Overall, there is at least indicative evidence of *shortcomings*, severe in some respects, with regard to the provision of comprehensive social health protection in SMEs. Rigorous quantitative analysis is hampered by disparate definitions of SMEs and informality.

- *The perceived costs of social protection in health for SMEs versus actual costs incurred*. SME owners/managers are often very reluctant to adhere to protection regulation, fearing that the time and costs involved will lead to a competitive disadvantage. The view that regulation may stifle innovation and development has also been expressed by some national leaders and international organizations. Although empirical evidence is scarce and inconclusive, there are indications that social protection provisions are not necessarily detrimental to SMEs but can even improve productivity.

- *Incentives and barriers to introducing adequate social protection measures in SMEs*. Where social protection regulation is adequately enforced and involves little cost to SMEs, it provides a strong incentive to adopt appropriate management practices. If, however, regulation is erratically enforced and perceived to involve high costs with limited benefits, it can be a disincentive, so that SMEs may avoid formally employing workers, leaving them in the realm of illegality or freelance working relations. Similarly, bureaucratic or ineffective protection systems may be shunned by workers. Apart from strict regulation, the most persuasive argument for owners/managers to implement effective social health protection would be the business case. However, few reports calculate the costs and benefits of social protection in health for SMEs or report the strategies by which benefits are achieved; thus there is very limited information about the business case.

- *Links between social protection and positive enterprise-level outcomes*. A number of studies investigate the outcomes for SMEs of adherence to regulation and utilization of formal employment. One possible outcome is that access to financial services, which many SMEs sorely lack, will be improved.

- *Social protection and productivity in SMEs*. There is a lack of research concerning SMEs and productivity-related outcomes, especially in developing countries. The existing literature points towards only a generally positive correlation between social protection and productivity. Empirically based generalizations applicable to SMEs from different sectors and national backgrounds can therefore not be formulated at present. Theoretical considerations, however, point to the many potential inroads by which well-developed social protection might improve productivity and thus support a business case for individual owners/managers to follow stipulated national policies.

- *Productivity losses due to gaps in social protection and working conditions*. In the absence of social protection, levels of absenteeism, staff turnover, work accidents and deficiencies in product qualities increase and workers' motivation is low.

- *Wider societal benefits of effective social protection*. Social protection, together with informal supportive practices and cultural norms in SMEs, can contribute to socially desired outcomes such as poverty reduction, support for vulnerable workers and mitigation of the impacts of ill health. Besides being valuable in their own right, these outcomes can also improve human capital and translate into improved enterprise performance as well as better overall national economic development and sustainable growth.

- *Occupational health and safety in SMEs*. SMEs have been found to be more prone to work-related accidents than larger firms. This highlights the need for occupational safety and health regulation with supervision. Due to their small and versatile nature, SMEs might be extremely efficient at improving working conditions if properly motivated. Their very nature, however, makes it equally easy for them to evade or undermine such improvements. Suitable supervision, enforcement and incentives should therefore be considered when commencing programmes in this field.

- *The case of India* reveals that despite the breadth of legislated social protection coverage, significant gaps remain in both statutory coverage and effective access to benefits for large parts of the population including workers in SMEs, mainly in the informal economy. The main causes include the absence of legislative reference to SMEs and issues in enforcement.

Implications and recommendations

Overall, specific *quantitative and qualitative research on SMEs* is very limited. The authors suggest a two-pronged approach:

- Develop a set of internationally and uniformly applicable indicators that would allow for international comparison and best-practice evaluation. These indicators should be based on a coherent, acceptable and practically relevant definition of SMEs and the informal economy.

- Initiate detailed quantitative and qualitative studies in selected countries based on level of development, social cohesion, politico-economic history and type of welfare regime employed.

These could be combined and made available in a report entitled "Working at the margins: Employment, working conditions and social protection in small and medium-sized enterprises in the formal and non-formal economy".

All organizations and institutions involved should ideally work hand-in-hand in providing a supporting business environment to SMEs. This would entail the following actions:

- Provide evidence at enterprise level that social protection does not negatively affect the revenue and profit per worker but can even improve it, thus ultimately increasing the survival rate of an SME.

- Document best practices and possible options for reducing administrative burdens and collective agreements of SMEs when registering for social protection.

- Conduct studies and pilots on organizational development and the creation of economies of scale.

- Initiate capacity building and awareness-raising of best practices.

- Develop high-quality statistics and data documenting the total number of employees in enterprises that are affected by social protection-related questions, to initiate country studies piloting comprehensive data collection and regular update mechanisms.

- Provide concrete advice on the practical challenges of SMEs in the area of staff management and staff benefits.

- Develop further the emerging theoretical framework that links government regulation with working conditions and overall benefit, in particular productivity.

In addition, *knowledge about practical problems should be increased*. Surveys and case studies would be helpful in understanding SME needs in staff management and benefits. Concrete factors affecting working conditions, which in turn have an effect on productivity, should be studied.

It would be particularly valuable to obtain *empirical evidence on the positive effect of social protection on working conditions and productivity* both at enterprise level and for a national economy as a whole.

In conclusion, this literature review indicates that effective social protection in health and other contingencies for SME workers is feasible, and is most likely to be beneficial to workers, enterprises and the economy as a whole. Many practices improving social protection will be cost-effective and may indeed be sometimes easier to implement in the informal environment of SMEs than in larger firms. In particular, national health services and social or national insurance schemes, if well designed and implemented, help to reduce costs at enterprise level. The initial evidence suggests that expenses even for costly programmes might be more than offset by improved productivity.

There are many unresolved issues that need to be addressed by governments, international organizations and academics in order to extend social protection to workers in SMEs and to support the formalization and development of SMEs, mainly in developing countries. Among the key issues are robust data on the impact of social protection on working conditions and productivity, reducing the administrative burden, information, compliance and proof that social protection is conducive to enterprises and the economy as a whole.

Abbreviations and acronyms

ADB	Asian Development Bank
ACI	Area of Critical Importance
CBHI	community-based health insurance
CSIS	Centre for Strategic and International Studies
ESI	Employees' State Insurance Act, 1948 (India)
EU	European Union
GDP	gross domestic product
GNI	gross national income
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
ICLS	International Classification of Labour Statistics
IFC	International Finance Corporation
ILO	International Labour Office /Organization
LAC	Latin America and the Caribbean
MBA	Maternity Benefit Act, 1961 (India)
MSME	micro, small and medium-sized enterprise
MVSE	micro and very small-sized enterprise
NGO	non-governmental organization
OOP	out-of-pocket payments
OSH	occupational safety and health
SEWA	Self Employed Women's Association (India)
SME	small and medium-sized enterprise
THE	total health expenditure
WCA	Workmen's Compensation Act, 1923 (India)
WHO	World Health Organization

1. Introduction

1.1. Background and objectives

Social security is a human right, as recognized by article 22 of the Universal Declaration of Human Rights, and is a key part of the mandate of the International Labour Organization (ILO). The ILO Social Protection Floors Recommendation, 2012 (No. 202) strongly urges the extension of social security – including social protection in health – to all persons, including workers in both the formal and informal economy.

There is also a growing recognition that social protection policies have beneficial impacts for workers by improving access to health services (ILO, 2011a) and by enhancing positive working conditions through fostering social cohesion, as well as by directly increasing productivity[1]. These conditions are essential for sustainable economic growth both at enterprise and national level.

Small and medium-sized enterprises (SMEs), both in the formal and informal economy, form the backbone of many economies in developed and developing countries, both in terms of employment as well as in terms of contribution to GDP[2]. They also provide technical innovation, have close contact to customers and find niche markets and products.

The ILO has long advocated that by improving working conditions, including social protection, in SMEs, productivity (and thus profitability) will also increase. Decent working conditions including a well designed and implemented social protection system are beneficial to workers, enterprise owners, communities and the economy as a whole. However, it is important to further develop a solid evidence base for policy dialogue and work in the context of the implementation of Recommendation No. 202 through the ILO's Area of Critical Importance (ACI) on SMEs.

One of the key areas to be assessed relates to barriers to coverage and access to social protection, particularly social protection in health, paid sick leave benefits for workers in SMEs and employment injury. The extent and impact of these barriers on economic productivity and working conditions has not yet been sufficiently assessed. As workers in SMEs make up the majority of the global workforce (ILO, 2013a), this information is crucial for an encompassing global dialogue on universal coverage, economic growth and development.

[1] Defined as the sustainable enhancement of "the total level of output of an economy in particular through enhancing the level of output per worker or per hour worked (i.e. 'labour productivity')" (ILO, 2005).

[2] For example, according to a recent report by the Viet Nam Chamber of Commerce and Industry, SMEs account for more than 97 per cent of total enterprises in Viet Nam, employ more than half of the total workforce and contribute to around 50 per cent of GDP (Le, 2011). Ayyagari et al. (2007) show a wide range: "While less than 5.5% of the formal work force is employed in SMEs in Azerbaijan, Belarus and Ukraine, this share is more than 80% in Chile, Greece, and Thailand (SME250). Similarly, the ratio of the informal economy relative to GDP varies from 9% in Switzerland to 71% in Thailand." See also World Bank, 2013.

This study has two main objectives:

- To identify the major causes of inadequate or non-existent coverage of workers in SMEs both in the formal and informal economy globally and in selected countries. Specific social protection regulation for SMEs in a selection of low-, middle- and high-income countries in different regions of the world will be examined in order to assess the current global landscape of this issue.

- To identify the impact of the gaps in coverage and access to essential health-care services on the working conditions and productivity of workers in SMEs and the subsequent cost borne by enterprises and society as a whole.

Presenting a broad range of issues regarding deficits in coverage, access and their consequences will provide ILO constituents with detailed knowledge about the status quo and possibly concrete options for policy and legislative approaches in order to overcome barriers and deficits. Such information will not only have huge relevance for workers in SMEs both in the formal and informal economy around the world, but will also inform and urge their employers to adopt best practices in social protection; in addition, it will provide legislators and administrators with concrete knowledge about how to support companies and owners in moving forward.

1.2. Definitions and available statistical material

Given the absence of globally agreed definitions, it seems important to explain the definitions of two core terms as used in this review: SME and the formal/informal economy. Due to a lack of uniformity in related definitions, difficulties in comparing and assessing data from various sources and countries might occur and cannot be resolved at this level of analysis.

Small and medium-sized enterprises (SMEs)

The definition of SMEs used in this review encompasses enterprises with between 50 and 250 employees. However, many other definitions exist and we found significant differences when assessing research on SMEs. The differences resulted mainly from:

- the classification of SMEs in research literature and national legislation; and

- the relative size of the 50−250 employee sector.

The classification of SMEs in research literature and national legislation is very heterogeneous. Depending on the author, an SME can refer to enterprises with between 1 and 500 employees. A frequently used classification is 1−10 (micro), 10−50 (small) and 50−250 (medium-sized). But authors often do not indicate which number of employees is referred to in their definition, nor what factors they have used in selecting the enterprises for their sample. The number of employees is frequently not included in the data on the enterprises investigated, so that an ex-post classification is not possible. The value of such studies for analysing the causes and effects of gaps in social protection for workers in SMEs with 50−250 employees is therefore limited, and deductions specific to enterprises with this number of employees are rarely possible.

National, international and supranational definitions may also vary significantly. The European Union (EU) classifies SMEs according to size of enterprise and either balance sheet total or turnover. Enterprises with <10, <50 and <250 employees are referred to as micro, small and medium-sized respectively. Thus, SMEs as defined in this paper are

referred to as medium-sized enterprises by the European Union (European Commission, 2003).

The US Small Business Administration allows classification as a small business on the base of either the number of employees or alternatively on the value of annual receipts; however, statistical data is available only in the categories 20−99 employees (526,000 firms) and 100−249 employees (90,000 firms) (US Department of Commerce, 2013). The lack of a more detailed sub-classification makes evaluation of enterprises with 50−250 employees difficult.

The International Finance Corporation (IFC, 2010) has compiled a data set on micro, small and medium-sized enterprises (MSMEs) around the world. This was used to identify countries which employ the classification 50−250 employees. Of the 131 countries represented in the data, 46 use the classification (49−250, 50−251 or similar) and the classification is exclusively used to refer to medium-sized enterprises.

Moreover, some countries use classifications that prevent comparison (such as 20−100, 100−499 employees or values for revenue or investment). Sometimes additional categories are used in the literature: “very small-sized enterprises” refers to those with 11−49 employees and “MVSE” (micro- and very small-sized enterprises) refers to those with 1−49 employees.

The relative size of the 50−250 employee sector is very small in many countries. The US census data show that in the categories including between 1 and 19 employees, there exists a combined total of 5,294,970 firms; while for the categories 20−99 and 100−249 employees, there exists a total of 526,307 and 90,386 firms respectively. The share of all registered firms (27,281,452) that have between 50 and 250 employees can be estimated to lie between 0.3 and 2.3 per cent (US Department of Commerce, 2013).

The UK Department for Business Innovation & Skills (2012) sets the number of enterprises with between 50 and 249 employees at 29,750, compared to a total of 4,794,105 registered businesses. SMEs as defined in this paper therefore account for 0.62 per cent of all UK businesses using the UK HM Revenue and Customs (2014) definition for R&D Relief schemes (i.e. less than 500 employees, annual turnover > €100 million; balance sheet > €86 million).

In the IFC MSME Country Indicators database mentioned above (IFC, 2010), in only three countries is the share of enterprises with 50−250 employees more than 5 per cent of all MSMEs (12.4 per cent in Puerto Rico, 14.7 per cent in Ukraine and 31.8 per cent in Tunisia). In most other countries the share of enterprises with 50−250 employees is between 0.5 and 3.6 per cent of MSMEs. MSMEs with 1−250 employees account for between 1.8 and 78 per cent of all employment.

No study was found that specifically evaluates enterprises with 50−250 employees. Rather, these are almost always grouped with smaller enterprises, which together are considered as SMEs. The number of workers per enterprise is often very small. The focus on a comparatively small economic group in this literature review based on a rarely used definition explains the scarcity of data available on the subject of this literature review.

The informal economy

According to the ILO (2013b), informal economy enterprises should be classified based on the concepts laid out in the 15th resolution of the International Classification of Labour Statistics (ICLS). However, informal employment is not limited to informal economy enterprises and is thus specifically defined in a conceptual framework with respect to the different types of enterprise (formal economy enterprises, informal economy

enterprises, households). This recently published ILO manual aims to create common standards for the collection of data on informality. These standards have yet to be met by national statistical bodies or authors of relevant works. It is also often not possible to re-categorize the data of published studies ex post, in order to make them compatible with the ILO definition.

The definitions employed in the studies used for this literature review range from informality being determined solely on the basis of tax evasion (Gatti and Honorati, 2008) to approximating the informal economy as an unregulated, voluntary, developing-country counterpart to the small scale, entrepreneurial sector in developed countries (Maloney, 2004). In some studies the informal economy is referenced without an explicit definition as to what it entails (Acharya et al., 2013).

In a field as narrow as SME employment in enterprises with between 50 and 250 employees, where data is scarce already, adherence to the detailed ILO statistical framework on the informal economy is not achievable. Relevant publications use terms such as informality, informal employment, informal economy employment, sometimes interchangeably, according to arbitrary definitions or the respective national definitions.

As some of the concepts mentioned above − such as households − are unlikely to play a role in SMEs with between 50 and 250 employees, in this paper informality and informal employment will be defined as follows:

> Informal employment is unregistered with the government, usually out of efforts to evade/avoid paperwork, time-consuming procedures, taxes and contributions. This may have a variety of causes, from a desire for employment of family members as backstopping and cheap labour to a simple profit motive on the part of the owner, hoping to save on taxes. Thus, workers in informal employment are often not part of statutory social security schemes.

In contrast, formal employment will refer to proper registration of workers and payment of the required contributions and taxes. Data on informality will be in line with this definition unless indicated otherwise. These definitions have limitations; groups such as the self-employed are not included in either, but this is of no concern here as this paper concerns itself primarily with SMEs.

Given these challenges and the general scarcity of scholarly work on social protection and working conditions in SMEs, this paper draws on more general work on working conditions and to some extent generalizes findings in order to draw conclusions on the current state of social protection in SMEs and to indicate needs for further research and data gathering.

2. Methods

Initial research indicated that the availability of data and specific research on social protection in formal economy enterprises with between 50 and 250 employees is very limited. A substantial amount of the available scientific, official and "grey" literature deals in a rather general way with the topic and does not distinguish between SMEs and non-SMEs. The need for the collection of detailed statistical data on small and micro-enterprises has been addressed by the ILO (2013b).

Against this background, the search was planned to be broad and to encompass both scholarly and non-scholarly work as well as reviews and reports from national and international organizations and NGOs. The following search engines and databases were used:

- Medline
- EconLit
- Social Watch.org
- Economywatch.com
- Index Mundi
- Gapminder.org
- CIA World Fact Book
- UNDP databank
- World Bank databank
- ADB Social Protection Index
- ILO database
- OECD database
- German Practice Collection
- EC database
- US Social Security Administration (SSA)
- websites of individual national schemes
- Google and Google Scholar

In addition, we performed a hand-search of available papers and looked up cited works. We also referred to papers known to us and/or our colleagues and those mentioned in newsletters and expert fora.

