

Workers connect...

Who Builds Our Economy Today?

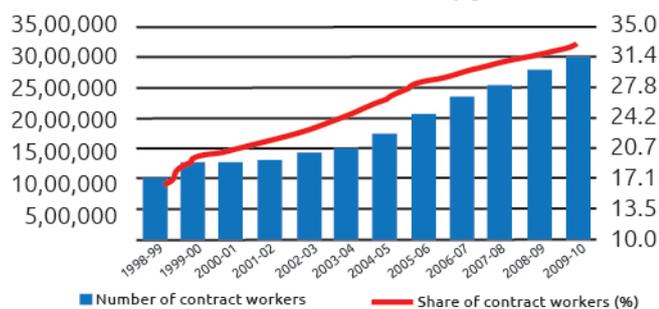
Who built the Taj Mahal in Agra? Was it Shah Jahan for his beloved wife, Mumtaz Mahal? Or was it built by the two architects who designed it? Or was it built by the hundreds of workers who worked day and night to put together the most famous piece of architecture in our country?

Let us look at our workplaces today. Who are the invisible hands who make our workplace move? Who do most of the work? How many of us are permanent or regular workers? How many of us enjoy social security benefits? How many of us are protected by a collective bargaining agreement?

In most workplaces today, be it a construction site, a factory, a bank, a school or college, or even a hospital, a large number of our newly recruited colleagues are hired on contracts, directly or indirectly by our employers.

Contract Workers in registered manufacturing

Share of contract workers has increased sharply



And we have more or less accepted the fact that the wages and the conditions of work of the irregular workers would be different from ours.



How did we get here?

The Second World War resulted in devastation of the giant economies of England, France, Germany and most of Europe. Unlike after the First World War, when the warring countries could resurrect their economies by overt exploitation of their Asian and African colonies; the post Second World War period was the time of freedom struggles in the colonies and the consolidation of the Soviet Bloc and trade unions across the world.

Cold War: In July 1944, economic experts, politicians and finance officers of 44 countries met in the now famous **Bretton Woods Conference** in New Hampshire, USA to discuss how to stabilise the world economy. The conference lasted 21 days and led to the formation of the International Bank for Reconstruction and Development (what we know as the World Bank) and International Monetary Fund (IMF). The core idea behind the Bretton Woods Conference was the notion of open markets. In his closing remarks at the conference, its president, U.S. Treasury Secretary Henry Morgenthau, stated that the establishment of the IMF and the IBRD marked the end of economic nationalism. Further, in the spring of 1947, President Truman (USA) unveiled the **Marshall Plan** to aid reconstruction of Western European economies to contain the influence of the USSR.

In the following years IBRD and IMF lent massive loans to war-torn countries and to developing and newly independent under-developed countries, on conditions that beneficiary countries devise policies encouraging Preferential Trade Agreements (PTAs) leading to dilution of import-export duties and regulations related to investment of foreign capital in the country.

Fall of Soviet Union: The Soviet Union was formally dissolved on 26 December 1991. With the Soviet support gone or dwindling, many developing countries faced a serious balance of payments crisis – India was one.

Balance of Payment Crisis of 1990s: Rupee

trade (payment for trade made in Rupees) with the Soviet Bloc was an important element of India's total trade up to the 1980s. The collapse of the Soviet Union and the soviet bloc led to the termination of several rupee payment agreements in 1990-91. As a consequence, the flow of new rupee trade credits declined abruptly in 1990-91. Further, there was also a decline in exports to Eastern Europe—these exports constituted 22.1 percent of total exports in 1980 but it declined to 10.9 percent in 1991-92. To make matters worse, with the invasion of Kuwait by Iraq in August 1990, crude oil prices rose from USD 15 per barrel in July 1990 to USD 35 per barrel in October 1990. Iraq and Kuwait were the major sources of India's oil imports and the war made it necessary to buy oil from the spot market. As a result, the oil import bill increased by about 60 percent in 1990-91.

Political Turmoil of the 1990s: This was also a time of political turmoil in the country. The V P Singh National Front government tried to implement the Mandal Commission recommendations in August 1990 of reservation of 27% quota for OBCs that would result in 49.5% reserved seats in government jobs and public universities. This led to violent protests across the country from upper caste groups led by students.

