

Outsourcing and Casualization in the Food and Beverage Industry



International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)



The Threat to Workers and Unions and Union Strategies for Fighting Back



AN ORGANIZING TOOL FOR UNIONISTS

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Introduction to the Manual

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This manual is designed for trade unionists in the food and beverage sector who are confronting the challenge of outsourcing and casualization, the hiring of temporary, seasonal and fixed-term contract workers, and other forms of “precarious” employment. The aim is to provide union leaders, shop stewards, union education officers, organizers and rank-and-file activists with an organizing tool for raising awareness of the dangers of outsourcing and casualization and mobilizing an effective union response. As the manual demonstrates, an effective response involves proactive strategies that are based on educating and mobilizing both rank-and-file union members and non-unionized workers employed in precarious work.

The information, analysis, case studies and strategies presented in this manual draw from the rich experience of IUF affiliates from around the world. The manual focuses largely on experiences at Nestlé, the world’s largest food company, because – as an industry leader – it exercises a powerful influence in setting new global standards and practices. The manual itself is also an outgrowth of a global IUF organizing project in Nestlé. As a result, all of the examples of the impact of “precarious” employment practices in Part 2 are based on the experiences of Nestlé unions. However, these experiences will be immediately recognizable to unionists in other food and beverage companies, and the analysis and conclusions drawn from these case studies have a much wider application beyond Nestlé.

In Part 3, where we look at examples of successful union organizing strategies to combat precarious work, the manual also draws from the experiences of union struggles in Cola-Cola and other companies in the food and beverage sector. Again, these “best practices” and success stories contain lessons which are applicable generally.



As an organizing tool this manual is designed to incorporate the experience of food and beverage unions based on the direct contribution of their own stories and insights. Unionists are encouraged to add material, case studies and strategies to each Part of the manual, particularly Parts 2,3 and 5 that deal with case studies and concrete lessons.

It is our intention to publish a revised edition of this manual in the course of the IUF's ongoing Nestlé organizing project. The revised manual will incorporate the experience gained from its use in union training and campaign organizing, resulting in a more comprehensive and more effective organizing tool. Unionists should view this manual as a "living" resource tool that they are encouraged to add to by enriching its content with their own experiences, further developing the arguments and analysis we present. The goal is to strengthen strategic trade union approaches to combating precarious work and thereby strengthen union organizing and the labour movement as a whole.



"The job comes with a thirty-day guarantee."

The Rise of Precarious Employment in the Food and Beverage Sector

In this section we explain the term “precarious employment” and look at what makes employment arrangements like outsourcing and casualization so “precarious” for workers. We will also discuss why precarious employment is increasing in the food and beverage industry and how management justifies it. Finally, we will look at the real reasons behind precarious employment practices and the challenges faced by unions.

What is “precarious employment”?

“Precarious employment” is a relatively new term that is used to describe a whole range of employment conditions that are not standard or regular employment arrangements. What we have come to view as a standard or regular employment relationship is one where workers are employed under an employment contract for an indefinite period. According to the ILO:

The traditional pattern of the employment relationship, or standard employment relationship, has for many years been that of full time work, under a contract of employment for unlimited duration, with a single Employer, and protected against unjustified dismissal. [ILO Contracts of Employment]



There are various types of precarious employment arrangements, including:

- outsourcing, contracting-out or subcontracting
- casualization, contractualization or fixed-term contracts
- use of labour agencies or labour-only hiring
- hiring of temporary or contingent workers
- abusive use of seasonal and probationary employment and traineeships
- “self-employment” and independent contractors

This is just a partial list of those employment relationships that may be described as precarious. There are of course many different terms used in different languages around the world, and they often do not translate very well from one language to the next.

Although these employment practices are sometimes described as “atypical”, “irregular” or “non-standard”, the reality is that they are spreading so rapidly in the food and beverage industry that they are fast becoming standard and typical.

“Precarious” is a useful umbrella term to cover a wide range of employment relationships, from outsourcing to casual, seasonal and temporary work, because it emphasizes the risk and insecurity faced by these workers. In contrast to workers with regular or standard employment, workers hired through outsourcing or labour agencies or those hired on a casual, seasonal or temporary basis face constant uncertainty about their wages, working hours, shifts and assignments. They are always insecure about whether they will continue to be employed and for how long. Workers re-hired yearly or monthly on fixed term contracts may end up working for a company for 10 years, but they will never be certain of the next contract.

Precarious Workers

In this manual we refer to all of these different employment arrangements as “precarious employment” or “precarious work”. In this context we also use the term “precarious worker” to describe the workers employed under such arrangements. It is not the best term to describe workers employed under these conditions, because in some languages it sounds like it is the worker rather than a management practice which poses some kind of risk! But the idea is to use a term that describes the conditions faced by these workers – and that applies to casual workers, contract workers, temporary workers, seasonal workers, workers hired through outsourcing, workers hired through labour agencies.... When we look at actual examples in Part II and Part III we will use those terms that apply to each specific situation.

Precarious employment arrangements are often characterized by discrimination, where precarious workers do the same work as regular workers, but earn less pay and receive fewer non-wage benefits, or none at all. This is especially the case with discrimination based on race and gender. In many countries precarious workers in the food and beverage industry are women and/or migrant or immigrant workers.

The general characteristics of precarious employment may be summarized as follows:

- Employment can be terminated by the Employer with little or no prior notice
- Irregular hours or intermittent work
- Working time is unpredictable or can be changed at will by the Employer
- Wages are lower than the wages of regular workers
- Workers' earnings are unstable or uncertain, posing income risks
- Work tasks or functions can be changed at will by the Employer
- Short duration or instability of contracts
- No explicit or implicit contract for ongoing employment
- Little or no access to standard non-wage benefits such as paid sick leave, parental leave, bereavement leave; or if benefits are received they are sub-standard
- Limited or no opportunity to acquire and retain skills through education and training
- Greater health and safety risks and exposure to hazardous working conditions



In Part II we will look more closely at concrete examples of these characteristics of precarious employment and this should give us a better insight into the conditions that make it so “precarious” for workers.

These common characteristics also show that from an employer’s perspective precarious workers are not only “cheap labour”, they are also “flexible labour”. In most cases they can be hired and fired quickly. They can be reassigned and moved from one job to another and their hours are often not fixed, so they either end up working just a few hours at a time or doing underpaid or unpaid overtime. This flexibility is one of the reasons that the employment relationship is precarious – the more flexibility for the Employer, the greater the uncertainty, insecurity and risk faced by workers.

While the flexibility of precarious employment gives employers greater control over workers, it also hides the true nature of the employment relationship and is used by employers to escape responsibility. As we will see in the examples discussed in Part II, employers that hire workers indirectly through outsourcing or labour agencies exercise managerial control, including the authority to hire and fire, but when it comes to conditions of pay and benefits, insurance, workplace injuries etc, they are quick to deny any responsibility as an Employer. The result is more control, lower costs and less responsibility – that’s the flexibility formula used by employers.

Precarious employment

Precarious employment is employment that is low quality and that encompasses a range of factors that put workers at risk of injury, illness and/or poverty. This includes factors such as low wages, low job security, limited control over workplace conditions, little protection from health and safety risks in the workplace and less opportunity for training and career progression.

Gerry Rodgers & Janine Rodgers, *Precarious Jobs in Labour Market Regulation; the Growth of Atypical Employment in Western Europe*, International Institute for Labour Studies, International Labour Organisation, Geneva, 1989; John Burgess Iain Campbell, ‘The Nature and Dimensions of Precarious Employment in Australia’, *Labour & Industry*, Vol. 8, No. 3, April 1998, p 5–21.

If we take this definition and the common characteristics of precarious employment and look closely at the food and beverage industry in our own countries it is immediately obvious that the practice exists and is spreading. Few unionists in the food and beverage sector can look around their workplace and honestly say, “There’s no precarious employment here.” They might say, “There used to be, but we fought it so it doesn’t exist anymore.” We’ll see these positive examples in Part III.

Why is it happening?

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For the majority of unionists in the food and beverage sector, it is clear that precarious employment exists and is growing. It may be limited at present to the canteen, security, cleaning or other ‘auxiliary services’ or ‘non-core’ business. But as we will see in Part II, that is just the beginning - soon enough it will spread to all those jobs that the union considers the regular work of its members.

If we ask why precarious employment exists and why is it increasing, colleagues or co-workers may respond with questions like:

- Isn’t it management’s prerogative to decide these things?
- Isn’t it a global trend?
- Isn’t it part of being a competitive company in today’s world?
- Isn’t it just because employment laws are changing?
- “They” (women, youth, migrants, people of a different race or ethnicity) prefer more flexible working hours, don’t they?

In most cases, these are not real questions, but simply excuses. As unionists we often encounter such excuses for ignoring problems in the workplace. So let us first look at the most common reasons given by management to justify the growth of precarious employment in the food and beverage industry. These are the arguments that many unionists have heard when management has justified hiring workers under precarious work conditions:



- **'It's all about the fluctuation in demand'**

- It's because of seasonal fluctuations.
- In our industry demand fluctuates a great deal, especially with changing seasons. So it's necessary to hire additional workers when demand increases, but they can't be hired permanently because when demand goes down there won't be enough work for them and the costs to the company will be too high.

- **'We need to increase our efficiency and competitiveness'**

- Our competitors are changing their employment practices, cutting costs and boosting efficiency. So to survive we have to do it too.
- Head office measures our performance based on per capita productivity and the size of the payroll, so by outsourcing we can reduce the payroll and increase per capita productivity.

- **'It's the new way of doing things'**

- It's an industry trend.
- It's a new standard business practice in the industry that we all have to follow.
- It's a global trend, part of globalization.
- It's the modern market economy.
- It's the way forward, the future.

- **'It's nothing new'**

- We've always brought in extra people on short-term contracts and outsourced auxiliary services.
- We've always done it so there's really nothing new going on.

- **'It's just a temporary measure'**

- We're going through some changes/problems now and we need to bring in extra people temporarily.
- It's just an emergency measure to get us through this difficult time.

- o It's just while we're starting up and finding our feet, once we're settled into this business we'll stabilize all the jobs.
- o We're just testing out a new set of arrangements to see if it works.
- o We haven't decided on anything yet, it's just an experiment.

- **'We need to concentrate on the core business'**

- o We're outsourcing non-core business, auxiliary services, so that we can concentrate on strengthening our core business.
- o Other companies are specialized and are able to provide a better, more cost effective service.

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- **'It helps create small businesses and jobs'**

- o Outsourcing supports small business
- o It generates new business for small- and medium-sized enterprises.
- o By outsourcing and hiring extra people we're creating jobs.
- o We're creating job opportunities for marginal workers and the unemployed.

These are just a few examples. The point is that management is armed with a wide range of arguments to justify the rise in precarious work. What these different arguments have in common is the notion that these new employment arrangements are both necessary and inevitable - and therefore irreversible. The underlying message from management is: "It's best to accept it because it's good for all of us, but even if you don't accept it you can't stop it."

Why is it *really* happening and what does it mean for unions?

For unionists the realities of precarious employment have proven very different. As we will see in the concrete examples given in Part II, the real reasons behind precarious employment involve an aggressive management strategy directed not only at cost-cutting and securing greater control over a cheaper, flexible workforce, but also attempts to weaken or bust the union.



- **Cutting costs:** Precarious workers are paid less and receive sub-standard benefits or no benefits at all. This also means the Employer avoids pensions, taxes, insurance payments and other financial obligations associated with regular employment. So having a part of the workforce that does not get the wages and benefits that the union negotiates for regular workers is seen as a significant cost saving.
- **Exploiting loopholes:** Employers are often exploiting loopholes in labour laws, government employment schemes or welfare programs to secure 'cheap' labour. This includes abuse of apprenticeships and traineeships, where workers brought in as apprentices and trainees are forced to undertake regular work without a change in employment status or pay.
- **Sending the 'right' signals:** After 25 years of "free market" ideology and deregulation, we now see that financial markets reward companies that reduce their core workforce. In the former Soviet bloc, the "neo-liberal" project has been shorter but all the more intense! A food or beverage company that announces major layoffs will see its share price jump as if cutting jobs was its core business! Within companies the performance of individual workplaces is often measured by reductions in the head count. These cuts to the regular workforce boost performance data on paper: per capita productivity increases simply by reducing the number of regular workers.
- **Just the beginning:** The introduction of precarious employment arrangements for auxiliary services like the canteen, security, cleaning and transportation is often just the beginning of a larger plan to replace regular workers in the core business with precarious workers.
- **Exploiting legal limits on freedom of association:** In many countries labour laws prohibit precarious workers from union membership and collective bargaining. Undermining union strength and weakening bargaining power is in fact one of the most important reasons why employers are introducing precarious employment arrangements: the more precarious workers, the lower the rate of union membership in the total workforce. As a result, by increasing precarious work the strength of the union can be undermined. This paves the way for even greater cost-cutting and flexibility.

