

WORKING PAPER 9: HOW TO ENABLE MORE VOICE AT WORK THROUGH UNIONS AND LABOUR GROUPS*†

1. Key challenge & overview

People in precarious employment have less opportunity to defend their rights at work through unions and labour groups.

Unions and labour groups represent workers with a collective voice. They are a key method of improving working conditions. Those in precarious employment face worse working conditions and could benefit from representation by these groups. However, those in precarious employment are less likely to be represented by unions. **Thus, policy options focus on connecting more workers with unions or labour groups, extending services to workers through unions, advocating for these workers, and increasing the role of unions in civil society.**

2. Evidence from PEPSO

Historically, workers have been able to improve their working conditions by organizing and being represented by trade unions. However, PEPSO's *It's More than Poverty* report[†] noted that those in precarious employment were the least likely to be covered by unions at only 18%, compared to 34% of those in secure employment. Unions have not been the only labour groups to represent workers in precarious employment. Alternative forms of collective representation have been formed through non-union labour groups such as action centres in various cities. Working together, these union and labour groups have been able to address some of the working condition challenges faced by people in precarious employment.

Findings from the report show that on average, workers in precarious employment experience worse working conditions than those in secure employment. Workers in precarious employment:

- **Have significantly less access to employer-provided extended health benefits, pensions, and training.**¹
- **Are more closely monitored by management and more dependent on management evaluations to access work.** Forty-eight percent[§] of those workers in precarious employment reported that evaluation of

* Author: Stephanie Procyk

† This Policy Options Working Paper is one in a series of 16 working papers that explore the range of policy options that have been proposed to reduce or mitigate the impacts of precarious employment. Each of these papers must be read in tandem with the paper titled "PEPSO Policy Options Working Papers: Introduction". The full reference list is contained in a separate bibliography document.

‡ PEPSO's *It's More than Poverty* report refers to the report that was published in February 2013 that was based on the main survey conducted by PEPSO. In these working papers this report will be called the PEPSO report or the PEPSO survey. This is only appropriate for these working papers as there are other PEPSO reports that will be published by the six case studies.

§ 26.4% responded 'likely' and 21.4% responded 'somewhat'.

their performance had an impact on how much work they were able to access, compared to 26%** of workers in secure employment.

Thus, workers in precarious employment experience more challenges with working conditions than those in secure employment, but often have less access to the pathways that could enable them to have more voice at work in order to change these working conditions.

3. Context/current situation

3.1 What are unions and labour groups?

Unions are organizations that promote the interests of workers with a collective voice. The goal is to increase the input of workers and reduce the discretion of employers in the working relationship.

- Through the certification process, a particular union can become the official representative of a collective of workers.²
- After certification, workers can use collective bargaining to determine “wages and other terms and conditions of employment with their employers,”³ in order to negotiate a collective agreement with the employer.

Unions may also provide additional services, such as training, job connections, and health benefits. This entire process is governed by the *Ontario Labour Relations Act* of 1995, which regulates labour relations for most workers in Ontario, with the exception of federal workers.^{††}

Union **improvements in working conditions** are evident. Union members earn, on average, \$4.97 more per hour than non-union members,⁴ and are more likely to be covered by health and pension benefits.⁵ In addition, there is some spillover effect of unionization to non-union members in the same occupation. For example, through collective bargaining, unions have compressed wages for entire occupations, which means less income inequality.⁶

Other **labour groups** have used collective representation to advocate for workers and improve working conditions in a similar way to unions. These include action centres, associations, community-based organizations, and union-supported organizations. They differ from unions because their work is not regulated through *the Labour Relations Act* and this significantly limits their ability to bargain for better working conditions for workers. Examples in the Greater Toronto and Hamilton Areas include the Workers’ Action Centre, iTaxi Workers Association, and Steel City Solidarity.

