

All That Glitters is not Gold: Formal Work Deficits on The African Continent

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Introduction

Ghana, my country of birth, has a population of about 30 million out of which 51% are women. The majority of these women in the workforce (85%) can be found in the informal economy. This situation is not unique to Ghana. According to an International Labour Organization (ILO) survey conducted in 2015, women are more likely to be engaged in informal employment than men. It is estimated that in Africa 74% of women's non-agricultural employment is informal in contrast with 61% for men. In many parts of the continent, work in the informal economy is not regulated by labour laws and is thus precarious. Many people working in the informal economy are not there by choice; they would rather work in the formal sector due to the assumption that it guarantees better income and protection for women workers. Drawing on the case of Ghana, I argue that contrary to this assumption, the formal economy itself is bedevilled with precarity and informality. This is due to the continuous deregulation and strengthened protection for corporations vis-à-vis workers, especially women.

The macroeconomic policies that African governments have adopted on the advice of international financial institutions have made the labour market of the subregion “employer-driven” where conditions of employment are dictated by these institutions. In Ghana, for example, the last International Monetary Fund loan conditionalities of 2015 led to a freeze on public sector employment, the promotion of public-private partnerships, and the privatisation of public services. The 2023 budget presented by the finance minister in November 2022 has similar conditions.

These policies lead to job and income insecurities in the labour market. This has been a major concern of trade unions and other civil society organisations who have argued that these conditionalities have led to a massive growth in

fissuring in the labour market, a situation where the core business of a company is devolved from the secondary activities that keep the business running through franchising, third party contracting, and outsourcing (Weil, 2014). Fissuring “means that in more and more workplaces, the employment relationship has been broken into pieces, often shifted ... to individuals who are treated as independent contractors.” (Weil and Tanya, 2016: 27). Weil (2014: 16) argues that fissuring is “...not simply the result of employers seeking to reduce wages and cut benefits but a representation of the intersection of three business strategies ... focused on revenues, costs, and on providing the ‘glue’ to make the overall strategy operate effectively.”

The growth in fissuring has been accompanied by a growth in the establishment of public and private employment agencies across the continent. In Ghana, employment in the formal sector is mostly through public and private employment centres that match job seekers to “user employers” through recruitment, human resource management, outsourcing, and contracting. Big corporations in the mining, agricultural, and telecommunications sectors have resorted to casualisation, contracting, and temporary workers even for jobs that have existed for several years.

Although the Ghana Labour Act of 2003 (Act 651) protects workers employed through these agencies, there is a general lack of adherence to the Act. Workers’ rights are thus disrespected routinely – women especially so due to their reproductive roles. Today, the formal economy is characterised by poor wages, long working hours, and a constant sense of insecurity for the many workers employed through agencies. The state is handicapped in its efforts at regulation given the fact that it relies heavily on the efforts of private corporations to complement its poor efforts at job creation. As a result, employees have become accustomed to the idea that “bad jobs are better than no jobs” (Krugman, 1997) and thus endure poor working conditions with no intention of reporting violations and maltreatment. This is particularly the case concerning women workers needing reproductive support.

Even though there is some amount of guaranteed protection under the Labour Act, these are not readily accessible and comprehensive enough, especially for women workers. The provisions under Part 6 of the Act are not protective enough. For instance, the section is silent on how antenatal and post-natal care

for pregnant women and lactating mothers is to be addressed. Many women have complained about being threatened by their human resource managers for taking days off to carry out this important exercise. Similarly, the law is silent on the status of a mother who has had a stillbirth. Several women have reported being recalled to work two weeks after having had a stillbirth (see Case 1). While maternity protection under Ghana's Labour Act and ratified ILO Convention 03 and 103 is divided into three parts, namely cash benefits, leave, and occupational safety and health of the mother and baby, emphasis has mostly been on the cash and access to leave, with the third component largely ignored. Ironically, the informal sector may offer some flexibility in terms of protection after a stillbirth even though cash and paid leave may not necessarily be guaranteed. Several cases in workplaces expose the vulnerabilities of women who seek to fulfil their biological and reproductive roles of childbearing, as indicated in cases 1 and 2.

CASE 1:

In February 2017, a worker contacted the staff member of a union to complain about the conduct of the Human Resource (HR) Manager in recalling a colleague, Abiba, to work. Abiba had delivered two weeks earlier and had suffered a stillbirth due to complications during labour. For the HR Manager, since Abiba had no baby to breastfeed, she did not deserve any of the protections provided for under any of the legal frameworks on maternity protection. The HR Manager forgot that Abiba went through all the processes of childbirth, including a caesarean section, only to lose the baby. In this instance, Abiba deserved the provisions under the law and more because of the traumatic experience of losing the baby.