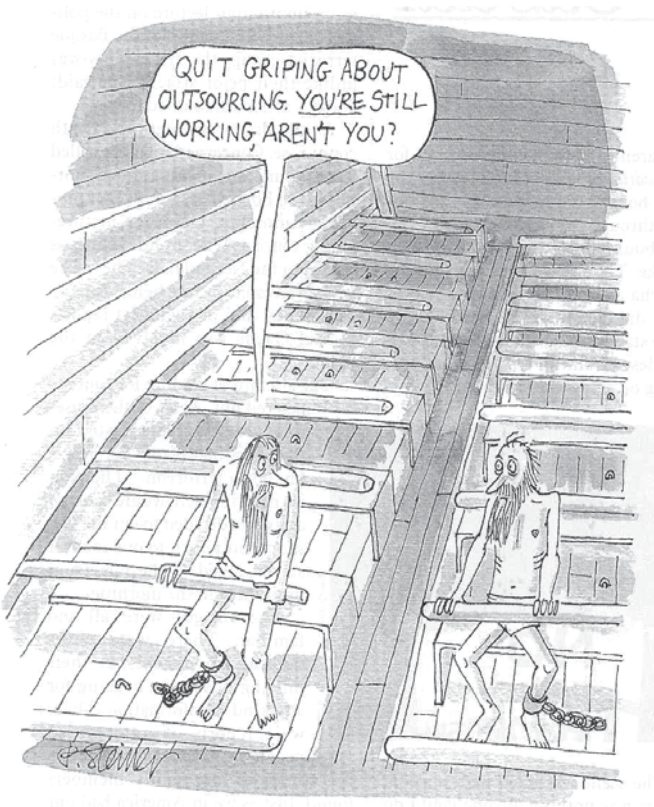


Increasing precarious employment as a tool for weakening/abusing unions is a conscious political strategy on the part of management. It is about power in the workplace.

- **Maximizing flexibility:** Employers want to maximize the company's ability to respond to market fluctuations with minimum overhead costs. Flexible or 'lean' production systems like Just-in-Time (JIT) or 'zero inventory' involve maintaining a small 'core' workforce and a large pool of 'reserve' labour or precarious workers that can be called whenever they are needed, and abandoned when they are not. An essential part of this flexibility involves not having to negotiate with the union over hiring and firing, and also being able to reassign workers, send them home early or force them to do overtime without having to deal with the union or comply with laws or Collective Agreements.
- **Divide and conquer:** As we saw in the common characteristics of precarious employment, discrimination and inequality based on the denial of entitlements and rights to precarious workers is a key element in management strategy.

Since these workers are denied union membership, discrimination and inequality becomes even more entrenched. This effectively divides workers and weakens their collective power to challenge management.

- **Diminishing union density, weakening bargaining power:** As we have already observed, a primary reason for increasing precarious employment is to increase the proportion of workers that is not unionized. As a result union density (the percentage of unionized workers in a workplace) declines, which can then weaken the bargaining power of the union. When the regular workers who are union members end up as a





minority in the workplace because there is so much precarious employment, then the collective bargaining power of the union may be seriously diminished. So union members find it more and more difficult to defend their job security and working conditions, and may end up with the same low wages, sub-standard benefits and insecurity as precarious workers.

- **Strike breaking and union-busting:** Ultimately precarious employment practices are used by employers to break strikes and bust unions. By replacing striking workers with precarious workers, or locking out the union and bringing in precarious workers, employers have used precarious employment as a powerful tool for union-busting. As we have already seen, union strength can be seriously weakened by increased precarious employment. This is not an accidental or secondary outcome of precarious employment arrangements. It is in fact a major objective of precarious employment as a management strategy. Increasing precarious employment as a tool for weakening/busting unions is a conscious political strategy on the part of management. It is about power in the workplace. For this reason it is a crucial issue for all trade unions.

Increasing the ‘Decent Work’ Deficit

According to the International Labour Organisation (ILO) the agenda of “decent work” involves: “...the promotion of opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity. Decent work is the converging focus of the four strategic objectives, namely rights at work, employment, social protection and social dialogue.”

If we compare this to the common characteristics of precarious work and to the real reasons behind employers’ use of precarious employment practices, it is obvious that the two are diametrically opposed. Any moves towards expanding precarious employment in the food and beverage industry in any country is tantamount to increasing the decent work deficit and moving us further from the goals identified in the ILO’s decent work agenda.

Manufacturing Insecurity at Nestlé

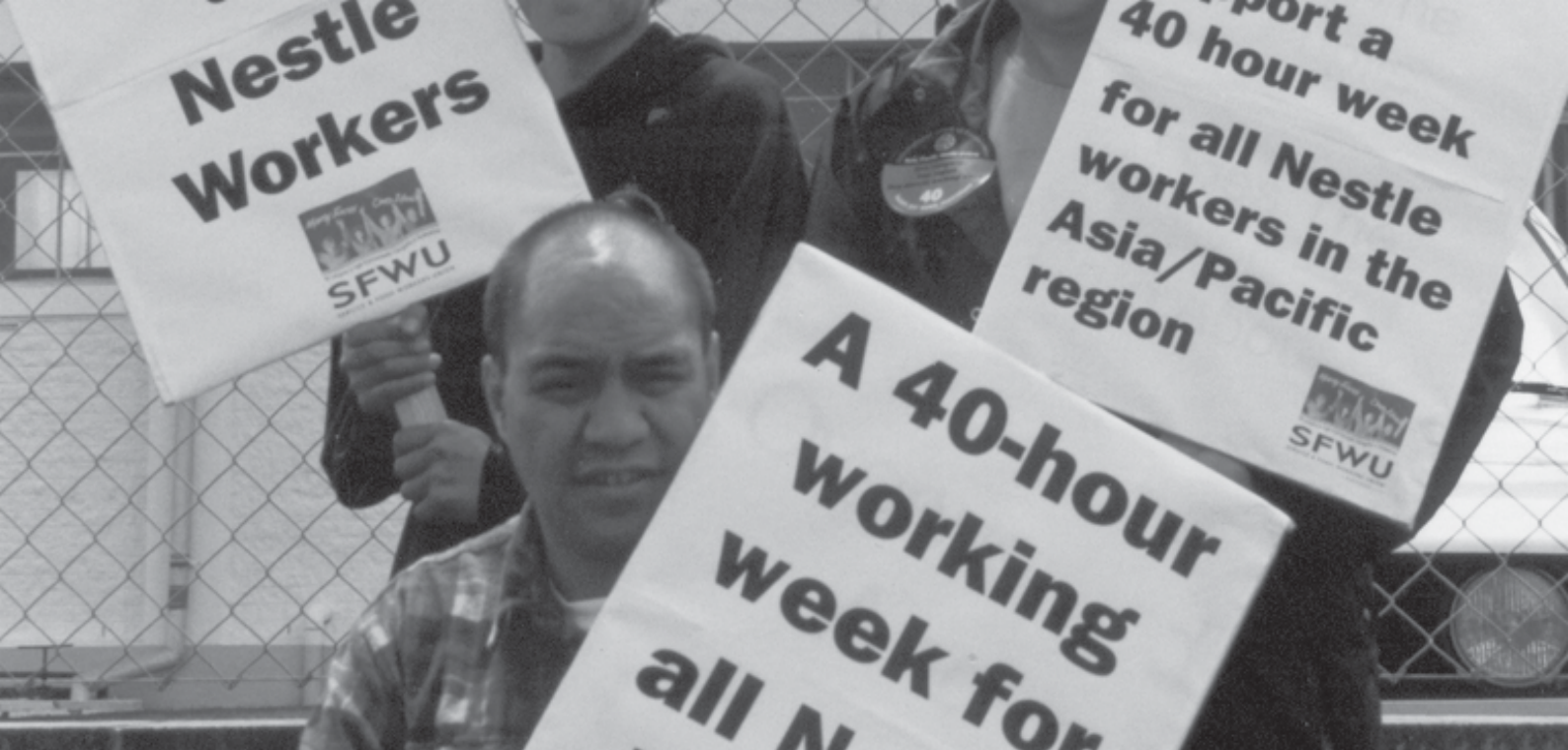
In this section we will look at concrete examples of precarious employment based on the experience of Nestlé unions. These examples illustrate the ways casualization can start, how it spreads, evolves and expands, and what happens when unions fail to effectively resist the process. We also look at outsourcing as a management strategy for weakening unions' ability to organize, mobilize and to bargain. In these situations, the steady dilution of union strength through outsourcing serves as a "softer" alternative to more aggressive forms of union-busting but delivers the same result: enhancing management control at the expense of the workers and their unions.

New Acquisitions and Pre-emptive Outsourcing

With the opening up of markets and the liberalization of foreign investment in Central and Eastern Europe in the 1990's, Nestlé moved in, bought up, outsourced and consolidated. One of its first acts when it acquired factories in Hungary in 1991, was to outsource the uniform services and the canteen. The staff of those departments continued working in the factory but under a new employer. This pattern has been followed in other Nestlé plants in the region.

Before acquiring the Svitoch chocolate factory in Lviv (Ukraine) in 1998, Nestlé negotiated, as part of the investment agreement, the outsourcing of a number of departments and services which had up until then been managed in-house. Transport and maintenance were immediately outsourced, while the production, building services and clerical staff were taken on by Nestlé.

As part of the consolidation of its investment, Nestlé is now "optimising" staffing levels by reducing the number of production workers on permanent contracts and transferring its seasonal



workers to a labour-hire agency called NOOSFERA, a company which promotes its services by pledging on its website “that workers can be substituted or dismissed on demand of the client” (www.noosfera.com.ua). On any given day, there are about 50 workers out of a total workforce of 1,200 contracted from NOOSFERA in the plant. In the course of 2005, about 800 NOOSFERA-contracted workers passed through the factory gates.

Nestlé claims they are “hiring services, not people”. The truth is that workers hired through NOOSFERA work side-by-side with Nestlé employees, but with lower wages, fewer benefits and no job security. The only guarantee they have is the knowledge that they can be in today, gone tomorrow. [Insecurity has been institutionalized as a tool of management control.](#)

When Nestlé acquired the Timashevsk (Russia) facility in 1998, they offered workers fixed-term contracts in exchange for financial compensation. Many workers agreed, and by the summer of 2005, almost 70% of the workforce was on fixed-term contracts, although they have been working continuously for the company for years. Until 2004 these contracts were typically for a period of one year. Since then the company has tended to issue contracts ranging from months to a few weeks, depending on demand. Nestlé carefully keeps within the law by maintaining the required gap between contracts, during which time the workers are sent to the state employment agency. In times of conflict between management and the union, temporary workers have been threatened that their contracts would not be extended if they supported their union. [In these cases, acquisition of a new facility was accompanied by the introduction of large-scale casualization to weaken in advance potential resistance to the imposition of a new management regime. Job security has been progressively eliminated to foster dependency and to weaken union support and bargaining power.](#)

Creeping casualization and outsourcing

The hiring of workers under precarious employment conditions is often a gradual process. It may seem sudden, especially when you start looking around the workplace and realize that a lot of people around you aren't regular employees and aren't in the union. Maybe they're wearing different uniforms, or the uniforms of labour hiring agencies, or they have irregular working hours and work schedules. A lot of unionists only begin to realize the extent of precarious employment once they start checking to see who all these 'new people' are. Then it comes as a shock.

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But the increased hiring of precarious workers is rarely a sudden, dramatic change by the company. It's usually a gradual, creeping process that speeds up as a certain level of precarious employment is reached. One of the easiest ways to introduce this creeping casualization and outsourcing is through "seasonal" workers who start appearing on a more regular basis, and eventually every month.

The 4 seasons – all in a single day!

In Malaysia, a Nestlé factory producing Milo, Kit Kat, Smarties and other confectionery products began hiring temporary and contract workers on a "seasonal" basis. In 2001, for example, temporary and fixed-term contract workers were hired in the hot months of July, August and September. In the following year, they were hired each month from August through to December. But then in 2003, temporary and fixed-term contract workers were hired EVERY month of the year! By 2004 and 2005, these "seasonal" workers were hired at any time of the year, regardless of the season. As a result, on any given day there were so many temporary and fixed-term contract workers coming and going that it looked like all the seasons happened in a single day at Nestlé!

Similarly, at the Nestle confectionery factory in Sofia, Bulgaria, a huge percentage of workers is employed on temporary (yearly and shorter) contracts. In summer 2005 (summer is low season for chocolate products), more than 34% of the membership of one of the unions at the plant were temporary workers who perform exactly the same work as their permanent colleagues on a year round basis. In Hungary, "seasonal" workers can be found year-round on the coffee-packing line.