Although it is reasonable to assume that there are no major external differences in coverage of workers in small, medium, and large companies, substantial differences might occur with respect to internal factors, impeding coverage and access to social (health) protection. Employment security, working conditions and safety at work, as well as

evasion and other illegal practices that de facto hinder access might occur in different ways and on a different scale in SMEs compared to large enterprises, but the literature on these differentiating factors is very limited[3].

We included all literature from the year 2000 onwards and focused on works in the English and German languages. Any type of publication was considered, although the authors are well aware of the pitfalls of simply reporting experiences[4]. The articles identified were then analysed by the research team. A number had to be rejected as they did not cover the key issues of the report, but we included almost any study that did cover the area "SMEs and social protection", if only to provide contextual or supporting information.

We deal with papers in three ways. First, the most important works (according to their scientific credibility and methodology) were used for the review that follows. Second, detailed data on social protection are given for a number of selected countries which are either well covered and/or are of specific interest due to legislation or innovative concepts. Finally, all literature used in listed in the Bibliography.

[3] Berry (2013, p. 12) writes: "Coverage rates of contributory systems are, as expected, consistently less for lower-income workers. No LAC [Latin America and the Caribbean] country exceeds 50 percent coverage for the lowest quintile. In most, the poorest people are practically excluded," indicating that those in poorly-paid employment are least covered.

[4] An illustrative example can be found in van Dongen et al. (2011) where *randomized* controlled trials on worksite health promotion programmes showed a clear negative return on investment, whereas *non-randomized* studies showed just the opposite, namely a positive return on investment.

3. Theoretical framework: Social protection, working conditions, productivity and social impact

3.1. Social protection

Social protection is a complex area and different approaches have proliferated substantially over the last decades (Berry, 2013). The ILO defines social protection as: the set of public measures that a society provides for its members to protect them against economic and social distress that would be caused by the absence of or a substantial reduction in income from work as a result of various contingencies (sickness, maternity, employment injury, unemployment, invalidity, old age, and death of the breadwinner); the provision of health care; and the provision of benefits for families with children. This concept of social protection is reflected in various ILO standards such as the Social Security (Minimum Standards) Convention, 1951 (No. 102) and Recommendation No. 202 on national social protection floors.

Social protection in health is a key area that is most relevant for the health of workers and their productivity. It includes access to health care, maternal care, prevention and financial protection. Besides fully tax-funded national health services, coverage can be provided through insurance-based schemes such as social or national health insurance schemes. Social health insurance schemes are usually financed by contributions from employees and/or employers, while participation may be mandatory for all workers or mandatory only for some groups (e.g. civil servants) and voluntary for other groups (e.g. the private sector). Coverage frequently extends not only to the worker but also to dependants. Government subsidies may be put in place for groups unable to pay the required contribution. Social health insurance can be differentiated from private health insurance in that the contributions are set according to capacity to pay – for example, wages rather than individual risks such as age, gender or health status (ILO, 2008; GTZ, 2005a). National health insurance schemes are usually funded by both contributions and taxes, where the latter might exceed the amount generated through contributions. Coverage often extends to all citizens. Financial protection in times of sickness relates to protection from financial hardship, for example through out-of-pocket (OOP) payments and income replacement during sickness through paid sick leave schemes (Scheil-Adlung and Sandner, 2010).

Further, employment injury/disability schemes, including occupational schemes, are important for impacts on the active age population and productivity. They generally serve the purpose of compensating the worker for injuries or disabilities incurred during work (ILO, 2013c).

3.2. Working conditions

The improvement of working conditions is one of the ILO's principal objectives (ILO, 2013d). Besides social protection, wages, working hours, work organization and arrangements to adapt working life to the demands of life outside work are core elements of the employment relationship, the protection of workers and company productivity. They are major dimensions of human resources management at the enterprise level, in collective bargaining and social dialogue, and also in the socio-economic policies of governments. A number of policy and training tools as well as a detailed and comprehensive legal database on working conditions have been developed. Specific reports on working conditions in sectors and countries (see for example ILO, 2013e) provide examples on how to assess the current situation and develop a way forward.

Workers in SMEs and from vulnerable groups are probably the most susceptible to negative externalities affecting employment, and so they are the most affected by adverse working conditions along all the dimensions mentioned above: low pay, no employment security, long working hours, insecure workplaces, lack of social protection and no consideration for a work−life balance. This is true across all countries; to take just one example, in the aftermath of the 1997 economic crisis the Republic of Korea experienced a rapid increase in types of non-regular employment. Many of these non-regular workers faced insecure employment, low wages and poor working conditions, as well as exclusion from labour standards and social insurance coverage. "In sum, it can be said that non-regular work (disadvantaged and non-standard work) falls disproportionately on vulnerable groups of workers, such as female, older, less-educated, low-skilled workers, and SME workers" (Lee and Lee, 2007).

A survey among 300 women in the Indonesian textile industry, carried out by the World Bank and the Centre for Strategic and International Studies (CSIS) in Jakarta (Pangestu and Hendytio, 1997), found that compliance with guidelines for appropriate workers' benefits was worse for SMEs than for larger firms. SMEs have also been found to be more likely to pay less than the minimum wage to permanent workers, and while 70 per cent of Indonesian women employed by large firms received insurance and health care, in SMEs only 26 per cent received insurance and 29 per cent received health care. This is one of the few studies that allow a clear differentiation between the employees of SMEs and those in larger enterprises, although the World Bank's definition of SMEs differs from the one used in this review. An analysis of SME clusters in Indonesia found that they often provide above the minimum wage and that they are not associated with very low income (Sandee et al., 2002). This could be a characteristic of the clusters, rather than the individual SMEs.

3.3. Productivity

Productivity is defined as the ratio of outputs to inputs in production; it is a measure of the efficiency of production. With reference to SMEs, it measures outputs in terms of money values in relation to the value of inputs of human resources and capital.

$$P = \frac{O \times p}{h \times w}$$

P = Productivity

O = Output in terms of quantity of goods and services produced

p = price of output on the market

h = working hours needed for O

w = hourly wage

A neoclassical view of human capital holds that the more a given input of human capital produces, the higher the productivity. This means that productivity can be increased with the output per hour worked by each worker, which is influenced by various factors:

- the capital invested (machines);
- the skills of the worker; and
- the health, empowerment and motivation of the worker.

The first two items are not influenced by social protection, but social protection is highly relevant to the third. Its influence can be described as follows:

- Social protection provides income support and improves access to needed health care, reduces accidents and occupational diseases, and thus reduces working hours lost.

- It reduces the fluctuation and turnover of staff. Protected workers potentially stay longer (and might be more productive) in an enterprise than non-protected staff.

- Protection increases motivation, and motivated workers have higher productivity.

- Social protection can empower workers and give them a sense of ownership, thereby contributing to loyalty and effort for the enterprise.

- It reduces times of absence and illness, as well as infectious diseases.

Gaps in social protection tend to reduce productivity through an increased number of working hours lost due, for example, to prolonged periods of ill health, occupational accidents and diseases. SMEs are particularly affected by these effects on productivity, as they have few staff and each staff member with lower productivity significantly affects the outcome of the enterprise. This is more significant in smaller enterprises, thus marginal productivity is more affected.

In this context maternity protection, being at the core of social protection (ILO, 2013f), is particularly relevant: owing to the small numbers of workers and lack of economies of scale in SMEs, maternity cases have a larger impact on staff costs than in large enterprises. Thus, SME employers often tend to dismiss pregnant women in order to find quick replacements; in addition, the cost of maternity leave is perceived to be too expensive. Against this background, some countries (such as Germany) have established solidarity funds for SMEs. Further, pregnant women tend to be more frequently absent due to pregnancy-related health issues. Thus, in the absence of social protection, maternity results in higher productivity impacts for employers and employees in SMEs than in large enterprises.

3.4. Linking social protection, working conditions and productivity

In a recent review for the ILO on the impact on working conditions on the performance of SMEs, Croucher and colleagues (2013) differentiate between a "common-sense" framework informed by neoclassical economics, which, as they state, provides a "perfectly feasible hypothesis … that the cost of improving conditions may outweigh any benefits accruing to the employer. A trade-off is involved; the issue is where the balance of benefits lies" (p. 11)[5]. An alternative framework, which formed the basis of that study, is based on a resource-based view, the dynamic capabilities concept, social equity and company-as-community theory, and finally the idea of "bundles of practice". The authors state: "We expect the empirical contributions to be reviewed in this report to confirm that high levels of OSH, training, wages and decent working time are likely to be associated with strong company performance in SMEs, as elsewhere. There is little reason to believe that the fundamental logic involved will be different in the context of SMEs from those in larger companies, despite the considerable differences that exist between them" (p. 14).

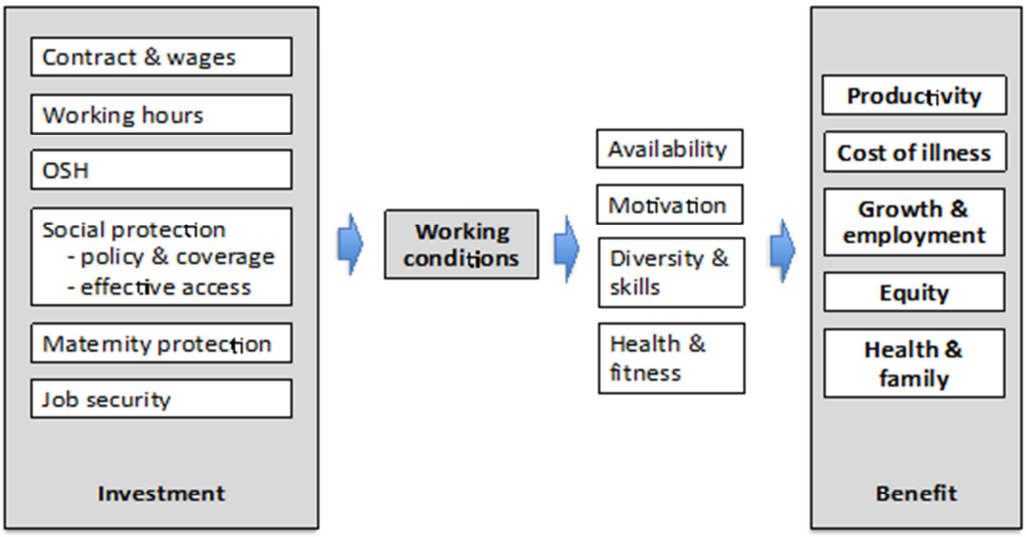
[5] Kaufman (2004) provides a comprehensive historical overview of industrial/employment relations and the predominance of the neoclassical idea that employers want to continuously reduce costs.

We employ here a simple (and necessarily reductionist) framework that tries to combine the "common-sense" view with the more elaborate approach that informed the study of Croucher and colleagues. As depicted in figure 1, a number of defined (and potentially measurable) aspects would affect working conditions in a company. These working conditions would in turn affect key aspects of why people can (and will be) productive. This model focuses only on those aspects of work that can be influenced by government regulatory action and does not take into consideration management and motivation or "social capital" and "company-as-community". It also leaves out those aspects that might be affected by government action but are not considered regulatory, such as "capabilities" and "lifelong learning". The inherent "non-productive" aspects of good health which are crucial for the well-being of workers and their families are reflected in the "health and family" aspect of the benefits.

Although there is descriptive evidence on the relation between working conditions and enterprise performance[6], there is a clear lack of empirical evidence using enterprise-level data. It would be highly desirable to have country-based studies that analyse longitudinal survey data for SMEs, in order to establish the relation between working conditions and performance at the enterprise level.

Conversely, if social protection positively influences productivity, gaps in social protection have a negative impact on it. Absenteeism, high staff turnover, costs of accidents, lack of motivation − all these factors influence quality and quantity of output. Again, the empirical basis for this claim at the level of SMEs is lacking.

Figure 1. The influence of regulation on working conditions and productivity seen as investments which yield benefits



Source: Authors.

This model forms the basis of further analysis and recommendations in this literature review. In what follows, the elements contributing to social protection will be discussed in

[6] Subramony (2009) provides a meta-analysis of 65 empirical studies linking bundles of human resource management practices to enterprise performance.

Chapter 4, their impact on working conditions in Chapter 5 and the effect on productivity in Chapter 6. Chapter 7 will provide an overview of current legislation concerning social protection and SMEs in selected countries, as well as a case study on India.

3.5. Economic impact of pro-SME policies

In many developing countries, SMEs are generally seen as vital sources of economic growth and employment, and a wide array of interventions and programmes have been implemented in order to promote them (Tai and Quynh, 2007). Only one study found no support for the theory that SMEs are a significant source of growth or poverty alleviation (Beck and Demirgüç-Kunt, 2004) and argues that larger companies may be able to provide employment that is more secure, better salaried and includes more benefits.

While strong economic growth corresponds with a strong SME sector, this relationship is not causal. Rather, both seem to depend on the general business environment (Ayyagari et al., 2007; Beck and Demirgüç-Kunt, 2004). An analysis of SMEs in Japan found that the entry of new SMEs to the market forces those already existing to become more efficient; also, that an important determinant for the creation of an SME is the associated cost of entry (Kawai and Urata, 2001). Multiple studies have found that low barriers to entry and exit of enterprises are important for economic growth and development (Carre et al., 2002).

It seems therefore that a strong SME sector is a symptom, rather than a cause, of economic growth. While policies aimed specifically at promoting these enterprises might not significantly increase a country's economic output, policies that encourage the business environment in general are likely to benefit the entire economy, including SMEs. This does not refer to more informal employment, but rather to a large formal economy that is only lightly influenced by labour legislation. Indeed, a study of several countries found that the informal economy was lowest in countries which combine a low regulatory burden with an effective regulation enforcement system (Kus, 2006).

To some extent these views are implemented in policy decisions. Increasing the managerial flexibility of entrepreneurs and the ease of doing business are widely held to be measures that will result in growth of the SME sector (World Bank and IFC, 2013). In contrast, high taxes, labour regulations and contributions to health insurance schemes are viewed as constraints on medium-sized businesses by driving up their costs and lowering their margins (South African Chamber of Business, 1999).

It has however been shown that the focus on reducing administrative burdens might result from an over-reliance on business costs as an indicator (Kitching, 2006). The effects and consequences of labour regulation extend beyond financial considerations on the part of employers; they influence many individuals and mechanisms. Thus, statements such as "labour regulation impairs small enterprises" are ignoring the many dimensions in which small enterprises are likely to benefit or suffer from regulation.

As for the effect of social protection, it is worthwhile to bear in mind the mutual interdependence of pro-poor growth and social protection:

> A successful package of economic and social policies must produce (i) a good rate and pattern of economic growth to reduce poverty directly; (ii) a well-designed system of social protection to defend those still left in poverty despite the growth achieved; and (iii) internal consistency between the two broad categories of policy involved, such that neither cancels out the positive effects of the other. It is particularly crucial that social protection policy be as consistent as possible with the creation of good jobs, since it is mainly through job creation that growth contributes to poverty reduction. … Although economic growth is almost always a key factor in poverty reduction, this is especially true for low-income, often mainly agricultural

> countries. Such countries are generally characterized by a low public spending capacity (due to low taxing capacity), a low implementation capacity and a higher presence of community mechanisms that can protect vulnerable people from certain types of economic crisis. (Berry, 2013, pp. 1−2)

This viewpoint might lead to a tendency to see the implementation of social security as a factor that hinders the economy and SMEs in their development. However, such fears are exaggerated, given the fact that in industrialized nations a significant increase in health insurance contributions results in only a marginal increase in the cost of production (Weber et al., 2005) whereas the productivity gains have not been evaluated.

A study of 16,779 small businesses in the United Kingdom (Carter et al., 2009) evaluated in depth how far labour regulation might hurt the small business sector. It was found that although many employers were dissatisfied with regulation, few were able to recount specific instances in which they had been actually impaired by it. Also, the downsides of regulation are mitigated by the competitive market situation in which every business has to comply and thus every business will be impaired equally. Furthermore, studies that evaluated specific economic sectors or labour legislation found little or no evidence of impairment of SME growth by labour market regulation (Leach, 2006; Ayyagari et al., 2007).

An ILO discussion paper (Joshi, 2005) on the relationship between the micro-enterprise business environment and the provision of labour regulation in different countries found that, unless labour legislation is very inefficient and complicated, it does not cause limits to growth or avoidance. Furthermore, micro-enterprises that were freed from labour obligations for various reasons did not view this as a competitive advantage. The paper also advanced the position that while labour regulation should be simple and comprehensive to enable easy access, a strong and efficient administration is required for proper enforcement.

4. Social protection in SMEs: Obligations and barriers to effective access

4.1. Policies and coverage

Policies

Work is central to people's well-being, but for work to contribute to social and economic development, it has to be "decent". "Decent work" describes "the aspirations of people in their working lives" (ILO, 1999). There are four strategic pillars of the ILO's Decent Work Agenda: (i) creating jobs; (ii) guaranteeing rights at work; (ii) extending social protection; and (iv) promoting social dialogue, with gender mainstreaming being a cross-cutting issue. These are objectives and principles that apply to and affect all kinds of businesses, including SMEs in both the informal and the formal economy.

In industrial nations, labour legislation is often designed to apply to all enterprises and no evidence of intentionally exempting SMEs (50−250 employees) from health and social protection coverage could be found. In the European Union, for example, legislation does not differentiate between enterprises based on enterprise size (de Graaf and Lindenlaub, 2010). Although a substantial percentage of workers in many developing countries are employed in enterprises with fewer than 250 employees (see section 1.2 above), SMEs are usually not a focus or a starting point for the implementation of social security and social protection, not least due to the challenging and complex administration involved. Nevertheless, SMEs are usually treated like any other enterprise.

