

KCTU Monthly Newsletter : April 2007

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Korean Confederation of Trade Unions (KCTU)

Monthly Newsletter

April, 2007

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KCTU Special Report on the Abuse of Irregular Workers Bill and Cases

The Irregular Workers Bill which was passed last year is not working for irregular workers livelihood and their rights

1. Background

* The Irregular Workers Bill, promulgated in December of 2006 and to be put into effect in July of 2007, was designed with the objective of outlawing discrimination and employment instability for irregular workers.

The Irregular Workers Bill designates both the Law on protection of fixed term and part-time workers and the Law on the protection of dispatch workers.

* According to this law, employers have to transfer the status of fixed term(temporary contracts) to regular status if they have worked 2 or more years in irregular status. Dispatch workers also have to be employed directly if they have worked for over 2 years. It also aims to improve irrational discrimination by setting out the principle of non-discrimination and procedures for correcting discrimination.

* However, with the law expected to go into effect in a few months, irregular workers are becoming victims of this law.

This is because contracts are being terminated with renewals being refused, directly employed work is being outsourced or contracted out, exceptions to the law are being abused, and work is being separated between regular and irregular workers, thereby fixating discrimination.

* The Korean government has asserted that abuse of irregular workers has been curbed and discrimination resolved with the passing of the bill. However, reality has shown that the bill was 'poisoned bread,' that has led to deterioration of labor relations for irregular workers and fixated bad working conditions and low wages.

2. Content of the Irregular Workers Bill

* Goes into Effect : In principle, January of 2007

* Ban on Discrimination : Stipulates ban on discrimination in terms of wages and working conditions for fixed term_part-time_dispatch work without rational grounds.

* Limits fixed term labor to 2 years. After 2 years, it is to be considered a permanent contract

* Expansion of fields where dispatch labor can be used(Positive List method) and limiting time they can be used to 2 years

* If illegal dispatch work exceeds 2 years, the employer obligated to employ the worker. The same applies for dispatch work in areas where dispatch labor is outlawed.

3. Abuse of the bill and cases of damages

1) Abuse by the government and employer organizations

Example 1 - Directive from Court Administration

- In December of 2006, the office of court administration sent a directive to courthouses across the country regarding the irregular workers bill. It directs offices to limit the extension of fixed term contract workers and dispatch workers, while transferring their work to service contracts and public interest personnel(a form of military service in Korea).
- Because of this directive, irregular workers employed directly by the courts had their contracts terminated, and some were transferred to service contracts.

Example 2 - Ministry of Government and Home Affairs Directive

- According to the bill, fixed term contract work can be used up to 2 years, but if it exceeds this period, permanent status needs to be given these workers. There are exceptions however: ? To conclude a certain project or operations(Construction) ?Replacing a temporary vacancy(due to childbirth, sickness, military service) ? workers' school or training period ? Those aged over 55 employed according to the old-aged employment promotion bill ? Intellectual or technical professionals and in the case of jobs created as part of government welfare policy or unemployment measures ? as well as other cases decided by executive order.
- The exceptions were instituted to allow minimum use while stopping the abuse of fixed term contracts. The use of exceptions therefore needs to be kept at a minimum. However, the body that needs to ensure that the exceptions are not abused, the government, has recommended the expansion of exceptions to attached organizations.

* Comparison between Law on fixed term contracts and the Ministry of Government and Home Affairs Directive

Law on fixed term contracts (November, 2006)

1. When a timeframe for the completion of a project or operation has been declared
2. When a vacancy arises due to leave of absence or dispatch and etc, and the need arises to employ someone in his/her place
3. During workers' school or training period
4. Those aged over 55 employed according to the old-aged employment promotion bill
5. In the case of jobs created as part of government welfare policy or unemployment measures decided by executive order, and in the case of intellectual or technical professionals
6. In cases where rational grounds exist similar to article 1 and 5, to be decided by executive order.
? When Intellectual or technical professionals are needed

MOGAHA Directive (December, 2006)

- 1 When Intellectual or technical professionals are needed
- 2 Fixed term contracts in fields where the rationality of the decision is recognized, such as professors and others
- 3 When a vacancy arises due to leave of absence or dispatch and etc, and the need arises to employ someone in his/her place

