

OPEN ACCESS

ISSN 2280-4056

*E-Journal of  
International and Comparative*

# LABOUR STUDIES

Volume 4, No. 1, January 2015



**ADAPT**  
www.adapt.it  
**UNIVERSITY PRESS**

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# LABOUR STUDIES

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Online Publication of the ADAPT Series  
Registration No. 1609, 11 November 2001, Court of Modena  
*www.adaptbulletin.eu*

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## Index

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### Contributions

- Pietro Manzella**, *Lost in Translation: Language and Cross-national Comparison in Industrial Relations* .....1
- Andrew Langille**, *Lost in Transition: The Regulation of Unpaid Labour during the School-to-Labour Market Transition in Ontario* ..... 21
- Davide Arcidiacono**, *Between Training and Work Experience: the Effectiveness of Post-graduate Internships and Placement Services* .....44
- Anthony P. Carnevale and Andrew R. Hanson**, *Learn & Earn: Career Pathways for Youth in the 21st Century*.....76
- Lilli Casano**, *Building Employability in Higher Education and Research Paths: Experimental Forms of Higher Apprenticeships and Industrial Doctorates in Italy*.....90
- Ezequiel Saferstein, Daniela Szpilberg**, *Working in Informational Capitalism: The Case of the Argentinean Publishing Industry*.....100
- Peter Norlander, Christopher Erickson, Sarosh Kuruvilla, and Rangapriya Kannan-Narasimhan**, *India's Outsourcing Industry and the Offshoring of Skilled Services Work: A Review Essay*.....117

### Commentary

- Samuel Andreas Admasie**, *Ethiopia and the Surge of Wage Labour*.....139

### Book Reviews

- Ian Hampson**, *Workforce Development and Skill Formation in Asia* by John Benson, Howard Gospel and Ying Zhu. *A Review*.....146



# Lost in Translation: Language and Cross-national Comparison in Industrial Relations

Pietro Manzella \*

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### 1. Framing the Issue

Comparative research is universally regarded as a fascinating but challenging task, among others because of the relevance of the national differences stemming from distinct historical, economic, legal and cultural developments. Affording a comparative perspective might serve to identify a certain degree of correspondence among practices and processes in place in different contexts and to assess their effectiveness, particularly considering their applicability elsewhere, away from the original legal framework. Yet when engaging in comparative analysis, consideration ought to be given to those institutional changes in societies that are peculiar to each legal system. In so doing, many problems arise in terms of equivalence, as a number of authors have pointed out. Kahn-Freund<sup>1</sup> has posited that the variations in the organisation of power among different countries can prevent and even frustrate the transfer of legal institutions, thus affecting the effectiveness of comparison. This is because “even in very similar societies, the role played by law may be very different, owing to the tempo and the sequence of economic and political history”<sup>2</sup>.

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<sup>1</sup> O. Kahn-Freund. On Uses and Misuses of Comparative Law. *The Modern Law Review*, 37(1), 1-27, 1974.

<sup>2</sup> O. Kahn-Freund. Collective Bargaining and Legislation, Complementary and Alternative Sources of Rights and Obligations. In M. Rheinstein, E. von Caemmerer, S. Mentschikoff, K. Zweigert (eds). In *Ius Privatum Gentium: Festschrift Fur Max Rheinstein Zum 70. Geburtstag Am 5. Hamburg: Mohr Siebeck, 1024-1042, 1969, 1024.*

In a similar vein, Sacco has defined comparison as the measurement of the existing differences between a multiplicity of legal models. He has also pointed out a number of issues originating from comparative research, among others the language challenge, warning that “one of the most serious problems in comparison is the translation of linguistic terms expressing legal concepts”<sup>3</sup>. Naturally, the challenges emanating from comparative analysis have been a contentious and debated issue also in the discipline of industrial relations. Much has been written about the struggle resulting from contrasting practices pertaining to different industrial relations systems. Remarkably, comparative scholars in this domain have been mostly concerned with the implications ensuing from the lack of equivalence between IR concepts (Bamber and Lansbury, 1987<sup>4</sup>; Bean, 2004<sup>5</sup>; Blanpain and Colucci, 2002<sup>6</sup>; Hyman, 2007a<sup>7</sup>, 2007b<sup>8</sup>, 2009<sup>9</sup>; and Kaufman, 2004<sup>10</sup>, among others). The main problem is to come to terms with unfamiliar notions and compare them with local institutions, in other words “engaging in the double effort to make the strange familiar and the familiar strange”<sup>11</sup>, as Hyman has argued. This complexity is also due to the resistance of distinctive national research patterns to universalization or modernization, notwithstanding “the increasing convergence of employment institutions and practices throughout the

<sup>3</sup> R. Sacco. Introduzione al Diritto Comparato. In R. Sacco (ed.) *Trattato di Diritto Comparato*. Torino: UTET, 28-41, 1992, 14. Original quotation “Uno dei problemi maggiori della comparazione è la traduzione delle espressioni linguistiche che esprimono i concetti giuridici”.

<sup>4</sup> G.J. Bamber, R.D. Lansbury, N. Wailes (eds.). *International and Comparative Industrial Relations*. London: George Allen and Unwin, 2011.

<sup>5</sup> R. Bean (ed.). *Comparative Industrial Relations: An Introduction to Cross-national Perspectives*. 2nd ed. London: Thomson, 2004.

<sup>6</sup> R. Blanpain, M. Colucci. *European Labour and Social Security Law Glossary*. The Hague: Kluwer Law International, 2002.

<sup>7</sup> R. Hyman. How Can Trade Unions Act Strategically? *Transfer: European Review of Labour and Research*, 13(2), 193-210, 2007a.

<sup>8</sup> R. Hyman. An Anglo-European Perspective on Industrial Relations Research. *Arbetsmarknad & Arbetslin*, 13(3-4), 29-41, 2007b.

<sup>9</sup> R. Hyman. How Can We Study Industrial Relations Comparatively? In R. Blanpain (ed.) *The Modernization of Labour Law and Industrial Relations in a Comparative Perspective – The Bulletin of Comparative Labour Relations*. The Netherlands: Kluwer Law International, 3-23, 2009.

<sup>10</sup> B. Kaufman. *Theoretical Perspectives on Work and the Employment Relationship*. Champaign IL: Industrial Relations Research Association, 2004.

<sup>11</sup> R. Hyman. Words and Things: The Problem of Particularistic Universalism. In J.C. Barbier, M.T. Letablier (eds.) *Comparaisons internationales des politiques sociales, enjeux épistémologiques et méthodologiques/Cross-national Comparison of Social Policies: Epistemological and Methodological Issues*. Brussels: Peter Lang, 191-208, 2005, 206.



advanced industrialized world and despite the increasing international communication and interaction among the research communities”<sup>12</sup>.

Yet only a limited number of academics have concerned themselves with the translation issues stemming from comparative research in industrial relations (Blanpain and Baker, 2010<sup>13</sup>; Bromwich, 2006<sup>14</sup>; Hyman, 2005<sup>15</sup>; Manzella, 2012<sup>16</sup>; 2007b<sup>17</sup>; Schregle, 1981<sup>18</sup>; and Singam and Koch, 1994<sup>19</sup>). The language challenge in IR deserves far more attention, because “we cannot take things, and specially institutions, at face value”<sup>20</sup>, and because “serious comparative research requires the capacity at least to read the languages of the countries covered”<sup>21</sup>.

The domain of industrial relations is particularly sensitive to developments in society, which are reflected in language and translation. Echoing Kelly and his reference to a proliferation of new terminology<sup>22</sup>, new words are coined by social actors and enter IR discourse to reflect newly established practices. Naturally, the reverse is also the case; many terms employed in the past to denote certain institutions fail to stand the test of time and their usage is discontinued, along with the realities they were meant to define.

Responsiveness to social changes and the lack of correspondence between the notions contrasted complicate the work of IR scholars, who have to go the extra mile to appreciate policies and notions in place overseas. The problem is further compounded in cross-national comparison, as terminology and translation issues might render the meaning of the concepts under scrutiny even more obscure. This aspect further upholds the arguments made by

<sup>12</sup> C. Frege. *Employment Research and State Traditions. A Comparative History of Britain, Germany and the United States*. New York: Oxford University Press, 2007, 18.

<sup>13</sup> R. Blanpain, J. Baker (eds.). *Comparative Labour Law and Industrial Relations in Industrialized Market Economies*. The Hague: Kluwer, 2010.

<sup>14</sup> W. Bromwich. Lessico negoziale, contesto culturale e processi comunicativi nello sciopero nei servizi essenziali a New York. *Diritto delle Relazioni Industriali*, (XVI)2, 414-426, 2006.

<sup>15</sup> Hyman 2005, *op cit.*

<sup>16</sup> P. Manzella. *Analyzing Corporate Discourse in Globalized Markets: the Case of FLAT*. Saarbrücken: LAP, 2012.

<sup>17</sup> Hyman 2007b, *op cit.*

<sup>18</sup> J. Schregle. Comparative Industrial Relations: Pitfalls and Potential. *The International Labour Review*, 120(1), 15-30, 1981.

<sup>19</sup> P. Singam, K. Koch. Industrial Relations – Problems of German Concepts and Terminology for the English translator. *Lebende Sprachen*, 39(1), 158–162, 1994.

<sup>20</sup> J. Rojot. Future Directions for Labor Law Scholarship and International Collaboration, *Comparative Labour Law and Policy Journal*, 28(3), 583 – 590, 2007, 583.

<sup>21</sup> R. Gumbrell-Mc Cormick, R. Hyman. *Trade Unions in Western Countries. Hard Times, Hard Choices*. Oxford: Oxford University Press, 2013, VIII.

<sup>22</sup> E.J. Kelly, *Rethinking Industrial Relations: Mobilisation, Collectivism and Long Waves*. New York: Routledge, 1998.

Hyman, who stresses the need to recognize the problems that language poses in comparative research, since “institutional realities differ cross-nationally and hence cross-linguistically”<sup>23</sup>. While necessary, reliance on official sources might at times prove misleading, as IR practices are culture-bound and their rendition can be problematic either in linguistic or conceptual terms. Therefore, IR practitioners have to deal with the complexity of national institutions and concepts, and when engaging in international and comparative research, translation issues also need to be addressed.

This is precisely the argument maintained in this paper. In an awareness of the linguistic pitfalls posed by cross-national comparison in industrial relations, the aim of the present contribution is to scrutinise a number of EU documents and their official translation to cast light on instances of ambiguous rendition of IR concepts. The findings will contribute to filling the research gap concerning the language question in comparative industrial relations, bringing to the fore the role that translation has come to play in this domain.

Methodologically, the paper will explore a number of legal texts and contrast them with their official translations made available by the European Union on the EUR-lex website.<sup>24</sup> Due to space constraints and although the EUR-lex service provides access to official documentation in 24 languages, this research will focus only on those documents produced in English and Italian.

## **2. Translation Pitfalls in Comparative Industrial Relations: Some Instances from EU Official Documentation**

Addressing the equivalence of source and target legal texts, Wagner, Bech, and Martínez<sup>25</sup> maintain that:

The darity of language used in Council documents leaves considerable room for improvement [...]. This [the drafting of documents] is certainly a very difficult task because compromises can very often only be achieved by using somewhat ambiguous language.

The authors made a compelling argument, in that striking a balance between languages and culture-bound concepts might prove challenging. This is especially evident in the disciplinary domain of industrial relations, and this aspect provides the backdrop for the following issues to be examined in this

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<sup>23</sup> Hyman 2009, *op cit.*, 4.

<sup>24</sup> EUR-lex (Search Screen), 2004. Available at <http://eur-lex.europa.eu/advanced-search-form.html?action=update&qid=1411453236913> (Accessed on 30 October 2014).

<sup>25</sup> E. Wagner, S. Bech, J. Martínez (eds.). *Translating for the European Union Institutions*. New York: Routledge, 2014, 193.

paper. First, and as already stressed, comparing industrial relations (IR) practices across borders often gives rise to the need for translation, adding a further level of complexity. There is room for debate about the extent to which culturally specific concepts can be rendered in another language, as words reflect national and historical experiences and a literal translation would in most cases be inadequate.

Second, IR discourse is replete with terminology adopted as the result of negotiation. This is because the battle of ideas is often carried forward through a battle of words<sup>26</sup>, either in the form of collective bargaining, social dialogue or tripartite ‘concertation’, consisting of practices that differ cross-nationally and cannot be fully appreciated unless they are contextualized. This proposition leads to the third issue, the contention that not all concepts and practices can be translated, for in some cases they do not exist in other IR systems, and what may appear to be comparable processes may in fact denote something different. The rendering of similar concepts in different languages becomes especially problematic when the concepts under examination do not have a counterpart in the target system, as they are context-bound and culture-bound.

In light of the foregoing, some evidence will be given in the following pages of the problematic nature of translation in some official texts. Although the translated terms are subject to critical scrutiny, it is not the intention here to engage in *Schadenfreude*: rather, the following examples will be employed to reassert the role of language in comparative analysis, especially in industrial relations.

### **2.1 *Scatti di anzianità* - Automatic Seniority Increases**

The first example surveyed is concerned with the notion of *scatti di anzianità*, that is the mechanism through which remuneration automatically increases according to one’s length of service. The translation of this expression into English might be problematic due to the Italian word *scatti* (“steps” in IR discourse). At times, this concept is translated as “advancement in step”<sup>27</sup>.

