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From ‘precarious informal employment’ to ‘protected employment’: the ‘positive transitioning effect’ of trade unions

Melisa R. Serrano
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**FROM 'PRECARIOUS INFORMAL
EMPLOYMENT' TO 'PROTECTED
EMPLOYMENT':
THE 'POSITIVE TRANSITIONING
EFFECT' OF TRADE UNIONS**

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ABSTRACT

This paper aims at contributing to the discussions on the challenge of transitioning from precarious informal employment to more protected employment. This paper looks into a rather under-researched area—the role of trade unions in facilitating this process of 'transitioning' as well as in containing the spread of this type of employment. We refer to this process, along with its outcomes, as the 'positive transitioning effect' of trade unions. Through 10 case studies from nine countries (Brazil, India, Israel, Nepal, Nigeria, the Philippines, South Korea, the UK, and Zambia), the paper analyses several factors, such as the legal framework (i.e., labour laws and regulations), economic and social protection measures beyond the labour law, union's organisation structures and processes, and union strategies and measures, that influence the success of various 'transitioning' initiatives undertaken either solely by trade unions or in collaboration with other organisations. In facilitating the transition to more protected employment, trade unions have used these factors to draw on and develop various power resources: *institutional*, *associational*, *structural* and *social power*. The paper shows that, among the various dimensions of these power resources, *institutional vitality* plays a critical role in reinforcing the unions' ability to make *strategic choices* not only to resist the informalisation of work but also to initiate and push for positive changes in the world of work.



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INTRODUCTION

The political and economic reconfigurations of the last four decades have resulted in an intensified informalisation of work across the globe. Parallel to the growth of the informal sector in many countries, there has also been a rise in various forms of informal (or non-standard, atypical, alternative, irregular, precarious, etc.) employment (Husmanns 2005). A multi-faceted phenomenon, informal employment goes beyond the informal economy to capture realities of work not only in developing and transitioning countries, but also in developed countries (ibid). The International Conference of Labour Statisticians has defined the term 'informal employment' as "the total number of informal jobs whether carried out in formal sector enterprises, informal sector enterprises or households, during a given reference period" (ibid: 5). The term covers various categories of workers¹, including employees "employed by formal sector enterprises, informal sector enterprises, or as paid domestic workers by households" (ibid: 6). Typically, the employment relationship of these workers is:

[i]n law or in practice, not subject to national labour legislation, income taxation, social protection or entitlement to certain employment benefits (advance notice of dismissal, severance pay, paid annual or sick leave, etc.) for reasons such as: non-declaration of the jobs or the employees; casual jobs or jobs of a limited short duration; jobs with hours of work or wages below a specified threshold (e.g. for social security contributions); employment by unincorporated enterprises or by persons in households; jobs where the employee's place of work is outside the premises of the employer's enterprise (e.g. outworkers without employment contract); or jobs, for which labour regulations are not applied, not enforced, or not complied with for any other reason. (ibid: 6-7)

Whether operating in the informal or in the formal economy, these groups of workers face serious decent work deficits. With regard to workers in the informal economy, the ILO (2014: 3) points out that most of them:

... are exposed to inadequate and unsafe working conditions, and have high illiteracy levels, low skill levels and inadequate training opportunities; have less certain, less regular and lower incomes than those in the formal economy, suffer longer working hours, an absence of collective bargaining and representation rights and, often, an ambiguous or disguised employment status; and are physically and financially more vulnerable because work in the informal economy is either excluded from, or effectively beyond, the reach of social security schemes and safety and health, maternity and other labour protection legislation.

¹It includes: own-account workers and employers employed in their own informal sector enterprises; members of informal producers' cooperatives; own-account workers engaged in the production of goods exclusively for own final use by their households; contributing family workers, irrespective of whether they work in formal or informal sector enterprises (ILO 2014: 5-6)

² ILO's Meeting of Experts on Non-Standard Forms of Employment concluded that "non-standard forms of employment include, among others, fixed-term contracts and other forms of temporary work, temporary agency work and other contractual arrangements involving multiple parties,

Many workers in informal employment in the formal sector enterprises are faced with similar conditions. For example, according to ILO, workers in non-standard forms of employment², “risk facing decent work deficits along one or more of the following dimensions of work: (1) access to employment and labour market transitions to decent work; (2) wage differentials; (3) access to social security; (4) conditions of work; (5) training and career development; (6) occupational safety and health; and (7) freedom of association and collective bargaining” (2015a: 51).

In this paper, we refer to informal employment marked by decent work deficits, both in the formal and informal sectors, as ‘precarious informal employment’. For workers under this type of employment, ‘transitioning’ or breaking out of informality is central to realising decent work (ILO, 2014: 10).

The ‘transitioning’ challenge

‘Transitioning’ is especially challenging given the staggering share of workers in the informal economy³ and the increasing numbers of workers in non-standard employment, especially in some regions of the world (ILO 2014; ILO 2015a; ILO 2015b; Serrano 2015). Related policy initiatives undertaken in various countries underline the importance of policy frameworks which integrate various policy measures in the areas of social protection, occupational health and safety protection, labour market policies, strengthening of labour inspection, enhancing access to freedom of association and collective bargaining rights and others.

This paper looks into a rather under-researched area—the role of trade unions in facilitating the process of ‘transitioning’ from precarious informal employment to protected employment as well as in containing the spread of this type of employment. Through 10 case studies from nine countries (Brazil, India, Israel, Nepal, Nigeria, the Philippines, South Korea, the UK, and Zambia), the paper analyses the factors which influence the success of various ‘transitioning’ initiatives undertaken either solely by trade unions or in collaboration with other organizations.

² ILO’s Meeting of Experts on Non-Standard Forms of Employment concluded that “non-standard forms of employment include, among others, fixed-term contracts and other forms of temporary work, temporary agency work and other contractual arrangements involving multiple parties, disguised employment relationships, dependent self-employment and part-time work” (ILO 2015a: 50).

³ According to ILO data covering 47 countries and territories, the percentage of persons in informal employment (non-agricultural) ranges in Latin America and the Caribbean from 40 per cent in Uruguay to 75 per cent in the Plurinational State of Bolivia; in sub-Saharan Africa from 33 per cent in South Africa to 82 per cent in Mali; in southern and eastern Asia (excluding China) from 42 per cent in Thailand to 83.5 per cent in India; in northern Africa and the Middle East, from 30.5 per cent in Turkey to 58.5 per cent in the West Bank and Gaza (ILO 2014: 6).

1. THEORETICAL FRAMEWORK

This research analyses the transitioning role of trade unions using the power resources approach. It argues that by drawing on their sources of power, trade unions can have a 'positive transitioning effect', which in this paper refers to the capacity of trade unions to accord protection to workers in informal employment and curb the growth of precarious informal work.

Sources of trade union power

The power resources concept in labour studies has emerged in relation to the literature on union renewal, and more broadly to a theoretical approach which sees trade unions not merely as passive recipients of change, but also as agents of change capable of making *strategic choices* (Schmaltz and Dörre n.d.). Founded on concepts of structural and associational power (Wright 2000; Silver 2003), the power resources approach has been expanded and refined to include other sources of power, such as workplace bargaining power, marketplace bargaining power, institutional power, social power, moral power, discursive power or communicative power, collaborative or coalitional power, organisational capacity power, strategic or logistical power and others.⁴ These sources of power, and their related capabilities, overlap and can be grouped into four main categories.

Structural power, as discussed by Gumbrell-McCormick and Hyman (2013), is derived from 'marketplace bargaining power', i.e. workers possessing scarce skills or competences which make them valuable to the employer and therefore difficult to replace. It may also result from 'workplace bargaining power' that is derived from members occupying a strategic position within the production process (or in the supply chain) so that any disruptive action by the workers is costly to the employer (ibid).

Associational power, is derived "from workers uniting to form collective political or trade union workers' associations" (Brinkmann and Nachtwey 2010, cited in Schmaltz and Dörre n.d.: 3). Associational power can be understood along various dimensions. The *membership dimension* refers to increasing union members and density, as well as changing, diversifying or broadening of union membership (Behrens et al. 2004). The *organisational power* dimension refers to a "process of cultivating and synthesizing the 'social capital' of the members so that they identify themselves as part of a collectivity and support its purpose and policies" (Gumbrell-McCormick and Hyman 2013: 1). The *institutional vitality* dimension refers to a union's "capacity to adjust to new contexts, internal enthusiasm to embrace new strategies, and a sense of introducing something new and 'fresh' to the union" (Behrens et al. 2004: 22). Relatedly, the *organisational flexibility* dimension includes strategies for organising new groups of workers, the deliberate and targeted reallocation of resources, regenerating staff and leadership, and new forms of member participation, as well as improvement of

⁴ For a discussion on various sources of power see: Hall et al. 2003; Behrens et al. 2004; Orfald 2006; Gumbrell-McCormick and Hyman 2013; Schmaltz and Dörre n.d.

infrastructural resources (material and human resources) and *organisational efficiency* (Schmalz and Dörre n.d.). Here, the role of trade union leaders who promote new ideas and who have the political will to support change is critical (ibid). Orfald (2006) adds another dimension which is central to the union as an organisation—*democratic and mobilisation capacity*—which includes internal union democracy and rank-and-file union membership involvement and activism.

Institutional power is to be understood as “the result of struggles and negotiation processes based on structural and associational power” and is materialised in new institutions arising out of these struggles (Schmalz and Dörre n.d.: 5). It implies a *political dimension*, that is, a union’s ability to influence policy-making at various levels of government through elections, legislation and implementation of laws and regulations (Behrens et al. 2004). Institutional power may provide a substitute, although perhaps only temporally, if structural, associational and organisational power resources diminish (Gumbrell-McCormick and Hyman 2013). The two-fold nature of institutional power means that it may grant trade unions far-reaching rights and at the same time restrict their power to act (Schmalz and Dörre n.d.).

Social power refers to power through discursive power and cooperation (Schmalz and Dörre n.d.). It encompasses *moral power*, also called *discursive* or *communicative power*, which refers to the ability of trade unions to clearly and persuasively articulate social and societal change: “Unions need to demonstrate that a better society is their mission and identity, and to convince others that this is a possible and desirable goal” (Gumbrell-McCormick and Hyman 2013: 1). In addition, trade unions need to show that they are themselves democratic organisations. It also includes *collaborative* or *coalitional power*, that is, cooperative relationships between trade unions and other groups, movements and organisations which share many of their goals and interests (ibid).

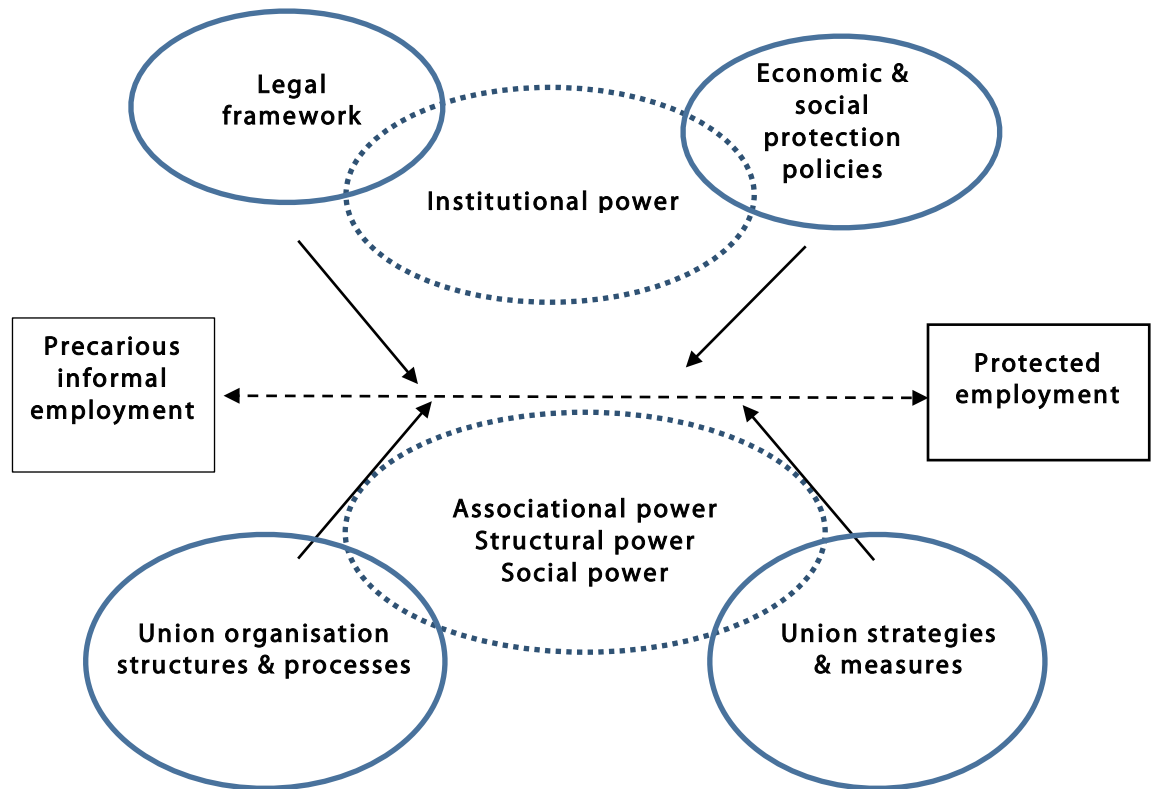
Analytical framework

This research identifies a number of variables which may influence the ‘positive transitioning effect’ of trade unions through their various initiatives aimed at according protection to workers in precarious informal employment and in curbing this type of employment. These are: 1) the legal framework (i.e. labour laws and regulations); 2) economic and social protection measures beyond the labour law (minimum or living wage policy, universal income floor, universal health care coverage, universal social security, etc.); 3) union’s organisation structures and processes; and 4) trade union’s strategies and measures in a given political economy and institutional context.

We argue that these variables may facilitate or constrain the degree of the ‘positive transitioning effect’ of the union initiatives discussed in the case studies. Our analysis explores how trade unions draw power from each of these variables to break out of informality by addressing some of the decent work deficits of workers in precarious informal employment and by curbing the growth of precarious employment. We use the term ‘protected employment’ to denote

what we consider as positive outcomes of the trade unions' transitioning initiatives, such as improved wages and working conditions, job security, and the successful exercise of workers' rights to unionise and bargain collectively.

Figure 1: Analytical Framework



Given the diversity of the groups of workers covered by our case studies, this paper uses the terms 'informal workers' to refer to workers employed in the informal sector enterprises, and 'non-standard workers' to refer to workers employed in formal enterprises.

Methodology

The case studies⁵, which were undertaken and written by several alumni of the Global Labour University (GLU) during the period 2014-2015, covered various groups of workers (Annex 1), namely: agricultural workers, domestic workers, home-based workers, fixed-term contract workers, casual workers, project-based workers, contract/piece rate workers, seasonal workers, part-time workers, and workers involved in triangular employment relations (i.e. outsourced or subcontracted workers, labour contracting, agency workers, dispatched or subleased workers, etc.).