4 When workers in the training process are used

5 Those aged over 55 employed according to the old-aged employment promotion bill

6 In the case of jobs created as part of government welfare policy or unemployment measures

7 When workload increases periodically, minimum personnel can be used as fixed term contract labor

8 When there are plans for restructuring, the existing fixed term contract workers can be used on a temporary basis

9 In other similar cases where rational grounds exist

Example 3 - Korean Employers' Federation(KEF) Directive

- In January of this year, the KEF published a pamphlet titled 'check points for personnel management according to the irregular workers bill' and presented various measures to evade the effects of the bill.

changing contract workers every 2 years, re-employing them after a certain period in order to evade the responsibility of changing their status to regular workers, employing fixed term contract workers after 2 years of dispatch labor, actively using workers over 55 are the core contents of the pamphlet.

* Core contents of KEF's pamphlet

2) Cancellation of Contracts and Refusal of Renewal for Irregular Workers

- In order to evade the obligation of regular status and direct employment after 2 years, unilateral cancellation of contracts, and the number of short-term contract laborers, is increasing.

Example 1 - Cancellation of contracts for irregular workers at schools

* Irregular worker at the administrative office of Sungsin high school: 13 years continuous work, school informs worker on Jan 25th that contract has been cancelled. Grounds for the cancellation: the irregular workers bill.

- Cleaners, librarians, teaching assistants and other irregular workers at schools number more than 100,000. Most work on 1 year contracts.

However, after the irregular workers bill, cancellation of contracts for these workers has increased precipitously. According to the KCTU's relevant affiliate, over 150 of these irregular workers have contacted the KCTU because of contract cancellations, in March alone.

- The government, stating that the public sector would become the model in terms of irregular labor, announced 'measures for irregular work in the public sector' in August of 2006. Contents included permanent contract status for irregular workers employed continuously, and measures to improve discrimination. But due to the budget for these changes not being procured, schools are restructuring irregular workers instead of protecting them.

Example 2 - Service contract workers at local governments

- In Feb 2007, 50 service contract irregular workers that had been responsible for cleaning, parking, and landscape management at the Kwangju city government for 3 years had their contracts cancelled.

- These workers demanded that the city directly employ them for their continuous work but the city has said that the service providing enterprise has responsibility.

Example 3 - Service contract workers at Ulsan college

- Ulsan college cancelled the contracts for the irregular workers responsible for cleaning school facilities and grounds. 26 of the 27 were irregular workers and average age was 55. Time of continuous work was 4-5 years and the workers had their contracts renewed several times. Wages were about 760 USD in January of this year, less than the minimum wage.

- These irregular workers joined a union in 2006 and engaged in collective bargaining with the subcontract employer. However, the original employer, Ulsan College, cancelled the contract refusing to pay the higher wages. This was the reason for the irregular workers' lay offs.

3) Outsourcing and Contracting Directly Employed Operations

The irregular workers bill stipulates that employers have to transfer the status of fixed term(temporary contracts) to regular status if they have worked 2 or more years in irregular status. Dispatch workers also have to be employed directly if they have worked for over 2 years. Fixed term contract, part-time, and dispatch workers can, in cases of discrimination, file through procedures set up to correct discrimination. However, employers have abused the gaps in the law and are transferring work to outsourced and outside contract work in order to evade these obligations.

Example 1 - change to short-time dispatch work

- According to the Ministry of Labor's study, the number of dispatch workers in 2006 was 66,315: an increase of 15.6 over the previous year. Dispatch work of less than 3 months also increased by 35%.

The increase of short time dispatch work is to evade the article of the irregular workers bill that stipulates direct employment obligations for employment over 2 years. Employers at the Seoul Digital industrial center have been changing dispatch contracts from 1 year terms to 3 month terms.

Example 2 - Bank of Korea contract workers -> transfer to outside service contracts

- Contract drivers at the BOK had their contracts cancelled in December of 2006. The BOK stated in its 'personnel management plan after the passing of the irregular workers' bill' that they planned to transfer drivers and secretaries to forms of dispatch work. As a result, 4 out of 5 drivers with under 2 years of work time had their contracts renewed as dispatch workers. The other, who refused the transfer, had his contract cancelled.