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<sup>26</sup> Hyman 2007a, *op cit.*

<sup>27</sup> Case T-496/93: Action brought on 5 August 1993 by A.-P. Allo against the Commission of the European Communities, 2, available at [http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1413204722368&uri=OJ:JOC\\_1993\\_272\\_R\\_0011\\_01](http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1413204722368&uri=OJ:JOC_1993_272_R_0011_01). (Accessed on 13 October 2014). The Italian version is available at [http://eur-lex.europa.eu/legal-content/IT/TXT/PDF/?uri=OJ:JOC\\_1993\\_272\\_R\\_0011\\_01&qid=1413204722368&from=EN](http://eur-lex.europa.eu/legal-content/IT/TXT/PDF/?uri=OJ:JOC_1993_272_R_0011_01&qid=1413204722368&from=EN).

Table 1 – Translation of *scatto di anzianità* into English in Official EU Texts (Example No. 1).

English Version	Italian Version
The applicant contests the decision of the Court of Justice which applied to him the disciplinary measure of deferment of <b>advancement in step</b> for a period of two years. [emphasis added]	Il ricorrente impugna la decisione della Corte di giustizia con cui gli è stata inflitta la sanzione della sospensione per la durata di due anni nell'avanzamento dello <b>scatto di anzianità</b> . [emphasis added]

Source: EUR-lex.

This rendering might be ambiguous in both conceptual and linguistic terms. The reference to the notion of “seniority” is missed in the English version; this might lead the reader to wonder about the object of suspension in the example under study. In addition, this expression does not appear to be idiomatic, thus a native speaker of English might have difficulty appreciating its meaning readily. In official EU publications, *scatti di anzianità* has been also rendered as “seniority in step”<sup>28</sup>:

Table 2 – Translation of *scatto di anzianità* into English in Official EU Texts (Example No. 2).

English Version	Italian Version
Probationary officials - Appointment of a former member of the temporary staff - Maintenance of <b>seniority in step</b> - Principle of equality of treatment - Objection of illegality [emphasis added]	Dipendenti in prova – Nomina di un ex agente temporaneo – Mantenimento dello <b>scatto di anzianità</b> – Principio di pari trattamento – Eccezione di illegittimità [emphasis added]

Source: EUR-lex.

In this case, while the reference to one’s length of service is clear in both versions, the use of “seniority in step” is all but idiomatic, with English speakers who might be left perplexed as to the meaning of this expression.

In order to maintain the original meaning and stick to the metaphorical sense provided in Italian, IR comparative scholars might consider using such expressions as “seniority step increases”, “seniority-based step increases”, or “automatic seniority increases”, which can be frequently found in IR discourse.

<sup>28</sup> *Judgment of the Court of First Instance of 4 March 1998 in Case T-146/96: Maria da Graça De Abreu v. Court of Justice of the European Communities (Probationary officials - Appointment of a former member of the temporary staff - Maintenance of seniority in step - Principle of equality of treatment - Objection of illegality)*, OJC 113, 11.4.1998, 14, available at [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C\\_.1998.113.01.0014.03.ENG](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.1998.113.01.0014.03.ENG) (Accessed on 15 October 2014). The Italian version is available at <http://eur-lex.europa.eu/legal-content/IT/TXT/PDF/?uri=CELEX:C1998/113/36&from=IT>.

Examples of this usage are given in a number of documents from the Organisation for Economic Coordination and Development (OECD):

[...] an intermediate first step could be to make the *seniority-based step increases* partially dependent on performance”<sup>29</sup> (emphasis added);

[...] Remuneration of civil servants is based on a grading system with *step increases* due to seniority and promotions”<sup>30</sup> (emphasis added);

They seem to better convey the idea and can be also understood by an international audience.

## **2.2 *Flessibilità in entrata/in uscita* – Flexibility in hiring and dismissal**

*Flessibilità in entrata* and *flessibilità in uscita* are two expressions that are frequently found in Italian IR parlance. The former refers to flexibility at the time of hiring staff, whereas the latter is concerned with the provision of flexibility when making workers redundant. The English version of some official EU<sup>31</sup> texts employs the terms “entry flexibility” and “exit flexibility” to designate these practices:

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<sup>29</sup> OECD. *Economic Surveys: Luxembourg*. OECD Publishing: Paris, 2008, 92.

<sup>30</sup> OECD. *Economic Survey: France*. OECD Publishing: Paris, 1997, 57.

<sup>31</sup> *Council Recommendation 2014/C 247/11 of 8 July 2014 on the National Reform Programme 2014 of Italy and delivering a Council opinion on the Stability Programme of Italy, 2014*, available at [http://eur-lex.europa.eu/legal-content/ENIT/TXT/?qid=1410443423831&uri=CELEX:32014H0729\(11\)&from=EN](http://eur-lex.europa.eu/legal-content/ENIT/TXT/?qid=1410443423831&uri=CELEX:32014H0729(11)&from=EN) (Accessed on 14 October 2014). The Italian version is available at [http://eur-lex.europa.eu/legal-content/ENIT/TXT/?qid=1410443423831&uri=CELEX:32014H0729\(11\)&from=EN](http://eur-lex.europa.eu/legal-content/ENIT/TXT/?qid=1410443423831&uri=CELEX:32014H0729(11)&from=EN).

Table 3 – Translation of *Flessibilità in entrata/in uscita* into English in Official EU Texts (Example No. 1).

English Version	Italian Version
Ensuring proper implementation and careful monitoring of the effect of the labour market and wage-setting reforms adopted is key to guaranteeing that the expected benefits in terms of enhanced <b>exit flexibility</b> , better regulated <b>entry flexibility</b> , a more comprehensive system of unemployment benefits and better alignment of wages on productivity materialise. [emphasis added]	Garantire una corretta attuazione e un attento monitoraggio degli effetti delle riforme adottate in relazione al mercato del lavoro e al quadro di contrattazione salariale è fondamentale per ottenere i benefici previsti in termini di maggiore <b>flessibilità in uscita</b> , di una <b>flessibilità in entrata</b> meglio regolamentata, di un sistema più integrato di sussidi di disoccupazione e di un migliore allineamento dei salari alla produttività [emphasis added]

Source: EUR-lex.

The translator here opted for a literal rendering to refer to the original concept. Indeed, “entry” and “exit” do refer to the Italian *entrata* and *uscita*, respectively. In other words, the reference is to those widely debated measures enabling more flexibility on the part of employers and workers when entering and exiting the labour market. Nevertheless, the attempt to maintain the metaphorical sense in English might adversely affect the understanding of the concepts under scrutiny, making their meaning opaque.

The transposition of metaphor is a challenging task, as “the cultural differences can be enormous because each of the concepts in the metaphor [...] can vary widely from culture to culture”<sup>32</sup>.

*Flessibilità in entrata* and *flessibilità in uscita* are two interesting cases for they do not have a word-for-word equivalent in English. As we have seen, a literal translation would not convey the full meaning of these notions; therefore it is recommended that a different terminology be used. In the literature<sup>33</sup>, the flexibility available to recruit or to make staff redundant is referred to as “flexibility in hiring” and “flexibility in dismissal”, respectively. These expressions are more idiomatic and seem to convey the meaning more adequately than “entry” and “exit” flexibility.

“External” and “internal” flexibility are also frequently employed in the IR literature. One might note that, although less idiomatic, these terms are rapidly

<sup>32</sup> G. Lakoff, M. Johnson. *Metaphors We Live By*. Chicago: Chicago University Press, 1980, 142.

<sup>33</sup> Blank speaks of “insufficient flexibility in hiring and shedding of labour”. See R.M. Blank. *Social Protection vs Economic Flexibility: Is there a Tradeoff?*. Chicago: The University of Chicago Press, 2009, 83. In a similar vein, Heckman and Pages refer to “the greater flexibility in hiring and firing after the reform”. See J.J. Heckman, C. Pages (eds.). *Law and Employment: Lessons from Latin America and The Caribbean*. Chicago: The University of Chicago Press, 2004, 226.

making inroads in IR discourse.<sup>34</sup> By way of example, De Búrca and Scott make use of “external” and “internal” flexibility, yet placing these words in brackets and explaining that “You could use these terms to denote a reform of redundancy law, a reduction of the costs of dismissals, a reduction in the protection of the social security system, or an exclusion of some groups of workers from a given piece of legislation”<sup>35</sup>.

### 2.3 *Distacco* - Posting

*Distacco* refers to workers who are temporarily sent by their employers to another country to perform their tasks. In English-speaking countries, this practice is generally known as “posting”. Clause 1, Article 2 of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the Posted Workers provides the definition of a “posted worker”:

for the purposes of this Directive, “posted worker” means a worker who, for a limited period, carries out his work in the territory of a Member State other than the State in which he normally works<sup>36</sup>.

However, official EU documents are not always consistent with this terminology. In some cases, the word “secondment”<sup>37</sup> can be found:

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<sup>34</sup> See P. Cappelli, D. Neumark. External Churning and Internal Flexibility: Evidence on the Functional Flexibility and Core-Periphery Hypotheses. *Industrial Relations: A Journal of Economy and Society*, 43(1), 148–182, 2004.

<sup>35</sup> G. De Búrca, J. Scott. *Constitutional Change in the EU: From Uniformity to Flexibility?* Oregon: Hart Publishing, 2000, 222.

<sup>36</sup> The Italian and English version of the Directive can be found at <http://eur-lex.europa.eu/legal-content/EN-IT/TXT/?uri=CELEX:31996L0071&from=EN> (Accessed on 20 October 2014).

<sup>37</sup> *Judgment of the Court of First Instance of 10 September 2008 — Gualtieri v Commission (2008/C 272/41)* available at <http://eur-lex.europa.eu/legal-content/EN-IT/TXT/?uri=CELEX:62006TA0284&from=EN>, bilingual display (Accessed on 22 October 2014).

Table 4 – Translation of *Distacco* into English in Official EU Texts (Example 1).

English Version	Italian Version
(Seconded National Expert - Subsistence allowances - Place of residence at the time of <b>secondment</b> - Objection of illegality of Article 20(3)(b) of the decision on <b>Seconded National Experts</b> - Principle of equal treatment) [emphasis added]	(Esperto nazionale distaccato - Indennità di soggiorno - Luogo di residenza al momento del <b>distacco</b> - Eccezione d'illegittimità dell'art. 20 n. 3, lett. b), della decisione sugli esperti nazionali <b>distaccati</b> - Principio della parità di trattamento) [emphasis added]

Source: EUR-lex.

According to the online version of the *Oxford Dictionary*, this terminology is predominantly used in the UK to refer to military officers, other officials or workers who “transfer temporarily to other employment or another position”<sup>38</sup>, making the use of seconded workers acceptable to refer to posted workers.

One might also note that the increasingly use of Continental English on the one hand, and some ambiguous translations of official documents into English on the other hand, have provided this term with additional meanings. For instance in the Netherlands, the expressions “secondment contracts” or “secondment agreements” are adopted to refer to employment contracts concluded with temporary employment agencies. Clause 6, Article 7 of the Dutch Civil Code<sup>39</sup> sets forth that “The provisions of paragraph 1 up to and including 5 do not apply to an employment agency agreement (secondment agreement) as meant in Article 7: 690”. In the same vein, “The contractual relationship between the employer and the temporary worker is based on an employment contract or a secondment contract”<sup>40</sup>.

The same can be said of another expression utilized in official EU documentation that is as recurrent as misleading, namely “detached workers”<sup>41</sup>:

<sup>38</sup> *The Oxford Dictionary* (Search Screen). Available at <http://www.oxforddictionaries.com/definition/english/second> (Entry: Secondment, accessed on 15 October 2014).

<sup>39</sup> The official English version of the Dutch Civil Code is available at <http://www.dutchcivilaw.com/legislation/dccitle771010.htm> (Accessed on 5 September 2014).

<sup>40</sup> Center for International Legal Studies. *The Comparative Law Yearbook of International Business*. London: Graham & Trotman/Martinus Nijhoff, 2011, 13.

<sup>41</sup> *Common Position (EC) No 34/2003 of 20 March 2003 adopted by the Council, acting in accordance with the procedure referred to in Article 251 of the Treaty establishing the European Community, with a view to adopting a directive of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors*, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52003AG0034> (Bilingual display, accessed on 12 October 2014).



Table 5 – Translation of *Distacco* into English in Official EU Texts (Example 2).

English Version	Italian Version
Review procedures for alleged infringements of the procedural rules are already provided for in Directive 92/13/EEC and review procedures concerning <b>detached workers</b> are provided for under Directive 96/71/EC [emphasis added]	Tali procedure per presunte violazioni delle norme procedurali sono già contemplate dalla direttiva 92/13/CEE e le procedure di ricorso concernenti i <b>lavoratori distaccati</b> sono contemplate dalla direttiva 96/71/CE [emphasis added]

Source: EUR-lex.

“Detached worker” has now entered IR discourse and at times is used synonymously with “posted worker”<sup>42</sup>. By way of example, the Official Website of the U.S. Social Security Administration provides a definition of detached worker as “an employee who is sent by his or her employer in one country to work temporarily in the other country for the same employer or an affiliate of that employer”<sup>43</sup>. Importantly, “detached worker” does not always refer to “posted worker”, as this expression is also employed in youth work to refer to “workers placed in the environment of a gang to provide input geared toward more acceptable activities for the gang”<sup>44</sup>. While the context might help us determine the meaning given to this wording, a literal translation might still compromise the reader’s understanding. Accordingly, it is advisable to make use of posted workers to indicate employees sent to work abroad or, alternatively, workers on secondment. These expressions are more frequently found in the relevant literature and are certainly more understandable in an international context.

