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# ORGANISING AGAINST ALL ODDS: PRECARIOUS WORKERS AS 'ACTORS AND AUTHORS OF THEIR OWN DRAMA'

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# ORGANISING AGAINST ALL ODDS: PRECARIOUS WORKERS AS 'ACTORS AND AUTHORS OF THEIR OWN DRAMA'\*

A Global Labour University research project

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## ABSTRACT

The insecurity and instability experienced by precarious workers, and their 'disconnect' from the established groups, are often intertwined in the perception that these workers are unorganisable. This paper challenges this perception through seven stories of collective organising, which show that pockets of collective resistance can emerge amongst various groups of precarious workers, from both traditional and non-traditional sectors of the working class, despite the level of precarity and the level of repression and hostility in the context where collective organising takes place. Building on Kelly's mobilisation theory, this paper suggests four factors which facilitate the emergence of collective acts of (transformative) organising: a) an employer's concrete act of worsening working conditions which are experienced by workers as an infringement of their dignity; (b) a context of successful organising stories and/or visible trade unions/workers' organisations; (c) an organisation engaging in an empowering repertoire of collective action; and (d) a transformational leadership framing workers' struggles in broader class-societal terms. Generally speaking, in the presence of some sort of structures, the first two conditions are sufficient to facilitate the emergence of temporary acts of collective resistance by precarious workers. The other two conditions, however, are fundamental to transformative organising. They involve a shift from organising as a temporary strategy of addressing grievances and winning recognition for collective bargaining to organising as a long-term intentional political project of building independent worker power to advance a vision of social justice. By developing precarious workers into organic leaders and by constructing axes of solidarity across the highly mobile and fragmented precariat and beyond, transformative organising provides the space for empowering these workers to become not only actors, but potentially also authors of their own drama.



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## INTRODUCTION

The precariat, the precarious proletariat,<sup>1</sup> is often portrayed as unorganisable.<sup>2</sup> The blame is frequently put on key characteristics of precarious work, which as the ILO defines it, is usually understood as “work that is low paid, especially if associated with earnings that are at or below the poverty level and variable; insecure, meaning that there is uncertainty regarding the continuity of employment and the risk of job loss is high; with minimal worker control, such that the worker, either individually or collectively, has no say about their working conditions, wages or the pace of work; and unprotected, meaning that the work is not protected by law or collective agreements with respect to occupational safety and health, social protection, discrimination or other rights normally provided to workers in an employment relationship”.<sup>3</sup> Other key features of precariousness are: the risks associated with the job are born by the worker rather than by business hiring the worker; certain demographic characteristics of workers such as sex, ethnicity and place of origin predispose them to be in precarious work; and sectors with lower degree of regulation, including unionisation and collective bargaining, are more likely to employ precarious workers.<sup>4</sup>

While all these characteristics may work against any organising project, the chronic uncertainty and insecurity,<sup>5</sup> in particular, hampers any “durable identification with a role or group”.<sup>6</sup> “Disconnected’ from the established groups”,<sup>7</sup> the precariat, then, appears as the “socially atomised, anomic and resigned”,<sup>8</sup> or “the social non-forces” which have lost the main moment of social integration through work, submitting passively to destiny.<sup>9</sup> Unable “to recognise the collective nature of the dilemma”<sup>10</sup> and of sketching out future projects,<sup>11</sup> the precariat is seen as “the impossible group, whose birth remains necessarily incomplete”.<sup>12</sup>

And yet, stories of precarious workers organising against all odds are written every day challenging the perception that these workers are impossible to organise and showing how the very processes that manufacture insecurity also produce resistance.<sup>13</sup> The significance of these stories goes beyond the specific grievance they seek to address. In “these “moments of madness,” everything can seem possible as workers leap into action, joining together to change life, marching together, organizing meetings, mass demonstrations, soup kitchens,

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<sup>1</sup> Standing 2013.

<sup>2</sup> Castel 2000, in Candeias 2007: 2.

<sup>3</sup> ILO 2016: 18.

<sup>4</sup> Ibid.

<sup>5</sup> Standing 2013.

<sup>6</sup> Lessenich and Nullmeier 2006: 18 in Candeias 2007: 1.

<sup>7</sup> Wacquant 2007 in Candeias 2007: 2.

<sup>8</sup> Castel 2000 and Wacquant 2007 in Candeias 2007: 2.

<sup>9</sup> Castel 2000 in Candeias 2007:2.

<sup>10</sup> Wacquant 2007 in Candeias 2007: 2.

<sup>11</sup> Bourdieu 1998: 98, in Ibid.: 5.

<sup>12</sup> Wacquant 2007 in Candeias 2007: 1.

<sup>13</sup> Serrano and Xhafa. 2012.

and strikes”.<sup>14</sup> Indeed, “while global restructuring undermines agency through demoralization and depression, creating a sense of worthlessness and a corresponding lack of capacity, participation in movements transforms these self-destructive feelings, generating empowerment, creativity and determination to resist”.<sup>15</sup> Thus, participation in movements provides precarious workers with spaces for empowerment and building bridges of solidarity between groups of precarious workers and beyond. In this way, these stories are a reminder that these workers’ ‘disconnect’ from the established groups is not a historical exception. In fact, the idea of a homogenous working class has always involved a level of abstraction, because in reality, the working class “is inherently diverse and ... constantly in flux in terms of how it sees itself and how it relates to others within the class”.<sup>16</sup> In other words, “the normal ‘condition’ of the working class is not that of unity but rather of division”.<sup>17</sup> These stories, then, become critical to understanding “how to *actively* build the fragments, divisions and uncertainties into an effective social force – how to *make* a self-conscious working class”.<sup>18</sup>

Recognising the significance of the organising stories of unrepresented workers, such as precarious workers, this paper seeks to: (1) challenge the idea that precarious workers are unorganisable; and (2) identify and analyse the conditions that facilitate the emergence of collective forms of resistance of precarious workers and the factors that influence the trajectory of each organising story.

Part 1 of this paper engages briefly with some theoretical arguments on the topic. Part 2 provides a short summary of the seven stories of collective organising of precarious workers from various sectors, in countries as diverse as Brazil, Canada, China, Malawi, Nigeria, the Philippines and South Africa. Part 3 uses the theoretical arguments of Part 1, to analyse the case studies and proposes some theoretical implications on the topic. The Conclusions part highlights the main findings of this research.

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<sup>14</sup> Friedman 2009.

<sup>15</sup> Webster et al. 2008: 9.

<sup>16</sup> Gindin 2009: 15.

<sup>17</sup> Deppe 1981, in Candeias 2007: 8.

<sup>18</sup> Ibid. (original emphasis).



## 1. THEORETICAL FRAMEWORK

In 1998, John Kelly published his much-cited work<sup>19</sup> *Rethinking Industrial Relations: Mobilization, Collectivism and Long Waves*, where he identifies the conditions under which “individuals are transformed into collective actors willing and able to create and sustain collective organization and engage in collective action against their employer”<sup>20</sup>. These conditions are: “(a) a sense of grievance or injustice; (b) which can be attributed directly to the employer; (c) an effective organization; (d) confidence that the action will be effective; and (e) leaders who frame the issues compellingly”.<sup>21</sup>

Since its publication, many scholars have used Kelly’s mobilisation theory to analyse and better understand collective organising, including the factors influencing the success or failure of specific initiatives.<sup>22</sup> This paper focuses on some of these contributions as well as on a few others which, although not directly referring to the framework of the mobilisation theory, are useful for the topic of our research.

At a general level, a critical discussion regarding Kelly’s mobilisation theory pertains to the concept of mobilization itself. Here, Holgate emphasises the importance of distinguishing between *mobilising* and *deep organising*, which has a direct effect on the balance of power at the workplace. Thus, “in mobilizing, action by members is often directed by staff and the measure of success is the numbers taking action”,<sup>23</sup> the day-to-day participation of members is low, except in events such as marches, strikes or rallies (one-off mobilisations), and the focus is mainly on improving materials conditions. In deep organising, the union staff is involved in training, coaching and mentoring workplace leaders able to “engage their fellow workers in activity, thus building a greater depth of support for the union”.<sup>24</sup> These ‘organic worker leaders’ are the primary actors in organising “and are networked and embedded in their communities where they can draw further support and increase their power resources”.<sup>25</sup> In this approach, there is a high level of participation of members, who are also enabled to decide the issues on which to organise. Thus, while mobilization is more about challenging power in the short-term, deep organising implies “an on-going project of radical power disruption (and perhaps redistribution)”.<sup>26</sup> Or in other words, whereas in mobilising the focus is “on moments of mobilization which can, of course, be extended in time but are nonetheless moments”, in deep organising the focus is “on strengthening the wider power base of the union” over time.<sup>27</sup>

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<sup>19</sup> By May 2019, the work of Kelly was cited nearly 1,600 times.

<sup>20</sup> Kelly 1998, in Holgate 2018: 1.

<sup>21</sup> Kelly 1998, in Tapia et al. 2015: 161-2.

<sup>22</sup> Holgate 2018.

<sup>23</sup> *Ibid.*: 5 – 6.

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*: 8.

<sup>26</sup> *Ibid.*: 16.

<sup>27</sup> *Ibid.*: 19.

Such a distinction has an effect also on the conditions of mobilisation theory, such as the leadership. For example, the two organising approaches are associated with particular forms of leadership. Thus, the *mobilising* approach is associated with transactional leaders, characterised as “servants of the bureaucracy who service the membership and can mobilise workers for protests”,<sup>28</sup> but “in a reactive way, ... encourag[ing] union members to pursue objectives via reward, and appeal[ing] to short-term self-interest”.<sup>29</sup> In contrast, transformational leaders, who are associated with *deep organising*, seek “to change union culture by being proactive and asking members for ideas... [they] motivate and empower by appealing to higher ideas, and moral values, asking members to move beyond self-interest and to consider wider group interests as well”.<sup>30</sup>

Further on the conditions of the mobilisation theory, Atzeni challenges the reliance on the concept of justice. He argues that a system appearing “as founded on freedom while in reality generating coercion”, through authoritarian workplace relations in which the management prerogative on redistribution of losses and centralisation of profits remains unchallenged, “makes questions of justice/injustice almost senseless”.<sup>31</sup> This argument is highly relevant for our research: If the working lives of precarious workers are marked by injustice, why would these workers sometimes accept injustice and at some particular instances act collectively? Instead of searching for causes generating resistance in the injustice in general or on the managerial control and authority per se, Atzeni suggests to focus on those situations where the *illusion* of an equal exchange relation is broken. In reality, such instances are rather frequent. As Atzeni argues, the “constant drive for profitability” jeopardises the everyday consensus,<sup>32</sup> generating concrete changes in working conditions, such as work intensification and increasing control over workplace, more exposure to dangerous working conditions, decline in wages, arbitrary firing of workers and others. These changes transform “previously accepted practice of management control into an unbearable invasion of workers’ lives”,<sup>33</sup> prompting workers to resist collectively.

Meanwhile, on the condition of issue framing, other scholars have argued against “treating injustice—a trigger for mobilization—as a universal (class based) concept without consideration of race, gender, disability, sexuality, etc. and the impact this has on feelings of injustice and the propensity to act”.<sup>34</sup> These considerations are particularly relevant in the case of precarious workers who, as noted earlier, embody certain demographic characteristics such as sex, ethnicity, race and others. Relatedly, the emphasis is on “widening the frame of injustice to assist the collectivisation of workers”, for example by “reframing worker injustice

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<sup>28</sup> Cregan et al., 2009, in Ibid.: 17.

<sup>29</sup> McAlevey 2016, in Ibid.: 17-8.

<sup>30</sup> Ibid.: 18.

<sup>31</sup> Atzeni 2010: 16-7.

<sup>32</sup> Ibid.: 21.

<sup>33</sup> Ibid.

<sup>34</sup> Holgate 2018: 2 & 5.

as a community issue”,<sup>35</sup> or “by taking on a more inclusive, participatory grassroots approach”.<sup>36</sup> Such framing processes are more likely to lead to deep organising with an impact on the repertoires of industrial actions.<sup>37</sup>

Further on the conditions of a strong and effective organisation, various authors have engaged with the theory’s assumption that a collective action can take place only if there is a strong and effective organisation. This poses questions to cases of self-organised resistance by precarious workers, who are often disconnected from existing trade unions, and thus have no organisation or existing base of support that can be activated. Looking at the cases of spontaneous and unorganised mobilisations, for example, Atzeni argues that “the emergence of leaders (and feeling of injustice) can be a product of mobilization rather than a pre-requisite,” thus challenging “the linear ‘injustice-leadership-action’ process outlined in the mobilization theory”.<sup>38</sup> Similarly, the condition of ‘confidence’ that the collective action will be successful may have less resonance in the case of precarious workers who often lack personal experiences of collective organising.

