

# Precarious work in India



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## Executive summary

This report, published as part of the ICEM Contract and Agency Labour project, examines precarious work in a number of India's industries.

Largely based on interviews and discussions with union leaders and precarious workers, carried out in May 2012, the report focuses on 'contract work' a form of indirect employment whereby workers are employed not by the company for which they perform work, but by a third party known as a 'contractor'. Contractors are paid for their services, which can include hiring, supervising and remunerating workers, by the user enterprise.

Looking at the situation across a number of IndustriALL sectors, including chemical, cement, textile and garment, vehicle manufacturing and mining, the report finds that the use of permanent, direct employment is declining severely in India and is rapidly being replaced by indirect, precarious work.

Contract workers have vastly inferior terms and conditions to permanent workers. The wages paid to contract workers are often less than the minimum prescribed by law, and usually not sufficient to support a worker and their family. Contract workers are regularly denied access to the Indian national social security and medical insurance schemes.

Workers employed via contractors are very often afraid to exercise their right to join a union, and unions across all sectors say that contract workers who do join unions are often victimized. Union membership is reducing as their tradition membership base of permanent workers is depleting. However, Indian unions are increasingly prioritizing contract workers; organizing them and bargaining for equal treatment for all workers.

## Precarious work in India

The two most dominant forms of precarious work in India are contract work, when workers are employed by a contractor who pays the worker their wages, and direct, fixed-term contracts.

The term of a direct fixed-term contract can be as short as a single day. These short-term contracts are commonly known as 'hire and fire' contracts, as workers are under the constant threat of losing their job and very seldom make demands on the company. While direct fixed-term contracts are widely used in the services industry, employment via contractors is far more common in the industrial sectors.

There are no precise figures on the total number of contract workers in India, mainly as official calculations are based on individual contractor's self-declared employee numbers, but a recent study performed by the Indian VV Giri National Labour Institute found that 30% of all workers in the private sector and 32% in the public sector are employed via contractors. The same study found that the average daily wages of contract workers in the private sector were Rs143.5 (€2.15), compared to Rs212 (€3.05) for permanent workers.

With as much as fifty per cent of all workers in manufacturing employed via contractors, on inferior terms and conditions to permanent staff, the workforce in India is divided into the 'haves', who have permanent jobs, and the 'have nots' who work for contractors or on direct but temporary 'hire and fire' contracts.

In some specific cases, such as the schemes to recruit workers for Southern India's textile mills, workers are recruited by 'agents' but are then employed on fixed-term contracts with the user enterprise.



## Legislation on precarious work

### The Contract Labour (Regulation and Abolition) Act

The Contract Labour (Regulation and Abolition) Act of 1970 provides for the regulation of contract labour in certain establishments and the abolition of contract labour in specific circumstances which are outlined in the Act.

The law applies to all establishments in which twenty or more workers are, or were in the last twelve months, employed as contract workers. All contractors with more than twenty workers are therefore also covered. The law does not apply to establishments where work of only an intermittent or irregular nature is performed.

Section 10 of the Act lists the criteria for deciding upon the abolition of contract labour in any process, operation or other work in any establishment. The criteria are:

- (a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment**
- (b) whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment**
- (c) whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;**
- (d) whether it is sufficient to employ considerable number of whole-time workmen”.**

Chapter IV of the Act concerns the licensing of contractors, and outlaws contractors from working without a license.

The Act also lays out minimal standards for the welfare and health of contract workers, in terms of canteen facilities, rest-rooms and first aid facilities. If these facilities are not provided by the contractor, they must be provided by the principal employer.

On wages, Section 21 of the Act states that a contractor is responsible for the payment of wages to each contract worker he employs. The user enterprise is required to nominate a representative to be present at the time of distribution of the wages by the contractor to ensure that the amounts paid meet legal requirements. The Act further states “In case the contractor fails to make payment of wages within the prescribed period or makes short payment, then the principal employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be...”

