

Precarious work: a dangerous global trend¹

Maquila Solidarity Network, April 2011

As the Uruguayan writer Eduardo Galeano said, "The way we are going, human labor could become the cheapest commodity in the world. Labor law tends to dangerously reduce itself to the right work for what they want to pay you."

Precarious employment is growing in Honduras and throughout Central America, but is also a global problem with serious consequences for the workforce worldwide, as evidenced by this article.

*Red de
Solidaridad de la*
Maquila
Solidarity Network
www.maquilasolidarity.org



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In a period of global economic instability, the lives of workers employed in global supply chains are becoming more and more insecure. Not only are workers confronted on a daily basis with the very real possibility that their factories will be closed as production is shifted to other countries and regions with lower labour costs, they are also facing changing employment relationships in their own countries that are making their working lives more precarious.

Precarious work clearly is a growing problem in Honduras and all of Central America, but it is also a global problem with serious consequences for workers in countries around the world.

Manufacturers everywhere are restructuring and flexibilizing employment relationships in order to satisfy the demands of buyers for just-in-time production, but also to reduce labour costs under the mistaken assumption that cheap labour is their only possible advantage in a highly competitive global economy.

Responding to this same logic, national governments are either “modernizing” current labour laws to accommodate the demand for flexible labour or consciously refraining from enforcing current labour laws and regulations.

In a very real sense, manufacturers, governments and international brands and retailers share responsibility for the consequences of the shift to precarious work, and all three must be held accountable for the negative impacts on workers.

Precarious employment, one of the biggest problems of global industry

In a March 2010 survey by the International Textile, Garment and Leather Workers Federation (ITGLWF), 69% of their affiliate unions that responded reported an increase in short-term contracting in their country. Over 66% reported that wages paid to short-term contract workers were less than those paid to permanent workers, and 21% reported that

wages were less than half those of permanent workers.²

In 2008, our organization, the Maquila Solidarity Network (MSN), prepared a report for the Play Fair Alliance on labour practices in sportswear supply chains. The Alliance is an international coalition of Global Unions and labour rights NGOs that has been lobbying international sportswear companies and the Olympic movement to ensure that sports uniforms and other goods bearing the Olympic brand are made under decent working conditions.

Research for the report, which was carried out in China, India, Thailand and Indonesia and included interviews with over 320 sportswear workers, identified precarious employment as one of the four major systemic problems in the global sportswear industry that are blocking progress on all other issues.

That report, entitled *Clearing the Hurdles: Steps to Improving Wages and Working Conditions in the Global Sportswear Industry*,³ pointed to the increased use of short-term employment contracts and third party employment agencies as an alarming global trend that is denying workers their social security benefits and other legal entitlements, discouraging workers from organizing unions, and undermining the enforcement of national labour regulations.

The research found that sportswear workers in Asia were often being hired on consecutive short-term contracts in order to mask the fact that they are, in reality, permanent employees who are being cheated out of seniority rights and legal benefits.

In Cambodia, an unpublished 2009 investigation by the Worker Rights Consortium (WRC) found that of 60 factories surveyed, the majority either exclusively used short-term contracts or employed all new workers on

² “Precarious Work: Huge Increase in Contract and Agency Work in Global Garment industry,” ITGLWF, 05 August 2010: <http://www.itglwf.org/lang/en/precarious-work.html>

³ “Clearing the Hurdles: Steps to Improving Wages and Working Conditions in the Global Sportswear Industry,” Play Fair, 2008, <http://en.maquilasolidarity.org/clearinghurdles>

short-term contracts.⁴ Those findings were reinforced by a July 2010 study tracking 2,000 garment workers starting at the end of 2009, which found that of those workers who were laid off during the economic crisis and later re-employed, only a small portion were hired as regular workers. The vast majority were hired on contracts of less than six months duration.⁵

In Tehuacan everything conspires against occupational safety

In 2010, MSN commissioned research by a labour rights advocate and analyst in Tehuacan, Mexico on changing practices in that city's jean manufacturing industry. Once again, one of the major findings of that research was the increasingly precarious nature of employment for workers in the industry.⁶

Based on interviews with over 120 workers, the study points to a move to short-term employment contracts, greater job insecurity, an increasing reliance on small, often clandestine, factories, workshops and home-based facilities to carry out parts of the manufacturing process, and a decline in real wages.