In analysing the seven case studies of this research project, this paper uses Kelly’s mobilisation theory as a framework, while engaging also with the questions raised by Atzeni and Holgate. In particular, the paper takes on the Holgate’s distinction regarding the two organising approaches and the related features. To facilitate the analysis, these features are organised along two main dimensions: repertoire of collective action and leadership (Table 1).

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<sup>35</sup> Blyton and Jenkins 2013, in *Ibid.*: 14.

<sup>36</sup> Gahan and Pekarek 2013, in *Ibid.* 15.

<sup>37</sup> Holgate 2018.

<sup>38</sup> *Ibid.*: 16.

**Table 1: Mobilising vs. Deep organising: Features of each approach (Holgate and other authors)**

	Mobilising	Deep organising
Repertoire of action	<p><i>Repertoire of collective action</i></p> <ul style="list-style-type: none"> <li>• Union staff directing actions of members</li> <li>• The number of members taking part in mobilisations taken as a measure of success</li> <li>• Low day-to-day participation of members, except events</li> <li>• One off mobilisations or moments of mobilisation, which may be extended in time</li> <li>• Focus on improving material conditions and on moments of mobilisation</li> <li>• Challenging power in the short-term</li> </ul>	<p><i>Repertoire of collective action</i></p> <ul style="list-style-type: none"> <li>• Union staff involved in developing workplace leaders embedded in their communities, who become the primary actors in organising and engaging other workers</li> <li>• Continuous involvement and high level of participation of members who also decide on which issues to organise</li> <li>• Strengthening the power base of the union over time</li> <li>• Radical disruption of power and perhaps redistribution</li> </ul>
Leadership	<p><i>Leadership</i></p> <ul style="list-style-type: none"> <li>• Bureaucratic, focusing on servicing members</li> <li>• Mobilising workers in a reactive way to pursue objectives via reward</li> <li>• Appealing to short-term interests of members and mobilising around these</li> </ul>	<p><i>Leadership</i></p> <ul style="list-style-type: none"> <li>• Proactively changing the union culture by asking members for ideas and appealing to higher ideas &amp; moral values</li> <li>• Prompting members to move beyond personal interest and consider wider group interests.</li> </ul>

## 2. THE CASE STUDIES

This research project covers seven organising stories of precarious workers, written by 12 Global Labour University (GLU) alumni from seven countries, namely: Brazil, Canada, China, Malawi, Nigeria, Philippines, and South Africa. A case study method was used to describe and analyse each organising story, following a detailed outline provided by the lead researcher. The case study authors have analysed existing literature, various documents, reports related and media articles to the organising story, as well as have conducted interviews with key informants. The case studies were reviewed by the project coordinator during the period 2017-2018.

### 2.1 The protest of migrant workers in the Johannesburg farm, Lephhalale, South Africa

In this case study, Janet Munakamwe and Lisema Lekhooana, explore the collective resistance of migrant workers in the grape farms of Western Cape. The extremely harsh working conditions of these workers include: insufficient wages (typically calculated on a piece rate rather than based on the minimum set by sectoral determinations);<sup>39</sup> arbitrary wage deductions (e.g. food and shelter or as

<sup>39</sup> Sectoral determinations are issued by the Minister of Labour and establish basic conditions of employment for employees in a sector and area.

a form of punishment); gender wage disparities; extremely long working hours;<sup>40</sup> insufficient time to rest and to use the toilet; unpaid overtime; a lack of social security benefits such as paid annual leave, maternity leave, sick leave and pensions due to their intermittent contributions; lack of access to any type of childcare facility which forces some women to work with their breast-feeding babies on their backs; denial of time for breastfeeding; as well as xenophobic violence and physical punishment by the employer.

Moreover, the migrant workers have to undergo a daunting process of acquiring permits to work and live in South Africa. The widespread problem of lack of documentation means that migrant workers are denied access to the Unemployment Insurance Fund (UIF) during off peak seasons. Due to this problem, they are also exposed to greater exploitation because employers generally hide undocumented migrants during police inspections making workers feel that they had to work harder to 'return the favour'. Moreover, while labour laws are applicable to all workers, including migrant workers, undocumented migrant workers are not able to formally pursue their cases as they risk deportation.

The unionization rate in the sector ranges between 7% and 9%. The reasons behind these very low rates including: a history of bilateral agreements with labour sending countries, which provided farmers with flexibility in hiring and firing and which discouraged unionization of migrant workers;<sup>41</sup> paternalistic relations which allow the farmer to engage in extra-judicial practices such as wage deductions;<sup>42</sup> a very high turnover rate due to the seasonal nature of agriculture work; and practices of union busting such as threats of dismissal or deportation. Thus, often, workers depend on other forms of worker collectives such as worker advice offices (WAO), public litigation organisations (PLO) or migrant-rights organisations (MRO).

Despite all of these barriers, migrant workers have organised and, in some cases, even undertaken successful strike actions such as the November 2012 wildcat strikes. Inspired by the Marikina mine workers' strikes of August 2012, which had a significant effect of re-projecting worker power in the country, in December 2012 farm workers in Western Cape, where many grapevine farms are located, also embarked in wildcat strikes which provided possibilities for interaction between farm workers and unions organising in the sector.

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<sup>40</sup> Some workers, interviewed for the case study, reported working from as early as 5am till 10pm with employers using car headlights during the dark hours so as workers can continue working to reach the daily targets. In these cases, women workers complained that they were not even able to bath as they could not access crocodile infested rivers at night.

<sup>41</sup> During Apartheid, South Africa and labour sending countries such as Mozambique, Lesotho and Malawi signed bilateral agreements which discouraged unionisation among migrant workers on commercial farms. Commercial farmers were granted special dispensations to hire foreign labour under very flexible conditions.

<sup>42</sup> Zamchiya 2008.

While the traditional unions appear to have been slow,<sup>43</sup> the gap has, to some extent, been filled by other organisations. One such organisation was the Migrant Workers Union of South Africa (MIWUSA), which organises workers from various sectors including domestic workers, agriculture, hospitality, nurses and teachers. MIWUSA began organising farm workers at grape farms in Gauteng and Western Cape<sup>44</sup> provinces where many Zimbabwean and other immigrants are concentrated. Founded to initially assist undocumented Zimbabwean workers to acquire work permits and access the same rights as their local counterparts, in December 2014, the union expanded its scope to support migrant workers from other countries. MIWUSA used a WhatsApp group to allow workers to express themselves and communicate with other workers who share common problems related to documentation and job referrals. Although MIWUSA considers itself a union, it is still considered a migrant rights organisation as its formal application to register as a union has failed due to complex bureaucratic procedures. While it awaits official registration, MIWUSA has partnered with local registered unions to ensure representation of migrant workers in labour disputes and in collective bargaining.

Seeing that organised workers were more aware of their rights and were getting better treatment, many migrant farm workers have joined MIWUSA to demand better wages and an end to unfair treatment and discrimination by their employer. Workers have also understood that union membership offers help to deal with problems specific to their legal status such as documentation, access to pension funds, labour rights education, and death and repatriation.

In one particular case, 241 farm workers at Johannesburg Farm in Lephalale (Limpopo province), of whom 94 were Zimbabweans, engaged in a protest action demanding a wage increase on par with the official (gazetted) minimum wage. The leader of the protest was a Zimbabwean migrant worker who possessed only a 'special' document granted by the authorities through the employer.<sup>45</sup> Although he had worked at the farm for 12 years and had asked the employer several times for a wage increase, his wage remained very low. Through communication with other workers on MIWUSA's WhatsApp group, he learned of the 2013 minimum wage, which followed a protracted strike by farm workers in the Western Cape grape farms for a review of the daily wage.<sup>46</sup> Right after his promotion to supervisor, he made use of the existing workplace committees for health and safety to inform and educate his fellow workers (who did not have android phones to access MIWUSA WhatsApp group) about their right to the gazetted wage and other basic rights. An ad hoc committee was established to discuss the workers' demands. At the time of these discussions, the minimum

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<sup>43</sup> Munakamwe and Jinnah 2014.

<sup>44</sup> Targeting farm immigrant farm workers employed in grape farms.

<sup>45</sup> He had no passport or work permit and so relied on a 'special' granted by the Department of Home Affairs through the employer; an extraordinary arrangement between commercial farmers and the government which dates back to the apartheid era.

<sup>46</sup> The strike took place from December, 2012 to February, 2013.

wage (for the period of March 2015 - March 2016) stood at R120.32.<sup>47</sup> Meanwhile, workers were paid R50 per day. After a series of discussions, the workers unanimously agreed to a demand of R105 and to embark on the September 2015 protest.

The employer response to the workers' protest was to evict them from the premises. After one month, during which time the workers lived in the bush, the employer called the workers back and told them to either resume work or leave the farm within five minutes. Meanwhile, in order to force employees to concede and return to work, the employer had gathered a group of people who fired rubber bullets, used pepper spray, unleashed dogs on running workers and even beat workers with the back of their guns. The leaders of the protest were kidnapped and brutally tortured. The employer also set fire to the workers' belongings, including identification documents, leaving them under open sky.

With advice from others that had been previously dismissed, the workers referred the matter to the Department of Labour (DoL). Unaware that the DoL had a reputation for taking a long time (up to five years) to resolve disputes, the workers thought they would be able to resolve this matter on their own in shorter time.

At this point, workers were contacted by a community-based organisation (House of Hope) which was a partner of MIWUSA. A fact-finding commission involving various organisations such as MIWUSA, the Food and Allied Workers Union (FAWU), the African Diaspora Workers Network (ADWN), Zimbabwe Exiles Forum (ZEF), a humanitarian organisation (Gift of the Givers) and a labour support organisation (Solidarity Centre), was established to compile detailed information on the wages the employer owed the dismissed workers and property lost during the evictions. MIWUSA, together with other organisations involved in the fact-finding commission lobbied the South African government to grant workers temporary identity documents until they were served due process. After consultations with the DoL, International Organisation of Migration (IOM) and the Consulate of Zimbabwe, the Department of Home Affairs issued a blanket permit for the dismissed foreign nationals to legally stay at a designated area until their case was concluded at the Commission for Conciliation, Mediation and Arbitration (CCMA). Various community based organisations were also mobilised to provide workers, who had lost everything, with basic living conditions, including health care for victims of violence and anti-retroviral medication.

In December 2015, the fact-finding commission intervened to refer the matter to the CCMA. FAWU, as a recognised collective bargaining partner in the sector represented the dismissed farm workers at CCMA. At the conciliation stage, the commercial farmer reinstated 16 workers. Meanwhile, most of the local workers who could easily access the unemployment fund and social grants and were not tied to the documentation issues, sought employment elsewhere. With support

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<sup>47</sup> Department of Labour: New Minimum wage for farm workers. <http://www.sabinetlaw.co.za/agriculture-forests-and-fisheries/articles/new-minimum-wage-farm-workers>

from labour lawyers, the rest of workers sued their employer for physical damage and loss of property due to kidnapping, assault and torture.

Although it dragged for over a year, the CCMA case provided workers with access to a hearing process. 38 workers were given the right to be reinstated on the condition that they secure valid identity documents. Upon conclusion of the matter at CCMA in August 2016, 36 workers were dismissed and deported as they did not have passports and were also not employed.<sup>48</sup> The rest had given up on the case and decided to look for employment elsewhere, despite the restrictive condition that they remain at the 'makeshift' shelter until their case was concluded.

The fact-finding commission,<sup>49</sup> which included human rights lawyers made recommendations to the DoL to intensify inspectorate services on commercial farms and to conduct comprehensive education campaigns on the rights and conditions of workers in collaboration with civil society organisations.

