

Workers Symposium on Policies and Regulations to Combat Precarious Employment (Geneva, 4 – 7 October 2011)

Conclusions

Worldwide, unimaginable numbers of workers suffer from precarious, insecure, uncertain, and unpredictable working conditions. Unemployment figures alone are cause for concern, but even these fail to capture the larger majority of people who work, but who do not have a decent job, with a decent wage, a secure future, social protection, and access to rights. The universality and dimension of the problem call for coordinated and comprehensive action at the international level.

The global financial, economic and social crisis we are experiencing since 2007 has intensified these problems. Instead of drawing lessons from the crisis and changing a failed economic model, governments have allowed themselves to be governed by financial markets. Public sector employment is being slashed, workers rights have been further eroded, wages have been cut, and millions of additional workers have been pushed into precarious, temporary and insecure employment, with undeclared work on the rise in many countries

This symposium has allowed us to take stock of the development of precarious work worldwide and of its impacts on workers and their ability to exercise their right to associate and bargain collectively. Workers in precarious employment suffer from inferior working conditions in all aspects of work: security, predictability, health and safety, pay and benefits, and access to social security. The spread of precarious employment is part of what it is fair to call a worldwide corporate attack on the right to organize and bargain collectively, by shifting to subcontracting and individual contracts, attacking sectoral and national bargaining, and evading employer responsibilities by complicating what should in fact be a direct employment relationship with their workers.

Combating precarious work requires a comprehensive policy response that includes economic, fiscal and social policies geared towards full employment and income equality, a regulatory framework to reduce and ultimately eradicate precarious work, and greater efforts to empower workers by promoting the extension of collective bargaining and by ensuring that all workers can access and exercise their right to associate and to bargaining collectively freely and without fear. Minimum wages globally, basic income security through a universal social protection floor and policies to combat the erosion of the employment relationship are indispensable to limit precarious employment, indecent working and living conditions.

Any credible plan of action would also have to address the specific conditions of migrant, women and young workers who are most affected by precarious work, and

should be informed by an analysis of how precarity among these workers amplifies the spread of precarity for all.

The ILO has a vital role to play in providing an appropriate and modern regulatory framework to stop the growing circumvention of labour and social protection through precarious employment arrangements. The ILO and the trade union movement should continue and strengthen their efforts to realize the ambition of the Employment Relationship Recommendation 198 that no contractual arrangements have the effect of depriving workers of the protection they are due. More efforts are needed to implement this Recommendation at the country level.

In the light of the concerns expressed with the rapid growth of triangular relationships through agency work there is also a need to examine the meaning, scope, impact and application of Convention 181. Ratification and implementation of existing ILO Standards by governments would be a major contribution to reducing precarious employment. Changes in the global economy, in the world of work, in gender equality and family patterns also call for new regulatory initiatives to close regulatory gaps.

Legislative regulations need to be complemented by collective bargaining agreements where workers can directly negotiate and determine their conditions of work. Experience shows that without workplace empowerment through trade unions and collective representation, legal provisions and regulations often do not materialize in practice.

These collective bargaining rights must also be guaranteed for government employees. The transformation of many public sector jobs into precarious work through privatisation, outsourcing, or outright administrative wage cuts underline the urgent need for giving full right to public servants to bargain collectively for working conditions, wages and employment. Governments need to be exemplary as employers. Quality public services are essential to sustainable development and cannot be based on casual employment.

Organizing all groups of workers, and particularly reaching out to workers in informal and precarious employment, requires a wide spectrum of established and innovative forms of mobilizing and organizing workers. The trade union movement is better placed than any other organisation to be the voice of all working people, and a powerful partner in alliances with other movements to create secure, stable and predictable working conditions for all workers.

At the ACTRAV Symposium, trade union and labour experts from around the world discussed options and possibilities to respond to these trends that deprive more and more workers from decent work.

A response should include:

1. Social and economic policies to combat precarious work

The ILO will work to develop a new economic paradigm in line with the global jobs pact and the four pillars of the decent work agenda, based on full employment and a wage-led recovery underpinned by social security and a social protection floor. Any plan to combat precarious work must be based on fundamental changes in social and economic policy.