<sup>42</sup> Neal also makes use of this expression: “Fair competition and the promotion of efficiency is an objective which must be attained by the eradication of “social dumping” and by guaranteed equal treatment to detached workers”. A. Neal. *European Labour Law and Social Policy, Cases and Materials Volume 2: Dignity, Equality and Security at Work*. The Hague: Kluwer Law International, 2002, 142. An alternative to detached workers is “secondees”. Morris and Estreicher posit that “Most of the US totalisation agreements have provisions dealing with ‘detached’ workers (“secondees”), that is employees assigned from an employer in the United States to an employer in another country”. A.P. Morris, S. Estreicher (eds.) *Cross-Border Human Resources, Labor and Employment Issues: Proceedings of the New York University 54<sup>th</sup> Annual Conference on Labor Law*. The Hague, Kluwer Law International, 2005, 26.

<sup>43</sup> The Official Website of the U.S. Social Security Administration, available at <https://secure.ssa.gov/poms.nsf/lnx/0302001815> (Accessed on 21 October 2014).

<sup>44</sup> F. Lawrence, I. Travis, B.D. Edwards. *Introduction to Criminal Justice*. Waltham: Anderson Publishing, 2015, 529.

## 2.4 Lavoro sommerso/Lavoro nero – Undeclared Work

Both *lavoro sommerso* and *lavoro nero* broadly refer to English “undeclared work”. In official EU documentation, this concept is often translated as “moonlighting”.

Table 6 – Translation of *Lavoro Sommerso* and *Lavoro Nero* into English in Official EU Texts (Example 1).

English Version <sup>45</sup>	Italian Version
Le Vif/Le Express of 7 June 1996 and Le Soir of 3-4 August 1996 reported on an apparently common practice at the Commission of the European Communities involving <b>moonlighting</b> . [emphasis added]	L'edizione del 7 giugno 1996 dei periodici «Vif» e «L'Express», nonché il quotidiano «Le Soir» del 3/4 agosto 1996, fanno riferimento ad una prassi, apparentemente corrente presso la Commissione delle Comunità europee, relativa al <b>lavoro nero</b> . [emphasis added]

Source: EUR-lex.

The origins of this word are interesting; according to the *Online Etymology Dictionary*, moonlighting means: “to hold a second job, especially at night (implied in *moonlighting*); from *moonlighter* (1954), from the notion of working by the light of the moon”<sup>46</sup>. Interestingly, a document from the EU provides the definition of moonlighting, which is employed as a synonym for “undeclared work”:

Table 7 – Translation of *Lavoro Sommerso* and *Lavoro Nero* into English in Official EU Texts (Example 2).

English Version <sup>47</sup>	Italian Version
[...] The Committee took the view that the definition of <b>undeclared work</b> as ‘any paid activities that are lawful as regards their nature but not declared to the public authorities’ was acceptable in view of the	[...] In tale occasione il Comitato, data la necessità di adottare una definizione comune a tutti gli Stati membri, ritenne accettabile la definizione del <b>lavoro sommerso</b> come qualsiasi attività retribuita

<sup>45</sup> *Written Question E-2914/96 by Giuseppe Rauti (NI) to the Commission* (8 November 1996), available in English and Italian at <http://eur-lex.europa.eu/legal-content/EN-IT/TXT/?qid=1410441883214&uri=CELEX:91996E002914&from=EN> (Accessed on 28 October 2014).

<sup>46</sup> The Online Etymology Dictionary, available at [http://www.etymonline.com/index.php?allowed\\_in\\_frame=0&search=moonlight&searchmode=none](http://www.etymonline.com/index.php?allowed_in_frame=0&search=moonlight&searchmode=none) (Accessed on 29 October 2014).

<sup>47</sup> *Opinion of the European Economic and Social Committee on the role of civil society in helping to prevent undeclared work* (bilingual display), available at <http://eur-lex.europa.eu/legal-content/EN-IT/TXT/?qid=1410509866519&uri=CELEX:52005IE0385&from=EN> (Accessed on 29 October 2014).

<p>need to establish a common definition for all Member States. The Committee endorses this approach [...] Illegal immigrants do not have access to the regular labour market nor to social security. They are therefore obliged to make a living somewhere else, and, more often than not, they turn to the <b>moonlighting sector</b>. [emphasis added]</p>	<p>lecita di per sé, ma non dichiarata alle autorità pubbliche: questo è tuttora il suo punto di vista [...] Non potendo accedere né al mercato del lavoro ufficiale né al sistema di previdenza sociale, il migrante clandestino è costretto a provvedere al proprio sostentamento in altro modo, ricorrendo, nella maggioranza dei casi, al <b>mercato del lavoro nero</b> [emphasis added]</p>
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Source: EUR-lex.

Evidently, moonlighting does not always take on a negative connotation in English – i.e. to refer to work not declared to public authorities – nor does it always indicate undeclared work. Moonlighters are individuals who work longer hours, usually at night, to make extra income and supplement remuneration earned from their regular employment. Moonlighters are also called “multiple-job holders” and do not necessarily operate in undeclared work. A 2003 document published by the US Bureau of Labor Statistics, *Moonlighting across the USA*, affords a definition of “multiple-job holders”:

Multiple jobholders are employed persons who had either two or more jobs as a wage and salary worker, were self-employed and also held a wage and salary job, or worked as an unpaid family worker and also held a wage and salary job.<sup>48</sup>

Both *Lavoro sommerso* and *lavoro nero* convey a negative connotation, for they mean undeclared work. Accordingly, translating one of these terms into English as moonlighting might be ambiguous, since as we have seen moonlighting might also refer to being legally and simultaneously employed in different occupations.

## 2.5. *Formazione sociale* – Social Groups

*Formazione sociale* broadly means “social group” and refers to “the institutional context which provides the conditions of existence of the mode of production”<sup>49</sup>.

<sup>48</sup> Bureau of Labor Statistics, U.S. Department of Labor. *The Economics Daily, Moonlighting across the U.S.*, 2003. Available at <http://www.bls.gov/opub/ted/2003/jan/wk3/art03.htm> (Accessed on 30 October 2014).

<sup>49</sup> Oxford Reference, at <http://www.oxfordreference.com/view/10.1093/oi/authority.20110803100515161> (Accessed on 3 August 2014).

*Formazione sociale* is a fundamental concept of Italian legislation and also appears in Article 2 of the Italian Constitution<sup>50</sup>:

Table 8 – Reference to *formazione sociale* in the Italian Constitution (English and Italian version).

English Version	Italian Version
The Republic recognises and guarantees the inviolable rights of the person, both as an individual and in <b>the social groups</b> where human personality is expressed. The Republic expects that the fundamental duties of political, economic and social solidarity be fulfilled (emphasis added).	La Repubblica riconosce e garantisce i diritti inviolabili dell'uomo, sia come singolo sia nelle <b>formazioni sociali</b> ove si svolge la sua personalità, e richiede l'adempimento dei doveri inderogabili di solidarietà politica, economica e sociale. (emphasis added).

Source: [www.senato.it](http://www.senato.it)

*Formazione sociale* has been recently given fresh momentum in Italian IR discourse, as it was included in a proposal for a *Codice Semplificato del lavoro* (Simplified Labour Code)<sup>51</sup> put forward to streamline national labour practices and encourage foreign entrepreneurs to invest in Italy.

Translating *formazione sociale* into English might be problematic in that *formazione* might refer to either English “formation” or “training”. The challenges posed by the rendition of this term in English are evident in some EU official documentation<sup>52</sup>:

Table 9 – Translation of *Formazione sociale* into English in Official EU Texts (Example 1).

English Version	Italian Version
Facilitates independent and democratic <b>social training</b> , without profit-making aims. (emphasis added)	<b>È una formazione sociale</b> indipendente a base democratica, senza scopo di lucro. (emphasis added)

Source: EUR-lex.

<sup>50</sup> The English version of the Italian Constitution is available at [https://www.senato.it/documenti/repository/istituzione/costituzione\\_inglese.pdf](https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf) (Accessed on 20 October 2014).

<sup>51</sup> *Il Codice Semplificato del lavoro 3.0*, available at <http://www.pietroichino.it/?p=30409> (Accessed on 3 November 2014).

<sup>52</sup> *Commission communication concerning Article 4(3) of Directive 2009/22/EC of the European Parliament and of the Council on injunctions for the protection of consumers' interests, which codifies Directive 98/27/EC, concerning the entities qualified to bring an action under Article 2 of this Directive*, available in English and Italian at [http://eur-lex.europa.eu/legal-content/EN-IT/TXT/?qid=1410182355890&uri=CELEX:52014XC0415\(04\)&from=EN](http://eur-lex.europa.eu/legal-content/EN-IT/TXT/?qid=1410182355890&uri=CELEX:52014XC0415(04)&from=EN) (Accessed on 10 November 2014).

The meaning of social training provided in the English version is as opaque as misleading. Not only is this expression meaningless in English, but this translation does not do justice to the Italian version. As seen, *formazione* means “formation” or “group”, yet here it is translated as “training”.

One alternative is that of translating *formazione sociale* as “social group”, as was the case with the English version of the Italian Constitution, or “social formation”. Albeit a literal rendition, the latter seems to better convey the idea of a group of people or things in a particular arrangement.

### 2.6. Part-time Verticale/Orizzontale – Working Part-time on Alternate Periods/on a Daily basis

Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work defines a “part-time worker” as “an employee whose normal hours of work, calculated on a weekly basis or on average over a period of employment of up to one year, are less than the normal hours of work of a comparable full-time worker”<sup>53</sup>. In Italian legislation, a difference exists between two part-time working schemes, namely *part-time orizzontale* and *part-time verticale*. *Part-time orizzontale* refers to a reduction in working hours that involves daily working time, and which is the most traditional form of part-time work. On the contrary, *part-time verticale* refers to work carried out on a full-time basis but limited to pre-arranged periods of the week, month or the year. A word-for-word translation of this notion might perplex those who have no familiarity with the Italian industrial relations system. Some EU official documents make use of a verbatim translation placed in brackets<sup>54</sup>:

Table 10 – Translation of *Part-time orizzontale* into English in Official EU Texts (Example 1).

English Version	Italian Version
3. Can Clause 4 [of the Framework Agreement] on the principle of non-discrimination also be extended to various kinds of part-time contract, in view of the	3) se la clausola 4 sul principio di non discriminazione possa estendersi anche nell'ambito delle varie tipologie di contratto part-time, atteso che nell'ipotesi di <b>lavoro a</b>

<sup>53</sup> Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC - Annex : Framework agreement on part-time work, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31997L0081> (Accessed on 10 October 2014).

<sup>54</sup> Reference for a preliminary ruling from the Corte d'Appello di Roma (Italy) lodged on 12 September 2008 — Istituto nazionale della previdenza sociale (INPS) v Daniela Lotti and Clara Mattencchi, (Case C-396/08), available in both English and Italian at <http://eur-lex.europa.eu/legal-content/EN-IT/TXT/?uri=CELEX:62008CN0396&from=EN> (Accessed 7 November 2011).

fact that, in the case of <b>'horizontal' part-time work</b> , where the total number of hours worked and for which remuneration is paid in the calendar year is equal, all the weeks of the calendar year are taken into account under national legislation, whereas they are not in the case of <b>'vertical' part-time work?</b>	<b>tempo parziale orizzontale</b> , a parità di un monte ore lavorato e retribuito nell'anno solare, sulla base della legislazione nazionale, vengono considerate utili tutte le settimane dell'anno solare, diversamente dal <b>part-time verticale</b> .
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Source: EUR-lex.

Regrettably, both “vertical” and “horizontal” part-time work would be meaningless to an English reader. As is often the case in translation, the use of a periphrasis might help clarify the concept in the target language. As Campbell<sup>55</sup> recalls:

When the original wording seems to make it impossible to express the intended meaning in the target language, periphrasis or explanation may be a useful solution. Experience shows that periphrasis is a very useful approach to idiomatic and functional re-expression, since it represents the seeds of what I call ‘creativity’.

As an option, “working part-time on a daily basis” might be suited to refer to *part-time verticale*. Conversely, “working part-time on alternate periods” might convey the meaning of *part-time orizzontale*.

## 2.7. Caporali – Gangmasters

Generally, the word *caporali* is employed in Italy to refer to people acting as unauthorized intermediaries for the recruitment of casual workers to operate in the agricultural sector. This notion is translated into English in different ways in official EU documents. One option is “black hiring”:<sup>56</sup>

<sup>55</sup> S. Campbell. Critical Structures in the Evaluation of Translations from Arabic into English as a Second Language. In C. Maier (ed.). *Evaluation and Translation: Special Issue of “the Translator”*. New York: Routledge, 150 – 180, 2004, 238.

<sup>56</sup> *Written Question No. 114/96 by Antonio TAJANI to the Council*, available at <http://eur-lex.europa.eu/legal-content/EN-IT/TXT/?qid=1410181413878&uri=CELEX:91996E000114&from=EN> (Accessed on 12 November 2014).

Table 11 – Translation of *caporali* into English in Official EU Texts (Example 1).

English Version	Italian Version
One practice which has become widespread in Rome in particular is ' <b>black hiring</b> ' (i.e. without regard to the law or union rules), a system of labour exploitation based not least on tribal forms of religious obedience. (Emphasis added)	In Italia, e a Roma in particolare, per esempio si è diffuso il fenomeno <b>del «caporalato»</b> , un sistema di sfruttamento nel mondo del lavoro basato anche su vincoli religiosi legati a strutture tribali. (Emphasis added)

Source: EUR-lex.