Enterprises for which specific exemptions have been found are those with fewer than 10 employees. These micro-enterprises are sometimes excluded from social health contributions and coverage, for example in India and Nigeria (Dutta and Hongoro, 2013). The background to this is that these micro-enterprises are predominantly informal and poor, and include a large segment of the self-employed and workers who are expected to be covered by other schemes that are more specifically designed for them.

Furthermore, in India, although laws often explicitly state inclusion of SME employees (LawsIndia, 2001), workers earning above a certain threshold are excluded from the social protection schemes for health and are expected to take up private insurance, regardless of the size of the enterprise.

In countries without efficient social protection systems and schemes – for example, for a certain segment of the workforce − the provision of social protection benefits in kind and in cash is frequently left to employers. This is the case for certain segments of the workforce in India, as outlined above. Some Indian insurance companies recommend that the employer provide subsidies for private insurance to their workers, since workers retain such policies even after leaving their current employment, and group health insurance policies would be very expensive for the employer (see medimanage.com). The fact that this decision is left to employers might cause them to optimize for costs rather than employee benefits.

SMEs are exempt from social protection coverage if they have a high degree of informality. In countries such as Cambodia, Kenya and the United Republic of Tanzania, as many as 80−90 per cent of the workforce are active in the informal economy (Steinwachs, 2002; Ulandssekretariatet, 2013). As social protection covers almost exclusively formal economy workers paying the payroll taxes, informal workers are excluded. Also, the collection of payroll taxes and/or contributions is set at a certain percentage of wages and would thus require registration. Thus, such coverage usually

excludes workers in the informal economy. Some countries such as Kenya have attempted to avoid this issue by offering informal workers access to the scheme through flat rates (Joint Learning Network, 2013).

Social health insurance schemes often feature waiting periods between the beginning of contributions and access to medical care, for example in the United Republic of Tanzania where a waiting period of three months is mandated (Tanzania, NHIF website, 2012). No empirical data could be found on whether this waiting period influences fraud and abuse. It is conceivable that any adverse health-related event occurring during this period could be magnified by the financial strain of already paying contributions.

Coverage

The provision of social protection/social security for workers varies considerably between countries in both extent and structure. The legal framework for coverage of workers in the formal economy is often advanced, given the existence of a legislative basis for coverage of formal economy employees in SMEs in every country that was evaluated. According to the ILO World Social Security Report 2010/11 (ILO, 2011a) there is no country that does not offer at least some form of social security.

In the course of our research, no publications were found that would indicate that the number of employees is a key determinant for social protection coverage or access. With regard to occupational health and safety regulation, most countries make no distinction between enterprises on the basis of the number of employees. In Canada, for example, the same labour safety regulations apply to all workers (Champoux and Brun, 2003).

In considering social health insurance in particular, one important question regards the order in which social groups are admitted to the scheme. Presumably due to the high degree of formalization and the associated ease of collecting contributions from government and public sector employees, most social health insurance schemes have started out for these groups and have been extended to other sectors at later points in time. Health-care coverage for SME workers depends on how far this development and their inclusion has already progressed (Carrin and James, 2005).

Generally, we find a significant lack of coverage for the informal economy; informal workers are often those who do not participate in the schemes. How far this represents active exclusion from coverage is questionable, as employment in the informal economy is usually not desired by lawmakers but rather a result of employer and/or employee decisions.

For SME workers in many countries, the most significant deciding factor for coverage by health and other social protection schemes and systems often relates to the question whether the employment takes place in the formal or the informal economy. For the individual worker, other than the degree of formality, wealth and income seem to be amongst the most significant factors for an entitlement to coverage, as many programmes are targeted specifically to the poor. In India for instance, workers are eligible for social security benefits only up to a certain wage threshold, while there are special schemes for individuals living below the poverty line (Dutta and Hongoro, 2013; LawsIndia, 2001).

In many countries there is a strong discrepancy between the number of people who should be statutorily covered by social protection schemes compared to the number who actually have access to them. Kenya, Nigeria and United Republic of Tanzania, for example, all have health insurance schemes that statutorily cover the majority of their populations, but only effective coverage rates of 15, 3 and 7 per cent respectively have been achieved (Scheil-Adlung et al., 2006; Dutta and Hongoro, 2013; Tanzania, NHIF website, 2013).

Social security benefits such as retirement pensions, disability pensions and funeral grants are usually provided separately from health-care provision. Health care may either be provided through tax-financed schemes for the entire population, or alternatively via a social or national health insurance scheme for those who register as members. In the latter case, special arrangements need to be put in place to cover those working in the informal economy.

The provision of health care is sometimes managed together with that of most other social security benefits, as is the case in India. The provision of services such as disability pensions and paid sick leave together with traditional health care will allow for more comprehensive social protection, as individuals will be shielded from multiple dimensions of adverse health states. Workers will not only receive appropriate medical treatments, but will also be assured of an income while unable to work. Individuals who are not part of the scheme, however, would frequently suffer from multiple dimensions of adverse health-related states. No studies have been found that evaluate whether one comprehensive social security scheme results in more effective coverage than multiple individual schemes for the different aspects of social security. A system in which the different benefits are applied by a variety of schemes could have a higher likelihood of any given individual having access to at least some type of social protection.

4.2. Employer obligations

The enrolment of employees in social security schemes may create considerable challenges for employers. It can be assumed that there will always be physical work involved in filling out and registering the employees' paperwork, which may be difficult or expensive if the country lacks appropriate infrastructure. Also, depending on the accessibility of the social security system, owners of SMEs may simply be ill-informed about their duties, or unwilling to invest resources in researching them.

Simple economic reasoning will go as follows: If the employer has not registered the business in order to evade taxes, registration of the employee is most likely to be out of the question if tax evasion continues. Employers will also have to pay more in order for the employee to net the same wage, if a certain percentage is deducted for social security contributions[7]. The factor of increased cost will probably also be present for the implementation of measures aimed at increasing safety and controlling hazards.

Due to their inherent small size, SMEs may be unable to employ designated supervisors for such fields as occupational safety or registration with appropriate social schemes, since they lack the advantage of scale that makes such supervision economically feasible in larger enterprises.

The barriers mentioned here and summarized below are often reasons for participation in informal employment and will thus be evaluated in more detail in the appropriate chapters. The main external barriers relate to:

- *Registration processes*, including administrative barriers or lack of capacity in social security administrations (which may be a focus for improvement).

- *Competitiveness*. If other enterprises on the market do not register, compliance may lead to loss of market. Registration of employees is a collective good in this sense.

[7] Berry's (2013, p. 12) finding that those in poorly-paid employment are least covered corroborates this.

- *Absence of legal consequences or accountability* in case of sickness and accidents of employees. When they are ill or injured, they are dismissed. There are no sanctions in case of non-compliance by the employer. If there were legal liabilities, employers would have an incentive to insure their workers.

- *No formal sanctions* in case of evasion: no fines, no prosecution.

Internal barriers include:

- *Individual motivation* of owners of enterprises to maximize profits through low production costs.

- *Ignorance of the advantages of social security* in terms of the health of employees, motivation and loyalty.

The ILO Decent Work Agenda clearly highlights the importance of adequate working conditions and social protection for workers' well-being and consequently their productivity. Nevertheless, it appears that in some countries employers and employees do not comply with social protection legislation (Berry, 2013; Wang, 2013), as can be seen in the widespread existence of informal employment. Certainly, there are trends that work against effective and widespread adherence to labour laws. The view that labour regulation stifles innovation and growth is present in the perceptions of some SME owners (South African Chamber of Business, 1999). This is supported by some evidence at the macro level (Wagstaff, 2009), and the notion that "social security is a tax on labour" is still widespread.

A review of South African labour regulations found that SME owners claim that minimum wage standards prevent them from hiring unskilled workers and that (unpaid) maternity leave provisions prevent them from hiring women, since such policies would increase their cost of labour (Leach, 2006).

SME owners may thus be inclined to either be discriminatory in their hiring or attempt to limit the enforcement of labour regulations concerning their operations. Detailed literature on whether this is a significant feature of SME employment, or rather in line with general labour market behaviour, could not be found.

A report on responsible competitiveness in SME clusters found that, on some occasions, these clusters have used their collective power to resist the implementation of social or environmental legislation. Public pressure or demands by the purveyor of the clusters' goods were needed to induce the SMEs to change. However, clusters were also found to be an important source of pressure for reform and of collective responsibility (AccountAbility, 2006).

The perception by owners of small businesses of the causes of accidents may be unfavourable towards the occupational safety and health (OSH) of their employees. A survey in Denmark found that owners usually attributed the cause of past accidents to unforeseeable circumstances, or alternatively to errors on the workers' part (Hasle et al., 2009). Both attitudes are unlikely to result in action to improve OSH. The first view leads to a situation where owners may refrain from implementing appropriate OSH measures because, from their point of view, the cause of the accident is beyond their control. The second view would call for improvements to OSH training; however, if accidents are rare the employer might seek to dismiss the worker who caused the accident, rather than offer training to all workers.

In the United Kingdom, an evaluation of the implementation of the Employment Relations Act in small enterprises found that these companies may indeed not be granting their employees all their statutory rights (Atkinson and Curtis, 2004). Whether this was due

to ignorance or evasion could not be answered conclusively, but employers did frequently report the view that the regulation in question was a burden to them. On the other hand, SMEs in the UK alternative investment market have been found to be as likely to report social information as comparable larger enterprises, similarly motivated by the enhanced reputation that reporting might entail (Parsa and Kouhy, 2008).

With respect to the implementation of gender-based equal opportunity regulation, UK enterprises with 50−250 employees were shown to have a greater rate of uptake than smaller businesses, while overall there were still significant shortcomings in the implementation of equal opportunity regulations (Woodhams and Lupton, 2006). Regulation uptake seemed predominately the result of factors related to enterprise size.

4.3. Barriers to effective access

Comprehensive reviews of access to social protection, such as in the ILO *World Social Security Report 2010/11* (ILO, 2011a) reveal in detail availability, accessibility, acceptability, quality and financial protection of social protection benefits in kind and in cash such as health care and income transfers. In addition to statutory coverage, access to benefits (e.g. health services) has multiple dimensions: physical access, meaning the availability of health services within a reasonable distance; quality, meaning that the available goods and services are of acceptable quality; financial access, meaning that there is no financial barrier that prevents the poor from seeking needed goods and services. Legal coverage without access to available quality services and financial protection remains meaningless.

The report evaluates these aspects, particularly the scope and extent of social health protection, statutory coverage and availability of old-age security, unemployment benefits and other cash benefits provided in the context of social protection. It offers detailed information on existing shortcomings in social protection concerning the criteria of availability and accessibility as well as financial protection, for example from out-of-pocket payments when taking up health care at global, regional and national levels. However, it does not allow conclusions on specific coverage and access deficits of workers in SMEs.

Apart from research examining the entire scope of social security, comprehensive reviews of individual measures of social protection are available, such as the 2010 review of the current international state of paid sick leave provisions (Scheil-Adlung and Sandner, 2010). But nor do these reviews do allow conclusions on coverage by size of enterprise.

Thus, while coverage and access data on social protection at various levels have been collected, at present no sufficient data and information are available at enterprise level that would allow the development of well-founded statements on accessibility to social protection for employees of SMEs compared to other workers.

4.4. Specific challenges for small enterprises in the informal economy

While workers in the informal economy account for 80 to 90 per cent of all employment in many developing countries, the very nature of the informal economy makes the collection of data difficult. Enterprises that employ workers without applying social protection legislation and related access to statutory benefits are unlikely to be open about their evasion. Conversely, workers in the informal economy are often unaware of the social protection mechanisms they are entitled to, and such information may even be deliberately withheld from them by their employers (Losby et al., 2002).

Very small enterprises mostly lack resources to establish a certain degree of formality. They have a very small administration and small overheads, and they lack staff resources that can deal with insurance or social security matters.

Most of the published literature on social protection does not differentiate according to enterprise size, thus no theoretical work or empirical data on the above-mentioned challenges could be obtained. However, more general information on work and social protection coverage in the informal economy is available, indicating that informality and gaps in coverage of and access to social protection are closely linked.

Informality is constituted by the absence of a formal working contract, registration and administrative recognition of employment. It often entails day-to-day work with an absence of any commitment for the employer. In the case of formal employment, the documentation of employment entails a certain degree of recognition, inside and outside the enterprise (e.g. in social insurance), that leads to possible enforcement and control as well as possibilities for staff to claim their rights. Thus, informality leads to lower degrees of coverage and access.

Informality may have many causes, from a lack of infrastructure necessary for the collection of contributions to conscious choice by employers and employees to forgo registration in social security schemes. The refusal of employers to offer formal employment may often feature profit motives and does not serve the workers' interests. For most enterprises, informality is simply the result of the owner's attempt to evade labour regulation and taxes (Losby et al., 2002).

In some countries, an increase in profits has been determined as a significant motivation for employers to refuse participation in social protection programmes (Faulend and Šošić, 2000). The situation is often worsened by the legal infrastructure and enforcement. Very low fines, poor policing and corruption are all factors that might increase employers' perceived benefits from informal employment, thus making such employment more frequent (Kus, 2006).

Informal labour may also be difficult to detect, for instance, if family members of the owner work alongside regular employees. While the regular employees may be salaried and enjoy the benefits of a social protection system, the family members may be informal workers without social protection coverage (Losby et al., 2002).

Furthermore, formal employees may be properly registered but perform additional, informal work for their enterprise. This can range from unpaid overtime to entire projects that are reimbursed informally. These workers are likely to enjoy many of the benefits that their formal employment entitles them to. However, accidents occurring during non-official working hours may not be covered under their accident benefits.

It is also possible that a worker does not desire formal employment because he or she believes that they will be in a better position if they do not participate in social security. It has been shown (Maloney, 2004) that workers may prefer the informal economy, due to greater flexibility regarding working hours and greater independence.

A study of the informal economy in Brazil, Mexico and South Africa found that informal workers at the upper end of the wage distribution could indeed earn significantly more money than their formal economy counterparts, thus potentially compensating for the lack of social security benefits (Bargain and Kwenda, 2010). Low-wage workers, however, did not gain significant financial improvements and faced similar problems as their formal counterparts.

Similarly, it can be shown that informal economy employees often fall into one of two large groups. One, consisting mainly of workers with low wages, would be better off

with other types of employment, while the other group contains many workers who gain from choosing informal over formal employment (Günther and Launov, 2012). Informal employment is thus perceived as potentially beneficial by some workers, but the poorest and least skilled are likely to suffer from being informally employed.

A legislative basis aimed at covering all workers may still be hampered by institutional and administrative shortcomings and thus encourage informality. In Kenya, for example, the funds of the National Hospital Insurance Fund have been used in the past for investments in real estate that did not yield expected profits (Ulandssekretariatet, 2013). In addition, the National Social Security Fund is estimated to spend about 50 per cent of its income from contributions on administrative costs (Kenya Ministry of State for Planning, National Development and Vision 2030, 2012). Such conditions may act as a deterrent for formalization, to both employers and employees. Therefore, even when an appropriate system of coverage is implemented, evasion may occur if institutions lack efficiency and effectiveness.

Another issue concerns flat-rate contributions for social security of informal workers. In Kenya, regular contributions for formal workers range from KES 30 to 320, while the fixed rate informal economy payment is at KES 160 (Joint Learning Network, 2013). For formal workers at the upper end of the contribution range, evasion through underreporting or switching to informal employment offers the possibility of significant savings.

A 2013 World Bank Policy Research paper (Carnacho et al., 2013) found a robust correlation between the extension of non-contributory health insurance for informal workers and an increase in informal employment in Colombia. No empirical evaluations could be found analysing whether this incentive is a significant force against formalization of employment.

A 2001 paper evaluating the implications of the minimum wage for informality in small businesses in the United Kingdom found that some businesses were impaired; they were faced with the choice of increasing their reliance on informal employment to avoid an increase in wage costs, or reducing business activities (Ram et al., 2001). However, this was not present in the majority of enterprises, where other more general economic factors were found to have similar impacts on business activities and informality.

It has also been argued that the informal nature of many micro-enterprises is the cause of their competitive advantage (Losby et al., 2002). Carter et al. (2009) argue that the flexibility in hiring and the lower costs associated with ignoring taxes and social security are precisely what allow SMEs to out-compete larger and more formal enterprises. If so, it would follow that a significant increase in formal employment will only occur if labour regulations do not seem to be decreasing flexibility from an owners' perspective.

A case study of three SMEs in Ghana (Debrah and Mmieh, 2009) came to the conclusion that there is a trend towards increased formalization of employment in these SMEs and that owners do see advantages in this transition. The authors conclude that the desire for formalization in many African SMEs may be higher than might be expected.

5. Impacts of social protection and working conditions in SMEs

5.1. Gaps in social protection: Impacts on workers and their families

The existence of benefits and structures to improve working conditions may be mandated by law, leaving the employer little choice but to offer them. However, it is possible for the employer to create a working environment that punishes the acceptance of such measures, for example by delaying promotions, mobbing or other forms of discrimination. In such a work environment, workers may be unwilling to accept their statutory benefits for fear of impairing their career.