In response to coverage in the mainstream and social media, the DoL issued a compliance order for the employer to pay the outstanding wages for the period September 2015 to January 2016 in accordance with the gazetted national minimum wage for the sector. In addition, the DoL committed to monitoring and enforce compliance, and to explore the possibility of engaging local farm workers' unions to carry out information sessions targeting certain areas. Finally, the DoL also filed a number of criminal cases against the employer, including for the assault on workers and for employing undocumented migrants. Unfortunately, most of the evidence was lost during the fire set by the employer and the workers lost the criminal case.<sup>50</sup>

The media coverage, and especially the exclusive programme on labour rights from migrant workers and the brutal conditions under which they lived and worked, led to the reporting of many other cases of exploitation as farm workers made use of the WhatsApp group to share the appalling working conditions they faced every day. Albeit with limited success, the case was used as a mobilising tool which resulted in many migrant workers joining the union. Thus, through collaboration with migrant rights organisations, such as MIWUSA, FAWU became popular among the migrant farm workers which became a springboard for its organising strategy. MIWUSA used its social platforms – WhatsApp and Facebook – to do outreach to other farmworkers in other provinces and educate them about their labour rights. FAWU and MIWUSA, in partnership with the DoL, committed to roll out a massive awareness programme on labour rights among farm workers. The programme never took off. It was underfunded and

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<sup>48</sup> The Immigration Act (2002) of South Africa allows immigrants to stay in the country if they are employed or as students or accompanying legally documented spouses or parents.

<sup>49</sup> Both the South African and Zimbabwean government politically supported the commission as an independent and autonomous body representing the rights of immigrants in South Africa.

<sup>50</sup> For example, due to the fire one of the workers lost the doctor's medical report which provided a detailed report of injuries incurred during the protest. Meanwhile, allegations of the employer's connection with the police accompanied the whole process.



understaffed. It seems that the DoL committed to engage in such a programme only in response to the public pressure.

The example of the collaboration between FAWU and MIWUSA also had an effect on other unions, such as the South African Commercial, Catering and Allied Workers Union (SACCAWU), which eventually passed a resolution at its 2017 congress to organise migrant workers. The collaboration was also important not only in terms of restoring the confidence of migrant workers in the union, but also in terms of maximising the synergies between the organisations. Thus, while migrant organisations may, through the social services they provide, assist in identifying and mobilising migrant workers, trade unions can take up migrant issues at the bargaining table and bring in added resources and capacity to organise and advocate.

## **2.2 The strikes of footwear workers, at the Leader factory in Panyu, China**

In his case study, Hui Xu, focuses on a number of wildcat strikes at Leader, a Taiwanese footwear factory in Panyu District of Guangzhou. The strikes, which took place in the post-2008 financial crisis and the economic downturn in China, were organised despite a repressive and authoritarian context where trade unions play the mediator's role in labour disputes.

Some of the key problems in the footwear industry in China include extremely long working hours, occupational health and safety problems due to lack of protective measures to handle chemicals, as well as hot and noisy workplaces. To limit workers' resistance, most factories hold one month of their salary as a deposit. Should the workers decide to quit, they are unable to get the deposit back. Dominated by young migrant women workers, the industry is still highly labour intensive and notorious for the semi-military management, which includes disciplinary measures and punishment with fines for any rule infringement. This is especially the case for Taiwanese and South Korean companies, one of which is the focus of our case study.

While the number of workers at the Panyu district factory was shrinking continuously, from a peak of 6,000 to 2,750 in 2014, the company was opening new factories in a free trade zone in Nansha District where employers could enjoy tax breaks. To benefit fully from this opportunity, the employer started to decrease production orders for the Panyu district factory as a way of forcing workers to resign and thus not be eligible to claim the mandatory compensation for cases of factory relocation.

News about the relocation of the Panyu district factory emerged in early January 2014 but there was no official confirmation from the company. Faced with the threat of losing seniority and social insurance benefits as well as the right to economic compensation when a company relocates, in August 2014, a dozen workers contacted an NGO (Panyu Migrant Workers Service Centre) to consult about possible actions. The NGO, which had a two-decades long history of

supporting individual worker disputes and since 2012 supporting collective bargaining in the Pearl River Delta, decided to support a strike action as a way of pressuring the company to negotiate with workers.

In the first stage, the NGO supported the process of electing 61 worker representatives from different groups of workers to help them to discuss their demands with the employer and provided them with training on how to use social media to disseminate information about the strike to win public support. The communication between worker representatives from different production lines was facilitated by Wechat, a Chinese version of WhatsApp. Meanwhile a number of lawyers were also involved in supporting the workers.

In November 2014, the employer announced the process of renewing the work contracts but workers refused to sign. The contracts contained no provisions regarding social insurance, reimbursement of overtime fees, fever (sickness) allowances, paid annual leave, housing funding, and other benefits. The employer threatened the workers who wouldn't sign the contracts with dismissal. This sparked another wave of anger among workers who on December 5, 2014 responded with a general strike demanding that the new contracts include provisions on the omitted benefits stated above. At the time of strike action, the worker representatives were approached by the local staff of the All-China Federation of Trade Unions (ACFTU) who suggested to the workers that they keep their actions 'rational' and not disrupt the production process. The workers politely refused the union intervention arguing they would proceed with industrial action to pressure the employer in negotiations.

After management agreed to hold a first round of negotiations, the workers returned to work. Of the 61 worker representatives elected prior to negotiations, 13 negotiating representatives were elected officially to represent all workers. Of them, one was assigned to be the chief representative, two to be second and third representatives, three workers were elected to manage the strike solidarity fund and five to maintain communications with the community. Measures were taken to ensure order during the strike.

On 7 December 2014, the negotiating representatives presented their demands to the employer, including a non-retaliation clause for workers and their representatives. Initially, the employer responded positively to some of the demands, but did not commit to an implementation scheme. After a few days, the employer unilaterally announced a scheme which contained a yearly compensation package of 73USD for five years. The scheme angered workers even more both because the compensation was much lower than their expectations, and because of its unilateral nature. After internal discussion, the 61 worker representatives declared the scheme unacceptable and called for a second general strike. On 16 December 2014, more than a thousand workers came out to the factory square holding banners, chanting and marching. Meanwhile, the rest of the workers stayed inside but refused to work.

Under pressure from workers who wouldn't accept a non-negotiated deal, the employer agreed to have a third round of negotiations under the supervision of local government and official trade union (ACFTU) representatives. The negotiations resulted on an increase in the yearly compensation for overtime and other allowances (up to 292USD) and seniority benefits for workers with 6 years of service. However, demands regarding social insurance and housing funds were not met. The workers, nevertheless declared the 5 months of organising as a success and decided to take up the rest of issues at the time of company relocation.

Thus, in April 2015, as the date for relocation approached, workers decided to mobilise around the pending demands. At this point, the police got involved by threatening the NGO activists to stay out of the mobilisation. A few days later, the police stormed the workers meeting, where plans were being made for the next action. The police beat workers and detained the NGO activist assisting workers with collective negotiations. In response, workers organised a protest at the police station which led to the release of the NGO activist. At the same time, the workers had to recall 5 elected representatives who had negotiated a deal with the employer without informing workers. 19 new worker representatives were elected for the next round of negotiations.

On 20 April, 2015, the workers called for a third strike, blocking the factory gate and the administration building preventing staff from entering. At the same time, the new worker representatives met with officials from the local town government, local tax bureau, labour inspection, and from the trade union federation of the district. The next round of negotiations was held on the 21 April, under the supervision of the local government but without the presence of the NGO activist. Under pressure from the workers' mobilisation, the employer accepted most of the workers' demands in relation to social insurance and housing compensation. The final outcome of negotiations, where workers benefited from a compensation package of around 18 million USD, was considered successful and was accepted by the workers, who returned to work.

### **2.3 Union organising of casual workers in the Nigerian telecommunication sector**

The case study written by Muttaqa Yusha'u Abdula'uf and Moradeke Abiodun Badru, focuses on the attempts of the Private Telecommunication Senior Staff Association of Nigeria (PTECSSAN) to organise and represent workers in Nigerian private telecommunication companies providing infrastructural services, which rely substantially on casual workers. The working conditions of these workers are characterised by poor remuneration, wage discrimination between local and expat staff, delays in salary payment, continuous and arbitrary sacking, lack of contracts or short-duration contracts of 3-6 months without obligation to renew, threats of dismissal, non-remittance of statutory deductions from workers' salaries such as tax and pension contributions, denial of paid leave and severance pay, no access to canteen for local staff, and lack of any kind of career path.

Offshoring strategies have also been actively used by the companies operating in the sector to avoid legal obligations enjoyed by permanent workers.

Meanwhile, although mostly in need of protection, and despite the fact that “agitations were rife among workers on the need to have union that could speak out for their rights” (interview with a worker) these workers face a number of barriers in exercising their unionisation and collective bargaining rights. For example, the industrial relations system of Nigeria tends to limit the number of unions in a given sector making very difficult for other, more effective, unions to emerge. Thus, although the National Union of Postal and Telecommunication Employees (NUPTE) is recognised to represent workers in the sector, its organising methods proved to be ineffective in facing the obnoxious labour practices of multinationals, such as harassment and intimidation. In one case, an internet service provider named Direct on the Data Limited sacked all of the union leaders in the company. In yet another case, ZTE, another company operating in the sector, threatened workers who were about to unionise and later on refused to recognise the union at the workplace. Meanwhile, other attempts of organising in the sectors, such as by the SSACTAC (Senior Staff Association of Communication, Transport and Corporations),<sup>51</sup> had been unsuccessful.

Another critical barrier is posed by the widespread practices of outsourcing in the sector. Thus, the outsourcing through the use of various intermediaries makes the identification of the employer, and thus of the other party to negotiations, almost impossible as none of the major companies sees these workers as their employees. For example, the third largest telecommunications company (AIRTEL) had contracted its call centre services to another company (Tech Mahindra), which then subcontracted the service provision to three other companies. Tech Mahindra claimed that these workers were neither its employees nor employees of AIRTEL, but rather, worked for the outsourcing companies. There are also cases in which the outsourcing companies are not even in the same business. This is the case of, Huawei, a company providing professional manpower services through five different outsourced companies.

In response to the barriers posed by the industrial relations system, the SSACTAC launched a petition on the jurisdiction over private telecommunication workers. Eventually, this jurisdiction issue was taken up by the National Industrial Court (NIC), which in recognition of the right to organise, in 2009 issued a judgement stating that “no union had jurisdiction over private telecommunication workers and that workers are free to come together to form their own union”. The ruling allowed for new unions to start organising in the sector. One of this was PTECSSAN.

The process of forming the union started in 2013, and culminated with the formation of PTECSSAN in September 2015. During this period, the union struggled to organise workers in the sector across the country as a way of winning recognition as a national union. Taking advantage of the strategic

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<sup>51</sup> Previously known as Senior Staff Association of Statutory Corporations and Government Owned Companies (SSASCGOC)

importance of workers in these companies, the union has engaged in instant picketing and shutting down of the workplaces. Such strategies are used for various purposes including, for example, responding to workers' grievances, unionising workers and pressuring the employer to engage in collective bargaining. For example, in July 2017, PTECSSAN picketed the Huawei company in response to the arbitrary sacking of 100 engineers. Also, during one of the underground organising initiatives of PTECSSAN, the workers approached the union to picket the workplace and force the management to negotiate. At the same time, the union has kept links with the dismissed workers as a way of gathering information about the obnoxious labour practices of these companies. In few instances, it has hired sacked workers to organise workers. The union has also made use of technology and social media to raise awareness among workers on their rights as well as to bridge the gap between the union and the existing and potential members. For example, upon launching of its website in late 2017, the union has received lots of inquiries and has been able to build on this to engage with workers. According to union officials, potential members get to know about the union without needing to meet a union organiser.

The union organising drives have brought some positive results. In terms of unions building, by the time of writing of this case study, PTECSSAN had organised 500 workers, mainly in companies managing network operation centers of the telecommunication companies, such as NOKIA, ZTE and Huawei. The organising has also led to some improvements in working conditions, worker rights and compliance with labour laws. For example, ZTE which had previously refused to recognise the union, has recently shown willingness to negotiate with the union. In cases of industrial conflicts, the union is invited in the process of making decision on issues such as maternity leave, overtime, redundancy, and termination of jobs at will. PTECSSAN has also succeeded in concluding collective agreements with two private companies, ZTE and Nokia which include provisions regarding the workers' right to join the union, better working conditions and wages, proper termination procedures and related entitlements, and the right to maternity leave. Since the consolidation of the union presence, employers have become more cautious, especially on issues related to employment contracts. For example, at ZTE company, the incidence of the expatriate quota has been reduced drastically after a Memorandum of Understanding between PTECSSAN and the management. In addition, the union has made efforts to curb the offshoring trends by petitioning the government to take measures against the outsourcing of jobs to India by a number of companies such as MTN Nigeria; Ericsson and Huawei. In response to the union petition, the president of the country has reportedly ordered further investigations.