Riding on this upper caste assertion, the BJP president, LK Advani along with Pramod Mahajan, decided to go on their first Rath Yatra drumming up support for a Ram Mandir in Ayodhya. They were arrested on the orders of the Prime Minister on the charges of disturbing the peace and fomenting communal tension. The kār-seva (demolition of the Babri Masjid and construction of the Ram Mandir) proposed by Advani on 30 October 1990 was prevented by stationing troops at the site. This led to the BJP's suspension of support to the National Front government. V P Singh resigned on 7 November 1990.

This was followed by the Chandrashekhar government supported by the Congress party, led by Rajiv Gandhi, which withdrew its support after a few months and fresh election was declared.

Rajiv Gandhi was assassinated in May 1991 while on election campaign, which led to a huge comeback for the Congress party with PV Narasimha Rao as the Prime Minister and Manmohan Singh as his finance minister in June 1991.

Response to BoP crisis: The Narasimha Rao government responded to the BoP crisis by seeking an emergency loan of USD 2.2 billion from the International Monetary Fund by pledging 67 tons of India's gold reserves as collateral. This helped tide over the balance of payment crisis temporarily and kick-started the Rao-Singh economic reform process.

LPG: The Fund loan followed by the World Bank loan came with the condition of implementation of the stabilization programme and the Structural Adjustment Programme. These required India to address its immediate balance of payments crisis and to move towards a broad set of policy reforms aimed at liberalizing the Indian economy and opening it up to more competition both from within and abroad. The immediate moves led to delicensing; limiting the role of the public sector along with disinvestment; liberalization of foreign investment. Thus began the process of LPG (Liberalisation-Privatisation-Globalisation).

Second National Commission on Labour: The second National Commission on Labour (NCL) was set up on 15 October 1999 which submitted its report to Prime Minister Vajpayee in 2002. The key recommendations were as follows:

Rationalisation of labour laws: A "judicious" consolidation of the Industrial Disputes Act, 1947, the Trade Unions Act, 1926, the Industrial Employment (Standing Orders) Act, 1946, and other Acts governing industrial relations into a single law called the Labour Management Relations Law.

Amendment of Chapter V B of ID Act: In the case of closure of establishments employing more than 300 workers, the employer shall apply for permission to the appropriate government 90 days before the closure and also serve a copy of the application to the recognised negotiating agent. If the government does not respond within 60 days of receipt of such an application, permission will be deemed to have been granted.

Contractualisation: Contract labour shall not be engaged in core production or services or activities but employers may engage temporary labour for such activities to meet sporadic seasonal demand. The report said: "Organisations must have the flexibility to adjust the number of this workforce based on economic efficiency."

Grievance Redressal Committees: Proposed establishment of Grievance Redressal Committees in each establishment with equal

number of representatives of workers and employers as an 'alternative' to trade unions. It further suggested that a trade union can be a negotiating agent only if it has 66% of the workforce endorsing its authority.

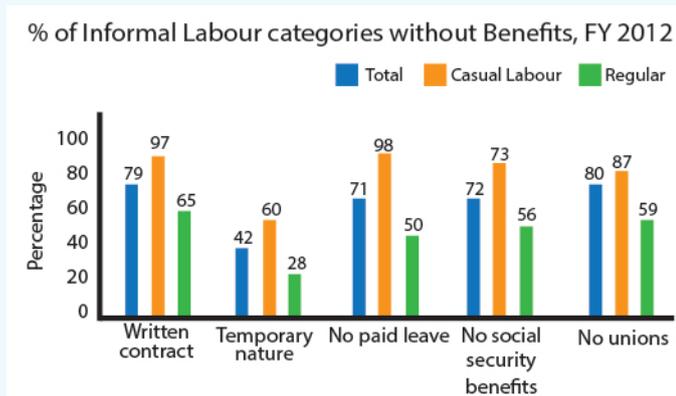
Right to Strike: The report recommended a strike ballot for strike action.

Right to form Trade Unions: The report recommends that only a union that has at least 10 per cent of employees in a unit as its members would have the right to represent the workers in various forums.

