Addressing Competition: Strategies for Organizing Precarious Workers—Cases from Canada

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Summary

Due to a variety of factors, the growth of precarious work is outstripping the growth of standard work relationships around the world. It is a growing component of the Canadian employment landscape as well. In 2008, part-time, contract and temporary work and self employment comprised one-third of the jobs in Canada.[1] As Canada partially recovers from the global recession, the preponderance of jobs being added are temporary work, temporary seasonal work, contract work and casual work.[2] Indeed, the year to year growth between 2008 and 2009 in full time jobs has been negative, while the other four types of jobs mentioned above have all grown by over 10%. The growth of 'precarious jobs' in our economy is clearly intensifying as a response to the crisis.

This growth is, in part, a response to the strength of workers organizations and unions in developing strong protections for traditionally employed workers in countries around the world. To circumvent these protections, employers have developed ways in which to make the labour market more flexible or inherently 'precarious'. As work becomes increasingly precarious, workers organizations of all sorts are developing strategies in response; one such response is to organize precarious workers. Beyond merely organizing, it has been difficult to raise standards for work that is inherently focused on reduced job security in which the job is maintained at the employers' discretion. Instead, in Canada, we are witnessing increasing income inequality, relative wage stagnation for the majority of people, despite increased productivity.[3] The task before us is not just to organize precarious workers, but to work together to raise standards to make precarious jobs, 'good jobs'.

The key issue to understand is that employers have far less flexibility today to raise standards for the long term, unilaterally. At the firm or company level labour has become increasingly diversified and the average size of enterprises has been reduced by restructuring. At the macroeconomic level, liberalization of trade, deregulation, and privatization have all created more competition and at the firm level, financialization, mergers and acquisitions, relocation and supply chain management, have all created intense competition within industries. It is increasingly difficult for a union to organize a company, raise standards substantially and to expect that the unionized company will be able to sustain the increased costs for the long term. This is particularly true in countries that lack industry-wide bargaining but, due to the macroeconomic factors, to some extent, nation-states are competing like firms. Scale is a factor. Small companies and firms find it harder to sustain raised standards than an industry or nation state. That said, at some point we must address the competitive dynamic to be able to sustain increases in work standards. In Canada (except in Quebec), most bargaining is at the company level not at the industry level.

This paper studies two examples of organizing at a community level and at an industry level of which SEIU Local 2 Canada has been a part: the Justice for Janitors campaign across Canada, and the Good Jobs For All campaign in Toronto. Our premise in organizing precarious workers must be that a job must be made into a good job. This is how our predecessors in the labour unions and in workers associations did it. They took jobs where they were risking their lives in mines, in factories, in fields and fought to build

[1] Chaykowski, Richard P. & George A. Slotsve. 2008. "The Extent of Economic Vulnerability in the Canadian Labour Market and Federal Jurisdiction: Is there a Role for Labour Standards" Social Indicators Research. 88: 75-96.

[2] Yalnizyan, Armine "The Temporary Recovery", The Progressive Economics Forum http://www.progressive-economics.ca , April 11, 2010

[3]

standards that made sense in their workplaces, in understanding the dynamics of their industries, and demanding more. Precarious workers must organize in the same way, and in some cases they have been. These are just two drops in the ocean of addressing precarious work, illustrative examples of how we have been addressing competition in our organizing strategies.

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Introduction

Low paid, exploitative, unprotected work is hardly a new phenomenon. It has been a ubiquitous employment dynamic through much of human history. But workers organized, fought hard for protections, and since the Second World War a system of labour market regulations has prevailed around the world creating the generally accepted model of a 'standard employment relationship'. These fights created a degree of regularity and durability in the employment relationship and provided institutional recourse to workers to protect themselves from exploitative conditions and build social equity.

As in many other countries, Canada's current labour and employment law are products of the two World Wars and post World War economic boom.[4] Unions have been the backbone of worker organizing. In Canada, union density started to increase during the post-war productivity boom, peaking in the 1980s at approximately 38% of the labour force. Since then, union density has been falling gradually, hovering around 30% of the labour force since the 1990s, and slipping below 30% of the labour force in 2007.[5] The decline in union density does not fully capture the precipitous decline in bargaining power (individual and collective) being experienced by many of the people working in Canada. However, both these declines, in bargaining power and density, are tied in part to the growing precariousness of work. It has become imperative to develop ways to organize precarious workers and also to build movements for workers to raise standards.

This rest of this section defines precariousness, as it is understood for the purposes of this paper, sets the stage in Canada outlining what has been happening in labour and employment law and union density; and in the standard of living experienced by Canadians. Within this context, the next section of this paper analyzes *Justice for Janitors* in Canada and touches upon some of the other market wide strategies being undertaken in the same markets. The analysis is through the lens of how these strategies are working to address and mitigate the negative aspects of the growing competitive nature of work in Canada.