The choice to translate *caporali* as black hiring might be questioned for at least two main reasons. First, “black hiring” appears to be an attempt to provide a literal translation of Italian *lavoro nero* (undeclared work, literally “black labour”). However, the translation does not take on the same meaning as the original one and would be meaningless in English. Secondly, the reference to illegal recruitment is too a generic one and fails to convey the nuances of meaning expressed by *caporalato* (e.g. abuse, exploitation, and so on). Alternatively, “gangmasters”<sup>57</sup> is often found as a translation of *caporali*:

Table 12 – Translation of *caporali* into English in Official EU texts (Example 2).

English Version	Italian Version
[...] to prevent the exploitation of vulnerable workers by <b>gangmasters</b> and to sign and ratify, if they have not yet done so, the Convention [...] (Emphasis added)	[...] al fine di prevenire lo sfruttamento dei lavoratori vulnerabili da parte di <b>«caporali»</b> e, ove non lo abbiano ancora fatto, a firmare e ratificare la [...] (Emphasis added)

Source: EUR-lex.

However, a fundamental difference exists between *caporali* and gangmasters; following the Gangmaster Licensing Act 2004, the activity of gangmasters in the UK has been regulated, where Italian *caporali* are unauthorized recruiters. This aspect is further evidenced by the definition of gangmasters provided by the *Oxford Dictionary*, where no reference is made to illegal activities: “A person who organizes and oversees the work of casual manual laborers”<sup>58</sup>. An attempt

<sup>57</sup> *Minutes (2008/C 282 E/04), Proceedings of the Sitting* <http://eur-lex.europa.eu/legal-content/EN-IT/TXT/?qid=1410444574834&uri=CELEX:C2008/282E/04&from=EN> (English and Italian versions), accessed on 12 November 2014.

<sup>58</sup> The *Oxford Dictionary* (Search Screen), Available at <http://www.oxforddictionaries.com/definition/english/gangmaster> (Entry: Gangmaster).

to draw a distinction between gangmasters' legal and illegal activities can be found in another EU document<sup>59</sup>:

Table 13 – Translation of *caporali* into English in Official EU Texts (Example 3).

English Version	Italian Version
[...] the licensing and registration of the <b>gangmaster system</b> in the United Kingdom (17). By means of strict checks, the government grants licenses to <b>bonafide gangmasters</b> who are the most important middlemen in fulfilling the demand for temporary labour in the agricultural sector. (Emphasis added)	[...] il sistema di autorizzazioni previsto nel Regno Unito per l'esercizio dell' <b>intermediazione di manodopera</b> (17) in taluni ambiti di attività, grazie al quale viene esercitato un controllo rigoroso sulle attività dei cosiddetti <b>gangmaster</b> , che nel settore agricolo sono i principali intermediari per far fronte alla domanda di manodopera temporanea. (Emphasis added)

Source: EUR-lex.

“Bonafide gangmasters” seems more appropriate to refer to the legal licensing system implemented in the UK and can be used to differentiate that from Italian *caporali* who are mainly engaged in illicit activities.

## 2.8. *Cassa edile* – Bilateral Funds in the Construction Sector

*Cassa edile* is another term that might be problematic at the time of translating it into English. *Casse edili* are joint bodies formed by representatives of workers and employers operating in the construction sector. They are established through collective bargaining and tasked with allocating funds and granting benefits to construction workers. EUR-lex translates *casse edili* as “building societies”:<sup>60</sup>

<sup>59</sup> *Opinion of the European Economic and Social Committee on ‘Cross-border agricultural labour’* (2008/C 120/05), bilingual display, <http://eur-lex.europa.eu/legal-content/EN-IT/TXT/?qid=1410444574834&uri=CELEX:52007IE1698&from=EN> (Accessed on 5 November 2014).

<sup>60</sup> *Written Question E-1790/00 by Mauro Nobilia (UEN) to the Commission. Mutual recognition by building societies*, bilingual display, available at <http://eur-lex.europa.eu/legal-content/EN/IT/TXT/?qid=1410358397663&uri=CELEX:92000E001790&from=EN> (Accessed on 19 November 2014).



Table 14 – Translation of *casse edili* into English in Official EU Texts (Example 1).

English Version	Italian Version
[...] to encourage workers' mobility through mutual recognition of the payments made by workers to the various <b>building societies</b> [...] The above article provided that in the absence of such an agreement <b>the building societies</b> would automatically mutually recognise all rights, payments, allowances and benefits (Emphasis added).	[...] avrebbe dovuto favorire la mobilità dei lavoratori attraverso il reciproco riconoscimento dei contributi versati dai lavoratori alle diverse <b>casse edili</b> [...] In assenza di accordo, il citato articolo prescriveva l'automatico riconoscimento reciproco (tra le diverse <b>casse edili</b> ) di tutti i diritti, i versamenti, le indennità e le prestazioni (Emphasis added).

Source: EUR-lex.

One might argue that the use of building societies to refer to *casse edili* is perplexing. While both institutions involve the construction sector, some differences arise in that building societies are more similar to savings and loan institutions in the UK. In this sense, they grant loans and provide other banking services to their members. Conversely, *casse edili* provide their affiliates with different forms of assistance (clothing, scholarships, medical expenses). For this reason, they are usually referred to as “joint bodies in the construction industry”. They can be equated to welfare funds, although they provide a wider range of benefits than those ensured during unemployment and sickness.

### 3. Conclusion

Following on from a review of the relevant literature, the aim of the present paper has been that of highlighting the relatively little attention paid to the language issue in cross-national comparison in the field of industrial relations. To contribute to filling this research gap, the Italian and the English versions of a number of EU documents have been scrutinized, in order to bring to the fore the numerous issues resulting from the translation of industrial relations terms. It has been observed that failing to convey the exact meaning of national practices and institutions in the target language/system might result in ambiguities and misinterpretations of the concepts investigated. As is often the case with translation, one-to-one equivalents lack sufficient clarity in the target language, making their meaning opaque. Things are made worse by the lack of consistent terminology in official sources, the significant amount of new words created in this field as a result of negotiations and the peculiarity of IR practices in each national context.

Making use of periphrases to explain the notions translated and comparing the terminology used in different sources to see how concepts and institutions are rendered might help to deal with the language challenge in this domain. Of course this should be accompanied by a knowledge of the industrial relations systems under investigation and a sufficient command of the language spoken in the countries surveyed.

# Lost in Transition: The Regulation of Unpaid Labour during the School-to-Labour Market Transition in Ontario

Andrew Langille \*

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## 1. An Introduction to Unpaid Labour in Ontario's Labour Market

Unpaid labour has become firmly situated as a growing area of concern in Ontario by academics, media outlets, labour activists, students, and young workers. There is growing consensus that the unpaid labour extracted from youths during the school-to-labour market transition is a serious public policy issue demanding attention. Multiple advocacy groups have appeared, such as the Canadian Intern Association and Students Against Unpaid Internship Scams, which are dedicated to drawing attention to precarious forms of employment such as unpaid internships and the increasing demands from post-secondary education institutions that students undertake unpaid labour as part of their academic studies.

Currently, there is a dearth of research into the deployment of unpaid labour during the school-to-labour market transition. Over the past three years there has been a growing awareness in society about the effects arising from unpaid labour on youths and increasing calls from various actors for government intervention to renormalize the youth labour market in Ontario which has been beset by high unemployment in urban centres, rampant underemployment, a growth in precarious employment, and an increasingly fractured school-to-labour market transition.

The main goal of this paper is provide a baseline analysis of the regulatory protections that youths receive, or don't receive, during the school-to-labour market transition. This paper is divided into two sections. The first section

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overviews the current regulatory environment in Ontario pertaining to the unpaid labour that youths undertake as part of the school-to-labour market transition. This section examines the exclusions, under statutes and policy, which deny youths critical protections under employment standards, occupational health and safety, workers' compensation, and human rights laws. The second section analyzes the current regulatory environment and argues that Ontario's regulatory approach is largely little more than a series of statutory exclusions which deny youths key protections during the school-to-labour market transition, which is arguably the most critical phase in any person's working life. Given the current lack of research, this paper largely focuses on providing a descriptive analysis of the jurisprudence, statutes and regulations, and internal government policy related to unpaid labour. The goal here is to lay out a framework that other researchers can build upon in critiquing the regulatory approach and to offer prescriptive policy solutions to tackle to growing prevalence of unpaid labour in Ontario's labour market.

### **1.1 What is Meant by “Youths”?**

Throughout this paper the plural “youths”, rather than the singular “youth”, is used in recognition that youths are not a homogenous group, but a distinct heterogeneous class within Ontario society representing a staggering amount of diversity and difference alongside many commonalities. The term “youths” captures the age range when persons are engaged in a variety of training and education, both formal and informal, that youths engage in during the school-to-labour market transition, in the period of early adulthood when their life-courses are still be worked out, and during the early years of entering the labour force.

In terms of being a theoretical tool, “youths” recognizes there are multiple narratives occurring: at the individual level, within the family, the community, and as a cohort and a social generation. Fifteen to thirty-four years of age are the demarcation points on the spectrum of age that have been selected for the purposes of this paper. This broad net was cast for two reasons. First, unpaid labour is increasingly being extracted from youths at various points, it can happen as easily to secondary-school age students as it can workers in their early thirties. Second, this was done in recognition that the transition period into full “adulthood” and hence independence is taking longer due to the following factors: increased lifespan; increasing levels of educational attainment, credentialism, and youths holding multiple degrees; the rise of delayed adulthood; and, the increasing amount of time it takes youths to achieve financial independence.

## 1.2 An Overview of Unpaid Labour During the School-to-Labour Market Transition

This section provides a brief overview of the deployment of unpaid labour in Ontario during the school-to-labour market transition. The following areas are discussed: overall trends; the number of internships; the location of internships in the economy; and, the impacts arising from internships. Ontario is currently seeing the erosion of the entry-level positions; paid employees are being replaced with unpaid interns and other forms of precarious employment. Unpaid labour has a direct effect on the economy: they contribute to youth unemployment, drive-down wages, slow economic growth, and allow employers to replace paid employees with unpaid workers who are often vulnerable youths or recent immigrants. In a market-economy that is predominantly consumer driven if you have a sizable segment of the youth population foregoing wages for prolonged periods you are going to see structural problems emerge which impact demographic trends, such as the marriage rate, adult children co-habiting with their parents, the birthrate, and home ownership. All of these trends have the capacity to detrimentally impact the wider economy and slow economic growth. The rapid ascent of intern culture in Ontario is not a particularly good development for anyone except employers who are obtaining a lot of unpaid labour.

The growing use of unpaid labour implicates a series of problems linked to socio-economic class and social mobility. Youths coming from historically marginalized populations and lower socioeconomic classes often have a reduced capacity to engage in unpaid labour. These barriers are an insidious problem that's leading to a creeping cultural apartheid that blocks youths from entering high-status that control Ontario's economic, social, and political levers. What we're seeing is that students from wealthy families are being rewarded with employment on the basis of their family's socio-economic status, which erodes any semblance of a meritocracy and reduces social mobility.

Ontario is at the point where unpaid labour can be found in almost any industry, but the overall trend is that unpaid labour is most prevalent in the tertiary sector (i.e. service sector). The prevalence of unpaid labour in the primary or secondary sectors appears to be quite low. The explosion of internships in Ontario's economy can be linked to the following long-term economic trends, which are deindustrialization, the expansion of the service sector, the relative collapse of manufacturing and processing of raw materials, the exit of government from utilizing robust labour market policy and active labour market programs, and the commodification of post-secondary

education and the reduction of funding. The growth of unpaid labour is also being driven by various trends within the labour market, which are lack of employment standards enforcement by the Ministry of Labour, cost-cutting measures by employers, the increased use of migrant workers, ignorance and lack of knowledge around workplace law, credentialism and the need for youths to differentiate their skill-set amid an over-saturated youth labour market, and the drive for increased profits by employers.

There is a complete lack of data in relation to the deployment of unpaid labour in Ontario's labour market. This lack of data poses problems when it comes to structuring public policy responses, as no one knows the actual number of people undertaking unpaid labour in the labour market. Current estimates for Ontario place the number of positions requiring youths to provide unpaid labour at somewhere between 125,000 to 250,000 annually. This figure would be a combination of students undertaking unpaid labour as part of requirements in a secondary or post-secondary program and unpaid labour being completed in informal training positions outside the confines of a formal educational programs. The total number of illegal positions requiring unpaid labour (i.e. non-compliant with the Ontario's employment standards laws) occurring annually would fall between 75,000 to 150,000. The total number of positions where students are required to provide unpaid labour would sit between 50,000 to 100,000 annually. At first blush this figure may appear high, but some aspects related to positions requiring unpaid labour need to be understood. These positions can often be part-time, be of short-duration, and a youth can hold multiple positions concurrently. Only a small fraction of the youths in Ontario would have to undertake positions requiring unpaid labour annually for the above-noted figure to be reached. In 2012 the total number of Ontario residents in the 15 to 34 cohorts was 3,682,138, while the total post-secondary enrolment was 760,731.

In terms of the geographical prevalence of unpaid labour in Ontario, it is clear that a number of key ingredients give rise to unpaid labour during the school-to-labour market transition, these are: an urban environment; the presence of a large number of students and recent graduates from post-secondary education institutions; and, a well-developed tertiary sector. In Ontario, the largest amount of unpaid labour exists in Toronto and the surrounding urban environs. Additionally, anecdotal evidence suggests that Ottawa also has a lot of unpaid labour occurring, which is linked to presence of government, non-profits, and various professional service firms and to a lesser extent there is appears to be a significant amount of unpaid labour being provided by youths in the following cities: Kitchener-Waterloo; Guelph; Kingston; London; and, Windsor.