This shows that when workers are brought in because of higher “seasonal” demand, it is often the beginning of a *continuous* use of precarious workers to replace the work of regular workers. What is first justified as a “seasonal” need ends up being a regular part of the company’s employment arrangements. Just as in the case of Timashevsk, where temporary contracts have been substituted for permanent ones for no apparent reason linked to production requirements, this is an example of the abusive use of fixed-term contracts, where management secures itself a stable but flexible workforce, and workers have a form of sustained employment but without the wages, benefits and security that goes with permanent employment status. A further abusive practice consists in having workers...

Standing by

At the Nestlé plant in Cagayan de Oro, in the Philippines, 20 contractual workers are brought into the plant every day on “standby” - just in case regular workers don’t come to work or if extra hands are needed. The contractual workers are under a no work, no pay arrangement, so that they only get paid if there is work, otherwise they are on “standby” at relieving time for at most an hour and go home without pay or allowance if no work is available. The company assumes no responsibility while transferring all the costs and risks to workers - which is the very nature of “precarious”.

The Permanent “Transition”

At a cereals plant in Portugal, Nestlé regularly employs workers on a variety of precarious contracts who earn one-half the wages of regular workers: there are directly-contracted workers on fixed-term contracts on the production line, workers hired through labour agencies on the packaging and food service lines as well as so-called self-employed contractors. In 2005, the hiring of temporary workers was justified by Nestlé Portugal’s intention to outsource its food service activities and “[the necessity to ensure production while the process of identifying a suitable co-packer continues](#)”. This process includes “[a detailed analysis and careful examination of the proposals presented, particularly with respect to food safety](#)”. The timeframe for this analysis was extended from 6 months to one year over the course of 2005, as was the duration of those fixed-term contracts which were renewed as a consequence. At the same time, workers have been hired on fixed-term contracts in other sectors “[to guarantee the flexibility needed for the implementation of the re-organization plan...](#)” or “[...to train operators in the various stages of the production process in order to ensure their operational versatility](#)”. So while plans to reorganize or outsource production

are being put into operation and workers are being readied for multi-tasking, contract workers are put into service designed to prepare the way for the elimination of jobs.

As we saw in part 1, employers are clever when it comes to exploiting laws or weaknesses therein to their own advantage. In Germany, Nestlé has effected a smooth transition from having a unionized workforce doing payroll to having a non-unionized payroll staff with poorer wages and conditions by setting up a new company and thereby circumventing labour market regulations governing CBA coverage. In 2005, the payroll departments at the individual worksites were eliminated and the function was centralized. Payroll staff throughout Nestlé in Germany lost their jobs while Nestlé set up a company with new hires at wages lower than those earned by Nestlé workers and with longer working hours.

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Nestlé also knows how to take advantage of union weakness as it has demonstrated in Peru, where, in the context of a weakened trade union movement, it uses the threat of outsourcing to achieve its cost-cutting and union-busting objectives. When, in May 2005, Nestlé announced its intention to outsource its distribution centre, the union attempted to negotiate to save Nestlé jobs on-site. The outcome of the negotiations was an agreement on Nestlé's part not to outsource the distribution centre, but at the cost of a reduction in the number of workers (including union members and officers) and a wage cut for the remaining workers.

The vanishing employer

At the Nestlé Kejayan plant in Indonesia, there are 521 permanent workers, including 200 "supervisors" not entitled to union membership. So there are 354 regular workers who are union members. Working side-by-side with these union members are about 500 precarious workers, most of which are employed through labour hiring agencies. An agency called ARECO provides delivery service workers, while workers hired through an agency called ARINA are on the production line. It looks something like this:

- ARECO – delivery service workers
- ARINA – production line workers
- SECURIOR – security guards
- PAN BAKTI – canteen workers
- VELLA and DINOYO – truck drivers, forklift drivers

Machinery maintenance, building maintenance, electricity maintenance are also outsourced.



These agencies not only supply labour to the Nestlé plant, they also pay their wages and hold contracts with them, so Nestlé is not formally their employer. This means that at any given time up to 50% of workers in the Nestlé factory are not employed by Nestlé! Or so the company claims. Nestlé management, however, makes all the decisions about their work and Nestlé management can fire them – precisely the kinds of authority that an employer exercises! In reality the differences are simple: the workers hired through the agencies are denied the right to union representation and are not covered by the Collective Bargaining Agreement, they are paid less (after the agencies deduct their own profits and fees), earn fewer benefits, and have no certainty that they will have a job from one week to the next. But they work side-by-side with Nestlé workers, producing the products that make it the world's largest food company!

It's the same situation in Hungary, where in the interest of "more flexibly serving the needs of the market", Nestlé employs about 360 contract workers in addition to about 700 directly-employed workers on the production line. These workers are not covered by the collective agreement, nor by any internal Nestlé policies (such as the Nestlé Human Resources Policy). They are contracted for periods of between one and three months (renewable) from agencies which pay their wages (lower than Nestlé workers doing the same job) and even have office space in the plant with staff that handles administrative and personnel issues.

Ingredients on the Nestlé Package



Low-cost casual, temporary and fixed-term contract workers free from pensions and benefits; cheap and insecure labour supplied through labour agencies; employment responsibility covered in layers of outsourcing and subcontracting; crushed and pounded job security; unions busted and ground. May also contain traces of casual workers without contracts.

Comparing the working conditions of regular and precarious workers

Let's take the example of Nestlé in Cagayan de Oro in the Philippines. If we compare the wages and benefits of union members, as provided in the CBA, to workers employed under labour-only contracting (a form of outsourcing) then we can get a clearer idea of why this precarious employment is so unjust.

In terms of overtime, regular workers are paid at a rate of 150% whereas workers hired through the COFIPAC firm only get their usual rate plus 30% for each hour rendered and the workers hired through Sansmate get no additional overtime pay at all. And if regular workers work more than 4 hours overtime they receive a meal allowance while the workers Nestlé hires through COFIPAC and Sansmate Manpower Services get nothing. Similarly, regular workers are paid annual vacation leave of 18 days, while workers at COFIPAC get 5 days (the minimum required under law) and workers at Sansmate get no annual vacation leave at all.

Regular workers are entitled to bereavement leave, emergency leave, maternity leave while the workers hired through COFIPAC and Sansmate have no leave entitlements at all. The same applies for medical benefits and insurance.

These inequalities are even more glaring when we compare the wages of workers doing the same job. Let's take wage figures from 2000 – we have this data because Nestlé, COFIPAC and Sansmate were compelled to submit wage records to the Court when the union filed a legal complaint. More recent wage data is withheld by Nestlé and its labour contractors. As a Nestlé employee covered by the CBA, a Grade 4 regular worker on the packing line earns on average 800 pesos per day (with a minimum of 500 pesos). In contrast, Nestlé workers paid through COFIPAC receive an average wage of only 180 pesos per day, and at Sansmate they are only paid on average 166 pesos per day. Even if the regular workers were receiving the **lowest** pay rate of 500 pesos per day, they were still earning 2.7 times more than workers employed through COFIPAC and 3 times more than workers employed through Sansmate, **even though they were doing exactly the same job** – filling and packing Nescafe instant coffee sachets.

Along with instant coffee, Nestlé is manufacturing instant, permanent insecurity and uncertainty. The workers hired through COFIPAC and Sansmate are constantly worried about whether they will be assigned sufficient working hours from one week to the next, and they know that no matter how long they work at COFIPAC or Sansmate they will never be assured of employment from one month to the next.

The assault on union membership

In Indonesia there are so many precarious employment practices used by Nestlé that the combined number of workers employed under these arrangements is more than the total number of regular workers.

If we look at the table below we can see a “snapshot” of June 2005, showing the number of regular workers, the number of union members and the average number of precarious workers in 3 factories and one warehouse in Indonesia.

Factory/ Workplace	Regular	Union membership	Daily Workers	Contract Workers	Outsourced (agencies)	TOTAL
Kejayan	521	354	0	0	500	1021
Gempol	117	84	0	0	312	429
(warehouse)						
Cikupa	198	153	100	0	52	350
Panjang	170	117	70	90	170	500
TOTAL	1006	708	170	90	1034	2300

The number of permanent workers is only 44% of the total number of workers employed directly and indirectly in the production and warehousing of Nestlé products in Indonesia. But since there are a large number of permanent workers who are not eligible for union membership because they are given the title of “supervisor” (even though they often do the same jobs as union members), the total union membership is only 30% of the total Nestlé workforce! That’s excluding all the sales force workers!

In all these cases, outsourcing and the hiring of casual workers, fixed-term contract workers and labour hiring agency workers has resulted in a dramatic decline in union membership. Declining membership translates into declining bargaining power. For this reason it is urgent that unions address the issue before the balance of forces shifts even further in favour of the company.



...in most cases management wants to speed up this process of bringing in precarious workers to cut costs, abolish benefits and weaken union strength

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In some cases the assault on the union involves closure and relocation to a nearby country where the regular jobs of union members are replaced with precarious employment. For example in early 2005, Nestlé Nordic announced the closure of its ice cream plant in Sweden and transfer of production to Denmark. In Sweden, 60% of the sales force is directly employed by Nestlé while 40% is “franchised”. In comparison, in Denmark, the sales force is 100% “franchised” (outsourced). During bargaining over the planned relocation Nestlé management admitted it would be looking at its sales force cost structure for further savings - most likely by increasing the rate of “franchising” in Sweden, where the commercial workers union had just re-negotiated the collective agreement for the directly-employed ice cream truck drivers. Asked whether “franchising” actually meant transforming Nestlé employees into independent contractors – the answer was yes!

When early retirement paves the way for new kinds of precarious employment

Another important source of creeping casualization and outsourcing involves the replacement of retirees with precarious workers. As regular workers retire, leaving the workplace and their union, the people that fill the positions are often denied the same pay and benefits, are denied coverage under the CBA and, of course, are denied union membership. Sometimes the management justifies this by claiming the position vacated by a retiree has ‘changed’ or has been ‘re-organized’. Or management may just abolish that position and create a new position – the same work, or MORE work, but for less pay and limited benefits.

By replacing each outgoing regular worker as they retire, management can slowly introduce an entirely new set of work arrangements based on precarious employment. But in most cases management wants to speed up this process of bringing in precarious workers to cut costs, abolish benefits and weaken union strength. This is where voluntary early retirement plays a critical role. As early retirees walk out, precarious workers are marched in.

It is a common strategy of management in the food and beverage industry to speed up the destruction of regular jobs by encouraging regular workers to leave – and leave behind them a very different job for the next person to fill. Sometimes incentive packages for early retirement are very attractive, and unions end up seeing a lot of their members willing to take the retirement package – including union officers. For the company, the cost of these ‘generous’ early retirement packages is offset by the big savings they will make in the long-run by reducing wages and benefits and weakening the union. In this sense the money spent on making early retirement attractive to workers is actually an investment in a low-cost, flexible, ‘union free’ and ‘job security free’ future.

In some cases, companies are more aggressive in forcing workers to take early retirement. Management may tell workers that if they don’t take the current early retirement package on offer, it will be reduced as each round of offers is made, and the last ones to finally agree to take early retirement will end up with far less money. This way management tries to get people to accept early retirement in the first round, speeding up the process of getting them out – and getting the new workers under precarious employment arrangements in.



“You’ll receive your paychecks as soon as I remember where we outsourced the Payroll Department.”

Managers and supervisors put more pressure on those workers targeted in the program, creating a stressful environment that forces them to 'volunteer'. This kind of force is often politically motivated. Union leaders, shop stewards and union activists are put under enormous pressure to 'volunteer', imposing penalties and disciplinary actions for minor mistakes, creating a negative atmosphere, and basically driving them out. By creating the conditions that force union members and leaders to involuntarily take 'voluntary early retirement' management achieves a double victory – the union is weakened and the road is open to restructuring and cost-cutting. The newly hired workers replacing voluntary retirees will never have the wages and benefits of the workers they are replacing, and will be systematically denied the right to union representation or the benefits and protection offered by a collective agreement bargained with the union.

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Whether regular workers genuinely volunteer to take an attractive retirement package or are forced to take it, there is a common outcome. As we've said, they are often replaced with precarious workers. So as more and more workers retire early, the workforce starts to change fundamentally – with more casualization, outsourcing and contracting-out and the remaining regular workers fast becoming a minority.