Importantly, however, the Act does not provide for the absorption of contract workers into the permanent workforce, and is therefore not of much help in cases where the use of contract workers is proven to be ‘sham and bogus’, i.e. in situations where contract workers are doing work of a permanent nature and should have permanent employment.

### Supreme Court ruling on sham and bogus contracts

In September 2011, the Supreme Court of India passed a landmark judgment on contract labour, ruling that “in order to avoid their liability under various labour statutes, employers are very often resorting to subterfuge by trying to show that their employees are, in fact, the employees of a contractor. It is high time that this subterfuge comes to an end”.

In its ruling on the case the Court continued “Labour statutes were meant to protect the employees/workmen because it was realized that the employers and the employees are not on an equal bargaining position. Hence, protection of employees was required so that they may not be exploited. However, this new technique of subterfuge has been adopted by some employers in recent years in order to deny the rights of the workmen under various labour statutes by showing that the workmen concerned are not their employees but the employees/workmen of a contractor, or that they are merely daily wage or short-term or casual employees when in fact they are doing the work of regular employees”.

The case, brought to the Supreme Court by Bhiklwar Dugdh Utpadak Sahakaris Ltd., followed the High Court of Rajasthan’s judgment and upheld the Labour Court’s judgment that the workers were the employees of the company, not of the contractor. One of the key reasons given for the Labour Court’s decision was that the workers were working under the direction of officers of the company, rather than the contractor.

### Social security

Companies in India must comply with the Employees’ State Insurance (ESI) Act, and provide ESI to workers, if they have a workforce of more than ten. The ESI scheme covers hospitalization, sickness benefits and absence from work due to illness. All workers engaged in industries must be registered under a Provident Fund. On leaving employment the amount paid into the fund plus accrued interest is paid to employees as a lump sum.



## Precarious work in India's industrial sectors



### CHEMICAL INDUSTRY

**R.G. Ghosalkar, General Secretary of Chemical Mazdoor Federation of India says that the “indiscriminate use of contract labour is evident” in the chemical industry.**

Most MNCs in the chemical industry are outsourcing their work, often in areas outside of their traditional base, following tax incentives offered by the Government. The subcontractor's facilities are often small, non-unionized and the predominant form of employment is contract labour. Contract workers in the chemical industry are generally afraid that they will lose their jobs if they decide to form or join a trade union.

Contractors are commonly paid Rs6000 (€90) per worker per month in the chemical industry. They deduct Rs2-3,000 and the contract worker receives only the remainder. The contract workers themselves are often migrants, and, as they are not even paid a living wage, they often have to live in the slums. The CMFI describes life for such workers as a ‘daily struggle’, with limited meals and poor sanitation facilities. Higher education is unlikely to be an option for the children of these families and some children remain illiterate.

In the chemical industry, it is often the case that fifty percent of the workforce is employed via contractors. Contract workers in the chemical industry are always distinguished by different uniforms. User enterprises do generally insist that all those working for contractors are insured. If they did not do so, the user enterprise would be ultimately responsible for the failure.

The situation is even more extreme in the pharmaceutical sector, where up to seventy percent are contract workers. Increasingly, only very skilled workers and those in executive jobs are given permanent contracts, while all others are employed

via contractors. According to R.G. Ghosalkar, employment via contractors is, in very many cases, a “paper arrangement”, used by companies to reduce their commitments to their workforce.

One example is from BASF, a leading global chemical company, which established a new unit in Mumbai where they have seventy workers – seven permanent and sixty-three contract workers. The seven permanent workers are either very highly skilled, or are supervisors, and the contract workers perform all the functions at the plant. All sixty-three contract workers are now unionized. The CMFI approached the industrial court seeking permanency for these workers, providing evidence that the workers are performing core functions, and therefore, by law, should be on permanent contracts. The court granted the workers protection, meaning that they cannot be terminated for the moment, but the company has appealed to the Mumbai High Court. BASF, in the meantime, has offered to make some workers permanent, while some would remain contract workers, but the union's demand is for permanent employment for all.