Precarious Work and 'Precarious Industries'

According to the International Labour Organization (ILO), *precarious work* has the following characteristics: 'atypical employment contracts, limited or no social benefits and statutory entitlements, high degrees of job insecurity, low job tenure, low wages, and high risk of occupational injury or disease'.[6]

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[4] Labour law means law covering unions, and employment law covers all workers regardless of representation

*English Canada means, except in Quebec, where there is a decree process where unions set wage and hour for union and non-union workers in certain industries with central employer bodies

[5] Kumar, Pradeep. "Is the movement at a standstill?: Union Efforts and Outcomes, *Our Times* Vol 27:5 October-November 2008

[6] John Evans and Euan Gibb "Moving from Precarious Employment to Decent Work" Global Union Research Network, Discussion Paper 13, 2009

In 1989, in an ILO volume on the growth of atypical employment relationships in Western Europe, Gerry Rodgers, disaggregated the dimensions of precariousness, relative to the 'standard relationship of employment' as excerpted below:

> **First, there is the degree of certainty of continuing work.** Precarious jobs are those with a short time horizon, or for which the risk of job loss is high….**Second, there is an aspect of control over work**—work is more insecure the less the worker (individually or collectively) controls working conditions, wages, or the pace of work. **Third,** protection is of crucial importance: that is **to what extent workers are protected either by law, or through collective organization, or through customary practice**—protected against, say, discrimination, unfair dismissal, or unacceptable working practices, but also in the sense of social protection, notably access to social security benefits (covering health, accidents, pensions, unemployment insurance and the like). **A fourth, somewhat more ambiguous aspect is income**—low income jobs may be regarded as precarious if they are associated with poverty and insecure social insertion.[7] [emphasis added]

The growth of precarious work has been a global phenomenon, as such it has become a growing component of the Canadian employment landscape as well. Since 1989 and through to 2008, contingent workers—part time permanent, temporary work, and independent contracting or self employment—comprised one third of the jobs in Canada.[8] To quote from a seminal study by the Workers' Action Center, a workers' centre in Toronto, on the dynamics of precarious work:

> [In 2006], people are facing a labour market where 37 percent of work is outside the standard full-time, permanent employment contract with a single employer. Work is increasingly obtained through temporary employment agencies, or indirectly through nominal subcontractors. Using temp agencies to indirectly hire workers for short and long term employment;
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> - Outsourcing work that is considered low-skilled and labour intensive to intermediaries operating as contractors (such as what large retailers have done with cleaning and janitorial services)
> - Nominal subcontracting, using intermediaries to "payroll" existing staff who overnight become employees of subcontractors (such as what major newspapers have done with newspaper carriers or communications companies have done with technicians or salespeople);
> - Misclassifying workers as independent contractors to treat them as exempt for labour laws;
> - Shifting costs of doing business to misclassified workers. For example, telling cleaners who have no control over their work that they have to be incorporated as a company and must pay a fee to get work and pay for their own cleaning supplies and equipment.[9]

As Canada partially recovers from the global recession, the preponderance of jobs being added are temporary work, temporary seasonal work, contract work and casual work.[10] Year to year growth between 2008 and 2009 in full time jobs has been negative, while the other four types of jobs mentioned above have all grown by over 10% since 2008. Therefore the growth of 'precarious jobs' in

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[7] Rodgers, Gerry "Precarious work in Western Europe: the state of the debate" in *Precarious Jobs in Labour Market Regulation: The Growth of Atypical Employment in Western Europe.* Gerry and Janine Rodgers *eds.* International Labour Organization (International Institute for Labour Studies) 1989. p 3

[8] Chaykowski, Richard P. & George A. Slotsve. "The Extent of Economic Vulnerability in the Canadian Labour Market and Federal Jurisdiction: Is there a Role for Labour Standards" Social Indicators Research. 88: 75-96. 2008.; Ontario Federation of Labour

[9] Workers Actions Centre "Working on the Edge" 2006

[10] Yalnizyan, Armine "The Temporary Recovery", The Progressive Economics Forum http://www.progressive-economics.ca , April 11, 2010

our economy is intensifying as a response to the economic crisis.

Another dimension of precarious work is the overrepresentation of groups that are typically disenfranchised—racial minorities, women, recent immigrants—in precarious work. Under the current federal government, and in those provinces that have been propelling the growth of the Canadian economy, temporary labour migration or 'guestworker' programs are increasingly being developed. Unlike previous immigrant groups, many of these new 'pilot programs' and immigration categories have no direct path to citizenship and the ability of these workers to stay in Canada is dependent on their employment. According to Immigration Canada statistics, by 2008, the number of people working in Canada on temporary Canadian work visas had increased by 118% over 1996 numbers. In 2008, 399,523 non-permanent residents moved to Canada in 2008, which was more than the 247,243 that moved to Canada permanently.[11]

With deregulation and outsourcing, supply chains have lengthened, and work is increasingly subcontracted out to firms, employers or companies that are responsible for producing a component part or component service for the delivery of the end product. This could be manufacturing one part of car, or delivering a service like security or cleaning. Contractual relationships between firms to deliver these services, or components, are competitively bid and can be revoked at any time. This means that firms, too, are impacted by the first and second dimension of precariousness.

The contracting firm outsourcing the work often mandates what the contractor companies must produce, how much, and in what timeframe. The contracting firm may stipulate the way in which the product must be produced. The differential margin (profit) of firms operating in the same industry segment is often based upon lowering the cost of production relative to other competitors in the industry segment. This, of course, is what we call the 'race to the bottom'. Firms are not as vulnerable as workers; however, as organizations that are engaged in raising standards for workers employed by these firms, we must understand how these dynamic operates in industries and how firms structure their businesses and competitive capability in the face of this 'precariousness'.