It has been shown (Allen, 2001) that the workers' perception (e.g. of a family-supportive organization) is more important than the actual benefits offered: a perceived low support has been shown to cause work/family conflicts, a decrease in employment satisfaction and less commitment to the enterprise on the part of the workers (Allen, 2001).

Working conditions also include access to social protection benefits such as health services. Such benefits are likely to significantly influence the health status of workers. Access gaps might have an impact on income for whole families given the multitude of costs, from loss of income during illness to high expenditures for treatment and drugs. These costs may amount to what is often referred to as catastrophic health expenditure, which may alone be a cause of poverty. Continuously high levels of out-of-pocket (OOP) payments will also contribute to poverty, as they are likely to erode an individual's savings over time. Further, the absence of social protection coverage in health acts as a key determinant of quality of life, given the link to disability.

Other branches of social security are aimed at different aspects of an individual's welfare. They include security in old age. Old-age pensions are aimed at providing income beyond the working age. A lack of income support might have significant impacts on families, for example on the education of children or − in worst cases − child labour if they are required to generate the family income. No comparative analysis has been found on the related impacts on former SME employees with and without pensions.

A lack of paid sick leave can motivate SME employees to continue working despite being ill. As this may reduce their ability to recover, their health status will be more severely impacted for a longer period of time. Also, if they have to continue working while sick they are more likely to transmit communicable diseases to co-workers. However, examples of special impacts of a lack of paid sick leave for SME employees could not be found in the literature.

Labour regulations might also impact on the health status of young children and their mothers. A recent review (Heymann et al., 2013) evaluated the impact of four policies: parental leave, breastfeeding provisions, child care and early education, as well as leave to take care of the child's health needs. Among the main findings were that breastfeeding will be more common if related provisions exist in the workplace or if mothers are entitled to paid maternity leave.

Child health outcomes are also improved when it is possible for parents to take child health-related leave. It was found that, internationally, fathers are less likely than mothers to have the right to paid parental leave. Early childhood care and education, besides positively influencing the child's development, provides care and supervision for young

children who may otherwise be left with their siblings; however, data on these services is scarce (ibid.). This review, though, did not focus particularly on SMEs.

A systematic review of social health insurance for informal economy workers in developing countries (Acharya et al., 2013) could not find a significant positive impact on health status or utilization of services. This is related to the above argument that legal coverage does not create effective access unless aspects such as physical accessibility, availability, quality, financial protection and cultural factors are also taken into account. Some schemes were found to protect from extreme OOP, although less so for the poor. The authors also noted a lower than expected participation in the schemes by workers.

5.2. Occupational safety and health

The improvement of occupational health and safety has been identified by the ILO as a fundamental requirement for the fulfilment of the goals set out in the Decent Work Agenda (ILO, 2004a). Related measures include improved control of hazards and risks as well as protection from dangerous substances, machinery and tools; psychosocial hazards; and musculo-skeletal disorders.

A wealth of data regarding occupational health and safety (OSH) in small-sized enterprises is available. Only a few authors have chosen to evaluate medium-sized enterprises. The majority of studies are concerned with enterprises that employ fewer than 100 employees. These SMEs have been found to have a much higher rate of work-related accidents resulting in injury, or days of absenteeism, than larger companies in the same sectors and geographic areas (Fabiano et al., 2004; Sørensen et al., 2007; Hasle and Limborg, 2006: Kines and Mikkelsen, 2003). Similarly, over 60 per cent of all occupational injuries that occur in the European Union take place in enterprises with fewer than 250 employees, one-third of which stem from the 50−250 employee segment (European Commission, 2004).

It has been demonstrated (Micheli and Cagno, 2010) that the frequency of accidents increases drastically for micro-sized enterprises. This is reflected in accident statistics from the Taiwanese construction sector: of all 1,546 reported accidents from 2000−07, 800 (51 per cent) took place in enterprises with fewer than 10 employees, while only 116 (7.5 per cent) took place in enterprises with 100−299 employees, and 90 took place in larger enterprises (Cheng et al., 2010).

Similarly, in the Danish construction sector an inverse relationship between enterprise size and the severity of occupational accidents has been found (Kines and Mikkelsen, 2003). The high accident rates for small businesses are predominantly in enterprises with fewer than 100 employees.

Cagno and colleagues (2011) have performed a review of factors that have been empirically proven to influence OSH. Multiple reasons have been proposed for the high accident rates in SMEs: (1) a more hazardous work environment in physical and chemical dimensions(Sørensen et al., 2007); (2) evasion of labour laws and safety regulations by smaller companies; (3) lack of appropriate protective equipment; (4) workers' ignorance of hazard warning signs (Cheng et al., 2010); (5) size-related constraints on personal and financial resources that can be employed for OSH (Champoux and Brun, 2003); and (6) resulting difficulties in proper risk assessment and inspection. Furthermore, there is evidence that OSH programmes developed for large enterprises are not easily applicable to smaller enterprises (ibid.).

Significant gaps in empirical data exist concerning the groups of employees commonly referred to as vulnerable. Studies on OSH in SMEs do not usually differentiate between employees with respect to their gender, age or similar characteristics. Evaluations

of OSH-related issues usually focus on the micro-economic management side and take the micro-economic workforce as a given factor. Accidents are not evaluated with respect to characteristics of the worker (as this could, for example, lead to having to hold individual workers accountable for individual accidents and might offer little insight on systemic issues). Rather, accidents are often associated with characteristics of the enterprise or its specific OSH policies (which will be much easier to transfer to other enterprises).

It has been argued that small and medium-sized enterprises usually have better psychosocial working conditions than comparable larger companies, due to closer social interaction and better employee−employer relationships (Sørensen et al., 2007; Eakin and MacEachen, 1998). Psychosocial working conditions are not commonly researched and no further evidence on this topic could be found.

The implementation of OSH measures and workers' education have been identified as key to reducing accident rates in SMEs (Cheng et al., 2010). These measures include accident reports, accident investigations and inspections regarding OSH standards (Kongtip et al., 2008; Fabiano et al., 2004). Methods that allow SMEs to efficiently improve their OSH management have the following features: (1) they are low-cost and thus without significant barriers to implementation; and (2) acceptance is greatest when the measures are promoted via personal contact (Hasle and Limborg, 2006; Walker and Tait, 2004).

Multidimensional approaches to the implementation of OSH in small enterprises have been called for, to address the versatile nature of small businesses and the varied challenges they face (Thompson et al., 1999). Owners' attitudes towards regulation were found to range from reactionary and evasive to open and cooperative. These differences in degrees of motivation will also need to be addressed.

Whether vulnerable members of an SME workforce are more likely to suffer from shortcomings in OSH cannot be answered satisfactorily.

6. Effects of social protection on productivity in SMEs

6.1. Measurement of productivity impacts

In order to discuss the relationship between access to social protection and productivity in SMEs, the focus of this review had to be extended to some degree. In what follows, studies have been used that, while not focused on SMEs in particular, were identified as having a scope which would most likely allow for an extension of their findings to SMEs.

At an aggregate level, one could look at the impact of social protection on revenue per worker and profit per worker for a defined group of firms, taking into account the size, the location, the business sector, the number of years the company has been in the market, the percentage of women employed, and the average wage level. In addition, at a very general level, the survival rate of a company (the likelihood that a firm that existed in period t will still exist in period t+1) could be used as an indicator that social protection is good for business. The authors are not aware of any study that has analysed the effect of social protection on such aggregate statistics.

At the level of the individual enterprise, there are no comprehensive, satisfactory measures of productivity that can be linked directly to social protection coverage, thus *indirect measurements of productivity* will have to be evaluated. These indirect measures should show a relationship between social protection and productivity at both enterprise level and a macro-economic level.

The indirect measures considered here are:

(1) paid sick leave;

(2) labour market status after receipt of disability benefits; and

(3) diminished labour market outcomes due to chronic disease.

In principle, paid sick leave can be viewed as a productivity-enhancing feature in that workers who do not have to go to work while sick are likely to enjoy a shorter convalescence period and thus fewer complications and disabilities. Also, with respect to infectious diseases, workers who stay at home will be less likely to transmit their disease to co-workers.

If one assumes that the number of actual sick days is more or less constant across workers from the same sector in different countries, then one could use statistics of the number of paid sick leave days and equate them with possible future productivity increases that would not have been present if the worker had simply worked/tried to work while being sick.

This indirect measurement of productivity should be used with caution, however, as the actual number of days that a worker in a certain industry will be sick is unlikely to be constant around the world, but will depend on such factors as the working environment, health status, endemics, degree of immunization, etc. Health systems in developed countries may also be able to treat sickness more effectively, and conditions that would result in inability to work in less developed countries may not impair workers in developed countries as much. Given these differences across countries, paid sick leave provisions

cannot be used to compare productivity impacts at the global level. However, national analyses might provide useful insights.

The uptake of paid sick leave days also depends on factors related to specific workplaces, as owners/managers have been known to threaten workers with discrimination in promotion, or lay-offs, if the workers choose to make use of their legally mandated paid leave. The existence of such circumstances is unlikely to be detected when viewing statistics on paid sick leave. Any conclusions on paid sick leave as regards productivity and growth will therefore remain qualitative and indicative.

Scheil-Adlung and Sandner (2010) offer insights into the possible economic impacts of paid sick leave. The authors refer to statistics that show that during the 2009 H1N1 flu pandemic some seven million workers in the United States were infected in the workplace. The number of co-workers infected was very likely increased due to the fact that the United States currently has no national regulation concerning the provision of paid sick leave. The fact that workers were thus forced to choose between working sick ("presenteeism") and exposing others to their diseases on the one hand, and staying at home but risking wage discontinuation as well as penalties from their employer on the other, was probably further aggravated by the poor labour market situation due the economic crisis. Provisions for paid sick leave could have prevented the serious spread of H1N1 in the workplace and thus saved significant illness-related productivity losses.

The authors also show that while the absolute number of working days lost due to sickness differs significantly between OECD countries, the proportion of days lost as a percentage of total working days shows a more homogenous distribution. Furthermore, when countries are grouped according to comprehensiveness of paid sick leave provisions, it can be shown that those with minimal or limited benefits have the lowest number of days lost to sickness. This is in line with the above-mentioned example and indicates that a lack of paid sick leave provision is associated with an increased number of days spent working whilst being ill, which is most likely to cause a decrease in productivity. The authors complemented this with survey responses from the United Kingdom, where 37 per cent of employees claimed not to have taken even a single day off due to sickness, only to be forced to take multiple days off later. Further quantitative research into this phenomenon is highly desirable, as an overall increase in days lost to sickness due to a lack of paid sick leave provision would present a clear case of lost productivity due to poor social protection.

Another study (Goetzel et al., 2004) found evidence that the cost of presenteeism for many common conditions, such as hypertension and depression, may be between 18 and 60 per cent higher than the associated medical expenditures would be. Paid sick leave could mitigate some of these increased costs by reducing the incentive to work while sick.

An evaluation of Commonwealth Fund survey data (Davis et al., 2005) with respect to the impact of health-related issues on worker productivity in the United States found that workers who do not have access to paid sick leave are more likely to report missing work or being unable to concentrate on their work, when seeing a doctor.

An analysis of paid sick leave provisions in the United States (Lovell, 2004) found that public sector and unionized workers are the most likely to have access to paid sick leave, while part-time and low-wage employees are most likely to have no access to such coverage. Thus, even where paid sick leave is available, it might be less so for vulnerable workers.

SMEs are likely to face impairments to productivity similar to those found to result from inadequate paid sick leave provision in general. Due to their small workforce, SMEs could be even more vulnerable to disease transmission resulting from presenteeism. On the other hand, such a small workforce might be disrupted by a significant number of

employees taking paid sick leave simultaneously, something which larger enterprises may be able to mitigate more easily. Further SME-directed research to evaluate the specific dynamics that result from paid sick leave could shed light on this issue.

The indicator "labour market status after receipt of disability benefits" refers to the status of a former recipient of disability benefits after termination of benefit payments. If it is assumed that the aim of disability benefits is to enable the beneficiary to return to the labour market, then high unemployment amongst former recipients would point towards decreased productivity that could have been avoided had the worker received more comprehensive benefits. (In this case, disability benefits are distinct from a disability pension, which compensate the worker for a permanent disability suffered during employment. The aim of such disability pensions is not a return to the labour market, but rather equity and fairness.)

If it could be assumed that the criteria for receiving disability benefits are similar between countries, and that the benefits in principle are similar in nature, then it could be postulated that lower employment of former recipients points towards either a less effective provision of social protection or an insufficient level of provision, both being associated with lower productivity. No research dedicated to this concept could be found; disability benefits are too varied in their extent, and specific features including inputs and outputs are too difficult to compare.

Another approach to productivity impacts refers to diminished labour market outcomes due to chronic diseases. Under the assumption that effective social (health) protection prevents common diseases and illnesses which result in chronic conditions or disability, evidence that chronic conditions decrease a worker's productive output could be used to associate shortcomings in productivity with poor social protection provision. It should be noted, however, that in order for a causal link to be established there should be direct and conclusive evidence that social (health) protection is able to reduce the occurrence of chronic conditions and disability, thus effectively achieving a public health goal. Although such a connection seems intuitively plausible, solid evidence is scarce (which might primarily result from too little research being conducted owing to the difficulty of measuring outcomes consistently). The findings presented below, although indicative of a loss in productivity, should be treated with caution regarding causality.

The World Bank has published an extensive review (Rocco et al., 2011) about the connection between chronic diseases and labour market outcomes in Egypt. Empirical models were used to calculate the possible effects of chronic diseases. Concerning employment, it was found that the presence of a chronic condition or disability decreased the probability of being employed by as much as 7 per cent, while an extension of the results from the sample to the entire population would result in an estimated 6 per cent lower employment rate for Egypt, indicating a sizeable loss in productivity. Similar findings were reported concerning the labour supply, which was estimated at 19 per cent below its potential level; this led the authors to conclude that actual Egyptian GDP may be up to 12 per cent lower due to chronic conditions and disability.

The study also showed that chronic diseases reduce the probability of being employed much more among workers who do not have access to health insurance, which in Egypt is strongly associated with informal employment. The number of working hours lost to chronic conditions and disability also significantly increases with the age of the worker. These latter two findings point towards a more severe loss of productivity resulting from disability among vulnerable employees.

Clinical studies have also found that chronic conditions such as major depression (Egede, 2007), diabetes (Dall et al., 2003) and rheumatoid arthritis (Escorpizo et al., 2007) result in absenteeism from work and lost productivity.

Research should be conducted to determine the extent to which social (health) protection might mitigate or prevent chronic conditions and thus allow for a reduction in the associated productivity loss.

6.2. Empirical findings

Knowledge about productivity improvements in SMEs that can be attributed to social protection policies will be valuable, as improvements in business outcomes are likely to provide a great incentive for owners to improve access to social protection measures for their employees. Considering that the primary motivation behind such unacceptable business practices as child labour, wage discrimination against female employees and low investment in safe working conditions lies in a shortsighted and unethical approach to productivity improvement and profit maximization, it seems plausible that social protection provisions that can be proved to result in increased productivity will be widely accepted and implemented by SME owners. To achieve this win−win situation of improved business outcomes for employers and improved social protection for employees, a better understanding of the interaction between these two aims, in particular among employers, needs to be developed.

As with the other topics considered so far, the evidence concerning SMEs is limited for developing countries given the high degree of informality among SMEs and the wide variety of conditions under which they operate. A broader approach has therefore been taken in order to achieve at least some degree of reasonable generalization concerning productivity in SMEs.

A review of obstacles to productivity and growth in SMEs in Pakistan, by the Asian Development Bank (ADB) (Bari et al., 2005), identified key factors. A significant increase in the cost of growth is seen due to the costs associated with fiscal and non-fiscal regulation. While businesses did not report labour regulation as a specific reason for impaired growth, in-depth analysis and interviews revealed that this was due to the perceived ease of evading or ignoring such regulation. While business owners believed that labour regulation would harm their business, they were not concerned about it as they could easily avoid it.

Evasion was possible, for example, by not providing employees with written employment contracts, as was the case in 80 per cent of the businesses surveyed, and by employing workers as temporary and contractual labour to which most labour regulation does not apply (the case in 90 per cent of firms (ILO and SMEDA, 2002). In consequence, an evaluation of the actual impact of labour regulation on SMEs in Pakistan is prevented by the fact that the majority of businesses evade the regulations.

Other regulation-associated burdens identified in the ADB report included the costs that arise from the necessity of direct contact with officials for proof of compliance with regulation. Also, the asymmetrical distribution of power between SMEs and the officials charged with overseeing them results in a burden of corruption. This is magnified by the long delays in the resolution of disputes, which incentivizes firms to participate in bribery to guarantee timely answers (Bari et al., 2005).

Another finding relates to the fact that labour regulations in Pakistan were linked to the number of employees in a business. SMES with fewer than ten or five employees were excluded from some types of labour regulation (ILO and SMEDA, 2002). Consequently, regulatory costs especially impair SMEs that are expanding, as they face an increasing regulatory burden for an increasing number of employees at a time when their resources are already strained by the investment necessary for expansion. Bari and colleagues (2005) dubbed this a “growth trap” which might prevent growth of SMEs beyond a certain limit.

Depending on the industrial sector, 89−99 per cent of Pakistan's SMEs have been found to employ fewer than ten workers. SMEs in the mining sector were an exception to this, with the majority of mining firms employing between six and 50 workers (Khawaja, 2006). Thus, most SMEs in Pakistan are generally below the 50−250 range of employees, so that the findings mentioned above may therefore be limited in their applicability to the SMEs concerned in this report.