At Nestlé Philippines early retirement programs, unilateral transfer of union members to "exempt" categories, and promotion of union members to unjustified so-called "supervisory" positions (without any real change in job content) have been used to dramatically reduce the number of permanent workers in sales and clerical work. Early retirees as well as regular retirees (and members who were unilaterally removed by management from "bargainable" positions) are replaced with casual and fixed-term contract workers as well as third-party contractors. As a result the Magnolia Employees Labour Organization (MELO) saw their membership fall from 270 in 1996 to just 90 in 2005. Labour hire agencies are used for almost all positions, both in production and sales force offices. Workers contracted through labour hiring agencies are assigned to all types of positions normally filled by regular workers, and a substantial proportion of the workforce is now contractual. These workers are not allowed to work for more than five (5) months otherwise they may become regulars because of the provisions of the labor law and they are never recalled even if they had performed exceptionally well simply because they would accumulate the number of months (6-month period) required by law to become permanent. These contractuales are replaced with new workers who had never been hired in any Nestlé worksite. Similarly extensive third-party contracting saw the Southern sales force Union of Nestlé Employees - Cebu, Davao and Cagayan de Oro Sales Offices (UNPESO) left with only 36 members as of June 2005.



In the Philippines, the combined membership of the Council of Filipino Nestlé Unions (CFNU) declined from 1,800 in 2001 to 995 as of August 2005. The primary reason for this declining membership was the early retirement program, with retirees replaced by non-permanent workers not eligible for union membership. A secondary reason is changes to job titles and 'promotion' of union members to supervisory positions that are no longer covered by the CBA.

As we saw in Part 1, one of the main reasons for the rise in precarious employment practices is the conscious move by employers to exploit laws that prohibit precarious workers from joining unions and collective bargaining. In many countries the law denies precarious workers the right to union membership and the right to collective bargaining.

The deliberate use of these laws by employers is demonstrated by the fact that whenever the union organizes precarious workers and fights for their rights and interests, employers always respond that the union has no legal right to represent them! This is a legal argument that employers can use because of the existing laws that restrict the rights of precarious workers. But as we will see in Section 3, instead of accepting this legal argument, unions have fought both the employers' attempts to use the law and have fought for legal reform to remove these restrictions and remove a major motivation for creating precarious work.

Fighting Back

In this section we will look at examples of successful union organizing strategies to combat precarious work. This draws directly from the experiences of union struggles in the food and beverage sector in different countries around the world, giving us important insights not only into the strategies and tactics used in the fight against outsourcing and casualization, but also the principles on which these struggles were fought and won.

Closing the casualization gap

In fighting casualization, outsourcing and other kinds of precarious employment practices, unions often find it necessary to start with small, concrete steps. These steps may involve efforts to close the gap between precarious workers and union members, particularly the gap in wages and benefits.

The union at the Coca-Cola plant in Bangalore in southern India, for example, has won medical benefits, accident insurance, overtime pay and annual bonuses for casual workers, even though they are not union members. Casual workers are also now included in the regular health checks conducted at the plant and the union is working on securing them further benefits. These initial steps form part of a wider national campaign coordinated by the All India Council of Cola Workers, which includes in its 10-point *Common National Charter of Demands*: "Regularization of contract and casual workers."



Winning these benefits is important not only in terms of economic benefits and fairness. It raises union awareness among casual workers and mobilizes union members around casualization issues. It also forces the company to recognize that casual workers have the right to union representation and the union has the capacity to represent them. Unionizing these casual workers to bring them within the scope of the collective agreement, with full benefits, is the longer-term goal.

From Casual to Permanent

Organizing to win permanent status for casuals

The IUF-affiliated Swire Beverages (Hong Kong) Employees General Union, representing 350 workers at Swire Coca-Cola Hong Kong (SCCHK), recently won permanent status for 130 casual workers.

After 5 years of fighting against casualization and demanding the regularization of casual workers, the union campaign gained strength in 2004. Over a six-month period the union organized a series of meetings and a petition, collecting the signatures of over 90% of the 400 non-permanent workers employed at the SCCHK plant. Approximately half of the 600 workers employed in production alone are non-permanent. A key part of the union's strategy has been to organize non-permanent workers, representing them as dues-paying union members in negotiations with management.

In the lead-up to annual wage negotiations for 2005, the union organized a membership meeting outside the plant to demonstrate its commitment to reverse casualization, then filed a formal complaint to the Human Resources Department of SCCHK, together with the petition. The management responded with a commitment to regularize all casual workers in the plant, starting with 130 workers who immediately secured regular status. One of the leaders of the casual workers' organizing drive, himself employed on a casual basis and denied regular status for over 4 years, is now a member of the union executive committee and will lead the fight for full regularization.



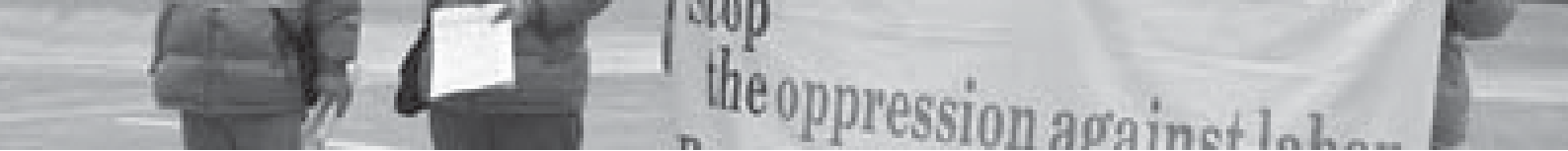
“I’ve called the family together to announce that, because of inflation, I’m going to have to let two of you go.”

Negotiating permanent status for casuals

Many unions have found that the first stage in negotiating permanent status for non-permanent staff is to win broad support for the position that precarious workers must be given priority when new regular positions need to be filled.

On November 1, 2004, the IUF affiliate Ceylon Mercantile Union (CMU) signed a new Collective Agreement with Coca-Cola Beverages Sri Lanka that is effective (retroactively) from July 1, 2004 to June 30, 2006. CMU represents both the clerical staff and production workers, with a total of 240 members, including 22 casual workers. This represents 80% of all employees at the Biyagama plant.

Under the agreement, half the casual workers will be given permanent status by January 2006, and the other half will be made permanent by January 2007.



The text of the relevant clause in the agreement reads:

The Employer will continue to employ Twenty Two (22) persons on a casual basis, to meet the cadre requirement in the factory and the persons so engaged will also be given 10% and 5% increases to the existing wage ..., on the same basis as is granted to the permanent employees covered under the agreement. [...] It is hereby agreed by the Employer to absorb 11 of the casual cadre set out herein to the permanent cadre in January 2006. The balance 11 casual employees will be absorbed to the permanent cadre in January 2007 subject to the realization of the Company's expansion plan.

Though small in number, the union has been actively fighting for the rights of these casual workers, including their right to union membership. By securing their right to permanent employment status over the next 2 years, the union has now effectively halted any further casualization. In addition, this victory sets an important precedent in the food and beverage industry in Sri Lanka.

When regularizing casualization becomes a national union trade union priority: bringing it down to the plant/company level

In Korea, halting further casualization has become a strategic trade union priority. Non-permanent workers now account for some 60 percent of the workforce, and the government is pushing for legislative changes which would facilitate even greater use of non-permanent employment. The national center, the Korean Confederation of Trade Unions (KCTU), has therefore urged its affiliates to include in their collective bargaining the “regularization” of all irregular workers at their workplaces as a central element in the fight against neo-liberal globalization.

In collective bargaining negotiations with the Coca-Cola Korea Bottling Company (CCKBC) that concluded in July 2004, the CCKBC Labour Union won permanent employment status for 55 subcontracted workers employed by the company, with 12 workers gaining immediate regular status in July at the conclusion of the agreement, and another 43 workers securing regular status in September.

In a Side Agreement to the Collective Bargaining Agreement (CBA) signed on 20 July 2004, the clause on 'Non-regular workers' reads:

The Company should make the best efforts to directly hire and regularize its non-regular employees on a step-by-step basis. The Company should proceed hiring of non-regular employees who were presented by the Union during 2004 Collective Bargaining Negotiations ... and passed the recruiting process....

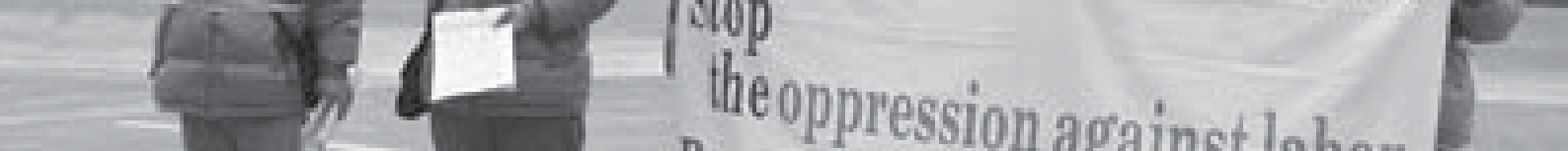
In addition to the 50 irregular workers identified at the time of the agreement, another 5 workers were subsequently added to this list and given regular status. At the same time, the company's agreement to ongoing discussions of regularization of casual workers was secured.

As part of the broader KCTU struggle against casualization, the union not only succeeded in winning regular employment for 55 casual/subcontracted workers, but also set an example for future collective bargaining demands.

Negotiating permanent part-time status for seasonal workers

At a confectionery plant in Italy which Nestlé acquired in 1993, seasonal workers won job security through an agreement negotiated in 1999 which sets out the conditions for a change of status from seasonal to permanent part-time workers.

In negotiating the agreement, the unions challenged the management logic that the nature of production, whether continuous or seasonal, defines the status of the worker assigned to it. Traditionally, some 420 workers were hired for the peak season prior to and following Christmas and Easter. Every year they were laid off at the end of the season, paid the redundancy provisions required by law, and then rehired (with priority given to those who have previously worked there, as required by law) at the start of the new season.



The 1999 agreement introduced a form of flexible part-time work. As an initial step, 70 seasonal workers were offered permanent, part-time contracts, based on: "... a mean working time of 30 hours per week, equivalent to a minimum of 1560 hours per year; to be effected during the calendar year in line with the factory's production and organizational requirements." The extra time worked during the peak season is recovered during the period of lower production. In practice, this means that workers on flexible part-time contracts work full time from July through March, and not at all from April through June, while receiving 75% of the full-time salary every month for 12 months each year.

In connection with factory restructuring in 2003, and the resulting elimination of 160 jobs, the unions (FAI-CISL, FLAI-CGIL, UILA-UIL) negotiated:

- the extension of "flexible part-time" status to remaining seasonal workers;
- the conversion of existing flexible part-time into full-time contracts;
- and provisions limiting any attempt to re-introduce precarious work

These measures led to increased employment stability in the factory. All of the previously "seasonal" workers are now permanent workers, a change of status which not only guarantees them a regular income and all legal and contractual benefits, but finally gives them access to bank credits and mortgages.

Negotiating limits on hiring precarious workers

In May 2004, brewery workers organized by the Norwegian food and allied workers union NNN went on strike over their demand to bargain limits on the hiring of temporary workers. What they achieved as a result of their successful 3-day strike was CBA language spelling out the conditions for taking on temporary staff, setting limits on the number of temporary workers and providing for full consultation with union shop stewards before hiring temporary staff. The relevant articles of the CBA read as follows:

The pre-condition for hiring temporary workers is the establishment of adequate staffing levels for each enterprise/department. This includes the normal pattern of absences which shall be covered by permanent workers. Hiring of workers through third parties may occur during holiday and seasonal peak periods, during periods of high absenteeism and in the case of unforeseen events. As soon as possible, and before

the enterprise enters into an agreement to contract workers, the extent and the need to take on temporary staff shall be discussed with the shop stewards....

The enterprise shall provide all necessary information so that the shop stewards may determine whether the hiring conditions are in conformity with existing laws and agreements with respect to the reasons for hiring and the proposed numbers of temporary staff to be hired.

This achievement in the brewery sector was soon extended to other food and allied sectors as NNN negotiated identical clauses in other CBAs, including the CBA for Nestlé Norway which came into effect on 1 July 2004.

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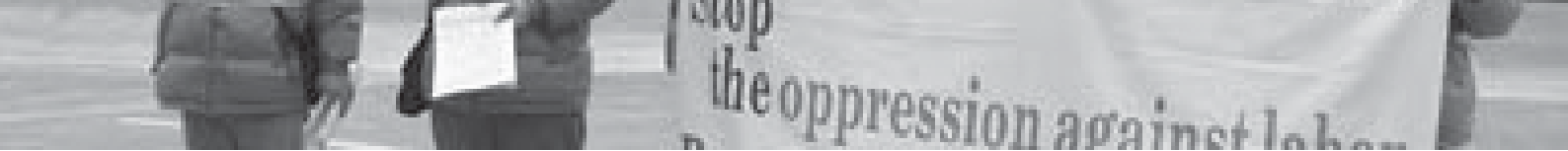
Another important victory against precarious employment was won by the Australian Manufacturing Workers' Union (AMWU) when it rolled back outsourcing and casualization at three plants operated by Nestlé Confectionery Australia. This was achieved following a year-long campaign of meetings, newsletters and information-sharing through enterprise-level and national-level committees undertaken by the AMWU because Nestlé workers had identified the increasing use of non-permanent labour through labour hire firms as a key concern. The AMWU made central to the collective bargaining campaign the need to increase direct permanent employment at Nestlé Confectionery.