Precariousness is generally spoken about in the context of 'globalization'—but, as the Workers Action Centre's study on precarious work in Toronto found "workers' experiences show that outsourcing, indirect hiring, and misclassifying workers takes place in sectors with distinctly local markets: restaurants, business services, construction, retail, warehousing, trucking, janitorial, home healthcare, and manufacture of goods consumed locally.[12]

Despite the fact that the example in this paper focuses on janitors, who are extremely low paid, precarious work is not limited to low wage work. In aggregate, the growth of precarious work, and the drive to lower production costs, results in a 'race to the bottom' and is believed to have contributed to reduced industry wages and increased de-skilling in many formerly high paid Canadian industries.[13] However in regard to particular workers, I have met with relatively well paid IT 'independent contractors' who are hired by labour-only contracting agencies (headhunters). These workers work for only one major company (and sign a contract to this effect), alongside salaried employees, and are sometimes supervised by the same supervisors as those who supervise the salaried employees. They

[11] Clifford, Liam. "Number of temporary foreign workers in Canada rises drastically" June 17 2010 http://www.cireport.ca/2010/06/temporary-foreign-workers-have.html
[12] Workers' Action Centre "Working on the Edge" 2007 www.workersactioncentre.org
[13] Yalnizyan, Armine "The Rich and the Rest of Us: The changing face of Canada's growing gap" Canadian Centre for Policy Alternatives March 2007 *http://www.growinggap.ca/files/RichandtheRestofUs.pdf*

are seldom truly 'independent'. Their remuneration may be more than that of their salaried counterparts but they generally do not have employer protections should they not be able to work--fall sick, get injured on the job, be out of work, retire etc.

Therefore for the purposes of defining the universe of precariousness—precariousness in this paper focuses on workers, regardless of wage, who meet the first 3 criteria defined by Rodgers. The universe includes precarious status, as a consideration in the likelihood of having a precarious job, and extends the ideas of lack or control, and uncertainty about whether work will continue, to industries and to firms as well.

Labour Law, Employment law and Union Density in Canada

'Labour law' in Canada means the laws and regulations which apply to collective bargaining and unionized workers, and 'employment law' sets standards for workers whether they are union or not. Most of the firms in Canada are provincially regulated and hence the workers are covered by provincial labour and employment laws. On the face of it, Canada's unions have maintained a high density relative to other OECD countries, given our labour laws. Robust employment standards and social benefits protect full time workers. The issue is that there are two Canadas emerging, in terms of union coverage and employment law coverage, and precarious work is threatening to widen this gulf.

With the notable exception of Quebec, provincial labour law in Canada provides for company level bargaining. There is limited standard setting capacity at the industry or sector level unless the union and company establish voluntary systems to bargain at the industry level. The role of government (whenit is not the employer) is as mediator and adjudicator in the collective bargaining process, to set minimum standards through employment law, and the regulation of standards for industries—e.g., licensing and monitoring, etc. There are few agreements in English Canada** where unions negotiate wage and hour and other benefits for union and non-union members in the industry. In English Canada, for the most part, union membership determines coverage by collective bargaining agreements.

When the provincial labour laws were originally drafted, most Canadian provinces had automatic certification, what is called 'card check recognition' in the United States. *Automatic certification* means that if a threshold of signed union cards is met (union cards that can be signed privately), these are submitted to the appropriate labour board, which verifies that the threshold has been met, and the union is certified as the bargaining agent.

Over the years, in most provinces, automatic certification has been replaced with provincially regulated mandatory representation votes, where submitting union cards triggers a labour board election. During the time between the submission of cards and the vote, the employer often actively campaigns against the union. Even though most provinces nominally protect workers against intimidation, workers are often threatened and intimidated during organizing campaigns. Only in the jurisdictions of Manitoba Quebec and in federally regulated industries, do workers still enjoy card-check. These two provinces are the provinces where union density is highest in Canada.[14]

[14] Card check matters. In 2008, the provinces with the most union density were the provinces that still had 'card check' certification. Quebec (with card check) has been buoying the Canadian union density rate, while in Ontario (mandatory elections), the province with the largest percentage of workers in Canada, the union density rate is consistently below the national average. Human Resources and Skills Development Canada, *Union membership in Canada – 2008*, http://www.hrsdc.gc.ca/eng/labour/labour_relations/info_analysis/union_membership/index.shtml.

Despite an increasingly anti-union environment, union membership in Canada actually increased by increased 19% or by 660,000, from 1997 to 2007, the largest increase since the 1970s. Despite recent surges, however, the growth in unionization has not been able to outstrip the growth in the number of people joining the labour force, so union density continues to decline slowly.[15] Today in Canada, over 70% of the public sector workers are in unions, and only 17% of private sector workers are in unions.[16] The private sector employs 84% of the Canadian non-agricultural labour force (nearly 16 million workers). Thus 13.8 million private sector workers are not in unions.[17]

Another disturbing fact is the low union density in small businesses. Currently, 98% of the businesses in Canada are classified as small business, namely those having fewer than 100 workers. Small businesses employ 48% of the Canadian workforce that is registered as employed with the Canadian Revenue Services.[18] For small businesses with one to twenty employees, union density was only 13% in 2006.[19] For small businesses with 20 to 99 employees it was still below average at 29.7% in 2006. Union density statistics for small businesses are deceptive: 1,209,435 firms (more than half of all small businesses) are listed as 'indeterminate', because the owner did not pay taxes for any employee at the business. Many of these firms are where precarious workers reportedly work.[20] Some of these firms exist on paper only, and workers misclassified as 'independent contractors' comprise the 'owners' of these 'indeterminate' small businesses, in others workers are working under the table.[21,22] These small firms make up 98% of service producing and 97% of good producing sectors—so small businesses are not concentrated in only service sector as some would posit.[23]

Thus the concern with union density statistics 'not being so bad' is that collective bargaining is not covering many precarious workers and hidden workers. The other concern is that the statistic may be deceptive as union density statistics are not capturing workers who are not registered as employees. The most significant concern however, there is a gulf between standards for precarious workers and workers with a 'standard employment contract' so there is a major impetus to shift work to precarious work.