⁵ The case studies will be made available online as GLU working papers.

In exploring commonalities and differences among the various initiatives, the country case studies followed a standard structure that explored the main variables influencing the success of and challenges encountered in the transitioning initiatives. The case study writers analysed secondary data and conducted interviews with key informants.

2. THE CASE STUDIES

2.1 The HISTADRUT initiative in Israel

Historically, the New General Federation of Labour (HISTADRUT) stood as a class-oriented organisation aspiring to service all the needs of the working class. In this regard, the federation possesses an inherent ability to carry out effective, well-coordinated and large scale campaigns.⁶ Despite HISTADRUT's history and power, there has been a marked growth of non-standard employment in recent decades, especially in the public sector where 20 per cent of all workers employed by the government are agency workers or service contractor workers (employment rates vary from 8 per cent to 35 per cent across different branches). In an attempt to address this alarming trend, HISTADRUT negotiated with the Ministry of Finance's Department of Wages and Labour Contracts in 2008 a national Wage Agreement. This agreement included the establishment of a bipartite committee to reduce the number of individual labour contracts in the public sector in return for greater 'executive flexibility'. Such committee, however, was never established.

The mass protests for social justice that took place in Israel in the summer of 2011 provided HISTADRUT the opportunity to link the planned labour dispute related to non-standard workers to the wider social protests, and frame the issues of non-standard workers around social justice. Although there appeared to be no legal basis⁷ for said dispute given that the majority of non-standard workers are not unionised (Israeli Settlement of Labour Disputes Law 5717-1957), HISTADRUT went on to declare a legal labour dispute covering all types of non-standard employment in all sectors. It framed the labour dispute as a counter measure to the diminishing power of organised labour and the CBA system, and that the dispute concerned only the organised workplaces where HISTADRUT is the representative union. The National Labour Court (NLC) ruled the strike to be a quasi-political strike, which is permissible on a limited scale (a political strike is not legally permitted), but with a considerable economic aspect.

⁶ HISTADRUT enjoys high union membership: 61 per cent of organised labour and 15 per cent of the workforce. It is comprised of 40 trade unions with 418,600 members. A worker first joins HISTADRUT then is assigned to a specific union. Membership fees are paid to HISTADRUT and then transferred to the unions.

⁷ According to the Israeli Settlement of Labor Disputes Law 5717-1957, a labour dispute can be declared in the following circumstances: (a) the conclusion, renewal, alteration or cancellation of a collective agreement; (b) the determination of terms of employment; (c) the decision to hire or overlook potential employees and the termination of employment; and (d) the determination of rights and obligations arising from employer-employee relations.

The labour dispute, with the explicit threat of a wide-scale strike, aimed at forcing the government and the private sector in collective negotiations to reduce or stop service contracting and to accord protection to existing service contractor and agency workers. The four-day wide-scale strike action in February 2012 saw the participation of all the major unions (i.e. railway, banking industry, securities authority, municipalities, government offices, ports, tax authority, water authority, electric company, public hospitals and international airport). The dispute was resolved with the signing of two collective bargaining agreements (CBAs)—one with the Economic Organizations Coordination Bureau (OECB) and the other with the government.

Outcomes

The combined strategies of a legal labour dispute, collective bargaining, and strike action led to several important outcomes: the conclusion of two CBAs; the enactment in October 2013 of the Employment of Contract Workers in the Public Sector which solidified the provisions of the CBA in the public sector; and because the CBA signed with the OECB was not extended to all employees in the private sector, the HISTADRUT signed two industry-wide CBAs, one in the cleaning sector and the other in the security service sector (both CBAs were granted extension orders in 2014).

The key provisions of the CBA in the public sector included, among others, the following: improvement of labour law enforcement (hiring of an additional 200 labour inspectors); the establishment of a contract workers' call that will provide information about working conditions and accept complaints from workers; the grant of a monthly wage equivalent to that of a full-time worker and wage increases in two tranches (2.25 per cent on 01 January 2013 and 1 per cent on 01 July 2013); the grant of excellence bonus equivalent to 1 per cent of annual wage; social benefits such as pension funds, training funds, benefit funds, convalescence pay, subsidized meals, and holiday gifts; the conversion of cleaning personnel in governmental hostels as well as employees in health corporations into directly-employed state employees; and the direct employment of 'shoulder-to-shoulder'⁸ employees who work for more than nine months. Meanwhile, the CBA in the private sector included, among others, the following provisions: the coverage of service contractor employees of existing CBAs at the same workplace; the direct employment of cleaning personnel and core employees who work for more than 170 hours per month and after nine months of continuous employment; and the establishment of a bipartite committee for the implementation of the CBA.

The implementation of CBAs was nonetheless marked by several problems: vague phrasing of the Official Government Decision on the implementation of the CBAs, allocation of responsibility to implement the decision to different ministries, non-establishment of the bipartite committee to oversee the implementation of the

⁸ These are workers assigned to positions that relate to the core activity of the primary company and in some cases are, at the same time, also performed by regular employees.

CBA (as of 2014), and the nullification of the CBA with the private sector (as its implementation depended on an extension order to all employees in the private sector which was never accorded). In response, HISTADRUT had opted for industry-level CBAs in the cleaning and security sector, both of which were granted extension orders in 2014.

2.2 The KVSS initiative in India

In India, although there is a union of permanent workers at the Mumbai Municipal Corporation (BMC), this union was not taking on the issues of the conservancy contract workers. Therefore, in 1997 the conservancy contract workers at BMC organised themselves into a union—the *Kachra Vahtuk Shramik Sangh* (KVSS). KVSS chose to be an apolitical organisation to keep off external pressure from political parties, especially since most contractors have links to political parties. KVSS also has members among conservancy contract workers in Thane, Kolhapur, Solhapur and Maharashtra.

The strategies of KVSS to extend protection to contract workers included mounting legal battles by using existing laws, such as the Contract Labour Act (1970) and the Industrial Dispute Act (1947) for the protection and direct employment and permanency of contract workers. The union took BMC to the Mumbai High Court, Industrial Tribunal and Supreme Court for the permanency of 2,500 contract conservancy workers (1997-2001). All courts ruled in favour of the union's writ petition. KVSS again filed a second writ petition in 1999 on behalf of 580 workers seeking abolition of the contract system in BMC's Solid Waste Management Department. BMC responded by stopping the hiring of contract labour for this department. In 2004, when BMC started hiring more contract workers, it had to give priority to KVSS workers in view of the judgment of the High Court. Thus, all the 580 workers were given their jobs back. KVSS filed its third case in the Industrial Court in 2007 against BMC, arguing that the contract system of BMC is 'sham and bogus', that there is a direct employment relationship between BMC and the contract workers. Under the Contract Labour Act, 1970, an employer cannot employ contract labour for permanent and perennial work. Also, both the principal and contractor have to secure registration certificates from the labour department before employing contract labour. Neither BMC nor the contractors had registration certificates. Moreover, by law, BMC has the statutory duty to keep the city clean and this function cannot be transferred to third parties (contractors). This means that for the core activities of BMC, it cannot employ contract labour. BMC argued that the contract workers were 'volunteers', yet it supervised and controlled the activities of these workers (and disciplined them too). For this third case, the Industrial Court ruled in favour of the union in November 2014, directing BMC to absorb 2,700 workers as permanent employees. KVSS also took on individual cases. It waged and again won a legal battle against BMC for compensation of the family of a garbage truck driver who died in an accident.

These legal or court battles were complemented by innovative protest actions, campaigns and mobilisations which aimed at making public the dire situation of these workers. Some of these collective actions involved the following: a hunger strike for three days (in 1997) in front of the BMC office to compel it to provide water facilities for the workers at the working site; a 'dead body protest' staged in 2008 where KVSS members went to BMC head office with the body of a contract conservancy worker who died at the working site to seek compensation for the workers' family; the 'Give us shoes or take from us' campaign which involved BMC contract workers placing a long chain of waste shoes in front of the Commissioner's office; the '*Chaddi Banyan*' (undergarments) campaign in 1998 in which workers went to the Commissioner's office asking for raincoats, mask, uniform, etc. in their underwear; and the 'Begging in the name of BMC Commissioner' action in 2009 to compel BMC to release the unpaid salaries of workers.

The union also strengthened its position by affiliating with the New Trade Union Initiative (NTUI), a federation of independent local trade unions organising and representing at the national level issues of contract workers and other informal workers. Also, the KVSS has close relationships with colleges like the Tata Institute of Social Sciences, Xavier Institute, Government Law College, etc. Students from these colleges helped in organising, mobilisation, media campaign, research, legal support, etc. Some students worked as full-timers in the union after completing their education. KVSS is also a member of the *Maharashtra Kriti Smiti*, a joint action of various trade unions fighting for the rights of workers.

Outcomes

The various strategies yielded positive outcomes for the contract workers of BMC. A water facility was installed in the work site. Contract workers became permanent workers. After unionisation, they started to receive the minimum wage and received their pay in crossed cheques. Compensation was paid by BMC for accidents and deaths of conservancy workers. The workers were provided personal and protective equipment (PPE), such as shoes, raincoats, masks, uniforms, etc. Overall, the struggles and victories of the conservancy contract workers instilled confidence among them (e.g. being able to speak with government officers and contractors) and boosted their bargaining capacity.

2.3 The NUPENGASSAN initiative in Nigeria

In Nigeria, the National Union of Petroleum and Natural Gas Workers (NUPENG), which organises junior workers, and the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN), which organises senior staffers (non-management) in the oil and gas industry, collaborated to organise into union branches the casual and contract workers. The new formation is named NUPENGASSAN. This initiative compelled employers in the downstream and upstream sectors of the industry to also associate. The downstream sector of the oil and gas industry includes the distribution, marketing and sales of petroleum products in the domestic market. Workers in this sector are mainly the employees

of independent marketers who load at depots, and petrol station attendants and related staff. The upstream sector, on the other hand, includes mining, exploration, production and exportation of oil and gas. This sector is dominated by multinational corporations (MNCs).

The organising efforts of NUPENG led to the establishment of the Petrol Station Workers' branch in the downstream sector. In the upstream sector, NUPENGASSAN established Contract Workers branches. The organisation of union branches enhanced the bargaining power of the contract workers. Having established union branches, the two unions pushed for industry bargaining to improve the terms and conditions of employment of contract workers. To do this, NUPENGASSAN compelled employers to associate using the wildcat strike threat. Such strikes were especially effective given the history of militancy of the oil workers' unions. The result was the establishment of Labour Contractors Forums in MNCs (the upstream sector) and employers' organisations in the downstream sector, such as the National Association of Road Transport Owners (NARTO), the Independent Marketers Branch (IMB), the Petrol Dealers Association of Nigeria (PEDAN), and the Independent Petrol Marketers Association of Nigeria (IPMAN).

In their efforts to improve the working conditions of contract workers and convert them to permanent direct employees, the unions used advocacy, building of alliances and awareness raising strategies. Through deputations to the National Assembly, the unions pushed for a Petroleum Industry Bill concerning the governance of the industry (i.e. regulatory mechanisms, union representation in governing boards, mandatory recognition of the right to freedom of speech and collective bargaining in the industry, etc.). In addition, ICEM (later IndustriALL), to which both unions are affiliated, raised international condemnation of the poor employment and working conditions of the contract workers in the industry. Holding joint training sessions with unions operating in the sector proved helpful in healing the fractured relations between NUPENG and PENGASSAN, on one hand, and with other unions in the industry, on the other hand. NUPENGASSAN also embarked in a naming-and-shaming tactic of draconian labour contractors that sacked contract workers who join the union. It extensively used mass media in sensitising Nigerians on the plight of casual workers (e.g. NUPENG's 30-minute documentary on the inhumane practices of Shell Petroleum Development Company or SPDC).

In November 2007, the two unions held a demonstration against casualisation and environmental degradation involving the Nigeria Liquefied Natural Gas Ltd. The company retracted its earlier commitment to sign a recognition agreement with the unions. Instead, it used military and police to disperse the demonstration, but the unions fought back with a bigger demonstration and the threat of a national strike. The company eventually signed a recognition agreement and paid compensation for workers injured in the dispersal. In August 2010, the two unions staged a three-day partial petrol blockade in Abuja. This forced the Federal Government and the oil companies to agree to the establishment of a tripartite Technical Working Group (TWG) on Casualization and

Contract Staffing in the Oil and Gas Sector. The TWG was expected to issue guarantees of job security for casual workers.

Outcomes

The unions' strategies led to several positive outcomes. First, collective bargaining evolved into a *model for multi-employer bargaining* (e.g. Petrol Tanker Drivers (PTD) branch with NARTO, Petrol Station Workers (PSW) branch with IMB, NUPENG's PSW branch with IPMAN and PEDAN). In pushing for multi-employer bargaining, NUPENG actually helped in getting the concerned atomized employers organised into a body that could then serve as a party to collective bargaining with the union branch. Second, Labour Contractors Forums were established. These Forums negotiated the improvement of terms and conditions of employment of contract staffers employed in the secondary labour market. Thus, NUPENG was successful in making collective bargaining a norm in the upstream sector.

Third, the *Guidelines on Labour Administration: Issues in Contract Staffing/Outsourcing in the Oil and Gas Sector* was issued by the Federal Ministry of Labour and Productivity in 2011, as a result of the tripartite TWG's work. The key provisions of the Guidelines included the following: restriction of outsourcing to non-core jobs; first shot opportunities for permanent jobs vacancies by contract staff; respect for "the sanctity of collectively bargained agreements" and mandatory collective bargaining between contractors and their employees; respect for "the pronouncements of statutory dispute resolution bodies"; annual submission of remuneration, training and development plans of contractors for their employees to the ministry towards ensuring these and other activities of the secondary and third party employers conform with national labour laws and ILO core standards. The Guidelines also stipulate that contract staff under manpower/labour contracts shall belong either to NUPENG or PENGASSAN, as appropriate, and even the principal oil companies are enjoined "to facilitate unionization and collective bargaining by streamlining labour contractors especially where there are large numbers of such". Nonetheless, the contentious issue of organising casual workers under service contracts still exists. The Guidelines stipulate that "for all Service Contracts, trade union membership shall be determined by the economic activities of the Contractor Company and in line with extant Labour Laws". Despite these limitations, the Guidelines provide a critical point of reference for unions. In February 2016, a committee comprised of representatives from the workers, employers, and the government was established to resolve labour unrest in the oil and gas sector. The committee is likewise mandated to review the Guidelines on Labour Administration, including contract staffing and outsourcing, and upgrade the same to a ministerial regulation.

