

## **‘ITF Policy Guidelines on Organising in Restructured and Private Railways’**

### **Declining union membership in the railway sector**

1. Whilst many rail unions still enjoy a higher degree of union density in comparison to other industries, over the last few years union membership has experienced a downward trend. Constant restructuring and privatisation of the railway sector has contributed to this decline. Membership in the ITF Railway Workers’ Section, for example, has seen a sharp and continuous decline globally, in comparison to other industrial sections in the ITF, having contracted by 374,000 declared members since 1998. Since 2011, declared membership in rail has decreased by 205,700 (-16.3%)
2. All over the world, labour unions are under pressure due to globalisation. In the railway sector, privatisation policies have introduced the private sector to passenger transport and previously state-run freight operations, and created a shift towards outsourcing of jobs, also in the traditional state-owned railways.
3. The traditional railways, still largely owned by the state, have in many cases been split up into different companies, partly sold to private investors, functions have been sub-contracted, jobs have been outsourced and agency employees have been introduced. Outsourcing has been an opening for casualisation and agency work to enter into the railways, with a growth in the use of short-term contracts – including ‘zero hours contracts’<sup>1</sup> – as well as indirect forms of employment, such as temporary agency labour.
4. A policy of tendering for public service contracts has led to several private passenger companies entering the railway market. Open access to the tracks has led to the establishment of private freight companies.
5. Many of these new companies often have very little regard for labour law, working conditions and pay.
6. Restructuring and privatisation have removed workers from the protection of unions, resulting in a fragmented labour market, the loss of hard-won social protections and reduced working conditions. All these developments are impacting directly on union membership in the railway sector and in turn are weakening unions’ strength and bargaining power.

### **ITF policy guidelines on organising in restructured and privatised railways**

7. ‘Organising strategies for railway workers’ is one of the three priorities identified for the ITF Railway Workers’ Section. Recognising the significant threat to union membership from changes in the industry, the ITF Railway Workers’ Section Steering Committee at its meeting in March 2015 agreed to develop policy guidelines on organising in restructured and privatised railways. This was endorsed at the Section Conference in December 2016.
8. This document outlines the key challenges for organising in restructured and private railways, but also considers the union response.

### **The case for organising in restructured and privatised railways**

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<sup>1</sup> *Zero hours contracts* - an employment agreement in which a person only works when the employer needs them and so has no regular or guaranteed amount of work or working hours (MacMillan Dictionary)

9. While the first step for railway unions faced with privatisation or restructuring may be action to stop these developments, it is important for unions to acknowledge and develop strategies to organise workers affected by restructuring, if the campaign to stop privatisation is not successful.
10. This approach can seem a defensive strategy and one which is at odds with union campaigns against privatisation, but it is an important strategy to consider in order to protect and maintain union density levels in the sector and to ensure that negotiated rights are recognised and implemented.
11. Moreover, given the ongoing trend for privatisation in the railways, which has led to stagnant employment growth in the public sector and rapid growth in private sector employment, organising in restructured and privatised railways must become a key target for railway unions in order to build union power to implement strategic campaigns to influence future industry changes with the necessary industrial and political muscle. If strategies are not established to meet these new challenges, the industry and unions will be further fragmented.
12. Despite the huge challenges, a number of ITF unions are already adopting this new approach. For example, in Thailand the railway union is organising workers in the state-owned subsidiary airport rail link in Bangkok. In Latin America, the unions are re-building the railway unions that were left very weak after the consequences of privatisation. ITF railway unions in India are looking to organise workers in the new privately-run metro systems. Unions in Europe have experience of organising railway workers in private companies and protecting members' interests.

*Strength, action and the ability to get things done*

After liberalisation of the rail freight market in Bulgaria in 2007, FTTUB started an organising campaign in the private rail sector in the first and largest private company. It was hard to find a potential founder or leader for the new union. However, the fact that all the workers in the company were former employees of the public company, with experience of the trade union, made organising a bit easier. FTTUB met the union founders many times to explain step by step how to organise workers and in 2010, the trade union was formed. Unfortunately, soon after that, there was an attempt by the employer to get rid of the trade union by dismissing two of the members. FTTUB investigated the case as it knew that by supporting the members, the trade union would also be saved. FTTUB demanded a meeting with the company CEO, cancellation of the dismissal order and the immediate reinstatement of the workers. Soon after, the workers were reinstated and more workers wanted to join the trade union. Training for the union leaders and activists was organised, and preparations took place for negotiation of the collective bargaining agreement at company level. The first agreement was signed with the company in 2011. Now there is a good social partnership between the union, FTTUB and company management.