As employees, under employment law, the workers would have access to employment insurance (unemployment benefits), pension benefits, mandated statutory holiday and sick pay, parental leave, workers compensation if injured. There are relatively strong provincial health and safety acts mandating a safe workplace and employment standards protections. In Ontario, approximately 18% of a full time permanent worker's pay is deducted to pay for statutory benefits.

All employees are eligible for these benefits. However, part-time and temporary employees have a more difficult time qualifying for benefits such as employment insurance because of work hour thresholds, and don't get as much of a payout from the Canada Pension Plan because of the way in

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[15] Kumar, Pradeep. "Is the movement at a standstill?: Union Efforts and Outcomes, *Our Times* Vol 27:5 October-November 2008

[16] British Columbia Business Council "Trends in Union Density Across Canada" *Industrial Relations Bulletin, Executive Comment. Vol 38:9 September 19, 2006*

[17] Environics Analytics, Demographic Estimates and Projections, 2010 and Statistics Canada 2006 statistics—reproduced by the Toronto Region Research Alliance. Human Resources and Skills Development Canada, *Union membership in Canada – 2009*, http://www.hrsdc.gc.ca/eng/labour/labour_relations/info_analysis/union_membership/index.shtml.

[18] Industry Canada *Key Small Business Statistics Special Edition: Growth Map of Canadian Firms,* January 2010, www.ic.gc.ca/sbstatistic

[19] British Columbia Business Council "Trends in Union Density Across Canada" *Industrial Relations Bulletin, Executive Comment. Vol 38:9 September 19, 2006*

[20] Workers Actions Centre "Working on the Edge" 2006

[21] Industry Canada *Key Small Business Statistics Special Edition: Growth Map of Canadian Firms,* January 2010, www.ic.gc.ca/sbstatistic

[22] Workers Actions Centre "Working on the Edge" 2006

[23] Industry Canada *Key Small Business Statistics Special Edition: Growth Map of Canadian Firms,* January 2010, www.ic.gc.ca/sbstatistic

which contributions and payouts are calculated, but all employees are *de jure* covered.[24] *De facto* enforcement of these standards for 'all workers' is another story. The capacity of the ministries of labour to inspect small workplaces and enforce protections for precarious workers is limited and many times it is up to the worker to wage a protracted fight to be able to get statutory benefits and protections.[25]

Workers who are misclassified as 'independent contractors' and 'own-account self employed' are not eligible for employment insurance; in case they are unemployed, and must make their own contributions to pooled funds like workers compensation funds and the Canadian Pension Plan.[26] Due to how responsibility is structured, independent contractors and own-account self employed are covered by most of the provincial health and safety acts—but again it is a question of enforcement and home-based workplaces are not covered by most of the health and safety acts.[27]

If precarious workers are generally those working as part-time, temporary, contract workers or as 'independent contractors' and 'own-account self employed' then these workers are often *de facto*, and sometimes *de jure*, working without the protections and benefits afforded by employment law to work in a safe environment. This is a key part of the competitive edge that is gained by precariousness.

Implications for Canadians

The past decade was a boom decade for Canada, approximating the boom in the 1950s and 1960s, with low inflation, low interest rates, relatively low unemployment, sustained growth. The boom experienced in the 1950s and 1960s saw the creation of a strong middle class, the federal adoption of a national single payer public healthcare, and the growth of large national industries. During the first decade of the 21st century, Canada's economy has consistently been firing on all cylinders—and this decade Canadians are have producing about $1 trillion more in goods and services *a year* than they did in 1981.[28] In 2008, the World Bank named Canada is the fourth best place in the world to do business, just behind Singapore, New Zealand and the United States.[29] In 2009, Canada dropped to number 8 on this list.[30]

While productivity is up, the middle class has not been doing as well. The Canadian Centre for Policy Alternatives (CCPA) did a popular survey and found that according to public perception, the rich were accruing most of the benefits of the recent economic boom. To find out if there is truth to this perception, Armine Yalnizyan analyzed recent wage data for Canadian families. She found that the income gap between the rich and the poor in Canada was at a 30 year high. In 2004, the average earnings of the richest 10% of Canada's families raising children was 82 times that earned by the poorest

[24] Vosko, Zukewich and Cranford, "Precariousness in the Canadian Labour Market", forthcoming 2002; and Fudge, Tucker and Vosko, "The Legal Concept of Employment: Marginalizing Workers", Report for the Law Commission of Canada, September 2002
[25] Workers' Action Centre "Working on the Edge" 2007 www.workersactioncentre.org
[26] Vosko, Zukewich and Cranford, "Precariousness in the Canadian Labour Market", forthcoming 2002; and Fudge, Tucker and Vosko, "The Legal Concept of Employment: Marginalizing Workers", Report for the Law Commission of Canada, September 2002
[27] Edwards, Cheryl A. "Delegating Safety" Special Section Contractor Safety. July/August 2000 *OHS Canada www.ohscanada.com/lawfile/contractor.aspx*
[28] Yalnizyan, Armine "The Rich and the Rest of Us: The changing face of Canada's growing gap" Canadian Centre for Policy Alternatives March 2007 *http://www.growinggap.ca/files/RichandtheRestofUs.pdf*
[29] From International Finance Corporation rankings using World Bank data based on 175 nations. See http://www.doingbusiness.org/EconomyRankings/Default.aspx?direction=asc&sort=1as cited in Yalnizyan, Armine "The Rich and the Rest of Us: The changing face of Canada's growing gap" Canadian Centre for Policy Alternatives March 2007 *http://www.growinggap.ca/files/RichandtheRestofUs.pdf*
[30] See http://www.doingbusiness.org