2.4 The Unite London Hotel Workers initiative in the UK

Similar to the NUPENGASSAN initiative, the Unite London Hotel Workers branch of Unite the Union seeks to organise agency workers in the hotel/hospitality sector in London using the union branch rather than the workplace as the basis for collective organising. The organising initiative employed a mix of strategies that include branch officers assuming the role of shop stewards, using the right of workers to union representation in grievance and disciplinary hearings, and visible and vocal campaigning on key issues affecting hospitality workers. The union also adopted a campaigning approach and placed a chair and secretary structure in the branch that focus on campaigning and organising: running a weekly advice surgery (or advice sessions) for workers who have problems at their workplace to build workplace networks. At the same time, the union provides union training and political workshops, leafleting of hotels, one-to-one meetings and phone calls with workers, and conducts English language classes. The union seeks to build broader solidarity across hotel brands, rather than taking each workplace as an individual employer and using leverage on particular brands, especially those that signed global framework agreements or have corporate social responsibility statements.

The union used Section 10 of the Employment Relations Act 1999 to represent members through individual and collective grievances. This allowed the union access to workplaces in order to represent workers, build organisations, and train workers of their rights. The use of the collective grievance process has likewise become a mechanism for informal bargaining as formal bargaining is very difficult not only in the hotel sector but also across sectors and industries in the UK. In addition, the union used the minimum wage legislation and the independent tripartite Low Pay Commission to expose the abuses in the hotel sector and to increase compliance with the minimum wage.

In addition, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), to which Unite London is affiliated, has facilitated skills-sharing with the Unite Here union in New York which has pioneered a campaign to build a city-wide collective agreement in hotels. Citizens UK has at various times supported the Unite's work in the sector, particularly during Living Wage campaigns in the run-up to the 2012 Olympic Games. Citizens UK has been effective at using community groups, particularly through local churches and other faith bodies, to raise issues affecting low-paid and often migrant workers in the UK. Unite the Union has also cooperated with the Equality and Human Rights Commission that ran a major investigation into abuses in the sector, and with the Anti-Slavery international which supported the union branch in challenging issues such as people trafficking.

Outcomes

The initiative of Unite London Hotel Workers branch has yielded positive outcomes. First, the union membership in the London branch counted 1,000 members as of 2014. Second, the branch developed hotel—and company—level

groupings of workers to start taking action collectively. The use of Section 10 of the Employment Relations Act 1999 to represent members through individual and collective grievances, allowed the branch to win protection for workers on a range of issues, such as shift patterns, bullying managers, distribution of tips, and protecting outsourced workers from changes to their employment terms and conditions. In some cases, the use of collective grievances has also forced employers to negotiate, despite the absence of a formal union recognition. Third, the Unite branch's campaign managed to persuade the Government Health and Safety Executive to do an ergonomic study on housekeeping, which led to the introduction of a new formal guidance for employers and workers. In fact, the Unite branch has been working with an inventor to develop tools to reduce health and safety risks for handling in the hotels. As a result of Unite's work, the IUF has now taken up housekeeping health and safety issues as an international campaign.

Fourth, the government's Guidance on the National Minimum Wage for hotels was removed. The Guidance had been used by employers for not paying the national minimum wage. This guidance explicitly states that employers in the hotel sector could pay workers piece rates, i.e. paying a sum of money per room cleaned. The problem with this scheme is that companies vastly overestimate the number of rooms that could be cleaned per hour, and the piece rate meant that workers were often not getting paid the national minimum wage. Fifth, there has been a significant increase in inspections on the enforcement of the national minimum wage in the sector and a focus specifically on agency employers rather than the hotel chain that contracts them. Sixth, the Living Wage⁹ campaign was successful in Holiday Inn, the official Olympic hotel chain. Holiday Inn was compelled to commit to the implementation of the living wage by April 2017, as well as to open dialogue over neutrality and access for the union. Finally, the union has been able to mainstream in political discussions in the media, in parliament and in all main political parties, key issues facing non-standard workers, such as zero-hours contracts, Swedish derogation¹⁰, gang masters' licensing and bogus self-employment, and the collapse in wages and collective bargaining.

2.5 The NUCIW initiative in Zambia

In Zambia, the National Union of Communication and Industrial Workers (NUCIW), the oldest union in Zambia and an affiliate of the Zambian Congress of Trade Unions (ZCTU), sought to organise casual workers in the retail chain Shoprite. NUCIW used to organise formal workers in the company but had difficulty organising informal, casual workers who performed the same duties as the unionised formal workers. Management used the threat of replacing union members with casual workers in the event of disputes or when demands for

⁹ The living wage is 21 per cent higher than the national minimum wage.

¹⁰ Swedish derogation is a form of agency contract where workers are guaranteed pay between assignments in order to exempt them from equal treatment rights granted by the EU Agency Workers Directive.

improving working conditions were raised during collective bargaining. At the same time, the union was receiving letters of complaint and phone calls from the casual workers informing the union about how they have been discriminated in terms of pay and working conditions, and asking the union to also extend representation to them.

As a response to the Shoprite management threat of using casual workers, NUCIW embarked on an awareness raising campaign on the benefits of being organised in the union in order to build a critical mass of casual workers. The union also organised meetings with the Shoprite management and the workers aiming to reach an agreement to end the rampant casualisation in the company. There was resistance from both the management who refused to allow the union to organise the casual workers and the casual workers who often shunned the meetings for fear of losing their jobs. This made it difficult for the union to reach a critical mass of members among casual workers that would compel the management to accept the union's demands.

In reaching out to the casual workers, the union used a number of strategies. It relied on existing legislation, such as the constitutional right of association, including unionisation, and Minimum Wage Act to address the wage claims of casual workers. It also raised problems related to the integration of medical/health coverage in the salary. In 2008, NUCIW mounted three strikes, two of which occurred at various outlets and involved regular workers demanding better salaries payment of overtime and others. During these strikes, the management used casual workers. The country-wide strike in October 2008 was the largest and involved both regular and casual workers. This strike demanded better working conditions for regular workers and an end to casualisation in Shoprite. The strike which closed all Shoprite's operation for a week saw the dismissal of 3,000 workers who refused to return to work after the management's ultimatum. The Ministry of Labour called for a meeting between the Shoprite management, ZCTU and NUCIW officials and gave assurance that no worker will be terminated. The strike received high media coverage raising public awareness of the rampant casualisation in all Shoprite outlets in the country and of the failure of the company to comply with basic labour standards.

With the support of the Friedrich Ebert Stiftung, NUCIW was able to intensify and sustain its awareness campaign. It has organised a number of activities where resource persons have been invited to build the capacities of labour leaders. Such activities have provided a space to discuss progress and feedback and exchange experiences. HR personnel from Shoprite have also been invited in conferences to dialogue on key issues. The media was also an important partner which by giving bad publicity to the company not only created support to the Shoprite workers' struggle, but also threatened to extend such negative publicity to the various stock exchange markets. NUCIW started airing as well a very popular radio program 'Workers Voice'.

ZCTU provided technical assistance through information resources and mediation during the meetings between the workers and management. The South African Commercial, Catering and Allied Workers Union (SACCAWU) offered moral and resource assistance, including strategic information about the agreements signed by Shoprite in South Africa. SACCAWU signed a Global Industrial Relations Agreement with Shoprite which was instrumental in guiding industrial relations between management and workers. Finally, the government's willingness to step in as part of its pro-poor, youth and informal sector policies has assisted the union-management dialogue to address the issue of casualisation at Shoprite.

Outcomes

NUCIW's initiative of organising casual workers has resulted in several favourable outcomes in terms of improving the employment conditions of these workers and in curbing casualisation at Shoprite outlets. First, the management and the union made adjustments to the recognition agreement and introduced a new category of workers—the flexi-timers. Flexi-timers have fixed running contracts which can be terminated by either party on demand. In cases of vacancies of the permanent and pensionable jobs, these workers will be given priority. Second, the employment conditions of the flexi-timers were aligned with the Minimum Wages and Conditions of Employment Act Cap 276. Wages were raised from \$296 to \$600 per month and were inclusive of housing allowance, medical allowance, transport and lunch allowance. Further, adjustment of wages was made from weekly to monthly salaries and paid through the bank accounts of the workers, as opposed to being handed cash. The wages are subject to adjustment depending on the outcomes of the bargaining council. Flexi-timers are now entitled to social security coverage given that their employment has been stabilised; they are now eligible for coverage in the National Pension Scheme Authority (NAPSA) as well as in the house-pension scheme. Their working hours have been fixed at 40 hours per week and eight hours a day with every extra hour being paid as overtime. They are entitled to annual leave, maternity and sick leave as provided under the Minimum Wage Act Cap 276. In this way, the flexi-timers' working conditions have become comparable with the full-time workers, except in terms of the hourly rates for wage calculations as well as the nature of employment (running contracts).

Third, of the 1,100 casual workers, 334 became permanent workers and the rest have been put on improved contracts as flexi-timers, which may pave the way for their transition to regular employment. The union was also successful in investigating and uncovering the management's scheme of employing students under internship arrangement to deceive labour inspectors and to avoid changing their status to flexi-workers. Fourth, local staff has been placed at the top management of Shoprite following a directive from the Ministry of Labour. Fifth, collective bargaining has been carried out by Zambian staff even if their mandate comes from South Africa (before, the bargaining process was derailed when the previous management used to bring in a South African management

team to the negotiating table which often led to disputes.) This has improved labour relations at the company. Finally, the initiative has resulted in a more consolidated and unified union.

2.6 The LMKS initiative in India

In India, *Learn Mahila Kaamgar Sanghathana* (LMKS), a state-level trade union which organises home-based workers, informal garment factory workers, domestic workers, waste pickers and street vendors in three districts of Maharashtra (i.e. Mumbai, Nasik and Solapur), and the Labour Education Research Network (LEARN), a labour-support non-government organisation, are involved in organising and representing informal and home-based garment workers. LEARN, which was established in 2000 to provide training and research support to trade unions and encourage the formation of new trade unions, supported the establishment of LMKS in 2006. LMKS has 5,800 members across the sectors of home-based work, informal garment factory work, domestic work, waste picking and street vending. Of the total membership, Mumbai is the stronghold with 2,540 members, followed by Nashik with 2,360 members, and Solapur with 900 members. In Mumbai, LMKS has 450 members among home-based workers and 200 members among informal garment workers.

Through the organisation and representation of informal garment factory workers (IGFW) and home-based garment workers (HBGW), LMKS, with the support of LEARN, has embarked in a mix of strategies. The union has mobilised workers to demand access to public services such as affordable housing, the building and maintenance of public toilets, access to ration and election cards, and access to social security. The union has also gained legitimacy on the issue of housing by providing evidence-based research and by lobbying the state to provide affordable housing, or by pressuring the local government to take action and address various problems, such as open sewages, irregular cleaning of garbage, and others.

The status of a legally registered trade union at the state level like LMKS has been instrumental in putting pressure on employers to negotiate with the union solutions to the problems faced by the two groups of workers (soft negotiating strategy as the law does not oblige the employer to negotiate with the union). In the case of IFGWs, the union has intervened on case-by-case basis by helping workers, who have problems of arbitrary dismissal, retention of wages, harassment, non-payment of overtime and non-payment of medical support in case of injuries, take up these issues with their employers. First, two to three union activists intervene and in serious cases, that is when the employer refuses to listen, all (11) union activists go to the factory to accompany the worker. In the case of HBGWs, the union uses a two-pronged strategy. One strategy involves the strengthening of the bargaining power of HBGWs vis-à-vis contractors through collective action, such as negotiating with the contractor that workers be paid for a part of the work even if the finished product has defects, or collecting data about pay rates in an area and mobilising workers to stand up and (at times stop

the work) demand equal piece rate. In cases where the work has stopped and the contractor has refused to bargain, the union has been able to negotiate equal piece rate directly with the factory owner who comes to see why the order is not completed. The other complementary strategy involves generating employment and higher piece-rates through sourcing direct orders from factories and malls. Since workers cannot travel regularly to the factory (transportation costs and house responsibilities) and the owners will not trust them with large quantities of materials, the union decided (in a union meeting) to do away with the contractor and instead facilitate orders for the members directly from the factory. By taking out the contractor in the supply chain, the union strengthened the bargaining position of workers as the pay of piece-rates was raised two to four times. The union charges a 20 per cent commission as compared to up to 80 per cent charged by the contractor. The money earned from commissions is used to cover the transportation costs of the activists and to build savings for purchasing future orders.

As in the other union initiatives described earlier, LKMS sought to address the broader social problems of its members. In cases of denied access to social security schemes or of low quality and quantity of terms provided under these schemes, the union in cooperation with civil society organisations mobilised large scale protest marches in front of the respective government offices responsible for providing the services. In 2008, the union organised a large protest in front of the ration office, which resulted in an agreement with the rationing officer which specified that proof of union membership, the annual income, and the ration card application would be sufficient proof of identity for issuing a temporary rationing card. The union's letterhead compensated for the lack of property titles of housing and other formal requirements which are the most common barriers for successful application for a card. A number of other protests were also held to keep the pressure high on the rationing offices. Work stoppages were likewise staged when a contractor tried to pay HBGWs lower rates.

The union's sought to organise more workers through one-on-one or personal conversations with workers during tea or lunch breaks outside factories, or visiting them in their homes as the union is not allowed to enter factories. Through a snow-ball approach, existing members inform union activists where their friends live and ask them to visit their homes. Another approach involves calling workers to monthly union meetings at the community level. These community meetings provide a platform for sharing information and discussion without being disturbed. With LEARN's support, the union conducts research in the form of mapping the working and living conditions of workers. The information gathered is processed and presented in the local language to respondent workers and other workers and union members (invited in the community meetings)¹¹. In these meetings, the workers are encouraged to come up with collective solutions and strategies to problems identified. This is an

¹¹The 2013 mapping study on civic amenities and infrastructure available to home-based workers was discussed in a result-sharing workshop which was attended by HBGWs and union activists.

empowering strategy as the meetings provide a space for women to share their burden and not feel alone in their struggles. The strategy helps build awareness that home-based work is work which should be carried out under adequate conditions (HBGWs often think they are not workers and it is only their husbands who earn the family income). It also helps build a collective identity, as workers become aware that although they work in separate houses they have common problems. In addition, the union has organised around the issue of domestic violence and harassment both at the workplace and in public spaces which have a stronger resonance with the identity of these workers. The union has intervened in cases of domestic violence (whether members or not) by talking to family members inflicting the violence or threats and supporting workers in finding solutions to problems.

The issue of health has also served as another organising strategy. Every three months, the union in cooperation with public hospitals and charitable trusts sets up camps which provide free-of-cost medical check-ups and medication to workers, whether union members or not. These camps are set up alternately in different parts of Mumbai and serve to reach out to a large number of workers to explain to them about the other services the union offers and encourage them to become union members. Childcare centres have also been set up to address some of the main concerns of union members. The union also offers vocational training (advanced tailoring classes) for garment workers, leadership capacity building workshop for union activists and English and computer classes for the children of the members.