Example 3 - Korea Railroad

- The company planned to give permanent status to directly employed irregular workers as part of the government's measures for irregular workers in the public sector. The plan was to give permanent status to 1938 of the 2806 directly employed irregular workers, and to lay off or transfer to outside contracts the remaining 868.

The number of transfers to permanent status is substantial, but of the 868, 417 were transferred to outside service contracts and 182 were laid off.

- Korea Railroad has pursued to outsourcing of certain directly employed operations, starting with the train crew in 2006. This was to minimize costs after the passing of the irregular workers bill, and to facilitate management of personnel.

4) Separating work between regular and irregular workers and Fixating Discrimination

- The irregular workers bill defines discrimination as irregular workers working in the same or similar operations as regular workers receiving unfavorable treatment without rational grounds.
- The KCTU has stated that the criterion for discrimination is not clear enough, and that if there is no clear benchmark for discrimination correcting such discrimination through procedures set out in the law would be impossible. The KCTU has called for the law to state 'clearly equal wages for equal value labor' to overcome such limitations but the government has refused, asserting that the conditions for the principle of equal wages for equal labor were not present.
- But the exclusion of this principle has resulted in the abuse of the article banning discrimination and the fixation of discrimination at work. In other words, if there are no regular workers in a certain field, then it becomes impossible to prove that discrimination exists against irregular workers with the current procedures and mechanisms in the law.

Example 1 - Woori Bank

- Woori Bank, guaranteed the employment of 3100 irregular workers from March 2007, and gave these workers the same benefits as regular workers. However, they separated the work that irregular workers do (administrative assistance, customer service, etc) from the work of regular workers, applied different wage and personnel decision systems, and banned movement between the two groups, thereby fixating discrimination between these workers.
- The Woori method of evading the ban on discrimination article of the law could also institutionalize gender discrimination at the workplace. After the 1989 employment gender equality law, discrimination between the sexes had formally disappeared in the banking sector, but remains in personnel decisions and other forms. The fact that work at call centers and administrative assistance centers in the banking sector, where most are irregular women workers, is valued lower than other forms of work in the sector, and that the low wages are rationalized on these grounds, will lead to further fixation of discrimination.

4. Need to revise the irregular workers' bill

- * The government has stressed that the rationale behind the irregular workers bill was to provide the basis for having regular workers employed at permanent stations where expertise was needed or have irregular workers given permanent status. Irregular workers were to be used at non-permanent operations.
- * But as the examples have shown, all kinds of abuse and evasion is already surfacing, with indirect employment increasing and employment instability becoming more severe.
- * The problems with the irregular workers bill is not the implementation or application process but a reflection of the limits that the bill itself has. It is a law that cannot fundamentally protect irregular workers.
- * In order to solve the problems regarding irregular workers in Korea, we need to curb and restrict the use of irregular labor by implementing the principle of direct and permanent employment. What is needed then, is not the limitation on period or term that the current bill has, but a limitation on the field or area of use. Also, in order to practically stop the forms of abuse and evasion that we have seen, the international standard of equal wages for equal value work needs to be clearly stipulated in the law. The curbing of dispatch labor, on the increase across the world, needs to become the standard in the law. The irregular workers bill needs to be revised according to these principles.

Does the 'New Industrial Relations Paradigm' mean laying off irregular workers?

Statement urging employment stability for irregular workers at the Labor Relations Development Foundation

Irregular workers at the Labor Relations Development Foundation, launched on the 5th of April with the objective of creating a new industrial relations paradigm, are facing mass layoffs. The Foundation(formerly the Korea International Labor Foundation, KOILAF) informed irregular workers at its Korean Chinese Team, one of its main projects, that their contracts would not be extended, in effect laying them off.

The Foundation, formed from contributions totaling over 300 million USD from the Ministry of Labor, Federation of Employers, and the Federation of Korean Trade Unions and jointly established by these 3 organizations, has stated that its objective of the foundation is the 'paradigm transformation of labor relations centered on employment and welfare.' The International Labor Cooperation Center(formerly KOILAF), affiliated to the Foundation, states that it seeks to 'continuously improve international cooperation of tripartism through private labor diplomacy.' However, the workers at the Korean Chinese team, who had experienced years of long hours, low wages, and discrimination as 1 year contract workers, have now been informed that there contracts will not be extended.

