

SOCIOECONOMIC INCLUSION OF INFORMAL WORKERS RTI – LAW FOR REGULATION OF INFORMAL WORK

Track 3: Leadership and Management of Human Capital

ABSTRACT

This article discusses the difficulties to implement and oversee labor laws in force in countries such as Brazil and Chile. It points out the inflexibility of these laws as a cause of informal labor. The irregularity of informal work leaves no socioeconomic security to a population in need. The author offers a proposal for RTI - the Informal Labor Regulation Act, a more flexible and easy to apply labor law between employee and employer making monitoring by the state viable.

Keywords: **informal labor, socioeconomic inclusion, economic policy, regulation**

INTRODUCTION

Proposal for Labor Law to mitigate socioeconomic ills of underemployment and unemployment

Protecting the worker has been a government necessity as labor relations have become more complex. A major milestone was the creation of labor laws protecting workers in several countries. However, the laws created, in many cases, are costly and complicated for individual employers, micro enterprises and sole proprietors. To meet the current labor laws, employers must have knowledge of accounting practices or hire an accountant. This increases formal hiring costs even more.

By analyzing the labor laws of many countries especially those called "developing countries" it has been observed that such laws end up favoring the existence of two socioeconomic classes, the privileged class with social and economic security with guaranteed rights and the other class lacking rights and social security programs. This latter class performs its work activities informally without state protection. Thus the existing Labor

Laws in these countries provoke the existence of two working classes as well as inequality and exclusion.

The current Labor Laws include those who are formally registered by the official organization, granting them numerous benefits, among which some are not of great value to the employee, and also cause low wages given the discounts, and impairs hiring the rest of the active population. Globalization, economic crises, the scientific and technological advances, parallel to the burden, complexity and inflexibility of the Labor Law in force, led millions of people to survive thanks to the Informal Economy.

In this scenario, one must create strategies to minimize the socio-economic consequences of underemployment and unemployment en masse. An alternative would be to create a simplified law to implement and supervised by the State. For example, a simplified calculations law assignable to the common person with low education and low income as where the employer pays only 20% of the daily or casual work, thus eliminating irregular contracting and will benefit employees and employers. A concept of a more just Labor Law, i.e., to protect the worker without requirement of an employment contract. At the same time, not overly burdening the employer could guarantee jobs and where socioeconomic inequality prevails.

The proposed Labor Law, titled Informal Labor Regulation Act stipulates the deposit in a worker's savings account of 20% of remuneration: daily or casual work received by the worker. This percentage will be distributed between Labor and Social Rights Charges. The worker will receive twelve (12) month deposits, 70% as holiday pay and Christmas Bonus. The remaining 30% will remain in the savings account for the Program of Social Security and other expenses. The deposits will accrue interest and common corrections to savings accounts.

The Autonomous Workers, that is those who are self-employed, will be motivated to make their own deposits because this system works like a compulsory savings and at the same time providing the same benefits provided to other workers.

JUSTIFICATION OF LAW

The Employee, Employer, and the Law

The bitter fighting between social classes led, among other consequences, to a call all those who provide labor - employees, and all offering paid work - employer. These designations are not justified, because not all people who offer labor are employed; nor all those who offer paid work are employers. The proposal of the Informal Labor Regulation Act will benefit both workers and employers. Specifically the individuals, sole proprietors and micro-businesses.

The exploitation and abuse suffered by hand laborers and inflicted by work providers were the result of two historical aspects. On the one hand, the passivity, ignorance, submission, naivety and helplessness of the former. And on the other hand, the socio-cultural heritage handed down to work providers that oppressed and mistreated those weaker.

The Labor Laws in the world were a mark of progress and humanization. For several years the laws that regulated labor relations and the institutions that oversaw them managed to maintain a balance of high social relevance. However, over time, that coming from the mass media, and the political and economic changes brought as consequences, profound cultural changes, thus changing the status quo. Workers lost their naivety, aware of their strengths and legal support began demanding more benefits and were supported by social movements and trade unions. On the other hand, the sectors that offered work, but with low pay were impoverishing for the most part in response to the complex demographic, economic

and political issues, leading to drastic social consequences and even bankruptcy, causing incalculable damage to the economy generally and the social life of the country.