In addition to supporting and advocating for members, unions and labour groups also play an important role in **civil society**. They have advocated for policies and practices that have contributed to improved living standards for all Canadians. These efforts include increasing the minimum wage, reforming the Canada Pension Plan,⁷ and introducing more affordable child care.⁸ In addition, labour voices have consistently called public attention to the health of the Canadian economy and the impact on workers of changes in the labour market.

3.2 Challenges for the labour movement

The ability of the labour movement to improve working conditions has been increasingly under stress. Although the absolute number of workers covered by unions has been growing,⁹ overall union density – or the proportion of unionized workers – has been declining.¹⁰ Between 1997 and 2011, unionization rates declined for full-time

** 13% responded ‘likely’ and 13% responded ‘somewhat’.

†† There is additional legislation that deals with labour relations in certain sectors.

employees and permanent employees, though it did grow for part-time employees and temporary employees.¹¹ As of 2011, the overall unionization rate for Canada was 30%, though private sector unionization was much lower, at 16%.¹²

Several broad factors have contributed to this overall decline:

- **Rapid changes in the labour market** have led to job losses in sectors that have traditionally had higher union coverage, such as manufacturing.¹³
- There has also been **pressure from provincial and federal governments**, which have passed legislation to force striking workers to return to work and increased restrictions on union organizing and collective bargaining.¹⁴
- Additionally, public¹⁵ and employer¹⁶ **support for unions has weakened**.

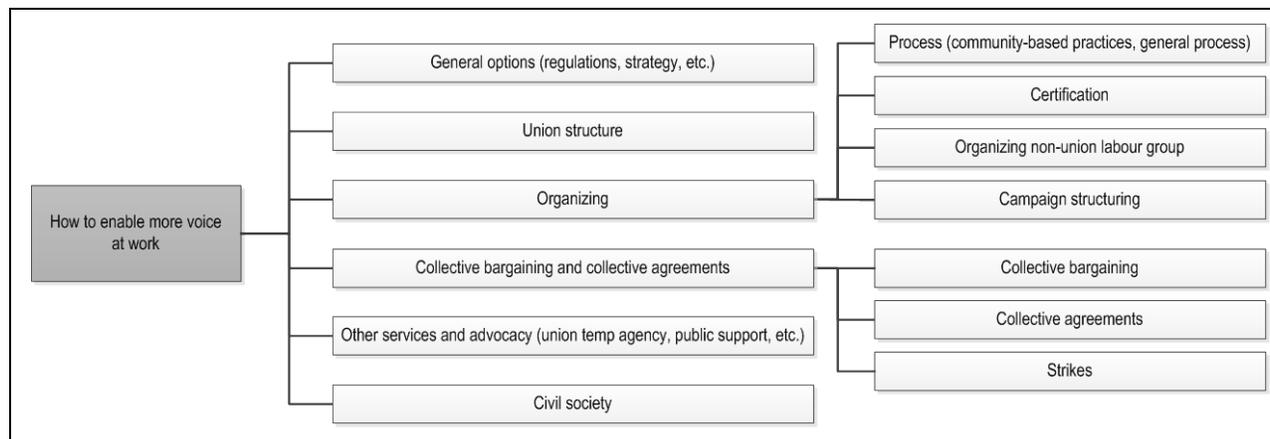
There have also been **obstacles to organizing precarious workers** in particular. These include:

- **The nature of precarious employment** – In Ontario, union certification and bargaining occurs at the company level,¹⁷ at a single worksite and single employer.¹⁸ However, precarious workers often have multiple worksites and employers. In addition, the form of the employment relationship for most people in precarious employment is either temporary, short-term, contract, or self-employed. This means that these workers cycle through workplaces faster than securely employed individuals, which can be an organizing challenge.
- **Internal dynamics** – Organizing requires time, resources and risk. Organizing new members can lead to concerns that priorities may shift within a union.¹⁹ In addition, organizing precarious workers may call for different strategies.²⁰

Despite these challenges, unions and other labour groups have been organizing precarious workers through such campaigns as Justice 4 Janitors and the Workers' Action Centre campaigns.