The predominantly small size of SMEs in Pakistan could possibly be attributed to the above-mentioned growth trap and thus point towards productivity impairment by regulation. However, it can be argued that those SMEs that have grown to 50+ employees have either evaded or overcome the growth trap and are thus no longer affected by this specific side-effect of regulation. Also, although the widespread evasion could be attributed to actual impairment of growth by regulation, it could be solely the result of distorted or erroneous perceptions by SME owners.

Table 1 summarizes the key issues and describes the interaction between social protection and productivity in SMEs.

Table 1. The potential interaction between social protection and productivity in SMEs

Issue	Consequence
Extensive evasion of social protection measures…	Actual impact of policies that are not adhered to cannot be determined.
… due to mostly unfavourable opinion of owners on social protection regulation.	Results in a biased reporting by owners of possible outcomes.
Productivity-related outcomes are difficult to quantify in informal/small-scale operations.	Empirical data collection is impaired.
1−50 employee SMEs are a very large and diverse group.	Empirical observations can rarely be generalized.
50−250 employee SMEs are a very small segment of total SMEs.	Empirical evidence is almost non-existent.
Measures necessary for the administration of regulations might be detrimental to productivity…	Poor outcomes resulting from corruption, poor governance, etc. may be falsely attributed to social protection provision.
… but these measures vary widely in implementation and execution at regional and national levels.	The separation of (distinction between) policy outcomes from (and) administration/governance outcomes is impaired.

These findings are in line with those of the recent ILO literature review *Can better working conditions improve the performance of SMEs?* (Croucher et al., 2013). The authors lament the lack of a clear body of research concerning SMEs and productivity-related outcomes, especially in developing countries. Empirically-based generalizations applicable to SMEs from different sectors and national backgrounds could thus not be formulated.

Overall, the authors were able to find at least indicative evidence that good practices in OSH, working conditions and skills training for employees are linked to positive enterprise-level outcomes. Regarding OSH, the report observes the rather extensive literature concerning SMEs that was also evaluated in the research process for this review. However, the great variety of different approaches to OSH, combined with the difficulty of determining reliable long-term outcomes, limits conclusions on different individual strategies and thus prevents the formulation of widely applicable observations.

An evaluation of the effects of "human resource bundles" found that these are predominantly present in developed and high-income economies. It could be demonstrated

that HR bundles may result in positive enterprise-level outcomes, such as increased employee satisfaction, which are likely to result in productivity increases.

With respect to wages, some examples were found where higher wages could be linked to improved productivity, but the evidence base was too weak for deductions concerning causality. Regarding minimum wages, the authors determined that the results of available studies were very varied, with some evidence for an increase of informal employment and even unemployment due to the evasion of minimum wages, but also evidence for improved wages for those who are able to remain in the formal economy.

Further, while overtime may be beneficial to businesses if voluntary and reasonably compensated, excessive working hours and overtime might have detrimental short-term and long-term health-related effects for employees and have been linked to decreased productivity of the enterprise. Also, flexible working arrangements with shorter working hours seem to be associated with high productivity and beneficial outcomes for workers. The evidence was however not strong and a causal link could not be established satisfactorily.

Another productivity-related field evaluated in the ILO report concerned the extent of training that is present in SMEs. Here the authors were able to demonstrate that while the assumption that larger enterprises are more involved in providing formal training seems mostly correct, SMEs do also provide a significant amount of training for employees. Training in SMEs is typically of a much more informal nature, and thus the detection of it in the research depends largely on the definitions and approach employed by the researcher. The training of employees is also influenced by many and various national and individual factors, so that satisfactory evidence regarding the most beneficial and efficient approach to training in SMEs can rarely be generalized.

In general, the authors highlighted many of the same problems in collecting SME-related research that were encountered in the present report. The extremely limited availability of empirical evidence prevents generalizations and is in most cases only suitable for the evaluation of specific regional − or sector-specific − conditions. The need for additional structured and standardized empirical research was identified in all the topics that were evaluated.

7. Social protection and SMEs at a glance in selected countries

This chapter provides information on the current situation of social protection and SMEs in selected countries, particularly developing countries, and a more detailed analysis of the legal context of social protection in SMEs in India.

7.1. An overview

Although there are dedicated websites and databases concerning SMEs, there is a dearth of information concerning social protection in these enterprises[8]. As the focus of many national governments still lies with the promotion of entrepreneurship and business growth in SMEs, the indicators measured primarily reflect financial and productive outcomes rather than factors related to social protection. Similarly, data on social protection often do not take into account such factors as the number of employees or other economic factors that would allow classification as a SME.

Due to this lack of specific information and analysis, country studies based on available literature and data would at present only reiterate the information on social security that has been published many times already, while offering no additional detail with respect to SMEs.

In principle, the following aspects could allow for a meaningful categorization of countries:

- the role of SMEs in economic development, e.g. GDP, growth, debt, employment, formalization, distribution of income and wealth;
- the political system and political participation, the security situation and "failed states";
- a typology of welfare states, social dialogue and social inclusion, e.g. social protection for workers in SMEs and mode of financing;
- maturity of the legal system and institutions with regard to SMEs, e.g. the rule of law, individual rights and security, ratification of international agreements, access to legal protection;
- social partners, the role of unions, the role of the State as arbiter; and
- social cohesion and social capital, e.g. informal arrangements, support by family, neighbours and communities, solidarity and mutual support.

Very little in this respect was found in the literature. In the European Union, worker representation has been found to be a factor that positively influences health and safety provision in the workplace (Walters, 2004).

[8] See, for example, OECD (2013) which gives a detailed account of the financial situation of SMEs in 25 OECD and non-OECD countries; IFC (2010) which gives a detailed account of the relative size and the specific national definitions of SMEs; European Commission (2013), a dedicated regional portal providing information for and about SMEs. Many countries, both developed and developing, have created their own portals; see for example the US Small Business Administration (http://www.sba.gov/).

In South African SMEs, the creation of HIV/AIDS committees has been found to have a positive indirect impact on the creation of additional security and support measures for those workers afflicted by the disease (Vass, 2008).

Table 2 provides information from selected countries about social security and social protection provisions that are likely to have a significant effect on SMEs. It is not a complete list of all social protection schemes operating in the respective countries; rather, only those protection systems were documented that are likely to affect SME employees.

Table 2. Overview of social protection for workers in SMEs, selected countries, 2014

Country *Context-relevant data*	System *Designated beneficiaries*	Benefits	Indicators of access to coverage	SME-specific
Cambodia	Social Health Insurance for formal economy employees	Coverage of medical bills resulting from accidents Disability compensation Funeral expenses - compensation of survivors[1] Full medical coverage only as a pilot project in large factories[2]	OOP 57% of total health expenditure (THE)[3]	Currently no full medical coverage, but most work- related benefits for formal SMEs
Tanzania, United Republic of ***Formal economy estimated at 10% of total employment***[4]	National Social Security Fund *for formal economy employees*	Retirement pension Maternity benefits Invalidity pension Funeral expenses Compensation of survivors up to contribution amount	Social security coverage in 1999 at <4% of total employment[4]	Formal SME coverage presumably decent, but likely of low relevance due to the high degree of informal work Informal economy coverage likely very poor
	National Health Insurance Scheme *for formal economy employees*	Medical care for employees, dependants covered only until retirement	7.1% of the population covered (2001 census)[6]	
	Community Health Funds *for individual communities*	Fund pooling for medical care Only basic health care[5]	7.9% of the population covered (2001 census)[6]	
Nigeria ***16.7% of formal workforce in enterprises with <250 employees***[7]	National Health Insurance Scheme *for formal economy enterprises with >10 employees*		3% of the population covered[8, 9] OOP 60% of THE[3]	Serious deficits in health-care coverage and social protection for majority of formal SME workforce Similar situation likely for informal economy workers
	Mandatory insurances *from private insurance companies*	Disability pension Sickness benefits Pension via life insurance policy[10]	<1% of adult population have any type of insurance[11]	
Kenya ***Informal employment at 82% of total employment***[12] ***Labour force 16.5m (2008)***[12]	National Hospital Insurance Fund *for formal economy, fixed premium for informal economy*	Health care for worker and dependants[13]	7% of the population covered[14] OOP at 46% of THE[3]	Coverage for formal and informal economy workers has legislative basis
	National Social Security Fund (NSSF) *for formal and informal*	Retirement benefits Invalidity pension Funeral expenses	1.1million formal employees, 100,000 employers, 57,000	Disincentive for joining NSSF: ~50%

	economy employees	Compensation of survivors[15] 3 months maternity leave fully paid[12, 15]	self-employed, "few informal workers" (2010) [12]	of funds used on administrative costs[16]
Senegal	IPM health funds *for formal economy employees*	Primary care for worker and dependants[17]	OOP at 33% of THE[3]	Formal economy coverage is limited to primary care, otherwise poor; Informal economy depends on patchy NGO & CBHI coverage
India ***94% of labour force in the informal economy***[18]	Employees' State Insurance Scheme *enterprises with <10 employees power-using* <20 employees non-power-using[8]	Comprehensive health care for worker and dependents Disability pension Sickness benefits Funeral expenses Maternity benefits[19] only if wages do not exceed a certain limit[20]	20% of the population for all government-funded health insurance schemes[8] OOP at 59% of THE[3]	Workers in SMEs with 50-250 employees covered, unless wages exceed limit
	Variety of state-specific CBHI and subsidized schemes *for the poor*[8]		Another estimated 6% of the population[8]	
Ghana ***66% of workforce employed in enterprise with <100 employees***[21] ***80% of employment in informal economy***[22]	National Health Insurance Scheme[23] *Payroll contributions from formal employees, modest fixed annual contribution from informal*[9]	Basic health care for all residents[23]	33% of the population enrolled[23] OOP at 29% of THE[3]	Difficulty of collecting annual informal economy payments on a regular basis[9]
	Social Security and National Insurance Trust *mandatory for workers, optional for self-employed*[24]	Retirement pension Disability pension Compensation of survivors[24]	Of employees: 29% entitled to some form of social security 47.8% entitled to paid sick leave (provided by the employer)[21, 25]	
United States	Patient Protection and Affordable Care Act ("Obamacare") *mandates health insurance for citizens*[26]	Amongst others: Employers' mandate: penalty for businesses with >50 employees that do not offer health insurance Subsidies for small businesses[26]	Not yet implemented, data on extent of coverage not yet available OOP at 11% of THE[3]	Actual impacts on health-care coverage of SME workers are hard to determine Many more SME employees are likely to be covered by health insurance
	Social Security Administration	Retirement pension Disability pension Compensation of survivors[27]	94% of all workers[27]	Currently no national system for the provision of paid sick leave[28]
Germany ***99.7% of all enterprises are SMEs***[29]	Social Insurance, *financed mostly via contributions*	Social health insurance Accident insurance Care insurance Retirement pension Unemployment insurance[30]	90% of the population covered by the system[31] OOP at 12% of THE[3]	

88% of all companies employ <10 workers[29]				
Indonesia *SME defined via assets and turnover*[18]	National Social Security System, *for all citizens*	Social health insurance Employment accident insurance Retirement pension Disability pension Compensation of survivors[32]	60% of the population not covered by social health protection[33] OOP at 50% of THE[3]	
Brazil	Public Unified Health System, *for all citizens, tax based*[34] Private supplementary system, voluntary, *for formal economy employees*[34]	Comprehensive health care	OOP at 31% of THE[3]	
	Social Insurance System, *for the employed*[35]	Old-age pension Contributory pension Disability pension Compensation of survivors Sickness benefit Maternity benefit Unemployment benefits[35]	Majority of population receive some income support from pensions; many not covered[36]	
Philippines	Social Health Insurance, *for all citizens*	Inpatient and outpatient[37]	OOP at 56% of THE[3]	No unemployment insurance: employees are entitled to severance pay but this is often poorly enforced[36]
	Social Insurance System, *for private-sector employees*[37]	Old-age pension Disability pension Survivors' pension Sickness benefits Maternity benefits Employment injury benefits[37]		
China ***SMEs defined by employees (<300=small;300−1000=medium) and annual revenue***[38]	Urban Employees Basic Medical Insurance, social health insurance for formal economy workers[39, 40] Non-urban workers likely in New Rural Cooperative Medical Scheme for rural residents[39, 40]	Inpatient and outpatient Benefits, eligibility and financing depend on municipality[39] Benefits, reimbursement and financing depend on counties[39]	67% of targeted population covered[39] 97% of targeted population covered[39] OOP at 35% of THE[3] OOP for rural population at 50%[41]	Issues seem more related to the scope of benefits rather than the degree of coverage
Uganda∗	Social Security Fund, *employees of firms with <5 workers*[21]	Old-age pension Disability pension Survivors' pension	OOP at 48% of THE[3]	High incidence of child labour in <20 employee enterprises[42]
	Workers' compensation, *for employed persons*[21]	Employment injury, includes medical, surgical and nursing care benefits		

Viet Nam∗∗	Social Insurance, *for private- and public-sector employees, voluntary for others*[37]	Old-age pension	18% of labour force covered[43]
		Disability pension	
		Survivors' pension	
		Sickness benefits	OOP at 56% of THE[3]
	Health Insurance *for salaried employees (and others)* [37]	Maternity benefits	
		Employment injury benefits	9.1% of unemployed receive regular periodic benefit[44]
		Medical exams and care, preventive care, rehabilitation	
	Unemployment benefits, *private-/public-sector organizations with >10 employee*[37]	60% of average wage for up to 12 months	

Notes: Uganda is comparable to Nigeria: social protection is well developed in principle, but de facto only a small part of the population is effectively reached in both SMEs and non-SMEs. Some exemptions are made for very small SMEs, e.g. old-age, disability and survivors' pension coverage applies only to companies with more than five employees (US Social Security Administration, 2011a). The proportion of child labourers in the urban informal economy is very high (ILO, 2004b). Studies on SMEs focus on the business environment and corporate social responsibility. Viet Nam has comprehensive social protection (Bonnet et al., 2012) which is ranked 13 out of 31 Asian and Pacific countries (Wood and Halcrow Group Ltd., 2009). Micro-enterprises (<10 employees) are exempted from certain provisions only in a few instances, e.g. unemployment benefits (US Social Security Administration, 2012). Studies on SMEs focus primarily on the business environment and access to financing.

Neither Uganda nor Viet Nam significantly differentiate between SMEs and non-SMEs, thus there was no need for a specific study. As far as the authors are concerned, no country has any "SME-specific" social protection legislation that would justify a detailed country study in this respect.

Sources: [1]Annear et al., 2013. [2]ILO, 2012. [3]WHO, 2013. [4]Steinwachs, 2002. [5]Tanzania, NHIF, 2013. [6]Tanzania, NHIF, 2011. [7]Ayyagari et al., 2007. [8]Dutta and Hongoro, 2013. [9]Lagomarsino et al., 2012. [10]SME Toolkit Nigeria, 2013. [11]de Vos et al., 2011. [12]Kenya Ministry of State for Planning, National Development and Vision 2030, 2012. [13]Kenya, Parliament, 1999. [14]Scheil-Adlung et al., 2006. [15]Kenya, NSSF, 2013. [16]Ulandssekretariatet, 2013. [17]April International, 2012. [18]IFC, 2010. [19]LawsIndia (4/19/1948), 2001. [20]LawsIndia, 2001. [21]US Social Security Administration, 2011a. [22]Osei-Boateng and Ampratwum, 2011. [23]Ghana, NHIS, 2011. [24]Ghana, SSNIT, 2011. [25]Ghana, GSS, 2008. [26]Kaiser Family Foundation, 2011. [27]US Social Security Administration, 2011b. [28]Scheil-Adlung and Sandner, 2010. [29]de Graaf and Lindenlaub, 2010. [30]European Commission, 2012. [31]InterNations.org, 2013. [32]Indonesia, 2004. [33]Scheil-Adlung, 2004. [34]Esteves, 2012. [35]US Social Security Administration (2011b). [36]ILO, 2011a. [37]US Social Security Administration, 2012. [38]IFC, 2012. [39]Barber and Yao, 2011. [40]Liang and Langenbrunner, 2013. [41]Long et al., 2013. [42]ILO, 2004b. [43]Bonnet et al., 2012. [44]GESS, 2013.

7.2. Case study on India: Social protection in health of workers in SMEs

In India, SMEs contribute up to 45 per cent of industrial output and constitute the backbone of economic production (Europe-India SME Business Council, 2014). With an estimated 30 million SMEs in India, social health protection legislation governing SME workers potentially affects a critical group of the workforce, with a direct impact on national labour productivity and competitiveness in the international market.

India's Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 defines SMEs according to income generated. For the purposes of this case study, however, the definition used is any organization that employs between one and 250 workers. This broad definition allows us to include all forms of SME commercial organization in Indian legislation and encompasses SMEs in both the informal and formal economies.

Useful information for policy assessments and on labour productivity can be gleaned through an understanding of the framework and content of the legal entitlement to adequate social health benefits in India's SMEs. The definition of social health protection applied in this case study is that of the ILO: "a series of public or publicly organized and mandated private measures against social distress and economic loss caused by the reduction of productivity, stoppage or reduction of earnings, or the cost of necessary treatment that can result from ill health" (ILO, 2011a). Its focus is on the consequences of health issues – whether financial or individual – related to maternity, preventable diseases, accidents and general ill health. Social health protection coverage is thus the provision of

and access to schemes that provide social health benefits, which are also a key component in the broader promotion of social protection.