The new Collective Agreement, signed in August 2004, sets a limit at 15% of the total number of normal (non-overtime) hours that can be worked by non-permanent labour. The total of normal hours undertaken are to be reviewed every three months and any time over the limit is to be converted to permanent jobs according to a formula incorporated into the agreement. Prior to the agreement there were cases of up to 23% of total normal hours worked being undertaken by precarious workers.

The relevant clause, entitled "*Labour Review Process*", reads as follows:

Management and shop stewards will review the use of temporary and casual labour in Production and Materials on a three monthly basis.

On a total ordinary hours worked basis (exclusive of any forms of leave), in the previous three months, if the hours worked by temporary, casual and labour hire workers exceeds 15% of hours worked by permanent employees the hours in excess will be the basis for the hiring of additional



employees. The percentage difference shall be calculated as per the following example:

1. Total ordinary hours worked by casual/temporary employees = 9,660 hours.
2. Total ordinary hours worked by permanent employees = 50,000 hours
3. Percentage usage = 9,660 divided by 50,000 x 100 = 19.3%
4. Theoretical 15% level = 0.15 x 50,000 = 7,500 hours
5. Hours excess to 15% level = 9,660 - 7,500 = 2,160 hours
6. Resulting number = 2160 divided by 12 weeks divided by 36 hours = 5

Therefore as a result of this example review, five (5) additional employees would be recruited.

When the resulting number is determined this number will be employed as permanent employees so long as the permanent positions can be sustained into the foreseeable future. Recruitment of new employees will be as soon as practicable.

Although the formula seems complicated, the logic is very simple: if temporary or casual workers are hired for so many hours, and if these working hours add up to a significant proportion of union members' working hours, then they should be regular workers! Obviously, any formula for calculating limits on precarious work and the percentage of working hours that must be converted to regular work will vary in different situations and in different countries. The main point here is that the union negotiated a clear formula that can be used by shop stewards to regularly monitor any precarious employment in the workplace. This makes it extremely difficult for management to hide increases in precarious work or to claim that the agreed limits are 'unclear'. Moreover, a regular, monthly review of the hiring of any temporary and workers enables the union to monitor the situation very closely, preventing the kind of 'creeping casualization' that we saw in Part 2.

Negotiating the right to monitor what's going on

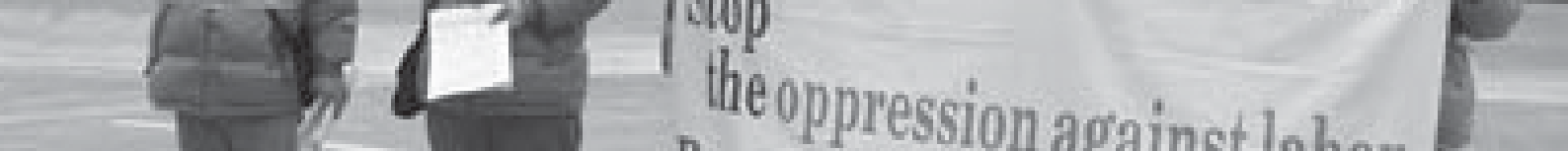
In addition to winning restrictions to limit and roll back precarious employment, unions also need to closely monitor all new hiring to make sure the agreement is respected. In the case of AMWU's CBA with Nestle Confectionery Australia, a specific clause was bargained so that the union can monitor and review all existing and new employment arrangements. The clause reads:

Temporary, part-time casual and contract employment is necessary to maintain flexible and efficient operation and to meet the fluctuating level of demand for our products. The need for utilization of these forms of labour will be monitored and reviewed by union delegates at each site on a quarterly basis. The employer shall provide and discuss information including but not limited to (i) full particulars of the nature and extent of the work to be performed and (ii) the reasons why casual employees are required as opposed to part time, temporary or full time employees.

Ultimately, the union was able to win these CBA provisions through a concerted emphasis on the importance of the issue and the membership's willingness and preparedness to back up the demands with united collective action across the three manufacturing sites. By exercising its bargaining power, the union took a proactive stance in negotiating change and rolling back outsourcing and casualization.

Negotiating the right to negotiate hiring

In July 2003, the Nestle Korea Labor Union (NKLK) went on strike for 145 days against management's restructuring and outsourcing initiative. Management responded to the union's occupation of the factory by locking out the workers and went on national television threatening to move the plant to China. Despite the threats and pressure, the workers maintained their strike until they won. Key ingredients in the victory were the strength of the local struggle,



strong regional solidarity from other unions in Korea, and international solidarity organized through the IUF. The agreement which solidified that victory established the union's right to negotiate management hiring practices:

When the Company intends to transfer some of the production to outsourcing or sub-contracting, it shall discuss with the Union in advance.

Once the Company has made contracts with outsourcing firms or subcontractors, it should notify the Union of their address, representative and telephone number.

When work to do in the Company becomes insufficient, the Company provides substitute jobs.

Not long after the new CBA was signed, this clause on outsourcing was translated into several languages and used by other unions in the region as part of their collective bargaining demands. This includes the affiliates of the Federation of Nestle Indonesia Workers (FSBNI) which developed new CBA proposals incorporating this clause as "best practice". In this sense the victory of NKLK was magnified, making it a victory for other Nestle unions in the region.

In Canada, CAW Local 126 negotiated a Collective Agreement with the Coca-Cola Bottling Company at its plant in Weston with strict provisions on when precarious workers can be employed and limits on outsourcing or "contracting out". The following clauses not only restrict outsourcing, but also provide for union intervention *before* any change takes place:

- (a) The Company agrees that if contracting out of any work normally performed by regular employees in the bargaining unit would result in the layoff of any regular employee, the Company will meet with the Union to discuss ways and means of reducing the impact of such changes on the employee(s) to be affected.
- (b) The Company also agrees that it will not, during the life of this Agreement, extend its present practices with respect to the contracting out of work, provided that the Company has the capability (i.e. the facilities, equipment and/or required workforce skills) to perform such work within the bargaining unit without serious impairment to the normal efficiency of operations.
- (c) If the Company plans to contract out work beyond that permitted by (a) or (b) above, it will give the Union written notice of such intention. The parties shall meet immediately thereafter, at which time the Company will provide

particulars of the proposed contracting. The parties will attempt to agree on ways to minimize the impact of the contracting on the bargaining unit employees and/or will attempt to seek mutually acceptable arrangements which will produce comparable business results for the Company. Any arrangement mutually agreed upon at or following these discussions shall not be considered a violation of this Article.

At the end of this clause in the Agreement, it is again reasserted that: “The Company shall not extend its current practices of contracting out except under the terms of (a) or (b) above, unless it is with the agreement of the Union.”

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What is important in these Collective Agreement provisions is that the company agrees that it will not engage in contracting out (outsourcing), but if there is a need to do so it will first notify the union, then hold negotiations with the union to reach a mutual agreement on whether contracting out will be permitted, its impact on union members, and other aspects of the arrangement. This clearly gives the union an opportunity to intervene *before* any outsourcing occurs and to challenge the management’s justification for trying to introduce precarious work.

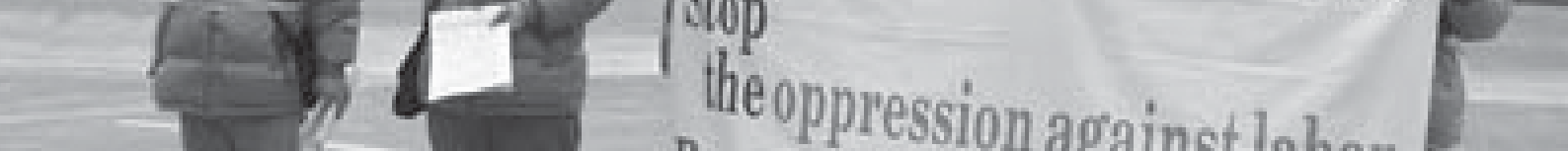
This reminds us that prior notification is not enough. The company can easily notify the union of outsourcing plans or hiring casuals then go ahead and implement its plans. The point is that CBA language must give unions the right to be notified and the right to intervene after being notified, so that any changes must be mutually agreed – that is, they must be *negotiated*.

Challenging Discrimination & Exclusion

The right of unions to represent precarious workers

Employers exploit gaps and loopholes in the law to maximize the use of casual work. But sometimes those laws contain articles or loopholes which unions can use. Labour legislation dealing with temporary employment is an area where unions can benefit from expert legal advice and, in certain situations, use it to their tactical advantage.

In 2004, the union at a Coca-Cola plant in Pakistan demanded the right of casual workers to be issued with social security and provident fund cards. The company complied with this request because it cost them nothing - no funds were ever deposited in the provident funds or social security because they were not regular workers.



Later the union went to the Labour Court on behalf of the casual workers to demand their right to regular employment. According to the law, any worker employed continuously for more than 90 days should be hired as a permanent employee. To exploit this legal loophole, the company employed these casual workers regularly for periods of less than 90 days over a period of years.

In Court, the dates on the social security and pension cards of the casual workers was considered the legal date for the commencement of employment - proving that they were employed regularly for MORE than 90 days. As a result the Court ruled that they were entitled to permanent employment status. The union can now represent these workers in collective bargaining.

The Coca-Cola Sales Force Union-Meycauayan has argued in a suit against Coca-Cola Bottlers Philippines that the extended employment of “probational” workers well beyond the six month limit violates national law:

Complainant union has the right to represent the employees affected by the schemes of the respondents including the over-extended probational employees. While it may be true that the complainant union represents only regular employees, it can also [represent] these over-extended probational employees. By operation of law, these over-extended probational employees have already become regular employees. Thus, they may be classified as union members by virtue thereof.

In 2001, the UNCW in the Philippines requested that the Labour Department investigate “labour-only” contracting by Nestlé’s co-packer COFIPAC. The union argued that COFIPAC was not contracted by Nestlé as a coffee packing company to pack Nescafe products, but was serving as a labour contracting firm. The Labour Department inspection team found that the complaint was true, and that three companies, COFIPAC, FEDCON and SCF General Manpower Services, were providing labour-only contracting to Nestlé. Nestlé claimed that they were independent third-party contractors, which means they should have their own plant and equipment, not just labour. But the investigation also found they were producing the same products as regular employees directly employed by Nestlé. Based on these findings the union filed a complaint in the National Labour Relations Commission, but it was not until January 2005 that Nestlé answered the charges. In July 2005 the Labour Arbitrator ruled in favour of the company. The union has appealed and expects to take the case to the Supreme Court.

The Right to Regular Employment

As discussed in Part 2 employers often argue that the union has no right to represent precarious workers or even make demands concerning the use of precarious employment practices in the workplace.

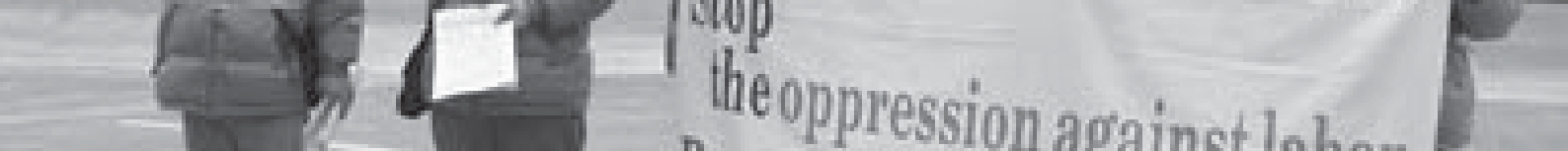
Rejecting this argument, unions have used some or all of these counter-arguments:

- a) precarious employment has a direct and detrimental impact on the job security and benefits of union members and therefore it is a legitimate issue to be dealt with in bargaining negotiations;
- b) precarious workers should be regular workers because of the length of time or regularity with which they've been employed and re-employed and so they are in fact legally entitled to union representation and the conditions and benefits provided for in collective agreements;
- c) the law is biased and discriminatory and must be changed.