### 1.3 Developing Typologies: Who Gets Impacted by Unpaid Labour and How it Happens

Within Ontario's youth labour market there are various points of entry and different forms of training, both formal and informal, available to youths during the school-to-labour market transition. Ontario requires mandatory attendance at school until the age of eighteen, so the typical initial entry point into the labour occurs during or just after secondary education when youths take on part-time jobs. While Ontario has programs that allow secondary students to undertake apprenticeship training, the vast majority of Ontario's youths do not enter the labour market directly from secondary school, rather they pursue further post-secondary education at a community college, a private career college, or a university.

There are a variety of forms of unpaid labour that youths can find themselves undertaking during the school-to-labour market transition. Within the realm of formal education there are work-integrated learning programs where youths complete unpaid career training opportunities offered by post-secondary education institutions in conjunction with employers. There is also a parallel system outside the auspices of formal education where youths do unpaid labour as part of informal training opportunities offered by employers, government, or non-profit agencies. Both these formal and informal programs are part of the larger process of the school-to-labour market transition.

There is a great variation between forms of formal and informal training that comprise the school-to-labour market transition. Vast differences exist in duration, types of learning opportunities, regulatory coverage, duties, employment status, level of remuneration, evaluation methods, and degree of supervision. Some examples of the options available to youths in the school-to-labour market transition include co-op programs, traineeships, practicums, volunteering, clinical education, internships, work placements, and conducting research. One of the difficulties assessing the regulatory framework in governing unpaid labour associated with the school-to-labour market transition is that there are no standard definitions for the various forms of training that youths engage in. While it is relative easy to identify an example of fieldwork, research, or clinical education in the context of medical or law school, tracing the differences between a co-op semester, work placement, or internship can be exceedingly difficult.

Popular culture has created the idea that unpaid labour is the domain of youths who are in school or are looking to launch their careers. While this perception is accurate to a degree, it masks the wider deployment of unpaid labour in Ontario's labour market. Today a person undertaking unpaid labour can be a

young person who recently graduated, a mother hoping to re-enter the workforce, an injured worker retraining for a new career, or a recent immigrant obtaining “Canadian experience”. The point being is that illegal (and legal) unpaid labour is impacting a far wider segment of the labour force than anyone has previously imagined. It should be noted that anecdotal evidence suggests that young females are the most likely to engage in unpaid labour as part of the school-to-labour market transition and this is suggestive that there is a deep gendered dimension in play. There is a skew towards requiring unpaid labour from young workers in traditionally female dominated professions and a disturbing trend in post-secondary programs dominated by females which demands hundreds of hours of unpaid labour (i.e. teaching, social work, law, and nursing).

Tracking the specific groups within society that are being affected by unpaid labour is relatively easy. Within the category of youths the following subgroups have a greater prevalence of undertaking unpaid labour: students engaging in unpaid labour as part of work-integrated learning associated with formal academic requirements set by a secondary or post-secondary education institution; students engaging in unpaid labour outside of formal academic requirements; international (or foreign) students who are studying in Ontario, but who are not Canadian citizens or permanent residents; trainees undertaking unpaid labour as part of preparing for careers in regulated professions; and, persons who have graduated from post-secondary education institutions in the past five years. It should be noted that the growth of unpaid labour in Ontario’s labour market has not been limited to youths with the following groups being heavily affected by unpaid labour, these groups are: women returning from an absence in the labour market; recent immigrants and refugees; and, injured workers in retraining programs.

#### **1.4 A Brief Explanation of Workplace Law in Ontario**

Ontario, along with other Canadian province except Quebec, utilizes a common law system, which was inherited from the United Kingdom. Canada has a Federal political system and due to the internal division of power the regulation of employment is mainly a provincial responsibility. Workplace law in Ontario comes from a variety of sources, but is heavily rooted in the legacy of Master and Servant law developed during the Middle Ages in England and brought over to Canada during the colonial period.

There are various aspects of workplace law which taken together form an overarching legal framework. Under a common law system the legislature enacts statutes that outline the law in broad-strokes and can also enact



technical regulations through the Executive branch. The Courts, arbitrators, and administrative tribunals then interpret these laws, which gives rise to case law and precedence. These decisions interpret the laws and give a great deal of context to workplace law.

There are different parts of workplace law and a brief explanation of each area is in order. Labour law deals with labour relations in unionized environments. Employment standards laws deal with interactions between employers and employees when there is no union and sets out the minimum floor of rights for all workers. Human rights laws, which are quasi-constitutional, address issues like harassment, discrimination, racism, and sexism. Workers' compensation laws provide workers who have injured on the job with a form of social welfare. Occupational health and safety laws protect workers from unsafe situations in the workplace. Ontario has statutes in each of these areas and these are the main sources of workplace law. Some additional statutory sources of workplace law include the Canadian Charter of Rights and Freedoms, privacy laws, and the Canadian Constitution. These laws don't explicitly speak to the issue of unpaid internships, but are highly important statutes that have impacted on the development of workplace law in Ontario.

Unpaid labour is commonplace in Ontario during the school-to-labour market transition and it is routine for students and young workers to engage in multiple periods of unpaid labour prior to obtaining paid employment post-graduation. The laws governing the use of unpaid labour by employers in Ontario are relatively well developed when compared with other jurisdictions in Canada and the United States. Although the scope, clarity, and degree of regulation over unpaid labour in Ontario appears extensive at first blush there it is necessary to remember that little if any enforcement of laws governing unpaid labour and there is a deep reluctance on the part of youths to challenge probable violations of workplace law due to a deep power imbalance they face from employers.

## 2. Employment Standards

In Ontario, the *Employment Standards Act, 2000* ("the *ESA*") governs the minimum employment standards. The *ESA* regulates areas such as the minimum wage, hours of work, vacation pay, and break times. The *ESA* is a broad remedial statute structured to regulate the minimum standards of the conditions of employment. The Ministry of Labour administers the *ESA* and appeals arising from administrative decision from the Ministry of Labour are heard by the Ontario Labour Relations Board. There are four major exclusions under the *ESA* permitting the use of unpaid labour by employers, these are:

the student exclusion; the professional exclusion; the person receiving training exclusion; and, volunteers. The exclusions vary in effect and either totally exclude people from the protections under the *ESA* or can deny protections under specific parts of the *ESA*.

Two critical aspects of Ontario's employment standards laws have to be understood. First, there is a presumption under the *ESA* that a person performing work for an employer is an employee as the definition of "employee" under the *ESA* is extremely broad. This definition reads:

- (a) a person, including an officer of a corporation, who performs work for an employer for wages, (b) a person who supplies services to an employer for wages, (c) a person who receives training from a person who is an employer, as set in subsection (2), or (d) a person who is a homeworker.

Absent meeting the criteria for a statutory or common law exclusion, which are typically quite narrow, the employer must avail their employees with the minimum standards set out in the *ESA*. Second, there is a key protection against the proliferation of unpaid or underpaid labour is section 5 of the *ESA* prohibits contracting out of minimum employment standards and voiding employment contracts that contain a condition that falls below the minimum employment standards. Section 5 reads:

- (1) Subject to subsection (2), no employer or agent of an employer and no employee or agent of an employee shall contract out of or waive an employment standard and any such contracting out or waiver is void. (2) If one or more provisions in an employment contract or in another Act that directly relate to the same subject matter as an employment standard provide a greater benefit to an employee than the employment standard, the provisions or provisions in the contract or Act apply and the employment standard does not apply.

Section 5 is a critical statutory provision in the context of regulating unpaid labour as it severely curtails the ability of employers to pressure employees to accept remuneration or labour under conditions less than the statutory minimums. Section 5(2) could be utilized to counter the assertion that the intrinsic value of training has a monetary value.

## 2.1 The Student Exclusions

This section covers the exclusions targeting students engaged in unpaid labour as part of a formal education program. There are several exclusions pertaining to secondary students and post-secondary students engaged in fulfilling the requirements of their academic programs. Under section 3(5) of the *ESA* there

is a powerful exclusion targeting students enrolled in secondary, or post-secondary education, it reads:

This Act does not apply with respect to the following individuals and any person for whom such an individual performs work or from whom such an individual receives compensation: 1. A secondary school student who performs work under a work experience program authorized by the school board that operates the school in which the student is enrolled. 2. An individual who performs work under a program approved by a college of applied arts and technology or a university.<sup>1</sup>

This is the critical piece of the statutory infrastructure that allows for the creation of academic programs that contain requirements which demand unpaid labour such as co-op semesters, unpaid internships, clinical education, practicums, or field placements. The exclusion under subsection 3(5) of the *ESA* is a total exclusion that completely removing students from any of the protections under the Act.

The case law related to subsection 3(5) of the *ESA* is extremely limited. The three reported cases contain some deeply troubling aspects. *Villeneuve v. 833420 Ontario Inc.*,<sup>2</sup> an Ontario Labour Relations Board decision dealing with whether an application under s. 116 of the *ESA* was properly brought, contains commentary that would lead a reasonable observer to believe that the Employment Standards Officer overseeing the initial investigation actively discouraged the employee from appealing. A more troubling aspect of this decision is the possibly is that the Employment Standards Officer utilized subsection 3(5)(2) as a means to refuse jurisdiction to avoid a ruling that would have considered participants in the Government of Ontario's Job Connect program legal employees and shielded government sponsored training programs from having to adhere to minimum employment standards. The employer and employee eventually reached a settlement in this matter.

In *Cosimo's Garage Ltd. v. Smith*,<sup>3</sup> Vice-Chair McKellar analyzed the interaction between subsections 1(2) and 3(5)(2) in finding an apprentice mechanic was an employee under the *ESA*. Subsequently, the employer sought reconsideration of Vice-Chair McKellar's decision and alleged that the Labour Relations

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<sup>1</sup> Beyond the exclusions set out for secondary and post-secondary students, there are exclusions for persons participating in programs under the *Ontario Works Act, 1997*; prisoners in custody and those fulfilling a part of sentence under the *Youth Criminal Justice Act*; and, persons working in simulated working environment as part of rehabilitation programs.

<sup>2</sup> *Villeneuve v. 833420 Ontario Inc.*, 2003 CanLII 35624 (ON LRB). The parties eventually reached a settlement, see: *Villeneuve v. 833420 Ontario Inc.*, 2003 CanLII 39965 (ON LRB).

<sup>3</sup> *Cosimo's Garage Ltd. v. Smith*, 2005 CanLII 25323 (ON LRB). The employer sought reconsideration, but was unsuccessful, see: *Cosimo's Garage Ltd. v. Smith*, 2005 CanLII 28970 (ON LRB).

Officer assigned to the case assured the employer they would succeed in contesting the Employment Standards Officer's order for pay wages and vacation pay. The Ministry of Labour's Director of Employment Standards declined to appear at a hearing to make submissions on whether apprentices in Ontario enjoy protection under the *ESA*. In *Dobreff v. Davenport*,<sup>4</sup> subsection 3(5)(2) was judicially considered in passing. Given the context of the case, which involves what is essentially a vexatious litigant, the import of subsection 3(5)(2) was not examined in great detail and it appears that Justice Ross erroneously applied subsection 3(5). While none of the aforementioned cases is conclusive of systemic bias against young workers on its own or even in unison, it leaves some troubling unresolved questions about what may be occurring outside public purview within the confines of the Ministry of Labour when dealing with the difficult terrain surrounding the protection of youths engaged in the school-to-labour market transition.

### 2.3 The Person Receiving Training Exclusion

This exclusion is tied to the definition of "employee" contained in s. 1(1) of the *ESA*, which states "(c) a person who receives training from a person who is an employer, as set out in subsection (2)...". Subsection 1(2) sets out a six-pronged reverse-onus test to assess whether a person receiving training is an employee:

Person receiving training – For the purposes of clause (c) of the definition of "employee" in subsection (1), an individual receiving training from a person who is an employer is an employee of that person if the skill in which the individual is being trained is a skill used by the person's employees, unless all of the following conditions are met: 1. The training is similar to that which is given in a vocational school. 2. The training is for the benefit of the individual. 3. The person providing the training derives little, if any, benefit from the activity of the individual while he or she is being trained. 4. The individual does not displace employees of the person providing the training. 5. The individual is not accorded a right to become an employee of the person providing the training. 6. The individual is advised that he or she will receive no remuneration for the time that he or she is in training.

The employer must meet every part of the test must be met for the exclusion to be engaged and for the person receiving training to be excluded from the operation of the *ESA*. In actual work environments the criteria in the six-

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<sup>4</sup> *Dobreff v. Davenport*, leave to appeal to S.C.C. refused in 2009 CarswellOnt 2415 2009 Carswell 15 (ONCA), aff'g 2008 CarswellOnt 8244 (Ont. S.C.J.).

pronged test are extremely difficult to adhere to and this will be illustrated in the case law discussed below.

The Ontario Labour Relations Board has issued ten decisions that in some manner consider subsection 1(2) of the *ESA*. In eight decisions there was a finding there was employee misclassification occurring and a breach of the provisions under the *ESA*.<sup>5</sup> Only one reported case, the decision in *Swift Trade Securities Training Inc. v. Pace*, which is discussed below, found that the provisions set out in subsection 1(2) were complied with and that the trainees were properly excluded from the protection of the *ESA*.<sup>6</sup> A plain reading of the case law reveals that the exclusion under subsection 1(2) of the *ESA* is quite narrow.