4. Policy options

The most general policy recommendations aimed at addressing the need for collective representation for all workers, and specifically for workers in precarious employment, focus on strengthening unions and collective bargaining,²¹ improving supports for those in precarious employment by changing labour law,²² restructuring unions, or exploring alternative forms of representation.²³ General policy solutions include ensuring collective bargaining covers all employees²⁴ as the primary means for determining wages and benefits in the market²⁵ and establishing labour rights as human rights.²⁶ They also include educating those in precarious employment about their rights under labour law.



4.1 General options

General policy options include policies that were previously used in the U.K. to limit the impact of precarious employment on union members by:

- **Increasing regulations**,²⁷ for example by regulating occupational labour markets through licensing and other similar actions to limit competition.²⁸
- **Restricting the rights of workers in precarious employment** to participate in the union in order to ensure stable jobs stay with union members.²⁹
- General strategies can also include **having union members ensure all temporary workers are getting their rights respected** in the workplace.³⁰

4.2 Union structure

One set of policy suggestions looks at ways of changing the **current structure of unions** to better meet the needs of those in precarious employment.³¹ These policy options include:

- **Giving more workers access to collective bargaining units**, such as agricultural workers³² and contractors/ subcontractors.³³ This can also include taking measures to ensure part-time workers have the same right to bargain collectively, organize into unions, and act as workers' representatives as do full-time workers.³⁴
- **Expanding the bargaining unit beyond the current model of one workplace**³⁵ by organizing collective agreements by region,³⁶ by occupation,³⁷ by multiple employers,³⁸ and by form of employment.³⁹ This could also include organizing by sector,⁴⁰ in the same way that professional artists are organized at the federal level through *the Status of the Artist Act*.⁴¹ Some policies recommend scaling up bargaining whenever possible,⁴² and others recommend developing industry-wide frameworks⁴³ that are complemented by inter-sectoral bargaining.⁴⁴

4.3 Strategies for organizing unions and labour groups

Another set of policy options focuses on the **process of organizing unions** through:

- **Easing the process** by allowing unions to approach the Labour Relations Board to ask for bargaining lists from employers⁴⁵ and allowing unions to distribute materials onsite at workplaces to the same extent as employers.⁴⁶
- **Bringing community-based practices**, such as action committees **into unions**.⁴⁷

Another set of policy suggestions seeks to ease and expedite⁴⁸ the **certification** process for unions. These include:

- **Lowering the threshold** of signed cards needed to hold a certification vote.⁴⁹
- Re-establishing **card-based (automatic) certification** for all sectors.^{†† 50}
- Allowing the Labour Relations Board to **order automatic certification** in serious circumstances.⁵¹
- Holding **representation votes at neutral sites**.⁵²
- Allowing unions to **apply to represent a workplace within a year** of another union failing to do so.⁵³

A third set of policy recommendations focuses on **organizing non-union labour groups**⁵⁴ by:

†† Before 1995, unions in Ontario were able to become certified through card-based certification rather than vote-based certification. Card-based certification allowed for a union to be formed when enough cards were signed, while vote-based certification requires the additional step of a secret ballot vote on the union. Some sectors such as the construction sector are able to still have card-based certification. (USW, 2005)

- Using **alternative collective representation** such as the U.S.-based Freelancers' union, which groups contract workers together to provide collective services.^{§§ 55}
- Establishing more **occupational associations**,⁵⁶ **action centres**,⁵⁷ and **other community-based labour organizations**.⁵⁸
- Exploring the idea of establishing **consultative processes** at workplaces where part or all of the workforce is not covered by a union.⁵⁹

A fourth set of potential policies focuses on **how unions structure their campaigns** to organize workers in precarious employment including:

- **Tailoring union strategies** to accommodate those in precarious employment,⁶⁰ including making fees affordable for those who may cycle in and out of employment⁶¹ and recruiting freelancers at the point of entry into their occupation or at the point of job search, (as is practiced in UK freelancers' unions).⁶²
- Giving **more attention to diverse groups**,⁶³ non-union workers,⁶⁴ and young workers.⁶⁵

