

## Why non-regular staff should be our biggest concern and the role staff representative bodies play

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As all of us continue to face organizational challenges in relation to austerity measures, restructuring and governance, including now also the challenges in terms of business continuity related to the COVID-19 pandemic, we are at a critical juncture to determine a strategy to sustain healthy employment relations and remain relevant for the largest body of the workforce. Pushing back on decisions of retrenchment to regular staffing, conditions of service and compensation has become more and more difficult in recent years.

For staff representative bodies, retaining solid membership numbers has also become an increasing challenge. This is also partially attributable to most UN organizations expanding employment categories to include different forms of non-regular contracts, which generally do not automatically entitle the contract holders to enrol in that organization's established staff association/union (please also refer to Neil Fishman's article in this Magazine for a discussion on this topic).

As it stands, much of the UN workforce has undergone fragmentation, commercialisation and outsourcing which has affected not only project-related and extra-budgetary activities or facility management, but also core structures such as human resources management, finance and administrative support. Apart from not being free to associate under the authority of the UN regulatory framework, those colleagues performing core functions usually also work under a reduced compensation and benefits package compared to those colleagues serving under regular contracts.

The UN system as an employer usually qualifies the need for such a non-regular workforce with a challenging fiscal climate and an undescriptive need for flexibility, based on evolving HR strategies and earmarked funding. These HR strategies often erode

staff rights and protection while alleviating long-term liabilities for the organization and its member states. Such efforts are being pursued despite many arguments to the contrary from many stakeholders, including the staff federations, demonstrating the value of a long-term, career-oriented workforce.

It is evident that the funding landscape of the UN has quite dramatically evolved over time, moving from mainly voluntary core contributions to issue-based financing, leveraging Official Development Assistance, and innovative spending and sourcing instruments.<sup>1</sup> An African proverb says: "If the beat of the drum changes, so must the step of the dance". Budgetary challenges and political pressure might have left organizations with a sense of urgency to make innovative workforce choices to suit the new financial architecture. However instead, they often use familiar instruments, reducing terms and conditions of employment, limiting the staff-management consultative process and access to internal justice, as well as excluding their established staff representative body (SRB) from oversight.

With burgeoning populations of non-regular staff, most organizations have inadvertently created a split workforce, contrary to the principle of equal pay for work of equal value, despite the fact that both are working towards delivering the global public goods envisioned by the Sustainable Development Goals. Established SRBs cannot automatically represent the so-called "non staff" section of the workforce, the numbers of which vary hugely across the organisations. Instead, the 73rd FICSA Council saw a number of members giving examples of the non-regular staff population attempting to associate. Whilst admirable and important that these groups associate, the established SRB must ensure that the central messages of equal pay for work of equal value and

of contesting the ideology of austerity are not diluted and the core principles of international civil service are protected.

The principles of staff-management relations emanate, legally and politically, from a number of legal texts within the various UN common system organizations (constitutions, rules, regulations, etc.) as well as numerous General Assembly resolutions. The way staff-management relations are anchored in an organization's regulatory framework usually reads analogue to UN Staff Regulation 8.1.<sup>2</sup> Herein, lies the first legal challenge, as administrations generally agree that non-regular staff are contractually not governed under the rules and regulations of their contracting organization. This includes any access to statutory rights to association and employment relations, not to mention a duty of care to provide social welfare benefits, such as health insurance and pension. At the FICSA Council, many recognised this as one of the biggest challenges to SRBs from the broader perspective of attempting to bring the entire workforce together under one umbrella of representation.

These continuing emerging trends are both of concern to Human Resource departments as well as SRBs. Although fitting into the new financial architecture of the UN's operations, non-regular staff are still a rather new group which, over time, will develop their own systemic HR Management issues pertaining to [but not limited to] talent management, knowledge management, taxation, social security, legal liabilities, gender equality, and many other fields which will challenge the respective HRM departments for years to come. SRBs, on the other hand, are wise to closely follow the usage of non-regular staff and observe the dynamics of that population, and use these numbers to strongly advocate for a workplace that upholds and demonstrates the basic principle of equal pay for work of equal value.

The UN doctrine firmly places final decision-making authority in the hands of executive heads, which means that an SRB will always be a secondary organisation under the umbrella of their respective organisation or agency. However, that does not mean that SRBs are

confined to a purely reactive role in this development. To this point, SRBs can: 1) ensure that joint workforce interest remain aligned; 2) the staff-management relation processes do not become over-politicized; and 3) that the various tracks of employment for individuals performing core functions become aligned in terms of compensation and benefits.

The 73rd FICSA Council's HR Management Standing Committee made a series of proposals that pursue such a strategy, based on the study undertaken by FICSA on this topic (LINK TO NEIL'S ARTICLE). To this end, FICSA could provide guidance to assist their membership in developing their own strategies to advocate for harmonizing all forms of contractual employment, ensuring that austerity measures and changes to the working culture are addressed with one voice and constituent membership is retained or improved. The recommendations made by the JIU on the 'Use of Non-Staff Personnel and Related Contractual Modalities in The United Nations System Organizations'<sup>3</sup> also have yet to see widescale implementation and were again discussed during the FICSA Council. Finding consensus on how these could support Federation efforts might be a short-term goal worth pursuing.

In conclusion, the increase of non-regular staff is deeply rooted in the transformative agenda the UN is pursuing. The implementation and administration of such is causing a variety of an unpredictable burden on both HR Management and SRBs alike. This article should have highlighted that the development of these two employment tracks remains on different trajectories. Seeking alignment of these paths might be even more in the SRBs' interest than in that of HR Management departments. However, an effective strategy to that effect will require careful, strategic negotiation of FICSA members with their respective managements over time. Guidance issued by the Federation, representation at the highest levels of the UN common system, as well as cooperation among the three staff federations to ensure a cohesive approach across the system in the interest of all will play an equally crucial role.

<sup>1</sup> Dag Hammarskjöld Foundation, Financing the UN Development System Getting it right for a post-2015 world (self-published, 2015) 48

<sup>2</sup> See ST/SGB/2009/6 Art. VIII Reg. 8.1 "The Secretary-General shall establish and maintain continuous contact and communication with the staff in order to ensure the effective participation of the staff in identifying, examining and resolving issues relating to staff welfare, including conditions of work, general conditions of life and other human resources policies."

<sup>3</sup> JIU/REP/2014/8