*Girex Bancorp Inc. v. Hsieh*,<sup>7</sup> dealing with an appeal of a Ministry of Labour administrative decision, is the leading case on interpreting subsection 1(2) and is the only misclassification case that explicitly deals with an unpaid internship situation where the interns were programming computer software. The employer claimed that the interns were “voluntary trainees” gaining work experience, skills, and training through the program. The only remuneration that the interns received was a letter of recommendation. Vice-Chair Wacyk utilized the six-pronged test in her analysis and found that the employer had breached two parts of the test. Subsequent to this finding, she confirmed the Employment Standards Officer’s order to pay wages and vacation pay. In *Lifetime Security Tech Inc. v. Yu*,<sup>8</sup> a case involving misclassification of an electronics technician, Vice-Chair Wacyk made a pointed comment at paragraph 58 of the decision stating: “However, subsection 1(2) of the Act provides that persons who are being trained are entitled to the protections of the Act except in the narrowest of circumstances.” This is a revealing insight in that it shows that subsection 1(2) should be given a narrow reading given the exclusion totally removes the trainee from *ESA* protections.

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<sup>5</sup> See: *Sandhu v. Brar*, 2013 CanLII 43024 (ON LRB); *Girex Bancorp Inc. v. Hsieh*, 2004 CanLII 24679 (ON LRB); *Urban Development of Essanjay v. Kim*, 2004 CanLII 30724 (ON LRB); *Cosimo’s Garage Ltd. v. Smith*, 2005 CanLII 25323 (ON LRB); *Select Driver Services Ltd. v. Beyene*, 2006 CanLII 25984 (ON LRB); *Infosys Canada v. Shourjeh*, 2007 CanLII 5945 (ON LRB); *Reyhani v. 1391367 Ontario Inc. (Beikabadi Dentistry Professional Corporation)*, 2011 CanLII 1863 (ON LRB); *1760530 Ontario Corporation (Mac’s) v. Rehman*, 2012 CanLII 4272 (ON LRB); and, *Lifetime Security Tech Inc. v. Yu*, 2012 CarswllOnt 10402.

<sup>6</sup> See: *Swift Trade Securities Training Inc. v. Pace*, 2004 CanLII 18595 (ON LRB). It should be noted that in *Surujnairn v. Chin*, 2011 CanLII 23489 (ON LRB), Vice-Chair Albertyn utilized the *Swift* in his decision, but the discussion subsection 1(2) of the *ESA* was *obiter* as the claim for unpaid wages during the apprenticeship period was time-barred.

<sup>7</sup> *Girex Bancorp Inc. v. Hsieh*, 2004 CanLII 24679 (ON LRB).

<sup>8</sup> *Lifetime Security Tech Inc. v. Yu*, 2012 CanLII 47762 (ON LRB).

*Swift Trade Securities Training Inc. v. Pace*<sup>9</sup> is the only case in Ontario where an employer successfully defended a claim where a breach of subsection 1(2) was alleged. In this case the employer brought an application under s. 116 of the *ESA* appealing an order from an Employment Standards Officer requiring them to pay wages to a misclassified employee. The employer had set up two distinct corporations, one focused on trading securities while the other focused on training people who wanted to become traders. Trainees paid \$99.00 to attend a two-month program where they would trade actual securities in real time and be given training on how to trade stocks. At paragraph 18 of the decision Vice-Chair McKellar stated that because the employer:

...employs trainers, not traders. The daimant was being trained to be a trader, not a trainer. Consequently the claimant was not being trained in a skill used by Training's employees. In the Board's view, this was a sufficient basis on which to allow this application.

While on the surface the logic appears sound, in paragraph 12 of the decision it is stated “[o]f the Training registrants who obtain work as traders, some are hired by Training and some are hired by its competitors...”, this is troubling as the employer was likely subverting the intent of *ESA* via the clever use of corporate structures. There are two published decisions relating to the other corporation that engaged in trading securities where the matters were settled before it went to a full hearing at the Ontario Labour Relations Board,<sup>10</sup> while it is impossible to state these cases are definitively related to misclassification of trainees, there is a strong possibility.

## 2.4 Volunteers and Pre-Employment Testing

This section deals with two emerging forms of employee misclassification that demand unpaid labour from youths. In Ontario's youth labour market employers are increasingly bringing on youths as "volunteers" without wages, fringe benefits, or any of protections offered under workplace law or demanding that youths provide unpaid labour for an extended period of time as a form of pre-employment testing.

As greater attention is focused on unpaid internships and other highly visible forms of unpaid labour there is a concern that employers will simply alter their language and begin calling people “volunteers” in an attempt to subvert the

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<sup>9</sup> *Swift Trade Securities Training Inc. v. Pace*, 2004 CanLII 18595 (ON LRB).

<sup>10</sup> *Swift Trade Inc. v. Khoo*, 2005 CanLII 21508 (ON LRB); and, *Thompson v. Swift Trade Securities Inc.*, 2003 CanLII 3620 (ON LRB).

ESA and other social protective statutes aimed at providing employees with a minimum floor of rights. Traditionally volunteers have been limited to the non-profit and charitable sectors, but increasingly for-profit employers have been utilizing misclassified volunteers and utilizing their unpaid labour as a substitute for paid employees (i.e. music festivals, the live event industry, and the hospitality sector). The Ministry of Labour has stated that these are the following factors that are considered to test if a person is an employee or volunteer:

Because volunteers are not “employees”, the ESA does not apply to volunteers. The following factors are generally considered when determining whether an individual is a volunteer: (a) the extent to which the person performing the services views the arrangements as being pursuant to his pursuit of livelihood on the one hand, and the extent to which the person receiving the services is conferred a benefit on the other hand; (b) the circumstances of how the arrangement was initiated; (c) whether an economic imbalance between the two parties was a factor in structuring the arrangement. The fact that there is or isn’t some form of payment is not determinative of volunteer vs. employee status.<sup>11</sup>

The above noted factors constitute the only guidelines that the Ministry of Labour utilizes in adjudicating cases where there question of whether a person is an employee or volunteer. These guidelines remain unpublished and the Ministry of Labour has done little to address the growing problem of employers misclassifying employees as volunteers. It should be noted that volunteers are not explicitly excluded from the *ESA*. Another form of misclassification that employers are increasingly exploiting is not paying young workers for a period of time at the start of employment. The Ministry of Labour does not have a published policy on pre-employment testing and this subject is not addressed in the *ESA*. An internal Ministry of Labour policy document states:

[p]ersons who are engaged in some form or pre-employment activity are generally not considered employees under the Act (and therefore are not entitled to the protections of the ESA), provided that the amount of time spent in the program is reasonably limited in duration and the activities involved do not displace the substantive training, instruction and orientation needed once an employee is hired.<sup>12</sup>

This statement is troubling, as it does not provide clear guidance on pre-employment testing. No bright line exists in Ontario per se, but an example of illegal pre-employment selection or volunteer would be requiring prospective

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<sup>11</sup> Ministry of Labour House Notes on Internships, February 22, 2012, pg. 5. This is confidential internal government document currently in the possession of the author.

<sup>12</sup> Ibid.

employees to work a “trial shift”, which is quite a common demand in the hospitality industry and is known as a “stage”.

There are four known cases in Ontario which address misclassification of volunteers or pre-employment testing under the *ESA*. The decision in *Re Consumer Liability Discharge Corp.*<sup>13</sup> dealt with unpaid labour in the context of volunteer for a for-profit employer. In finding that the employee was misclassified as a volunteer, Referee Davis made a number of interesting comments. The critical passage from the case reads:

...one of the key factors in determining whether there has been a true volunteering of services...is the extent to which the person performing the services views the arrangement as being pursuant to his pursuit of a livelihood on one hand, and the extent to which the person receiving the services is conferred a benefit on the other hand. Another factor will be the circumstances of how the arrangement was initiated, and again, whether an economic imbalance between the two parties was a factor in structuring the arrangement.

Referee Davis goes on to state that the definitions of “employee” were designed, in part, to “preclude within limits the shifting of the cost of training from the employer to the employee.” This is critical observation as in the period since this case was decided employers have begun using unpaid labour as a means to shift training costs onto youths directly.

In *Re Glenn William Robinson o/a Station Street Café*,<sup>14</sup> Referee Adamson considered whether an employee agreeing to undertake unpaid labour as part of trial period of managing a restaurant. The Referee found that the employees were owed back wages for the time they worked. It was found that the lack of remuneration was not critical for the determination of volunteer status. One particularly interesting passage about the ability of volunteers to avail themselves of the protections of the *ESA* reads:

[t]he Employment Standards Act is remedial legislation. Its application, in almost every instance, is sought by workers who consider themselves to have a grievance. If for some reason, a volunteer worker was to seek the application of the Act doubtless the claim would need to be considered, since the legislation does not exclude such workers from its application...the application of the of the Employment Standards Act, which they have every right to do, and it must be made available to them.<sup>15</sup>

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<sup>13</sup> *Re Consumer Liability Discharge Corp.*, Jul. 24, 1981 (Davis) E.S.C. 1032. It should be noted that this case was decided under an old employment standards statute.

<sup>14</sup> *Re Glenn William Robinson o/a Station Street Cafe*, Dec. 30, 1988 (Adamson) E.S.C. 2434. It should be noted that this case was decided under an old employment standards statute. This is also the only case dealing explicitly with pre-employment testing.

<sup>15</sup> *Ibid.*



This indicates that in the absence of an explicit statutory exclusion, volunteers have the ability to invoke the protections of the *ESA* if they feel the volunteer arrangement has become a de-facto employment relationship. In *Re Mrs. Dorothy Haight o/a Gladway Gardens Wheel Inn*<sup>16</sup> Referee Rose ordered the payment of back wages in a situation where an employee undertook six weeks of voluntary unpaid labour while training in a flower shop. The most recent case discussing volunteer misclassification is *Iannuzzi vs. 1747981 Ontario Inc. o/a Platinum Events Group*,<sup>17</sup> which was a decision from an Employment Standard Officer that found the employer had misclassified an employee by utilizing their unpaid labour “in an unpaid volunteer capacity” and in calling them a “Wedding and Event Intern”.

### 3. Occupational Health and Safety

This section deals with occupational health and safety. These are laws designed to protect the physical safety of workers and increasingly psychological safety with the implementation of Bill 168. The *Occupational Health and Safety Act* (“the *OHS Act*”) is a key statute in Ontario containing key protections relating to health, safety, and workplace violence. In subsection 1(1) of the *OHS Act* “worker” means a person who performs work or supplies services for monetary compensation”. The inclusion of “monetary compensation” excludes ‘persons who receive training’, students, unpaid interns, and possibly interns who are receiving honourariums or stipends. The *OHS Act* does not apply to a person working in an unpaid capacity. An internal Ministry of Labour document provides this overview of how the *OHS Act* applies to workers undertaking unpaid labour, it reads:

[t]he *Occupational Health and Safety Act* (OHS Act) defines a “worker” as a person who performs work or supplies services for monetary compensation. This definition would exclude unpaid interns (students, trainees, volunteers) from OHS Act coverage. MOL has historically interpreted “monetary compensation” broadly (to include, for example, an annual stipend, or an honorarium) so that the OHS Act will apply as widely as possible. Although the rights conferred upon workers by the OHS Act do not apply to unpaid interns, these individuals would still have the benefit of a safe workplace where the employer complies with its duties under the OHS Act.<sup>18</sup>

<sup>16</sup> *Re Mrs. Dorothy Haight o/a Gladway Gardens Wheel Inn*, Jul. 13, 1982 (Rose) E.S.C. 1249.

<sup>17</sup> This is an unpublished decision as it only reached the level of an Employment Standards Officer. The author of this paper has a copy of the Employment Standard Officer’s Reasons for Decision in his possession.

<sup>18</sup> Unpaid Internships, Briefing for Minister’s Office, Ministry of Labour, March 27, 2013, Pg. 10

The exclusion under the *OHS*A is extremely powerful and excludes a large number of youths engaging in unpaid labour during the school-to-labour market transition.

The *OHS*A creates a gap in protection by linking its protection to “monetary compensation.” This creates a quandary where a misclassified worker undertaking unpaid labour would be entitled to the minimum wage under the *ESA*, but would be excluded from coverage under *OHS*A because of the absence of remuneration. Case law reiterates this, in *Hillis v. Boyko Rentals Ltd.*<sup>19</sup> the absence of an advanced agreement to be paid disentitled the unpaid worker to rights under the *OHS*A. The interplay between the *ESA* and the *OHS*A creates a quandary, the *ESA* stipulates that its provisions cannot be contracted out of, including minimum wage, but the *OHS*A requires contemporaneous compensation for it to be applicable. Another critical definition for the *OHS*A is “workplace,” it is defined as “any land, premises, location or thing at, upon, in or near which a worker works.” If a paid worker is present in a workplace, but for purposes unrelated to their work they might not be covered by the *OHS*A. This was the situation in *R. v. Frank Wilson Grandview Services Ltd.*<sup>20</sup> where an employee was injured during an after-hours party and it was found that during that event he was not a “worker” for the purposes of *OHS*A.

In December 2013, *Bill 146, Stronger Workplaces for a Stronger Economy Act, 2013* was tabled in the Legislative Assembly of the Province of Ontario. This piece of legislation would expand the definition of who was a “worker” under *OHS*A. Under Schedule 4 of the legislation the following definition of “worker” is proposed:

‘worker’ means any of the following, but does not include an inmate of a correctional institution or like institution who participates inside the institution or facility in a work project or rehabilitation program: 1. A person who performs work or supplies services for monetary compensation. 2. A secondary school student who performs work or supplies services for no monetary compensation under a work experience program authorized by the school board that operates the school in which the student is enrolled. 3. A person who performs work or supplies services for no monetary compensation under a program approved by a college of applied arts and technology, university or other post-secondary institution. 4. A person who receives training from an employer, but who, under the Employment Standards Act, 2000, is not an employee for the purposes of that Act because the conditions set out in subsection 1 (2) of the Act have been met. 5. Such other persons as may be prescribed who perform work or supply services to an employer for no monetary compensation;<sup>21</sup>

<sup>19</sup> *Hillis v. Boyko Rentals Ltd.*, [1988] O.J. No. 211.

