

Sri Lanka
State of the Economy Report 2014

Chapter 10
Asia's Precarious Work: The Need for a New
Policy Framework

by
Parakrama Samaratunga & Sunimalee
Madurawela

10. Asia's Precarious Work: The Need for a New Policy Framework

10.1 Introduction

In the midst of the current global economic downturn following the financial crisis of 2008, job losses and spread of temporary forms of employment have become more prevalent in both developed and developing countries. According to the ILO, dramatic increases in unemployment, working poverty and vulnerable employment have been observed due to the economic crisis.¹ Heightened economic insecurity and market instability has seen the expansion of jobs of a more precarious nature as a result.

In general, precarious work is part of a global business strategy, practised by employers to shift risks and responsibilities on to workers.² Precarious workers are those who perform duties and tasks of permanent employees but are not protected with the rights of permanent employees.³ These workers are employed on temporary contracts for various durations. Temporary contracts usually undermine employee benefits such as access to social protection and other benefits usually associated with permanent employment. The latter include substantial legal and practical obstacles to joining a trade union and bargaining collectively, protection against hazardous working conditions, etc.

Another core aspect of precarious work is that it disguises or provides an ambiguous employment relationship - i.e., a lack of clarity as to the identity of the employer. For example, various forms of agency-hired labour are utilized for core business, involving other entities such as sub-contractors, franchisers and manpower agencies. Such workers are hired by an agency or a sub-contractor, but perform their duties for a separate company. These workers are in precarious situation as it is unclear as to who is responsible and accountable for worker rights and benefits.

In recent years, most countries have experienced growing casualization and externalization of employment.⁴ Some East Asian countries such as Japan and South Korea have experienced a substantial increase in temporary workers. The broad trend towards casualization and externalization can have significant adverse consequences. It creates instability and insecurity amongst workers and communities. Precarious workers themselves are found to suffer a higher rate of occupational unsafety and health issues.⁵ Generally, these workers are subject to heightened insecurity as they are aware that they can be easily

¹ ILO (2009), *Global Employment Trends*, International Labour Organization, Geneva.

² ILO (2012), "From Precarious Work to Decent Work: Outcome Document to the Workers' Symposium on Policies and Regulations to Combat Precarious Employment", International Labour Organization, Geneva.

³ International Labour Rights Forum, available at http://www.laborrights.org/issues/precarious-work?qt-quicktabs_precarious_work_=0#qt-quicktabs_precarious_work_ [accessed May 8, 2014].

⁴ ILO (2012), "From Precarious Work to Decent Work: Outcome Document to the Workers' Symposium on Policies and Regulations to Combat Precarious Employment", International Labour Organization, Geneva.

⁵ *Ibid.*

replaced. The ILO recognizes this spread of precarious work as a "worldwide corporate attack on the right to organize and bargain collectively, by shifting to sub-contracting and individual contracts, attacking sectoral and national bargaining, and evading employer responsibilities by complicating what should in fact be a direct employment relationship with their workers".⁶

Given the above, understanding recent trends in precarious work internationally and at country level is important. The aim of this Policy Brief is to explore and shed light on current trends in precarious work in Sri Lanka, while discussing global development and drawing on country experiences in Asia. Given the breadth of possibilities in defining precarious work, the definition employed here limits the scope to two categories of contractual arrangements which cover a majority of precarious work.⁷ The two types of contractual arrangements are:

- Limited duration of the contract (fixed-term, temporary, and casual labour)
- Nature of the employment relationship (triangular and disguised employment relationships, agency-hired labour)

Under the above, contract, temporary, casual, employees with disguised employment relationships and agency-hired workers have been considered as precarious workers in the discussion to follow.

10.2 Implications of Precarious Work on Decent Working Conditions

Precarious work systems can affect decent working conditions adversely. Temporary contracts tend to lead to unstable and insecure work conditions for workers - for example, as to whether their contracts

will be extended, or whether they will face unjustified termination of employment, etc. It can also lead to low wages regardless of experience and education of workers. Income and employment insecurity limits long-term planning, especially amongst the young.