10% of Canada's families. Furthermore**,** everybody, except the richest 10% of families, was working more weeks and hours in the paid workforce.[31]

She also cited data from sources measuring executive compensation, and found that since 1998 Canada's top 100 CEOs saw a 262% increase in compensation, pocketing an average of $9.1 million in 2005 compared to $3.5 million in 1998. According to her calculations, the average Canadian worker made just over $38,000 in a year, a 15% increase over the average earnings of 1998 (just over $33,000). Since the consumer price index increased by 17.85% in that same period, after adjusting earnings for inflation, she posited that the average worker actually lost purchasing power.[32]

According to Yalnizyan, what still remains of the Canadian tax and transfer system made an important difference for working families. If they had to rely solely on market earnings, 40% of Canadian families would have experienced significant losses in income compared to a generation ago — even though they are working more. Canada's tax and transfer system stopped the freefall of incomes for almost half of the population raising children.[33] However this tax and transfer system is being eroded as increasingly conservative elements take hold in all levels of government and are cutting corporate taxes and taxes for the wealthy Canadians in the name of competitiveness. The problem for most Canadians has been that this brand of competitiveness has left most Canadians worse off.

Organizing in the Canada: Justice for Janitors and City Wide Campaigning

In the United States, the Building Services Employees International Union (BSEIU), which later became the Service Employees International Union (SEIU), was chartered in 1921.[34] The innovative strategy of the BSEIU was that throughout their history they negotiated collective bargaining agreements with a group of employers at a citywide level, rather than with just one employer, in an environment where there was limited capacity for industry bargaining.

Starting in the 1950s, commercial real estate in the United States and in Canada started to be owned by national and international investors who found it more efficient to purchase cleaning services from a specialized vendor.[35] In the United States, for SEIU, the advent of commercial cleaning contracting did initially have an adverse effect on union membership. Initially, the union was able to chase the new employers and organize them into unions, but by 1985,' membership in the janitorial union had fallen to eighteen hundred [members]'.[36]

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[31] Yalnizyan, Armine "The Rich and the Rest of Us: The changing face of Canada's growing gap" Canadian Centre for Policy Alternatives March 2007 *http://www.growingqap.ca/files/RichandtheRestofUs.pdf*

[32] John Partridge, "Options spell pay dirt", in Report on Business, *The Globe and Mail*, April 18, 1998, pages B1 and B6. Includes executive pay of Canada's top 100 CEOs in publicly traded and privately held companies. Janet McFarland, "How Much Is Too Much", in Report on Business, *The Globe and Mail*, May 9, 2006, page B9. Executive compensation for Canada's top 100 CEOs. Average earnings calculated from Statistics Canada, Employment Earnings and Hours, Catalogue 72-002-XIB, Table 9, October 2006; CPI calculated from Bank of Canada's inflation calculator http://www.bankofcanada.ca/en/rates/inflation_calc.html

[33] Yalnizyan, Armine "The Rich and the Rest of Us: The changing face of Canada's growing gap" Canadian Centre for Policy Alternatives March 2007 *http://www.growingqap.ca/files/RichandtheRestofUs.pdf*

[34] History of 32BJ. http://www.seiu32bj.org/au/history.asp

[35] Waldinger, Roger et al. "Helots No More: A Case Study of the Justice for Janitors Campaign in Los Angeles" in *Organizing to Win: New Research on Union Strategies.* Bronfenbrenner, Kate et al. *eds.* ILR Press. 1998. and History of the Hurley Brothers http://www.hurley-group.com/hm/inside.php?id=106

[36] Waldinger, Roger et al. "Helots No More: A Case Study of the Justice for Janitors Campaign in Los Angeles" in *Organizing to Win: New Research on Union Strategies.* Bronfenbrenner, Kate et al. *eds.* ILR Press. 1998.

In Canada, building services organizing was more ad hoc. Where cleaning workers (janitors) were unionized, contracts were negotiated building by building by different unions, not the same union like BSEIU. Cleaners in large buildings in Canada and government owned buildings, such as the Royal Ontario Museum, have been unionized for decades. At a building level, cleaners who are still employed in-house make a decent wage, while cleaners working for cleaning contractors barely make more than the industry prevailing wage.

The construction unions or building trades in many Canadian markets (cities) do have industry councils where construction contracts are negotiated at a market level. There are province wide agreements, representing all the security guards working for a company, with most major security companies in Ontario and Quebec. However, cleaning contractors had not been organized at a company-wide level until the *Justice for Janitors* campaign was launched in Toronto in 2006.