<sup>20</sup> *R. v. Frank Wilson Grandview Services Ltd.*, 2000 CarswellOnt 9418.

<sup>21</sup> *Bill 146, Stronger Workplaces for a Stronger Economy Act, 2013.*

If passed, *Bill 146* would drastically tighten the pre-existing exclusion that deny critical protections to vast numbers of young workers during the school-to-labour market exclusions.

#### 4. Workers' Compensation

This section overviews the exclusions under Ontario's workers' compensation law for youths during the school-to-labour market transition. Adequate coverage under Ontario's workers' compensation law for youths during the school-to-labour market transition is critical, but this is not the case for many youths engaged in the school-to-labour market transition. Workers' compensation laws are a form of welfare that provides for workers who have been injured on the job. The main law governing workers' compensation in Ontario is the *WSLA*. The critical protections under the *WSLA* are the ability to receive income replacement benefits and medical benefits. The WSIB administers the *WSLA*, which is an agency of the Ministry of Labour, while the Workplace Safety and Insurance Appeals Tribunal is the appellate body that hears appeals from WSIB decisions. The Ministry of Training, Colleges, and Universities ("MTCU") is the insurer for post-secondary education students covered under the *WSLA* and also carries a separate insurance policy for some students who are in training programs but not covered under *WSLA*. The Ministry of Education ("MOE") is the insurer for secondary students covered under the *WSLA*.

Under subsection 2(1) of the *WSLA* a "worker", those who are protected under the Act, means "a person who has entered into or is employed under a contract of service or apprenticeship and includes the following: 1. A learner. 2. A student." The definitions contained under subsection 2(1) are not entirely determinative for establishing coverage of youths engaged in unpaid labour during the school-to-labour market transition, rather the WSIB has established a series of policies that delineate the coverage that youths receive under *WSLA* during the school-to-labour market transition. The exclusions under the *WSLA* are not contained in the Act itself; rather the exclusions are policy-driven and not well understood. These policies are outlined in: WSIB Document No. 12-04-04; WSIB Document No. 12-04-05; and, WSIB Document No. 12-04-07. Moreover, these policies never contemplated a labour market where there was rampant employee misclassification and unpaid labour.

Secondary school students are generally covered under *WSLA* during formal work education programs offered by their school board, but students are not protected during mandatory voluntary community service or other forms of unpaid labour. This is a significant gap as employers are increasingly classifying

students as interns and have been taking advantage of the requirement that students must complete forty hours of voluntary community service to obtain their Ontario Secondary School Diploma. Post-secondary education students are covered under the *WSIA* under formal education programs offered by a community college, a career college, or a university. The MOE pays the WSIB for the costs associated with paying benefits of secondary students and students are treated as employees of the MOE for the purposes of the WSIB.

There are exclusions under internal WSIB policy with respect to coverage under the *WSIA* for post-secondary students undertaking unpaid labour as part of training programs. Persons in the following situations are not eligible for coverage under *WSIA*: students in post-secondary education institutions or training programs that are not funded through operating grants provided by the MTCU; student trainees performing unpaid labour as part of work placements which are not a required part of their program and which they have arranged or organized themselves, this includes students involved in voluntary training programs entered into at their own volition; students whose work placement is with the same training agency that trains them; students who are in the classroom portion of their training program; students undertaking an unpaid placement in Ontario but whose training agency is outside the province; and, students in a training agency who, as part of a formal course or program, attend a training placement with an Ontario Placement Employer but the placement occurs outside of Ontario. The MTCU pays the WSIB for the costs associated with paying benefits of post-secondary students injured while engaged in training and also carries a separate insurance policy with ACE-INA. There are also serious exclusions under internal WSIB policy with respect to young workers undertaking unpaid labour during the school-to-labour market transition (this statement would also apply to other groups of vulnerable workers). The following examples are not eligible for coverage under the *WSIA*: persons volunteering their services to an employer to develop skills; persons who are volunteering their time or services for community, non-profit, or charitable purposes; persons performing unpaid labour as a component of therapy or correction in health care or correctional institutions; persons performing unpaid labour due to a Community Service Order; persons in a workplace solely for the purposes of visiting, casual observation, or work placement and who are not participating in the activities of the placement employer's industry; post-secondary education students who are performing unpaid labour while conducting research for a university or community college; and, persons who are not on placement but as part of the training program perform work on the training agency's premises.

There are only a handful of cases that deal with coverage of persons undertaking unpaid labour and this had led to the situation where there is little

judicial guidance as to the exclusions that exist due to WSIB policies. In Decision No. 1461/08<sup>22</sup> the WSIAT ruled in regards to a case of an employee who was injured during the course of an unpaid training period that:

[i]n my view, section 69 of the Act does not apply to this and neither do Operational Policy Manual Document Nos. 12-04-05 and 12-04-04. These policies and section 69 of the Act are intended to extend coverage to individual who are placed in workplaces by a training institution as part of a formal educational or upgrading program. They are not intended to narrow coverage or exclude individuals who are learners under the broader definition of 'learner' found in section 2 of the Act. In my view, the definition of learner is intended to provide coverage to individuals who are involved in informal learning arrangements such as the arrangement in this case."

This decision also references the six-fold test from subs. 1(2) of the *ESA* concluding:

[t]he appellant was a person who was receiving training from a person who is an employer. She was receiving training in a skill used by the restaurant's employees. The conditions set out in section 1(2) are not all met because the training was not similar to that given in a vocational school and the person providing the training provided benefit from the activity of the appellant while she was being trained as she was doing work that would otherwise have been done by another employee.

The reasoning in the aforementioned case was adopted by another adjudicator in Decision No. 2210/10,<sup>23</sup> which dealt with an Application for an Order removing the right to a civil action.

The effect of these decisions appears to open the door to unpaid interns seeking protection under the *WSIA*, although they would have to first prove that they are employees under the *ESA*. It is problematic that the exclusionary nature of the six-fold test under subsection 1(2) of the *ESA* operates in concert with the provisions under the *WSIA*. The interaction between the two statutes clearly deepens the impact of mischaracterization of employees as interns are prevented from obtaining compensation for injuries suffered in the workplace. This is not a theoretical concern as Appeals Resolution Officer C. Rubino was criticized for mischaracterizing a learner as a volunteer in the aforementioned Decision No. 1461/08.

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<sup>22</sup> Decision No. 1461/08, 2008 ONWSIAT 2029.

<sup>23</sup> Decision No. 2210/10, 2010 ONWSIAT 2642.

## 5. Human Rights

This section overviews the protections currently granted to interns under Ontario's human rights laws. Young workers engaged in work experience programs are completely covered under Ontario's *Human Rights Code* ("the Code"). The body hearing human rights application is called the Human Rights Tribunal of Ontario. Human rights laws, as quasi-constitutional documents, are broadly applied with the term "employment" having a far broader meaning in the human rights context than it is normally ascribed under workplace law, contract law, or the Common law. Youths have protection under the *Code*. These protections are gained via the prohibition against discrimination and harassment in the delivery of services or during the course of employment. The leading decision in Ontario is *Rocha v. Pardons and Waivers of Canada*,<sup>24</sup> the Human Rights Tribunal of Ontario held that even when a person agrees to work in an unpaid capacity without remuneration for a period of time it does not remove them from the protections guaranteed under the provisions relating to employment under the Code. Despite interns and students being covered under the Code there are two recent decisions from the Human Rights Tribunal of Ontario, which raise the prospect that discrimination is a regular occurrence for young workers in the school-to-labour market transition. In *Aratski v. Physical and Health Education Canada*,<sup>25</sup> a student undertaking an academic internship at the University of Ottawa alleged that she experience discrimination on the basis of disability. The application in this case was dismissed for procedural reasons and the substantive matter of the alleged discrimination was not considered. In *McMaster v. Ubisoft Toronto*,<sup>26</sup> a recent graduate alleged that she experienced discrimination on the basis of family status and due to her mother being in receipt of Ontario Disability Support Plan benefits. The application was dismissed as there was no reasonable prospect of success.

It should be noted that a review of the American experience relating to intern culture reveals that interns face heightened vulnerability to harassment, discrimination, and sexual harassment. It is clear that interns face a serious power imbalance in the workplace and often are not in a position to contest breaches of their human rights. There is also an emerging school of thought that argues that the expectation for young workers to provide unpaid labour is a form of age discrimination contrary to the *Code*. It should be noted that this theory has not been tested in the Courts.

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<sup>24</sup> *Rocha v. Pardons and Waivers of Canada*, 2013 HRTO 1261 (CanLII).

<sup>25</sup> *Aratski v. Physical and Health Education Canada*, 2013 HRTO 1212 (CanLII).

<sup>26</sup> *McMaster v. Ubisoft Toronto*, 2011 HRTO 627 (CanLII).

## 6. Analyzing the Regulatory Environment

Tracing the demarcation lines when it comes to various types of unpaid labour, such as work-integrated learning programs and informal training, associated with the school-to-labour market transition is not an easy task. In assessing the coverage under workplace law in Ontario it must be understood there is a tremendous amount of overlap between situations involving trainees, employees, interns, and volunteers. Often employers use terms interchangeable, for example consider the difference between an unpaid intern and a volunteer in a for-profit enterprise, this leads to much confusion among youths about what their rights are and has led to the widespread notion it is permissible for private sector employers to not pay young workers in entry and lower level positions. Beyond this, even individuals some times have shifting status within the same organization: fulfilling both volunteer responsibilities and the duties of a paid employee.

The four exclusions under the *ESA* that target young workers are extremely powerful and are the most far-reaching of any Canadian jurisdiction. The cumulative effect of these exclusions, when combined with lax enforcement from the Ministry of Labour, has been the rapid expansion of the use of unpaid labour by employers in Ontario. The school-to-labour market transition has become extremely rocky for many youths and they often lack the ability to gain economic security during the early years of their working lives.

The exclusion under subsection 2(1) of the O. Reg. 285/01 students in training to become a member of architecture, law, professional engineering, public accounting, surveying, or veterinary science; chiropractic, dentistry, massage therapy, medicine, optometry, pharmacy, physiotherapy, or psychology are excluded from Parts VII, VIII, IX, X, and XI of the *ESA* which deal with hours of work, overtime pay, minimum wage, public holidays, and vacation with pay. This is a near totalizing exclusion and allows for informal unpaid WIL programs in many of the key professions within society. This removes the ability of trainee to contest the conditions of their employment, have effective control over their uses of time, or earn an income. This primes elite sectors of the labour market to become accepting of unpaid labour. The proliferation of unpaid labour under this exclusion is extremely troubling given recent moves to institutionalize and entrench this practice in Ontario's labour market.

The exclusion under subsection 3(5) of the *ESA* targeting secondary and post-secondary students is also a totalizing exclusion that allows for unpaid labour in formal education programs. The concern here is that employers could well enter into partnership with educational providers to obtain unpaid labour to

replace paid employees with and recent trends would suggest that certain corporations are moving in this direction; particularly, this is a trend that is being heavily seen in the broadcasting, creative, high-tech, and telecommunications industries in Ontario. The two cases considering the exclusion under s. 3(5) of *ESA* are the most troubling as a reasonable observer could conclude that staff at the Ministry of Labour at best showed bias against young workers bring complaints and at worst were actively attempting to subvert the protections under the *ESA*.

The exclusion under subsection 1(2) of the *ESA* is the most problematic of any exclusion in any Canadian jurisdiction as it creates a legal loophole (albeit a narrow one if one considers the jurisprudence) that allows employers to download training costs onto workers, creates an environment for misclassification and wage theft, and incentives employers to abuse of one of the key statutes aimed at ensuring social minimums. While the purpose of this paper was not to track the legislative history of exclusions, this one was imported directly from the United States, which is perhaps the worst offender when it comes to permitting the abuse of youths via unpaid labour. This exclusion creates the perfect conditions for youths to experience profound precarity.

Perhaps the most troubling of the exclusions are the ones under the *OHSA* and the *WSLA*, which deny youths critical protections aimed at protecting physical health and offering benefits in the event of a workplace accident. The current set of exclusions does not strike any sort of fair balance and put youths in an extremely vulnerable position in the workplace. There is a risk that employers are taking advantage of the current situation by sending youths into harms way because the economic or legal risk from a young worker suffering a workplace injury is sometimes non-existent given the current wording of the *OHSA* and the *WSLA*. While the reforms proposed under Bill 146 would go a long ways to close the exclusion targeting youths under *OHSA*, it would do nothing to ensure that youths receive adequate coverage under *WSLA*.

Overall, the power imbalances that are created through the exclusions under *ESA*, *OHSA*, and *WSLA* and the permissive regulatory environment towards unpaid labour in Ontario has created the condition where tens of thousands of youths forego wages every year due to misclassification and wage theft. This is a profound problem in Toronto, Ottawa, and other urban centres due to the large numbers of students seeking to differentiate themselves in a crowded labour market. While the jurisprudence shows a clear trend towards addressing misclassification and protecting the employment standards of employees, serious questions remain about whether the Ontario government is taking appropriate enforcement action to address the growing amount of unpaid labour being undertaking by youths during the school-to-labour market



transition. Much more research needs to be conducted before the true extent of this problem is understood, but increasingly various actors are calling on the Ontario government to take decisive action to stem the growth arising from unpaid labour. It remains to be seen what action the Ontario government will undertake.

## References

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*Human Rights Code*, R.S.O. 1990, c. H-19.

*Workplace Safety and Insurance Act, 1997*, S.O. 1997, c. 16, Sch. A.

