

ILO Precarious Work Symposium, October 4, 2011

Contribution from Ron Oswald, general secretary, IUF

The IUF welcomes this event and we warmly thank the organizers for bringing together all of us for this important symposium on this critical issue for us all. We also welcome the excellent background document and congratulate ACTRAV on its production.

If the growth of precarious work in all its forms is recognized today as one of the most important threats to the labour movement – perhaps *the* major threat to union organizing and bargaining – we need to be clear on precisely what we are talking about.

For many millions of people, life and work have always been precarious, and continue to be so. Employment under capitalism has always been governed by the rhythm of the investment cycle. The resurgence and persistence of mass unemployment following the financial and inevitable economic crisis that followed in 2008 remind us that cyclical crises, once believed a thing of the past, are very much with us.

No word occurs more frequently than 'volatile' in today's news, and a volatile world is a precarious world. Work is precarious, investment is precarious, companies are precarious and can vanish or transform overnight.

Employment in agriculture, still the world's largest labour force, has always been precarious, and not only because of the seasons. It is becoming even more precarious under the impact of global warming, to which it also contributes massively, making life itself precarious.

In tourism, a major source of employment and a global growth industry, precarious work is the norm, and even jobs once thought relatively secure are yielding to the pressure of outsourcing and casualization.

In the United States, still the world's single largest economic power, work with few exceptions is precarious by definition. It is 'employment at will', with no legal protection against unjust dismissal unless discrimination on the basis of relatively narrow criteria can be legally proved. "At will" employment is a direct descendant of the master/servant doctrine codified in Elizabethan England. Union workplaces offer the only protection against this hideous anachronism, and they are in dramatic decline.

Why, then, are we talking about precarious work, as if it were a new phenomenon?

It is because labour today is under assault nearly everywhere, including in what were once assumed to be some of its most secure bastions. At the core of this assault is an attack on our fundamental rights to organize and to bargain collectively. The assault is being led, not by death squads, dictatorships or direct employer repression, though we still to be sure face

these, but by the dilution and dissolution of employment relationships in ways which makes it difficult or impossible for workers to exercise their basic rights.

On the one hand, the general offensive against employment rights is being promoted by the international financial institutions. Whatever we hear about a new look at the World Bank or an IMF with a human face, the old conditionalities are still with us. They are no longer confined to the developing world, but are penetrating the core countries which once held the pursestrings, and they are promoted with a new vigor as capital's response to crisis. Employment contracts are individualized and collective rights abolished at a stroke, with points awarded to countries who go furthest in generalizing insecurity.

The second line of attack proceeds through the destruction of direct, open-ended employment contracts, and it is this aspect which I would suggest is a major focus of this symposium. Permanent, direct employment is on the way out. It is increasingly replaced with "temporary" contracts which in fact can last for decades or whole lifetimes; by outsourced, agency contracts which conceal the real employment relationship and hence the balance of power in the workplace and in society; with "seasonal" contracts which are year round, bringing all seasons together in a single workplace; with bogus "self employment" schemes which turn wage earners into "contractors"; with stand-by and on-call work; and with phony "apprenticeships" often dressed up in the language of "life-long learning."

In countries rich and poor, in a growing number of workplaces, be they plantations, factories, hotels, offices or laboratories, we find a shrinking number of workers who can negotiate through their unions with their employer, and a growing number of workers who are denied that right, because a legal dodge ensures that someone other than the real employer issues their paychecks. And we find a growing number of companies who have *no* employees, and therefore no responsibilities as employers, because those who perform the work which generates their profits are outsourced, or "leased" in US terminology, to a staffing agency.

Some of you will be familiar with the IUF's long and ultimately successful struggle for the rights of workers in a tea factory in Pakistan. When we began our fight in support of those workers, that factory, where workers were once nearly all employed directly, and members of the union, had a grand total of 22 direct employees, and hence 22 union members. The rest of the work force – over 730 workers – were employed through labour hire agencies, with no security and no legal right to join the union.

When we first challenged the company on this we were told they fully respected freedom of association; the factory was in fact 100% union. When we pointed out that this applied to 22 out of 750 workers packing tea, we were told that those other 730 workers were perfectly free to exercise their right to form unions and to bargain with the many labour brokers who were their formal employers...

These precarious workers in a tea factory, it seems, were living in a virtual paradise of rights. But rights are only real to the extent that they can be exercised. Never have employers more loudly asserted their "respect" for worker rights – including here at the ILO - while thwarting their exercise in practice; never have they more insistently proclaimed their commitment to responsibility while exorcising their responsibilities by exiting from the formal employment relationship.

This massive violation of rights is sometimes described as a "challenge", the "challenge of flexibility" and similar formulations whose function is to conceal the truth. The denial of rights and degradation of work is accompanied by a purposeful degradation of language. But precarious work is not a challenge, it is a meticulously constructed assault.

We call it by its name, we resist, and we call on the ILO to resist as well by defending and affirming the primacy of workers' rights to form unions and to bargain the terms and conditions of their employment with those who set them, ie. with their real employers and not the agents of their camouflage.

We need to restore to Conventions 87 and 98 their real meaning, meaning which has been progressively drained of content through the spread of precarious work relationships. The real meaning of these rights is contained in the dry expression "bargaining unit". The function of collective bargaining is to redress an unequal bargaining relationship. It follows therefore that every limitation, every fragmentation of the bargaining unit which removes workers from a bargaining relationship with the real employer, is a violation of basic rights.

Language, as I have said, is essential. The opposite of decent is indecent, and another word for indecent is obscene. It is indecent to suggest that private employment agencies, often incorrectly termed "temporary" agencies, somehow create jobs, "fuel" social progress or contribute to decent work. It is investment, and capital's need for labour, which creates employment. What kind of jobs in turn depends on the wider environment, including the degree of basic protection, including protection for the right to organize and bargain. We see social regression rather than progress, and the less progress we see the more agency work we find. Agency work is by definition precarious – the "user enterprise" can terminate the relationship at will. Private job agencies are not contributing to decent work: they are undermining it by institutionalizing insecurity, concealing the true employment relationship and blocking effective access to rights.

As the organization responsible for setting and maintaining human rights standards in the world of work, the ILO must resist this attack on rights. You have the tools. You have the Conventions, and you have a growing body of jurisprudence which suggests the ways in which rights can and must be defended in a rapidly mutating employment environment. Trade unionists from around the globe have come here to share their experiences and their needs. If we listen to them, and learn from them, this symposium will succeed and will have an important concrete and useful outcome.