In large factories, workers who would previously have been hired on indefinite-term contracts are now often hired on one- to three-month contracts. In medium and small facilities there are no employment contracts at all. Significantly, none of the workers interviewed reported having been given a copy of their employment contract, and some reported being forced to sign blank pages prior to their hiring which can later be used on forged resignation letters if the factory wants to get rid of them.

⁴ Arnold, Dennis; Han Shih, Toh, *A Fair Model of Globalization? Labor and Global Production in Cambodia*, Journal of Contemporary Asia, 15 June 2010: [http://www.betterfactories.org/content/documents/Labour%20and%20Global%20Production%20in%20Cambodia%20\(Eng\)%20.pdf](http://www.betterfactories.org/content/documents/Labour%20and%20Global%20Production%20in%20Cambodia%20(Eng)%20.pdf) (p.417)

⁵ "2nd Follow Up in Tracking Survey of Cambodian Garment Sector Workers Affected by Global Economic Downturn," Better Factories Cambodia, July 29, 2010: <http://www.betterfactories.org/resourcedet.aspx?z=7&iddoc=135&c=1>

⁶ A summary of the research findings is available at: <http://en.maquilasolidarity.org/sites/maquilasolidarity.org/files/MSN-Tehuacan-Summary-2010-12.pdf>

Without job security, garment workers in Tehuacan often rotate from factory to factory or work for the same employer on consecutive short-term contracts, thus never accruing seniority that would allow them to exercise their legal rights or access statutory benefits available to permanent employees.

According to the study, the practice of hiring workers on a short-term contract basis is resulting in them being less likely to organize around workplace grievances due to the brief amount of time they spend with any one employer. Workers on short-term contracts are also more reluctant to file complaints with the labour authorities when their rights are violated. This practice of hiring workers on short-term contracts or without employment contracts also has the effect of denying them health coverage through Mexico's social security program, IMSS. The reduction in the number of workers registered with IMSS is dramatic. For example, in 2001, 62,200 workers in the Tehuacan area were registered with IMSS; by 2009 the number had dropped to just 8,200 workers.

Outsourcing makes even more work precarious

A second major finding of the Tehuacan study was the dramatic increase of subcontracting of a growing number of steps in the manufacturing process to small, clandestine factories, workshops and homes. Even some of the tasks formerly done in large jean laundries are now being subcontracted to small workshops known as *tonelos*, and many of these finishing processes are dangerous to workers' health.

Labour and health and safety practices in these workshops, *tonelos* and homes are totally unregulated and employers have absolute discretion to hire and fire workers at will, making their employment even more precarious. Subcontracting to these clandestine workplaces also allows the large manufacturers and brand buyers to escape responsibility for negative environmental impacts and labour rights violations.

Women get the worst of it

The research also showed that the move to short-term contracts and the increase in subcontracting to smaller unregulated facilities is having a disproportionate impact on women workers and is changing the gender composition of the workforce. For instance, women make up the vast majority of workers in the unregulated small factories, workshops and home-based facilities, while men hold most of the jobs in the larger, higher-paid jean laundries.

Single mothers working on successive short-term contracts in large factories or with no employment contracts in smaller facilities -- and therefore not registered with IMSS -- are being denied health care coverage for themselves and their children. In addition, women who become pregnant are denied pregnancy leave, as well as access to legally-mandated maternity benefits.

And the governments?

As is the case in Honduras where the government recently made changes in the labour code to allow short-term contracting, including employment by the hour, the Mexican government is contemplating changing its labour legislation to legalize labour flexibility and precarious work.