The CMFI have also supported contract workers in RPG Life Ltd, a manufacturer of agricultural chemicals and pharmaceuticals. The union approached the industrial court seeking protection for contract workers in the plant, which was granted. However, the company then appealed the decision and the protection was withdrawn. In a display of solidarity, the contract workers told the company that if one person was dismissed they would all walk out. This led the company to negotiate with the union, and fifty-one contract workers were given permanent contracts. Explained R.G. Ghosalkar “The principles are the same, whether it's contract workers or permanent workers. If we unite, we can win”.

Throughout India, the prevalence of contract workers is a major challenge for organising, and membership levels in the chemical industry have fallen drastically as a result – by seventy percent in some workplaces.

One problem is that organizing contract workers demands a lot of time. Moreover, according to the CMFI, the risks are high for workers as soon as the employer becomes aware of any unionization attempts. Most employers in the chemical industry immediately dismiss both the contractor and their workers when they do.

A further challenge is convincing the permanent workers of the necessity to organize contract workers and to open up union membership to them. Unions and unionists in the chemical industry often express a fear of losing focus and a lack of interest in contract workers to join the union. The resource input required is very high, as organizers have to address the fears of contract workers and as unions

have to be ready to stand shoulder-to-shoulder with all workers if a problem develops.

Language is another challenge, as many contract workers are migrants. In addition, contract workers are generally seeking stable jobs, with wages appropriate to the work they do, so if given a better opportunity, most will leave the workplace and the union. The success rate is therefore very low – the CMFI estimates that success in organizing contract workers is around ten to twenty percent.

CMFI is conducting training for permanent workers, insisting that their members also assist in organizing contract workers. Union organizers visit the areas where migrant workers live and tell them about the unions' activities. The CMFI is also working to help workers recognize the difference between core and perennial jobs, so that they recognize when they and others are entitled to receive permanent contracts.

## TEXTILE AND GARMENT INDUSTRY

In India's textile industry precarious work is everywhere – more than fifty percent of the workforce is employed on fixed-term contracts. Unions say this is because employers do not want to take on the responsibility of employing workers on a permanent basis, and do not want the risk of having to continue to pay workers if there is a gap in orders. In quite a number of cases in the Mumbai area permanent workers have been known to be laid off, only to be reemployed as contract workers.

Like in other industries, precarious workers in the textile sector do the same jobs as their permanent counterparts, but under different conditions. Even though contract workers are not permitted by law to perform core functions they do work in the production process, clothes dying and machine work. The situation is the same in Government-owned textile mills.

***“In some cases, workers have been working for twenty years, but they still do not know who is their owner, they do not know who is the contractor”. G.B. Gawde, Director of the Ambekar Institute for Labour Studies.***

In some workplaces permanent workers get paid double the amount that contract workers get paid, with the contract workers very often not even being paid the legal minimum wage. For doing the same jobs, contract workers get paid approximately Rs150 (€ 2.20) per day, while permanent workers receive Rs250-300 (€3.60 – 4.33) per day. In most mills, contract workers do not get the benefits that permanent workers get, for example paid leave is denied to contract workers.

***“It is easy, when there is no work, to say to a contract worker “you go”. In the case of contract workers, if there is no work there is no lay-off payment”. G.B. Gawde.***

Textile mills are humid, steamy and noisy and the high levels of cotton dust make it difficult to breathe. Contract workers are usually given safety masks, but these are not replaced regularly – sometimes they are replaced only after 100 days of wear. Dust therefore becomes affixed to the masks, making it so difficult to breathe that the workers remove their masks.

All workers are required to be registered under the ESI, but unions report that sometimes ESI fees are deducted, but not actually paid to the authorities.

In the garment industry precarious workers are often found in small production facilities. In these small facilities, sometimes with a workforce of only ten or twenty people, the entire workforce is very often precarious.

In some areas of India there is a shortage of garment workers. In those cases, migrant workers – nearly always employed on fixed-term contracts – tend to make up the shortfall in the local workforce.