Most of the literature on Indian SMEs focuses on industry regulation – specifically on liberalization reforms – and their effects on SME productivity. For instance, Raj and Mahapatra (2013) discuss the effects of national and state liberalization reforms on Indian SMEs, and greater productivity stimulants in the informal and formal economy. In common with several other authors (Ramanathan et al., 2012; Singh and Garg, 2010; Rajeev, 2008), they ignore the potential effects of labour capital investments such as health protection on economic productivity. Further, in the literature researched, no study discusses the effects of labour legislation or of social health protection coverage legislation on Indian SMEs and their workers.

India's legislative framework

With the intention of identifying exclusions relevant to SME employees, this section assesses the extent of statutory coverage for health care, paid sick leave, maternity care and leave, employment injury and disability at the national (i.e. central government) level. The focus on statutory entitlements must carry a strong caveat, however, in that over 90 per cent of workers are active in the informal economy and thus not captured by the related legislation. Government policy programmes such as Rashtriya Swasthya Bima Yojana (RSBY) and community organizations such as the Self-Employed Women's Association (SEWA) have stepped in to provide some basic health-care services to the informal economy and there is a large body of literature on these programmes; however, such programmes remain unlegislated and will therefore not be discussed here.

India's legal system is rooted in the common law tradition, with an active history of judicial engagement. It is a country with robust legislation safeguarding the rights of vulnerable peoples. Discrepancies, however, arise between the intent of the Government's enacted laws and their enforcement. This is acutely amplified in the area of social health protection, where the rights of vulnerable populations are well legislated, but the enforcement and justiciability of those rights remains questionable.

India's Constitution is the preeminent source of all law in the Federation. By making specific reference to social protection rights, the Constitution secures these legal rights to all Indians. For instance, Article 41 refers to the right to work and to public assistance in the case of disability, Article 42 calls for just and humane conditions of work and maternity relief, and Article 43 provides for working conditions that ensure a decent standard of life. These articles alone, however, do not grant specific social health protection rights. Rather, they form the legal basis from which Indian governments at federal (or central) and state/territorial union level have enacted (or can enact) legislation which grants specific rights, and establishes policies to provide for those rights.

Three Acts fulfil the role of giving effect to India's constitutionally recognized social health protection rights:

1. The Employees' State Insurance Act, 1948 (ESI)

2. The Workmen's Compensation Act, 1923 (WCA)

3. The Maternity Benefit Act, 1961 (MBA)

Employees' State Insurance Act. The ESI is the main source of social welfare legislation in India. Its primary objective is to provide benefits to employees in case of sickness, maternity and employment injury, among others. As an overarching piece of legislation, the ESI takes priority over other Acts such as the WCA and the MBA.

However, when the ESI does not have jurisdiction over a subject, the subsequent legislation applies if the subjects in question meet eligibility requirements for that secondary legislation.

In order to receive benefits from the ESI Scheme, employees must meet eligibility criteria which are determined by both their place of work and their wage. Only two kinds of workplace fall within the jurisdiction of the ESI: the first are non-seasonal power-using factories/establishments which employ 10 or more persons, while the second are non-seasonal and non-power-using factories/establishments which employ 20 or more persons. The Act's limitation on workplace eligibility, however, is not rigid. In addition to its current jurisdiction, the ESI Scheme can be extended by an appropriate level of government to any factory, establishment or class of establishments, industrial, commercial, agricultural or otherwise. In order that any modifications to the Act validly take effect, a six-month notice must be published in the *Official Gazette*. The scope of the ESI has already been extended to many industries, services and factories, as well as to establishments not mentioned in the 1948 original text (Khatri, 2013). These include smaller non-power-using factories employing 10 to 19 persons; shops; hotels and restaurants; cinemas including private theatres; newspaper establishments; and road motor transport undertakings employing 20 or more persons.

An eligible employee under the ESI is any person employed for wages in, or in connection with, work at a factory/establishment to which the ESI Act applies. In addition to limitations respecting workplace, a second over-arching criterion is a wage cap: eligible employees must not receive wages in excess of INR 15,000 per month. Over time, the Indian Government has clarified and expanded the definition of eligible employees with reference to specific groups, both in the Act (and its amendments) and through case law. For instance, eligible employees include: persons employed through a contractor or intermediary; apprentices other than those covered under the Apprentice Act, 1961; persons employed in an administration office, department or branch for purchase or sale of products; casual workers engaged in work incidental to or connected with work of a factory or an establishment; employees working at head office when the factory is located at a different place; factory regional offices where the principal employer has control over the regional offices; canteen staff, watch and ward staff, and staff in hospitals attached to factories; and branch offices if (i) the head office is covered under the ESI; (ii) both offices are interdependent; and (iii) there is "unity of relationship".

Eligibility requirements for ESI benefits also necessitate compliance with basic administrative criteria, including formal employment (or a work contract), registration with the ESI Scheme, and regular contribution payments by either the employee or the employer for the minimum period as set out by ESI regulations.

Box 1. The Employees' State Insurance Act: Particularities, and exclusions affecting SME workers

Particularities

- Regional application: The ESI Scheme is being implemented in stages. It has been implemented in all of India's states/union territories except Nagaland, Manipur, Tripura, Sikkim, Arunachal Pradesh and Mizoram.1
- Punishment for non-compliance with the Act can result in fines and/or up to three years imprisonment.
- No differentiation under the ESI between full- and part-time employment.2
- All benefits under the ESI Scheme are paid in cash, other than medical benefits which are paid in kind.
- No reference to the informal economy.
- SMEs are not directly addressed.
- Non-SME worker exclusions: Indian naval, military or air forces.

Exclusions with an impact on SMEs

- Wages: Employee earning above the wage ceiling (currently set at INR 15,000 per month by the Central Government).
- Industry: Employees of seasonal factories, construction workers,3 workers in a mine or a railway running shed. In addition, a state government may exempt a specific employer from the Act's provisions after notification in the Official Gazette.
- Sector: Informal.
- Jurisdiction conflicts: Apprentices engaged under the Apprentice Act, 1961.
- Procedural/administrative issues: Non-registered employees, employees of non-registered factories/establishments, employees with less than the minimum working days required for benefit eligibility or those yet to fulfil the contribution period(s), partners of a firm even if they are drawing wages.
- Documentation: Non-Indian nationals; non-documented, black market or clandestine workers.

Notes: 1 As of 2009 (Cogzidel, 2009). 2 Article 9 of the ESI does not refer to full- or part-time contracts in its definition of "employee". The definition suggests that part-time contract workers are included under the ESI. 3 If the administrative office employs 20 or more eligible persons, that establishment and their respective employees working in the administrative office will be covered under the ESI. See ESIC circular No. P-12(11)-11/27/99 Ins. IV dated 14-6-1999.

Workmen's Compensation Act. The objective of the WCA is to regulate the response to and compensation for employment injury. The Act outlines an employee's rights to financial compensation when injured at work, or in case of death, the employee's dependants' right to compensation.

Most parties who do not fall under the scope of the ESI Act will subsequently come under the WCA's broader jurisdiction. After recent amendments, the WCA's lenient eligibility criteria acts as a secondary safety net to provide basic benefits to employees who are not covered by the ESI. This is particularly applicable to employers who are not registered under the ESI scheme, or employers who employ fewer than 20 persons. The WCA's criteria are outlined in the Act's definitions of an eligible "employer" and "employee".

Employers under the WCA are defined as a "body of persons" which enters into a contract of apprenticeship or service with a worker. In addition to direct employers, this body of persons includes an agent, a legal representative of a dead employer, and a temporary employer to whom a worker's services have been lent or let for hire. In the event that a contractor's employee is injured while working, the principal employer (not the contractor) is liable to pay compensation to the eligible employee. However, the principal employer may seek compensation from the contractor, or the eligible employee may seek compensation directly from the contractor rather than the principal employer.

Box 2. The Workmen's Compensation Act: Particularities, and exclusions affecting SME workers

Particularities

- Regional application: applies to the whole of India.
- Punishment for non-compliance with the Act can result in fines or criminal prosecution with the agreement of the Commissioner.
- No differentiation under the WCA for full- or part-time employment (Khatri, 2013).
- Apprentices fall within the jurisdiction of the WCA as per modifications made by the Apprentice Act, 1961, Section 16 and the Schedule.[1]
- No reference to the informal economy.
- SMEs are not directly addressed.
- Non-SME worker exclusions: the armed forces.

Exclusions with an impact on SMEs

- Jurisdiction: Employees eligible for ESI coverage.
- Industry: Employers excluded under Schedule II and Article 2(dd) of the Act.
- Sector: Informal.
- Documentation: Non-Indian nationals; non-documented, black market or clandestine workers.

Note: [1]Article 16 of the Apprentices Act, 1961 states that "if personal injury is caused to an apprentice by an accident arising out of and in the course of his training as an apprentice, his employer shall be liable to pay compensation which shall be determined and paid, so far as may be, in accordance with the provisions of the Workmen's Compensation Act, 1923, subject to the modifications specified in the Schedule."

Maternity Benefit Act. The principal goal of the MBA is to regulate women's workplace rights for specific periods before and after childbirth, and to provide key maternity benefits to women. Its application, however, is limited to certain industries or employment establishments outlined in the Act.

Like the WCA, the MBA governs persons who do not fall within the ESI Scheme. Employers and employees, however, must meet the following broad eligibility criteria: every factory, mine or plantation (including those belonging to governments); establishments engaged in equestrian exhibition, acrobatic and other performances, irrespective of the number of employees; and every shop or establishment employing 10 or more persons or where an employee was employed on any day of the preceding 12 months. In addition, a woman must work a minimum of 80 days prior to the delivery of the child to receive maternity benefits.

The MBA's scope can also be extended to any community or sector by a state government provided that it has the approval of the Central Government and that a minimum two-month notice is made in the *Official Gazette*. Of the three applicable social health protection laws in India, the MBA has the widest application.

Box 3. The Maternity Benefit Act: Particularities, and exclusions affecting SME workers

Particularities

- Regional application: Applies to the whole of India.
- Punishment for non-compliance with the Act can result in fines and/or up to three years imprisonment.
- No differentiation under the MBA for full-time, part-time or roster employment provided that parties meet the minimum requirements.
- No reference to the informal economy.
- SMEs not directly addressed.

Exclusions with an impact on SMEs

- Jurisdiction: Employees eligible for ESI coverage.
- Industry: A state government may exempt a specific employer from the Act's provisions after notification in the Official Gazette. Previously this has included hospitals and nursing homes.
- Sector: Informal.
- Procedural/administrative issues: Employees with less than the minimum working days required for benefit eligibility.
- Documentation: Non-Indian nationals; non-documented, black market or clandestine workers.

Employee benefits

Health-care coverage is legally anchored in the Employees' State Insurance Act, 1948. Insured persons and their families are entitled to full and comprehensive medical care (where available), from the first day of the worker becoming eligible under the ESI Scheme. Medical coverage can be extended by up to two years for chronic and long-term diseases (34 diseases are listed in the Act), if the insured person meets certain eligibility requirements, to a maximum period of 730 days for the insured person and their family.

Services offered under the ESI Scheme cover all aspects of health care, from primary to specialist facilities, including: out-patient treatment; domestic treatment; specialist consultation and diagnostic facilities; in-patient treatment; supply of drugs and dressings; X-ray and laboratory investigations; vaccination and preventive inoculations; pre-natal, confinement, and post-natal care; ambulance service or conveyance charges; food during admission in hospitals; supply of artificial limbs, aids and appliances for physical rehabilitation; family welfare services and other national health programme services.

The ESI also regulates paid sick leave. Insured employees will receive periodic payments for the period of certified sickness (i.e. certified by a medical practitioner) after completing 9 months in insurable employment. A maximum duration of 91 sick days is allowed. Rates vary, but average around 50 per cent of the insured person's daily wage. Extended benefits for prolonged illness are available at higher rates (40 per cent more than the standard rate) after the 91 days, provided that the insured employee has been continually employed for at least two years. For the employee to be eligible for extended benefits, he or she should have contributed for at least 156 days in the four preceding contribution periods.

Eligibility for maternity care and leave benefits under the ESI requires contributions for a minimum of 70 days in the two preceding consecutive contribution periods. The eligible employee will be paid a lump-sum cash payment for work absence due to confinement, miscarriage, sickness arising out of pregnancy or in the case of a premature birth. The rate is double the standard sickness benefit (i.e. full wage) and is payable up to a maximum of 12 weeks for confinement and 6 weeks for miscarriage or medical

termination of a pregnancy. There is no benefit entitlement for criminal abortion or miscarriage. In the unfortunate event of a mother's death, the amount is still payable.

The MBA provides women with both cash and non-cash maternity benefits. Before or after delivery, a woman will receive 84 days leave with pay, as well as a medical bonus of INR 1,000. She may take the pay 6 weeks before or after childbirth, but must receive it within 48 hours of making the request. Additional leave with pay up to one month can also be requested, on proof of medical illness. In cases of miscarriage, a woman is entitled to 6 weeks leave with an average pay.

Several non-cash benefits are available under the MBA. An eligible employee can request light work for up to 10 weeks before the expected delivery. After delivery, she may ask for 15- minute nursing breaks until the child is 15 months old. The woman also has a guarantee that while on maternity leave she cannot be discharged or dismissed, and her conditions of employment cannot be changed in such a way as to cause her disadvantage. Pregnant women discharged or dismissed may still claim maternity benefit from their former employer.

In case of a temporary disability from an employment injury, under the ESI a benefit is granted for the period when the insured person is unable to work for wages, provided that the injury is certified by an insurance medical officer/practitioner. The rate payable is a minimum 70 per cent of the insured person's daily wages, with a minimum requirement of 3 days of incapacity. In the instance of permanent injury, partial or total loss of earning capacity from an employment injury or occupational disease, periodic payments will be made for life. The actual loss of earning capacity may be determined and certified by a duly constituted Medical Board. The rates of disability benefits are determined in accordance with the provisions of Rule 57 of the ESI (Central) Rules, 1950. A one-time lump sum is permissible in certain cases, and if the total permanent disability benefit payment does not exceed INR 30,000.

In order to be eligible for employment injury benefits under the WCA, the affected employee must be incapacitated for a minimum of 3 days, as for the ESI. If an injury in the workplace results in a partial disability or injury from occupational diseases, the eligible employee will receive benefits proportional to the specific injury or recognized disease, which are set by schedules in the WCA. In the case of permanent or total disability, the eligible employee will receive either INR 90,000 or an amount determined by a calculation[9] set out in the Act's schedule, whichever is larger.

Judicial recourse

The institutions that regulate and enforce labour legislation in India are generally outlined in the contents of each applicable Act. For instance in the ESI, the Employees' State Insurance Corporation is established by the Act as the overarching governance body to oversee and implement the functioning branches of the ESI Scheme. The Act also creates several quasi-judicial and judicial complaint bodies. The WCA, however, operates in a different administrative structure, which provides for the appointment of investigative/adjudicative commissioners and for the creation of tribunals. The MBA also establishes the legal framework to appoint investigators operating under the Ministry of Labour to enforce the Act's provisions.

[9] Following *Zubeda Bano v. Maharashtra Road Transport Corporation*, LLR 287 (Bom) (1990), the basis for calculation of compensation is a percentage of monthly "wages".

Each of these quasi-judicial courts and tribunals, established by their respective founding Acts, functions as a separate (administrative) branch within the Indian judiciary. Although the bodies constitute a disparate web of courts and tribunals when initiating judicial recourse, they emulate each other and can often operate parallel to the criminal and civil branches of the Indian judiciary. Of most importance, however, is that they derive their legal legitimacy from the same source: Articles 323A and 323B of the Indian Constitution.

The presence of case law at the state and Supreme Court level addressing ESI, WCA and MBA rights suggests, at a minimum, that the labour tribunals and courts are operational and accessible. However, we have yet to find studies that assess access to justice in this specific area of social health protection law. It is not known how often legislative abuses go unchecked, or how often attempted claims are thwarted by ineffective judicial access. Nonetheless, certain conclusions may be drawn.

Both the ESI and the WCA claim that procedures require the assistance of a lawyer or a trade union member, which can pose serious problems for SME employees. If one considers that the ESI Scheme's target group is earners below the average per capita gross national income (GNI), the cost of hiring a lawyer without some form of financial assistance can be paralysing for the majority of ESI-eligible employees. Although the right to legal aid is well recognized in Indian law, its practical availability does not meet India's demands. On paper, legal aid is assured; for instance, Article 39 of the Indian Constitution makes legal aid a directive principle of state policy, it is a fundamental right under Article 21 of the Constitution, and it is enforced by the Legal Services Authority Act, 1987. Nonetheless, accessibility to legal aid remains hamstrung by an overloaded system (Miklian and Carney, 2013), insufficient physical and financial access to legal services by those in need, poor quality of service and insufficient knowledge of recourse mechanisms by most employees (Sivakumar, 2003).

Assistance from trade union representatives is also scarce. Most SME workplaces are not unionized, as only employers with more than 70 employees can unionize under the Indian Trade Unions Act, 1926. In reality, the "magic number" for trade unionization in India is closer to over 100 employees[10]. Given the high numerical threshold of trade union eligibility, it is fair to assume that the vast majority of SME employees in India do not have access to trade union support mechanisms to pursue a claim through a labour tribunal or court. Without the legislated requirement that state-appointed officials assist employees to navigate judicial proceedings, such as legal aid or trade union representatives, the effectiveness and availability of legislated recourse mechanisms becomes moot[11].