These irregular workers have worked tirelessly for the Foundation, despite the discrimination and distress that comes from their status, and the Foundation has been able to develop due to their efforts. The employment education for migrant workers project was a core part of the Foundation's work, and the work that these irregular workers had done was an essential part of it. Nevertheless, they had been employed as irregular workers and now are being laid off, raising questions as to whether the Foundation understands its objective and espoused principles.

The Foundation needs to withdraw the non-extensions and transfer these workers to regular status, so that they can return to work in an environment that is stable and free from insecurity. We will continue to struggle for these measures are taken.

We will also struggle against the Ministry of Labor. The MOL is the parent organization responsible for the work regarding migrant workers employment education. The MOL has outsourced the work to various agencies, harming the continuity and public character of the work, and which has also led to deteriorating working conditions for those employed for the work. The fundamental reason for the layoffs at the Foundation lies here. Outsourcing work that it needs to carry out directly, and then changing the organizations that carry out this work frequently, and not taking an interest in the working conditions and employment status at this organizations: these are all faults on the part of the Ministry that need to be pointed out.

No matter where the work regarding migrant workers is carried out, the workers employed there need to be guaranteed their employment and rights. We urge the Ministry to act on the issue of labor rights and employment at the relevant fields of work. Ultimately, these workers should be directly employed with permanent status, in line with the government's plan(announced last year) regarding irregular workers in the public sector.

The Ministry, by outsourcing employment education for migrant workers, has also allowed the relevant work to become a means toward profit making, thereby implicitly consenting to another layer of migrant worker exploitation. The Labor Relations Development Foundation has profited

considerably from the work it has received from the Ministry; making over 8 million dollars from the project regarding the employment education of Korean Chinese alone.

Migrant workers entering the country pursuing an invented Korean dream, irregular workers in charge of their employment education, the Labor Relations Development Foundation pursuing profits from these irregular workers and migrant workers, employers making extra profits by using migrant workers without the freedom to change workplaces, and the Ministry of Labor that has allowed and encouraged all this to happen: these are all interconnected parts to the problem we face.

Demands

1. The Labor Relations Development Foundation must retract the layoffs of the irregular workers and transfer them to permanent status.
2. The Ministry of Labor must resolve the problems regarding employment status at the Labor Relations Development Foundation.

April, 2007

KCTU / Korean Public Services Workers' Union/ Seoul Regional Branch/ Union Chapter of the Labor Relations Development Foundation·

To all the workers remembering the May Gwangju struggle of 1980, we ask for your support to the struggle of irregular workers at Gwangju City Hall

Appeal from irregular workers at Gwangju City Hall

This month will be the 27th anniversary of the May 1980 struggle by the Gwanju people against the dictatorship. The city of Gwangju, which regards itself as the city of democracy_peace_human rights, will be holding commemorative events, as well as a World Women's Peace Forum with renowned women's movement activists from across the world.

At this time however, there is no democracy, no peace, and no human rights or women in Gwangju.

On the 7th of March, female cleaning workers doing jobs contracted out by the city of Gwanju, facing the end of the contract between the city and the service contract firm, commenced a sit-in demonstration at the city hall to demand a meeting with the mayor. These women, who had formed a trade union in 2004, had continuously called for improvements to the system of employment instability, low wages, and middlemen exploitation.

But at 2 AM on the 99th Women's Day(8th of March), the mayor and thousands of public servants at city hall stormed the site of the sit-in, and employing force, pulled the resisting workers outside. Punches were thrown against the female workers, many were dragged out with blankets pulled over them, repeating many of the scenes of violence and human rights violations on the 18th of May 27 years ago. The irregular workers were laid off the next day.

This year, the Roh government announced as part of its 'measures to counteract the low birth rate and ageing society' that it would 'foster a working environment where work and family could go together' for women workers. The mayor of Gwanju promised 134,000 jobs to alleviate social polarization. However, the oppression of the irregular workers by the mayor is in contradiction to his

statements and to the spirit of May 1980.