4.4 Collective bargaining and collective agreements

Other policy options involve using **collective bargaining**. For example, by bargaining for wages that differ very little by gender, skills, occupation, industry, or enterprise profitability.⁶⁶ Bargaining can also be used to protect secure employment for union members.⁶⁷ These particular recommendations are often used by unions in collective bargaining, and were used in a successful effort by HERE Local 75 to organize hotel workers.⁶⁸ They include:

- **Coordinating the expiry dates** of collective agreements to increase bargaining effectiveness;⁶⁹ bargaining for full benefit coverage, overtime, workload reduction, and wage increases for all workers.⁷⁰
- Including provisions in the collective agreement that **prevent jobs from being contracted out**.⁷¹

A second set of policy options addresses how unions represent workers in precarious employment. These options have the goal of increasing **access to collective bargaining** for workers in precarious employment⁷² or including the priorities of these workers in collective bargaining agendas.⁷³ They involve:

- **Extending collective agreement coverage** to those in precarious employment⁷⁴ such as temp workers;⁷⁵ establishing Project Labour Agreements that set unionized-level standards for all employees working on a project;⁷⁶ bargaining for equal treatment of those in precarious employment;⁷⁷ and developing special categories of union membership for workers in precarious employment.⁷⁸
- **Including the interests of those in precarious employment in collective agreements** by using collective agreements to regulate how those in precarious employment are hired, used, and rewarded,⁷⁹ and bargaining for pathways to permanent employment for temporary workers⁸⁰ by, for example, giving those in precarious employment priority in hiring.⁸¹

Other policy options look at the role that **strikes** can play in limiting the growth of precarious employment. These recommendations include:

- **Prohibiting the use of temporary workers during strikes**,⁸² and using strikes and negotiation to slow the growth of precarious employment.⁸³

^{§§} At present, both the Canada Media Guild and Unifor are organizing freelancers in Canada.

4.5 Other services and advocacy

One set of policy options focuses on the role that unions could play in extending the type of key services that they already offer to union members to those in precarious employment. These include:

- **Having unions establish their own temp agencies**, as was piloted in California by the Santa Clara Central Labor Council.⁸⁴
- **Extending key services to those in precarious employment** to help support their roles in the labour market by providing labour market information as opposed to just providing advocacy support for issues that arise at work.⁸⁵
- **Improving union advocacy efforts**, by using political pressure to support laws that are better for those in precarious employment,⁸⁶ and having union members enquire about standards that their employers use to determine which employment agencies they will use.⁸⁷
- **Improving public support for unions** by developing strategies that rely on community support⁸⁸ and community-based labour organizing,⁸⁹ which could include solidarity actions;⁹⁰ and adopting management and funder policies that are supportive of unions.⁹¹

4.6 Civil society

A final set of policy recommendations focuses on the **role of unions in civil society**. These recommendations involve:

- **Connecting local solutions with global efforts.**⁹²
- **Building new alliances** between unions and the community.⁹³
- **Exercising collective agency with other partners** to form a counter movement to implement the kinds of social change that could mitigate the issues emerging from precarious work.⁹⁴ This can include advocating for policies that respond to the needs of precarious workers.⁹⁵
- **Having federal and provincial government engage with “social partners”** (trade unions and employers representatives) when making policies, as is currently the practice in the European Union.⁹⁶

5. Questions for discussion

1. Which policy options in this paper could have the most impact on the lives of those in precarious employment?
2. Which policy options in this paper can we realistically move forward on, given the current political, economic, and social climates?
3. Which policy options are missing from this paper, but require attention?

6. Endnotes

¹ PEPSO, 2013

² Canada Industrial Relations Board, 2013

³ Canada Industrial Relations Board, 2013

⁴ Statistics Canada, 2014a; Alberta Federation of Labour, n.d.