Roger Waldinger et al. produced an instructive case study on *Justice for Janitors* in Los Angeles which was published in *Organizing to Win* in 1999. According to their analysis, there were many reasons for the decline in membership among janitors in Los Angeles. They cite two primary reasons for the decline, the union's push to improve conditions for cleaning contractors and the structure of the industry. To quote the authors:

> First, the local's push to improve conditions and compensation motivated cleaning contractors to explore non-union options. Cleaning is highly labour intensive, with direct labour making up the single largest part of a company's expenses. Second, the unionized part of the industry—the larger, more heavily capitalized firms—was under particular cost pressure. The big operators suffer from discontinuous economies of scale. Once a firm meets a certain size/asset threshold (needed to cover a large payroll and insurance costs), there are few economies of scale, and none on the labour side, making it hard to pass on wage increases to building owners and resulting in a fiercely competitive industry. The industry's previous drift away from building owner management had made for increasingly fragile relationships. Since contracts were written so as to permit very short notice of termination, union members could lose work almost overnight if a building owner switched from a union to a non-union service. [37]

The reasons cited by Waldinger et al. for the pressure on the cleaning industry are as true today in Canadian markets. Cleaning contractors are still labour- only contractors that suffer from discontinuous economies of scale, in that they cannot pass wage increases on to building owners. The relationships between building owners and managers are still fragile and it is very easy for a contract to be shifted to a non-union service. Cleaning workers still find that, even if they are working for larger cleaning contractors, if they organize and succeed in raising wages or other monetary costs substantially, the employer stands to lose the contract.

There is another dimension to this competition, also discussed by Waldinger et al.: the increased reliance on new immigrants to displace the marginally more well-paid workers who had worked in the industry. Cleaning has been a first job for many immigrants in Canada.[38] In the 1950s through 1970s the nascent cleaning industry was developed and dominated by Irish and Portuguese cleaners in Eastern

[37] In the United States, by the 1970s, cleaning was dominated by African Americans due to the class dynamics and history of segregation, by the 1980s the cleaners were mostly new immigrants from Central America. Waldinger, Roger et al. "Helots No More: A Case Study of the Justice for Janitors Campaign in Los Angeles" in *Organizing to Win: New Research on Union Strategies.* Bronfenbrenner, Kate et al. *eds.* ILR Press. 1998.
[38] Aguiar, Luis. "Doing Cleaning Work Scientifically: The reorganization of work in the contract cleaning industry" *Economic and Industrial Democracy,* Vol 22: pp 239-269

Canada, and by Punjabi and South Asian cleaners in Vancouver. Today, the industry is more established with large national cleaning companies dominating the market. Today, the owners and managers of the cleaning companies are often from those more established immigrant communities that once provided cleaners, and new immigrants from South and Central America and Asia are cleaners. The composition of the workforce was different in Los Angeles, as described by Waldinger et al., but the rationale is the same, exploit the vulnerabilities of the new immigrants to lower labour costs.

So the pernicious competition in the cleaning industry has structurally created exploitative relationships with workers, because new firms entering the market generally enter by undercutting current prevailing labour costs. In 1991, there were 9571 registered janitorial firms in all of Canada.[39] By 2008, there were 6330 registered janitorial firms in Ontario alone.[40] In 2008, 59% of the companies in Ontario were 'indeterminate' companies with no payroll—sole proprietorships and similar companies--and 95% were companies with either no payroll or between 1 and 20 workers.[41] However, according to reports from industry specialists, the cleaning industry has been consolidating since the 1990s--and the cleaning of most office and industrial space is done by a handful of large, professionalized companies.[42]

So why are there so many small companies in the industry? Because, as the Workers Action Center and our organizing campaigns have found, cleaning companies have been using nominal subcontracting and using intermediaries to "payroll" existing staff so as to shift costs of doing business to individual workers, who should be classified as employees, as "independent contractors".[43] The set of goals for *Justice for Janitors* is to clean up this industry, regularize the employment relationships and make the employers follow the law, and then to raise standards above these legal minimums.

The first task was to map out the dynamics in this industry. Unions have strengthened research capacity by developing 'strategic corporate campaign' methodologies which map how companies make money. Within the real estate sector the relationships are outlined in Figure 1. Investors by a real estate portfolio through an ownership company(s) which, in turn, contract the maintenance and management of the building to professional property managers who, in turn, contract particular maintenance functions to contractors, who in turn subcontract some functions to legitimate contractors and often lower labour costs by creating nominal subcontracting relationships.

A small group of players (firms/companies) control large market shares in each component of this relationship map. This means that there is a relatively small group of institutional investors that owns much of the Class A and Class B property in the major markets in Canada. There is a relatively small group of property managers who manage the properties for these owners. A dozen cleaning contractors clean approximately 30% of the Class A and Class B office space in the eight major markets across the country.

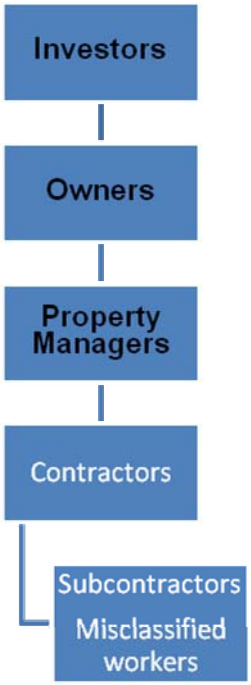
These major cleaning companies have built their market share and insulated themselves from competition from the new entrants by utilizing Taylorism-influenced management techniques to maximize labour productivity (like gang cleaning, day cleaning and other specialized systems), incorporated information technology to these ends and become increasingly sophisticated. In order to

[39] Aguiar, Luis Leonardo Marques. "The 'Dirt' on the Contract Building Cleaning Industry in Toronto: Cleanliness and Work Reorganization" doctor of philosophy thesis, department of sociology, York university, July 1999.
[40] Statistics Canada, Canadian Business Patterns, June 2008
[41] Statistics Canada, Canadian Business Patterns, June 2008
[42] Garland Bill. "Policies to Temper a Harsh Business Climate: Unscrupulous Labour Practices Undermine Operational Efficiency", *Canadian Property Management* February/March, 2008
[43] Workers Actions Centre "Working on the Edge" 2006

lower monitoring costs, property managers do not allow all cleaning contractors to bid for contracts and instead screen bidders by their market share, reputation, and other factors and then invite them to bid for a competitively bid contract.

