

Income Inequality, Labour Market Institutions and Workers' Power

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Eliminating precarious forms of work

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In this venue we don't yet have to contend with the inequality deniers or make the case for the crucial role of collective bargaining as historically the main vehicle through which workers have organized their way out of poverty. We shouldn't have to make the argument here at the ILO that fixed-term employment, including agency work, is by definition precarious, that it institutionalizes unequal treatment and corrodes effective access to rights at work. But apparently we do, because there is an organized effort by the agency lobby to promote the growth of temporary agency work as somehow furthering the decent work agenda. The agency lobby wants to argue that they are "creating jobs which otherwise would not exist".

So let me describe two major conflicts in which the IUF is currently involved.

Transnational cereal maker Kellogg's has locked out 220 members of our affiliate since October 22 at its factory in Memphis, Tennessee in an effort to force union acceptance of a plan to hire in the future all newly employed workers as casuals at significantly lower pay and benefits, effectively transforming over time the entire employment structure at the facility. The company calls this "The Workforce of the Future". Three days ago Kellogg's announced the closure of a union plant in Ontario, Canada. Some of the production will go to a newly-constructed non-union facility in the same province, but some of it will also go the Memphis factory – where if the plan succeeds the work will increasingly be done by casuals, "the workforce of the future". In this case it is clear that permanent jobs are being destroyed to be directly replaced by casual workers who will eventually, in all probability be employed not by Kellogg's but by an agency, so that the company can create a legal buffer to any collective bargaining responsibility. The casual jobs which "otherwise would not exist" are replacing existing permanent union jobs.

Along with its cereals, Kellogg's is manufacturing inequality, and this institutionalized inequality will not remain confined to the factory premises. It permeates all of society.

We have also been supporting for over a year and a half our affiliate at a company called Mondelez in Pakistan. Mondelez is the international snack foods successor to the former Kraft Foods, which went global through a series of international acquisitions financed by debt. Cadbury was one of these acquisitions, and Pakistan is one of the company's top growth markets. Cadbury is one of the top snack brands, and the company has racked up a colossal 44% annual growth rate over the past three years. But workers at the Cadbury factory have not shared in this growth, 600 workers make the product but only 53 workers are directly employed and entitled to

membership in a union of Cadbury workers. The rest are employed by labour contractors on a no work, no pay basis on hugely inferior terms and conditions. For 18 months the union has demanded negotiations to convert the precarious workers in so-called core positions to permanent. The company denies this right and calls the casuals “outsiders”.

Since the issue of financial regulation has been touched on in an earlier session, it is relevant to point out that Mondelez began life as an independent company some 15 months ago with long-term debt equivalent to some 80% of its assets, but only a few days ago raised its dividend by over 7% and increased its share buy-back program by 28%. The CEO last year paid herself 28 million dollars in compensation. So the company is borrowing heavily to fund oversize cash returns to investors while those who make the products are termed “outsiders”, denied basic rights and condemned to poverty unless we can make these workers permanent and change the balance of bargaining power. Curbing the demand for unsustainable financial returns is very much part of this long-term struggle to reestablish the primacy of direct employment.

Where does all this leave us in a meeting of the ILO? Precarious work is undermining rights, which are the key domain of the ILO. International human rights law, which includes ILO Conventions, establishes the right of workers to freely join trade unions and to bargain with their employers – their real employers, not the intermediate layer of legal fictions embodied in the agencies. The demand for flexibility is a claim, not a right – there is a right to form a union and to bargain collectively, but there is no human right to a share buyback or for an employer to unilaterally determine what is core and what is non-core in order to limit the exercise of fundamental human rights.

Precarious work has to be clearly identified as a menace to everything the ILO claims to embody. There can be no accommodation.

The fight to convert precarious to permanent jobs, and to use this conversion to build bargaining power, has been central to nearly every struggle of the IUF over many years now in winning recognition from transnational companies and in using that recognition to rebuild permanent employment and rebuild union bargaining power. It is a permanent agenda item in our relations with TNCs. In some cases we have also been able to use that recognition to investigate, jointly with the companies, their employment structures. And what we typically find is that the degree to which permanent jobs have been replaced with disposable precarious jobs has nothing to do with the justifications invoked, like seasonality, flexibility drivers or core vs. non-core. Employers are destroying permanent jobs simply because they can get away with it. They do it because they can.

Our successes have in many cases made very real and dramatic improvements in our member's lives, but it is an exhausting process. And most workers are of course not employed by transnational employers and have no international union support to fall back on. These wins are a drop in the ocean of precarious work which threatens to drown us all.

So regulation is crucial. And we have to set our ambitions high if we hope to achieve something. The European Union directive on temporary agency work fails to the extent that it allows so-called derogations from the principle of equal treatment. In the UK, for example, implementation of the Directive was followed by the immediate transfer of thousands of workers to agency jobs which institutionalize unequal treatment, lock them into inferior pay and benefits and complicate their full exercise of union rights. Rights are not divisible – there is either equality of treatment and equal access to rights, or there is not.

We should aim for regulation which would ultimately make it impossible to replace direct with indirect employment, and certainly only through a process of negotiation with unions representing the permanent work force. There are collective agreements which in fact establish this, so legal regulation along these lines is both conceivable and feasible. We need regulation which restricts employers' ability to hire workers on fixed-term contracts without demonstrating a legitimate business purpose for such relationships. The use of such contracts must be negotiated through collective bargaining. And if there is no union we must ask why that is so, and that is one of the original and still primary functions of the ILO.