⁵ Statistics Canada, 2009

⁶ Acemoglu, Aghion, & Violante, 2001 citing Reynolds, 1967; DiNardo, Fortin, & Lemieux, 1996; Card, 1996; Fortin & Lemieux, 1997

⁷ Canadian Labour Congress, 2009a

⁸ Canadian Labour Congress, 2009b

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- ⁹ Statistics Canada, 2013a
- ¹⁰ ILO, 2011b citing Kumar, 2008; Anderson, Beaton, & Laxer, 2006; Canadian Labour Congress, 2006
- ¹¹ Statistics Canada, 2014b
- ¹² Statistics Canada, 2011a
- ¹³ Anderson, Beaton, & Laxer, 2006
- ¹⁴ Canadian Foundation for Labour Rights, 2013
- ¹⁵ Allemang, 2012
- ¹⁶ Yates, 2004
- ¹⁷ ILO, 2011b
- ¹⁸ Cranford, Das Gupta, Ladd, & Vosko, 2006
- ¹⁹ Yates, 2004
- ²⁰ ILO, 2011b
- ²¹ Benach, Muntaner, & Santana, 2007; Institute for Public Policy Research, 2013; Access Alliance, 2011; New Democratic Party, 2013; Toronto Workforce Innovation Group, 2010
- ²² Ng et al, 2013; Broadbent Institute, 2012
- ²³ Vosko, Tucker, Thomas, & Gellatly, 2011; Campbell, 2010; Canadian Centre for Policy Alternatives, 2013
- ²⁴ Vosko, 2010
- ²⁵ Wilson, 2013
- ²⁶ Adams, 2001; Institute for Women's Policy Research, 2002
- ²⁷ Heery, 2009
- ²⁸ Heery, 2009
- ²⁹ Heery, 2009
- ³⁰ European Federation of Food, Agriculture and Tourism Trade Unions, 2013b
- ³¹ Heery, 2009; European Federation of Food, Agriculture and Tourism Trade Unions, 2013a; Lewchuk, Clarke, & De Wolff, 2011; Wellesley Institute, 2013b
- ³² Institute for Women's Policy Research, 2002; Law Commission of Ontario, 2012; Tucker, 2006
- ³³ Campbell, 2010; Bernier, Valee, & Jobin (Quebec Ministere du Travail), 2003
- ³⁴ ILO, 2011b
- ³⁵ Ng et al, 2013; PEPSO, 2013; CAW & CEP, 2012; Wellesley Institute, 2013b; Vosko, Tucker, Thomas, & Gellatly, 2011; Canadian Policy Research Networks, 2006; Lewchuk, Clarke, & De Wolff, 2011; Noack & Vosko, 2011; Heery, 2009; PEPSO, 2013 citing construction trades and arts sector unions
- ³⁶ Heery, 2009; Canadian Policy Research Networks, 2006
- ³⁷ Heery, 2009 citing Cobble, 1991; Herzenberg et al., 1998; Cobble & Vosko, 2000; Vosko, 2000; Milkman, 2006; Cranford, Das Gupta, Ladd, & Vosko, 2006; Institute for Women's Policy Research, 2002
- ³⁸ Institute for Women's Policy Research, 2002; Heery, 2009; Access Alliance, 2011; International Labour Organization, 2013b
- ³⁹ Canadian Policy Research Networks, 2006; Bernier, Valee, & Jobin (Quebec Ministere du Travail), 2003; Global Union Research Network, 2009; Heery, 2009
- ⁴⁰ Heery, 2009 citing Cobble, 1991; Herzenberg et al., 1998; Cobble & Vosko, 2000; Vosko, 2000; Milkman, 2006; Canadian Policy Research Networks, 2006; De Wolff, 2006; West Coast Domestic Workers' Association, 2013; Lewchuk, Clarke, & De Wolff, 2011; Jackson, 2006A
- ⁴¹ Vosko, 2006
- ⁴² Global Union Research Network, 2009
- ⁴³ International Labour Organization, 2013d; International Labour Organization, 2013b; Heery, 2009
- ⁴⁴ International Labour Organization, 2013b
- ⁴⁵ Workers' Action Centre & Parkdale Legal Community Services, 2012; Bernier, Valee, & Jobin (Quebec Ministere du Travail), 2003
- ⁴⁶ Institute for Women's Policy Research, 2002; Wellesley Institute, 2011a
- ⁴⁷ Schenk, 2006
- ⁴⁸ Institute for Women's Policy Research, 2002
- ⁴⁹ Wellesley Institute, 2011a
- ⁵⁰ 25 in 5, 2009; Wellesley Institute, 2011a; Fortin, Green, Lemieux, Milligan, & Riddell, 2012
- ⁵¹ Wellesley Institute, 2011a
- ⁵² Workers' Action Centre & Parkdale Legal Community Services, 2012
- ⁵³ Wellesley Institute, 2011a
- ⁵⁴ Vosko, 2006