2. Promotion of Collective Bargaining to reduce precarious work

- The production of a Law and Practice Report and the holding of an ILO expert meeting on obstacles to collective bargaining for precarious workers by the ILO, such a report could inter alia address
 - The measures that should be taken to ensure that workers in triangular relationships can participate in meaningful collective bargaining.
 - Extending rights and working conditions provided to workers with recognised permanent employment relationships and collective bargaining arrangements to workers in precarious forms of employment
 - Provide safeguards against undermining collective bargaining agreements and rights through the use of precarious work.
 - Collective bargaining in multi-employer workplaces and bargaining unit determination.
 - The mechanisms and measures to ensure the effective access of the right to collective bargaining for specific categories of workers whose status in law inhibits this access.
 - Obstacles to forming or joining trade unions for workers in triangular relationships.
 - The allocation of responsibilities between temporary work agencies and user enterprises.
 - Review of the criteria for determining an employer.
 - The effect of precarious working arrangements on health and safety.
 - Best practices to ensure coverage of precarious workers (extension mechanisms, etc.)
- The promotion and reinforcement of central, national, regional and sectoral bargaining, including mechanisms for the legal extension of collective bargaining agreements.

3. Promotion of existing standards

- Creation of a comprehensive package of relevant instruments to combat precarious work including core labour standards and:
 - C122 on Employment Policies
 - Recommendation 198 on the Employment Relationship
 - C158 on the Termination of Employment
 - C154 on the Promotion of Collective Bargaining
 - C175 on Part-Time Work
 - C131 on Minimum Wage Fixing convention
 - C81 and C129 on Labour Inspections
 - C94 on Labour Clauses in Public Contracts

- Specific Categories
 - C97 and C143 on Migrant Workers
 - C156 on Workers with Family Responsibilities Convention
 - C159 on Vocational Rehabilitation and Employment (Disabled Persons) Convention
 - C183 on Maternity Protection
 - C177 on Home Work
 - C189 on Domestic Workers Convention, not yet in force as well as their accompanying recommendations.

4. Further regulation

- New instruments should improve the predictability, stability and equality of employment conditions including equal pay for work of equal value for all workers. Regulations should ensure that exceptions from secure, open-ended and direct employment must be justified by valid reasons.

- Temporary work
 - Limit, restrict and reduce the resort to precarious forms of employment
 - establishing clear conditions under which an employer can hire temporary and agency workers
 - limiting the proportion of workers at a given workplace on precarious contracts
 - limiting the amount of time a worker can be on a temporary contract, after which they must be given a permanent contract.
 - Second, an instrument could seek to prevent the abusive use of precarious forms of employment by establishing clear criteria to determine the employment relationship building on the existing provisions of Recommendation 198.
 - The instrument should establish effective remedies for workers who are victims of abuse, to discourage such practices and encourage the

allocation of joint and several liabilities in the case of multiple employers.

5. Capacity building

Upon request from the trade unions the ILO needs to provide its expertise and technical assistance in order to enable trade unions to make full use of the ILO Standards, the ILO Jurisprudence and its knowledge base of the organisation in their efforts to combat precarious employment.

There is a need for special efforts to work with trade unions to promote the above mentioned standards. This should include a special combined programme of the ILO technical department, the field offices, the Bureau for workers Activities and the Turin Training Centre to develop and promote the necessary regulatory framework to put an end to precarious work.

Development by governments with the active support of the ILO of better statistical indicators to capture the reality of precarious employment

6. Union campaigns on precarious work

- Make a priority of organizing precarious workers
- Build alliances among trade unions and with social movements
- Information campaigns for the population at-large
- Through comprehensive International Framework agreements
- To respond to the current offensive to make public sector work more precarious
- To make a more active use of the OECD guidelines on multinationals and the ILO Declaration on Multinationals
- Develop observatories to monitor along with the ILO the development of precarious employment in each country and internationally
- Use the ILO supervisory mechanism to create new jurisprudence on precarious work
- Work towards the establishment of social protection floors, minimum wage levels that provide living wages, macroeconomic policies geared towards full-employment, development friendly trade agreements, and re-regulation of financial markets