Further, precarious workers are more vulnerable to inferior working conditions. They can be more exposed to hazardous work environments, a high workload, long working hours, etc. Even as job insecurity increase on the one hand, social benefits decrease as most of these workers have limited access to social security benefits, workers compensation and health insurance. Sometimes these workers do not even have work contracts to claim social security benefits, leaving them at the risk of income and employment insecurity if they are injured or suffer from poor health.

Precarious work is also characterized by an insufficient or even a total absence of trade union rights. Legislative frameworks in some countries do not support the union rights of hired workers at the user enterprise, as these workers are employed through a third party, such as workers hired through agencies or through sub-contractors. Such workers are excluded from the bargaining unit and are thus denied the right to bargain collectively with the permanent employees of the user enterprise. Overall, this results in a decline in trade union membership, as well as a weakening of the collective power of trade unions.

10.3 Trends in Precarious Work

10.3.1 Global Context

Globally, a growing casualization and externalization of work is observed. Most countries have experienced a substantial increase in temporary forms of employment since the late

⁶ *Ibid*, p.3.

⁷ In defining precarious workers, only employees are considered. Employers, own account workers and unpaid workers are not considered. Most of these fall into the category of informal employment.

1980s. For example, while overall employment increased by 26 per cent in the EU during 1987-2007, temporary work has increased by 115 per cent. During the same period, in OECD countries, wage employment increased by 21 per cent, while temporary work increased by 55 per cent.⁸

The total number of jobless worldwide escalated to 202 million in 2013, with global unemployment increasing by 5 million people in 2013, and estimated to rise by a further 13 million people by 2018.⁹ The global unemployment rate has risen from 5.6 per cent in 2007 to 6.0 per cent in 2013. Given the present labour market trends and conditions - increasing rate of unemployment, stagnant labour force participation rates and dominating share of vulnerable employment - a greater intensity in precarious work can be expected in the future.

10.3.2 Asian Context

It has been noted that changes in patterns of work and production in Asia are closely linked with the world patterns, including the expansion of precarious work in developed countries. Indeed, precarious work has become a critical challenge for governments and workers in the Asian region.¹⁰ The spread of neo-liberalism as a political and economic ideology, the expansion of global competition and technological developments have been identified as the major contributory factors that generated precarious work in more industrialized countries in the Asian region.¹¹ These factors encouraged an environment that provided greater

flexibility in the case of both governments and employers, which in turn led to more precarious work in both formal and informal sectors.

In China, the largest economy in the Asian region, the prevalence of precarious work was relatively low until the 1980s mainly because of the dominant presence of state enterprises. With the shift towards a more market-based economy, informal employment increased rapidly over the next two decades. Though employment in the private sector grew substantively, most of the employments created were precarious in character. Census data from 2005 on urban workers show that while 73 per cent of unofficial rural migrant workers were employees, 47 per cent had no contract, 25 per cent had short-term contracts and only one per cent had a long-term contract.¹² Problems associated with precarious work such as low pay, low skill, high work intensity, poor work conditions, and lack of employment protection were clearly evident in China's labour market. In 2008, the labour law was amended to better protect workers and allow for the conversion of fixed-term contracts into permanent ones.¹³

Precarious work has been identified as a source for many 'vexatious issues' in South Korea.¹⁴ After the Asian financial crisis in 1997, South Korea experienced a drastic growth in precarious work and its immediate impact on the course of individuals' lives and family lives. Massive lay-offs and restructuring were done because of the bankruptcy of corporations, resulting in a sharp increase of non-regular workers such as temporary workers, sub-

⁸ ILO (2012), "From Precarious Work to Decent Work: Outcome Document to the Workers' Symposium on Policies and Regulations to Combat Precarious Employment", International Labour Organization, Geneva.

⁹ ILO (2014), "Global Employment Trends 2014: Risk of a Jobless Recovery?", International Labour Organization, Geneva.

¹⁰ Kalleberg A. L. and K. Hewison (2013), "Precarious Work and the Challenge for Asia", *American Behavioral Scientist*, Vol. 57, No. 3, pp. 271-288.

¹¹ *Ibid.*

¹² ILO (2012), "From Precarious Work to Decent Work: Outcome Document to the Workers' Symposium on Policies and Regulations to Combat Precarious Employment", International Labour Organization, Geneva.