*(Source: ITF Railway Workers' Section Conference, December 2016)*

**Organising challenges and strategies**

13. Union organising campaigns are fundamental for trade unions in order to develop collective bargaining strategies, create solidarity among workers and win new rights at work, however, restructuring means workers often lose the protection of unions.
14. Organising in restructured and privatised railways presents specific challenges for traditional railway workers' unions. A basic issue can be the political balance between fighting privatisation and organising in the private sector. When a private company wins a contract, it can often be at the expense of the traditional state-owned company. The workers of the private companies will

then often be seen as enemies of the unionised workers in the traditional companies. Workers in private companies will often see the traditional railway workers' unions as company unions, protecting the specific interests of the company, and not as their unions.

15. The (re-)classification of a worker once they are outsourced (for example they are no longer considered a 'railway worker') will impact on a railway union's ability to organise and can also cause conflict between unions regarding union coverage or demarcation. The fact that much outsourced work is located away from the centre of transport activity and in turn the centre of industrial power provides additional organising and representation challenges for unions. There are different challenges relating to workers hired through temporary employment agencies as their employment status is less clear. There may also be conflict or tension between precarious and regular workers in the same workplace as permanent workers feel insecure from the constant threat to their job security.
16. Worker identity plays a critical role in organising so workers understand their integral role in the sector, but also identify with the union rather than the company. In an industry where companies may come and go, the union may be the one constant – as a delegate at the ITF Railway Workers' Section Conference in 2016 explained: "The company name on the uniform may change, but the union pin does not".

*Worker identity is critical*

Train drivers' union ASLEF organised a very specific organising drive following the break-up of British Rail in the mid-1990s. As a result of privatisation of the rail network, there was fragmentation with the change from one employer to the existence of 30 employers and therefore different bargaining units. Companies wanted to break-up the existing collective bargaining agreements and negotiate new ones. ASLEF's organising drive helped to keep the union and its members going in the same direction rather than allowing the union to also become fragmented. Through a clear set of objectives and development of a charter for drivers – which outlined demands relating to key issues such as pay, working hours, pension, institutionalised overtime – to assist union negotiators, members could hold employers to account as a collective.

*(Source: ITF Railway Workers' Section Conference, December 2016)*

17. To convince existing members that workers in emerging private companies are their fellow workers, and not their enemies, is a basic task. Fighting for equal working conditions in the private and public sector is in fact one of the best protections against restructuring and privatisation. On the other hand, workers in the private companies must be convinced that the union's primary job is not to defend the interests of the state-owned company, but to fight for a railway system that serves society and to protect the interests of all railway workers.
18. Bringing unprotected workers into existing unions is often the best way to provide workers with protection. But sometimes that is not possible. In some countries, private sector and public sector workers are covered by different legislation which may restrict the ability of unions to organise workers. Legislation which sets high requirements for unions to fulfil in order to gain recognition will also affect union ability to organise. Often conditions in the private sector – such as hire and fire policies, poor employment contracts and exploitative conditions – can also limit traditional organising methods. In comparison to state-owned union-friendly companies, some small private companies may be hostile to unions, therefore a more hostile approach to organising may be required. Unions need to think imaginatively about other ways to organise. In some cases, unions will need to look at the union structures and amend the constitution in order to be able to organise workers. In other cases, union mergers have facilitated the process to 'strengthen' capacity. The following are options for union organising:

- Retain workers as members (and if necessary change the union constitution)
- Assist in encouraging workers to sign up to other existing unions
- Assist in establishing a new union
- Where there is more than one union covering the particular category of workers, assist to establish a forum of those unions

*Union action to organise contract workers in India*

Due to the economic policies pursued by the government on the advice of the IMF (International Monetary Fund) and World Bank, the number of workers in Indian Railways (IR) has reduced from 1.6 million workers to 1.4 million workers. Outsourcing (of housekeeping, healthcare, managerial roles, ticketing) is one aspect of this restructuring. Separate corporations have been set-up within the IR for those functions that have been outsourced and workers are not permitted to form a union or join an existing union. ITF affiliates AIRF and NFIR have identified a number of strategies to address these developments, including: developing strong, effective and pro-active campaigns against privatisation and restructuring (including opposition from the unions against outsourcing); carrying out trade union education and research; and organising and establishing unions for unorganised railway workers. AIRF and its affiliates have amended their constitutions to allow all contract labour directly or indirectly connected with railway work to join the union as a separate branch. The unions have organised specific action for women contract workers to fight for their rights and participate in the unions, and have encouraged young workers to take part. As a result, specific gains have been made for women railway workers in collective bargaining negotiations.