Meanwhile, challenges to unionization and collective bargaining are still present. Competition among unions over union membership has weakened the union organising drives and indeed, even the unions' impact on the challenges facing the sector. In addition, multinational companies continue to engage in practices of intimidating workers and union avoidance. Thus, in response to the 2017 picketing, Huawei is planning to shut down its operations. Meanwhile, the union

is continuing its underground organising campaigns in several companies by targeting those companies, such as network operations, which have a far-reaching impact on the whole sector.

#### **2.4 The strike of call center workers at Tech Mahindra, Malawi**

In this case study, Wezi Galera Shaba and Hamilton Deleza analyse the challenges facing the Malawi call center workers in their struggle to organise for better working conditions. In 2012, in an attempt to cut labour costs, Malawi's Airtel subcontracted its call center services to Tech Mahindra, a Business Process Outsourcing (BPO) Indian company, which in Malawi is engaged mainly in call center operations. Tech Mahindra, which currently has 200 workers, employs mainly fresh and inexperienced college graduates. The company thrived in a business model marked by short-term contracts of three months (majority of workers) to six months (maximum length of contract) and terms of employment inferior to those in Airtel. Many of the workers hired by Tech Mahindra were retrenched by Airtel and had to apply for a job in Tech Mahindra under totally different conditions. Most Tech Mahindra workers received such low and stagnant wages that they could be classified as working poor. Working mainly on three-months contracts, the workers were denied accumulation of years of service and related benefits (e.g. annual leave, maternity leave, sick leave, severance allowance, access to long-term loans) – many of which require a minimum of one year of service. They were also denied other benefits which are generally respected by employers (e.g. a leave grant). Tech Mahindra kept only five employees from Airtel in the VIP scheme<sup>52</sup> and put those directly recruited in the Executive scheme which also meant different wages and benefits (monthly airtime allocations, medical coverage). There were also issues related to lack of transportation during night shifts and poor ventilation which sometimes caused fainting. Meanwhile, all Tech Mahindra workers were also faced with the HR manager's shouting, intimidation, threats, including foul language, and alleged sexual harassment. Unsurprisingly, high worker turnover was rampant.

In addition, Tech Mahindra had devised a Call Center Agent Training scheme using new recruits who would work for the company for 25 days, and sometimes for two months, without pay and then be fired. Under the scheme, the recruits were provided by the company only with lunch. After this phase, they were moved to 'on the job training', during which the company did not even provide lunch. Yet, Tech Mahindra was being paid by Airtel for the services provided by these interns as their contractual agreement stipulated payment per call received at the Call Centre, regardless of who handled the call. The scheme allowed Tech to make use of free labour.

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<sup>52</sup>Eventually, Tech Mahindra engaged in practices of deliberately frustrating the employees inherited by Airtel to force them to resign and thus hire other workers on much lower terms.

Despite all these violations, the workers in Tech Mahindra were very reluctant to organise. One major barrier to any collective organising was the atmosphere of fear, intimidation and insecurity, where the employer had full discretion to renew contracts and to fire workers, even for being late or for being on sick leave. Also, those Tech Mahindra workers that came from Airtel had previously been unionized, were made to believe by the employer that they were still represented by the Airtel staff union and thus they could not negotiate with the Tech Mahindra employer. In 2014, COWUMA had tried unsuccessfully to organise the workers at Tech Mahindra. Thus, the only channels of communication left to workers were either through supervisors or through the Welfare Committee, which focused on basic welfare issues such as funerals and sickness.

Faced with worsening working conditions and job insecurity, an increasingly oppressive and arrogant management, as well as lack of response by management to their complaints, the workers waited for the time when Tech Mahindra had to renew the contract with Airtel and in May 2015 went on a strike. What triggered the decision was an incident where a worker collapsed on duty and management refused to pay the hospital bills. The Welfare Committee was caught between management and workers during the strike. They could not contain the momentum of strike because workers grievances had reached a boiling point. At the same time, the leadership of the Welfare Committee were under the same working conditions as other workers and thus had an interest in the strike. Although the Welfare Committee played a role during the strike, it did not have a legal mandate to even represent, let alone negotiate with the employer on behalf of employees.

In the absence of a union, the employer invited the Ministry of Labour officials to assist in resolving the dispute, but to no avail. The strike continued for seven days, during which the Ministry of Labour asked the Communication Workers Union of Malawi (COWUMA) organising in the telecommunication sector to step in and offer advice to workers during the conciliation process.<sup>53</sup>

As the conciliation failed and the strike continued, all parties realized the importance of having a union at the workplace that could negotiate a binding agreement between the parties. Workers also realized their strength in unity and that despite management's threats, the employer could not just fire and replace all of them: "Our fear was that once we disband after the strike, management will continue using its divide and rule tactics which victimize the majority" (interview). They also knew that should they continue with the strike action, it would have been illegal without a union. Management gathered that with a union at a workplace, a strike could only take place after some procedures which would give the employer some time to strategise. The pressure on the employer increased when Airtel Malawi, observing the length of the strike, threatened to cancel its contract with Tech Mahindra. Meanwhile, workers had given the employer a deadline for resuming the strike unless their wages were increased by 100% to

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<sup>53</sup> Initially, COWUMA organised mainly in media and graphical sectors, but now it has spread to telecommunication.

which the employer counter-offered a 10% increase. Although aware that their jobs depended on the renewal of the contract between Tech Mahindra and Airtel, the workers also figured that this was a good opportunity as Tech Mahindra would be the biggest loser should the contract not be renewed.

COWUMA used this opportunity to establish its Tech Mahindra branch to negotiate with the employer which required the union to have a membership of at least 20% of all workers. During organising, the union had to confront a number of barriers including: resistance from workers who were at the end of their contract and feared non-renewal; workers' perceptions that unions were a waste of time and it was better to deal directly with the employer; including young graduates who thought that unions were for blue-collar workers; and former Airtel workers who saw the unions as ineffective in protecting them from retrenchment from Airtel. In facing these challenges, the union embarked on an intense organising drive. The organisers made phone calls to call center workers pretending to be costumers who needed assistance but instead informing them about the union instead. The union used also 'the pick-up and drop off points' to meet with night-shift call centre workers. This was obviously very risky considering the issue of security in the country, but also quite costly for the union. Here, the Swedish Union for Service and Communication Employees was instrumental in supporting the organising drive.

Eventually, COWUMA was able to recruit 80% of the workforce. Many young workers joined the union when they learned that COWUMA had organised the workers in Airtel. This convinced them that joining the union wouldn't be illegal. When union elections were held, some members of the committee stood up for elections. The continuous meetings between COWUMA and Tech Mahindra resulted in a Memorandum of Understanding (MoU) on dispute resolution according to which the parties committed to act in good faith and control the expectations of their constituents.

The strike action and the subsequent union organising have resulted in a number of positive outcomes for the workers. On 17 July 2015, COWUMA and Tech Mahindra, in the presence of the Regional Labour Officer, signed a salary agreement which stipulated a 30% salary increase across the board effective 1 June 2015. While the duration of the salary agreement was pegged to the life span of the Tech Mahindra's contract with Airtel, the collective agreements are to be renewed yearly. This arrangement 'forced' the union to remain vibrant throughout the period of the contract between Tech Mahindra and Airtel, in order to ensure that they get the best deal during negotiations. As importantly, workers were able to unionise and bargain collectively – rights which they thought they were not eligible to. The collective agreement has formalized and regulated the relationship between the company, employees and the union by means of clearly stated principles, procedures and practices. It bound Tech Mahindra to recognise and accept union activities at the workplace. It also provided for trade union consultation during retrenchment as well as a guarantee of due process in disciplinary cases. The collective agreement has also provided



workers with access to benefits such as sick leave and payment of overtime. At the same time, the union fought against any stipulation which established the minimum number of calls for each agent making it dependent only on the calls made by costumers.

While the rate of worker turnover continues to remain high, workers are now put on fixed/stable contracts which guaranteed job security of one year. Arbitrary firing has come to an end and the union is consulted in disciplinary issues which follow established procedures. There are improvements in the working environment in terms of cleanliness, protective equipment and other facilities. Due to leadership and collective bargaining training by COWUMA, workers have acquired new skills which has enabled them to engage in collective negotiations and has boosted their confidence in standing up to management, which contrasts with the approach of the Welfare Committee. The workers have also been trained on other issues including: the role and responsibilities of shop stewards, organising techniques, grievance handling procedures, communication and services to the members. This has enabled them to hold their leaders accountable and demand adherence to the union's constitution. Trade union and legal education is provided to rank and file members during lunch hour sessions. These sessions have helped them become aware of their rights and realise the way they were being exploited. Another rather unintended effect of the organising efforts has been a fall in the incidences of gossip which in turn has made workers more united in facing management. Through their unity from different departments, the union has been able to access information which has strengthened their engagement with management. Finally, under workers' pressure, Tech Mahindra terminated the services of a notorious HR manager who was loathed by many due to his treatment of workers.

The Malawi case highlights the importance of an enabling legal framework in terms of unionization and collective bargaining, including thresholds for starting negotiations. Union determination and the innovative strategies were also key factors to the success of the initiative. Workers were able to attend training without fear of retribution and even had the company pay for some of the training. While this may have been an employer strategy to capture the union, it was arguably used by the union to strengthen its position. The support of the Ministry of Labour was also important. The Welfare Committee also played a role in as far as it laid the foundation for the union formation. One important challenge that remains in the context of continued high worker turnover which makes the union unstable is the fact that new workers are hesitant to join the union for fear of not having their contracts renewed.

## 2.5 The union organising of call center workers in Cebu, the Philippines

The case study of Melisa R. Serrano focuses on the organising initiative of Inter-Call Center Association of Workers (ICCAW)<sup>54</sup> in Cebu, a province in the Visayas group of islands, where more than 50 call centres that employ between 200,000 and 250,000 workers are located. The Philippine call centre sector tops the list of the Business Processing Outsourcing (BPO) industry, both in terms of employment numbers and revenues generated.<sup>55</sup> In 2010 (and 2011), the Philippines overtook India “as the call center capital of the world”.<sup>56</sup>

Despite its critical importance for the economy and employment, the BPO/call centre industry suffers from volatility with several cases of fly-by-night call centre companies. Moreover, the sector is characterized by very high turnover rates, especially among young workers, who consider work in call centre as a temporary job while waiting to migrate or a stepping stone towards a job that fits their qualifications.<sup>57</sup> The perception of these jobs being temporary is reinforced by the limited career prospects in the call centre companies (which prefer flatter hierarchies), monotonous tasks combined with work intensity, and limited possibilities for knowledge transfer and skills-upgrading.<sup>58</sup>

While job security does not appear to be a problem – the majority of workers in the BPO industry have a regular or permanent contract – call centre workers face a number of other issues specific to the nature of their jobs. Since most of the call centre clients are international, call centre employees have to adjust their working time to the time zones of their clients in what is known as graveyard shifts which have a direct impact on workers’ health, including lack of sleep, fatigue and other serious health problems (such as drinking and smoking), physical safety while using public transportation, and disruption of family and social life in general.<sup>59</sup>

While there are existing voice mechanisms in many call centre companies, they are more oriented towards organisational performance issues, including issues of attrition, rather than employment-related issues.<sup>60</sup> Meanwhile, the BPO industry remains union-free, partly due to active resistance from the employer which instil fear of contract termination or discrimination among workers. Employer resistance is manifested in several ways, including the adoption of a non-union policies by some companies, conducting training which discourages unionisation, and including ‘no-union’ provisions in pre-employment contracts. Unionisation in

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<sup>54</sup> By the time this report was finalised, the ICCAW has changed its name to I-Shield - Secured and Healthy Initiative Enabling Labor Defence.

<sup>55</sup> The number of people employed in call centres is estimated to be between 60% and 65% of the total workforce in the BPO industry (Tayon and Leynes 2012; Bird and Ernst 2009). Meanwhile, a Bureau of Labour survey shows the share employment in call centres to be as high as 80.7% (BLES 2012).

<sup>56</sup> Hechanova, 2013: 349.

<sup>57</sup> Hechanova 2013; Bird and Ernst 2009.

<sup>58</sup> Hechanova 2013.

<sup>59</sup> Ibid.