Non-unionized SME employees in the formal economy are unlikely to pursue administrative or legal recourse in the event of legislative non-conformity. On a practical level, without strong support networks aggrieved employees may choose not to pursue recourse through these established procedures for fear of losing employment, risking demotion and professional intimidation, or losing work time. Ignorance of existing recourse mechanisms, or a misunderstanding of how they work, also plays an important role (Dash and Muraleedharan, 2011). Physical limitations can also marginalize SME workers, especially those in rural communities. Although most recourse mechanisms now proceed partially through online mechanisms, tribunal/court pleadings or appearances must

[10] Section 4 of the Trade Unions Act, 1926 requires that 10 per cent of the total number of employees, or 100 employees, whichever is less, is required to register a trade union. In addition, there must be a minimum of 7 members for registration (see also Surendra, 2011).

[11] Article 79 of the ESI provides that the ESI Court may grant permission for party representation by someone other than a lawyer or trade union representative.

be made in person. Transportation and accommodation costs may further deter an employee from pursuing recourse.

From a socio-economic perspective, some authors have suggested that widespread corruption, an inherent suspicion of the legal system and the context of the Hindu caste system − social fatalism, i.e. the belief that suffering is invariably a part of faith – all play a part in employee non-action (Venugopal, 2000). These issues are particularly accentuated for socially marginalized groups and vulnerable populations, such as individuals who fall below the poverty line, women or low-caste employees (Bonu et al., 2011).

Historically, a lack of access to the justice system due to financial, administrative or physical marginalization was compensated by jaan adalats, or people's courts (Miklian and Carney, 2013). Common in rural areas, these non-adversarial informal courts are recognized by the Legal Services Authority Act, 1987, and were an effective form of judicial recourse. Unfortunately, these forums no longer have jurisdiction on labour issues, which has further accentuated the marginalization of already vulnerable SME workers (Galanter and Krishnan, 2004).

The role of independent investigatory inspectors is one institutionalized mechanism common to the WCA and the MBA that has the potential to effectively support recourse for aggrieved employees. These inspectors either respond to an investigation request, or assume the responsibility to commence one on their own initiative. Provided that the inspectors have the necessary means and political will to conduct a thorough investigation and adjudicate a claim of potential abuse, a resolution can be found at no cost to the employee. This is particularly helpful for employees who are not unionized and do not have an effective human resources support mechanism, or for employees who are financially unable to pay for legal assistance. It also means that SME employees do not have to be displaced, as the inspector conducts the investigation in the local community. Without access to statistical data on the number of investigations conducted and waiting times, however, clear conclusions on the effectiveness of this system cannot be drawn. Further research is required.

Mass corruption is well recognized as a problem in India. In some parts of the country it is so inveterate and established that corruption networks permeate everyday civic relations and activities, including the bureaucratic and judicial systems (Miklian and Carney, 2013). Measuring the degree of corruption within the labour tribunals and courts is beyond the scope of this study, but it can be assumed that to varying degrees across India many SME workers believe that only those who can afford justice will have access to it. This perceived inaccessibility for those who are financially constrained is further exasperated by the fact that the Indian judiciary is mired in backlog; a typical case can take up to 15 years from filing to resolution (Kumar, 2012). In spite of a growing anti-corruption Zeitgeist following the 2011 high-profile corruption scandals (Ali et al., 2012) and a demonstrated improvement on Transparency International's Global Corruption Perceptions Index, most non-unionized SME workers simply cannot pursue judicial recourse.

Effective access to social protection in health

To properly evaluate the effectiveness of India's social health protection legislation for SME workers, the legislation must also be assessed within the context of the health-care system's accessibility. Section 4 of the ILO's Social Protection Floors Recommendation, 2012 (No. 202) calls for national governments to provide that "all in need have access to essential health care and to basic income security which together secure effective access to goods and services defined as necessary at the national level'. The definition of access within the context of social health protection, therefore, refers to the availability, quality and affordability of services.

Health-care and service provision in India is complex and heterogeneous, in part due to the legal structure and relationship between the central and regional governments. While the central government legislates and funds health care and health-related services, the states and union territories assume the responsibility for implementing and administering social health protection. As a result, each region in India has substantive autonomy in its interpretation and delivery of central legislation in areas of social health protection, access and service. Within their mandate, regions can enact independent and/or discordant regulations, legislation and/or policies provided that they conform to the central laws. It is at this juncture that legislative gaps in the central legislation become a point of concern.

SME workers across India, whose social health protection coverage stems from the same central legislation (ESI and MBA), may receive disparate quantitative benefits and have unequal access to services. Significant geographical inequalities in health outcomes shed some light on the consequences of these regional inequalities. For instance, life expectancy in Madhya Pradesh is 56 years, while Kerala's life expectancy is 74 years (Balarajan et al., 2011). This 18-year difference is unparalleled; it is substantially greater than life expectancy differences among Chinese provinces and American inter-state differences (WHO, 2008; Burd-Sharps et al., 2008). In the absence of clear guidelines, minimum standards or strong regulatory oversight at the central level, health services and care across India have become inconsistent both in administrative delivery and in substance among the states and union territories.

In the past 20 years health-care services have become bifurcated between the public and private sector. Market-driven private health facilities have flourished, both as a consequence of ineffective public health services, but also cultivated by government-backed economic incentives and a lack of concrete government regulations. The overall result is a complex web of public and private services, with dissimilar standards and rules across India.

Given the high inefficiencies of the public health system, long waiting times, and generally poor quality of services, the vast majority of Indian patients depend on private services rather than public services for both hospitalization and medical treatment as outpatients (Kundu, 2010). It is fair to say that the private health-care system has eclipsed the public system in terms of facilities, skilled professionals and resources. In fact, according to the Indian Government, out-of-pocket (OOP) expenses for access to care in the private sector accounts for 72 per cent of the total formal health expenditure in India (Ministry of Health & Family Welfare, 2006).

For those patients who have the financial ability to opt for private health services, a recent report by the IMS Institute for Healthcare Informatics suggests that patients would readily switch to public health-care centres if the public system could remedy its poor quality of care, reduce waiting times and increase its diagnostic facilities (IMS, 2013). This suggests that the barrier to public-sector use is quality of service, and unless this issue is addressed adequately and fully, it will continue to exacerbate the challenges of patient health-care affordability.

SME workers under the ESI and MBA schemes are eligible only for public health care. The value of ESI coverage is drastically reduced, as most working Indians (who can afford to) will opt for private health care; SME workers are effectively precluded from accessing quality health care. In spite of social health protection legislation providing coverage for some SME workers in the public sector, receiving health services in India is still very costly: either a patient pays for services in the private system, or payments in the public system are made via user fees, informal payments, co-payment schemes and/or accessing increasingly expensive and non-covered medicines.

The ESI and the MBA provide public health coverage, but service delivery often requires temporary or permanent OOP employee expenses. The prevalence of user fees in

the public sector proliferated throughout health-care facilities during the late 1990s. This government-sanctioned policy was an attempt to raise income for the health sector, as well as a means of increasing efficiency in service provision. User fees continue to be legislated at the state and union territory level, and have become common practice across India.

Depending on regional legislation, SME workers eligible for social health protection may apply for reimbursements of user charges. The reality, however, is that with cumbersome administrative processes and long waiting times, very few eligible patients actually pursue reimbursement (Dash and Muraleedharan, 2011). It is also possible that certain user fees may be mandatory in some states and union territories, in spite of eligibility to protection under central legislation. A thorough review of the 35 states and union territories is beyond the scope of this case study, but it is recognized that user fees are a common practice in many of India's regions and that the burden is shouldered by ESI and MBA eligible employees, including SME workers.

Informal payments to health-care workers are equally prevalent within the public and private sectors. Several studies have attempted to expose the extent of corruption within the health sector and its prevalence (Sharma et al., 2005; UCL, 2013). As a result, patients may be burdened with an OOP expense both in the form of an up-front user charge and as an informal payment to attain speedier and/or better quality health-care provision or service. Generally, informal payments are made directly to health facility staff.

In the case of private insurers, the Insurance Regulatory and Development Authority of India (IRDA) is the official regulatory body. In 1999, India deregulated the insurance sector and created the IRDA as the supervisory authority to safeguard the public interest. Co-payment mechanisms and standards of private insurers are thus determined by the IRDA's regulations, based on the authority given to it by the IRDA Act, 1999 and the Insurance Act, 1938. The Central Government has full capacity to regulate insurance companies as per the union list in the Seventh Schedule of the Indian Constitution. Although generally limited to the private sector, co-payments are yet another health care cost assumed by patients.

In the public sector, possible co-payments would be regulated by state and union territory legislation. Further research is required to assess the presence of co-payments in India's public health-care system; current studies suggest that no legislation exists on co-payments in the public sphere.

Another problem affecting SME workers, as well as the general public, is the affordability of and access to drugs. Coverage for drugs in India is regulated by policy at the regional level, and the extent to which drugs are (or should be made) affordable to SME workers under the ESI regime is not clearly outlined in national legislation. This creates further disparities and uncertainty among the regions regarding coverage eligibility.

The problem of gaps in legislation for setting standards for baseline drug coverage for SME workers is compounded by a rise in the cost of drugs in India. More stringent patent laws and the erosion of competition between drug providers are increasing the cost of generic drugs. India introduced drug patent protection legislation for pharmaceuticals via the Trade-Related aspects of Intellectual Property Rights (TRIPs)[12] and is on course to implement TRIPS-plus and Anti-Counterfeiting Trade Agreement (ACTA) compliance (Vivas-Eugui, 2003; Agarwal, 2011). The net effect of this legislation is (and would be, in the case of TRIPS-Plus and ACTA compliance) to reduce the Government's ability to

[12] This refers particularly to the Patents (Amendment) Act, 2005. Available at: http://www.ipindia.nic.in/ipr/patent/patent_2005.PDF.

ensure generic competition, and subsequently drug affordability for most Indians (Grover and Citro, 2011).

The level of OOP payments for health care in India is one of the highest in the world (WHO, 2006). The high toll on SME workers has two serious consequences: first, these costs constitute a formidable barrier to accessing health care; and second, high medical expenses can impoverish families. This is a serious concern, as in India health expenditure accounts for more than half of the Indian households falling into poverty, with approximately 39 million Indians pushed into poverty every year (Balarajan et al., 2011).

An SME worker's physical location is a strong determinant of health-care availability and service facilities. There are stark divisions between urban and rural workers: rural workers are increasingly unable to access quality services. The situation is accentuated by the trend of greater dependence on faster private health-care services, which are mostly concentrated in urban and wealthier areas. This is a matter of concern, considering that rural household per capita incomes are usually lower than those in urban areas, and are usually represented by traditionally marginalized communities. Furthermore, access to secondary and/or tertiary care for rural workers or their families is almost non-existent.

The IMS Institute for Healthcare Informatics report (2013) found that in rural areas 37 per cent of Indians could access in-patient department facilities within a 5-kilometre distance of their home, while 68 per cent were able to access out-patient department facilities. Compared to urban figures of 73 per cent in-patient department and 92 per cent out-patient department facilities, the difference is striking. Transportation and temporary accommodation costs, as well as lost earnings, are deterrents for rural workers to seek health services from urban centres. This lack of physical access can result in postponing treatment and potential long-term cost burdens due to disease or sustained ailments.

Although India, through its Constitution and international legal commitments, has an obligation to ensure equal treatment of its citizens and accessibility to services, no specific reference in social health protection legislation addresses the issue of urban and rural disparities or inaccessibility. Moreover, there are no legal provisions that facilitate rural SME workers in accessing urban health services, for instance subsidies on travel incurred and accommodation expenses.

Gaps in statutory coverage

In spite of a relatively well-legislated system, there are significant gaps in India's social health protection legislation that result in substantial coverage exclusions and inequalities, and a system that thwarts access to legal entitlements and adequate benefits for SME employees.

Specific communities, including some of the most vulnerable, are excluded from social health protection coverage. For instance, the ESI excludes establishments that employ under 20 or 10 workers. Although statistical data is required to determine what percentage of the workforce this represents, a vast majority of micro- and small enterprises fall into this category, most of which do not provide health insurance schemes.

The ESI also excludes all workers employed in *seasonal factories*, the majority of which are SMEs. This encompasses businesses incidental to, or working with, cotton ginning, cotton or jute pressing, decortication of groundnuts, manufacture of coffee, indigo, lac, rubber, sugar (including gur) and/or tea. Typically seasonal industries attract women and migrant workers, as well as non-documented or clandestine workers – a segment of the population that is particularly vulnerable.

The ESI scheme excludes *SME employees who earn more than* INR 15,000 per month from receiving health-care benefits. Although this excluded group falls under the jurisdiction of the MBA and WCA, no applicable social health-care legislation governs these higher-income earners, who are thus exposed to market forces. Further research may be required to assess the exact implications on this higher-income group and the resulting affordability of health-care provision for SME workers in the group. Accordingly to World Bank data, in 2012 India's GNI per capita was approximately INR 8,184 per month. Although earners above this wage cap may be able to access basic health care in the private market, several questions arise which are specific to the Indian context: market fluctuations and their impact; government response time to amend the wage cap; increasing health-care costs; access to India's multiple-tiered health-care system which is stated to be the second most corrupt sector after the police force (Peters and Muraleedharan, 2008); and coverage in the context of family organization − for instance, the prevalence of single earners and average family size with dependants, including children and the elderly.

Given the wide *discrepancy between legislative provision and enforcement*, the lack of support mechanisms to ensure accessibility to legal recourse at no or fair cost to SME employees is a serious deficiency in both social protection legislation and the legal system as a whole. Although the WCA and the MBA appoint inspectors, non-unionized SME workers assume the financial burden for recourse under the ESI. Since SME workers in organizations with fewer than 100 employees are not eligible for unionization, they also do not have equal access to benefit recourse mechanisms. These legal barriers are further accentuated by widespread corruption within the government administration and judiciary.

Although not necessarily a legislative deficiency, the lack of proper legal enforcement and the presence of rampant corruption are serious problems. Many factors contribute to a lack of legislative enforcement of social health protection rights and judicial procedural rights; while corruption has a direct causal relationship to legislative impotence and is the primary barrier to legal efficacy.

India has an arsenal of *anti-corruption legislation* including: the Indian Penal Code, 1860; Prevention of Corruption Act, 1988; Prevention of Money Laundering Act, 2002; Central Vigilance Commission Act, 2003; Right to Information Act, 2005; and the Lok Ayukta Acts of States and amending Bills. The year 2012 saw a country-wide anti-corruption movement which culminated in legal reforms such as the Jan Lokpal Bill of 2011. This legislative framework has potential teeth as anti-corruption tools; however, without a strong political will to enforce this legislation, any progress is limited.

Rather than trying to fix a system with further ineffective legislation, alternative non-traditional and/or community-based tools such as the *jaan adalats* and the community organizations such as the Self Employed Women's Association (SEWA) have shown much success. These parallel systems attempt to build new forums rejecting the culture of corruption. Should these alternative systems become more robust, they may determine the future of law enforcement in India and offer new opportunities to promote equitable legal entitlements. Equally, they may erode the culture of corruption which is currently rampant within all segments of Indian society, including the judiciary and the health sector.

Non-traditional anti-corruption initiatives that focus on SMEs and their workers may prove a useful catalyst to change the pervasive tolerance of corruption. As the prime economic agents of the Indian economy, a commitment by SME workers to anti-corruption practices would not only have a drastic impact on the Indian economy, but would be of significant and immediate benefit to the SME workers themselves.

Social health protection legislation has no benchmarks or guidelines for state/union territory governments on legislative *enforcement and execution*. As previously mentioned,

states and union territories have full discretion to implement the ESI, WCA and MBA as they see fit, which can result in national coverage inequalities. Inadequate service provision has become commonplace in some states, where long delays for ESI reimbursements for covered treatments discourage workers from exercising their ESI rights (Dash and Muraleedharan, 2011). In addition, the content of benefits under the ESI, WCA and MBA are not legislated and are subject to policy initiatives and implementation. Although there is a general standardization of benefit contents nationally, there are no legislated benchmarks or concrete guidelines to ensure a baseline quality and availability of services. At a minimum level, there should be coherence and coordination in benefit and service provision.

Some groups of workers are excluded from the ESI and WCA due to disparate application and enforcement among states and union territories. This occurs either because the ESI does not apply to all states and union territories, or because states and union territories have made exceptions and exemptions for specific communities under the ESI or the WCA. This results in inequality of access at the national level, and uncertainty/ complexity of coverage due to India's highly mobile labour market. Increased coherence and coordination between the states and union territories to ensure benefit coverage, provision and delivery is required. Although the WCA has a thorough list of covered sectors (Article 2(dd) and Schedule II), it is beyond the scope of this study to evaluate state and union territory gaps and incoherence of application.