The Sponsoring Committee of Trade unions led widespread protests against the Second National Commission on Labour, along with the opposition in the parliament led by the left parties put brakes on the reform process. However labour reform continued stealthily with each successive government till the defeat of the second UPA government in 2014.

Return of the Second National Labour Commission Proposals

As globalization deepened its roots in the country, need for flexible labour magnified manifold. Revolution in Information Technology and transport made it possible to evolve extensive supply chains to minimize costs and maximize profits. As a result, employers wanted to do away with the old unionised workforce to cut down on their labour costs.



Research shows that workers with no work contract earn 60% lower wages than their permanent colleagues, have shorter breaks during work, are not entitled to paid or sick leaves, work for longer hours with no overtime pay and live under the perpetual stress of job loss.

Equal Pay for Equal Work: The Supreme Court in its judgement in the case of Jagjit Singh & Ors. vs. State of Punjab and Ors. in 2016 held that equal

pay for equal work is a constitutional right and employers denying equal pay are in contempt of the fundamental rights of the workers. The court stated that if the nature, sensitivity, volume and quality of the work are same then wages have to be equal, irrespective of the nature or tenure of the contract (contract, fixed term etc.) and/or the title or designation of the worker (trainee, badli, contract worker etc.)

The present phase of labour reform attempts to wipe out the gains made by workers and trade unions for several decades in ensuring basic rights of workers. It attempts to bring back the proposals of the Second National Commission on Labour which was opposed vehemently by trade unions as anti-labour. It aims to institutionalize the flexibility regime demanded by employers, both national and multinational. The divisions created over the last two decades between regular unionized workers and non-unionised irregular workers in categories such as trainees, apprentices, casual workers, contract workers, etc, has weakened union power to oppose this. What could be stopped in 2002 through massive mobilization of workers, is facing limited resistance today.

What limits trade union power today?

It is incorrect to say that trade unions in India and across the world do not realize that they need to expand their membership to the irregular workers who do not trust them in most cases. The struggle for trade unions today is how do they expand their membership among irregular workers while protecting the gains won by them through years of struggle and collective bargaining. Employers, in many cases especially in the manufacturing sector, willingly increase the benefits of a small section of permanent workers while keeping the large number of irregular workers at minimum pay and minimum rights. The irregular workers are then used to break the strike power of the small number of regular workers and the small number of permanent workers are used to create an intense hatred and mistrust for unionized workers. Thus it is a win-win situation for employers.

It is thus time for trade unions to find common grounds with the irregular workers to bridge this ever-widening gap. If wage is used by employers to widen the gap between workers, trade unions can use working conditions as the bridging point. The struggle at workplaces need to translate to a struggle for equal conditions at work. The focus

of struggle has to change and has to change fast.

Nearly 48,000 workers die on average in India per annum due to occupational accidents, of which the construction sector contributes 24.20 per cent of the fatalities, according to the ILO. The Unchahar incident and the recent report of deaths of sewage workers across the country is just the tip of the iceberg that get reported. In all cases, the workers who die are contract workers, or casual workers, mostly migrant workers, mostly from marginalized castes and communities. This is not a coincidence. It is a problem that needs to be addressed by the trade unions. It is time to think ... It is time to act.

Policy News

Cabinet approves Wage Policy for the 8th Round of Wage Negotiations for workmen in Central Public Sector Enterprises

21 November 2017: The Union Cabinet approved the Wage Policy for the 8th Round of Wage Negotiations for workmen in Central Public Sector Enterprises (CPSEs). According to this policy, management of the CPSEs would be free to negotiate wage revision for workmen where the periodicity of wage settlement of five years or ten years has expired generally on 31.12.2016 keeping in view the affordability and financial sustainability of such wage revision for the CPSEs concerned. No budgetary support for any wage increase shall be provided by the Government. The entire financial implication would be borne by the respective CPSEs from their internal resources. In those CPSEs for which the Government has approved restructuring or revival plan, the wage revision will be done as per the provisions of the approved restructuring / revival plan only.