Although these arguments may seem contradictory, it is often a tactic of the union to use legal counter-arguments to advance the view that precarious workers DO have legal entitlements because they SHOULD in fact be regular workers, while at the same time adopting a longer-term strategy of fighting for legal reform to bring an end to precarious employment. Some unions argue that precarious employment should not be legitimized by the introduction of a law that recognizes the rights of precarious workers. That's because these rights will always be undermined by the absence of job security.

A more effective approach is to attack the primary reasons motivating employers to use precarious employment arrangements – that is, reducing overhead through the creation of a labour force which is stratified according to employment status, and the denial of the right to union membership, which reinforces that stratification and increases management control - by attacking the incentives at source. So the real legal battle is fought over the removal or reform of laws that allow precarious employment; the (re)introduction of laws on job security and security of tenure – laws that protect 'standard' or 'regular' employment; and – most important of all – the right of all workers, including precarious workers, to join unions and the right to collective bargaining.

In some cases, unions have ignored the legal restrictions on precarious workers and organized them as union members, as in the examples we've seen in this section of the Coca-Cola unions in Hong Kong and Sri Lanka. These unions have even successfully bargained on behalf of precarious



workers even though there was no legal basis to do so. The point is that the union must be able to organize sufficient support among its members for the demand for the rights of precarious workers to regular employment – and to exercise its collective bargaining power to secure this demand regardless of the legal definitions and limitations they may face. At the same time, the union must still join the wider union movement struggle for labour law reform so that these struggles are magnified and regenerate regular employment in society as a whole.

The KCTU

In November 2005 in South Korea, the KCTU launched a major struggle against the introduction of new labour laws that would allow increased use of ‘irregular’ workers that would allow employers to increase their use of temporary workers and contract labour. Following a sit-down strike at the National Assembly on 22nd November, the KCTU called for general strike action beginning 1st December. This reminds us that the fight against precarious work must form part of a larger political battle against the legalization of precarious work, and for legal reforms to protect job security.

Stopping outsourcing at the source

One of the first activities to be outsourced from a worksite are those which are referred to as auxiliary services: for example, cleaning, catering, security. In many countries, the outsourcing of these activities occurred so long ago that we’ve forgotten that the workers who perform them were once our colleagues and members of our union. Companies providing enterprises with expertise in “building services” and the staff to go with it have sprung up and flourished and their advertising material suggesting a distinction between “peripheral” and “core” business is persuasive and convincing. Nevertheless, we can still find worksites where services are provided by in-house staff and unions are fighting to keep it that way.

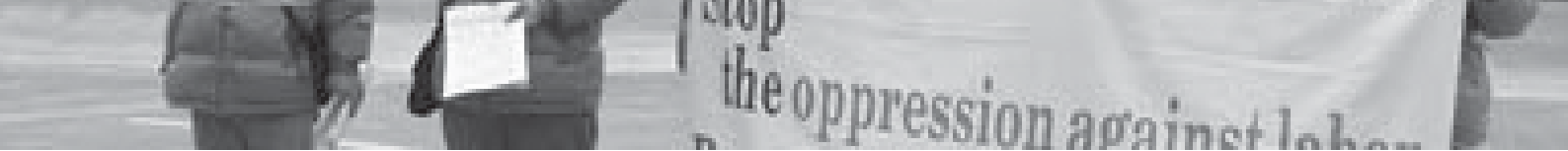
For a number of years now, the workers at the Nestlé confectionery plant in Lvov (Ukraine) have been having a problem with their canteen – the factory grounds are so extensive and the lunch break is so short that by the time they get to the canteen, it's time to get back to work. However, instead of addressing the real problem by making improvements in work organization and the canteen, Nestlé proposed closing down the canteen and installing refrigerators and micro-wave ovens for self-catering – for over 1,500 workers! The company's next great idea was to contract a food delivery service, a prospect which caused a great deal of consternation amongst workers concerned about the quality and safety of their food and the jobs of their colleagues who cooked and served their meals.

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The union took up the cause of “good food” for the workers at the plant and the fight to save the Nestlé canteen workers' jobs and engaged the company in negotiations. Plant workers overwhelmingly support the principle of keeping the canteen in-house, but Nestlé told them that nowhere in the world does it run its own canteens. The union, equipped with information from other Nestlé sites disproving this claim - and having discovered that the food service provider Nestlé wanted to contract didn't even exist - kept up its resistance to the outsourcing of this key service and achieved its objective: the canteen will be maintained and the issue of the lack of adequate time will be addressed by changing the way meals are made available. Further measures are envisaged following a joint evaluation by the union and management.

The struggle against outsourcing of the canteen raises important questions for unions. Some may argue that it “only” involved 8 workers. But clearly the union understood its duty to defend the jobs and rights of these workers as union members, as well as to protect the wider interests of union members as a whole. As we saw in Parts 1 and 2, outsourcing of the canteen is often just the beginning of new kinds of precarious employment practices in the workplace. If left unchallenged, we will soon find the work of union members outsourced or casualized.

This creeping casualization not only begins in the canteen but other services like security and cleaning. In the Philippines, the Magnolia Employees Labour Organization (MELO) at the Nestlé Aurora ice cream plant in Quezon City, filed a legal case against the company for using outsourced security staff to undertake tasks usually done by union members. The union challenged the management's “flexible” use of two security guards who were given additional work as internal and external messengers— tasks that union members were doing until they were retrenched. For the union it was clear that the management's flexible use of outsourced security staff was just the beginning of a longer-term plan to replace union members with precarious workers. There are now 33 precarious “white collar” workers in several departments of the Aurora Ice Cream



plant, including Supply Chain Management, ISD Service Desk/Load Globe Organization, Finance Department, Sales and Marketing, Chilled Warehouse Office and HRM.

When the union at a Cargill plant in the city of Efremov in Russia found out about plans to outsource the security and dismiss the 47 security workers they launched a legal challenge and a public campaign. The plan to outsource security, with security staff coming in from nearby Moscow, was understood by the union to be just the beginning of a much bigger plan for outsourcing. In response they adopted a two-pronged strategy:

- 1) the union brought the case to court, arguing that the dismissals were not due to the loss of the workplace but because the workplace was being transferred to a different legal entity (that is, the outsourcing company)
- 2) the union launched a public campaign against Cargill over the issue

Although the legal challenge could not advance because of the court's refusal to accept the union's argument that the replacement of security staff as illegal, the public campaign proved very effective. On March 1, 2003, the union called a rally in protest of the decision to outsource security services, which was joined by more than 300 people. Given the small size of the city of Efremov, this attendance was significant.

In the end the union was unable to stop the outsourcing of security. But the public campaign had a longer-term impact. Following the public rally, no further outsourcing has ever been proposed by the management. So through this public action the union was able to intervene to stop the 'creeping casualization' that would start with security and end up destroying the job security of union members. In addition, this struggle represented one of the very first public actions in Russia against outsourcing. As a result greater public awareness has been raised about a very new (and misunderstood) management strategy, thus making a long-term contribution the struggle against precarious employment.

Conclusion

Unions have successfully challenged the trend towards greater use of precarious employment, winning important gains in both poor countries and developed ones. Trade unionists everywhere can draw on this growing body of experience for ideas, inspiration, and practical models, including specific language in collective bargaining agreements. Workers and their unions - locally, nationally, and internationally, can build on these struggles. These victories are important for another very practical reason: management tells us that this is the way it is everywhere, so why fight it. These struggles show that it's NOT the same everywhere: precarious work can be fought off and rolled back, bringing increased security and improved conditions.

Unions have successfully responded to the impending threat of precarious work by intervening early to stop its introduction, through bargaining and mobilizing their members. We have also seen examples of unions effectively rolling back existing precarious employment by reaching out to precarious workers and organizing them. In both cases it is clear that these changes – like any changes introduced into the workplace – must be negotiated, and to do so the union must exercise its maximum bargaining power.

The ability of unions to negotiate change also depends on access to information concerning plans for precarious employment or precarious work that already exists. Gaining access to this information is based on a set of rights that unions must constantly assert.



The Right to Know

The 'Manila Declaration' on the global rights of Nestlé workers adopted by IUF's Nestlé affiliates in December 1999, makes explicit reference to the right of unions to information needed to negotiate changes in the workplace:

3. All Nestlé employees have the right to reasonable notice of changes and to be consulted through their trade union representatives on the impact of the introduction of new technologies on the workplace.
5. All Nestlé employees have the right to secure and dignified employment. Restructuring measures must be subject to prior negotiations with trade union representatives.
7. All Nestlé employees have the right, through their trade union representatives, to full information about business developments within the company and to have access to dialogue with decision-makers within the company.



The IUF and Global Union Recognition

Corporate management at transnational corporations (TNCs) like Nestlé claims the right to make global strategic choices which affect workers everywhere while refusing to assume global responsibility for the consequences of these decisions. Responsibility for industrial relations is always pushed down to the regional, national or even plant level. This gives the company maximum flexibility with minimum responsibility. In the final analysis, rolling back and eliminating precarious work will require negotiating a company-wide commitment to fixed, permanent employment. This in turn depends on unions' ability to negotiate the issue at international level. The vehicle for these negotiations is the global union federation for the food and beverage sector, the IUF.

The IUF is only as strong as its members. Getting any TNC to recognize the IUF and sit across it at a bargaining table means that member unions must be active members, working together with the IUF in the regions and internationally. Regular communication with the regional and international secretariats is an essential part of building an effective international union campaign against precarious work.

The strategies described in Part 3 also demonstrate the importance of solidarity as an organizing principle. This is not limited to the unity and commitment among union members in the struggle against outsourcing and casualization. It requires as well the extension of solidarity to precarious workers. Instead of treating precarious workers merely as a threat to their job security and working conditions, unionists made a concerted effort to organize and mobilize precarious workers and advance a common set of demands. This solidarity underpinned the union strategies in virtually every case where unions succeeded in rolling back outsourcing and casualization.



It is also important that we recognize the global scope of these struggles – and the need for global trade union organization. The management strategies to impose precarious employment and union resistance both form part of a global process. Global coordination of these struggles through the IUF makes possible the systematic exchange of information and CBA ‘best practices’ and the collective growth of organizing strategies and tactics. Drawing on the strength of its global membership, the IUF has been able to deliver concrete solidarity and support for union struggles that has been crucial to their outcome. This global solidarity network makes it possible for each victory to be magnified, enabling other unions to build on their success by advancing similar demands and using similar strategies and tactics, or by building on the accumulated experience to devise new strategies and new forms of struggle. Since the rise of precarious work is prevalent throughout the food and beverage industry globally, and since transnational corporations (TNCs) are the most aggressive in enforcing these new employment strategies, it is necessary to ensure that union responses are globally coordinated, reinforcing each other and building a global momentum that can halt and reverse outsourcing and casualization everywhere.

The next section, **Part 5**, provides some recommendations for the ‘first steps’ taken by unions in the fight against outsourcing and precarious work. Designed as a practical guide, it presents key questions, check-lists and points on strategy to assist the preparation of campaigns against precarious employment.