'Sumangali', also called 'Camp Coolie', schemes are common in Southern India's textile mills. Textile factories hire agents, who go to the villages to recruit young female garment workers. The agents get Rs1000 (€14.42) per worker and the workers are offered three-year contracts.

The Sumangali schemes, which have recently attracted a lot of international criticism, started after the end of the Multi Fiber Agreement (an earlier international trade rule on garments and textiles) in 2004, and the ensuing increase in production demand. Agents started to approach parents in rural villages, offering their daughters jobs in factories for three years, after which the daughter would come back to the village with enough money for her to get married. The employers got a good response from the parents and many young women became employed this way. Unfortunately, the scheme has had a devastating effect, as what was once a permanent, largely unionized workforce has now become a workforce composed of very young – often under the age of 18 – fixed-term contract workers.

The women employed under these schemes are paid less than the legal minimum wage, on the promise that they will receive a lump sum payment at the end of their three-year contract. Their movement outside of the factory is severely restricted.

As the young women are given very poor quality food, the result is that they often fall ill and have to return to their villages before the contract expires.

Outsiders, including unions, are not allowed to go into the areas where these factories are based.

The Indian National Textile Workers' Federation is demanding better conditions for all contract workers. Workers should get at least seventy percent of permanent workers' wages in year one, eighty percent in year two and be offered permanent employment by year three. The union has also demanded that the minimum wage for garment contract workers is the equivalent of the average minimum wage for the garment industry.

Indian unions are also working, with international support, to encourage large MNCs to change their buying practices. MNCs who buy from garment

factories often fail to do a proper assessment of the factories' capacity. The Indian factories, in turn, are generally reluctant to refuse orders. This results in factories subcontracting, or taking on additional precarious workers. In Tirapur for example, this subcontracting happens usually without authorization from buyers.

International brands need to insist on transparency with regard to the labour element of the price of a garment, so as to ensure that the price is sufficient to pay for the wages and benefits to which both permanent and fixed-term or contract workers are entitled.



### CASE STUDY:

## Spentex Industries Ltd.

The Spentex Industries Ltd. textile mill in Butiboori, Nagpur, employs between seven and eight hundred permanent workers. A similar number of workers are employed via contractors. There are five contractors at the plant. One contractor the ICEM Contract and Agency Project Coordinator spoke to said he had been supplying the same workers at the plant for four years. Another contractor said that he had been supplying workers to the plant for ten years, and currently supplies upwards of 450 workers.

The contract workers perform a variety of tasks: the sample of nine contract workers the ICEM Contract and Agency Project Coordinator spoke to said they work as machinists, packers, drivers and helpers. One was a worker trainer. The contract workers said they had been working at the plant for up to twelve years without a direct permanent contract. They said they were initially hired by the company directly, for a three month training period, after which their employment was transferred to a contractor.

The wage difference between the permanent and the contract workers is about Rs60-70 (up to €1) per day, but the contract workers also complained that they do not receive the same benefits as permanent workers, which has a significant impact on disposable income. Uniforms are only provided to permanent workers. Contract workers do not even receive safety gloves, safety shoes or helmets, and they only receive safety masks and earplugs after two years. They said: "If there is any problem, we get fired. On that day, the gate is immediately closed to us". They added that if they wanted to join a union, they would be immediately dismissed.





One worker, who had been working at the plant for twelve years via a contractor, recently informed management that he would be attending a family function. When he returned, he was instructed to sit outside the gate, where he waited without work for two days. He was very concerned at his loss of earnings, and said that he will only be permitted to return to work when his labour is “required”. He said that such situations are not uncommon; when workers make an application, for example for leave, they are not given a receipt and management refuses

to acknowledge that the application was made.

Another worker explained: “Last year, due to the financial crisis, the plant was closed for three months, and we were unemployed for three months”.

The contract workers said that their key demand was for permanency. “If I was to become a permanent worker, I could give proper meals to my children”, said one worker.

