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The IUF would like to express its appreciation to the members of the Committee who produced the Draft General Comment, much of which we can broadly support. We would however like to use this opportunity to comment to highlight several areas where we think the arguments and the criteria need to be further developed.

It is a basic principle of human rights law that rights are indivisible, and the authors of the report in fact make frequent references to other rights set out in other Articles of the Covenant with respect to achieving just and favourable conditions of work and the importance of those conditions for realizing other rights. Nevertheless, we feel that the trade union rights set out in Article 8 – freedom of association, the right to strike and the right to collectively bargain the terms and conditions of employment (which is at least implicit in 8 (c), the right of unions "to function freely") needs greater emphasis, as collective bargaining has been the primary vehicle by which, historically, workers have been able to achieve progress towards just and favourable conditions of work. The indivisibility of rights is very well expressed in paragraph 2, and paragraph 4 correctly points to attacks on collective bargaining as part of many governments' use of austerity programs to undermine favourable conditions of work. Collective bargaining, however, tends to drop out of specific recommendations as the report advances.

Paragraphs 28-32 on safe conditions of work make no mention of trade union workplace representation in helping to secure safety at the workplace, yet experience has shown that this is indispensable. Recommendations to governments on measures to secure workplace safety must, in our view, emphasize the right of workers to monitor conditions, to stop work in the interests of safety, to freely access full information on workplace processes and potential hazards, ensure compliance with occupational health and safety legislation and international standards etc. without fear of reprisal. These are achieved through enforcement of union rights in the workplace, which must figure in the list of recommendations.

Paragraph 51 mentions collective bargaining with respect to the role of non-state actors in securing just and favourable conditions of work, but in this context *the role of the state* in ensuring the conditions for the fullest possible development of collective bargaining at all levels must be emphasized. It is missing as well in paragraph 58, where it is stated that "obligations of business enterprises to respect the right to just and favourable conditions of work should be clearly set out by States

parties", and also in paragraphs 73 and 74, and should be equally part of recommendations concerning the obligation to fulfill.

We would also like to see more emphasis given to the erosion of permanent, direct employment in undermining just and favourable conditions of work. Paragraph 4 mentions the "increasing complexity of work contracts" as one of the factors resulting in insufficient protection of just and favourable conditions of work, but there is nothing particularly complex about what the ILO terms 'non-standard forms of employment' (temporary contracts, agency work, the disguising of an employment relationship as self-employment). For the past several decades at least, employers, with the encouragement or acquiescence of governments, have been substituting indirect, non-permanent contractual arrangements for direct permanent employment, and this has been an important contributing factor to the undermining of the rights set out in the Covenant. The ILO, in its World Employment and Social Outlook published in 2015, links this transformation in employment relations to the rising incidence of global poverty, insecurity, exclusion and inequality. The enormous rise in precarious work bears directly on the rights discussed in the Draft General Comment and deserves greater emphasis in the recommendations to States.

As the ILO report documents, workers employed on a precarious basis often experience unequal treatment, including unequal remuneration in pay as well as remuneration for work of equal value, access to social security, the ability to effectively access trade union rights, opportunity for promotion, the right to a safe workplace – in short, all the rights set out in Article 7. The various references to equality and freedom from distinctions of any kind in 7(a) (i) and 7(c) therefore need to fully take into account the global erosion of direct, permanent employment and integrate it into the recommendations. Inequality of treatment arising from precarious employment relationships often reinforces many of the kinds of discrimination specifically addressed in the Draft General Comment.

In paragraph 4, we would therefore propose that "an increasing complexity of work contracts" be replaced with "the growth of precarious employment contracts (non-standard forms of employment in ILO terminology; temporary and agency contracts and bogus self-employment". In support of this formulation, you may cite Paragraph 6 of the Conclusions of the March 2015 ILO Tripartite Meeting of Experts on Non-Standard Forms of Employment: "…workers in non-standard forms of employment risk facing decent work deficits along one or more of the following dimensions of work: (1) access to employment and labour market transitions to decent work; (2) wage differentials; (3) access to social security; (4) conditions of work; (5) training and career development; (6) occupational safety and health; and (7) freedom of association and collective bargaining." (http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_354090.pdf)

Paragraph 6 on the right of everyone to just and favourable conditions of work mentions many categories of workers who are frequently unable to enjoy this right, but there is no mention of the millions of workers around the world employed on precarious contracts who suffer from unequal treatment simply on the grounds of their employment contracts or relationship and are thus denied this right. This needs to be remedied through explicit mention by adding “workers in precarious employment relationships” to the list.