In seeking to improve the working and living conditions of these workers, LMKS has worked in coalition with *Rationing Kruti Samiti* (Action Committee on Rationing), a national platform of civil society organisations working to improve the functioning of the public distribution system. It has cooperated with the Committee for Rights to Housing in promoting the right to housing, as well as with research institutes in terms of information sharing and advocacy work. On health issues, the union cooperates with public hospitals and charitable trusts which provide medicines and vans for the health camps. On women's rights issue, LMKS cooperates with organisations which are active in human rights, issues of abortion and domestic violence. The union is able to access fellowships for leadership training of its members, as well as monthly stipends through cooperation with NGOs such as the Committee of Resources Organisations. The union is also affiliated with the Self-Employed Women's Association (SEWA), and LMKS activists participate in the various training, workshops and national council meetings organised by SEWA.

Outcomes

The above initiatives of LMKS, with the support of LEARN, resulted not only in the improvement of the working conditions of IFGWs and HBGWs, but also their economic and social conditions. In fact, about 1,200 of LMKS members in Mumbai, including IFGWs and HBGWs, gained access to ration cards. Workers gained access to social security schemes. The union has worked to raise

awareness among workers of the different social security schemes and helped workers with the paper work for accessing these schemes, avoiding in this way that workers pay a high commission to agents¹². In Solapur, the activists have pressured the local government to set up an 'implementation committee' composed of one social worker, one lawyer and three government officials to ensure workers' access to two social security schemes; 134 members have benefited from the two schemes. The union acts as a 'pressure group' to monitor the implementation of these policies.

The workers' pay increased in real terms. Work stoppages have helped establish direct contact with the factory owner, cutting the add-on costs charged by contractors. Ever since the direct contact with the employer was established, the union has been able to negotiate pay increases (adjustment for inflation) every three to four months. About 300 union members have benefited from taking orders directly from the employers through the union at piece-rates which are two to four times higher. The union has also successfully negotiated equal wages for newly-employed workers and helped workers to be reinstated at work. It successfully negotiated overtime pay in eight out of 17 factories.

The working and living conditions of workers were improved and cases of harassment at the workplace were addressed. LMKS negotiated the building of toilet facilities within the factories. Outside the workplace, the union organised large scale protest to pressure the government to build 30 public toilets in different areas of the city and to clean gutters and cover open sewages in the residential areas where home-based members live. To increase access to employment, LMKS has worked to build networks which support informal garment workers in finding a job in case of unemployment. The union helped 400 union members to obtain voter ID cards. The active involvement of IGFWs and HBGWs in the collective actions of the union increased self-confidence and assertion among women workers and developed a stronger collective identity and mutual support among workers.

2.7 The KCWU initiative in South Korea

In South Korea, non-standard workers in the construction industry have been organising themselves into unions since 1988. In 1992, the National Association of Construction Day Labourers Union (NACDLU) was established. In 1999, NACDLU merged with the Korean Federation of Construction Trade Unions (KFCTU) and formed the Korean Federation of Construction Industry Trade Union (KFCITU). The merger was a strategy to build a local-wide union by moving beyond enterprise-level organising to organise workers who frequently moved from one site to another. Since 2000, the KFCITU has supported the organisation of construction machinery operators, such as tower-crane operators (2000), concrete mixer truck drivers (2000), dump truck drivers (2004), excavator operators (2007), often employed on project basis and migrating from one city to another when the

¹²The union charges five to ten times less than the agents (depending on the type of ratio card) and use the commission to cover the application costs and for financing union work.

project ended. In 2007, KFCITU was integrated into the Korean Construction Workers Union (KCWU) which represents construction workers, including precarious and independent workers. KCWU has 24,000 members, more than 80 per cent of which are construction machinery operators. Despite differences in occupations, the KCWU members all suffer from similar problems stemmed by the multi-layered subcontracting system. The KCWU initiative thus focused on organising, collective bargaining and demanding changes in the labour law for contract and bogus self-employed workers in the construction industry.

Realising that a strike in one trade of equipment can paralyse the entire construction industry, KCWU started organising tower-crane operators¹³. Union activists convened meetings and workshops which created a space in which local activists could network and realise the need to build a unified national organisation. The local groups then worked towards broadening their base. This resulted in the establishment of the Korean Tower Crane Workers Union in 2000 which soon decided to hold a general strike to improve low wages and poor working conditions not through company-based bargaining but through multi-employer bargaining. The first general strike lasted 28 days and resulted in a CBA with the Korean Tower Crane Cooperative which has over 140 member companies. The second strike (2003) resulted in establishing for the first time Sunday as a day off. The 2007 strike of tower crane workers achieved an eight-hour workday—the first to do so among trades in the construction sites. The 2009 CBA established 40-hours work-week. To date, 70 per cent of tower crane operators have joined the union. Death rates from accidents have plummeted, while wages and working conditions have significantly improved.

In 2001, concrete mixer truck drivers, dump truck drivers and excavator operators struck for 163 days. These workers are considered self-employed although they belong to a particular *remicon* (ready-mix concrete) company. Their demands included better working conditions and union recognition, but the latter became a very controversial issue as the *remicon* companies refused to bargain collectively and instead terminated the employment contracts with the unionized drivers on the ground they were self-employed. Workers drove their vehicles to Yeoido Park, a large park in the business area, and held a sit-in for a month demanding recognition of union and labour rights. The union was able to have enterprise-based CBAs with some companies, although the issue of labour rights recognition remained unresolved.

Impressed by the success of the concrete mixer truck drivers, the dump truck drivers contacted the Seoul Regional council of the KCTU in 2014. After several months of consultations and education, the dump truck drivers formed a special unit—Dump Truck Drivers' Solidarity (*Dumpyunda*)—under the Korean

¹³ The construction industry in South Korea is mainly focused on building apartments. Building large steel structures requires tower cranes. When main contractors lease tower cranes, their operators are also dispatched by the rental company. Crane operators are employees of the rental company, but get paid only when they are on duty. Their working conditions have greatly deteriorated and the profession has become dangerous.

Construction Transport Workers Union. Once a substantial number of these workers were organised, *Dumpyundai* went on strike and in May 2015 demanded the government the improvement of working conditions and legislative measures, such as better regulation on multi-layer subcontracting and overloading. Their demands attracted public attention. The strategy was intended to create a more favourable environment for unionisation of these workers and enforce those regulations through public construction projects. The Korean Construction Transport Workers Union, which was established in 2000 and an affiliate of KFCITU, has been able to organise about 19,000 owner operators

KCWU has set up a committee—the Independent Workers' Committee—to represent independent workers' unions and has organised common campaigns for legislation to secure labour rights for independent workers since 2002. The union has demanded the implementation of labour laws and the application of the Industrial Accident Compensation Insurance Act to independent workers. KFCITU and KCWU have also played an active role in forming a committee of precarious workers (Korean Committee of Precarious Workers Unions or KCPWU) under the KCTU. Around 30 precarious workers' unions which were affiliated to KCTU have joined KCPWU and have campaigned for legislative changes since 2003. More generally, the union has organised yearly general strikes and rallies in Seoul to demand for legislation to secure construction workers' rights.

In addition, KCWU and its affiliates have used collective bargaining to set standard working conditions for the whole sector, and as an organising strategy. In the case of subcontracted workers, since 2000, KFCITU has been organising construction sites. Part of the strategy has been to engage in multi-employer bargaining with subcontractors and main contractors who are responsible for ensuring the observance of laws at construction sites. They are also able to exert influence over the employment practices of the subcontractors and intermediaries, including providing access for trade union to organise workers in the construction sites. Main contractors refused to enter in such arrangements on the ground they were not legal employers of construction site workers. The trade unions responded by carrying out an organising campaign which drew support from the Building and Woodworkers International (BWI), and which included information and education activities at construction sites. The union took advantage of the OSH regulations¹⁴ to compel main employers to engage in multi-employer bargaining.

At the same time, KCWU and KFCITU have supported other vulnerable workers. The case of the 140 Vietnamese migrant workers who staged a walkout for four days protesting against inhumane working conditions and nasty meals is an

¹⁴The Occupational Safety and Health Act No. 3532, 1981 (amended by Act No. 10339 of 4 June 2010 and Act No. 10968 of 25 July 2011) of the Republic of Korea stipulates that the principal employer is responsible for preventing industrial accidents in cases where his/her own workers and contractors' workers are working in the same place. The principal is also obliged to take measures regarding the organisation and operation of a council on OSH and to conduct regular safety health inspections at work/sites together with his/her employees, his/her subcontractors and their employees.

example. Ten Vietnamese workers who led the walk out were arrested on the charge of obstructing business. KFCITU and social movements groups formed an emergency measure committee and carried out legal support for the arrested, staged a protest rally against the prosecution and the Immigration Office, and filed petitions signed by 71 unions including the BWI. As a consequence, the Vietnamese migrant workers were released and joined the union.

Outcomes

The strategic combination of industry-level organising, collective bargaining, massive strike actions and building coalitions with migrant workers' communities have resulted in better enforcement of labour laws, more protective regulations for construction workers, and improved working conditions of construction workers. The yearly strike actions staged by KCWU have led to better legal protection for construction workers. Up to 2011, municipal ordinances have been enacted in three provinces and five cities, according to which local authorities should supervise contractors in public procurement contracts to pay workers timely, and should secure wages in cases that contractors fail to do so. These ordinances also ensure wages of owner operators as well as construction site workers. Also, a new institution has been established at the national level in 2003. It obliges construction firms to pay a guarantee should they fail to pay construction machinery operators. As a result of KFCITU's continuous demand, the government abolished provisions in the Framework Act on the Construction Industry (FACI) which allowed labour-only contractors to take part in construction work on condition that they are supervised by the upper contractor with license. The provision legitimised the illegal multi-layered subcontracting and was used to evade the employer's responsibility through intermediaries and foremen.

In addition, the revised Labour Standards Act (LSA) in 2007 stipulates that if a subcontractor fails to pay wages to a worker he/she has used, the direct upper-tier contractor shall take responsibility for paying wages to the worker of the subcontractor jointly with the subcontractor. These provisions made clear the responsibility of the main contractor or subcontractor to the worker hired by a labour contractor or foreman. Similarly, the union's continuous effort has led to the enactment of social security laws that establish the responsibility of a main contractor on behalf of construction workers who are hired by a subcontractor or intermediary: in case the construction business involves several tiers of contracts, the law regards the main contractor as an employer who should pay into the employment insurance and industrial accident compensation insurance fund.

An electronic card for reporting to the social insurance authorities was introduced during a pilot project in 2004 targeting workers employed in construction projects of more than 20 billion KW in the metropolitan area. Instead of sending papers regarding their employment status to the social security authorities each time they are hired, workers can now report electronically their employment status by accessing a card reader installed in the construction site. Welfare cards have also been issued for construction workers. These cards allow the worker to collect the number of days worked for different employers and enable the worker

to access severance pay through a benefit association. In case the work is done through several subcontracts, the main contractor shall subscribe to the mutual benefit scheme for workers who are employed by subcontractors and intermediaries. The scheme however has a limited coverage as it applies only to government project of more than 3000 million KW or construction projects of more than 10 billion KW.

The CBA with contractors and subcontractors included provisions which compel contractors to abide by labour laws and ensure respect for unionisation rights of all workers, including subcontracted workers, by: (1) ensuring and allowing union activities at the construction sites (educating members about labour laws and governments benefits; election of site delegates; recruiting new members; and ending corrupt practices of contractors and subcontractors); (2) meeting OSH guidelines and regulations, establishing OSH committees, educating members about OSH issues and providing them with PPE; (3) contributing to the national employment insurance programme and pension plan; and (4) providing sanitary and clean washing facilities, bathrooms and cafeterias. In effect, collective bargaining has been used as a strategy to facilitate access to union organising and educating workers about their rights and to ensure compliance with labour regulations especially given that construction workers are mostly informal and precarious workers. This suggests a stronger role for collective bargaining for own-account workers given that they have been excluded from labour and social security laws. Finally, trade union membership has increased from a few thousands in 1999 to 24,000 in 2014.

2.8 The PALEA struggle against contractualisation in the Philippines

In the Philippines, the initiative of the Philippine Airlines Employees Association (PALEA) represents the drawn-out struggle of a union to stop the contractualisation of regular and unionised jobs at the Philippine Airlines (PAL) company. In 1998, the union agreed to a suspension and moratorium on collective bargaining negotiations for 10 years to make way for the rehabilitation of the ailing airline company. However, before the resumption of the collective negotiation after the 10-year moratorium, PAL management announced its outsourcing plan that would affect more than 2,600 regular and unionised employees. As part of the severance package, the affected employees may be employed by any of PAL's contractors without seniority, on substantially lower wages, and without assurance of job security. The outsourcing plan of PAL, which triggered a reversal from standard (and unionised) employment to non-standard employment, led to a legal labour dispute between PALEA and PAL.

In 2010, PALEA filed in the Department of Labor and Employment (DOLE) a labour dispute case against PAL for union busting and questioned the legality of PAL's outsourcing scheme. A series of mediation and conciliation hearings ensued but to no avail. On 15 June 2010, the DOLE upheld the legality of PAL's outsourcing scheme as a pure and valid exercise of management prerogative. The union

eventually took the case to the Supreme Court in 2013. At the same time, PALEA organised short protest rallies of PALEA members at DOLE and at the residence of the President of the Philippines as PALEA sought out presidential intervention in the PAL-PALEA dispute. As a sign of solidarity with the cause of PALEA, big labour groups staged a national day of action for the protection of regular jobs and against contractual employment on 25 November 2010 at the heart of the financial district of Makati.

The union also pursued legislative intervention as PALEA got the support of the party-list representative of the Trade Union Congress of the Philippines in the House of Representatives. The privilege speech by the party-list representative in August 2010 triggered interest on the PALEA case among the legislators so that PALEA was invited to a hearing by the House Committee on Labor. The interest of the legislators on the issue of PALEA and the subsequent call for a congressional inquiry opened a new arena of struggle for workers on the broad issue of contractualisation paving the way for the introduction of the Security of Tenure bill. At the same time, PALEA organised a people's camp as a point of struggle for its members. The camp held regular teach-ins and seminars for the union members to enhance their skills in trade union work. Some of the training and seminars conducted at the picket line were on basic trade unionism, paralegal skills training, understanding social issues and others. These activities intensified the commitment of members to sustain their struggle and keep their morale high. The people's camp served to consolidate and strengthen solidarity among the members. This camp eventually transformed into a 'school' where students from prestigious universities and institutions visited to learn about the PALEA struggle.

PALEA's campaign against contractualisation at PAL was magnified as a national issue. PALEA's campaign was framed around the narrative of injustice and exploitative conditions suffered not only by PALEA employees but by most Filipino workers. Thus the union's slogan: '*Ang laban ng PALEA ay laban ng lahat!*' (The fight of PALEA is everyone's fight!). This strategy stemmed from the idea that the fight against contractualisation should be broad-based and inclusive to earn the support of labour organisations regardless of affiliations and political inclinations, community associations, networks and allies, in order to strengthen the union in their labour dispute.