*(Source: ITF Seminar on Effects of Outsourcing on Women Railway Workers and Organising Strategies, 2010)*

19. Unions also need to determine their organising priorities as railway companies steadily take advantage of the liberalisation processes and take steps to extend their involvement in the transport chain and become logistics operators. This means following the workers when the railways are privatised and the workforce is splintered, but also when railways are re-nationalised.

*Following the "chain"*

The Rail & Maritime Transport Union of New Zealand (RMTU) followed the supply-chain after the transport industries were deregulated in New Zealand and recruited new categories of workers. When NZ Rail was to be privatised the union held a strategic workshop to bring key activists together in order to determine what the employers were likely to do. The union then set about negotiating collective agreements with clauses and conditions that would protect members as part of the process. When NZ Rail was privatised, capital was stripped from the business and various business operations were outsourced. Workers were transferred on conditions that were the same or more favourable. For the union, a key factor in its survival was the long-term preparation and strategic decision to follow its members along the supply chain, and to regard itself not as one link in the supply chain but as representative of the whole supply chain, which gave the union power and leverage against the company (and suppliers). As a union representing members from shipping to distribution, it was well placed to do so.

*(Source: ITF Railway Workers' Section Steering Committee Meeting, 2012)*

20. Workers may be willing to join a union but due to intimidation and threats from the employer, who may see the workforce as easily dispensable, many workers will be afraid to join a union. In other cases, a lack of knowledge about the union and benefits of being a member can hamper union organising attempts. A lack of skilled organisers can add to this. Tactics used by ITF unions

to implement organising strategies include 'peer' organising. Sometimes, this has to be done covertly due to the hostile environment for workers and union activists.

*Organising workers in the airport rail link in Bangkok*

The airport rail link in Bangkok – a subsidiary of the state rail company – is a new train line that was established in 2003 with a workforce of 480 workers. For 10 years, it was not organised. Activists knew that if they were found to be organising they would be fired. After three years of underground organising in a very hostile political environment, with support from an ITF-SASK organising project, activists slowly built a union through peer organising. The union is a real success story. It has 330 members, an active committee and recognition from the employer. Negotiations for a first collective bargaining agreement start in 2016. The activists who are all young workers have shown that it is possible to organise in the new Bangkok transport sector, even in a very hostile political environment.

*(Source: ITF Railway Workers' Section Steering Committee Meeting, 2015)*

21. Organising must address membership levels, but also include activities to foster union activism in order to rebuild power to represent the interests of workers, influence political decision-makers, deal with employers with the leverage that is needed, and ensure union organisation in the workplace is self-sufficient and sustainable. By engaging workers in union campaigns to defend workers' rights and influence developments in the industry, important solidarity bonds will be retained, the trust of existing members will be maintained and workers will be convinced about the importance of membership.
22. Having just one organising strategy will not necessarily work. Instead a number of different innovative approaches and tactics, as well as new methods need to be considered as part of union organising campaigns. Effective communication with members is important to ensure workers are informed and know what is happening and why.

**Freedom of association**

23. In the railway sector, with fundamental restructuring being applied in many countries and consequential changes to the relationships between workers and companies, it is also important that railway workers are fully aware of the action they can take to defend their interests. Many governments are mounting attacks on union rights, employment and working conditions. Today, workers' rights, including the right to strike, are under serious attack globally. Freedom of association is the most basic of trade union rights since without such freedom, workers cannot hope to form effective trade unions and counter the oppressive actions of powerful employers and authoritarian governments. The right to strike constitutes an indispensable element of the concept of freedom of association.
24. In some cases, however, private companies may have little or no experience of dealing with unions. This can have consequences for union representatives and their ability to undertake union activities. It may also result in dismissals of union activists. Planning therefore needs to be included for this eventuality.