Currently, due to factors such as economic crises, globalization and automation, employers have two options: keep the worker in irregular employment situation; thus avoiding the costs of labor laws or risking bankruptcy caused by the high costs of Labor and Social Rights lawsuits.

Irregularities in the hiring of labor have relied on the connivance of the authorities and the population due to the high unemployment rate in recent decades. Faced with the threat of unemployment and its social consequences, trade unions and the government try to remedy the situation, creating workarounds; for example, the temporary employment contract. Solutions like these alone do not solve the problem. More than that, they rolled back the previous achievements which have provided social well-being which is so necessary for any nation.

SUMMARY OF THE CHILEAN REALITY

Chile was chosen for presenting this proposed Law for the Regulation of Informal Labor because it is one of a group of countries in the Americas that shows a commitment by the authorities and the population to achieve social justice and sustainable development. It is therefore viable to reverse the Informal Labor levels and to support under age workers, thus cutting the social and economic exclusion cycle of this part of its economically active population.

Chile held the highest HDI (Human Development Index) in Latin America, in 2013. It has political stability that recently conducted an exemplary political reform and is a democracy.

Despite this, Chile figures along with other developing countries in Latin America, with high levels of informality, that is 32.3%. Chile has experienced a considerable increase in informal work.

According to the Central Bank of Chile (Dinámica inflationary en Presence of Informalidad en Markets Laborales, 2012) empirical research conducted, the presence of informal work significantly affects the operation of the business cycle. Uniquely, these studies show that informal work acts as a setting for formal employment, in order to increase the versatility of the labor market and affect the shock transmission mechanisms within the economy.

The informal worker hiring cost causes friction similar to the cost of providing a job in the formal labor market.

The signing of a formal worker results in better productivity and higher costs. However, informal workers have low productivity, but on the other hand, the cost of their employment is low.

Also according to the Central Bank of Chile article, although they have better indices of productivity for formal workers in comparison with informal workers, companies so far are induced to maintain contracts with informal workers because they are much cheaper than formal worker.

Although this article cited above provides positive points in hiring information. Informal hiring bring severe consequences in the medium and long term, both for workers and for businesses and the government itself. Among them, the impossibility for the contracting companies to ensure the quality, productivity and reliability with suppliers and consumers due to high turnover of their unskilled labor, since informal workers do not have a sense of loyalty to companies. These employers do not have the worker permanently. Another negative consequence of informality is the impossibility for the worker to plan their

socio-economic lives, income security and employment guarantee, and most crucially the lack of access to employer benefits, among others. It is important to note that informal employment quoted in Chile's Central Bank article refers to work within the formal company. Alongside this informality exists another type of underemployment, more serious, in Chile as well as other developing countries, there are thousands of informal workers who work as independent contractors, day laborers and or individual entrepreneurs whose monthly income is below the minimum wages in force in their countries. Even the exceptions that make up high-income workers are excluded from social and economic security required for a minimal quality of life. The exact numbers of these workers are unknown because these workers are invisible to statistics and other studies.

However, this is part of poverty and socioeconomic exclusion. The difficulty of overcoming the exclusion cycle persists due to lack of public policies to eradicate this vicious cycle at its base, or in the family. This cycle begins with the need of child labor imposed on poor families. The minor who is forced by circumstances of poverty to work, do not develop the ability to seek education and professional training. Aiming to interrupt this circle of social exclusion, this article proposes here the RTI - Informal Labor Regulation.

DISCUSSION

What does the Informal Labor Regulation Act Propose

The purpose is the creation of a law whereby the employer pays a flat 20% of the contractual wage.

The employer shall deposit 20% of the weekly or daily casual work, in a worker's savings account. After 12 months of the first deposit (52 weeks), the employee shall be entitled to the total deposited as follows:

Table 1

Item	Funds/Charges/Rights	% Cost	Value in US\$
1	Per Diem – one per diem per week		US\$30
1.1	Total paid to worker		US\$30
2	Worker Rights	% Cost	Value in US\$
2.1	Vacation		US\$6
2.2	Christmas Bonus		
3	Social Charges		
3.1	Social Security Program		
3.2	Personal Home Finance		
	Total to Worker		US\$36