Thus, support for PALEA came from various groups and organisations. The Church-Labor Conference (CLC), a church-based initiated broad alliance of church congregations and labour organisations, supported PALEA's strike at a very early stage. CLC members declared its full support and backing to the PALEA struggle through the issuance of a strongly worded statement of support lambasting the decision of DOLE and the Office of the President (which upheld the decision favouring PAL's planned outsourcing and retrenchment). In October 2013, with the intervention of its church allies, a letter prepared by PALEA highlighting the issues surrounding their struggle was handed over by the Catholic Bishops Conference of the Philippines-National Secretariat for Social Action (CBCP-NASSA)

to Pope Francis in Vatican. The PALEA-CLC alliance proved valuable in keeping the morale of the union members high during its struggle. The alliance with the church was also instrumental in delivering the message of PALEA to public audiences and authorities. Regular mass has been celebrated by Catholic priests at the picket line and spiritual sessions have been conducted as well.

PALEA marked its presence in labour history in the Philippines by being among the founding members of a broad labour coalition—*Nagkaisa* (United). The many cases of labour exploitation and the continued attack on workers' rights, including the contractualisation issue brought by PALEA, served as the unifying agenda of the founders of the coalition. *Nagkaisa* is comprised of 47 labour federations and national centres from different political persuasions and ideologies. It claims 85 per cent of organised labour. In *Nagkaisa's* first International Labour Day celebration rally, the PALEA case was one of the thematic issues highlighted.

PALEA's fight drew also international support. The International Transport Workers Federation (ITF) to which PALEA is affiliated has been running an active campaign since 2010 to support the union's struggle. The campaign was given a boost when the ITF Asia-Pacific civil aviation section decided to carry out a day of action¹⁵ in September 2012 in support of PALEA. Dubbed as the 'Global day of action against outsourcing', it coincided with the anniversary of PALEA's protest in 2011. According to Gerry Rivera, the union president, the local and international support was extremely effective in gaining wide attention from the wider populace not only about the demands of PALEA but more importantly the issue of contractualisation. The idea behind the global day of action among the aviation sector unions was to spotlight the global phenomenon of outsourcing and contractualisation in the sector.

Outcomes

By adopting various strategies, PALEA has been able to limit the informalisation and de-standardisation of employment in PAL. In November 2013, after almost three years of struggle, the PALEA struck a settlement agreement with PAL. This agreement was an offshoot of the case filed by the union at the Supreme Court: that as a condition in concluding the terms under the agreement, both parties should come out with a joint resolution withdrawing the issues filed at the court. Though far from a new CBA, the agreement provided some breathing space for the union to avoid a protracted legal battle and to re-calibrate their strategies. The agreement stipulated the following: (1) the rehiring as regular workers of some 600 union members who were retrenched in 2011; (2) for those members

¹⁵ Various trade unions across the globe participated in the global day of action, such as the Turkish civil aviation union Hava-Is, Qantas unions, Lufthansa flight attendants union UFO, Canadian airline workers union CAW-TCA, Air India unions, UNITE-HERE in the USA and the Australia Asia Worker Links. Actions happened as well across four continents, namely: picketing and leafleting in Melbourne with a call for PAL Boycott; a rally in Seoul, Korea; a rally at a cargo terminal in India; a picket in the San Francisco airport in US initiated by the International Association of Machinist; a picket in Japan at the Philippine embassy; leafleting in Hong Kong initiated by the Filipino community; and in France, the union of airbus industry workers sent a solidarity letter addressed to their management.

who accepted their separation from PAL, the company would grant them an improved separation package of 200 per cent per year of service and 150,000 pesos in gratuity pay; (3) employees who will be re-hired will maintain their employment status with PAL under the same terms and conditions; and (4) the union will maintain its recognition rights. With this agreement, the union officers immediately prepared for collective bargaining negotiation. However, as of 2015, despite PALEA's submission of its proposals and continued communication with the company requesting for the commencement of the negotiation, PAL remained reticent. This has aroused suspicion that reverting back the full ownership and management of the company to the Lucio Tan group will take back the gains achieved in the previous ownership and management by Ramon Ang¹⁶. As of the writing of this paper, almost all provisions of the agreement with the Ang management have been implemented, except the actual re-employment of the 600 employees.

The struggle of PALEA also contributed to the crafting by DOLE of a new policy measure—Department Order (DO) 18-A—in November 2011 to strengthen the regulation on contracting and subcontracting. The DO is the result of a series of dialogues between PALEA and other labour organisations, and DOLE at the outset of PAL's outsourcing program. The regulation is an attempt by DOLE to improve previous regulations defining the legitimacy of a contracting and subcontracting arrangement and prohibiting labour-only contracting. Nonetheless, PALEA still considers the DO limited. According to the union president, DOLE's decision upholding PAL's management prerogative to outsource part of its core activities effectively legitimises the company's outsourcing program which in the first place should be under the purview of the regulation on contracting and subcontracting arrangement. Nonetheless, even though the DO has loopholes, it provides solid guidelines on the way legitimate contracting and subcontracting should be carried out and further provides effective recognition of contractual workers' rights. Finally, the PALEA struggle provided impetus for the introduction of a Security of Tenure bill in the House of Representatives. The union, nonetheless, recognizes that the push for reform at the legislative arena may be difficult considering that many lawmakers favour the interests of big business. Moreover, the Aquino government did not consider the bill a priority. Nonetheless, PALEA and *Nagkaisa* have continued to push for the legislation of the proposed bill.

2.9 The STD- and Sindomesticas-FENATRAD/CONTRACS/CUT initiatives in Brazil

In Brazil, domestic workers were allowed to organise into a union after the promulgation of the Federal Constitution of 1988. Before that, they were only allowed to organise into associations. However, organising domestic workers is

¹⁶The PALEA-PAL dispute began when PAL was owned by Lucio Tan. In 2012, PAL was sold to Ramon Ang, the head of San Miguel Corporation. In September 2014, Lucio Tan bought back PAL.

challenging as they are isolated from each other as they work individually in different households.

In 1997, the National Federation of Domestic Workers (FENATRAD) was established to organise and accord better labour protection to domestic workers. In the State of Rio de Janeiro, among the five local unions of domestic workers, two—the Rio de Janeiro City Domestic Workers' Trade Union (*Sindicato dos Trabalhadores Domésticos do Município do Rio de Janeiro* or STD) and the Nova Iguaçu and Region Domestic Workers' Trade Union (*Sindicato dos Trabalhadores Empregados Domésticos de Nova Iguaçu or Sindomésticas*)—have the highest number of members. Both unions are affiliated to FENATRAD, which in turn is affiliated to the National Confederation of Workers on Trade and Services (CONTRACS) under the umbrella of CUT. STD organises domestic workers who have had at least one formal employment contract. *Sindomésticas*, on the other hand, organises both formal and informal domestic workers, including the daily domestic workers.

FENATRAD, with the active support of CUT, has pursued a number of strategies. They have lobbied and campaigned for the enactment of laws and regulations that protect domestic workers, enabling these workers to transition from informality to formality. Unions have also benefited from the work of several NGOs, especially progressive women organisations, which have provided knowledge (researches and essays) and political education and training. Joint lobbying and political intervention with these NGOs have played a key role in the campaign for the Domestic Workers Act and in securing the ratification of ILO Convention 189. In the same way, FENATRAD's affiliation to the Latin American Confederation of Domestic Workers (CONLACTRAHO) provided the union with another space for sharing knowledge and strategies with other domestic workers' organisations in similar political contexts. FENATRAD representatives actively participated in all the debates involving domestic workers in the national parliament. It also organised Brazilian domestic workers' unionists to go to the International Labour Organization (ILO) in Geneva to campaign, together with other domestic workers' organisations from other countries, for the adoption by the International Labour Conference of Convention 189.

In Rio de Janeiro, STD and *Sindomésticas* have backed federal parliamentarians supporting the cause of domestic workers, such as the State's governor Benedita da Silva, a former domestic worker herself, who became among those who drafted the bill that later became the Domestic Workers Act. In addition, trade unionists from STD and *Sindomésticas* took to popular radio programs issues around the working conditions and demands of domestic workers. They also participated in many public demonstrations and group lobbies within the parliament, making the public aware of the domestic workers' rights.

Finally, in light of limited resources in organizing domestic workers and in conducting activities for and with these workers, STD and *Sindomésticas* have benefited from the cooperation with *Nova Iguaçu's Catholic Church*, which provided a house for the *Sindomésticas* as its office headquarters.

Outcomes

The strategies of the various coalitions of trade unions, social movements and women's NGOs led to three important pieces of legislation in Brazil in recent years: Law No. 11324 of 2006, the Constitutional Amendment No. 72 of 2013, and the Domestic Workers Act of 2013. These provided domestic workers the right to national and religious holidays and increased the vacation period of these workers from 20 to 30 days per year, among others. To encourage employers to formalise the employment contract, the law grants them a discount on income tax. The Constitutional Amendment No. 72 of 2 April 2013, which was heralded as a domestic workers' bill of rights, improved the labour conditions of domestic workers. It established equal labour rights for domestic workers and other urban and rural workers. These rights and entitlements include setting working hours at a maximum of eight hours per day (44 hours per week), night shift premium¹⁷, minimum wage, proportional vacation, overtime, unemployment insurance, and workplace accident leave. While regulations for some of these rights were issued only in 2015, regulations on the minimum wage, 44 hours work per week, overtime and night shift premium were already in place since 2013. The new law represents a breakthrough in the transition of domestic workers from informality to formality. It does not, however, cover the daily domestic workers as they are still considered autonomous or self-employed workers. This is despite the fact that their numbers have been increasing especially in the metropolitan areas.

The partnership between the STD and the NGO Educafro resulted in a new law in the State of Rio de Janeiro in 2014. The State law prohibits sport clubs to require uniforms for nannies and caregivers of their elderly members and subjects the usage of a uniform to negotiations between employers and employees. The clubs that do not comply with the law will have to pay a penalty of €700. Also, every January, both the STD and *Sindomésticas* are widely consulted by employers and employees on the correct amount of salary to be paid in the year. In Rio de Janeiro, the value must be equal or higher than one regional minimum wage (RMW).

2.10 The GEFONT initiative in Nepal

In Nepal, the initiative of the General Federation of Nepalese Trade Unions (GEFONT) is a unique one as it involved the transformation of the *Kamaiya* system or bonded labour in agriculture into more formal and protected labour. In 1996, GEFONT established the Federation of Agricultural Workers (FAWN) to unionise all types of agricultural workers and liberate *Kamaiyas* from bonded labour.

With the reinstatement of the multi-party system in Nepal in 1990, GEFONT was able to have representation in the Nepalese Parliament. This institutional representation was complemented by pickets and protests staged by *Kamaiyas* with GEFONT's support. In July 2000, the Parliament passed a Resolution of Commitment that would declare freedom of *Kamaiyas* from debt bondage and

¹⁷ The night work must be considered between 11 pm of a given day and 5 am of the following day.

assured the passing of a law prohibiting bonded labour. Thus in 2002, the *Kamaiya* Labour (Prohibition) Act was passed. The Act not only abolished the *Kamaiya* system but also provided for the rehabilitation of *Kamaiyas* through various programs and interventions, such as: 1) the grant of lands (0.017-0.169 hectare) to *Kamaiyas* at different places in five districts; 2) grant of cash (NRs 10,000) for house construction to the homeless; 3) skills development; 4) group savings mobilisation; 5) food for work programme; 6) vocational and formal education; 7) provision of water supply; 8) toilet construction; 9) income-generating activities; and others. In addition, GEFONT intervened in the promotion of minimum wages at the village level. This is done through the union's representation in the board of elected people's representatives of the Village Development Committees (VDCs). For example, GEFONT was able to push for the application of the minimum wage in the Naubasta VDC in Banke district in November 1997. In villages where workers were more organised, the wages declared were implemented.

In December 2014, GEFONT further consolidated the unionisation in the agricultural sector by establishing the Federation of Agriculture and Plantation Workers Union of Nepal (FAPWUN), an amalgamation of FAWN and the Tea Plantation Workers Union of Nepal (TPWUN). To strengthen compliance to the *Kamaiya* Labour Prohibition Act, the union launched an 'Appeal Movement' in *Kamaiya*-prone districts aimed at encouraging rich farmers and landlords to free their *Kamaiyas* by meeting three demands: 1) provide ownership to the *Kamaiya* of the hut they are living in; 2) waive all their debts; and 3) fix and ensure minimum wage for the *Kamaiyas*. In exchange for fulfilling these demands, the landlords will be publicised as 'Humble Citizens' or 'Role Models' and their pictures will be placed in campaign posters that glorify their good initiatives. The landlords who ignored the demands were warned of possible insurgency from *Kamaiyas*.

The cooperation with NGOs working for *Kamaiyas* led to the formation of the *Kamaiya* Concerned Group (KCG). The KCG comprised 40 organizations, including international non-government organisations (INGOs). GEFONT's role was to coordinate organising and mass mobilisations of *Kamaiyas*. The partners assisted in the rehabilitation of *Kamaiyas* through livelihood support, education, vocational training, health care, research, and other forms of support. A basket fund was created for the KCG campaign where all INGOs were asked to put their contributions collectively.

Outcomes

The combination of strategies to liberate, organise and accord protection to *Kamaiyas* has helped transform the *Kamaiya* bonded labour system into a formal wage system that ensures workers at least the minimum wage and regulated working hours. GEFONT's initiative also helped improve the living conditions of former *Kamaiyas* and their families. This has been done through the following:

- GEFONT provided non-formal education to some 10,000 *Kamaiyas* so that the number of illiterate *Kamaiyas* decreased significantly.
- GEFONT initiated a health micro-insurance scheme in March 2004 for agricultural workers in cooperation with the ILO-STEP programme. The scheme was running smoothly but the Maoist insurgency stopped the programme.

Land was distributed to about 97 per cent of all registered former *Kamaiyas*. The former *Kamaiyas* interviewed by GEFONT perceived an improvement in their income level after the interventions.

All former *Kamaiyas* interviewed by GEFONT reported they own a house. Households with toilet facilities have increased significantly. Availability of potable water facilities was also among the targeted interventions that were put into place. Children have been attending schools. The households have become members of savings and credit groups. In addition, about half a dozen freed *Kamaiyas* have been elected/selected in the Parliament (the Constituent Assembly). The unionisation of *Kamaiya* workers increased the union's membership of agricultural workers. At the time of registration of FAWN, more than 50 per cent of the 76,000 members were former *Kamaiyas*.