**Collective bargaining challenges and strategies**

25. In addition to questions over union representation as a result of restructuring, legislation covering collective bargaining and industrial relations may be different for public and private sector workers. In the short-term, privatisation and restructuring can undermine existing rights as unions are forced to re-negotiate gains already made through collective bargaining as old collective bargaining agreements are broken up and new ones need to be negotiated. In the longer-term, the fact that different sectors of the rail industry may be state-owned and/or

privately-owned means that there can be several companies and agencies involved. Fragmentation of the industry introduces multiple franchises. And so unions have to negotiate an increased number of collective bargaining agreements, sometimes with inexperienced negotiators. In some cases, private sector unions function in isolation and so can be weak in terms of negotiating rights for their members.

26. This fragmentation impacts on the bargaining structures as well as the traditional influence and power that unions have in the workplace. One challenge can be contracting out where contracts may be performed by companies which are unionised but the working conditions are lower than what already exists in the railway sector. It is therefore important for unions to also address collective bargaining when considering their strategies.
27. One option is bargaining at sectoral level (rather than workplace level) where one agreement covers several bargaining units. This level of bargaining can be more efficient, brings workers together, and increases bargaining leverage. Strong industrial agreements with clauses on workers transferring on the same or more favourable terms, protects conditions and helps to stop the race to the bottom. The negotiation of union recognition agreements with employment agencies who provide employment for multiple work areas in the industry can also ensure union coverage for workers throughout the sector chain.

#### *A fair deal for rail cleaners*

As a result of privatisation of the railway industry in the 1990s, cleaning services were contracted out. Railway cleaners endure some of the worst conditions and lowest pay on the national rail network, London Underground and urban rail systems. Railway cleaners are predominantly migrant workers who are in a vulnerable position, which employers use to their advantage. Many are women. In 2000, railway cleaners started to voice their concerns and in 2005, following support from the RMT with basic education for cleaners on their rights, the campaign for a London living wage was launched. The campaign also included demands for decent working conditions and respect. In 2006, the RMT launched its 'Rail Cleaners' Charter'. As part of the union's campaign activities, two sets of strike action were organised. Throughout the campaign, the railway cleaners were supported by other railway worker groups (e.g. drivers, ticketing staff). The number of organised railway cleaners increased two-thirds of the total number of railway cleaners. In July 2010, the London living wage was secured for all cleaners on the London Underground.

*(Source: ITF Seminar on Effects of Outsourcing on Women Railway Workers and Organising Strategies, 2010)*

#### **The impact on women railway workers**

28. Unions must also consider the gender aspects of restructuring. Women and men tend to be affected differently by restructuring. The areas where women are concentrated – roles such as station staff or on-board service staff including cleaning and catering – can often be abolished or outsourced as part of restructuring processes. For women, the loss of public sector management can mean the loss of an employer at least nominally committed to equal opportunities. If an employer perceives equality measures in the workplace as an expensive luxury, then issues like separate facilities become vulnerable. Maternity and childcare agreements may suffer. Women workers generally face low wages and long working hours. Training and career opportunities may be downgraded. This counteracts the positive initiatives to increase women's employment in railways.
29. Unions need to be involved in the different restructuring processes to ensure they are carried out properly and fairly, and include women representatives in the negotiating teams.

Following privatisation in Zambia in November 2003, all the women station guards and train escorts were retrenched. According to the Railway Workers' Union of Zambia, the new private security company did not accept that women could do these jobs. The railway nursing service was hived off to a private agency. The nurses were hired in groups of fewer than 25, which is the minimum number for a bargaining unit under Zambian employment law. The nurses lost their bargaining rights and feared for their security of employment and wage levels. Meanwhile, the cleaners were taken over by operators who were notorious for disregarding labour law and paying poor wages. They employed cleaners on a hire-and-fire basis, keeping them under the threat of no job tomorrow.  
(Source: *ITF Women's Committee Meeting, 2004*)

**International trade union cooperation**

30. Organising in restructured and private railways is vital to protect and maintain union density levels and prepare for further changes in the industry. In these conditions, unions need to share information on their experiences and campaigns, as well as on industry changes, in order to move forward as stronger unions. Solidarity and support between unions will also be important. This should include international solidarity and leverage when organising subsidiaries of multinational companies where there is union representation.

*June 2016*