¹³ *Ibid.*

¹⁴ Shin Kwang-Yeong (2013), "Economic Crisis, Neoliberal Reforms, and the Rise of Precarious Work in South Korea", *American Behavioral Scientist*, Vol. 57, No. 3, pp. 335-353.

contract workers, and dispatched workers. It has been estimated that the proportion of precarious workers in the total working population increased from 27.4 per cent in 2002 to 37 per cent in 2004.¹⁵ Further, the absolute number of workers in the precarious category has continuously increased from about 3.8 million in 2002 to about 6 million in 2011. The wage gap between precarious workers and regular or standard workers has widened from 33.9 per cent in 2002 to 44.6 per cent in 2011, creating social and political issues in South Korea. Non-regular workers were totally dependent on social movements or non-regular workers themselves in seeking solutions to their problems due to lack of will and support from the political parties, and lack of interest of the formal worker unions.¹⁶

10.3.3 Sri Lankan Context

In the present analysis, temporary, casual workers who do not have a permanent employer and agency-hired workers have been considered as precarious workers in Sri Lanka. The data reveal an increasing prevalence of temporary/casual employment in Sri Lanka over recent years, similar

Table 10.1
Employee Status

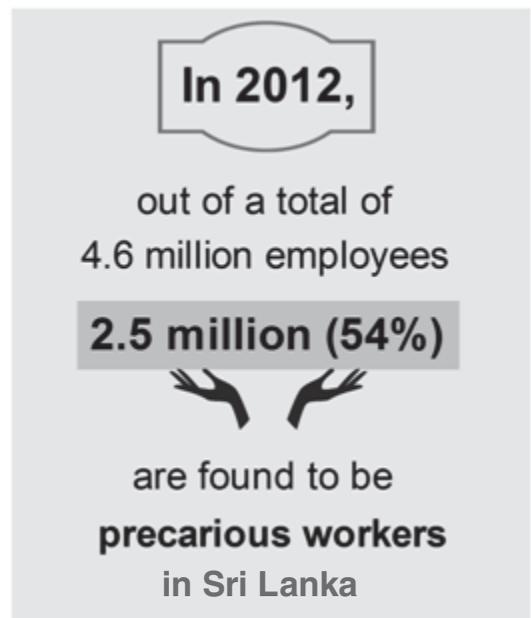
	2006	2012
Permanent	46.2	45.7
Temporary/casual	36.1	38.3
No permanent employer	17.7	16.0
Total	100.0	100.0

Source: Estimated based on DCS, Labour Force Survey 2006 and 2012 data.

to other Asian economies. In 2012, out of a total of 4.6 million employees, 2.5 million (54 per cent) are found to be precarious workers. Further, temporary and casual workers have increased at a faster pace than that of permanent employees during 2006-2012 (Table 10.1). It is also noteworthy that 16 per

Data reveal an increasing prevalence of temporary/casual employment in Sri Lanka over recent years, similar to other Asian economies.

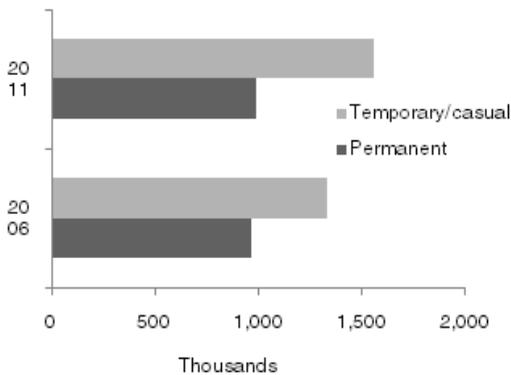
cent of total employees do not have a permanent employer. These workers and their families can be considered to be in unstable and insecure situations to take long-term decisions and plan their lives due to uncertainty of their jobs, and usually low wages.



¹⁵ *Ibid.*

¹⁶ *Ibid.*

Figure 10.1
Private Sector Employees by Status



Source: Estimated based on DCS, Labour Force Survey 2006 and 2012 data.