Currently, the irregular workers have been holding daily demonstrations in front of city hall to let others know about the oppression of labor rights and to demand reinstatement. They are planning, together with the KCTU and other civic organizations, to continue the struggle against the city up to and during the May 1980 commemoration events and the World Women's Peace Forum. We thereby would like to call for the solidarity and support of all those struggling for workers' rights, who remember the spirit of May 1980.

Report on Struggle and Oppression in the Private Service Sector

1) Renaissance Hotel Union's struggle against illegal dispatch continues for over a year

Renaissance Hotel Union's struggle for reinstatement, which started in January of last year, has gone over the 1 year mark.

Most of the union members were full-time workers that had been with the hotel since it opened. However, as part of restructuring, the hotel forcefully changed their status by contracting out their work and employing them through a service contract firm. It then terminated its contract with the service firm thereby laying off the workers.

The local government labor office judged that it was a case of 'illegal dispatch,' and the Ministry of Labor directed the hotel to directly employ the union members but the Hotel management has refused to abide by the ruling.

The union has filed a suit at the court regarding unpaid wages, and the suit is in progress. The union continues to demand that the hotel recognize the illegal dispatch, and that it directly employ the workers.

2) E-Land general trade union

* Carrefour had a collective agreement where irregular workers would not be laid off due to the length of their employment. However, after being acquired by Homeever, the new management has cancelled the contract of a irregular worker that had worked for 21 months. The union has responded with demonstrations.

3) New Core Trade Union

* New Core Department Store

- Regular workers and irregular workers both employed to work at registers
- With the implementation of the discrimination correction mechanism, expected in July of this year, regular workers have changed jobs, irregular workers contracts have not been extended, and long-term contracts are being changed to shorter ones. Work at the register is about to be outsourced.
- Union made up of mostly regular workers, but has opened up membership to irregular workers and has opposed cancellation of contracts, and the outsourcing of work.

* Other cases

A. Worker at the register in her 4th year, at the end of her contract term, offered a contract of 1 month. (Contract also states that in case management deems necessary, or when the firm is sold, the contract is void)

- B. Cancellation of contracts and change of employment status through outsourcing also on-going at regional stores.
- C. Short-term contracts(1-3 months) forced to leave job, before expiration of contract
- D. Absence of clear standards when contracts are renewed after on-the-job training session.
- E. When irregular workers are given regular employment, irregular workers who had been active in the union left out.
- F. Contracts with 0 months as term of contract
(provisory clause: Must leave company if it is sold or when management deems necessary)·

Joint Labor Declaration on the Proposed Korea-US FTA

May 2, 2007

Seoul, Korea

The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) and Change to Win, representing trade unions in the USA and the Korean Confederation of Trade Unions (KCTU), representing trade unions in the Republic of Korea, are united in our opposition to the US-Korea Free Trade Agreement (KORUS FTA).

Why We Oppose the KORUS FTA

1. It appears that concluding any agreement before the expiration of trade promotion authority in the U.S. was more important than negotiating a fair, balanced agreement that benefits the working people of both countries. Important economic and social concerns appear to have been ignored in the waning moments of the negotiations. This is no way to conduct international economic policy, especially with so much at stake for the economies of both nations.
2. In Korea, the negotiations were pushed forward without adequate consultations with civil society, including labor unions. In the US, consultations with civil society were largely ignored, as the text of the final agreement amply reflects. Failure to adequately address these concerns resulted in an unsupportable deal.
3. It is clear from the summary of the agreement, as well as statements by our governments, that the KORUS FTA replicates the same failed trade model on which previous agreements were based: weak protections for workers' rights and the environment; undermining of the government's ability to regulate in the public interest and provide public services; and strong protections for multinational corporate investment and profits.
4. As trade union organizations representing workers in the two countries, we voice our deep concern about the current state of fundamental worker rights and labor standards in both of our countries. We share concerns that violations of workers' rights have reached crisis levels, while secure and well-paying jobs have been replaced with temporary and irregular work. In both countries, workers are working harder and earning less, and more working families are experiencing poverty. In addition, migrant workers' rights are not adequately protected, leading to widespread exploitation. Yet the KORUS FTA, like previous FTAs, does almost nothing to promote and enforce fundamental labor rights in our countries. Indeed, despite calls by trade unions and the US Congress

for strong language that gives full effect to the ILO Declaration on Fundamental Principles and Rights at Work, negotiators failed to reach such an agreement.