## CEMENT INDUSTRY

The Indian National Cement Worker’s Federation (INCWF) estimates that only forty-five percent of all workers in the Indian cement industry are employed on a permanent basis.

According to the Cement Industry Wage Board Agreement, contract workers can be involved only in loading and unloading, and, even then, they should receive equal wages to permanent workers. This is unfortunately not adhered to at all.

One example of the excessive levels of contract work in the cement industry comes from Holcim Ambuja Gujarat, which employs 391 permanent workers and has 3,800 workers employed by contractors.

Contract workers in the cement industry experience many problems, and have little awareness of their rights. Their number one complaint is that they are not paid equal wages for equal work. A permanent worker might get paid Rs500-600 (€8) per day. A

contract worker alongside him, performing the same tasks, might only get Rs165 (€2.5). Companies can choose to pay contract workers state minimum wages, whereas industry minimum wages must be paid to permanent workers.

**“Permanent workers are wage board workers, companies do not want them” – N. Nanjappan, General Secretary of the INCWF**

All of the large MNCs in the industry exploit contract workers and the situation in domestic cement companies is even worse. The problem is exacerbated by the fact that labour inspectors usually do not meet with trade unions when they inspect a plant. Like in other industries, the courts are an important vehicle for unions to challenge bad practices.

The INCWF has amended its constitution to take contract workers as members, and a resolution has been passed by the federation’s Executive Committee stating that contract workers are to be organized and to be enrolled as members of the

existing workplace union, if necessary by changing the constitution of the union or by giving contract workers associated membership of the existing union, and that INCWF will include contract workers' issues in their representations to management.

According to N. Nanjappan, organising contract workers is extremely difficult. He says "the greatest challenge is that it is so often the case that if contract workers unionize, they lose their job. It is difficult to encourage contract workers to take this risk, but the INCWF and its affiliates are committed to work on organizing contract workers and to make sure that they are aware of the benefits of unionization".

In some cases, INCWF affiliates have already recruited contract workers into the same union. In other cases, separate unions, specifically for contract workers, have been registered. ACC Holcim Kymore, in Madhya Pradesh, has recognized a contract workers' union and is bargaining on contract workers' terms and conditions. Differences between permanent and contract workers still exist in this plant, however: permanent workers receive the industry minimum wage, whereas contract workers receive the lower state minimum wage. A bonus of twenty per cent of salary is also awarded to permanent workers, whereas contract workers receive a bonus of just over eight percent.



## MINING INDUSTRY

### Testimony from contract workers

A contract worker at A.B. Incline mine, Nagpur, who fits ceiling bolts, which is to be considered a core job, said "the start wages are only Rs171 (€2.5) per day and, other than that, there are no facilities at all like bonuses, Provident Fund etc. If I became a permanent worker, I would get all the benefits I am entitled to. I would get the company wages for category one workers, which is Rs561 per day (€8).

Mr. C.S. Panigrahi, a contract worker from Mahanadi Coalfields Ltd., said "I am working in the coal handling department, in the cleaning section, and in electrical and mechanical maintenance. My contractor changes from time to time, but I have been working here for 24 years. When I was appointed, my wages were Rs5 per day, now they are Rs130 (€2) per day. I spent all my life as a contract worker.

What would happen now (if I was to become permanent)? I could give proper food to my family. I would get all the facilities that permanent workers get. Unions are now striving hard and we are also ready to fight. Yes, I am a union member of OCMS, operating in Mahanadi Coalfields. When the union formed, we faced lots of problems. I was suspended around twenty times. But, with the support of the union officers, I could retain my job. The union fights for me".



According to the Indian National Mineworkers' Federation (INMF), contract workers represent a full forty percent of all those working in production in mines. Rashtriya Koyla Khadab Mazdoor Sangh (RKKMAS), the union representing workers in a Northern Coalfields Limited subsidiary, report that there has been no recruitment of permanent workers since the 1980s, with the exception of compassionate appointments. The Asansole Coalfields Contract Workers' Union says that the number of permanent workers in Asansole Coalfields is becoming less day-by-day. There is no new recruitment of permanent workers and the mining operation is dependent on contract workers, who are "given the same job, making the same efforts for the same hours but they are deprived".