Despite these positive outcomes, some challenges remain and unexpected outcomes have emerged. First, the *Kamaiya* Labour (Prohibition) Act only applies in five districts in Terai. Moreover, the Act does not make mandatory the rehabilitation of former *Kamaiyas*. In addition, monitoring through national and district level committees has hardly been implemented. Second, still about half of the total *Kamaiyas* are left out from the intervention process and not much are known about them. It is to be noted that only the landless freed *Kamaiya* (Group A) and the landless freed *Kamaiya* residing in barren land with a temporary hut (Group B) were included in the interventions. *Kamaiyas* with less than 0.068 hectare of land (Group C) and *Kamaiyas* with a house and more than 0.068-hectare land (Group D) are left out of the rehabilitation process. Third, following the liberation of *Kamaiyas*, many landlords forced *Kamaiyas* out of their lands so that many freed *Kamaiyas* became landless squatters. Fourth, female *Kamaiyas* have not been considered by the Act in the granting of land titles. Fifth, the increase in the number of *Kamaiya* families, as children of *Kamaiyas* through time got married and had their own families, required additional funding for the rehabilitation program. Moreover, many non-*Kamaiya* poor from the same ethnic (Tharu) group started to have themselves registered as 'freed' *Kamaiyas* to avail of the government's rehabilitation program. This has added more fiscal burden to the rehabilitation program. Finally, bonded child labour has increased significantly. Many of the freed *Kamaiyas* sent their children to the landlord's house and to small tea shops and restaurants to work without pay.

3. FINDINGS FROM THE CASE STUDIES

Our case studies highlight the critical role of trade unions in facilitating the transition from precarious informal employment to protected employment (i.e. higher wages, better working conditions, more secure jobs, and more rights at work such as the right to organise and bargain collectively). While each case study may be unique in its own right, there are many commonalities in terms of the employment and working conditions of the various categories of workers selected, the strategies adopted by the trade unions in addressing the challenges of workers in informal employment, and the factors that facilitated the implementation of the initiatives.

3.1 The various categories of workers in precarious informal employment share common demographic characteristics.

Though the case studies cover different groups of workers in precarious informal employment in different countries, they share common characteristics in terms of gender, age, educational level, race and ethnicity and social class. *Women comprise the majority* of the service contractor workers and agency workers in the public and private sector in Israel (57 per cent) and the agency workers in the hotel/hospitality sector in London (58 per cent). The same trend is observed among the casual workers in the retail industry in Zambia and the home-based garment workers in Mumbai. In fact, nearly all home-based garment workers in Mumbai are women. Domestic workers in Brazil are overwhelmingly women, comprising about 94 per cent of all domestic workers in the country.

In some of the case studies, most workers are *relatively young*. A big chunk (45 per cent) of the agency workers in the hotels in London are under 30 years old. The majority of casual workers in the retail industry in Zambia are between 20 and 35. Meanwhile, girls and women between 12 and 35 years of age comprise the home-based garment workers in Mumbai.

A low level of education tends to characterise the majority of some of the groups of workers selected. Majority of the informal garment factory workers and home-based garment workers in Mumbai were schooled until the age of 10 to 14 years. The literacy rate among the conservancy contract workers in Mumbai, India is also very low. In Brazil, over three in four domestic workers have fewer than eight years of schooling.

There is also a specific racial/ethnic group and/or social class attached to the majority of workers in precarious informal employment. In Brazil, majority (62 per cent) of domestic workers were classified as black¹⁸. In Mumbai, India, majority (70 per cent) of informal garment factory workers and home-based garment workers are inter-state migrants from economically poorer states (e.g. Uttar, Pradesh or Bihar). In Israel, over one in three Jewish-Ethiopian immigrants are potentially

¹⁸ The term 'black' is only used in the statistical classification. The case study uses the term 'non-whites' to capture black, mulato, caboclo, native Indians, and people of Japanese parents.

service contractor workers. In the UK, majority (over 60 per cent) of agency workers in the hotel/hospitality sector are migrant workers (not from the UK), 14 per cent are from black or minority ethnic backgrounds. Similarly, in South Korea, a rapid increase in the share of migrant workers of Korean-Chinese ethnic background has been noted in the last decade in the construction industry. These workers number between 64,000 and 250,000. About 190,000 are believed to be undocumented migrant workers. In Mumbai, India, most of the conservancy contract workers are *dalit*—the so-called 'untouchables' who are located at the bottom of the Indian caste system. They come from Tamil Nadu and the drought-prone areas of Maharashtra.

In general, our findings suggest that precarious informal employment is characterised by: *the predominance of women and younger workers, with relatively low educational level, who are more likely migrant workers and/or of a specific racial/ethnic group and social background which makes them more susceptible to discrimination.*

3.2 Most workers in precarious informal employment experience acute decent work deficits.

The groups of workers covered by the 10 case studies fall into the informal employment category of employees "employed by formal sector enterprises, informal sector enterprises, or as paid domestic workers by households" (Hussmanns 2005: 6). More specifically, five of our case studies focused on workers involved in triangular employment relationships—the agency workers and service contractor workers¹⁹ engaged in security and cleaning services in the public and private sectors in Israel, the conservancy or sanitation contract workers in Mumbai, the contract workers in the upstream and downstream sectors of the oil industry in Nigeria, the agency-hired hotel workers in London, and the subcontracted construction workers in South Korea. Four of the case studies involved temporary and casual workers either in formal or informal enterprises—the casual petrol attendants and tanker drivers in Nigeria, the informal garment factory workers in Mumbai, the temporary construction workers in South Korea, and the casual workers in a retail chain in Zambia. The case study in South Korea also included construction equipment operators (i.e. concrete mixer truck drivers, dump truck drivers, crane operators) disguised as 'independent contractors'. The India case study of garment workers also covered home-based garment workers. The case study in Nepal involved bonded agricultural workers under the *Kamaiya* system. The case study in Brazil, meanwhile, covered domestic workers in the State of Rio de Janeiro. Finally, the case study in the Philippines covered workers

¹⁹In Israel, a manpower agency engages only in the provision of workers for a specific task or position. Employment agency workers can undertake the core business activities of the primary (user) company. Service contractors, on the other hand, provide complete service including the necessary means to perform the service. For example, in the cleaning sector, a service contractor provides a 'clean workplace'. Thus it is responsible not only for the provision of cleaning personnel but also of foremen, mops, detergents, and all necessary equipment and provisions. Service contractor workers are mainly cleaning personnel and security guards.

who were faced with plans to reverse their permanent full-time jobs to contractual jobs.

Our case studies corroborate some of the findings of other researchers on decent work deficits or precarity of workers in informal employment (Ebisui 2012; ILO 2013, 2014, 2015a; Serrano 2015). In our case studies, the various categories of workers in informal employment have: insecure and uncertain employment due to their short or limited duration contractual arrangements which include indirect, triangular or 'disguised' employment relationships; poor protection from termination of employment; low and stagnant wages, including wage penalties due to their status of employment, as well as wage arrears and arbitrary fees; no access to social protection and benefits usually associated with full-time standard employment; more occupational accidents and workplace hazards than regular workers: low-skill jobs; no opportunities for career advancement; and lack or limited access to fundamental workers' rights of organising and bargaining collectively).

In **Israel**, service contractor workers, who are mostly security guards and cleaners, experience long working hours. They do not receive pay for overtime work or severance pay, and they are subjected to illegal fines. CBA extension orders are not implemented for these workers. Dismissal and re-hiring of agency workers after eight months of employment is common in Israel. This practice has been the unexpected consequence of the Agency Worker Regulations 2008 which obligates user companies to convert agency workers to direct employees after nine months of employment. Agency workers earn 20 per cent less than other workers, and majority do not receive additional social benefits, such as statutory leave and sick pay and convalescence pay as guaranteed by an extension order to a general CBA.

In **India**, conservancy or sanitation work is outsourced by the Mumbai Municipal Corporation (BMC) to private agencies or contractors. This contract system has been in existence for 25 years. There are two categories of conservancy/sanitation workers—the permanent workers who are directly employed by BMC and the contract workers outsourced from private agencies and contractors.

As most conservancy contract workers belong to the *dalit* community, they are not allowed to enter the BMC offices, BMC hospitals or any medical facility. Lacking water facilities for drinking and washing at the worksites, they are denied access to public transportation, have no resting space and are forced to eat their food in the garbage trucks while carrying garbage to the dumping grounds. They are not provided with identity cards by their contractors and are not covered by the social security scheme or the Employee State Insurance.

The conservancy contract workers receive meagre wages and experience late payment of wages (in some cases after two to three months). They work eight hours a day, six days a week and are not allowed a single holiday in a year. Their contractors do not provide any personal and protective equipment. At least 22,327 *dalits* in a sub-community die doing sanitation work every year. At BMC,

about 25 deaths among permanent conservancy workers happen every month. The BMC has no data however for the contract workers. In cases of absences or any misconduct, the BMC fines the contract workers. In some cases, the fine is more than their one-day wage.

In **Nigeria**, petrol attendants in the downstream sector of the oil industry, who are mostly casual workers, earn low wages and work for about 12 hours or more a day. Casual workers in the upstream and midstream sectors of the industry receive barely half of wages of regular workers. Due to their employment through the agencies, casual workers lack any employment security.

In the **UK**, outsourcing, especially housekeeping functions, to agencies (especially for room attendants) is rampant in the hotel industry. In previous years, about 30 per cent of all room attendants were agency workers and 70 per cent were permanent directly-hired workers. Over time, the ratio changed to 50/50 or in many cases, 70 per cent agency workers and 30 per cent permanent directly-hired workers. Agencies often further outsource the workers. Secondary contractors regularly underbid to win contracts, and consequently cut pay and worsen terms and conditions of employment for these workers.

The hotel industry has also a high number of zero-hours contracts and Swedish derogation contracts. The use of bogus self-employment arrangements is also widespread. According to the Unite London Hotel Workers branch, this is done through the following process: 1) an agency recruits migrant workers either legally or via student visa or via precarious workers; 2) a worker would be given one or two weeks training as an employee; 3) the worker would then be told how to become 'self-employed' and would carry on working but with a different status; 4) students would be rotated so the 20 hours per week limit would not be breached; 5) problems with the client would be met by the agency by moving the worker to a different employer; and 6) with no employment rights, no complaints will be made about underpayment of the national minimum wage (NMW), for instance.

The sector accounts for 20 per cent of low paying occupations (e.g. bar work, waiting tables, less skilled hotel work): two-thirds of employees in hotels and restaurants and half of those in retail and wholesale earn less than £7 per hour. In fact, none of the big chain hotels pay the living wage of £8.80 per hour. Agency-hired room attendants are often paid by the number of rooms they clean instead of by the hour so that often their wages do not reach the minimum wage. Many are not able to take breaks. Meanwhile, waiting staff rely heavily on tips to top up low wages. They work long hours and experience excessive deductions of their pay for uniforms, transport and accommodation. Agency workers, especially migrant workers, have low levels of knowledge of employment rights.

In **Zambia**, prior to the initiative of the union, the casual workers at the retail chain Shoprite worked part-time for selected hours per day for offloading trucks when new stocks arrived and filling in as cashiers or packers during peak times, such as during the festive season or end of month. They would also do all types of

jobs performed by regular workers: general assistant, shop packers, bakery assistants, check out operators, cleaners, clerks, supervisors and grocery controllers. These workers earned hourly, daily or weekly wages. Because of lack of knowledge about their rights under the labour law, they were made to work for longer hours per shift for lower pay and they were not entitled to overtime pay (and yet they are considered part-time, that is, working less than eight hours per day or 40 hours per week). Hired to work on four-hourly shifts per day, these workers were often requested to work for the full eight hours and yet get paid only for a four-hour shift wage. If they complained, they would not be hired the following week and will be called 'troublemakers' or they would risk delay in the payment of their weekly wages. These casual workers were easily hired and fired and were denied the right to join a union.

In **India**, the informal garment factory workers in Mumbai lack written employment contracts and employment security. They face threat of dismissal if they demand overtime pay or speak against sexual harassment on the shop floor. The wages for unskilled work are below the minimum wage (\$66 vs. \$114), and delay of payment of wages is widespread. Women who are employed on a fixed monthly-wage basis (not piece rate) work on regular working hours of nine hours and are not paid for overtime. Men work 10 to 11 hours per day (including lunch break), but they are paid on piece rate. During peak season, male workers do forced overtime of up to 14 to 16 hours per day. The informal workers do not have social security benefits. They only get minor or no compensation for accidents at work, and they are easily dismissed from work.

The management makes (illegal) deduction of wages if the informal garment workers accidentally make stains on the material they work on. Harassment, molesting and verbal abuse are common especially towards women. Back pain, eye pain and headache due to high levels of noise at the workplace, hand injuries and pain, as well as respiratory diseases are common among these workers. Also, they experience high work pressure to hit production targets and at times they are being shouted at if they fail to complete targets.

The home-based garment workers are dependent on contractors as they cannot leave home for getting materials. Earnings of home-based garment workers vary from \$0.70 to \$4.76 a day for an eight-hour working day. In some cases, workers receive half of what they are entitled as contractors apply arbitrary pay for piece rate to increase their own profits. They experience irregular pay. They work four to eight hours per day and until late at night (12-1am). None of these workers is covered by social security. There is a high degree of employment insecurity among home-based garment workers as orders are dependent on the demand fluctuations. Thus, competition is high among the home-based garment workers to get orders from contractors. Taking loans for urgent expenses to contractors increases these workers' dependency on them.

Home-based garment workers, too, often experience hand and back pain problems as well as respiratory diseases. To hit production targets, many of these workers do not go regularly to toilet which leads to urinary infections. In addition,

they face serious space problems as they live with their families of five to eight people in a room of six to nine square meters in which they have to store their materials and also take care of children.

In **South Korea**, subcontracted workers, who are informally and indirectly employed via intermediaries or foreman, receive lower wages than the average of all industries due to the multi-layered subcontracting and piece rate system that are practiced in the construction industry. Their wages are not only low but often also insecure although they work for excessive hours (on average from 9.2 to over 10 hours per day, the standard working day being eight hours). Only about half (49.5 per cent) of these workers receive overtime pay.

Meanwhile, nearly all (90 per cent) of concrete mixer truck drivers and dump truck drivers provide their labour as 'independent contractors' without an employment contract. Construction equipment operators work for 10 to 12 hours per day, but they have shorter annual workdays (213 vs. 259 in all industries). Independent workers are paid by piece and are not protected by the Labour Standards Act so that they have to work longer hours to make up for the low wages. Their income is even more insecure as they have to take the incurred costs related to the vehicle they operate, even when they are unemployed. Wage arrears is a common practice in the sector (68 per cent of construction site workers have experience wage arrears).

Exclusion of workers from social security insurances is common in the construction industry. The non-continuous employment contract of subcontracted workers makes it difficult for them to access the social security system designed for standard workers. Subcontracted workers are significantly less covered than workers in other industries by national pension, health insurance, employment insurance, severance pay, overtime pay and paid leave. In particular, construction machine operators are regarded as self-employed and are not covered by the scheme.

Subcontracted workers and the so-called 'independent contractors' are exposed to high rates of occupational accidents. Although the share of construction workers to total employment is only seven per cent, the share of injured workers and deaths in the construction industry is 25 per cent and 26 per cent, respectively.