5. We are also deeply concerned about the potential impact of this agreement on employment. In almost any trade regime, there will be some sectors that benefit and others that do less well or are injured by an agreement. In the US, we are deeply concerned about the impact of the agreement on both our industrial base and technology sector. In Korea, we are equally concerned about our industrial base, and see additional threats to agricultural livelihoods. This is especially troubling as previous schemes to help workers train and transition to good, high quality employment elsewhere in the economy have been largely ineffective both countries.

6. As consumers and active participants in our communities, we are also concerned about the impact of the agreement on public and social services, the environment, public health and education.

Therefore

1. We call on our elected representatives to oppose the KORUS FTA. We believe that an honest assessment of the agreement will show that the negative economic and social impacts of the agreement will be significant to our members and to the general public.

2. We call on our members to vigorously oppose the KORUS FTA, in coordination with their unions and union federations. Blocking passage of the KORUS FTA is a priority.

3. We call on each other to deepen our commitments and to join in international solidarity to support each other's struggles for a better world for working people.

AFL-CIO

Change to Win

Korean Confederation of Trade Unions (KCTU)*

KMWU-UAW Joint Declaration in Opposition to the Proposed Korea-US FTA

Ron Gettelfinger, UAW President

Gab-Deuk Jung, KMWU President

May 1, 2007, Seoul, South Korea

1. The Korean Metal Workers' Union (KMWU), representing over 150,000 automotive, shipbuilding, steel, and other metal industry workers in South Korea, and the United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), representing over one million active and retired workers in the United States, stand together in strong opposition to the proposed Korea-U.S. Free Trade Agreement (KORUS FTA).

2. KMWU and UAW firmly call on the Korean National Assembly and the U.S. Congress to reject the KORUS FTA. With the conclusion of the FTA negotiations, many commentators have framed the discussion largely in terms of a worker "zero sum game," by focusing on how much and how quickly each nation's tariffs would be reduced. More importantly, the FTA will lead to an acceleration of capital mobility and financial speculation, thereby pitting American workers against Korean workers

in unlimited restructuring and driving down wages, employment stability and working conditions.

3. KMWU and UAW have no illusions about the impact of the KORUS FTA on our respective memberships. In Korea, the IMF conditionality regime imposed on our country after the Asian Economic Crisis has demonstrated to us that such policies have acted to destroy jobs through restructuring instead of creating new employment. Neoliberal policies have given corporations free reign to disinvest and cemented the rights of speculative capital while flexibilizing work. At the same time, these policies have created a permanent “irregular” or “temporary” workforce and commercialization or privatization of public goods, thereby deepening social inequality and poverty.

4. In the United States, our experience with the North American Free Trade Agreement (NAFTA) has shown us the disastrous consequences of a free trade agreement lacking in strong and enforceable labor and environmental standards. When NAFTA was implemented, U.S. tariffs on cars and most auto parts were eliminated immediately. As a result, auto companies dramatically reduced their production of vehicles and parts in the United States and Canada. At the same time, wages and working conditions for Mexican workers were severely undermined. KMWU and UAW are deeply concerned that this same destructive scenario would occur if the KORUS FTA is adopted.

5. Yet, our respective governments failed to carry out a full evaluation of the likely economic and social impact that the proposed KORUS FTA would have on workers—no assessment was made as to its probable impact on worker rights, employment, wages and working conditions, public services, including health care and education, and/or cultural diversity. The ILO Declaration on Fundamental Principles and Rights at Work was once again ignored in this hastily negotiated deal.

6. KMWU and UAW have agreed to coordinate our opposition to the proposed KORUS FTA. We are committed to working together to ensure that this agreement is not adopted or implemented. On this May Day, KMWU and UAW reaffirm our will to succeed and to build upon the gains achieved in the past. Autoworkers have conviction that an alternative world is possible and we will continue to fight together to ensure a better future for all generations to come.