These are not isolated cases, says S.Q. Zama, General Secretary of the INMF. The coal industry has stopped recruiting permanent workers, with two exceptions: if the coal industry uses the land of a farmer, his family is offered employment, and, if a worker dies on site, his family or a dependent is offered a permanent job. Aside from these examples, there has been no new permanent recruitment recently and "the strength of permanent workers is depleting fast".

According to INMF affiliates conditions for contract workers in the mining industry are similar to conditions in other sectors; workers are denied access to social security and to paid leave, their wages are only a fraction of the wages permanent workers receive and they cannot use medical and educational facilities. The annual bonus paid to contract workers is only a quarter of that paid to permanent, directly-employed staff.

RKKMAS report that contract workers are employed in underground and surface mining operations, safety jobs, civil jobs and as security guards. Transport operations are entirely staffed by contract workers. The union is demanding that contract workers be paid via bank transaction, so that there is a record of pay, that contract workers are given salary slips and identification cards, and given access to medical treatment. Following a strike in August 2011, the union entered into tripartite dialogue with the management and the Government, and it was agreed that contract workers would be paid a minimum of Rs320 (€4.5) per day, which represented the mid-point between the category one national wage and the state government minimum wage. This agreement has yet to be implemented.

***"Union strength is dependent on membership. We have to organize contract workers, unionize them, fight for them and increase our strength"***  
**Mr. B.K. Das, Assistant General Secretary of INMF**

As in other sectors, organising is extremely difficult as contract workers are often victimized if they show an interest in unionizing. The "mafia" type contractors operating in the mining sector often threaten that the worker will lose his or her job, and even threaten to physically harm workers who make demands or join a union.

The INMF has organized approximately 60,000 contract workers throughout India. INMF affiliates are exploring many techniques in their struggles to organize contract workers. Some unions, for example, have developed separate dedicated departments for precarious workers, and/or have provided resources to the union officials who liaise most closely with contract workers.

The Colliery Mazdoor Union (CWU) has provided training to contract workers and managed to negotiate so that identity cards, helmets and safety shoes are given to contract workers working underground. The union organized a hunger strike in opposition to the poverty wages paid to contract workers, and managed to receive some salary increases.

Hindustan Zinc Ltd., a major producer and exporter of zinc, employs roughly 4000 permanent workers and 8000 contract workers. The Hindustan Zinc Workers Federation has prioritized recruiting contract workers, fighting for improvements for contract workers and making efforts to maintain permanent, direct employment. The union negotiated with the management of two smelting units, demanding equal wages for contract workers. Their agreement, reached in 2009 and revised in September 2011, provides for categories one, two and three to be staffed by contract workers rather than permanent workers. Salaries in these categories range from Rs9,130 to Rs24,272 (€131 – 350).

Interview with Mr. Surender Lal, General Secretary of Hind Mazdoor Sabha Haryana and Mr. Surya Dev Tyagi, President of the All Escorts Employees Union

**> How dominant is precarious work in your sectors?**

*In every sector precarious work is now the issue, including in the automobile, engineering and metal sectors. All MNCs use contract workers: the MNCs started the practice and Indian companies said they had to follow in order to be competitive. Sometimes employers are trying to turn permanent workers into contract workers. In some sectors there are seventy percent contract workers and thirty percent permanent workers. Even in workplaces that are unionized, fifty percent of the workforce can be contract workers. In workplaces that are not unionized, up to one hundred percent of workers can be employed by contractors.*

**> What are the key concerns for contract workers?**

*There is a great difference in wages even in unionized plants. In the new industries precarious workers get only Rs 5-6000 (around €80) while permanent workers get Rs 12-13000 (around €180).*

*It is very common that the contractor deducts social security from workers and employers and keeps this money for himself. For example, a contractor might have only registered one hundred workers when he actually has six hundred workers. The rest will receive no ESI and no Provident Fund.*