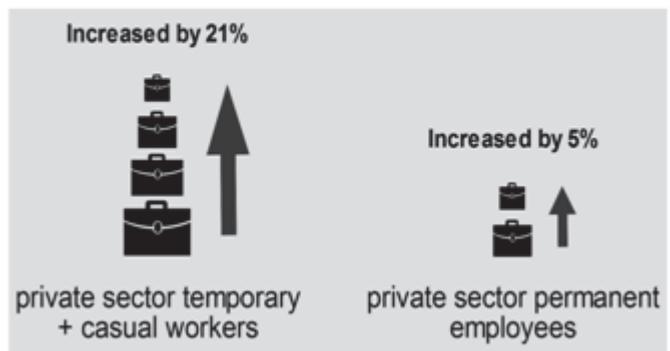
As expected, the expansion of temporary and casual jobs has been more prevalent in the private sector, with the permanent workforce limited to a minimum while increasing more contingent or non-standard workers. The data reveal that 92 per cent of temporary and casual workers are attached to the private sector. During 2006-2012, private sector temporary and casual workers have increased by 21 per cent, while private sector permanent employees have increased only by 5 per cent (Figure 10.1). This is a reflection of more precarious work being created by the private sector, while minimizing permanent employment expansion. The possible reasons behind the increasing prevalence of precarious work include high labour turnover to cater for seasonal demand, costs related to regular labour recruitment, and nature of services provided by businesses.

Although due to the data limitation it is difficult to figure out the agency-hired workers through manpower agencies, it is widely practised in Sri Lanka, especially in Export Processing Zones (EPZs). Formal manpower agencies supply workers for EPZ firms for their core business on temporary or even without written contracts,

In Sri Lanka, the expansion of temporary and casual jobs has been more prevalent in the private sector, with the permanent workforce limited to a minimum while increasing more contingent or non-standard workers.

leaving them more vulnerable to precarious work arrangements. Also, there are arrangements for daily hiring of workers where manpower brokers hang around the EPZs and supply the workers for firms to meet their labour requirements. Further, some firms form their own manpower agencies from which they can hire workers at a cheaper rate with

During 2006-12, in Sri Lanka



Box 10.1

Gender Dimension of Precarious Work: The Case of Women Migrant Workers of Sri Lanka

Globally, women are over-represented in precarious work situations and this trend is increasing. In Australia, the trend in women's employment is increasingly part-time, casual work with 58 per cent of part time jobs also of a casual nature. In the 15 years between 1991 and 2006, women employed in full time jobs had declined from 59 to 55 per cent. Altogether 30 per cent of employed women are casual employees as opposed to 22 per cent for men. In Japan, precarious work is highly gendered. Women account for about two-thirds of non-regular workers. Temporary work in Japan is gendered to an even greater degree than part-time work. Women make up more than 80 per cent of temporary staff according to estimates by the International Trade Union Confederation (2011).

Women are subjected to precarious work due to many reasons. Women are more likely to work in low quality job settings, characterized by less financial rewards, fewer benefits, union protection, and part-time work status. Further, they are disadvantaged by less human capital, overriding family obligations and other work-related criteria and discriminatory practices in the workplaces (Young, 2010).

Women Migrant Workers in Sri Lanka

Migrants are often the most precarious of workers and are exploited in relation to race, nationality, regulatory discrimination, wages, and through a lack of access to even basic protection (Hewison and Young, 2006). It is estimated that a total of 1.5 million Sri Lankans are working overseas as migrants and every year more than 200,000 people leave the country seeking foreign employment. The foreign employment market for Sri Lankan workers until recently was highly biased towards women and it has been dominated by women over several decades. This is mainly because of the high demand for housemaids in the Middle East region. Out of the female migrant workers, 88.2 per cent are employed as housemaids with 94 per cent of them working in Middle East countries (IPS, 2013).

Most of the migrant workers including housemaids migrate through recruitment agencies as 'hired labourers'. The execution of Rizana Nafeek, a Sri Lankan housemaid migrant to Saudi Arabia with an altered passport is an example that illustrates the extent of vulnerability that migrant women are exposed to. Sri Lanka has ratified the 1990 United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and the Ministry of Foreign Employment Promotion and Welfare formulated the National Labour Migration Policy for Sri Lanka supported by the ILO in 2008 with the aim of promoting opportunities for all Sri Lankan men and women to engage in migration for decent and productive employment, under conditions of freedom, equality, security and human dignity. However, significant gaps exist in providing adequate protection, exposing migrants to a range of human rights abuses including labour exploitation, violence, trafficking and even killings (Human Rights Watch, 2010). Further, women migrants are exposed to a number of adverse psychosocial consequences due to migration with different degrees of intensity (IPS, 2013).