Nestlé Perm (Russian Federation) workers march against outsourcing and contract labour on May Day 2006



Fighting Outsourcing and Precarious Work: The First Steps

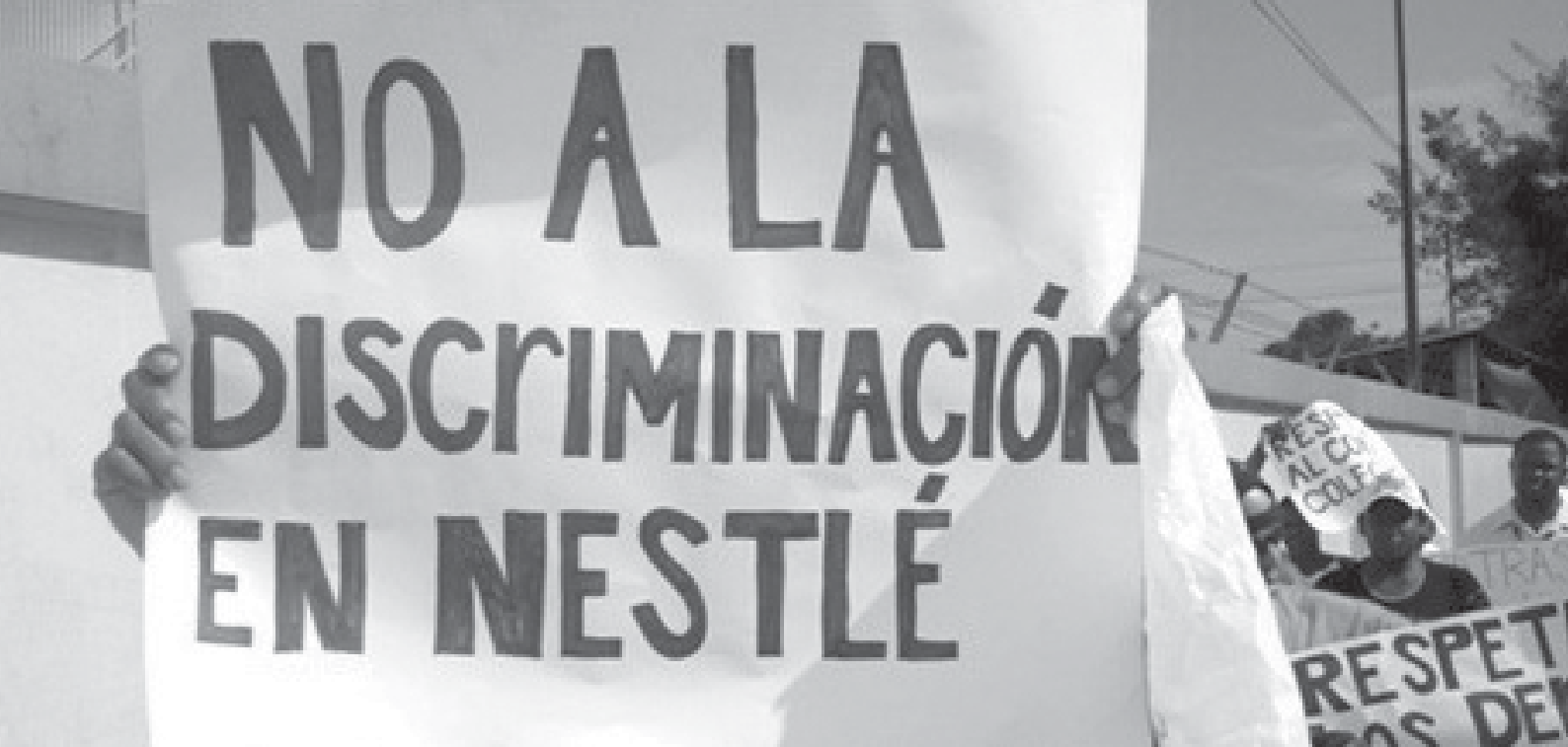
In the previous parts of this manual we looked at the various forms of precarious work and how they weaken union organization in the workplace. We've also given examples of successful union organizing, campaigns and negotiations to stop, limit, and reverse outsourcing and other precarious forms of work.

All these examples show that we cannot rely on a “wait and see” approach.

Experience shows that by the time it becomes obvious that there is a real problem, a lot of damage has already been done. Many unions have found that it is better to stop it right away than to fight the consequences later. As we have already seen, a primary aim of precarious employment is to reduce union membership and undermine the union's collective bargaining power. So if precarious employment is allowed to grow while unions “wait and see”, then by the time they decide to take action they may find that their bargaining power has been significantly diminished along with union membership. Unions must act at the first sign of precarious employment being introduced into the workplace.

The time for action is now!

In this section, we give some practical tips on how to proceed when your union wants to take up the fight against outsourcing. Drawing on the experience of different unions, we look at some of the questions you'll be asked and the arguments you can use to convince people of the need to tackle the problem, the kinds of information you'll need to collect to prepare your strategy, ideas on how to get your members involved, choices on strategy and activities and a checklist to analyze your union's capacity to effectively mobilize around the issue.



Outsourcing has emerged as one of the key management strategies for weakening and undermining union strength. It takes different forms in different countries and even within single plants. To tackle the problem effectively, you need to carefully plan your strategy according to your local situation. This includes your own strengths and weaknesses and your members' needs and readiness to act, as well as your own managements' attitude, strategy and plans.

This section can only offer ideas on first steps if your union is starting to take up the problem. More advanced strategies will have to be developed in the course of your own activities.

Why fight it? convincing members and colleagues

Outsourcing is a complex process. Its negative consequences are not always immediately obvious. When they do become visible, the process is often well advanced. Union leaders must explain to their members and activists why this is an urgent issue requiring collective action. Management everywhere has a common stock of arguments to justify outsourcing and casual labour. Convincing people of the need for action means taking on the arguments that management uses to justify these practices. They have become so widespread that you may even hear them echoed by those you work with when you raise the issue!

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Here are some of the main arguments unions typically meet with and how you might respond.

“It’s none of your business”

Management claims it is their prerogative to hire and use people in any way they see fit, and tells us it’s not our business. They can, and do, say the same about wages, work organization, gender policy, and virtually everything which affects workers.

It IS our business, because it affects the job security, working conditions and union organization of everyone at our workplace!

“It’s not part of our core business”

When work is outsourced, we’re typically told, “This is just about the canteen, it’s not part of our core business.” Later, we hear the same about cleaners, and security, and maintenance. Tomorrow it could be the warehouse, or the drivers, or loaders, or sales, or office staff, or packaging ... The truth is that in practice there are no limits. All work can and will be made more precarious if unions don’t stop it through organization and negotiation. In many workplaces the process has already penetrated into “core production” – workers find themselves working on the same production line, but under different conditions. Many companies in the food and beverage sector are implementing continuous restructuring as part of the drive for greater flexibility. Under continuous restructuring, the “core” is constantly changing. The real question we need to ask is whether the company could function without all those services and tasks that are described as “auxiliary” or “not core business”. Imagine your workplace without a canteen, without cleaners,



maintenance and repair workers, security, drivers, loaders.... The fact is that all of these workers contribute to the products that the company sells, and without them the company could not function. This means that the “core versus non-core” is a false distinction. For unions it’s important to regard all of these tasks as part of the workplace, and so all of the workers involved must be union members. If the management disagrees, then the union has to fight to make them agree. If the law states that these workers are not “regular” workers and so cannot be union members, then it is the law that must be changed, not the union’s position.

All work that goes into the products sold by the company is “core”!

“We don’t want to employ unqualified people like cleaning staff...”

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The fact is that the company DOES employ them! The only difference is that outsourced workers are employed under inferior pay and conditions, with little or no job security.

ALL employees make a vital contribution to the company’s product. Is management indifferent to the quality and supply of the raw materials which enter the production chain? or to what happens to the product once it leaves the factory? Producing and delivering a product to consumers is the result of a complex system of arranging work. The employer must assume responsibility for the terms and conditions of employment of everyone whose activity throughout this system contributes to the product.

“It’s only seasonal / It’s the nature of the business”

Of course there are ups and downs in demand and as well as in the supply of raw materials, especially with changing seasons. But something else is going on here, and companies are abusing the situation. Let’s take a closer look.

A season is a clearly defined time of year, not a week when a big order has come in. What is “seasonal” about temporarily hiring a worker for a week in summer in a chocolate factory, or for three weeks in winter in a coffee-processing plant? Many workers are permanently on standby, and never know when and for how long they will be employed.

In cases like these, the truth is that workers are being “flexibly” hired and fired, directly or through an outsourcing arrangement, to compensate for poor planning or to meet the needs of “just in time” production.

In other cases, “temporary workers” work all year on temporary contracts that are renewed every year or every couple of months. Management keeps workers in a dependent position and creates a buffer for future possible market downturn.

In both cases, the temporary, “seasonal” workers bear the costs of the market ups and downs which are an inevitable part of any business.

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The “seasonality” in many cases is pure fiction to mask the fact that the company is increasing its profit by passing on the market risks to workers. We’ve seen the example of the Nestlé factory in Malaysia in Part III, which is hiring “seasonal” workers at all times of the year. At Nestlé, all seasons are temp season!

“It’s only a probationary period”

In most countries, the length of a probationary period is clearly defined by the law. It generally cannot exceed 3 or a maximum of 6 months. A probationary period longer than this is clearly an excuse or cover for cost-cutting and dividing the workforce. Unless, of course, we’re all to wind up on permanent probation!

Act to ensure that no probationary period is allowed to exceed the legal maximum!

“We’ll transfer them soon to permanent, after...”

We’ve all heard this before: Just wait a little bit, until we ...

- finish the restructuring
- make the investment
- close the years’ balance
- appoint the new director
- secure down a new sales contract
- etc.



Again, these are all part of normal business activity. If management is serious, why not sign an agreement on when, how many, and who exactly will be transferred to permanent status? If they refuse to sign, or even negotiate, they don't believe it themselves!

The time to solve the problem is now!

Analyzing the problem – getting and using the information you need

The first thing you need to do when you want to challenge precarious employment relationships and/or fight outsourcing plans, together with convincing your members and colleagues that the struggle is both important and winnable, is to collect accurate, reliable information. Don't trust rumors or "what management said". Verify everything and get written documentation where possible. Keep good records of everything that happens around this issue: hiring practices, employment figures carefully dated over time, official management communications, correspondence, internal union meetings and meetings with management and violations of rights and intimidation of workers.

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What Kind of Information?

Collecting information on outsourcing plans

As soon as outsourcing plans at your workplace become known, try to find out everything you can! This includes

- a. any and all information about the outsourcing company: who are they, what is their legal status, what is their record of labour practices, where are their offices, where do they provide services?
- b. operational details of the planned restructuring and the resulting system:
 - i. which departments are concerned
 - ii. what positions are affected
 - iii. What employment relationship is planned for the outsourced workers?
 - iv. Who will be supervising these newly outsourced tasks?

- c. if workers on direct employment contracts are being transferred to employment with the outsourcing company, what are the planned conditions of transfer:
 - i. who will be transferred
 - ii. how many will be transferred
 - iii. what will happen to the others
 - iv. what happens to the benefits these workers previously were entitled to or they have accumulated
- d. the planned terms and conditions of employment (wages, benefits, temporary or permanent contracts) for all outsourced tasks
- e. the position of the outsourcing company or companies regarding a three-way agreement between the management, the union, and the outsourced employee(s)
- f. a cost comparison for the tasks currently fulfilled by the company's own department and the cost under outsourcing (often it is NOT cheaper!)
- g. a draft or signed contract of the company with the outsourcing company

Collecting Information on existing precarious work

- a. What forms of precarious work are currently in place at our workplace?
 - i. how many workers are on temporary contracts at our workplace at different times of the year? Do they work constantly on temporary contracts?
 - ii. how many workers are employed through other companies at our workplace?
 - iii. what is their employment relationship?
 - iv. which departments are concerned?
- b. Has it increased in the last years? (compare figures of permanent and precarious employment over the years. If permanent employment decreased, what has replaced it?)



- c. What is the situation of these workers
 - o What are their main problems? (wages, benefits, insurance, health and safety, employment status, overtime, etc.)
 - o What are their working conditions – shift regime, working time, wages, health and safety, social benefits? How do these differ from regular workers?
 - o Are they prepared to become union members?
 - o What is the legal situation – can these employment relationships be challenged in court?

Information needs vary with the circumstances!

When the Nestle Union in Timashevsk found out about outsourcing plans at their plant, they drew up a list of what they needed to know, and where they planned to look for that information.

<i>What we need to know</i>	<i>where to get it</i>
1. current costs of the particular work	our management
2. costs if outsourced to ABC Company	our management
3. CBA (if any), working conditions, work schedules at X	ABC Company
4. an individual employment contract from ABC Company	ABC Company
5. a list of positions affected	our management
6. the legal status of ABC Company	ABC Company
7. our management's draft contract with ABC Company	our management
8. ABC Company's record/reputation	other unions/ workers at other enterprises where ABC Company is active/Internet / ABC Company

How to get the information you need if you are denied it

Information denied is information to worry about!

If you're not getting it, management may be covering something up. Don't give up asking for information. You have a right to it, and don't stop reminding management that you know this is your right.

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- Enforce your information rights! Exert constant pressure and always request information in writing. Verbal requests are often ignored. Management may think twice about ignoring a written request.
- While keeping pressure on management to provide information, you should also look for other information sources: your union members, the workers of the outsourcing company, your local, regional, national or other relevant union organization, the press, the internet [However, be careful: not all information you find on the internet is accurate, up-to-date or reliable. So you will need to cross check your information]. Make use of examples from other companies and other plants owned by the same company, both in your country and overseas.
- Insist that this is your legitimate concern. If there are clauses in your CBA restricting your access to such information, prepare to challenge them in future negotiations!
- Challenge the abusive use of "commercial secrecy" or "business confidentiality" to deny unions their legitimate right of access to information. Hold the company to their word: Many companies publicly proclaim their commitment to "openness" and "transparency" as part of "corporate social responsibility". These commitments should be put into practice!
- Document the denial of information and keep it on record for future action.



The most important task: convincing and mobilizing your members. Organize all workers at the plant!

To succeed in stopping and rolling back outsourcing, you will need the support of your union members and of all workers at your workplace. To help members understand the need to combat precarious work, they need to be constantly included in the process of fighting back.

This concerns both direct, permanent employees AND the precarious, temporary workers! Even if they are denied the right to be union members, they should always be seen as POTENTIAL union members, and their rights should be high on the union agenda.