*When there is a union the union will make sure contract workers get Provident Fund, ESI etc. As I mentioned, when the plant is not unionized, there can be sometimes one hundred percent contract workers. When these workers try to organize, management, police and government try to demolish them. However, unions are still trying to organize contract workers and there have also been some successes.*

*Contract workers can be identified by their uniform; the colour and quality is different. In companies like JCB, contract workers receive the same canteen food, but they do not eat in the same dining room as the permanent workers.*

**> How can unions support contract workers?**

*In a Yamaha plant, there were six or seven hundred contract workers, working in shipment, the canteen etc. They had been working there as contract workers for more than fifteen or twenty years. After our intervention, they were given permanent contracts and started working on the shop floor.*

*In a plant manufacturing medical devices in Hosur, Tamil Nadu, there were one hundred and twenty permanent workers and seven hundred contract workers. We negotiated to regularize one hundred contract workers, who all became permanent employees. In Omax Auto, a supplier to the Honda Group, there are four hundred contract workers and two hundred permanent workers. We negotiated to regularize thirty workers each year for three years.*

*Where unions are powerful, we can negotiate benefits for contract workers as well. But in new plants that rely heavily on contractors it is difficult to form unions – we have to fight with the government the employers and the “mafia” who controls the contract workers. When we try to form unions, companies threaten both the government and the employees that they will move to another state – they want a union-free environment.*

**> Is there solidarity between permanent workers and contract workers?**

*Through AGMs and gate meetings we are trying to convince permanent workers to take up contract workers’ issues. These days, the number of permanent workers is often less than the number of contract workers, and unions have to organize both. But contract workers fear they will be fired if they join a union. They say “you make me a permanent worker and then I will join the union”. We need to be able to threaten management “If you fire contract workers, we will all go on strike”.*

*Precarious work is a key issue. Permanent workers are retiring. If we do not organize, in about five years all jobs will be contract jobs.*



## Joining forces at the national level

The eleven Indian central trade unions – BMS, INTUC, AITUC, HMS, CITU, AIUTUC, AICCTU, UTUC, TUCC, LPF and SEWA have joined forces to fight precarious work. In a statement announcing a countrywide general strike on 28 February 2012 the unions stated “Mass scale contractorisation of the regular work is continuing in all the workplaces... Contract workers are not being paid in most of the places even the statutory minimum wages”.

The central trade unions drew attention to the fact that “Contract workers are not being paid in most of the places even the statutory minimum wages”. The strike demands were:

1. **No ‘contractorisation’ of work of permanent / perennial nature and payment of wages and benefits to the contract workers at the same rate as available to the regular workers of the industry / establishment.**
2. **Amendment of the Minimum Wage Act to ensure universal coverage, irrespective of schedules and fixation of statutory minimum wage, at not less than Rs 10,000 per month.**
3. **Remove all ceilings on payment and eligibility of bonus, provident fund; increase the quantum of gratuity.**
4. **Assured pension for all**
5. **Compulsory registration of trade unions within a period of forty-five days and immediate ratification of the ILO Conventions 87 and 98.**

## Global union principles

Global union federations have agreed a set of joint principles on indirect work relationships. The principles, known as the ‘Global Union Principles on Temporary Work Agencies’ are relevant for contract workers, as contractors in India function in very similar ways to employment agencies in that they create triangular employment relationships and are very often used to deny workers the rights associated with direct employment.

The principles are:

The primary form of employment shall be permanent, open-ended and direct employment.

Workers provided by temporary work agencies must be accorded equal treatment and opportunities, including equal pay for equal work, with regular and permanent employees with respect to terms and conditions of employment.

Workers employed through temporary work agencies must have a recognised and enforceable written contract of employment, specifying their terms and conditions of employment.

Where agencies are permitted to operate, they must be strictly regulated, including through licensing.

Temporary work agencies must not be used to eliminate permanent and direct employment relationships, diminish the conditions under which work is performed, avoid collective bargaining relationships with trade unions or effectively make it impossible for an agency worker to join a trade union.