Sources: Young, M., (2010), "Gender Differences in Precarious Work Setting", *Industrial Relations*, Vol. 65, No. 1; International Trade Union Confederation (2011), "Living with Economic Insecurity: Women in Precarious Work", ITUC Belgium; Kalleberg A. L. and Hewison K. (2013), "Precarious Work and the Challenge for Asia", *American Behavioral Scientist*, Vol. 57, pp. 271-288; IPS (2013), "Migration Profile Sri Lanka", Institute of Policy Studies of Sri Lanka, Colombo; Human Rights Watch (2010), "Rights on the Line: Human Rights Watch Works on Abuses Against Migrants", Human Rights Watch.

diluted worker rights.¹⁷ However, dependence on hired workers can have negative implications for companies as well such as irresponsible workers, inexperienced workers, and long-term sustainability due to human resource gaps.

10.4 Policy Recommendations

As in the case of many other Asian economies, the broad trend towards growing casualization and externalization of work has become more prevalent in Sri Lanka. These workers are often subject to unstable employment, lower wages, and hazardous working conditions. They also lack access to social protection and face obstacles in joining a trade union and bargaining collectively. Given the nature of their employment, such workers also find it more difficult to plan their lives in the long-term. The need to promote more decent work in the country is therefore an important policy objective.

This calls for exploring ways of transforming precarious work to decent work of greater quality. One option is to pay attention towards creating more and better jobs. Implementing policies to promote decent work, and using tools that prevent further increases in precarious work is an option. Employers can be held accountable for creating good jobs through public procurements and labour inspections.¹⁸ For example, Canada has introduced measures to discourage firms from hiring temporary agency workers, and established public or private sector 'benefit banks' for irregular workers otherwise denied access to benefits as policy measures. As discussed before, in China, labour laws were amended to better protect workers and allow for the conversion of fixed-term contracts into permanent ones.

Implementing policies to promote decent work, and using tools that prevent further increases in precarious work is one policy option.

The second option is regulating precarious work while safeguarding precarious worker rights. Under this, limiting the number of temporary workers, offering legal protection for agency-hired workers, regulating manpower agencies, and providing social protection for such workers are recommended.

The expansion of precarious work can have negative implications on labour rights, the conventional role of trade unions and collective bargaining powers. Therefore, the use of temporary workers and agency workers must be limited to legitimate needs - for example, to meet the seasonal demand of businesses, to provide supplementary services such as security, and janitorial services, etc. Through such measures, companies can be discouraged from increasing temporary or agency workers above a reasonable threshold.

As agency workers are not protected by law, it is important to have regulatory mechanisms to protect

¹⁷ Ranasinghe, A., (2014), "Agency-Hired Labour in Katunayake and Biyagama EPZs", presentation of preliminary findings, Renuka Hotel, 30 April 2014.

¹⁸ Evans, J. and E. Gibb (2009), "Moving from Precarious Employment to Decent Work", International Labour Organization, Global Union Research Network (GURN) Discussion Paper No.13, ILO, Geneva.

their rights, including equality of employment conditions, social protection, etc. As a first step, issuance of letters of employment to all temporary, hired employees should be made compulsory for companies that use such hired labour. Also, mandatory employee insurance is recommended for hired workers to cover all work place related accidents. Awareness campaigns on worker rights of the agency-hired workers will be helpful to protect the rights of such workers.

There is also a critical need to regulate all manpower agencies. As a first step, all the manpower agencies should be registered under the Department of Labour. In addition, legitimate measures should be taken to ensure that workers

in triangular relationships can participate in meaningful collective bargaining. Working with trade unions to promote the above-mentioned standards is recommended.

Sri Lanka faces a pressing challenge on how to meet the social security needs of a large and growing informal sector within the current systemic capacity. In order to extend coverage to those not currently eligible for any existing scheme, the introduction of a universal scheme could be entertained. Concurrently, the government can take necessary steps to facilitate private pension plans for those who are able to contribute towards their retirement.