Rather than more effectively enforcing regulations to put a stop to illegal practices and/or taking steps to ensure that workers' rights are not eroded by changes in employment practices, governments are taking steps to legalize precarious employment.

In March 2011, the opposition Institutional Revolutionary Party (PRI) introduced a proposal for reforms to Mexico's Federal Labour Law that represented a fundamental change in that party's position on labour law reform. Also supported by the governing National Action Party (PAN), the proposals would make various forms of precarious work legal, including labour-only subcontracting and hiring of workers on a temporary basis for extended periods of time, without providing safeguards to prevent abuses.

The PRI/PAN proposal would also allow employers to deal directly with individual workers covered by a collective bargaining agreement to negotiate working conditions inferior to those provided for in the agreement, and would limit the amount of back pay owing to workers who were wrongfully dismissed, thereby discouraging those workers from filing legal complaints.

In Peru, precarious work has also become a hot-button issue. Workers have been complaining about the abuse of an old law that allows for short-term contracts in the garment sector, which was seen at the time of the law's ratification as a "non-traditional" export industry.

Under the law, employers can hire workers under a short-term contract for a specific order, which allows them to employ workers on consecutive short-term contracts (rather than as permanent employees) to carry out the company's regular production. The ITGLWF has been campaigning for the abolition of this law.⁷

Precarious employment also in Canada

This disturbing trend toward precarious work and changes in legislation to legitimize it is not isolated to the Global South. Workers in North America and Europe, and particularly immigrants and migrant workers, are being subjected to similar employment terms.

In Canada, for instance, 37% of work is now part-time, short-term or casual, and that percentage has been increasing for years.⁸ While official employment statistics suggest that all job losses have been regained since the economic crisis hit in October 2008, all the net gains have been in temporary, casual or part-time work, replacing permanent, full-time jobs that are now gone.⁹

⁷ "Greed and negligence putting Peru's textile and garment export industry at risk," ITGLWF, 16 February 2009: http://www.itglwf.org/lang/en/documents/ITGLWFPRESSRELEASES2009_000.pdf

⁸ "Job insecurity: the corrosive new norm," Toronto Star, 07 October 2009:

<http://www.thestar.com/comment/article/706480>

⁹ Jackson, Andrew, "Job Recovery?," The Progressive Economics Forum, 12 October 2010: <http://www.progressive-economics.ca/2010/10/12/jobs-recovery/>

Immigrants, the most punished by precarious employment

In October 2010, two Canadian journalists of Latin American origin posed as recently-arrived immigrants and applied for work with temporary employment agencies in Montreal. Both men were assigned to work in chicken packing factories where they worked alongside regular permanent staff. They were required to work nine hours a day with only one 15-minute break and were paid \$1.50 to \$3.00 below the legal minimum wage.

The two men, who were paid in cash, were not eligible for sick leave or paid holidays and did not receive overtime pay for extra hours worked. When one of the workers told the employment agency that he had no identity papers and no legal right to work in Canada, he was told that it wasn't a problem.

In addition to exploitation of immigrant workers by third-party employment agencies, Canada is also experiencing serious violations of migrant workers' rights as a result of its Temporary Foreign Worker Program. The program has been criticized for creating a separate category of workers who can never become permanent employees and are denied the right to apply for other jobs if they are dissatisfied with how they are being treated by their employers.

In November 2010, more than 100 migrant farm workers in Simcoe, Ontario staged a wildcat strike demanding thousands of dollars in unpaid wages. The workers, who came to Canada from Mexico and the Caribbean under the Temporary Foreign Worker Program, also complained about crowded living conditions and of having their electricity and heat cut off and being threatened with eviction. Their employer had fled the country to avoid meeting his legal obligations to the workers.

Because the workers could not legally apply for other jobs in Canada, their only option was to return to their home countries without any chance of receiving the money owing to them. Some of the workers refused to give their names to the media, fearing they would be

blacklisted and not allowed to return to work in Canada in the future.