Employers should consult trade unions before agency workers are used and negotiate over any effects that the use of these agency workers might have on regular employees, on working conditions or on the collective agreement.

The use of temporary agencies should be restricted to cases of legitimate need. As a minimum, there should be defined limits on the use of agency workers, as well as restrictions on the duration of such employment.

Workers provided by temporary work agencies must be guaranteed access to information on health and safety regulations in the workplace and be given the same equipment, induction and training as permanent workers.

Adequate and continuous social protection for agency workers, including social security coverage, must be ensured by employers and government alike.

Temporary work agencies must treat workers without discrimination on the basis of race, ethnic origin, colour, sex, sexual orientation, religion, political opinion, nationality, social origin, age, disability or any other form of discrimination. Appropriate regulatory frameworks (governmental, co-regulation or self-regulation) on private employment agencies should include and promote these principles, rights and obligations. These include the minimum standards outlined in ILO Convention No. 111.

Given the general over-representation of women in agency employment and the disparity in wages between permanent and agency workers, particular attention must be given to ensure that the equal pay provisions of Convention No. 100 are applied, including equal pay for work of equal value.

The ILO should play a much more active role in ensuring that temporary employment agencies respect basic labour standards, as well as in collecting data on abuses and best practices, while at the same time monitoring and analysing

trends in employment in both the private and public employment agency sector. This research should focus on issues relating to the economic crisis and the Global Jobs Pact. The Global Unions should participate in this work.

Workers supplied by temporary work agencies must never be used to replace striking workers or undermine industrial action.

Temporary work agencies must not charge any fees to workers for dispatching them.

The user-enterprise must be held liable for all financial and other obligations with respect to temporary agency workers should the agency fail to honour its responsibilities.

### **Note on methodology**

Information for this report was collected through interviews, discussions and participation in an ICEM contract and agency labour project workshop.

Interviews were held with:

Mr. G.B. Gawde, Director of the Ambekar Institute for Labour Studies (Mumbai, 15th May 2012)

Mr. R.G. Ghosalkar, General Secretary of Chemical Mazdoor Federation of India/ CMFI (Mumbai, 16th May 2012)

Mr. N. Nanjappan, General Secretary of the Indian National Cement Workers' Federation (Mumbai, 16th May 2012).

Mr. S.D. Thakur, Advocate (Nagpur, 17th May 2012)

Mr. S.Q. Zama, Secretary General of Indian National Mineworkers Federation (Nagpur, 18th May 2012)

Contract workers from A.B. Incline mine, Western Coalfields Limited (Nagpur, 18th May 2012)

Contract workers from Spentex textile mill (Butiboori, Nagpur, 18th May 2012)

Mr. B.K. Das, Assistant General Secretary of Indian National Mineworkers Federation (Kolkata, 21st May 2012)

Mr. C.S. Panigrahi, Contract Worker from Mahanadi Coalfields Ltd. (Kolkaya, 21st May 2012)

Members of Asansole Coalfields Contract Workers' Union (Kolkata, 21st May 2012)

Mr. Surya Dev Tyagi, President of the All Escorts Employees Union (Delhi, 23rd May 2012)

Mr. Surender Lal, General Secretary of Hind Mazdoor Sabha Haryana (Delhi, 23rd May 2012)

Mr. P.J. Raju, Secretary of Indian National Trade Union Congress (Delhi, 23rd May 2012)

Discussion with Mr. Rupak Dayal Director (Personnel), Western Coalfields Limited (Nagpur, 18th May 2012)

Participation in day one of the ICEM CAL project/ Indian National Mineworkers Federation Workshop for Organisers of Contract and Agency Labour, 21-22 May 2012, drawing on information presented by Rashtriya Koyla Khadab Mazdoor Sangh, Rashtriya Colliery Mazdoor Sangh, Colliery Mazdoor Union, Asansole Coalfields Contract Workers' Union and Orissa Collieries Mazdoor Sangh.



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