The policy further adds that the management of the concerned CPSEs have to ensure that negotiated scales of pay do not exceed the existing scales of pay of executives/officers and non-unionized supervisors of respective CPSEs. To avoid conflict of pay scales of executives/non-unionised supervisors with that of their workmen, CPSEs may consider adoption of graded DA neutralization and/or graded fitment during the wage negotiations. The wage revision shall be subject to the condition that there shall be no increase in labour cost per physical unit of output.

The validity period of wage settlement would be for a minimum period of five years and for a

maximum period of ten years w.e.f. 01.01.2017.

Aadhaar-based biometric attendance system mandatory for rail employees by 31 January

6 November 2017: The railway ministry has announced that it will install Aadhaar-based biometric system of attendance across all its zones and divisions by 31 January 2018. According to the order, a biometric attendance system would be first implemented in the offices of all divisions, zones, Metro Rail Kolkata, railways workshop, factories and production units by 30 November.

Kerala Government launches the Awaz Insurance scheme for migrant workers

4 November 2017: Kerala introduced the Awaz insurance scheme for migrant workers in the state. Awaz will ensure proper data collection of migrant workers and provide them with free healthcare upto Rs.15,000 from government hospitals in the State as well as empanelled private hospitals. Along with health insurance, accident death coverage of Rs. 2 lakh will also be provided. The target group of migrant workers is between 18 to 60 years, working in various sectors.

Maximum age of joining National Pension System increased from the existing 60 years to 65 years

1 November 2017: The Pension Fund Regulatory and Development Authority (PFRDA) has increased the maximum age of the employees of joining under NPS-Private Sector from the existing 60 to 65 years of age. Any Indian Citizen, resident or non-resident, between the age of 60-65 years, can join the National Pension System and continue up to the age of 70 years in NPS. With this increase of joining age, the subscribers who are willing to join NPS at the later stage of life will be able to avail the benefits of NPS.

Collective Bargaining

Punjab: Sewerage Workers' Union protest against contractualisation

22 November 2017: The Sewerage Workers' Union staged a protest in front of the Municipal Corporation, Bhatinda demanding regularisation of 48 contract and outsourced workers who have been working for the past 12 years and also for recruitment of new staff.

There are about 100 sewerage workers in the city of Bhatinda out of which, 70 workers are

deployed at motor pumps located in various parts of the city while the remaining 30 are not sufficient to maintain the sewerage work of the entire city.

Tamil Nadu: Nurses stage protest demanding regularization

9 November 2017: Over 100 nurses staged a protest at the Directorate of Medical and Rural Health Services demanding regularization in Chennai.

There are about 525 nurses working in neonatal intensive care units in government hospitals who were recruited through an NGO in a public-private partnership since 2010. The nurses are demanding for a special medical recruitment board exam, for regularization of their services.

Odisha: Primary Teachers demand hike in grade pay

9 November 2017: Thousands of teachers under the banner of Odisha Primary Teachers' Association and Odisha Sikshya Sahayak Association marched on Mahatma Gandhi Marg in Bhubaneswar demanding a hike in grade pay from Rs.2200 to Rs.2800, inclusion of six years contractual period in the service span, for abolishing the term 'sahayak' and for implementation of the old pension scheme.

The teachers gathered for the protest even after School and Mass Education Department had imposed restrictions stating that more than one teacher of a school cannot take leave on the same day and action would be taken if any teacher remains off-duty without permission.

Tamil Nadu: DCI employees stage dharna, threaten to intensify stir

8 November 2017: The employees of Dredging Corporation of India, went on half-day leave on 7 November, 2017 across the state in Tamil Nadu in protest against the Centre's decision to sell its entire equity in the company.

Rajasthan: 9,638 doctors resign en masse demanding pay hikes

6 November 2017: Around 9,638 doctors in Rajasthan resigned en masse in support of their 33 long-pending demands including pay hike, infrastructure facilities and more support staff in government run primary health centres. The state government has imposed RESMA (Rajasthan Essential Services Maintenance Act) on the protesting doctors.

Legal News

Industries that are not paying minimum wages to workmen have no right to continue: Delhi High Court

6 November 2017: The Delhi High Court ruled that employment of workmen without paying minimum wages is "unconscionable and unpardonable" and constitutes a criminal offence under the Minimum Wages Act.