Even the leave component of maternity protection is currently under threat for employees hired through fissuring practices. For many, attempting to get pregnant even after yearning for a baby may be a crime because they may not be re-engaged once it is noticed that they have given birth. It is worth noting that Ghana Cocoa Board has approved a three-week paid leave for contract workers. This, however, is not the case for the majority of workers in Ghana engaged through an agency. In my over ten years of work as a labour activist and educator, the worst complaint I got on the field was when a male worker told me he had never seen a pregnant woman on site since joining his organisation 15

years prior. When asked, most of the women mentioned fear of losing their slots and contract once they got pregnant. The only option according to them was not to re-engage or renew their contract but to venture into buying and selling in the informal economy once they got pregnant. Further evidence of the fact that women are likely to lose their jobs on getting pregnant is presented in Case 2.

Yet another example of the discriminatory practices women endure upon pregnancy is the infamous case of the two female personnel of the Ghana National Fire Service who were dismissed for getting pregnant after passing through a stipulated six-month training and another six months of probation. It took a court case to have them reinstated (Asiedu, 2019).

In 2016, a Millicom Ghana memo asking pregnant employees not to expect maternity leave and to re-apply for their jobs after delivery was leaked into the public domain (see Case 2). These forms of marginalisation and discrimination violate the ILO's call for promoting equality for all (ILO agenda, 1999). The request for the women to re-apply for a position they hold goes against Ghana's Labour Act since the period of maternity confinement is considered work and requires full remuneration, employment protection, and other benefits received by workers during the period.

CASE 2:

Memo

To: Reliance Staff (TiGo)
From: Management of Reliance Personnel Services
Date: April 5, 2016
Subject: **Maternity Leave Policy**

Kindly be informed that effective January 2016, an employee who wishes to go on maternity leave will have to apply for a break (leave without pay) and reapply for their position after the maternity break.

Also note that, contract duration is for six (6) months and renewable upon availability of the job and performance.

Thank you.

Yours faithfully



Delia Ayisi-Okyere
General Manager

Source: Agyapong, 2016

The assumption that decent work exists for everyone in the formal economy without any deficits is a fallacy. According to the ILO (1998), decent work means work that is carried out in conditions of freedom, equity, security, and human dignity. It is the convergence of four interdependent strategic objectives encompassing rights at work (adherence to international labour standards), employment (job creation), social protection (the existence of social insurance before, during, and after work life), as well as social dialogue (the ability of workers to engage their employers on their conditions of work).

Increasingly, across the continent, there are fewer and fewer people working in steady, long-term positions for one employer. Having a secure job with full benefits, paid pensions, and a decent salary is just a dream for many instead of a reality. Ghana's National Pensions Act, 2008 (Act 766) requires that employers pay social security contributions on behalf of their employees.

Social security in Ghana is contributory: employers pay 13.5% on behalf of each worker while workers pay 5%. Thus, the total contribution on behalf of a worker is 18.5%, which is a minimum contribution. Today, there are many reports about employers who do not abide by this regulation and threaten to dismiss workers who try to protest. When employees in the formal economy are the only ones contributing to their pension schemes, these workers are in effect similar to workers in Ghana's informal economy who, with the introduction of a third tier in the pension scheme, also have access to pensions, even if it is not structured like the formal sector pensions.

Yet another way in which the fallacy of secure employment in the formal economy is made evident is in the poor earnings of workers. With the rising cost in the standard of living for the citizenry, remuneration and other benefits are simply not commensurate with spending. As we all in Ghana anticipate what 2023 means for better wages, the agreed daily minimum wage of GHS14.88 for 2023 is less than the cost of a loaf of bread in 2022. This makes the formal economy no different from the informal economy when it comes to poor earnings. Today, it is no news that workers in Ghana's formal economy are engaged in what Niger-Thomas (2000) calls straddling, that is to say, they take on jobs in the informal economy such as trading alongside their jobs in the formal economy to be able to make ends meet.

While many may think harassment from city authorities is rampant and threatens the security of women in the informal economy, female employees in the formal economy are not spared the menace of gender-based violence and harassment from employers, managers, supervisors, peers, or third parties. Meanwhile, there is no adequate protection available for women or other vulnerable workers in these two economies.

Substantive equality and state obligations to improve the status of women and other minority groups within any nation cannot be compromised. To this end, it is important to recognise that "every worker is a worker" and has the right to join or form a union as guaranteed, in the case of Ghana, in the 1992 constitution (Chapter 5), Labour Act 651 (2003:15), as well as the ILO fundamental principles which Ghana, along with many other African countries, have ratified. In a world where injustice thrives so that employers can continue to increase the bottom line of profit, workers need to be reminded that they are

entitled to more than remuneration and deserve decent conditions of service like rest, holidays with pay as well as occupational safety and health. Provision also needs to be made in the workplace to ensure that women can carry out their reproductive roles without overburdening themselves or having to choose between their work and family due to the absence of child-care facilities or support in workplaces. There should be adherence to conventions such as the Maternity Protection and Workers with Family Responsibilities which guarantee women's rights to reproductive roles while not compromising their right to work under conditions of dignity.