However, as in United States example cited by Waldinger et al., merely organizing the handful of large companies, and not small local competitors in the market who are building market share, will create a large enough differential between union and non-union contractors and create an incentive to use non-union companies. The preferential systems that currently exist between the financialized owner, property manager, and cleaning contractors are not strong, and can easily be subverted if the cost differential is high enough.

Figure 1: Primary Relationships in Cleaning Industry



One of the major principles in Justice for Janitors in Los Angeles, as discussed by Waldinger et al., was an antipathy towards the normal 'board election' process. Part of the thinking was that the wait between submitting the cards and the election, and other labour law and regulation in the United States, strongly favours the employer. But according to Waldinger et al., "the aversion to traditional procedures was also influenced by considerations specific to the industry, namely, an awareness that the employer was little more than a straw boss and that decision-making power lay in the hands of the property owners whose interests the board process concealed and protected."[44] Across the provinces in Canada, the capacity to use traditional procedures differs, since the labour law and precedents set by board decisions differ. In Ontario*, Justice for Janitors* has utilized and modified the traditional board process to build our market wide strength. For *Justice for Janitors* in Los Angeles, showing a strong presence on the streets and

[44] Waldinger, Roger et al. "Helots No More: A Case Study of the Justice for Janitors Campaign in Los Angeles" in *Organizing to Win: New Research on Union Strategies.* Bronfenbrenner, Kate et al. *eds.* ILR Press. 1998.

creating disruption was integral to the success of the organizing drive. In most of our markets, it will be integral to raising standards.

Therefore, maintaining the industry standards hinges on five key principles:

1) Organize cleaning companies on a market level.
2) Engage workers on an industry-wide or market-wide level.
3) Use policy initiatives the impact of the competitive dynamic on unionized work.
4) Use market incentives to stabilize the impact of the competitive dynamic on unionized work.
5) Maintain current statutory protections for all workers and build statutory protections for all workers.

The key principle for these strategies is that stabilizing the 'precariousness' for cleaners hinges on a market wide analysis or on an industry-wide analysis. To build a movement of cleaners who work in localized worksites, in buildings alone or in groups of at most 20 people, the idea is to bring cleaners together. Cleaners are building a common understanding that the individual abuses that they are witnessing and suffering are not individual and developing way to clean up the more egregious abuses in the industry.

In our key markets, cleaning companies are moving towards bargaining and set standards on a market wide level. However, the cleaning contractors are what Waldinger et al. term 'straw bosses'. In order to raise standards, a more robust and enforceable system of 'responsible contracting' must be incorporated into the bidding system whereby the cleaners who follow the law, or raise standards, get preferential treatment in bidding. The owners and managers can be held accountable for instances when their contractors are breaking the law, or contravening 'responsible contracting' standards, through public campaigns that publicize what is happening in buildings. This too is currently being developed through a multi-stakeholder process.[45]

Finally, one of the principal pieces of legislation that would stabilize the industry is called 'successorship rights' wherein if a worksite is union, and the contract is shifted to another contractor, the workers remain in the union.

The fundamental question for all organizers is, where is this organizing going on? There are nine populous provinces in Canada, and SEIU (between our Quebec local and Local 2 Canada) is organizing janitors and building services workers in five of them. In Quebec, because of the decree system, which allows for industry wide bargaining, cleaning workers make approximately $14 an hour. In the rest of Canada, where we do not have industry wide bargaining, Local 2 Canada's campaigns in Toronto and Ottawa are nearing master agreement and campaigns are being launched and built across the country in the Atlantic provinces, and in Alberta and British Columbia.

Broadening the Fight: Fighting for the Working Class

Currently in Canada, the standards enjoyed by the larger working class are under attack. According to Armine Yalnizian's research, "if they had to rely solely on market earnings, 40% of Canadian families would have experienced significant losses in incomes compared to a generation ago — even though

[45] See Shareholder Association for Research and Education, http://www.share.ca.

they are working more".[46] Basically these families' incomes were buoyed by the redistributive function of the Canadian government, however, there has been a steady weakening of this function. There has also been a steady erosion in the capacity of government to monitor, enforce and set standards to protect working people. If Canada's system of social benefits and workplace protection is being restructured, then organizing cleaners is indeed a drop in a bucket. In fact, it is a bucket with a rather significant hole in it, since these redistributive functions are of fundamental importance to low wage and middle class workers across this city.

In 2007, a group of community organizations and labour unions, fresh off winning a fight to raise the minimum wage in Toronto to $10, brought together activists and leaders from community organizations and labour unions across the city of Toronto, and launched a coalition called "Good Jobs for All". The convenor for Good Jobs for All was the Toronto York Labour Council and the idea has been to build a movement of working people across the city that builds support for initiatives to empower workers and build a better city.

The first goal was to develop our charter or declaration with *Good Jobs for All* coalitions' constituents, the residents of Toronto.[47] At the founding summit on Saturday, November 2008, more than a thousand people from across the city came together for day-long event. The founding convention was designed as a moderated workshop based dialogue about good jobs and what policies are needed to ensure there are good jobs for all, for both today and the next generation. Participants witnessed the signing and endorsement of the *Good Jobs for All* for a Greater Toronto Declaration, a statement representing our collective voice and the vision for the GTA. The organizing principle of the *Good Jobs for All* campaign has not been to take on new work, but merely to build networks and support the work that is already underway with in constituent/member organizations that is in keeping with the principles of the declaration.