Paragraph 12, which states that “Though equality between men and women is particularly important in this context and even merits a specific reference in Article 7 (a)(i), the Committee reiterates that *equality applies to all workers without distinction* based on race, ethnicity, nationality, migrant or health status, disability, age, sexual orientation, gender identity *or any other ground”,* in fact establishes the basis for this inclusion. This sentence should be amended to read “*equality applies to all workers without distinction* based on race, ethnicity, nationality, migrant or health status, **the nature of the employment relationship (or contractual status)** , disability, age, sexual orientation, gender identity *or any other ground”,*

Since inequality of treatment is, as the ILO report again points out, increasingly the norm, we feel that de facto inequality of treatment based on contractual grounds must be brought into the observations and recommendations on remuneration, job evaluation (paragraph 14 currently emphasizes gender discrimination only), workplace safety (precarious workers have been documented to suffer from higher rates of death and injury and unequal access to training) and equal opportunity for promotion.

Since the “need” for flexible working relationships is frequently invoked in justification of the massive casualization of labour, Paragraph 48 should state clearly that “Flexible working arrangements must not undermine the rights of workers”, rather than that it must meet the needs of employers and workers. A “right” of employers to flexible employment relationships is not set out in the Covenant or any other human rights instrument with which we are familiar, yet it can be demonstrated that the replacement of open-ended, direct employment by fixed-term and other varieties of employment can and does lead to the denial of rights. This paragraph should also state that in order to meet the needs of workers flexible working arrangements must be voluntary, and that that a national policy should seek to ensure that such arrangements are negotiated through the collective bargaining process.

For this reason we believe that precarious workers/workers in non-standard forms of employment should also be specifically enumerated as one of the “specific groups” dealt with under “Special topics of broad application”. This in turn should be reflected

in a specific recommendation under paragraph 58, which sets out the obligations of States parties to take specific measures to ensure that third parties comply with their obligations. Establishing a legally enforceable framework to ensure real, and not merely formal, equality of treatment for precarious workers and ensure they can fully access their rights should be one of those specific measures.

In addition to precarious workers, it is essential that agricultural workers be specifically enumerated as one of the specific groups following Paragraph 48:

Agricultural workers: Agricultural workers remain vulnerable to exploitation, poverty wages, insecurity and lack of access to potable water, sanitary facilities, acceptable housing and access to education and medical services. Child labour, forced labour and human trafficking are found in agriculture throughout the world, including in some for the most developed economies. In many countries, agricultural workers are formally excluded from national systems of industrial relations and social security. These workers also suffer frequent discrimination as women, migrants and ethnic/national minorities. Laws, policies and regulations should ensure that agricultural workers enjoy treatment no less favourable than other categories of workers.*

***325**. The Committee is unfortunately obliged to note that the dismal living and working conditions in the rural sector often appear to be largely the same as they were in 1975 – and, in fact, in some places are not dissimilar from the conditions that existed in 1921. A number of the same problems that existed previously have been reported to the Committee as current obstacles to the establishment, growth and functioning of rural workers' organizations: the informality of the sector and heterogeneity of existing labour relations; severe socio-economic and cultural disadvantage; inequitable labour relationships and distribution of benefits; lack of education and awareness; prevalence of child labour, forced labour and discrimination; the particular disadvantage experienced by women; large numbers of particularly vulnerable or marginalized workers; and often insanitary, unstable and isolated living conditions.*

June 2015 ILO Report of the Committee of Experts on the Application of Conventions and Recommendations: General Survey concerning the right of association and rural workers' organizations instruments (http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_343023.pdf)