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- ⁵⁵ Standing, 2011
- ⁵⁶ Standing, 2009
- ⁵⁷ CAW, 2012
- ⁵⁸ Rabble.ca, 2013; Workers' Action Centre, 2007; Workers' Action Centre & Employment Standards Work Group, 2005, Ng et al, 2013; Cranford & Ladd, 2003
- ⁵⁹ Arthurs (Human Resources and Skills Development Canada), 2006; Law Commission of Ontario, 2012
- ⁶⁰ Anderson, Beaton, & Laxer, 2006
- ⁶¹ Heery, 2009; Campbell, 2010
- ⁶² Heery, 2009
- ⁶³ Vosko, 2006
- ⁶⁴ Broadbent Institute, 2012
- ⁶⁵ OFL, 2012
- ⁶⁶ Jackson, 2006
- ⁶⁷ Kalleberg, 2009
- ⁶⁸ HERE Local 75 is now UNITE HERE Local 75.
- ⁶⁹ Schenk, 2006
- ⁷⁰ Schenk, 2006
- ⁷¹ Schenk, 2006
- ⁷² Canadian Centre for Policy Alternatives Ontario, 2012; European Federation of Food, Agriculture and Tourism Trade Unions, 2013a
- ⁷³ Workers' Action Centre & Parkdale Community Legal Services, 2008
- ⁷⁴ International Labour Organization, 2013b
- ⁷⁵ Jackson, 2006A
- ⁷⁶ Global Union Research Network, 2009
- ⁷⁷ Heery, 2009; International Labour Organization, 2013d; International Labour Organization, 2013b; Lewchuk, Clarke, & De Wolff, 2011
- ⁷⁸ Heery, 2009
- ⁷⁹ Heery, 2009; European Federation of Food, Agriculture and Tourism Trade Unions, 2013b
- ⁸⁰ European Federation of Food, Agriculture and Tourism Trade Unions, 2013b; International Labour Organization, 2013d; International Labour Organization, 2013b; Campbell, 2010
- ⁸¹ Global Union Research Network, 2009
- ⁸² IndustriALL Global Union, 2013; NDP, 2013
- ⁸³ Borowy, 2006
- ⁸⁴ Carnoy, 2000; Campbell, 2010
- ⁸⁵ Heery, 2009
- ⁸⁶ Heery, 2009
- ⁸⁷ European Federation of Food, Agriculture and Tourism Trade Unions, 2013b
- ⁸⁸ Campbell, 2010
- ⁸⁹ Cranford & Ladd, 2003
- ⁹⁰ Institute for Women's Policy Research, 2002; Socialist Project, 2010; Benach, Muntaner, & Santana, 2007
- ⁹¹ Community and Social Planning Council of Toronto & Family Services Association of Toronto, 2006
- ⁹² Kalleberg, 2009
- ⁹³ OFL, 2012
- ⁹⁴ Kalleberg, 2009
- ⁹⁵ Heery, 2009
- ⁹⁶ Wood, 2011