The order dismissed the plea of the employer, the Central Secretariat Club, on the issue of payment of minimum wages to Geetam Singh, a gardener, as prescribed by the Delhi Government. The court directed the club to disburse the difference in payment between the wages paid and the minimum wages payable to him under the Act from 1 September 1989 to September 1992, in addition to the amount awarded by the labour court. The court also directed the club to pay Rs. 50,000 to Singh for not complying with the labour court's order passed 14 years ago directing the club to pay Rs 15,240 to Singh for the period between October, 1992 and September, 1995. The court also directed that the total amount to be paid to Singh shall be given with an interest of 12 per cent per annum from the date of award, 16 July 2004 till the date of paying him and directed that the payment should be made within four weeks of the passing of this order.

Discrimination

Patna High Court: Contract teachers entitled to Equal Pay as Regular Teachers; Bihar Govt. to challenge order

3 November 2017: In a major relief to around four lakh teachers working on contract in the state government schools, the Patna High Court ruled that they were eligible for pay and other benefits at par with the regular teachers. The division bench also noted that the 'Niyojit Shikshak Niyukti Niyamawali' formulated by the state government in 2006 was unconstitutional and violative of Article 14 of the Constitution that stipulates equality before law.

It was under this 'nyamawali' that the contractual teachers were appointed on a fixed salary. All the contractual teachers from primary to higher secondary level were paid Rs.15000 per month till October 2015 after which it was increased to Rs. 20,200.

The Bihar government has decided to move the

Supreme Court against the Patna High Court order on equal pay for equal work to the school teachers hired on contract in the state.

Health and Safety

All unwelcome physical contact not sexual harassment: Delhi High Court

2 November 2017: All unwelcome physical contact cannot be called sexual harassment unless it is in the nature of a sexually oriented behaviour, the Delhi High Court has ruled. Justice Vibhu Bakhru, who made the observation, also said that an accidental physical contact, though unwelcome, would not amount to sexual harassment. "Similarly, a physical contact which has no undertone of a sexual nature and is not occasioned by the gender of the complainant may not necessarily amount to sexual harassment," the court added.

The observations by the bench came during the hearing of an appeal by a CRRI scientist challenging the clean chit given by the complaints committee and disciplinary authority to her former senior colleague, whom she had accused of sexual harassment.

The allegation pertained to an incident of April 2005 when the man had entered the laboratory where the woman was working and had snatched samples from her hand, thrown the materials and pushed her out of the room. The Complaints Committee after examining her complaint had concluded that "it was a case of altercation in the background of the uncongenial environment prevailing in the division". Terming the man's conduct as deplorable, it had also said that while there was evidence of physical contact by the man, "the same was not a sexually determined behaviour but was in the nature of an altercation".

The disciplinary authority had accepted the committee's report and passed an order in October 2009 giving clean chit to the man accused of sexual harassment. Agreeing with the committee's finding, the high court ruled, "physical contact or advances would constitute sexual harassment provided such physical contact is a part of the sexually determined behaviour. Such physical contact must be in the context of a behaviour which is sexually oriented." The court rejected the woman's challenge to the constitution of the committee and the disciplinary authority.

This order takes away the entire argument of sexual harassment of women at workplace through the creation of 'hostile environment' thereby making it unsafe and difficult for a woman to work under the conditions.

Workplace Safety Watch

3 workers die in Shoe Factory in West Bengal: 2 workers, Joy Prakash Yadav (22) and Jhoku Yadav (24), and a child, Abhishek Yadav (8), died and 2 others, Kamlesh Yadav (38) and Indu Devi (30), were injured after a fire broke out at 3 am due to a short circuit in the first floor of Axton Footware, owned by Fahim Ahmed (49) from Kolkata at Ankurhati in Domjur region, West Bengal on 29 November 2017.

8 workers die as elevator in river link tunnel work snaps in Pune: 8 workers were killed after an elevator carrying them snapped and slipped 210 feet down during the ongoing tunneling work for the Bhima-Nira river linking project in the district of Pune on 20 November 2017. Only 1 worker was a local while all others were migrant workers from north India.