<sup>60</sup> Salvaña 2016.

the sector is also hampered by other factors, namely: the perception of transient employment, frequent changes of employment which makes the identification of the counterpart unclear, the availability of the exit option due to the mushrooming of the industry and the lack of qualified personnel, the normalisation of violation of rights and lack of decent working conditions, the image constructed by the management that employees' and employers' interests are the same and that employers value their professional employees, the thinking that trade unions and union action, such as picketing and striking, are something for blue-collar workers whereas them (i.e. call centre employees) are not workers – a perception supported by catchy employee designations,<sup>61</sup> stigma attached to unions in general and individualism.<sup>62</sup>

The ICCAW was born out of the struggle of 664 call centre employees in Cebu city who suddenly found themselves jobless with unpaid wages and without benefits when their employer (Direct Access) abruptly and illegally closed the company on the 30<sup>th</sup> of June, 2012. Taking advantage of these employees' struggle to recover unpaid wages and benefits, the *Partido ng Manggagawa* (PM or Workers' Party), lodged a formal complaint with the Department of Labor and Employment (DOLE) office in Cebu and organized pickets at the office of Direct Access and the DOLE. The PM used the pickets to educate the workers about their rights and the importance of being organized. Eventually, on 12 of September, 2012 the DOLE found that Direct Access committed several violations including non-payment of overtime-pay, incentives, allowances, nightshift differentials, 13<sup>th</sup> month pay and unlawful withholding of salaries affecting 667 employees, as well as the non-remittance of social security, health and other contributions for several months.<sup>63</sup> In response, DOLE ordered Direct Access to pay the withheld salaries. In the end, a new investor reopened the company under a new name, paid the claims of the former Direct Access workers, and rehired a number of those same workers.

Having won their case, some of the former Direct Access workers, went on to organize ICCAW with the support of the PM. On 10 October, 2012 ICCAW was officially registered with the DOLE as a workers' association, affiliated to the PM.<sup>64</sup> The worker association is not confined to a single workplace and as such it structurally fit well with the transient nature of employment in the sector. In continuing their organising efforts among call centres, the ICCAW pursued the following strategies and tactics:

*Organising a core team of seven people:* An ICCAW lead organiser and an organiser-trainee was trained by the ILO-Alliance of Progressive Labour project 'Organizing in the 21<sup>st</sup> Project'. Learning deepened as the sessions of the project progressed. Materials were shared with five other organizer-trainees.

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<sup>61</sup> Customer Care Agent, Customer Support Agent, or Customer Support Executive.

<sup>62</sup> Reese and Soco-Carreon 2013.

<sup>63</sup> It was also found that the Chief Operating Officer of Direct Access had no alien employment permit.

<sup>64</sup> Since late 2016, has been supported by the *Sentro ng mga Nagkakaisa at Progresibong Manggagawa* (SENTRO), a trade union confederation in the Philippines.

*Conducting Social Investigation (SI)* during which the organiser-trainees learned how to research a company's corporate structure, its management style, the accounts it manages and their stability, the existing wages and benefits of workers, key issues at the workplace and the 'culture' and concerns of workers (or agents). Such research was undertaken in five companies where the common issues identified included the lack of transparency in performance evaluation, limited or short time for lunch, no downtime in calls queuing process, job insecurity and limited benefits in smaller call centre companies, lack of career ladder,<sup>65</sup> cases of benefit reductions as a result of changes in management and failure to pay wages on time, and cases of illegal suspension and illegal dismissal. The research also established that call centre workers are exposed to a number of occupational health issues including physical stress, musculoskeletal disorders, fatigue and sexual harassment. As reduction of occupational health risks and benefits such as, life insurance, and retirement are not standardized in the industry, workers tend to hop from one call centre to another. On average, a call centre worker stays in one company between one and two years.

*Organising call centre workers* which included prioritizing those companies that have unstable accounts and using the common issues and problems identified during the research phase as entry points for building contacts with workers. In addition, the organisers provided workers with orientation on ICCAW. Eventually ICCAW convened an All Leaders Meeting in August 2013 which brought together the core groups of all the targeted companies and served as a venue for call centre workers to interact among themselves and to understand the need of building ICCAW chapters in their workplace. This supported the ICCAW's organising drive as core groups took up the responsibility of building an ICCAW chapter in their respective companies. Organising call centre workers presented its own challenges because although these workers are more aware of labour standards and the benefits to which they are entitled, they have short attention spans (according to an ICCAW organiser). This required the organisers to gamify the organising activities as a way of keeping their attention, and to adapt to the way these workers socialise to be able to build contacts among these workers and recruit them. This included drinking and joining the 'gimmicks' of call centre workers late in the evening or in the morning to reach out to them. Also, since most call centre workers work from Tuesday to Sunday night, this leaves the organisers only with Mondays to do contact building and organising work. Thus, every Monday, a tactics session is conducted which involves the organiser-trainees and other workers that comprise the core groups of workers recruited from the target companies. At the same time, this session serves as a venue to educate these workers on the Labor Code and the campaign against precarious work. In August 2017, ICCAW launched its new website—BPO Shield ([bposhield.com](http://bposhield.com)), which provides valuable information (e.g. benefits and

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<sup>65</sup> According to ICCAW officers interviewed by the researcher, there are very few management positions open in call center companies. Even for a team leader job vacancy, promotion is not automatic as workers have to apply for the job.

compensation, workers' rights, advocacy) to BPO workers. The website is also a way to reach out to more workers in the sector.

*Provision of services* such as: organizing, legal services, livelihood projects, workers' education, workers' re-tooling and skills training, and job placement.

*Advocacy* for stricter government regulations on the requirements to set up call centres to reduce the incidence of fly-by-night companies; a stop to contractualisation of call centre agents; health care above the mandatory membership guaranteeing wide coverage and better benefits; election of employee representatives at the company level to negotiate on grievances regarding working conditions, terms of employment, employee benefits and workloads, including fixing of quotas, metrics and performance indexes; and setting up industry-wide standards for wages, benefits and entitlements above the minimum standards.

*Tactics of 'naming and shaming'* call centre companies that violate labour standards and worker rights are also used by ICCAW.

The organising project has resulted in a number of positive outcomes. As of July 2017, core groups have been formed in 11 BPO/call centre companies in Cebu with a total membership of 200 workers. ICCAW has also started organizing call centre workers in Bacolod City in Negros Occidental, and more recently in Metro Manila. Although, as a worker association, the ICCAW cannot engage in collective bargaining, it can still address the immediate and long-term problems of the industry. Thus, ICCAW is now officially recognised by its social partners and it sits in the Industrial Tripartite Council for BPO in Cebu. Officers of ICCAW continue to dialogue with the Mayor of Cebu to try to have city ordinances that provide greater protection to BPO workers enacted.

The ICCAW core groups have been equipped with various essential skills for their organising work. Moreover, the actual involvement in organising has helped them to develop their capacities in problem-solving, social investigation, contact and network building, strategic planning and public speaking, thus strengthening their self-confidence in engaging in various issues. For example, the core group of one company successfully appealed the case of 20 co-workers that were rated as performing poorly. The core group helped them pass their evaluation and eventually become regularized (i.e. get a permanent employment status). In another case, one of the organisers has completed a training programme of the DOLE to participate in labour law compliance assessments of BPO establishments.

At the time of writing, ICCAW is not collecting any dues from its members. While funds provided by the ILO project helped in the implementation of ICCAW's activities in 2014, other funds are needed to sustain these activities. Meanwhile, SENTRO's 'informal adoption' of ICCAW in late 2016, may provide support for ICCAW's organizing activities.

## 2.6 The union campaign of Legal Aid lawyers in Ontario, Canada

In their case study, Patricia Chong, Michele LeBlanc and Anna Liu analyse the four-year long comprehensive campaign over the right to unionise and bargain collectively for Legal Aid Ontario (LAO) lawyers, who fall out of the “employee” definition in the Ontario Labour Relations Act (OLRA) and are therefore unable to unionise in the traditional sense. Outside the OLRA, however, excluded workers can achieve workplace representation by having the employer *voluntarily*<sup>66</sup> recognise the union as the chosen representative of workers.

LAO lawyers provide legal advice to impoverished and marginalized people,<sup>67</sup> who cannot afford legal representation. Lack of transparency in salary and pay scale; underpaid compared to other public-sector lawyers; difficulty protecting professional and ethical obligations due to inappropriate work spaces which challenged client confidentiality, among others; and lack of any employer consultation on main decisions affecting their work were some of the main workplace concerns affecting LAO lawyers. Although they had raised these problems with the employer again and again, the employer had remained indifferent. In 2011, faced with lack of response from the employer regarding *Lawyer Workforce Strategy* – a mandatory Human Resources (HR) programme that required involuntary relocation and potential change in area of law practiced – the LAO lawyers explored the option of joining a union.<sup>68</sup>

The case of LAO lawyers was taken up by the Society of Energy Professionals (SEP) trade union, and a comprehensive campaign was developed to win voluntary recognition, although the employer had previously refused to do so. The union, which has a history of bargaining in the public sector, provided LAO lawyers with support and resources which included legal advice, communication strategies, how to navigate government channels, organising, research and training. The plan involved building support internally amongst LAO lawyers to unionise as well as targeting the employer and the Ontario government through public pressure and lobbying.

Organising outside of the industrial relations framework forced the union and the LAO lawyers to go beyond traditional organising tactics that focus solely on the workplace. In undertaking a comprehensive organising campaign which ran for four years, they focused on:

*Internal organising* which involved communicating with workers all over Ontario (a geographically wide area), educating the lawyers that just as blue-collar workers they also have the right to unionise and bargain collectively, and continued efforts to maintain the organising drive over the four-year long

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<sup>66</sup> There is no obligation, however, on the employer to enter in a voluntary recognition agreement (VRA).

<sup>67</sup> Typically included here are indigenous and racialized people and people who struggle with addiction and mental health issues.

<sup>68</sup> Legal practice may encompass many diverse areas of law. Legal Aid Ontario primarily provides legal services to the public in the areas of criminal, family and refugee law.

campaign period. To this end, the SEP helped form an Inside Organising Committee,<sup>69</sup> which was comprised of around 20 committed and determined LAO lawyers with a balanced representation in terms of gender, race, region and area of legal expertise. The Committee members were trained on how to discuss the need for collective bargaining with their peers and how to answer basic questions about unions with the aim of having LAO lawyers sign the petition to democratically join the SEP. Given that the lawyers were scattered all across the province on Ontario, the campaign organisers capitalized on opportunities where large number of lawyers came together such as conferences, with informal, individual conversations with their colleagues over lunch, evening and weekend hours. It was through the latter that most petition signatures were collected. Committee members volunteered to take time off to travel to different sites and make phone calls. Meanwhile, the union provided reimbursement for lost wages and travel expenses. The peer-to-peer conversations were supported with brochures and a website. In January 2013, the campaign organised its first public event, featuring the renowned Canadian civil rights lawyer Clayton Ruby. Many lawyers chose to sign the petition to organize on the spot. Such a long campaign has involved an immense level of commitment and resources with the union conducting biweekly meetings which, to some extent, required giving up personal life. In addition, the high turn-over among the LAO lawyers required sustaining the support for the union by keeping track of the new hires and convincing them to sign the petition to organise. By spring of 2013, almost 80% of LAO lawyers had signed the petition stating their wish to have the SEP as the bargaining agent. The unions notified the employer and requested a meeting to which the employer did not respond.

*Mobilizing public and political pressure by winning the media's support and lobbying:* Responding to the employer's unjustifiable refusal to recognize the union as the workplace representative despite an 80% approval by workers and in light of the fact that there are more women and racialized LAO lawyers in comparison to provincial crown prosecutors and civil lawyers, the union added an equity component to the campaign under the banner "Stop the Discrimination at Legal Aid Ontario". It targeted LAO's CEO and the LAO Board of Directors via rallies, information pickets, press conferences etc. In September 2013, the campaign held a press conference at Ontario's legislative building which was attended by a LAO lawyer and three prominent members of the legal and women's advocacy community. This was the official launch of a public campaign, the goal of which was to draw media attention, and therefore increase public pressure on LAO management. Several media outlets featured the story, including Toronto's largest newspaper, the Toronto Star. Responding to increasing pressure, the employer met with the Inside Organizing Committee members and offered to recognise an independent association of LAO lawyers on the condition that SEP would no longer be involved. At this point, the union hired consultants to assist them with lobbying the Ontario government to educate

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<sup>69</sup> Inside Organising Committee included refers to employees in the targeted workplace who take a leadership role in unionizing their workplace.

politicians, and appeal to their sense of justice. Although one of the key messages to the elected officials was the connection between improvements to legal services with voice, representation and collective bargaining rights for LAO lawyers, the officials had difficulty recognizing this link. Media coverage, which also included paid media ads, was critical to LAO lawyers' morale over the length of the campaign. The media had an interest in the LAO lawyers' story due both to the novelty of lawyers attempting to unionize but also to the fact that these lawyers represent Ontario's vulnerable populations and the question of access to justice, as an important Canadian value,<sup>70</sup> was a particularly appealing dimension to the story.