Farm workers in the province of Ontario are not legally permitted to form or join a union in order to bargain collectively with their employer. On November 18, 2010 the International Labour Organization (ILO) ruled that Canada and Ontario were violating the Freedom of Association rights of Ontario agricultural workers.

Challenging Precarious Work

Concern is growing at the national, regional and international levels about this dangerous shift toward precarious work and the negative consequences for workers and their communities. Alliances are forming across national borders in an attempt to reverse the race to the bottom on labour standards between countries.

At the international level, the Play Fair Alliance is continuing to pressure sportswear companies to take specific steps to eliminate precarious employment in their global supply chains.

As part of its 2008 report, the Alliance put forward a series of demands to major sportswear brands, as well as target dates for them to meet those demands, including the elimination of third-party employment schemes for any workers engaged in the company's core business, that at least 95% of workers engaged in a company's core business be employed under indeterminate-duration contracts, and that any worker hired on a fixed-duration contract twice by the same employer be automatically hired on an indeterminate contract at the time of the third hiring.

The report also called on brand buyers to establish long-term, stable business relationships with supplier factories so that there is less pressure on suppliers to employ workers on short-term contracts or to use other forms of precarious employment.

The Alliance is also rating companies based on the steps they are committing to take in order to overcome four systemic hurdles blocking progress on labour rights in the global

sportswear industry, including the problem of precarious employment.

Global Unions that have launched campaigns on the issue of precarious work in recent years include the International Metalworkers Federation (IMF), the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM), the ITGLWF, and the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)

Campaigns against precarious work are also taking place at the regional level. In addition to the work of the Regional Campaign Against Flexible Labour (*Campaña Regional contra la Flexibilidad Labor*) in Central America, a similar regional coalition has recently emerged in Asia involving several trade union organizations from Cambodia, Indonesia and Sri Lanka, as well the Belgian NGO World Solidarity.

In May 2010, that coalition launched a campaign for "Equal Treatment for Short-term Contract Workers," which is putting forward demands to both national governments and companies, as well as to international institutions such as the World Bank and the ILO.

Some of these demands include:

- Equal wages and benefits for temporary workers as those received by regular workers doing the same job;
- The right of temporary workers to join trade unions of their choice and inclusion of fixed-term workers in collective bargaining agreements where there is a union;
- The right of temporary workers to permanent employment after two successive short-term contracts or after being employed by the same employer for two years;
- Social protection applied equally to all workers, including short-term contract workers; and
- Contracts and payslips in line with national labour law and available to all workers.

While these two campaigns – one international and the second in Asia – are

focusing on the issue of short-term contracts in one manufacturing sector, groups in Central America have tended to focus more broadly on multiple sectors and a range of interconnected issues under the general theme of precarious employment.

Yet, despite these differences in approach and focus, much can be learned from the experiences of counterpart organizations working on the issue of precarious work in different regions of the world, as well as at the international level.

Meanwhile in Mexico, growing opposition to the PRI proposal for labour law reform, including within the PRI itself, has forced the government to postpone debate on the bill. Most observers are now predicting that the reform proposal won't see the light of day again until sometime after the 2012 federal election.¹⁰

To be successful, groups, coalitions and networks fighting to reverse this dangerous trend toward precarious work will need to operate at multiple levels – local, national, regional and international, mobilizing both permanent and temporary workers to demand decent work from local employers, national governments, international brands and multi-lateral institutions.

As the International Metalworkers' Federation (IMF) points out, successful campaigns may also require forging alliances between unions and non-union groups that are fighting for the rights of precarious workers.¹¹

¹⁰ Even the federal Minister of Labour, Javier Lozano, has publicly stated that the PRI's reform proposal is "temporarily dead" due to "the damn political interests" of the PRI, which doesn't want to jeopardize its chance in the 2012 elections. See: "Reforma laboral, temporalmente muerta: Lazano," *El Semanario*, 17 April 2011: http://www.elsemanario.com.mx/news/news_display.php?story_id=58326

¹¹ See IMF campaign materials "Precarious work affects us all!": <http://www.imfmetal.org/index.cfm?c=18019>