3 workers die and more than 20 missing after building collapse in Ludhiana Plastic factory: The three-storey building of a plastic bag factory in Ludhiana, Punjab, collapsed on 20 November about 1 pm after a fire broke out at 8 am.

Worker crushed to death in tyre factory in Mysore: A daily wage worker, Ravi (22), was crushed to death in an accident at the JK Tyre's production site in Mysore on 16 November. Police claim that Ravi came under the machine while loading raw materials and died on the spot. The accident took place at about 7 a.m. at the end of the night shift. Though his colleagues rushed to switch off the power supply, it was too late to save him. He had been employed at the factory for 6 years.

3 Rly workers, all women, run over by train: Three contract women workers, identified as Shivani Bhoryalay, 18, Anita Shinde, 32, and Jaya Khatawase, 35, all from Madhya Pradesh, were killed and another one, Sunita was severely injured after they came under a running train on 18 November. They were completing their work of deep screening (checking stones laid on tracks), near the Malad railway station around 12.15 pm when they were run over by holiday special Bandra Terminus-Indore Express.

32 workmen died with the explosion in the

Unchar Plant of NTPC: A boiler explosion on 3 November 2017 in the Unchar Plant of the NTPC in Rae Bareilly has claimed the lives of at least 32 workers, with over 100 others suffering over 70% burns. Most of the workers are contract workers.

The incident occurred at the newly commissioned Unit 6 of the plant which was undergoing a trial-run when a pipe leaked, releasing steam at high pressure. According to NTPC management, ash gathered in the furnace of the boiler, which caused pressure to build up and the boiler burst. The equipment was supplied by Bharat Heavy Electricals Limited. The Unit has a capacity of 500 MW and has around 870 employees.

Anomalies had been found in the boiler and it was to be shut down for rectification on 28 October but was still kept running. At the time of the incident about 300 workers were working at the unit. Most of the victims were cleaning the ash collected at the site as a result of burning of the coal.

The injured workers were taken to the NTPC hospital and later transferred to Lucknow and Rae Bareilly hospitals, while the two injured managers were flown to Delhi for treatment.

In and Around

First trade union of the IT sector formed in Tamil Nadu

23 November 2017: The Chennai-based Forum for IT Employees (FITE) from Tamil Nadu has become the first registered IT trade union in the country. The trade union was registered on 10 October, paving the way for formation of more unions in an industry which is known to have resisted such associations for long.

Granting a registration status to Forum for IT Employees by the Government of Tamil Nadu establishes the fact that employees of IT sector are "Workmen" under the Industrial Disputes Act.

Tea unions to resume wage agitation

21 November 2017: The Joint Forum of tea trade unions of North Bengal, will resume its movement on the longstanding demand to fix minimum wage rate for tea workers in January next year. The Forum will organise a rally to Uttarkanya, the branch Secretariat at Siliguri on 24 January 2017.

On 1 December, workers' meetings will be

organized at each tea estate across north Bengal, followed by three workers' conventions at Bagdogra, Chalsa and Kalchini. The Forum has also decided to join hands with tea unions of Assam and other north-eastern states to form a coordination committee and work jointly on wage and other issues

3 day Mahapadav by trade unions in Delhi

11 November 2017: Parliament Street turned into a sea of workers from across the country, for 3 days, 9-11 November, who came together to draw attention to the fast deteriorating conditions of workers in India and against the "anti-people policies" of the Modi government. Marking the first anniversary of demonetisation, the 'Mahapadav', as the dharna was called, brought together the 10 central trade union organisations, except the BMS, along with other national trade union centres.

"If the government does not change its attitude, the central trade unions will be forced to explore for the country-wide national indefinite strike," said a joint statement issued by the central trade unions, adding that meanwhile, prolonged agitations and actions will continue, such as sectoral/industry-level joint strike whenever the government takes measures at privatisation and protest actions on the day of presentation of Union Budget if it contains anti-worker measures.