*Legal action:* The union supported the filing of pay equity complaints on behalf of LAO lawyers as more than 60 percent of LAO staff lawyers identified as women. Thus, according to the Ontario Pay Equity Act, the job should be considered a "female job class".<sup>71</sup> This intensified the pressure on LAO and the Ontario government. The complaints are still being considered by the designated Commission at the time of writing. Simultaneously, the LAO lawyers and the union sought to make use of strategic research by filing multiple "freedom of information" (FOI) requests with regard to LAO Board of Directors meeting minutes, information on the Lawyer Workforce Strategy, LAO salary bands, and reports and policies developed from tendered contracts. This too, had limited success as LAO used confidentiality legislation to impede most of the information requests. By 2015, now three years into the campaign, a constitutional challenge was launched against LAO and the Ontario government. Inspired by a Supreme Court decision which ruled that Canada's federal police have the protected right to bargain collectively and to choose their own bargaining agent, the SEP submitted a similar complaint, arguing that LAO lawyers' Charter of Rights and Freedoms rights were being violated and that exclusion of lawyers from the OLRA was unconstitutional.<sup>72</sup> Engaging in a legal battle would have forced the government to defend the exclusion of lawyers from the OLRA. It would also have meant spending public money in a court battle fighting workers' democratic rights, thus opening a sensitive topic in the public discourse.

*Building coalitions and solidarity,* which was critical to the campaign, was a difficult challenge as there was no obvious connection between labour and the legal communities. One key ally during the campaign was the Women's Legal Education and Action Fund (LEAF) – a women's legal advocacy group dedicated

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<sup>70</sup> A fair justice system guaranteeing everyone due process under the law part and parcel of one of the key values of the Canadian identity as outlined in the Government of Canada's "Discover Canada: The Rights and Responsibilities of Citizenship" (2013) guide.

<sup>71</sup> Ontario's Pay Equity Act requires employers to identify and correct gender discrimination in their compensation practices and to adjust the wages of employees in female job classes so that they are at least equal to the wages of employees in male job classes when they are found to be comparable in value based on skill, effort, responsibility and working conditions. Although under the LAO's pay equity plan, "staff lawyer" is designated as a gender-neutral job class, the Act defines a female job class as one in which 60 percent of LAO staff lawyers are women.

<sup>72</sup> The Canadian Charter of Rights and Freedoms is part of the Canadian constitution and outlines the rights and freedoms that citizens have. Thus, laws should not unnecessarily violate the Charter. More information: <https://www.canada.ca/en/canadian-heritage/services/how-rights-protected/guide-canadian-charter-rights-freedoms.html>



to equality rights through education and litigation – which participated in the first press conference in 2013 and attended rallies and other campaign actions. Other allies included the National Association of Women and the Law, Women’s Health in Women’s Hands, Association of Community Legal Clinics of Ontario, and Ontario Civil Liberties Association – all of which enhanced the legitimacy and reputation of the campaign by writing letters, sharing information and offering solidarity through social media. The support of the labour movement was critical, especially in the last months of the campaign. Throughout the four-year campaign, many union allies, particularly the Ontario Nurses Association (ONA) union, brought large numbers of its members to campaign events, disseminated information through its networks and raised awareness about the campaign. The Ontario Federation of Labour (OFL) included a specific demand to remove the exclusion of lawyers from unionization under the OLRA in its provincial *Make It Fair* campaign. Similarly, the *Fight for \$15 & Fairness* campaign to raise the minimum wage participated in actions and helped to organise additional support for LAO lawyers.

The union and the LAO lawyers achieved significant victories during the four-year campaign. First, the unpopular Lawyer Workforce Strategy was changed from mandatory to voluntary. Perhaps in an attempt to dissuade the lawyers from pursuing collective negotiations, LAO made changes to the pay grid which resulted in significant pay increases for a large number of LAO lawyers. Furthermore, during the LAO lawyers campaign, SEP also unionized articling interns which was another significant victory in organising white-collar workers. In the fall of 2016, due to the constitutional challenge in the court system and a resurgence of targeted rallies, pickets and media attention, the LAO lawyers won voluntary recognition.

The campaign had a significant impact on the union and the Inside Organizing Committee of the LAO lawyers. It increased the SEP’s status in the labour movement. By showing concretely how to organise non-traditional workers, the union opened the path for organising other groups of professional workers. Internally, the union has experienced “a tremendous infusion of energy”, bringing a healthy diversity of thought and culture which will make the union stronger. The campaign as well as other collective actions, have the potential to bring significant changes in the union culture, opening up the possibility for more confrontational approaches to industrial relations should the need arise. The atypical tactics employed during the campaign also had an impact on the union activists and Inside Organizing members who were challenged to learn new skills (public speaking, getting people excited or engaged with an idea or action) and were motivated to be more active and take up new challenges such as being involved in bargaining negotiations or taking up leadership responsibilities. They also got to learn of the impact that politics has on the workplace, but more importantly how to be agents in influencing their destiny and how to tap into the immense potential of solidarity as a source of power during the struggle for worker rights.

## 2.7 The project of revitalizing the union of contract workers in São Paulo, Brazil

This case study, written by Euan Gibb, highlights the unusual efforts of a union to build independent power among *invisibilised*<sup>73</sup> contract workers against a legal and historical context which actively discourages genuine worker organising and limits union activities.<sup>74</sup> The SIEMACO-SP union represents workers in companies providing cleaning, maintenance and urban cleaning services in the city of São Paulo. These workers, almost all of whom are subcontracted, are poorly paid, classified as less-skilled, and intensely exploited in highly labour-intensive jobs. The sector is dominated by racialized migrant women and has an exceptionally high turnover rate.

In early 2015 the SIEMACO-SP president embarked on a project to address the essential problem of near total absence of trade union structures at the workplace level. He had already been exposed to international examples and thus to different union organising models. In the absence of a strong history of membership development at the workplace level and enduring bureaucratic legal structures that intentionally disincentivise building union power, he reached out to resources and experiences beyond Brazil. More specifically, the US-based Service Employees International Union (SEIU) provided various forms of support including sharing experiences with its own model of organising. The SIEMACO-SP's project focused on:

*An extensive organising programme* which required the compilation of basic information on union membership to analyse the union's actual situation, develop a strategic plan and include capacity to concretely measure results. Although union access to the workplaces is guaranteed in the collective agreement, the task of obtaining union membership lists and of mapping work sites in many cases proved very challenging. In these cases, the union staff had to meet workers during shift changes or during lunch. The organisers used also the legal requirement for new member orientation meetings and annual health and safety meetings. The indicator of 50% +1 was used by the union as a measure of support in a workplace. The organisers, including an SEIU representative, and the elected union leaders spent time together in the streets and at workplaces to understand the strategies that would resonate with workers in the different sectors covered by the union.

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<sup>73</sup> Workers who are made to be invisible by others – a process linked to the still-present cultural, economic, social and political leftovers of slavery and the ways that misogyny and racism works in Brazil and more specifically in the massive and diverse metropolis of São Paulo.

<sup>74</sup> Characteristics of the legal framework include: a process of certification which does not depend on any threshold, but on the support of a friendly politician; 'obligatory singularity', i.e. only one union can represent a given category of workers in a given geographical territory, and forced adaptation to economic and professional categories that are defined externally and in advance by the state. These have resulted in sectoral and territorial fragmentation, yellow trade unions, and a distance between the base of the union and the leadership and weak workplace based structures; and the 'union tax' - a system in which all legally registered workers, pay one day of their salary into a fund that the federal government then distributes to unions at various levels. Thus, unions can be financially independent without collecting any contribution directly from the members.

*The building and strengthening of workplace representative capacities:* As a result of the organising programme that was developed following the 'listening' phase, the organising staff has improved its capacity to identify, recruit and communicate with workplace leaders. Strategic and targeted leader identification and nurturing had not been common in SIEMACO-SP. Almost none of the leaders had ever done any recruiting or organising. As a result of the programme, workers who had never met anyone from the union before, know now who to approach when they have a problem at the workplace. The organising staff has also developed common criteria on what a leader is, what their roles should/could be, and what can be asked of them in concrete and practical terms. The establishment of basic trade union structures at the workplace has been accompanied by the implementation of the more basic organising.

*Professionalization of the interactions between staff, elected and appointed trade unionists and workers,* which has consisted of training the union staff and members on how to hold conversations with workers. This project component has been developed based on the feedback received from workers during the organising programme. Tools have been developed and tested to help the union representatives to talk confidently about the union. More than 80% of trade unionists that have contact with the members have gone through internal trainings which include role playing scenarios on how to encourage, train and mentor workers. In holding discussions with workers, union representatives have replaced the focus on service provision<sup>75</sup> with a focus on the importance of the collective agreement and broader working-class issues. In addition to the focus on collective bargaining, the union Youth Secretary has organised several events – 'real concrete conversations' – that bring workers together to talk about issues that directly affect them. This includes collective discussions about proposed labour law reforms.

As a result of the project, the union organising committees are now familiar with setting goals, sharing experiences and measuring their progress. Workplace leaders are now quickly identified, supported and developed. The number of workers that voluntarily affiliate to SIEMACO-SP has increased and the membership has gone from 30% to 43%, which is remarkable given the high turnover in the sector and national union density numbers at 16%. This has brought more resources to the union and has enabled the union to expand the organising committee from 10 to 12 organisers. The costs associated with the

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<sup>75</sup> A practice of trade unionism that focuses on the provision of welfare services for members, known also as *assistencialismo*. Examples of such services provided by SIEMACO-SP would be: collective agreement clauses which provide for funeral costs for family members; credit cards which are replenished monthly by the employer and which can constitute up to 40% of base salary; day care centre for the children of union members which are free for children less than 6 years old, including meals, uniforms and school materials; medical clinics in 6 areas of the city where most workers are concentrated providing services which are either for free or charged a nominal fee; a beach resort accessible for lower wage workers; workers' help centres providing a jobs board listing updated jobs available in the area, free legal advice as well as assistance by trained retirement experts to help workers make the calculations and access all of benefits they are entitled to; specific, technical and political training for union representatives and activists; and classes on languages (English, Spanish and Portuguese), information technology classes, preparatory courses for college entrance exams.

organizers are paid by the union while those associated with the SEIU staff representative is covered by SEIU.

As the union is built and strengthened at the workplace, the capacity to solve problems increases. Every trade unionist that has undergone trainings knows now how to talk to workers about the importance of collective bargaining and strong collective agreements with the employers. At the same time, workers have been brought in the process of collective bargaining in a more systematic manner. During the process of collective negotiations, the street cleaning sector organised 40 workplace meetings all over the city to debate and prioritize bargaining demands.

Finally, the exceptional initiative of SIEMACO-SP to strengthen structures and power at the base is particularly significant in the context of the extremely regressive labour reforms currently being enacted in Brazil. By building independent power at the workplace, the initiative has prepared the union to survive and even grow despite these reforms, thus ensuring that in the next round of collective negotiations (2018), employers in the sector will not be dealing with trade union leaders that have a weak, fragmented, uninformed and unengaged base.

### 3. MAIN FINDINGS FROM THE CASE STUDIES

The cross-case analysis of the seven stories of collective organising provides a number of important insights on the main questions of this paper and on some of the theoretical arguments presented in Part 1 of this paper.

*First*, the case studies support existing research that precarious work affects all segments of the working class, from the more traditional groups, such as footwear workers (China), garbage collectors (Brazil), and migrant farm workers (South Africa), to the less-traditional segments, such as call centre/IT employees (Malawi, Nigeria and the Philippines) and legal aid lawyers (Canada). The workers in some of our case studies display specific demographics, such as relatively younger age (China, Malawi, Nigeria and Philippines), women (Brazil, Canada and China), migrants (Brazil, South Africa) and sometimes a combination of these characteristics, such as racialized migrant women (Brazil and Canada). The working conditions of these workers are marked by one or more of the following: no wages, very low wages, arbitrary deduction of wages or underpayment, including lack of transparency over wage rates and gender disparity; very high job insecurity due to arbitrary dismissals or transfers but also due to very high turnover rates in some sectors; very long working hours or graveyard shifts disrupting family and social life; bullying, harassment, violence and sexual harassment; poor occupational health and safety with detrimental impact on health; denial of social security benefits; as well as denial, either in law or in practice, of the right to unionise and bargaining collectively.