Only if they see that your union is concerned about their situation will they understand their interest in supporting the union!

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Winning Support from Union Members and Precarious Workers

1. Education & awareness

Union members should understand that precarious employment is a threat to their job security and working conditions as well as being a threat to their union. However, it's important that they see precarious employment as a management strategy as a threat, and don't see precarious workers themselves as a threat. Precarious workers are in that position because they've been denied their rights. So it's crucial that union members fight against precarious employment and fight for the right of precarious workers to job security and union membership. You will need to show people WHY this is an important issue. You can use examples from this handbook, organize training sessions, produce leaflets/pamphlets. Try to think of other ways of spreading information and stimulating thinking on the issue.

2. Get their input

Find out what people are most concerned about. Many times it's what seems like small grievances that really illustrate the vicious nature of precarious work.

3. Keep them informed

Get all the information out to your members –never assume they're informed unless you inform them.

4. Involve all the members

Think about activities people can join, for example signing a letter, wearing badges, contributing to information gathering, talking to other people in the plant or joining a meeting. Keep in mind what people are able and ready to do.

5. Organize all workers, regardless of their status!

Management will try to split the workers into different parts: core and periphery, permanent and temporary, men and women, old and young, long-term employees and newcomers, direct and indirect employees. Make sure people understand that they can win this fight only if they are united! The goal must be to organize every worker as a union member.

6. Union activities

Some unions have assigned organizers to make contact with precarious workers and involve them in union activities, while other unions have formed "solidarity committees" to work with precarious workers and assist them in organizing. Precarious workers are invited to join training sessions and to contribute articles or interviews to union newsletters. Joint meetings and other union activities that bring union members face to face with precarious workers are a vital step in building solidarity.

7. Build trust and confidence

Precarious workers may be concerned that they will lose their employment if the union takes action against precarious employment. We need to understand the risks faced by precarious workers and take their concerns seriously. Precarious workers are already insecure and vulnerable, and so we need to ensure that union members will fight to protect them against dismissal or any form of harassment or intimidation. It is crucial that organizing is based on mutual trust and respect, so that precarious workers are willing to take the risk of supporting the union, while union members are willing to act to support precarious workers' right to regular employment and job security.



Organizing & Mobilizing Union Members and Precarious Workers

On 26 August 2004, the IUF-affiliated Australian Manufacturing Workers' Union (AMWU) signed a new national three-year collective agreement with Nestlé Confectionary Australia that significantly increased union rights and rolled back the use of precarious workers hired through labour agencies. Below are extracts from an interview with Jennifer Dowell, Assistant National Secretary of the Food Division of the AMWU and IUF Vice-President.

What we did was that we set out a process to negotiate the enterprise agreement and we got together all the delegates from the three sites and we worked out what our log of claims was going to be. We talked about the problems of casualization and contracting out and it was a problem with most of the members. We put that on the log of claims and then took that out to the sites and the delegates and organizers explained to members what the union was trying to do to deal with this particular issue. The union got unanimous support on all three sites that their first option was to get rid of labour hire entirely and have everyone employed directly by Nestle, regardless of their contract of employment, but if that was unobtainable then we would take it a step at a time and we would enforce a restriction on the numbers.

People's concern was the use of non-permanent forms of labour was increasing on the sites and they had a view, in particular at the largest site, that permanents were leaving and their jobs were not being filled by permanent people, they were being filled by short-term casual. There was a real concern that the use of non-permanent labour was growing.

We consistently talked to the members, we had telephone hook-ups, we sent out newsletters, we did a status document so that after every meeting that we had for negotiations we would update the status document that showed exactly where we were up to on every one of the issues that was on our original log of claims. People knew what the company was saying yes to, what they were saying no to, and eventually through the process, which took almost 12 months, people made decisions as we went along as to whether they were items which they were going to die in a ditch over or whether they were items they were prepared to let go to another time. Things we got agreement to from the company, things they opposed, things they were prepared to discuss were reported. We got down to the issues that were important to all the sites and the labour hire issues were top of the list.

Organizing & Mobilizing Union Members and Precarious Workers continued

As part of the process the company was aware of the meetings we were having, they were getting constant feedback from us and the delegates about the position of the workforce, and the managers became very aware of the fact that the workforce was committed to fixing the labour hire problem and they knew that at the end of the negotiations if they didn't deal with that issue they were going to have industrial disputes across all three sites at the same time. In fact, we got agreement from all the employees that we would initiate industrial action and that it would take place on all of the sites. The company decided that they really needed to discuss this matter properly. When we put it to them we put our proposal up because we could not get a blanket ban on labour hire, so we put this proposal up that restricted Nestle to a percentage and they ended up agreeing to that. Everyone agreed that next time round we will try and reduce it to a stage where they have to do something about the labour hire altogether.

It [was] difficult, because even though you organize the labour hire workers, and we have done this consistently, it is very difficult because you never get them fully organized because they have such a huge turnover. You might have 20 labour hire people on a site one week and the union might recruit all of the them, but the next week you might still have 20 labour hire people, but only 15 will be the same ones you had the last week. So, there is this constant thing of being afraid to join the union and terrified they won't get any work if their employer knows they've joined the union and depending on who the labour hire company is, quite often they do terminate workers because they join a union, although they will never admit that. You can recruit the labour hire workers, but then Nestlé was not particularly worried about us recruiting them, in fact a lot of the managers thought that was good for Nestlé because the union would then have to consider the labour hire people, and we wouldn't be pushing so hard to get labour hire off the sites. But we educated both the labour hire people and the permanent workforce that it was best for both, in that we weren't actually trying to get rid of the people who were working for labour hire, we were trying to get them jobs with Nestle.



Choosing your strategy

In each case you will have to determine the right strategy for your union and your situation. Unions pursue a variety of strategies, sometimes combining them in different ways. Here is a list of strategies unions have successfully used:

1. Collective bargaining negotiations

It is a basic principle of trade unionism that ALL changes affecting the organization of work and the terms and conditions of employment must be negotiated through the collective bargaining process. Never fail to remind management that this principle is established in international law! Negotiations will be necessary in almost all situations. Everything is subject to negotiation. This includes, for example, the conditions of keeping the department in the company, the conditions of regularizing precarious workers, and the conditions under which your union might accept negotiated restructuring. Be sure to prepare properly – these issues are as important as any other CBA negotiations!

2. Continuous monitoring of existing clauses and ongoing bargaining

After you have negotiated an agreement you need to monitor and enforce its implementation. Every agreement should contain a monitoring process! If the agreement contains your right to negotiate changes, follow-up must be secured. (See the example of the AMWU agreement in Part III).

3. Legal action

There are situations when legal action can be successfully used to challenge outsourcing:

- a) when legislation in your country regulates outsourcing in a way that establishes limits to the process and/or gives union special rights in negotiating the process under which it is introduced and carried out. If the company violates these provisions, you should file a law suit.
- b) when the outsourcing company or the company violates the rights of the outsourced workers, you can put pressure on both companies through legal action and combine it with a campaign to regularize these workers.

- c) sometimes you can find legal loopholes to prove that these workers should legally be regular employees and their current employment status is in fact illegal (see the example from the Coca-Cola Union in Pakistan in Part III)

4. Workplace action

Any campaign for the rights of outsourced and/or precarious workers or in resisting outsourcing naturally needs to build on your members' readiness to fight. Different forms of activity in the workplace can be used creatively to build solidarity and pressure management in support of specific demands. This could include petitions, buttons/badges/pins, public protest meetings, work stoppages and strikes. These can be used effectively in combination with other actions, e.g. organizing media coverage or solidarity action from other unions and/or the community. These need to be planned carefully. Always bear in mind the possible reactions of management, the public, union members and non-unionized workers!

Carefully plan your campaign strategy in meetings before you start doing things. Make sure your members are informed about the next steps and the strategy behind them!

5. Public campaigns

These can and should accompany activities for employment guarantees. Most people would readily understand the need for job security. What many don't understand, however, is the extent to which transnational companies are systematically undermining stable employment. This is where a media campaign is needed!

Your media strategy must be closely incorporated with your campaign strategy. Include it in your campaign planning!



6. Finding and working with coalition partners

In the fight against precarious employment and outsourcing, you will need support from reliable allies who share your objectives and methods and understand that this is a common issue. These include:

- Your territorial or branch level union organization
- Your union colleagues from other plants of the company
- Other unions dealing with the same outsourcing company
- The public – journalists interested in the topic, NGOs and local community organizations campaigning on labour rights, unemployment, urban poverty, youth organizing, etc.

Analyse your strengths and weaknesses

Before you start campaigning, have a clear picture of your strengths and weaknesses. Don't get discouraged if you discover some weak points – use the opportunity to try to become stronger. Identifying weak areas should not prevent you from taking action. What is important is that there is an assessment and evaluation process as part of developing union strategies. Not a single union in the world would answer “yes” to all of the following questions.



Try to honestly assess your strengths and weaknesses. Take notes on why you filled in which box. Discuss your weak points: what could you do to strengthen your position?

	XX	X	-	--
1. Information gathering				
Do we regularly get the information we need from management?				
Do we have other sources of reliable information to check or challenge the information we get from management and compensate for information we don't get?				
Do our union members report news and rumors to us?				
2. Analyzing				
Do we fully understand the information we receive?				
Do we have possibilities to ask reliable and sympathetic resource persons for support?				
3. Information distribution				
Do we have enough bulletin boards at the plant?				
Do we have experience in distributing written information?				
Can we get support to produce written materials?				
Do we have financial or other resources to produce printed materials?				
Do we have the possibility to hold meetings in departments, for the whole plant?				
Do we have the right to freely communicate with union members?				
Do union members have the time to participate in meetings? Are they released from work for meetings?				
Are union members able and ready to attend meetings outside work?				
4. Mobilizing				
Do our union members consider the issue important?				
Are union members concerned enough to get active on the issue?				
Can we protect them from retaliation when they do become active?				
Do we have experience in organizing protest action?				
Do we have people who can contribute to actions (music, theatre, posters, etc.)?				
Do we have reliable contacts with potential supporters – other unions, NGOs, journalists?				
Are we able to present the issue to the public as justified and important?				
Do we have a solidarity or strike fund?				
Do we have resources needed to launch and sustain the campaign?				



	xx	x	-	--
5. Negotiating				
Is there space to negotiate on the issue				
Do we have negotiating experience?				
Can we get external support in negotiations (higher union bodies, experts, lawyers)?				
Can we get the right conditions for negotiating – enough time and preparation and a reliable negotiating partner who will stick to their commitments?				
Are we properly prepared – do we have the information, the arguments, the maximum and minimum positions we want to reach?				
Will our members have the patience to support a lengthy negotiation process?				
If an arbitrator gets involved can we trust them?				
6. Legal issues				
Are their possibilities to legally challenge managements’ decisions / practice?				
Is the court likely to deliver a just ruling?				
Do we have the means to stick out a possibly lengthy process (lawyers, other costs)?				
Do we have the strength to use legal issues for campaigning?				
Can we enforce court rulings?				
Are the chances of a positive court ruling bigger than the chances of a ruling with negative consequences?				

Conclusions

Steps 1-3 are essential preconditions for a successful fight.

No amount of activism can compensate for an absence of reliable, accurate information. If you are not able to analyze the complex documents management sometimes provides, you might easily be tricked. Look for help!

Maintaining constant communication with union members is critical to ensuring a successful fight. And should you win the fight, it’s important that union members and precarious workers are aware that the union was responsible for these gains.

Steps 4-6 can help you discover the most suitable strategy for your particular situation. Discovering that you are stronger in certain areas and not others may help you determine which strategy to pursue.

The IUF

The IUF is a global union federation composed of some 360 trade unions around the world which represent workers in the food and agricultural sectors, in hotels, restaurants and catering and in beverages and tobacco.

Since September 2004, the IUF has been engaged in co-ordinated international union organizing and development activities within Nestlé and Coca-Cola through the Nestlé/Coca-Cola Global Organising Initiative, supported by LO Norway and the German FES. As of May 2006, with the support of the Dutch FNV, the initiative has expanded to include Unilever and Heineken. These activities build on and strengthen the existing work in the regions, while providing continuity and enabling sustainability through the presence of dedicated regional co-ordinators.

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This manual is designed for trade unionists in the food and beverage sector who are confronting the challenge of outsourcing and casualization, the hiring of temporary, seasonal and fixed-term contract workers, and other forms of “precarious” employment. The aim is to provide union leaders, shop stewards, union education officers, organizers and rank-and-file activists with an organizing tool for raising awareness of the dangers of outsourcing and casualization and mobilizing an effective union response.



International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)