News from around the world

Iraq approves ratification of ILO Convention 87 on Freedom of Association

27 November 2017: Iraq's parliament has approved the ratification of core ILO Convention 87, on Freedom of Association. The House of Representatives voted on 20 November, 2017 in favour of a draft law that allows the Republic of Iraq to join the Freedom of Association and Protection of the Right to Organize Convention No. 87 of 1948.

Bangladesh to finally relax rules for trade unionism

22 November 2017: Under pressure from the international community, Bangladesh has finally agreed to ease the requirements for forming trade unions at factories in the next amendment of the labour law. At present, at least 30 percent of the workers in a factory need to sign up to form a trade union - this might now be brought down to 15-20 percent. It might be even lower for large factories.

The EU, the US and the ILO have been putting pressure on the government for amendment of the labour law for workers, including those employed at factories housed inside of the Export Processing Zones.

Union fights case over pay and conditions for UK university support staff

21 November 2017: The Independent Workers Union of Great Britain has launched a legal challenge over the rights of 75 university support staff at the University of London to negotiate the pay and conditions for outsourced workers. The receptionists, security officers, postroom staff and porters working at the University are all employed through the facilities management company Cordant Security, but are seeking the right to agree their pay and conditions directly with the university.

The case argues that denying the workers the right to collectively bargain with their “de facto employer” is a breach of article 11 of the European convention on human rights concerning joining trade unions and having them protect their interests.

Government approves Minimum Wage in South Africa

8 November 2017: The South African cabinet has approved the National Minimum Wage Bill, Basic Conditions of Employment Amendment Bill and Labour Relations Amendment Bill. These bills will now be submitted to the National Assembly and National Council of Provinces for concurrence and enactment.

The National Minimum Wage Bill (NMW Bill) makes provision for the introduction of a minimum wage of R20 (South African Rand) per hour, which is due to come into effect on 1 May 2018. However there are a few exceptions to the national minimum wages. The minimum wage for farm workers will be 90% of R20 per hour (R18 per hour); for domestic workers will be 75% of R20 per hour (R15 per hour) and the minimum wage for workers on an Expanded Public Works Programme will be R11 per hour.

Corporate Watch

Addison Lee suffers double defeat in ongoing battle over gig economy rights

Addison Lee, the London-based minicab and courier company, recently lost two cases in decisions that echo the “gig economy” rulings

against Uber. Addison Lee unsuccessfully argued that the claimants were “independent contractor” and not “workers” and, therefore, not entitled to holiday pay or the national minimum wage.

In both instances, the Employment Tribunal ruled that Addison Lee had been wrong to classify the drivers as independent contractors – they were in fact workers and entitled to essential workers’ rights.

In the case of *Gascoigne v Addison Lee Ltd* (August 2017), Mr Gascoigne (a cycle courier who worked for Addison Lee for nine years) claimed that he was a worker and, as such, was entitled to holiday pay following a week’s holiday. Supporting Mr Gascoigne’s argument was the fact that his workload was directed by a “controller”, who allocated jobs and tracked him via GPS and radio. The controller would allocate jobs on a piecemeal basis and it was expected that Mr Gascoigne would be standby in an allocated area throughout his shift. There was no ‘decline’ button available on his system; to refuse a job Mr Gascoigne would have to contact the controller directly. He was also provided with various items of technology and branded materials including bag and t-shirt by Addison Lee.

Similarly, in *Mr M Lange (and others) v Addison Lee Ltd* (September 2017) a claim was brought by three Addison Lee minicab drivers. The drivers in this case also argued that they were workers and, as such, were entitled to holiday pay. In addition, they argued that they had each earned the equivalent of £5 an hour throughout their time with Addison Lee, being £2.50 below the National Minimum Wage of £7.50.

The drivers in this case were subject to a detailed manual with strict performance standards and rules. Whilst under no obligation to log on to Addison Lee’s system and accept jobs, there was an expectation that the drivers would work regular and long hours. Drivers who failed to meet the performance standards could also suffer penalties.

The Employment Tribunal reached this decision despite the fact that documentation the drivers had signed with Addison Lee expressly stated that they were self-employed independent contractors. In reaching its decision, the Tribunal demonstrated a willingness to disregard any clauses in the documentation that did not match the reality of the working relationship.