In the **Philippines**, the permanent unionised workers of Philippine Airlines (PAL) were faced with the threat of reversing their decent working conditions by the company's drive towards contractualisation. About 3,000 regular unionised workers stood to lose their jobs as a result of PAL's outsourcing scheme which was implemented in phases beginning 2009. Several departments and units were outsourced, such as IT/human resources, legal services, medical services, catering, reservations and ticketing, revenue accounting, as well core airline services (ground equipment services, passenger services, ramp services, cargo services, station control and central baggage). In 2011, more than 2,600 employees were retrenched. Most of the retrenched employees were forced to accept the

severance package (i.e., 125 per cent of pay for every year of service, travel benefits and one-year medical assistance) offered by PAL and were subsequently hired (as new employees with lower salaries) by the company's third party contractors. The union Philippine Airlines Employees' Association (PALEA) saw the retrenchment package as part of PAL's fire-and-rehire plan designed to cut down wages and benefits won by the union in the past, get rid of regular employees, and eliminate the union.

In **Brazil**, according to data from the Brazilian Institute of Geography and Statistics (IBGE), nearly three quarters (73 per cent) of domestic workers had informal contracts in 2008 although domestic work²⁰ has been recognised as a profession since 1972 (Law No. 5859)²¹. The Ministry of Labor, however, has not been able to monitor compliance with the law so that only 27 per cent of domestic workers in Brazil had formal contracts.

There is, however, another group of domestic workers called the *diarists*, who only perform cleaning or ironing once or at most twice a week in the same household, who are prevented from having formal labour contracts. About 10 per cent of domestic workers in Brazil perform daily work for different families.

In Rio de Janeiro, domestic workers registered with the CTPS are supposed to receive the regional minimum wage of €273.36 in 2014, which was higher than the national minimum wage of €226.25. In practice, however, many domestic workers earn less than the regional minimum wage. In Rio de Janeiro, many employers pay the national minimum wage when the wage floor for domestic workers is the regional minimum wage.

In terms of work hours, data from IBGE recorded that 42 per cent of domestic workers in Brazil worked between 20 hours and 40 hours a week. About 30 per cent worked more than 44 hours a week, which is more than the prescribed working hours under the Federal Constitution of 1988. The Domestic Workers Act of 2013 limits to 44 hours a week the working hours of domestic workers.

In the City of Rio de Janeiro, over half (54 per cent) of domestic workers are covered by the public National Social Security Institute (INSS). However, this proportion comprises both formal and informal domestic workers. The latter contribute as 'autonomous workers', that is, they shoulder both the employee (8 per cent of the worker's salary) and employer (12 per cent of the worker's salary) contributions. There are cases of employers not paying the monthly social

²⁰In Brazil, a domestic worker is defined as a worker over 18 years old who provides continuous services in non-profitable activities for a person or a family. This professional category is composed of, among others, the following: cook, housekeeper, nanny, laundress, guard, private driver, gardener and chaperone of older people,

²¹Under this law, a formal employment contract between the domestic worker and her/his employer is mandatory and is to be registered with the Labor and Social Security Card (Carteira de Trabalho e Previdência Social or CTPS). Registration with CTPS formalises the employment contract and thus the employment relationship. This means that the domestic worker will be covered by the national labour law—the Consolidation of Labor Laws (CLT)—and the social security system. It also entitles the domestic worker to a wage that is either the same as or higher than the national minimum wage.

security contributions to the INSS, and such will only be discovered by the domestic workers when they apply for retirement pension.

Despite having a national unified health system which covers both workers and non-workers, domestic workers, even those with formal employment contracts, are not eligible for compensation for workplace accidents. Domestic workers often suffer from burns, bone fractures and physical and emotional exhaustion due to overwork.

In **Nepal**, the *Kamaiya* and his family suffer from debt bondage with the landlord. They have no right to work in other places without the permission of the landlord. A *Kamaiya* cannot change his master without paying his debt (either taken by himself or his ancestor).

The *Kamaiyas* and their families work more than 18 hours a day but with very low remuneration that is insufficient to meet the needs of the family. This situation compels the *Kamaiya* to take a loan from the landlord resulting in further bondage. *Kamaiyas* are employed on 'contract' basis verbally for the coming year, but they are treated like slaves. They perform any work assigned to them by the landlord. The master can beat them, serve them no food, charge compensation for their sickness, charge arbitrary interest rates for their loans, and earn income by employing them for others. *Kamaiyas* and their families stay in a hut provided by the landlord throughout the contract year.

The pay and terms and conditions of work of *Kamaiyas* vary and are unilaterally fixed by the landlord. Usually, they are given payment in kind, mainly rice plus a portion of other grains, salt, oil, etc. Another form of wage payment is *bigha*, in which a certain portion of the landowner's land (i.e. 5 per cent) is provided to the *Kamaiya* to cultivate and they can consume all the produce from this land in return for work done by him and his family. However, the land given to the *Kamaiya* is usually of poor quality, and they are not allowed to cultivate it until they have completed cultivating the whole land of the landlord. In some places, the *Kamaiya* family is entitled to get one-third or one-fourth of the total harvest as their annual wage.

3.3 By using existing and developing new power resources, trade unions can wield a 'positive transitioning effect'.

The initiatives discussed in our case studies show that trade unions have used a combination of different strategies to bring workers in precarious informal employment under existing and/or new regulatory frameworks, thus providing them with more 'protected employment'. While outcomes of each initiative vary both in terms of type and degree of protection, we could observe some differences in the protective measures advocated by unions of informal workers and unions of non-standard workers. Trade unions that organise non-standard workers (i.e. HISTADRUT, Unite London Hotel Workers Branch, KVSS, KCWU, NUCIW, NUPENGASSAN and PALEA) focused on workplace issues (i.e. the improvement of the terms of employment and working conditions of workers),

while LMKS, STD-Sindomésticas-FENATRAD/CUT and GEFONT—the unions that organised informal workers—went beyond workplace issues. LMKS advocated for home-based garment workers' access to public services and access to social security schemes. STD-Sindomésticas-FENATRAD/CUT worked for social security coverage, including unemployment insurance, of all domestic workers. GEFONT fought for the liberation of *Kamaiyas* from debt bondage and their access to land ownership, housing, skills development, public services, and vocational and formal education.

As posited in our analytical framework, the 'positive transitioning effect' of trade unions—the capacity of unions to accord more 'protected employment' to workers in precarious informal employment and to contain the expansion of this type of employment—is influenced by a number of factors: the legal framework; economic and social protection measures beyond the labour law; trade unions' organisation structures and processes; and union's strategies and measures. The trade unions in our case studies have used these factors as sources of power, namely: *institutional* power from the legal and policy frameworks, and *associational, structural* and *social power* from unions' organisation structures and processes and their various strategies. The case studies suggest a rather non-linear conceptualisation of power resources; they can be simultaneously developed, strengthened and used. Our cases also underscore the importance of the dynamic use of multiple sources of power and of the simultaneous construction of new sources of power.

The combined and complementary use of power resources

All the union initiatives have drawn on *institutional power resources* to provide workers in precarious informal employment with more 'protected employment'. They have combined this with the dynamic use of other sources of power. This is evident in all union initiatives that either enforced or extended the application of laws and economic and social policies to workers in precarious informal employment. Where regulatory frameworks are either limited or do not cover specific groups of workers, the trade unions sought to modify or alter them, and thus produce new sources of power. For example, given that centralised levels of bargaining (i.e. industry and national) are more likely to yield better outcomes in terms of higher protection for non-standard workers and stronger regulations on the use of non-standard employment, trade unions have pushed for the reconfiguration of the collective bargaining institutions (HISTADRUT, KCWU, NUPENGASSAN). This suggests that institutional power does not only involve influencing policy-making at various levels and creating new institutions, but also involves modifying existing institutions (i.e. shifting to a more centralised or coordinated bargaining).

Using *associational power* has been one of the main ways in developing and strengthening *institutional power*. Our case studies brought out a number of approaches which indicate the deliberate use of strategies for organising new groups of workers, including the reallocation of organisational resources (*organisational flexibility*). These approaches range from 1) existing trade unions

using their *associational power* to address issues of workers in precarious informal employment without organising them (HISTADRUT), to 2) unions' strategies seeking to build and strengthen the *associational power* of these workers. The latter consists of: (a) existing trade unions organising non-standard and informal workers and setting up specific structures within their organisations (NUPENGASSAN, NUCIW, Unite London Hotel Workers, GEFONT); (b) non-standard workers organising themselves and then joining existing trade unions (KCWU); and (c) non-standard and informal workers being organised into separate unions (KVSS, LMKS, STD-Sindomésticas-FENATRAD/CUT). Through these approaches, the unions have helped workers to identify themselves as part of a collectivity, while at the same time built support for these workers among existing membership (*organisational power*).

The other dimensions of *associational power* have been used to strengthen *institutional power*. For example, aside from their history of militancy, unions' strategies of public shaming and mass mobilisation (*mobilisation capacity*) have compelled employers and the government to collectively negotiate with the unions and to grant the statutory and other additional entitlements to informal and non-standard workers (HISTADRUT, KCWU, KVSS, NUCIW, NUPENGASSAN, Unite). In some other cases, *mobilisation capacity* has been used to articulate collective interests outside the scope of formal collective bargaining. "Bargaining by riots" (Hobsbawm 1952: 59) has become a way for informal negotiations for better working conditions and terms of employment for groups of workers usually excluded from traditional industrial relations (LMKS) and/or in a context hostile to collective negotiations (Unite).

Most of the case studies highlight the centrality of *institutional vitality*—the capacity to adjust to new contexts and embrace new strategies for more inclusive structures as one of the most important sources of power. The link between high union density, high union authority and working class orientation, on the one hand, and union inclusiveness towards temporary agency workers, on the other hand, (Benassi and Vlandas 2015) is also observed in our case studies. Consistent with the power resources approach, the case studies show that a combination of high union density (either at the national or industry level), high union authority (in terms of a strong and centralised labour movement), and working class ideology are associated not only with union inclusiveness toward informal and non-standard workers, but also with the union's ability to introduce more concrete protective measures for these workers and the existence of relatively more restrictive regulations in the use of precarious informal employment. This is more evident in the initiatives of HISTADRUT, NUPENGASSAN, KCWU, STD-Sindomésticas-FENATRAD/CUT and GEFONT.

On the other hand, building *associational power* involves the complementary use of strategies (Annex 2) which draw on *institutional power* resources. In many of our case studies, trade unions strategically used a labour dispute (i.e. HISTADRUT, Unite London Hotel Workers Branch) and collective bargaining (i.e. KCWU, NUPENGASSAN, NUCIW) to overcome barriers to organising non-standard

workers. Similarly, the *institutional power* derived from collective bargaining, which has been used to provide more 'protected employment' for these workers, has resulted in stronger *associational power*.

In our case studies, *social power* is used to strengthen (and in combination with) *institutional power* and *associational power*. Trade unions have successfully used 'events' outside the trade unions' initiatives (e.g. protests for social justice in Israel, pro-poor governments in Brazil and Zambia) or 'scandalising events' (e.g. death of a conservancy worker in India) to combine *discursive* and *moral power* with *mobilisation capacity* (e.g. strikes and protests of LKMS, NUCIW, KCWU, KVSS, and PALEA) in drawing the attention and support of the broader public on the precarious conditions of informal and non-standard workers. *Discursive power* and the various dimensions of *associational power* have been strengthened through coalitions with other labour organisations and social movements (*coalitional power*).

The way trade unions draw power on the factors influencing the 'positive transitioning effect' of trade unions (i.e. strengthening or reconfiguring the factors to create new sources of power) determines the degree and the nature of the 'positive transitioning effect' of each initiative. We now turn to each case study to analyse in more detail the various ways of using power resources.

The **Israeli** case study shows that in facilitating the transition of non-standard workers towards more protected employment the union combined various sources of power. It built public support for the issues of non-standard workers through its *discursive power (social power)* which framed the issues of non-standard workers around social justice in a context of mass protests for social justice that swept Israel in the summer of 2011. It drew on its *institutional power* of centralised collective bargaining to address various decent work deficits facing non-standard workers by using its own *associational power* (high union membership) and building support among the membership across sectors to bargain for non-standard workers (*organisational power*), including strike action to pressure for bargaining (*mobilisation capacity*). The outcomes of the two national CBAs (public and private sector) not only improved terms of employment and working conditions of non-standard workers, but potentially strengthened further the union's *institutional power* in terms of enforcing the law and CBA provisions (bipartite committee for the implementation of the CBA in the private sector, hiring of 200 additional labour inspectors, establishment of call centres for providing information and reporting complaints). The case study, however, also reveals that the union relied more on *institutional power* and displayed little *organisational flexibility* (strategies to organise new groups of workers) and *institutional vitality* (introducing something new and fresh in the organisation). This may explain to some extent the barriers to the implementation of the CBAs.

In contrast to HISTADRUT, the **India** case study highlights the struggle of contract conservancy workers in Mumbai to improve their poor working conditions by building their own *associational power* from scratch.

Unrepresented by the existing trade unions, the workers sought to first establish their own trade union (KVSS) which allowed them to draw on the *institutional power* of existing laws and regulations. This was complemented with the union's strategies to build and strengthen *social and associational power* by affiliating to a progressive trade union which organises informal and non-standard workers (NTUI), cooperating with various academic institutions (*collaborative power*), and by using 'scandalising events' to organise protests, such as hunger strikes, 'Give us shoes or take from us' campaigns, and 'Begging in the name of the BMC Commissioner' (*mobilisation capacity*) to make public the dire situation of these workers (*discursive power*). Although newly established, the union displayed a strong dimension of *institutional vitality* by building power behind these events and putting pressure on institutions, thereby strengthening its *institutional power*, including the establishment of collective bargaining modalities.

At the centre of the **Nigerian** case study is the creative use of *associational power* by two unions (NUPENG and PENGASSAN) to improve the terms and conditions of employment of casual workers in the oil industry. The unions' strategy is underpinned by *institutional vitality* materialised in several strategies: the formation of the NUPENGASSAN movement; efforts to build support among the unions for taking up the issues of non-standard workers (*organisational power*); willingness to organise these workers and set up new structures (*organisational flexibility*); and organising protests and other supporting actions (*mobilisation capacity*). The union drew on *social power* by sensitising the public of the plight of casual workers in the oil industry (*moral and discursive power*) and by building stronger cooperation among trade unions in Nigeria and with international trade unions (*collaborative power*). In the process, the union used and built *institutional power* by pushing for the establishment of a Technical Working Group on Casualisation and Contract Staffing in the Oil and Gas Sector and the related Guidelines on Labour Administration which aim at limiting the use of non-standard employment. In addition, the union strategies remarkably institutionalised collective bargaining in the industry by compelling employers to organise at industry level and thus establishing modalities for multi-employer bargaining.