*Second*, the case studies show that collective organising can occur against all sorts of hostile and difficult conditions. In China, against a repressive and authoritarian context of industrial relations and political regime, where the union sides with the management, the footwear workers, with the support of a labour NGO, organised three wildcat strikes to win their entitlements. In South Africa, the migrant farm workers, although undocumented, and thus under the eminent risk of deportation and xenophobic violence by the employer, established an ad-hoc committee to discuss their demands and eventually organise a protest action with the help of a migrant workers NGO. In Nigeria, despite a representational vacuum caused by the legal framework and retaliation against any unionisation attempt, agitations against very poor working conditions and lack of representation were rife among the call center workers. This pushed the unions to launch a petition over the right to organise these workers, and eventually embark in a unionisation drive. In Malawi, the call center workers went on a strike in a context of arbitrary dismissals and retaliation, and of an arrogant and violent management. In a union-free sector due to active resistance by employers, including the existence of non-union policies, the Filipino call centers workers mobilised to recover unpaid wages and benefits even if the employer had illegally closed the company and fled the country. In Canada, although the Legal Aid Ontario (LAO) lawyers knew that the industrial relations system explicitly denies them the right to unionise and bargain collectively, they approached a union to help them win these rights. In the special case of Brazil, in a context which disincentivises the development of a membership base at the workplace, it was the leadership of the union that embarked on an unusual organising project to overcome a weak, fragmented, uninformed and unengaged union base.

In addition to these challenges, organising in the non-traditional segments of the working-class has posed the challenge of worker-professional divide and the related perception that unions and their actions such as strikes and picketing are something for blue-collar workers. This is the case of the lawyers in Canada or of the call center workers in Malawi and the Philippines, who are given catchy employee designations by employers, such as the VIP scheme and Executive scheme, or Customer Care Agent, Customer Support Agent and Customer Support Executive.

*Third*, the case studies suggest that, at least as far as precarious workers are concerned, there is need to modify the conditions for collective organising in Kelly's mobilisation theory. More specifically:

**The condition of 'sense of grievance or injustice' 'which can be attributed directly to the employer':** Our case studies lend support to Atzeni's argument that it not just injustice in general or a particular grievance that facilitate the emergence of collective acts of resistance, but instances where the exploitation and injustice are manifested concretely. Indeed, poor working conditions and/or injustice were the 'normal' experience of all workers in our case studies. What has prompted workers to collective action in most of our cases was the employer's concrete act of worsening working conditions, which, as

experienced by workers, was an infringement to their dignity. Thus, in the case of China, despite long working hours and occupational health and safety problems, footwear workers decided to go on strike only when the employer started tricking them to resign and thus evade any compensation for accrued benefits and entitlements. They went again on strike when the employer decided unilaterally on compensation package which was lower than expected. In the case of South Africa, the migrant farm workers were exposed to appalling working conditions and violence, but they decided to organise a protest action when they learned that their wages were well below the gazetted minimum wage. The Malawi call centre workers, who were under the constant threat of arbitrary dismissals by an oppressive management, went on an unprotected strike when the employer refused to pay the hospital bills for one of the workers who fainted while at work. In the case of the call centre workers in the Philippines, despite serious health and safety issues, it was the illegal closure of the company which left workers unpaid and jobless that prompted the workers to mobilise. In Canada, the LAO lawyers faced with lack of transparency in salary and pay scale and were very much aware that they were underpaid compared to other public-sector lawyers. The event which triggered the organising, however, was the employer's complete indifference to the lawyers' demand for consultation over the new HR scheme that negatively affected their jobs.

**The condition of having 'confidence that the action will be effective':** Many of the workers in our case studies have no previous experiences of collective organising, and thus lack the related confidence originating from this experience. Nonetheless, our stories suggest that successful stories of organising elsewhere or the visibility of workers' organisations on social issues provide the precarious workers with courage or hope that things may change. Thus, farm workers in South Africa were informed of the strikes of other farmworkers and understood that union membership could improve their situation; footwear workers in China knew of successful wildcat strikes elsewhere; and lawyers in Canada, call centre and IT workers in Malawi and Nigeria knew that working conditions in unionised workplaces were better than theirs. In other words, the possibility for collective organising is more likely to materialise in countries where stories of successful organising are more common and where trade unions have a more prominent place in the society than in countries where such stories are hardly heard, if non-existent, and where trade unions play a marginal role.

**The conditions of 'an effective organisation' and 'leaders who frame issues compellingly':** Our stories show that in those cases where the collective resistance developed without the presence of effective organisations, the workers either made use of existing statutory structures, or created some ad-hoc structures. This does not mean that unions are not necessary. In fact, where unions were more involved in the organising initiative, they have been able to offset powerful factors, such as the regulatory framework. For example, although the existing laws have either the effect of posing immense barriers to union organising (Canada and the Philippines) or of discouraging unionisation at the

workplace (Brazil), the unions have overcome these challenges by choosing the model of workers' association to deal with the issue of organising across workplaces (the Philippines); pushing for a constitutional challenge regarding the right to organise and bargaining collectively (Canada); and using the legal requirement for new member orientation meetings and annual health and safety meetings to enter workplaces and organise workers (Brazil). With the understanding that the type of organisations involved and their strategies have a stronger impact on the organising story and its trajectory, we turn now to analysing our stories using the Holgate's distinction on approaches to collective organising. While the existence of trade unions in almost all the case studies reflects a certain bias in the selection of the organising stories, the existence of other labour support organisations at least in some of the cases, as well as the different ways of union involvement in all of them, allows us to compare their impact on the specific trajectory of each organising story.

### 3.1 Mobilising approach to organising

The case studies included under the *mobilising* approach are: the strikes of footwear workers in the Taiwanese factory in China, the strike of migrant farm workers at Johannesburg Farm in Lephale, South Africa and the organising of IT service providers in Nigeria. Although different in many aspects, these case studies share a number of similar features with those of the *mobilising* approach.

*First*, these case studies suggest that the lesser the expectations about the trade unions, the stronger the involvement of other organisations and structures. Thus, the role of the labour NGO in China is very strong given the official position of trade unions. It performed the functions of uniting workers, supporting the election of worker representatives, organising meetings, facilitating the strikes, training workers, collecting their demands, drafting proposals for negotiation, training workers on how to use social media and win public support. In South Africa, the migrant workers' organisations and statutory structures made up for union's limited attention to migrant workers. The support of the migrant workers' organisations to the protest action itself, however, was not direct. It involved providing a communication platform to bring the migrant workers together, offering information about the wage levels the workers were entitled, and keeping the workers informed about other workers' struggles. Following the protest action, the migrant workers' organisations helped to link the workers with the union in taking the case through the dispute settlement to recover the outstanding wages. Meanwhile, although worker agitation was rife in Nigeria's telecommunication sector, there was an expectation that once the representational vacuum is resolved, the union organising would commence.

*Second*, the involvement of labour NGOs and trade unions is temporary and limited to one-off events or mobilisations for addressing a particular grievance or improving materials conditions. The involvement of the labour NGO in China ended with conclusion of collective negotiation over entitlements. The migrant workers in South Africa used the safety committee to keep the workers informed

and agitated and eventually set up an ad-hoc committee to organise the protest action. In Nigeria, too, although the union's organising drive involves various collective actions, these appear to be more like several moments of mobilisation around protest actions.

*Third*, the union approach to ongoing mobilisations is at best reactive, bureaucratic with no or little interest to enable member participation. Regardless of significant contextual differences, trade unions in China and South Africa were absent from the collective actions of workers in the case studies. Thus, the union response to worker mobilisation in China was to side with the management. In South Africa, the union jumped in only after the conflict has escalated to serious violence and used its institutional power to represent the migrant farm workers in the dispute resolution system. In the aftermath of this case, the unions have reportedly become more interested in organising migrant workers. In the case of Nigeria, despite worker agitation on the ground, the union succeeded to organise the precarious workers only a few years after the judgement by the National Industrial Court. Even then, the union relied more on traditional tactics such as social dialogue, picketing to organise and pressure the employed into collective bargaining, and lobbying and petitioning the government on the issue of outsourcing. The case study indicates that the success has been limited not only because the strategies are inadequate to tackle employer resistance, but also due to union rivalry. However, despite limitations, the case studies suggest that precarious workers may benefit more where trade unions do not just take over the grievances of precarious workers (South Africa), but seek to organise them as a way of pressuring the employer in collective negotiations (Nigeria).

*Fourth*, one innovative element featured in the organising strategies of the case studies under this approach is the use of technology, which has a major potential to facilitate the process of connecting and communicating with even the most marginalised workers or those very difficult to reach. The extent to which trade unions and the support organisations have taken advantage of this opportunity varies. Thus, the labour NGO in China used the WhatsApp platform to communicate and coordinate worker mobilisation. The migrant organisation in South Africa also made use of the same platform to keep workers informed about their entitlements. In contrast, the unions in South Africa have failed to use the technology to proactively build connections with workers and community organisations. Meanwhile, the union in Nigeria established a website as a way of organising workers and conducting awareness raising campaigns on workers' rights. These developments may indicate the emergence of a new tactics, but not necessarily new organising strategies. While these platforms may be useful in getting in touch with workers, they cannot replace the critical role of union organisers in bottom-up organising and in sustaining membership over time. Reliance on websites to organise workers may explain to some extent the limited success of the union strategies in the case of Nigeria.



### 3.2 Deep organising approach to organising

The rest of the case studies are grouped under the *deep organising* approach: the organising of call center workers in Malawi, the emergence of a worker association of call centre workers in the Philippines, the struggle for unionisation rights of LAO lawyers in Canada, and the project of building a union base among contract cleaners in Brazil. The cross-case analysis point to the following findings:

*First*, in all the four cases the unions played a primary role, although at different stages of the organising initiative. Thus, in the case of Malawi, the workers first embarked in a self-organised strike making use of the welfare committee. The union jumped in upon the request of the Minister of Labour, and eventually embarked in an organising drive. In the case of the Philippines, a stable and strong labour organization—PM—got engaged directly into the ongoing mobilisation of workers in a particular call center company, which has closed illegally, and continued its engagement to organise workers in other call centers. In the case of Canada, too, the union responded to lawyers' request and subsequently mounted a four-year long campaign aware that this organising initiative could have gone on forever given the exclusion of LAO lawyers from the existing system of industrial relations and the resistance of employers to any unionisation attempt. In contrast to the other cases, in Brazil it was the union which initiated an unparalleled organising project confronting a legal and historical context which discourages genuine worker voice and representation.

*Second*, in all the four cases, the repertoires of collective action employed by the unions have involved, although to various degrees, more bottom up strategies of organising and building power at the workplace. In this way, these cases show that unions are in fact moving beyond the traditional models of organising, reaching out to new groups of workers,<sup>76</sup> and in the process, are "trying new means of collective organisation and action".<sup>77</sup>

Thus, in the case of Malawi, the organising drive of the union involved dedicated organisers masked as costumers who called the workers intensively to inform them about the union, and used the pick and drop-off points to engage with night-shift workers. Eventually, upon winning election the union has conducted training on the legal framework, leadership, collective bargaining, the role and responsibilities of shop stewards, organising techniques, grievance handling procedures, communication and services to the members. These training have made workers more aware of their rights and have enabled them to engage in collective negotiations at the workplace, to demand accountability from their leaders and respect for the union constitution, as well as boosted their confidence in engaging with the management.

In the case of the Philippines, the union used the pickets to educate workers about their rights, supported the establishment of the organisation of call centre workers (ICCAW), and provided the organisers with training on strategic research

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<sup>76</sup> ILO 2015a.

<sup>77</sup> ILO 2015b.

(social investigation), on organising and network resources, and on strategies to facilitate access to authorities. This has proven to be critical to maintain the core group's commitment to the ICCAW's organizing campaign which has incorporated innovative tactics (gamifying the organising activities which take place late in the evening) to reach out and engage with workers who have different needs and behaviours from other groups of workers. Through cooperation with UNI Global Union, ICCAW has tried to use International Framework Agreements in its organizing strategy. As declared by a leader of ICCAW: "We identify the clients of BPOs and if we find a BPO that violates labour standards, we write directly to the headquarters of its clients through the help of UNI". At the same time, ICCAW has sought to build public pressure by engaging in 'naming and shaming' tactics.