As evident above, it is difficult to say that in the Ghanaian context, formal economy jobs can be classified as decent work that has an interconnectedness with social protection, social dialogue, rights at work, and not just the creation of jobs. This situation, I daresay, is not much different from what pertains in many other parts of the sub-region.

For several decades, the ILO and other international bodies have adopted conventions, principles, treaties, and protocols which seek to eliminate all forms of discrimination against all categories of vulnerable and marginalised workers as a blueprint for governments in making national legislation. Ratifying some of these conventions can be cumbersome, depending on a country's processes for making international treaties law. Nonetheless, unions must partner with like-minded civil society organisations to mobilise all forms of power resources available at their disposal to ensure that their various governments, Ghana included, ratify ILO C181 adopting Articles 4, 5, 9, and 11 of the Convention, which responds to the protection of agency-recruited workers. These guarantees cover fundamental rights at work, such as freedom of association (C87) and the right to collectively bargain (C98). There could also be enhanced protection to make jobs decent for everyone irrespective of the sector in which they are found. It is also important for trade unions to ensure the enforcement of all ratified ILO standards and legislations protecting women and guiding employment relations in both the formal and informal economies in the various countries across the sub-region.

Conclusion

From the foregoing, it is evident that a formal economy with all the protective legislation as well as effective enforcement mechanisms does not exist across the continent. The inability to truly guarantee adequate social protection, promote social dialogue, and adhere to international labour standards has made workers' interest in working in the formal economy to secure their present and future a fallacy. What they do find in the world of formal work is just fissured jobs that leave vulnerable workers with job and income insecurities. The formal economy has become even more precarious, especially for women agency workers whose reproductive roles can potentially become a reason for the termination of an appointment. If African governments continue to renege on their primary responsibility of protecting and promoting the basic rights of workers, the formal economy will remain employer-driven and wealth-grabbing to the detriment of workers. African governments can and should do better.

References

- Agyapong, Chris-Vincent. 2016. "Tigo Ghana Introduces 'An Illegal' & the Most Absurd Maternity Leave Policy Ever | Asks Staff to Go on Maternity Without Pay & On Return Must Re-Apply for their Jobs" available at <https://www.ghanacelebrities.com/2016/04/05/tigo-ghana-introduces-an-illegal-the-most-absurd-maternity-leave-policy-ever-asks-staff-to-go-on-maternity-without-pay-on-return-must-re-apply-for-jobs/>
- Asiedu, Kwasi G. 2019. "Women dismissed for getting pregnant reinstated by Ghana Police Service." *CNN*, 1 April. Available at <https://edition.cnn.com/2019/04/01/africa/ghana-firefighters-reinstated-asequals-intl/index.html>
- ILO. 1998. "ILO Declaration of Fundamental Principles and Rights at work". Available at <http://libguides.ilo.org/c.php?g=657806&p=4649148> retrieved on 4/25/2019
- ILO. 1999. "Address by Mr. Juan Somavia, Secretary-General of the International Labour Conference 1 June 1999". Available at [https://www.ilo.org/public/libdoc/ILO_Chronology/09616\(1999-87\)Somavia.pdf](https://www.ilo.org/public/libdoc/ILO_Chronology/09616(1999-87)Somavia.pdf)
- ILO. 2015. "Five Facts about Informal economy in Africa". Available at https://www.ilo.org/africa/whats-new/WCMS_377286/lang--en/index.htm
- Krugman, Paul. 1997. "In Praise of Cheap Labor." *Slate*, 21 March. Available at <https://slate.com/business/1997/03/in-praise-of-cheap-labor.html>
- Labour Act, 2003 (ACT 651). 2003. 1st ed. Accra: Ghana Publishing Company Limited (Assembly Press).
- National Pensions Act, 2008 (ACT 766). 1st ed. Accra: Ghana Publishing Company Limited (Assembly Press).
- Niger-Thomas, Margaret. 2000. *"Buying Futures": The Upsurge of Female Entrepreneurship Crossing the Formal/Informal Divide in South West Cameroon*. Leiden: University of Leiden Research School CNWS.
- Weil, David. 2014. *The Fissured Workplace: Why Work Became So Bad For So Many And What Can Be Done To Improve It*. Cambridge, Massachusetts: Harvard University Press.
- Weil, David and Goldman, Tanya. 2016. *Labor Standards, the Fissured Workplace, and the On-Demand Economy*. Employment Regulation. Available at https://www.fissuredworkplace.net/assets/Weil_Goldman.pdf