Table 1.1

Item	Funds/Charges/Rights	% Cost	Value in US\$
1	Per Diem – five per diem per week		US\$150
1.1	Total paid to worker		US\$150
2	Worker Rights	% Cost	Value in US\$
2.1	Vacation		US\$30
2.2	Christmas Bonus		
3	Social Charges		
3.1	Social Security Program		
3.2	Personal Home Finance		
	Total to Worker		US\$180

Table 2

Item	Details	% Cost	Value in US\$
1	Total Deposited ¹		312,00
2	Discount	30	93,60
3	Subtotal		218,40
4	Worker Withdrawals	% Cost	Value in US\$
4.1	Worker Withdrawals		218,40
4.2	Christmas Bonus (December) or Scholarship ²	50	109,20
4.3	Vacation (12 months of deposits)	50	109,20

Table 2.1

Item	Details	% Cost	Value in US\$
1	Total Deposited ¹		1560,00
2	Discount	30	468,00
3	Subtotal		1092,00
4	Worker Withdrawals	% Cost	Value in US\$
4.1	Worker Withdrawals		1092,00
4.2	Christmas Bonus (December) or Scholarship ²	50	546,00
4.3	Vacation (12 months of deposits)	50	546,00

1 - Value: 1 Per Diem x 52 Weeks (52 Weeks equivalent to 12 months)

2 - Scholarship refers to minor worker

Table 3.1

Table 3

Item	Balance not Available for Withdrawal	% Cost	Value in US\$
1	Total		93,60
2	Social Security Program	80	74,88
3	Personal Home Finance	12	11,23
4	Daycare ³	7	6,55
5	Administrative Expenses	1	0,94

Item	Balance not Available for Withdrawal	% Cost	Value in US\$
1	Total		468,00
2	Social Security Program	80	374,40
3	Personal Home Finance	12	56,16
4	Daycare ³	7	32,76
5	Administrative Expenses	1	4,68

3 - The 7% value refers to what will be deposited to the national fund for daycare.

The employee hired by Sole Proprietor, Micro business, or Individuals receiving the contract value \$30.00 (thirty dollars) will cost the employer \$36.00 (thirty six dollars).

The percentage of 20% is levied on the contractual wage distributed between labor laws and social charges, This twenty percent the employer shall deposit in the worker's RTI savings account, all of the management of this deposit is held by the financial agent determined by the appropriate regulating agency. A simple percentage calculation thus enables the legal formalization of the worker, guaranteeing them achievable benefits, currently only available to employees in the formal economy.

Sheets described in Tables 1, 2, 3 and Tables 1.1, 2.1 and 3.1, only considers a worker, working intermittently, one day a week and/or five times a week for one or more employers. Another positive point of this bill is the fact that the worker, will not be required to have a steady job. The worker can work in several places, the so-called Nozzles & Puzzle branches. The employer(s) will deposit 20% of daily, or payment for casual work in the worker savings account. As for the Self Employed Worker (delivery drivers, contractors, street vendors), make their own 20% deposit on their weekly or monthly income.

The 20% of the remuneration of the employee does not characterize the employer as physical or legal person with high purchasing power, thus facilitating; the day laborer, temporary worker or self-employed to maintain a permanent workplace. At the same time, it allows employers to keep employees regularly. This change in law will allow everyone to achieve and maintain a beneficial working relationship.

Making this change to the Labor Law, will also facilitate specialization of manual labor. This would result in increased earnings and a stable financial situation. Along these lines will lead to the decline of the marginality of this working class.

Considering hypothetically that Chile's population of 17,620,000 (Google) and that this population 61.60% of the population being economically active and considering that

32.3% of the economically active population works informally (Indicators World Bank, 2012) and taking into account that if they reported the RTI with the minimum monthly salary of 165,000 Chilean pesos Chile's revenue forecast after the twelve months would be:

Table 4

Forecast Receipts from RTI					
Item		% Cost	Value in Chilean Peso (Monthly x 1 Worker)	Value in Chilean Peso (Yearly x 1 Worker)	Value in Chilean Peso (Yearly x Total Informal Workers)¹
1	Monthly Salary				
1.1	Unskilled Worker Salary		165.000,00	1.980.000,00	6.941.515.996.800,00
1.2	Cost to Employer	20	33.000,00	396.000,00	1.388.303.199.360,00
1.3	Total Cost to Employer		198.000,00	2.376.000,00	8.329.819.196.160,00
1.4	Deposited in RTI account by Employer		33.000,00	396.000,00	1.388. 303.199.360,00
2	Worker Rights	% Cost	Value in Chilean Peso	Value in Chilean Peso	Value in Chilean Peso
2.1	Worker Rights	70	23.100,00	277.200,00	971.812.239.552,00
3	Withdrawals by Worker	% Cost	Value in Chilean Peso	Value in Chilean Peso	Value in Chilean Peso
3.1	Withdrawal by Worker		23.100,00	277.200,00	971.812.239.552,00
3.2	Christmas Bonus (December) or Scholarship	50	11.550,00	138.600,00	485.906.119.776,00
3.3	Vacation (12 months deposit)	50	11.550,00	138.600,00	485.906.119.776,00
4	Total Social Charges	% Cost	Value in Chilean Peso	Value in Chilean Peso	Value in Chilean Peso
4.1	Social Security Program	80	7.920,00	95.040,00	333.192.767.846,40
4.2	Personal Home Finance	12	118,80	1.425,60	4.997.891.517,70
4.3	Daycare	7	693,00	8.316,00	29.154.367.186,56
4.4	Administrative Expenses	1	99,00	1.188,00	4.164.909.598,08
	Total Social Security Charges	100	9.900,00	118.800,00	416.490.959.808,00

1 – There are a total 3.505.816,16 informal workers

Text of the Informal Labor Regulation Act ©1999

Art.1 This law sets standards for workers in the informal sphere, ensuring their rights and duties.

§1 The public financial institution defined by law will establish and manage a Savings Account - RTI whereby it is the employer's responsibility to deposit into the employee's account twenty percent of the amount paid for contract work;

§2 It is forbidden for small, medium and large business to exchange the employment relationship they have with their employees for this law.

§3 At least twelve months must have elapsed after the worker's first contribution has started before the worker may access the labor rights and social charges described in this law.

§4 Shall be considered as contract work:

I - Temporary Work would be:

- a) Task that involves executing one or more activities previously negotiated; and
- b) Daily Labor which is the negotiated work as a day of service, with more than six consecutive hours of work, and ensures the worker proper meal and rest intervals.

§5 The percentage mentioned in the first paragraph, shall be distributed between labor laws and related charges.

Art.2 The workers will enjoy the benefits of RTI after a minimum of twelve months after the first deposit.

Art.3 Workers are in the informal sphere:

§1 Are individuals, urban and rural, providing services to other individuals and legal entities without the occurrence of an employment relationship defined in labor laws they consider employment relationship: *subordination, habitually, financial burden and personal contact* and/or also independently of these four items, the frequency from three days a week.

§2 They are self-employed and earning low-income:

I - Low income is if the self-employed is exempt from declaring annual income tax;

II - are self-employed street vendors, home-based companies, micro enterprises, individual entrepreneur and drivers.

Art.4 Regarding the self-employed:

§1 They should make deposits of twenty percent of their monthly income until the tenth day of the following month into the RTI savings account to be included in this law and to comply with labor rights and social security contributions;

§2 It is for the self-employed to store their receipts for deposits made regarding their contribution for a period of two years.

Art.5 The rights of workers in the informal sphere:

§1 Receive hundred percent of the amount that was agreed between the contractor and the contractee;

§2 For every twelve month of deposits, the worker will receive from the fund the following value:

I – Vacation which will be fifty percent of the total for Social Charges;

II - The Christmas Bonus will be received from the fifteenth day of the month of December;

§3 Social Security program will be applied to a mutual fund for which all informal workers will have to use after twelve months in the case of:

I - Health Care (consultations, surgery admissions);

II – Retirement by age;

III - Daycare assistance: for employees with dependents at childcare age.

§4. Acquisition of own home; after twelve months the worker shall be entitled to home ownership based on the arithmetic mean of their contributions of its entry into the RTI.

§5 It is optional a pregnant worker to choose to receive their Employment Rights in up to six monthly installments in the months following childbirth.

I – It is optional for workers receive the Labor Rights in up to six monthly installments in case of Illness.

§6 Other labor laws, as applicable, will be used alternatively in cases of omission or obscurity of the law.