Most cleaners participated in the workshop module for precarious work at this founding convention—which brought together more than 300 workers. Together the participants developed principles about not eliminating, but regulating, precarious work; ensuring that temporary agencies were 'less exploitative'; building the capacity of the Ontario Ministry of Labour to inspect and regulate worksites; and strengthening laws to protect workers.[48]

One of the key convenors at the workshop was the Workers' Action Center, mentioned above. Workers' Action Centre, with the support of *Good Jobs for All* members, has been the lead organization that, since the founding convention, won protections for temporary agency workers. These protections ban practices like charging workers fees, and regulating the temporary agency industry. Workers' Action Centre and the members of the Good Jobs coalition, have also worked with a group that, since the founding convention, won protections for live-in caregivers. Live-in caregiving is a targeted, sector specific, pilot immigration program that allows trained professional live in caregivers to move to Canada to work as nannies and homecare providers. The live-in caregiver campaign was developed by workers, and has been a key step in regulating these largely invisible workers. These campaigns have paved the way for more work to regulate precarious work in Canada.

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[46] Yalnizyan, Armine "The Rich and the Rest of Us: The changing face of Canada's growing gap" Canadian Centre for Policy Alternatives March 2007, http://www.growinggap.ca/files/RichandtheRestofUs.pdf.

[47] Good Jobs for all, About Us. www.goodjobsforall.ca

[48] Proceedings, Good Jobs For All Summit. Available from the Toronto York Labour Council.

In the wake of the financial crisis, manufacturing, and particularly the automotive sector, suffered significant cuts and hundreds of thousands of manufacturing workers are out of work.[49] In 2009, members of the *Good Jobs for All* coalition pulled together another callout to Toronto, and convened approximately 700 people from across the cities to build a movement for a *Green Economy for All*. The idea is to build future jobs, jobs that provide an alternative for the manufacturing jobs that are disappearing in Canada, and help our youth build a path to 'careers not just jobs' as one participant, Chris Williams, said. He is an apprentice, learning to be an electrician. But his speech started with a reference to his friends from high school, all of whom have temporary or part-time jobs, if they are working at all.[50]

Good Jobs for All is by no means the only such coalition operating in Canada or in Toronto. However, it is instructive, as a way to mitigate competition, to help 'raise all boats'. In launching this broad based initiative, in the successes of member organizations and of the coalition, we build the capacity to create positive incentives as the drive for competition continues. 'Workers of the world' unite is an age old cry, it is easier for workers of a city to unite. Using our power as constituents and as relatively powerful unions and community groups in this geography, the city of Toronto, the agenda of Good Jobs is to intervene in the competitive process, in the race to the bottom, and create incentives to shift the parameters of the competition. In public private partnerships and competitive bidding, given our power in unions, we can push for 'responsible contracting', that creates incentives to awarding contracts that protect workers and help build careers and training.

These are merely two examples of work that engages a larger field for creating sustainable change. The key thing is that we are engaging this not merely because we want to but because we have to.

Conclusion

In one of the Good Jobs for all surveys a contributor (anonymous) wrote [no editing by author]:

> *I grant that the questions are meaning full but social shift has happened, an economic shift has happened and everyone is on their own to fend for themselves. The only way we can truly bring social justice to order is to start focusing on the green economy as the 21st century's engine to create equitable and sustainable jobs for all. Change the way systemically we give access to others who are consistently suppressed, down-press and marginalized in poorer communities. The financial institutions must do business now inclusively - give more access to loans and create new rules for small and medium size business to grow progressively. we need to create more landlords with incomes less then 40,000.00 annually. Most institutions needs financial leverage to do business the big one is a house. It is going to be a difficult task to lessen the gap between the rich and the poor in the GTA, but we can definatley change how we integrate neighborhoods and who lives there. We need to break up the three Cities in the GTA, we need to make everyone feel that they are apart of this great city and they are also contributors to the wealth of this great city. Their are too much unemployed, underemployed, residents working many jobs and still can't make ends meet. The next Mayor will have a huge task on their hands to make this truly inclusive and economically stable and viable. Our services are subsidized for ALL...*

The fundamental principles of this paper are all encompassed in this quote. Precarious work has become a key feature of the employment landscape. It impacts most middle class and working class

[49] Perry, Ann. Job losses smash records: 129,000 positions disappear in January, far exceeding even pessimistic forecasts. Toronto Star. Feb 7 2009.
[50] Toronto Hydro Urged to Spark Solar Panel Industry, July 9 2010, http://goodjobsforall.ca/?p=1267.

Canadians, whether we are workers or owners of small businesses and it is changing the way in which we as unions must conceptualize our relationship with 'workers' and 'employers'. The downshifting of risk, without proper supports, the increase in productivity without wages that keep up, the growing income gaps, are all fundamental threats to our way of living, and have become entrenched.

One way to react to these shifts, and it is a valid way if we have the power to win, is to try to fight for an end to 'precarious work'. However our experience in Toronto, with *Good Jobs for All*, and across Canada with cleaners, and the experience of the person who wrote this quote, is to recognize that labour 'flexibility' has become a way to organize labour that will be difficult to 'end' in most of the private sector. In fact many of the members in each of these groups do not disparage 'atypical contracts'. Their goal is to create stability in their industries to fight the insecurity inherent in precarious work and fight to raise standards.

Therefore, much of this paper is dedicated to some examples of how to build that stability and raise standards in the sectors in which we are engaged. I hope that these examples can serve as motivation to address the multitude of other problematic cases in other sectors.