In the more complicated and lengthier organising case of the LAO lawyers in Canada, the very nature of the struggle – organising outside of the industrial relations framework – led the SEP union to adopt a multi-pronged strategy with several non-traditional tactics, including intense organising on a one-to-one basis, mobilising public and political pressure through extensive use of media and public events, legal actions, building solidarity and coalitions with other groups of workers and communities, etc. The campaign also provided a strong example for organising other non-traditional workers. The LAO case study illustrates what Savage and Webber term the "paradox of professionalism":<sup>78</sup> Whereas professional workers may see unions as a threat to their professionalism in that unions are accused of diminishing professional standards by, for example, protecting less competent workers, at times when their professionalism is under attack, professional workers may turn to unionization to protect that professionalism. The campaign and its tactics has further politicised the unions and has had a tremendous impact on the skills of members involved.

In the case of Brazil, without any pressure from above and in a clear example of the leadership's orientation to change, the union president himself initiated a project of strengthening the union base by building structures in a country that legally disincentivises the development of a membership base at the workplace. In doing so, the project sought to adopt new organising models and strategies, and to mobilise resources. The organisers and the elected union leaders spent time in the streets and at workplaces to understand the strategies that would resonate with workers in the different sectors covered by the union. The union also engaged in an extensive programme of organising contract cleaners outsourced to various companies across the city of São Paulo, in building and strengthening the capacities of the workplace representatives, and in professionalising the interactions between staff, trade unionists and workers. This organising project has made it easier to identify, support and develop workplace leaders. Throughout the project, the union has sought to replace the focus on service provision with a focus on collective bargaining and broader working-class

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<sup>78</sup> Savage and Webber 2013.

issues. The strengthening of the union base has prepared the union for the upcoming labour reforms attack and future collective bargaining rounds.

*Third*, as highlighted in the previous point, the union leadership has played a critical role in strengthening the power base of the union and in empowering union members and precarious workers more generally. This can be seen on the various trainings provided to workers, the union decision to invest intensively on organisers and leaders to provide them with skills and techniques tailored to the particular organising challenges of the particular group of workers across different locations. Part of the training strategy in the case studies of the Philippines, Canada and Brazil, has been to empower other union members to take up various roles which are traditionally left to the leadership such as goal setting, measuring progress, public speaking, problem solving, collective bargaining, networking and others. In these three cases, the unions have also invested in capacity building for conducting strategic research which has proved critical to the strategies used during the organising. Here, the external financial support has been critical to the organising drive in the Philippines and Brazil.

*Fourth*, in the organising stories of Canada and Brazil, the unions have made intentional efforts to link the particular struggles with broader political developments for union members to understand the impact on politics on their workplaces. Such a vision has politicised and indeed changed both unions. Thus, by envisioning the organising as a political project of building worker power over time, including a long-term allocation of human and financial resources, the union leadership in Brazil has committed to changing the union culture, encouraging the members to be involved in broader working-class issues. In Canada, the framing of the struggle for worker rights in broader societal terms was critical in connecting and uniting various groups of the labour movement even where connections were not obvious, such as the *Fight for \$15 & Fairness*, which as Scott Travers, the SEP president put it, “it really did turn the tide”. In the same manner, by framing the struggle for worker rights, equity and fairness as a struggle to also improve legal services for the poor and marginalized, the campaign became a fight for social justice for both the LAO lawyers and the communities it served. In particular, the concept of ‘fairness’ emphasised the important role of LAO lawyers in the social production of Canadian identity as being a ‘just’ society. This gave the story line a focus on equity.

### **3.3 From *Mobilising* to *Deep organising*: Theoretical insights from the case studies**

The analysis of the case studies from the perspective of the two approaches supports the characteristics identified by Holgate and other authors (Table 1) and pinpoints to some additional ones. The findings from the analysis also suggests some modifications to these approaches. Thus, the *mobilising* approach is characterised by a *traditional repertoire of collective action* and a *bureaucratic leadership*, which in the long-term have the impact of leaving members inactive and eroding organisational power. In contrast, the *deep organising* approach is

characterised by an *empowering repertoire of collective action* and a *transformational leadership* the impact of which is an empowered membership and revitalised union base. We call this *transformative organising*. Table 2 presents these modifications.

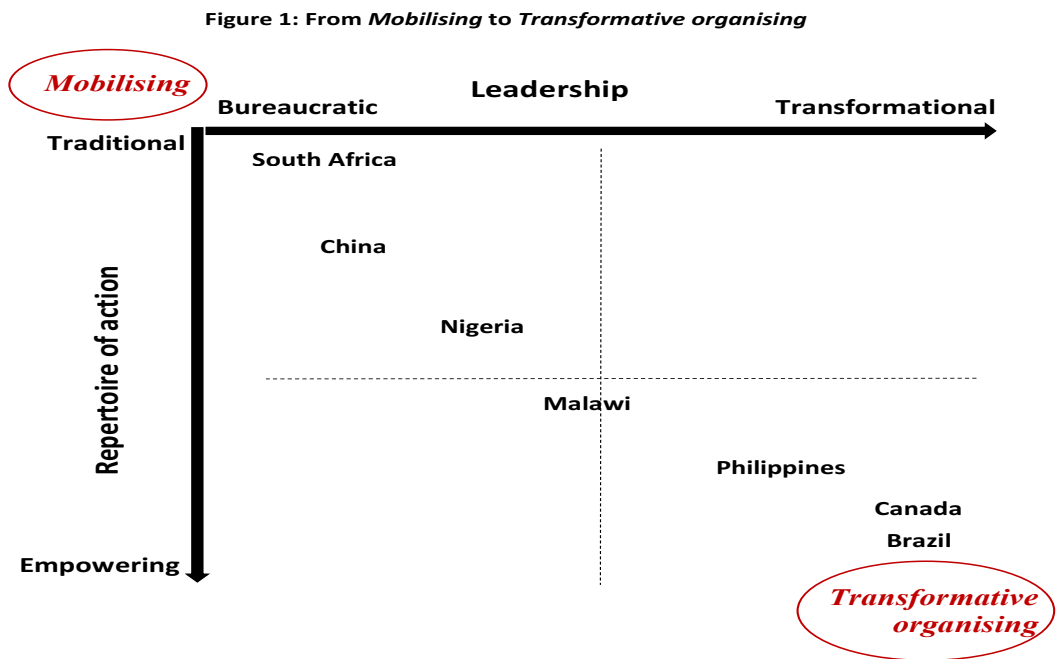
**Table 2: Mobilising vs. Deep organising: Features of each approach (Insights from the case studies)**

	Mobilising	Deep organising
Repertoire of collective action	<p><i>Traditional repertoire of collective actions</i></p> <ul style="list-style-type: none"> <li>• Low day-to-day participation of members, except events</li> <li>• One off mobilisations or moments of mobilisation, which may be extended in time</li> <li>• Focus on improving material conditions and on moments of mobilisation</li> <li>• Challenging power in the short-term</li> <li>• More reliance on existing institutions and on traditional strategies (petitions, lobbying and social dialogue) to address the issues of precarious workers</li> </ul>	<p><i>Empowering repertoire of collective actions</i></p> <ul style="list-style-type: none"> <li>• Intensive and strategic organising over a long period of time also to address high turnover rates among precarious workers</li> <li>• Development of workplace organic leaders: encouraging union members to take up leadership roles (goal setting, measuring progress, public speaking, problem solving &amp; collective bargaining)</li> <li>• Strategic research</li> <li>• Networking and building coalitions</li> <li>• Political education to overcome worker-professional divide, broader working-class politics and societal power</li> </ul>
Leadership	<p><i>Bureaucratic leadership</i></p> <ul style="list-style-type: none"> <li>• Bureaucratic and reactive approach, focusing on servicing members</li> <li>• Appealing to short-term interests of members and mobilising around these</li> <li>• Limited or no interest in bottom-up organising &amp; continuous membership involvement</li> </ul>	<p><i>Transformational leadership</i></p> <ul style="list-style-type: none"> <li>• Proactively framing the organising as a long-term political project of challenging power</li> <li>• Framing workers' struggles in broader class and societal terms for a vision of social justice weaving in issues of class, gender, ethnicity and race</li> <li>• Building axes of solidarity with other groups of workers and society at large</li> <li>• Allocating dedicated human and financial resources to the political project of organising workers</li> </ul>

Based on these expanded approaches to organising, we have located our case studies in the continuum between *mobilising* and *deep organising* (Figure 1). The location of the case studies is tentative, as in some cases the organising stories may display features of both approaches. For example, in the case of China, although the labour NGO actively sought to involve members in the strike actions, the initiative remained a set of one-off mobilisations and focused on the particular grievance reflecting the narrow focus of the organising initiative. Similarly, in the case of South Africa, the involvement of migrant workers' organisations was more long-term, but also more indirect in terms of the mobilisation, which remained a one-off event and focused on a particular grievance too. Also, the role of the leadership is not clear in all the cases and sometime it is inferred from the dynamics of the organising story. For example, the union involvement in the South African case was overdue and relied mainly on existing institutions. This suggests a bureaucratic style of leadership,

seemingly uninterested to organise migrant workers. In contrast, in the cases of Canada and Brazil, the role of the leadership is much more pronounced in terms of issue framing, a focus on bottom up organising and long-term commitment.

Figure 1: From *Mobilising* to *Transformative* organising



Finally, in light of the particular characteristics of each dimension of the two organising approaches, this paper also proposes a modification of Kelly’s mobilisation theory by identifying four factors which facilitate the emergence of collective acts of (transformative) organising. These are: (a) an employer’s concrete act of worsening working conditions, experienced by workers as an infringement to their dignity; (b) a context of successful organising stories and/or visible trade unions/workers’ organisations; (c) an organisation engaging in an empowering repertoire of collective action; and (d) a transformational leadership framing workers’ struggles in broader class-societal terms.

## CONCLUSION

The insecurity and instability experienced by precarious workers, as well as their 'disconnect' from the established groups, are often intertwined in the perception that these workers are unorganisable. The seven stories in our research challenge this perception. They show that pockets of collective resistance can emerge amongst various group of precarious workers, from both traditional and non-traditional sectors of the working class, and despite the level of precarity as well as repression and hostility in the context where collective action takes place.

In exploring the conditions which facilitate the emergence of collective acts of organising and their particular trajectories, the paper suggests a modification of the conditions of Kelly's mobilisation theory. Thus, in as far as precarious workers are concerned, there are four factors which facilitate the emergence of collective acts of (transformative) organising. These are: (a) an employer's concrete act of worsening working conditions, experienced by workers as an infringement to their dignity; (b) a context of successful organising stories and/or visible trade unions/workers' organisations; (c) an organisation engaging in an empowering repertoire of collective action; and (d) a transformational leadership framing workers' struggles in broader class-societal terms.

In general, the first two conditions and the presence of some sort of structures are more likely to facilitate the emergence of temporary acts of collective resistance by precarious workers, even in absence of trade unions or other workers' organisations. The collective acts of resistance in the case of China, South Africa and Malawi, where unions were absent, have been facilitated by statutory and ad-hoc structures (a welfare committee, a strike committee) and labour NGOs. There are exceptions, however, as the case of Brazil shows, where collective organising is triggered by a transformational leadership. Meanwhile, the other two conditions, the nature of the leadership and of the repertoire of collective action are more likely to determine the trajectory of the collective organising, their continuity and their impact. Thus, a *traditional repertoire of collective action* and a *bureaucratic leadership* in the long-term have the impact of leaving members inactive and of eroding organisational power. In contrast, a *transformational leadership* and an *empowering repertoire of collective action* entails moving away from organising as a temporary strategy of addressing grievances (China, South Africa) or of winning recognition for collective bargaining (Nigeria and Malawi), to organising as a long-term intentional political project of building independent worker power and solidarity across various groups of workers and with society at large to advance a vision of social justice (Brazil and Canada).

Furthermore, transformative organising has a significant impact on trade unions, industrial relations institutions, as well as precarious workers and the working class more generally. Thus, during the four-year long campaign in Canada, the union has reportedly become more militant and is actively looking at organising similar groups of workers. In the case of Brazil, the organising drive was in fact intended to change the union culture. Both stories highlight the enormous

potential in organising precarious workers both as a way of protecting them and of revitalising the union base. Similarly, workers' active participation in shaping the bargaining agenda and in the collective negotiations (Brazil and Canada) has had a 'democratising' effect on the institution of collective bargaining. Finally, by developing precarious workers into organic leaders and by constructing axes of solidarity across the highly mobile and fragmented precariat and beyond, transformative organising provides the space for empowering these workers to become not only actors, but potentially also authors of their own drama.

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