India's social health protection legislation focuses entirely on the formal economy. *No reference is made to the informal economy*, which constitutes approximately 93 per cent of the Indian economy (ILO, 2002). As a result, the majority of the Indian population does not qualify for social health-care benefits under the ESI Scheme, nor is it regulated by the WCA or the MBA. Informal economy workers are often the most at risk; pay is traditionally very low, there is a high incidence of abuse, the workplace can be precarious or dangerous, and the majority of informal economy workers belong to the most vulnerable segments of society such as people below the poverty line, members of the lower castes and women (who receive lower wages than men) (Lund, 2009). Without financial or administrative support, workers in the informal economy have no or limited access to social health-care benefits. As stated above, government policy programmes such as Rashtriya Swasthya Bima Yojana (RSBY) and community organizations such as SEWA have stepped in to provide some basic health-care services to the informal economy, but these programmes remain unlegislated.

Further, there are *no direct references to SMEs* in India's social health protection legislation. SMEs are addressed implicitly by the eligibility restrictions on the number of employees in the workplace: at least 10 or 20 (for power-using and non-power-using establishments respectively) persons for the ESI, and at least 10 persons for the MBA. As the main form of economic organization driving India's economy, highlighting SMEs in legislation could become an effective tool to target benefit distribution and enhance labour productivity.

As described above, *only SMEs with more than 100 employees are able to unionize* under the Trade Unions Act, 1926. This high threshold excludes employees from unionization in micro and medium-sized SMEs, which form the majority of workers in India. Under Indian labour law, trade unions are vital for access to most administrative recourse mechanisms which address social health protection coverage. Without the ability to unionize, workers in micro and medium-sized SMEs realistically will not have access to legislative recourse mechanisms that ensure social health protection rights.

Unions can also play a key role in promoting workers' interests, sustainable labour relations and conformity with international labour standards. In the absence of effective support networks, trade unions are a useful mechanism for SME workers to address

workplace irregularities and legislative nonconformity, especially in the context of India's weak delivery of social health protection rights.

Finally, in addition to remedying the above-described challenges regarding the quality, affordability and availability of health care, *health literacy* can be an effective tool both as a policy and a legislated norm. Lack of awareness about existing schemes, entitlements and available services is a further barrier to access. Increased education, as well as knowledge of available health care, can trigger a virtuous circle. Increased knowledge of services as well as information on their accessibility dramatically changes human behaviour, and subsequently the availability of the services. By extension, increased investment on the demand-side of legislated social health protection can also drastically change human behaviour and increase availability.

Summary and recommendations

This review of legislation on social health protection coverage in India has identified significant gaps in access and statutory coverage with specific reference to eligibility and contents of health care, paid sick leave, maternity, employment injury and disability benefits for SME workers. At first glance, the breadth of statutory social health protection coverage in India is deceptive. Although the applicable legislation does provide for many social health protection rights, and legal mechanisms for their enforcement, the vast majority of the Indian population does not have access to social health protection. Financial and/or administrative limitations, availability and quality of care, legislative exclusions, a lack of effective legislative enforcement bodies and mechanisms, and non-legislative recognition of the informal economy are the main factors limiting effective access to social health protection.

SME workers are not referenced in the current legislative status quo − a surprising realization considering that SME workers, whether formal and informal, constitute the backbone of India's economy. The absence of legislative directives specifically targeting SMEs and their workers is a missed opportunity. Any future reforms of labour legislation in India would be well placed to address coverage gaps by taking into consideration the following proposals:

- Substantiate legislative enforcement and provision of entitled services.
- Improve access to legislative non-adherence recourse mechanisms either through procedural reforms or available access to qualified support systems that ensure no or little cost to claimants.
- Increase the speed and efficacy of the judicial system in processing claims.
- Extend legal and effective access to health protection to disenfranchised and particularly vulnerable communities.
- Legislate minimum standards and essential care to ensure equity, including:
    - addressing inequalities between urban and rural communities; and
    - closing the gap between private and public health-care provision.
- Legislate the provision of health protection coverage for the informal economy.

There is an acute need to identify best practices along with legislative toolkits for social security reforms. Further quantitative studies on the links between the social health protection coverage and labour productivity of SMEs are sorely needed. Irrespective of the

potential economic benefits, addressing these legislative deficiencies will be of great value in itself, directly benefiting individuals and moving towards universal coverage in India.

8. Recommendations and policy advice to address current deficits

8.1. Theoretical and practical challenges

Regardless of which specific theory and normative implications one subscribes to, there are a number of factors that effectively hinder the widespread inclusion of SMEs in any form of social protection scheme or programme.

(1) *Administration and registration is difficult and costly*. In many social security schemes the administrative requirements for registration and deduction of contributions are quite difficult and costly. People have to walk long distances to offices, forms are not readily comprehensible, documents required are difficult (and sometimes expensive) to obtain.

(2) *There are problems concerning a collective good and "free-riding" behaviour*. SME employers can be caught in a dilemma. Even when an employer is willing to register workers, the high cost of registration can be a form of market punishment if other employers refuse to register.

Box 4. The "free-rider" problem

The free-rider problem is described in the context of collective goods, and was first analysed in the context of trade unions. Even if workers do not participate in labour conflicts such as strikes, they normally benefit from the outcome.Recently, free rider problems have become well known in the context of environmental policies. These problems normally arise when individuals or groups cannot be excluded from the benefits of activities or policies, even if they do not contribute or participate. Thus, the costs are borne by those who participate, while the benefits are enjoyed by all (see also Hardin, 1968).

(3) *Economies of scale and resulting problems in maintaining adequate staff services*. It is difficult for SMEs to benefit from economies of scale with regard to staff administration. Only companies of a certain size can afford a professional staff administration department. Often owners have to carry out the administrative work themselves, so it is natural for them to try to minimize it.

(4) *Evasion driven by maximization of profit*. For some SME owners the only objective is to maximize profits. This is possible in the short term through cutting staff costs and avoiding staff benefits. In the long run, however, it may result in bad quality of work, high staff turnover, low loyalty and motivation of staff, and finally in a reduction of competitiveness.

(5) *Ignorance of the regulations and benefits of social protection*. Many SME managers are not aware of their obligations and the advantages of registering staff for social security.

(6) *Knowledge deficits*

- *Statistics*. There is little statistical information about SMEs available, including reliable data on the number and size of SMEs, especially in developing and middle-income countries, as well as type of activity, turnover and contribution to GDP.

- *Knowledge about specific practical problems*. There are no studies about the practical challenges of SMEs with a view to the registration of staff and administration of staff benefits. Such studies would be of particular interest to low- and middle-income countries.

- *Knowledge of organizational development options*. There is little research available on options for SMEs to organize themselves, for example in order to achieve at least some economies of scale.

8.2. Addressing research gaps

While there is some research indicating the positive effect of social protection on productivity in developed countries – see for instance Tomassi (2010) as a more theoretical example − specific research on SMEs in developing countries in this regard is non-existent. As almost none of the literature differentiates between the various categories and sizes of SMEs or between formal and informal economy SMEs, it is difficult to determine specific research gaps in the categories outlined below, as a gap can only be defined in comparison to some desideratum.

SMEs with 51−250 employees. As we have seen, very few studies are available that focus on this specific group, as it is very small in almost all countries. It is likely that this category is included in many reviews and studies, but is rarely identified or specifically referred to. Enterprises with 51−250 employees usually represent a sub-group of the much larger SME field and are treated as such, with little research dedicated exclusively to them. It also seems unlikely that this group of SMEs will differ substantially from larger companies with respect to social protection and working conditions; their size will usually be too large to be overlooked or ignored by the relevant authorities. Nevertheless, it would be valuable to better understand whether and to what extent such companies are affected by international controls and sourcing agreements (for example in the textile and electronics sectors).

SMEs with 1−50 employees. This class represents the majority of all enterprises in almost every country (IFC, 2010) and consequently is heavily featured in SME research, which indeed is often focused directly on them. Proprietors and managers of such very small companies may perceive the question of social protection differently from those of larger companies. Small enterprises may not have the resources and economies of scale to establish substantial formal arrangements.

SMEs in the informal economy. It has to be assumed that in many developing countries a large share of SMEs operates in the informal economy. This means that most SME research from these countries will cover at least parts of the informal economy. However, the very nature of the informal economy makes differentiated and reliable data collection very difficult. It could thus be argued that studies that do not explicitly focus on the informal economy will often potentially be biased towards the formal economy where data collection will be much easier, as employers and employees will potentially be more forthcoming when questioned about their work and working conditions.

Informal work, although usually not legal, is also common in developed economies with well-established social protection schemes (Marlow, 2003)[13]. One aspect concerns non-documented migrants who find work in the informal economy, thus frequently being excluded from social protection and indeed any form of workers' rights. Another aspect concerns those in formal employment who take up non-formal work to increase their income. Social protection may also be abused, for example when occupational accidents that take place during non-formal work are covered through the occupation and health protection scheme of the formal workplace.

[13] Marlow points out the need to differentiate beyond the mere size of a company when studying aspects of formality and informality.

Finally, overall levels of development and socio-cultural norms are most likely to have a significant effect on social protection arrangements, as are the differences between legal obligations and entitlements on the one hand, and de facto adherence and relevant access for different kinds of enterprises and groups of workers on the other.

Given that specific quantitative and qualitative research on SMEs is very limited, we suggest a *two-pronged approach*:

- developing a set of internationally and uniformly applicable indicators assessing the social protection of workers in SMEs. These indicators should be based on a coherent, acceptable and practical relevant definition of SMEs and informal economy; and

- initiating detailed quantitative and qualitative studies in selected countries, based on level of development and type of social protection system employed.

Both aspects could be combined in a report: "Working at the margins: Employment, working conditions and social protection in small and medium-sized enterprises in formal and informal economies". Such a report would ideally be structured in a way that allows for regular updates and monitoring of national and international efforts to continuously improve the working conditions and social protection in this group of enterprises.

This would also result in the production of data supporting the business case for social protection in SMEs. At present, knowledge in this field is primarily hypothetical. What is needed now is robust data that could convincingly show the positive effects of social protection on working conditions and productivity. Such data will be very difficult to come by, given that at present many SMEs evade or dilute their legal responsibilities, and thus comparing groups of employers with and without some form of social protection will be cumbersome. In addition, many SMEs operate in a grey area of semi-legality and are often tolerated by the responsible authorities. Trying to obtain data may prove extremely challenging and may require a field approach based on trust and patience.

8.3. Providing a supportive business environment

All organizations and institutions involved should ideally work hand-in-hand to provide a supporting business environment for SMEs and compliance with labour regulations, including social protection provisions. This would entail the following aspects:

- *Reductions in administrative costs for social insurance services*. Best practices and possible options for reducing the administrative burdens of SMEs could be gathered and studied. Pilot projects in order to try out promising approaches could be conducted. A handbook for SMEs and social insurance institutions could be elaborated as a guide for managements in reducing administrative burdens.

- *Solutions for collective good and free-rider problems*. The various options for overcoming the free-rider problem include coercion (problem of evasion), transparency (to make public who complies and who not), the organization of SMEs into groups, information and moral suasion. All these options could be studied and tested in pilot projects.

- *Organizational development, creation of economies of scale*. Options here include the creation of cooperatives and umbrella organizations for SMEs. Around the world there exist best practices that demonstrate how SMEs can successfully gain economies of scale through organizational development. A study could collect these best practices and develop a handbook. Pilot studies could support the search for alternatives.

- *Capacity building and raising awareness.* A handbook and information material for SMEs could be developed; best practices from successful models could be collected in a study.

- *Development of data and statistics*. A study could be carried out putting together available data on SMEs from all countries, showing deficits and elaborating methods to improve the data situation.

- *Knowledge about practical problems*. A survey could be made in a representative sample of countries, inquiring about the practical challenges of SMEs in the area of staff management and staff benefits.

8.4. Specific suggestions for organizations and institutions

International organizations. Documenting the total number of employees in enterprises affected by social protection-related questions would greatly increase understanding about the relevance of available data with respect to SMEs, as exact differentiation of enterprises would be possible. It is suggested that country studies piloting comprehensive data collection be initiated, with regular update mechanisms. International organizations could also initiate comprehensive research and development programmes, as outlined above, to better understand and monitor progress in this specific field of social protection. In particular, international organizations could initiate a research programme to look at the productivity impact of social protection. As said before, this would require trust and patience and might thus best be approached by a group of international experts and local NGOs working with SMEs in the (non-)formal economy.

Governments. As can be seen above, the greatest obstacle to gaining access to social protection for SME workers is informal employment. A reduction in the share of informal employment and registration of the workers in question would increase the number of employees covered by social protection programmes. This is why studies on how to support SMEs in registration and other administrative issues linked to social protection are so highly advocated. Organizational development and achieving economies of scale are one option. Key areas of synergy and support include:

- registration of workers;

- payment of contributions;

- information about rights and obligations; and

- reporting and statistics.

Care should also be taken to ensure proper reporting procedures, as the equity of a system will be distorted if a share of the beneficiaries has large incomes that are not considered for their contributions. This is also the case if workers have a low nominal wage, in order to keep contributions to a minimum, while receiving large undocumented payments. In the interest of equitable financing such behaviour should be punished.

It is not clear whether the implementation of comprehensive programmes for the informal economy creates an incentive for informal employment, as workers then see less necessity to register their employment.

The collection of contributions from non-registered workers has proven difficult in some countries, for example Ghana (Lagomarsino et al., 2012). The most promise lies with general improvements to business regulation and enforcement, as these have been shown

to both decrease informal employment and promote a healthy SME sector (Ayyagari et al., 2007; Kawai and Urata, 2001; Carre et al:, 2002).

Social partners. Social protection may not automatically be high on the agendas of both workers and employers. Both may fear undue influence of the State and overseeing bodies, a substantial drain on resources and a loss of flexibility in forging and severing employment relations. Thus, the economic and non-economic benefits of social protection need to be marketed and brought close to the practical experiences and needs of small owner−manager companies and their employees. It is highly likely that no uniform approach would suit the many (and at time conflicting) needs of the different companies even within countries, let alone on an international scale.

The social partners might thus wish to focus on awareness raising and encouraging collective agreements that involve the majority of SMEs. This could include the involvement of social partners in the governance of social insurance and in working towards linking labour market flexibility with social insurance, a model that has been addressed by the "flexicurity" approach, whereby *flexi*bility in the labour market is combined with extensive social *security* (European Expert Group on Flexicurity, 2007).

9. Conclusion

This extensive international literature review of social protection, working conditions and productivity in SMEs has shown the economic and social importance of SMEs, the complexity of the sector and an often unfathomed understanding of how social protection legislation will affect pro-poor economic growth. What clearly emerges from the study, however, is that the simplistic neoclassical economic logic that "social protection disturbs efficient markets and is hence counterproductive to growth" can safely be discarded. Apart from their intrinsic value, good health, security and a more equitable share of gains will result in better availability of staff, the development of their expertise and motivation, lower costs of sickness and less replacement. As Tomassi (2010) writes:

> Recent theories stress more complex relationships between economic and social issues. First, trickle-down is not so obvious, as is demonstrated by growing inequalities in the advanced countries in the last 30 years although they have seen economic growth. Second, some conditions for perfect competition to hold are not met in our real world – due to heterogeneity of individuals, aversion to risky activities, second best outcomes, uncertainty and information asymmetries – jeopardizing the feasibility to protect people from increasing risks. Third, social protection represents not only consumption or redistribution among individuals ("Robin Hood"), but also insurance not efficiently provided by private markets and redistribution over the life cycle ("Piggy Bank"). Fourth, according to the concepts of capabilities and functionings, social protection provides individuals with wider liberty of choice and more opportunities of participation in economics, politics and social life.

Tomassi's report brought together available data and analysis on barriers to coverage and access in social protection. It became clear that wherever owners/managers of SMEs were asked about social protection, lack of information, misunderstanding and prejudices were common. So far, solid evidence and robust data to make a business case for social protection at the individual enterprise level are not available.

The ILO's Social Protection Floors Recommendation, 2012 (No. 202) is the latest international instrument on social security and has set the stage for comprehensive social protection. It puts emphasis on access to essential health care, making it one of the four basic social security guarantees that should constitute, at the minimum, national social protection floors. Employment-based social protection can use this Recommendation as guidance for mid-to long-term social security development.

There are many gaps in specific quantitative and qualitative research on SMEs and social protection, not least due to non-uniform definitions and categorizations. Key areas of possible activities are research, pilot projects and surveys, most importantly to:

- Provide evidence at company level that social protection does not negatively affect the revenue and profit per worker but can even improve it, thus ultimately increasing the survival rate of an SME.

- Document best practices and possible options for reducing administrative burdens and collective agreements of SMEs when registering for social protection.

- Conduct studies and pilots on organizational development and economies of scale creation.

- Initiate capacity building and awareness raising of best practices.

- Develop high-quality statistics and data documenting the total number of employees in enterprises that are affected by social protection-related questions, to initiate

country studies piloting comprehensive data collection and regular update mechanisms.

- Provide concrete advice on the practical challenges of SMEs in the area of staff management and staff benefits.

- Develop further the emerging theoretical framework that links government regulation with working conditions and overall benefit, in particular productivity.

International organizations could initiate comprehensive research and development programmes to better understand and monitor progress in this specific field of social protection. Possibly the most promising approach lies with general improvements in and support to business regulation and compliance, as these have been shown to both decrease informal employment and promote a healthy SME sector.

In summary, there are many tasks concerning social protection in SMEs that need to be addressed by governments, international organizations and academics in order to support the formalization and development of the SME sector, mainly in developing countries. The key issues are robust data on the impact of social protection on working conditions and productivity, reducing administrative burdens, information, compliance and proof of the concept that social protection is good for small business.

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