In facilitating the transition of agency workers to more protected employment in the hotel/hospitality sector in London (**UK**), the union Unite sought to build the *associational power* of these workers by introducing a new approach to organising and representing workers (*institutional vitality* dimension). This is materialised in the innovative organising strategies (e.g. organising by branches and branch officers becoming shop stewards, allocating staff for campaigning, training and political workshops, and providing advice sessions, including through phone, for workers facing problems at the workplace) used by the union which showed the union's *organisational flexibility*. At the same time, the union sought to build solidarity among workers across hotel brands (*organisational power*). It also drew on *institutional power resources* (i.e. using the Employment Relations Act 1999 to represent members through individual and collective grievances, Minimum Wage legislation and independent tripartite Low Pay

Commission); challenged existing power resources (i.e. the removal of government's Guidance on the National Minimum Wage for hotels); and sought to build new sources of power, such as the use of informal bargaining which may develop into stronger *institutional power resources*. Unite also drew on *social power* resources by collaborating with other trade unions in skills-sharing, and building coalitions with other organisations and faith groups, such as the IUF, Citizens UK, Equality and Human Rights Commission (*collaborative* or *coalitional power*) to both strengthen its capacities and expose the issues affecting low-paid, often migrant, workers (*discursive power*).

Faced with pleas for help from informal casual workers and threats of replacing regular workers with casual workers in the retail sector in **Zambia**, the union (NUCIW) took up these workers' issues and pursued a number of strategies that drew on multiple sources of power. This indicates the presence of *institutional vitality* in the union. At failed attempts of using *institutional power* to dialogue the regularisation of workers with the management, NUCIW focused on organising casual workers (building their *associational power*) and drew on the protection provided by the law for these workers, such as the Minimum Wage Act and the Constitutional right of association, including unionisation (*institutional power*). At the same time, it sought to build support for casual workers' issues by mounting three strikes (*organisational power* and *mobilisation power*); by tapping on *collaborative* or *coalitional power* of the existing collaborations (FES), creating new ones (South Africa's sister union), and by using innovatively the media (coverage of strikes, 'Workers' Voice' popular radio programme). All these strategies strengthened the union's *discursive power* and its support from the public for the issues of casual workers. NUCIW's *social*, *institutional* and *associational power*, which were further galvanised by the government's willingness to support the cause, led to outcomes which not only improved the casual workers' situations, but also strengthened the union's *institutional power* (e.g. more favourable institutional arrangements for collective bargaining) and *associational power* (i.e. a more consolidated and unified union).

The **Indian** case study involving LMKS, a union of home-based workers, informal garment factory workers, domestic workers, waste pickers and street vendors in Mumbai seeking to improve their wages and working conditions, showed one of the most dynamic uses of power resources among our case studies. The union drew on *institutional power* by lobbying and pressuring state authorities to address various problems of access to social security, decent housing, public services and other benefits (ration and election cards) for these groups of informal workers. In doing so, it combined *collaborative power* with a research network (LEARN) which provided various forms of support (capacity-building, research), SEWA, public hospitals and charitable trusts (to periodically provide health services to workers in poor communities as a way of reaching out workers and introducing them to the union); *coalitional power* with civil society organisations (Action Committee on Rationing, Committee for Rights to Housing); and *mobilisation capacity* by organising massive protests. Framing the issues of these workers around broader issues of poverty and domestic violence enabled

the union to strengthen its *moral or discursive power*. At a more micro level, the union was able to strengthen workers' *structural power* (periodic negotiation with employers directly without a middleman) by tapping on (and indeed strengthening) *organisational power resources* (building solidarity among workers to take collective action, including work stoppages, even for individual cases; empowering workers to find solutions to their problems through capacity building; and making (women) workers aware of their identity as workers and as a 'collectivity'). The use of *associational power* (pressuring employers to negotiate by the mere fact of belonging to a legally registered trade union at the state level) also strengthened the union's *structural power*. Beyond facilitating the transition to more protected employment, the union has strengthened its *associational power* (increased membership and legitimacy), *institutional power* (establishment of 'implementation committee' to ensure workers' access to social security), and *social power* (addressing broader issues of poverty beyond the workplace).

Barriers to access legal protection and to improve the situation of non-standard workers in the construction industry in **South Korea** proved especially challenging due to the high vulnerability of these workers. In building *institutional power*, the trade unions strengthened their *associational power* through a continuous process of mergers among trade unions of vulnerable workers across various occupations in the industry (day labourers and construction machinery operators employed on project basis). This was combined with: 1) *structural power* derived from the strategic position of machinery operators in the industry to organise a number of strikes and put pressure behind their demands (*mobilisation capacity*); 2) *social power* built through campaigns and propagation activities in cooperation with BWI (*collaborative power*); 3) the ability to attract public opinion of the plight of contract workers (*discursive power*); and 4) the provision of support for other groups of vulnerable workers, such as the Vietnamese migrant workers (*coalitional power*). Such strategies, which point to the *institutional vitality and organisational power and efficiency* of the unions, have improved the situation of these workers. In the process, the *institutional power resources* of the union were also strengthened. This was possible through: 1) better enforcement of labour laws through the institutionalisation or re-configuration (from company-based to centralised and/or multi-employer) of collective bargaining in various occupations; and 2) more protective regulations such as the enactment of municipal ordinances which oblige public authorities to supervise contractors in public procurement contracts, establishment of a new institution which obliges construction firms to pay a guarantee to be used in case they fail to pay the workers, abolition of provisions which put workers at a disadvantage (by legitimising the illegal multi-layered subcontracting or by evading employer's responsibility through intermediaries and foreman) and their replacement with more favourable provisions (e.g. establishing the responsibility of the main contractor or subcontractor for paying wages, social security and observance of OSH standards), and the introduction of a special scheme to facilitate reporting of

workers' employment status to social security institutions (through an electronic card) for purposes of benefiting severance pay. In addition, the use of these sources of power has resulted in outcomes which have further strengthened the unions' *associational power* (significant increase in membership).

The **Philippines'** PALEA struggle to stop PAL's outsourcing plans to convert standard (and unionised) employment in the airline industry to non-standard employment drew and built on various sources of power. It combined strategies which drew on *institutional power resources* (filing a labour dispute case with DOLE and building support for the introduction of the Security of Tenure bill) with strategies which displayed various dimensions of *associational power*, such as *mobilisation capacity* (organisation of protest rallies and campaigns under the slogan 'The fight of PALEA is everyone's fight'); *organisational power* (organisation of a people's camp as a point of struggle for its members, but also as a space for building their collectivity); and *organisational flexibility* (new capacities and new forms of membership participation). These strategies, as well as the use of *collaborative* or *coalitional power* (support through ITF's campaigns at global and regional level, including a day of action by ITF Asia-Pacific civil aviation unions called 'Global day of action against outsourcing'; support by a broad alliance of labour with church congregations which resulted in a letter by PALEA sent to Pope Francis), drew public attention both on PALEA's workers' struggle and more broadly on the issue of contractualisation. They also strengthened the discourse of the union (*discursive power*) and kept the morale of workers high, thus strengthening the labour movement's *social power*. The simultaneous use of these power resources have resulted in outcomes which have substantially improved the workers' situation and have, to some extent, halted the process of informalisation. At the same time, they have resulted in new sources of power in terms of *associational power* (formation of a broad labour coalition—Nagkaisa—which has used the contractualisation issue as a unifying agenda) and *institutional power* (a new policy measure—DO 18-A—to strengthen the regulation on contracting and subcontracting and the introduction of the Security of Tenure bill in the House of Representatives).

The **Brazilian** case study highlights the strategic use of power resources by domestic workers' trade unions in Rio de Janeiro and at the national level. The trade unions sought to strengthen the various dimensions of *associational power*, such as strategies for organising domestic workers (*membership dimension*), building support, and indeed solidarity, across trade union membership (CUT) for domestic workers' issues (*organisational power*); allocating resources, both human and financial (*organisational flexibility*); and pursuing campaigns and massive demonstrations for the enactment of new laws (*mobilisation capacity*). The unions' *social power* was also strengthened through collaborations with progressive women NGOs the Latin American Confederation of Domestic Workers, and Educafro NGO (*collaborative power*) which have provided a space for strengthening unions' capacities and knowledge. Such collaborations, as well as the unions' active use of popular radio programmes, have consolidated their *moral and discursive power*. Using and building on these power resources has

strengthened their *institutional power resources* through the enactment of a number of laws at the national and State (Rio de Janeiro) level which provided the policy space for the transition of domestic workers from informal employment to more protection at work. Such laws have created new *power resources*, such as the establishment of consultation mechanisms for employers and trade unions to determine yearly rates of pay for domestic workers.

The case study analysing the strategies of the **Nepalese** trade union (GEFONT) highlights the ways in which the union has strategically used, strengthened and created new sources of power to facilitate the transition of *Kamaiyas* from a system of bonded labour in agriculture to more protected wage employment. In light of the very vulnerable status of *Kamaiyas*, the unions sought to strengthen its *mobilisation capacity* to organise pickets and protests by establishing a union which included *Kamaiyas* (*associational power*) and by building cooperation with other groups and organisations which, in turn, resulted in the formation of a broad coalition, the *Kamaiya Concerned Group*, to better coordinate mass mobilisations (*coalitional power*). These strategies strengthened the *institutional power* of GEFONT at the national and village level to push for the adoption of the *Kamaiya Labour (Prohibition) Act* which freed *Kamaiyas* from a system of bonded labour and which provided for their rehabilitation. In addition, GEFONT used its *institutional power* to establish minimum wages for these workers at the village level. In improving the implementation of the Act (*institutional power*), the union sought to: 1) strengthen *associational power* through further mergers of unions, more intense organising (*membership dimension*), and provision of non-formal education to these workers; and 2) introduce innovative strategies which incentivised rich farmers to free *Kamaiyas*.

CONCLUSION

The findings from our case studies clearly point to the critical role of trade unions in the transition of workers from precarious informal employment to more protected employment. We refer to this capacity as the 'positive transitioning effect' of trade unions. Following the power resources approach, we analysed how the trade unions in our case studies, through the use of combined and complementary strategies, have been able to simultaneously use, strengthen and create (new) sources of power to facilitate this 'transition' and curb the spread of this type of employment.

There are important lessons and insights that can be drawn from the case studies on the factors that enhance the 'positive transitioning effect' of trade unions. A number of critical factors influence the ability of trade unions to push for policy measures which provide protection for workers in precarious informal employment. In particular, coherent policy measures setting a floor of employment and social protection are critical in addressing decent work deficits for workers in precarious informal employment. They also help address the reluctance of workers in this type of employment to organise and bargain collectively and/or sustain those negotiated outcomes that provide more protected employment for these workers (Burroni and Pedaci 2014). The unions' strategic use of power resources also underlines the importance of legal framework and policy measures as the strategies used by unions in our case studies have clearly aimed at drawing on institutional power resources.

In overcoming challenges posed by constraints in the regulatory framework, the unions are 'pushed' to adopt innovative strategies which simultaneously created new sources of power and/or strengthened existing ones. Such strategies include, among others,; organising workers in informal precarious employment and building support for these workers among existing membership and in the broader public; building alliances and continuously engaging with other labour organisations, including global unions, and social movements; innovative use of 'events'; and more extensive use of media and other channels of communication. Here, *institutional vitality* is key. It is at the heart of several innovative strategies which have strengthened and created new sources of power—*institutional, organisational, discursive, moral, and mobilisation power*—and (often) have led to changes beyond the workplace. It is *institutional vitality* which has reinforced the unions' ability to make *strategic choices* not only to resist the informalisation of work but also to initiate and push for positive changes in the world of work.

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ANNEX 1: THE CASE STUDIES

Country	Informal workers covered	Union involved	Name of researcher
Brazil	Domestic workers	STD, Sindomésticas, FENATRAD-CONTRACS/CUT	Jô Portilho
India	Home-based garment workers Informal garment factory workers	LMKS	Tandiwe Gross and Amar Kharate
India	Municipal conservancy or sanitation contract workers	KVSS	Baljeet Yadav
Israel	Contract workers	HISTADRUT	Shay Weinblum
Nepal	Bonded agricultural workers	GEFONT	Bishnu Rimal
Nigeria	Contract/outsourced workers	NUPENGASSAN	Baba Aye
Philippines	Regular ground crew affected by Contractualisation	PALEA	Ramon Certeza
South Korea	Construction workers	KCWU	Aelim Yun
United Kingdom	Hotel agency workers	UNITE London Hotel Workers	James Lazou
Zambia	Casual retail workers	NUCIW	Silvia Chimpampwe

ANNEX 2: STRATEGIES USED BY TRADE UNIONS IN OUR CASE STUDIES

Trade union	Organizing level	Collective bargaining/collective negotiation	Strike and other protest actions	Legal and regulatory frameworks	Building alliances and networks	Others
GEFONT	National/Federation		√	√	√	Access to public services and social protection schemes; 'soft' coercion of landowners
HISTADRUT	National/Federation	National (public sector); industry-wide (private sector) with extension	√	√		Filing of legal labour dispute
KCWU	Industry	Industry (multi-employer)	√	√	√	x
KVSS	Enterprise	Informal bargaining with municipal government	√	√	√	Legal and court battles
LMKS	Territorial	Informal bargaining directly with factories	√	√	√	Doing research; access to public services and social protection schemes; setting up childcare centres
NUCIW	Enterprise	Enterprise level	√	√	√	Conduct of seminars on informal employment jointly attended by workers and management
NUPENGASSAN	Branch	Enterprise level for contract workers in MNCs; sector or multi-employer for downstream sector	√	√	√	Use of mass media
PALEA	Workplace	Enterprise level	√	√	√	Filing of legal labour dispute, use of mass media
STD-Sindomésticas-FENATRAD/CUT	National and territorial	None	√	√	√	Use of traditional and social media, conduct of education and training
Unite London Hotel Workers Branch	Branch	Informal bargaining through collective grievance process		√	√	

About the authors

Melisa R. Serrano is Associate Professor at the School of Labor and Industrial Relations of the University of the Philippines Diliman. She has (co)authored a good number of peer-reviewed book chapters and articles published in internationally-recognized journals and other academic publications. She received the SAGE ILERA Best Comparative Paper award in the 10th International European Congress of the International Labor and Employment Relations Association (ILERA) in June 2013 in Amsterdam, the Netherlands.

Melisa is an alumna of the Global Labour University in Germany. She completed her PhD in Labour Studies at the University of Milan, Italy. Melisa actively engages with trade unions in the Philippines and in other countries in Southeast Asia in terms of collaborations in research, advocacy, training, and policy-making and analysis.

Edlira Xhafa has a Masters in Labour Policies and Globalisation from the Global Labour University-Germany (2005/2006) and has obtained her PhD in Labour Studies from the University of Milan, Italy (2012). Since 2000, she has worked with various national trade unions and a number of international trade unions and labour organisations.

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British Trade Union Congress (TUC), U.K.
Cardiff University, U.K.
Central Única dos Trabalhadores (CUT) / Observatorio Social, Brazil
Congress of South African Trade Unions (COSATU), South Africa
Deutscher Gewerkschaftsbund (DGB) / DGB Bildungswerk, Germany
European Trade Union Institute (ETUI)
Hochschule für Wirtschaft und Recht Berlin (HWR), Germany
Friedrich-Ebert-Stiftung (FES), Germany
Global Union Research Network (GURN)
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International Institute for Labour Studies (IILS), ILO
International Labour Organisation (ILO) / Bureau for Workers' Activities (ACTRAV)
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