Art.6 The duties of workers in the informal sphere:

§1. Compliance with what has been agreed with the employer in accordance with current labor law and provide necessary information for the deposit of twenty percent into the RTI savings account.

§2 It is for the worker to verify monthly deposits are being place into their RTI savings account by the tenth day of the month following the service;

§3 Save the receipt of payment for at least two years in case proof of service and the amount received is required;

Art.7 The employer's rights:

§1. Receive from the worker the service which was contracted and of adequate quality;

§2 Receive from the worker information necessary for deposit of twenty percent of the agreed amount which shall be deposited for the employee;

Art.8 The duties of employers:

§1. Comply with what was agreed with the worker, according to current labor law; pay the agreed value directly to the worker after work is completed or no later than within a month.

§2 Make deposits of twenty percent of the agreed value into RTI savings account provided by the employee up to the tenth day of the month;

§3 Provide a payment receipt to employees which includes the amount paid and deposited; save the payment receipt for at least two years, in case proof of payment is required;

§4 Give proper periods of rest and meals according to local customs.

Art.9 The employer must pay an additional fee to the worker for jobs classified as: painful, unhealthy and dangerous according to current national labor law.

Art.10 For under aged workers:

§1. The amount allocated to receive the Christmas Bonus, reverts to a student fund; this value is cumulative and individual, as long as the worker is a minor.

I – The amount applied to Christmas Bonus for a minor worker will be destined for vocational courses or other courses that the minor may take;

II – When a worker becomes an adult, the amount of the Christmas Bonus deposited for the minor and not used reverts to education or for your home financing;

§2. The amount allocated to receive vacation, the minor will be entitled to withdraw for personal use;

§3 The work done by minors should be in line with current national labor laws.

Art.11 Every twelve months, the total deposited by employers into workers' accounts, thirty percent will go to the social security contributions and seventy percent for labor rights, in which the employee may withdraw for vacation and Christmas Bonus; the Christmas Bonus shall be received from the fifteenth day of December.

Art.12 The amount allocated for daycare will be applied to a national fund which will cover all workers participating in the RTI Act.

Art.13 The method of division for labor rights and social charges will be held as follows:

§1. Seventy percent of the total amount contributed will go to labor rights, which include the thirteenth and holidays;

I - The amount allocated to labor rights, the division shall be fifty percent for holidays and fifty percent to Christmas Bonus.

§2 The remaining amount, in this case, thirty percent will be allocated to social charges, which are the social security program, home financing, aid for daycare/maternity pay, and administrative expenses;

I - The value for the social charges:

- a) Eighty percent will be for the social security program;
- b) Twelve percent will be for home financing;
- c) Seven percent will be for daycare/maternity pay;
- d) One percent will be for administrative expenditure.

§3 Administrative expenses treated in subparagraph d of §2 of art.12 are for management costs of the RTI savings accounts and availability of their values treated by law for the employee; management is the responsibility of a public financial agency in accordance with the law.

Art.14 The RTI savings account treated by this law, is for the exclusive deposit amount of twenty percent on the amount agreed between the employer and the employee, so that what has been agreed between the parties will be paid directly to the employee's or other worker's account.

Art.15 This Act shall come into force thirty days after its publication.

CONCLUSION

This proposal seems simple, yes it is simple; as are the people who will benefit from it. This is the population of low education, limited financial resources and the excluded. RTI seeks to promote social and economic inclusion of informal workers and self-employed workers (low-income) in the absorption of manual labor, the day workers and temporary worker, aiming to formalize clandestine and fragile situation of this work relationship thus resulting in recognition of the small provider, and/or paid intermittent work without a burden beyond their means. At the same time making payable and obligatory their responsibilities for

labor and social charges to the service providers. Guaranteeing them benefits: bank loans and the social security program. Similarly, offer the Judiciary or other agency responsible for enforcement of labor law instruments for judgment and power of equitable execution to the socioeconomic conditions of those involved.

By offering the advantages mentioned above, this law represents a viable alternative to protect countries from the social evils resulting from unemployment and underemployment.

The Informal Labor Regulation Act reduces poverty, clandestine activities, and aids education of minors. This bill increases the social security program revenue and the collection of taxation is financed and administered by their own resources, for a minimal cost to the public coffers.

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