*Occupational Health and Safety Act*, R.S.O. 1990, c. O.1.

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# Between Training and Work Experience: the Effectiveness of Post-graduate Internships and Placement Services

Davide Arcidiacono \*

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## 1. The Analytical Framework

The interaction between the educational system and the economic and productive system is the cornerstone of the reform process of the Italian university system which started in 1999. This is a particularly controversial issue in our country as the Italian academy has long been accused of being a self-referential institution, far removed from the needs of the economic and productive system and the labour market, as well as for its poor ability to produce graduates, high drop-out levels and chronic delays in qualifications being obtained<sup>1</sup>. This issue is one of the leitmotifs of the debate regarding the renewal of Italian education and training systems in general. It has led to reorganization designed to favour more open and potentially customizable educational pathways and to integrate classroom learning (learning by absorbing) with job training. The reference model in Europe continues to be the German 'dualistic system', which is very expensive and difficult to replicate in other contexts, but which does permit the creation of cooperative relations and exchanges with the business system in order to provide students with more specialized and suitable skills.<sup>2</sup> The theme of bringing together education systems and economic and productive systems was also one of the priorities identified by the European Conference in Bologna in 1999 and features in the

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<sup>1</sup> R. Moscati, M. Vaira, 2008. *L'Università di fronte al cambiamento*, Il Mulino, Bologna, 2008. See also R. Moscati, M. Regini, M. Rostan, *Torri d'avorio in frantumi? Dove vanno le università europee*. Il Mulino, Bologna, 2010.

<sup>2</sup> M. Regini, *Modelli di Capitalismo. Le risposte europee alle sfide della globalizzazione*. Laterza, Roma-Bari, 2000.

growing debate on the employability of graduates in the euro zone. This process began with the reform of course planning, new curricula and a more accurate means of identifying ‘learning outcomes’ and ‘employment and professional results’; at the same time, greater focus was placed on strengthening the role of placement services in each university with internships available both during and after degree courses.<sup>3</sup> In this sense the reform empowered university placement offices which took on a leading role in the job placement of a skilled labour force, above all in local markets facing problems such as over-education and the brain drain phenomena.

This reform meant a significant change in the strategies and functions of the national Academy, inspired by a market logic which considers students, families and businesses as relevant stakeholders in the reorganization and evaluation of teaching and research activities. In this sense, considering Decree 509/99, there was a transition to a 3 + 2 year system (bachelor-master), inspired by the Anglo-Saxon model, with more vocational undergraduate courses designed to increase employability in the labour market. Furthermore, the new rules introduced additional elements of integration between universities and the labour market through a series of measures that help to increase the involvement of employers’ organizations in the definition of learning outcomes and in the achievement of these targets (the participation of company representatives in the management bodies of universities, the recognition of credits for vocational skills acquired in the workplace, etc.). This new structure was strengthened by the new Decree 270/04 which came a few years after the previous reform and aimed to rationalize training and avoid its fragmentation. However, the outcomes of this institutional innovation are not being used to their full advantage and many critical issues remain worthy of study.<sup>4</sup> In particular, the value of curricular experience, including in undergraduate courses and postgraduate courses as well as postgraduate internships activated by academic placement services, have never been evaluated in depth, either in terms of the quality of the skills acquired or in terms of graduate employability. It could also be said that the process of university reform, in addition to the reform of employment services, started in 1997 and is still not fully applied effectively in many regions including Sicily. In this new scenario, internships could become a valuable tool in the exchange

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<sup>3</sup> M. Regini, *Malata e denigrata. L’Università italiana a confronto con l’Europa*, Donzelli, Rome, 2009

<sup>4</sup> AlmaLaurea. 2012. *Condizione occupazionale dei laureati. XIV Indagine 2011*, Bologna; E. Reyneri, *Sociologia del mercato del lavoro. Vol. I. Il mercato del lavoro tra famiglia e welfare*, Il Mulino, Bologna, 2011; M. Estevez-Abe, T. Iversen T., D. Soskice, Social Protection and Formation of Skills: A Reinterpretation of Welfare State, in P.A. Hall, D. Soskice (eds.), *Varieties of Capitalism. The Institutional Foundations of Comparative Advantage*, Oxford University Press, New York, 2011, 145-183.

between the business world and the educational system, playing an important role both in the employability of graduates and, above all, in the construction of graduates as professionals and in finding a job, especially in the local market. The Fornero Reform, however, placed certain limitations on the use of internships in order to avoid companies abusing this tool. A number of recent regulatory developments regarding internships in Italy should also be noted: art. 11 of Decree 138/2011 - subsequently declared illegal by the Constitutional Court judgment no. 287 of 19<sup>th</sup> December 2012 as it did not respect regional competences - introduced several changes to the rules governing this type of work experience after the conclusion of the course of study in an attempt to establish a basic level of protection (setting a maximum duration of six months and a time frame of the first 12 months after graduation within which this type of training can be activated). These provisions were intended to limit the risks of insecurity and instability linked to the excessive continuation of the status of intern for young graduates.

The law refers to subsequent guidelines which have recently been approved in an agreement between Government, Regions and the Autonomous Provinces of Trento and Bolzano for the precise identification of the ways in which interns should work and for the salient characteristics of internships.<sup>5</sup> These guidelines also establish a compulsory appropriate remuneration for interns. This last point sparked an intense debate between those who advocated intervention in this direction, considering the needs of the young people involved in these work experiences, and many others who believe that the provision of compensation distorts the very essence of the internship, encouraging firms to misuse the instrument in order to replace other forms of job contract, transforming internships into a competitor of apprenticeships or other regular forms of employment that the recent reform of the labour market intended to promote.<sup>6</sup> However, the internship is an essential step, not only on the training path of graduates but also in their transition to the labor market, as stated in the guidelines and, specifically, in the Sicilian directive which defines internships as being “*finalizzati a facilitare le scelte professionali e l'occupabilità nel periodo di transito scuola lavoro attraverso una prima esperienza nel mondo del lavoro*”.

Prior to the reform of the university system, students who took part in internships recognized by their course of study did not exceed 20% of the total and, above all, focused only on a few specific subjects (courses of teaching,

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<sup>5</sup> In particular, in Sicily the Guidelines drawn up by the State-Regions of 24 January 2013 have been transposed by the Directive of 25 July 2013 of the Regional Department for work, employment, guidance, services and training activities. For more details, see L. Casano, *Sicilia: le nuove linee guida sui tirocini*, in [www.bollettinoadapt.it](http://www.bollettinoadapt.it), 2013.

<sup>6</sup> M. Tiraboschi, *Il testo unico dell'apprendistato e le nuove regole sui tirocini*, Giuffrè, Milano, 2011.

pharmacy, agriculture and architecture, etc.).<sup>7</sup> Subsequently, however, the training activities available began to rise, strongly encouraged by the university reform: among the graduates in 2011, 56% of first-level graduates had been involved in this type of activity, 51% of specialist courses and 37% of students on a single-cycle course.<sup>8</sup>

According to available data, already in the first year post-graduation study an internship experience produces a significant increase in employability: in fact, those who have done an internship have 12% more chance of finding a job.<sup>9</sup> This benefit, which affects both men and women, is confirmed in the majority of degree courses, although it appears greater for second-level graduates. Moreover, taking into account data of the XI Survey GIDP/HRDA conducted on a sample of large companies operating on the Italian market, it can be seen that university placement offices are one of the channels used the most by companies to get in contact with graduates: as much as 58% of companies believe that it represents the most efficient means to search for qualified human capital compared to other channels such as, for example, company websites.<sup>10</sup>

From 2010 to the present day about 300 companies have been affiliated with the University of Catania, with a total of approximately 636 postgraduate internships having been undertaken in the last three years. This figure, which has increased in the last two years (78% were started in 2011), is therefore rather small if you consider that, according to Ministry, the university produces around 7,000 graduates every year. Therefore, each year only 3% of the graduates of the University of Catania turn to the university placement office (the COF) to find an internship. This data demonstrates the necessity to reflect on the effectiveness of internships and the efficacy of university placement services in Catania as this analysis, despite being conducted locally, could prove to be a useful instrument for reconsidering national regulation regarding internships, highlighting above all the constraints that may exist at the local level, especially in countries such as Italy, characterized by strong disparities both in terms of the efficiency of services and the dynamism of the productive sectors and their labour markets. At the same time, this research aims to demonstrate the links between the reform of placements in tertiary education systems which have affected European countries since the Bologna Declaration, Italy in particular. The local dimension of the survey once again appears to be a privileged observatory to consider the process of coercive

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<sup>7</sup> Almalaurea. 2012. Op. cit.

<sup>8</sup> Unioncamere, Ministero del Lavoro, *Gli sbocchi professionali dei laureati nelle imprese italiane per il 2012*, Sistema informativo Excelsior, 2012.

<sup>9</sup> Almalaurea. 2012. Op. cit.

<sup>10</sup> Gidp, *XI Indagine G.I.D.P./H.R.D.A. Neolaureati & Stage*, Milano, 2010.

isomorphism and convergence at a European level compared with the characteristics and the socio-institutional environment of a certain territory.

## 2. Objectives and Methodology

This research, which is currently being carried out and can therefore only provide provisional data, is a descriptive analysis intending to contribute to the debate on the conditions and regulatory forms of internships, providing empirical evidence for the case of post-graduate internships activated by the Placement Office of the University of Catania (COF). The analytical work should fulfill the following aims:

- assess the quality of the learning environment where the interns worked, the conditions in which they worked and how the company supported the learning process of these graduates;
  - discover the level of satisfaction with the value of this training experience in relation to the practical application of theoretical study and practice on the job;
  - assess the effectiveness of internships in aiding and promoting the employability of graduates;
  - define the role of the University Placement Office and discover the opinions and proposals of companies and interns for a more effective placement service.
- These objectives have been pursued through a survey of a sample of graduates between 2011 and 2012 (N = 1000) and a survey of firms that have hosted at least one intern (N = 210) in the last two years using the CAWI (*Computer Assisted Web Interviewing*) method.

## 3. The Learning Environment: Content and Conditions of the Internship

The first result of the study is that graduates in Catania do not tend to participate in internships: 78% of respondents claimed not to have done any kind of internship after their graduation. This result is lower than that of the national level in Almalaurea reports and it poses a serious question as to why the real importance for their CV of conducting a postgraduate internship is still poorly understood and perceived by these graduates. This data also appears to be an indicator of the failure of the 3+2 model, especially considering the ‘usability’ of the bachelor’s degree. As we also know from national data, the percentage of graduates who continue their university studies with a master’s course is huge: one year after graduation, 43% of first-level graduates are engaged a master’s course, a figure to which we must add a significant

proportion of graduates (16.4%) who have the ambitious goal of combining work and study. The main motivation behind continuing one's studies with a master's degree appears to be the desire to complete and enrich one's education (66%), while nearly a third of graduates (31%) see it as being almost compulsory in order to access the labour market. This is even more true in a city of southern Italy such as Catania, where scarce employment opportunities can encourage students to continue their investment in training and to 'park' themselves at university in order to delay the confrontation with the labour market. In our sample, in fact, about 60% chose to continue studying and less than 27% are working one year after graduation. The lack participation in internships, however, also highlights the weakness of the University of Catania's placement service: approximately 76% of those who said they had taken part in a postgraduate internship did so through other agencies and not through the COF, while 69% of the graduates surveyed have never even been to the university's placement office. To this we can add another 7% who, despite having turned to the COF, started an internship through other channels such as employment agencies, public employment centres, etc.). At the same time, however, 80% of firms surveyed turn to the COF Office when they are looking for a highly skilled person for an internship, so this could well be considered an evident case of matching 'failure'.

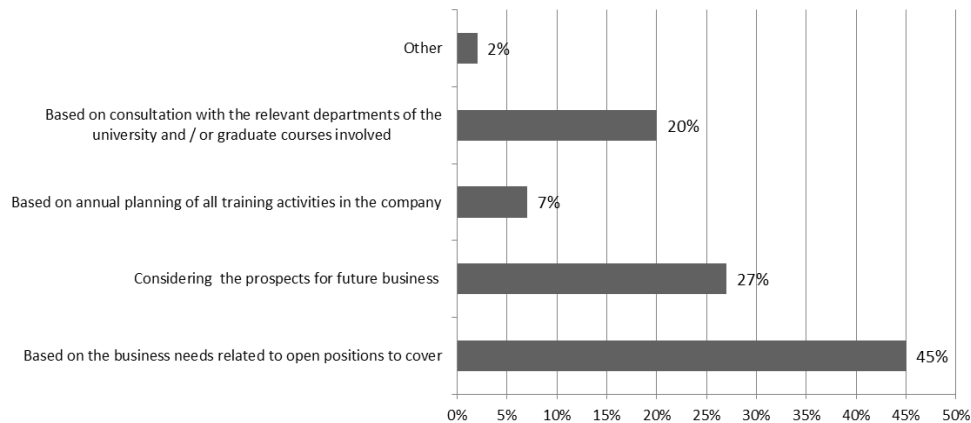
The assessment of conditions and the content of activities are essential to understanding the quality of the learning experience during the internship.

The training programme, the main document which provides a detailed description of the personalized learning path and the operating conditions of the intern, is the starting point of this analysis. As we can see in figure 1, the contents of the training programme are, for the most part (45%), defined from a static perspective linked to the business's short term requirements and considering job vacancies. This confirms the prevalent tendency of firms to take an instrumental approach to the internship tool which can in turn augment the risk of it being misused. Training programmes are rarely the result of an annual planning activity performed in order to promote the efficient monitoring of corporate needs, nor are they based on the construction of innovative projects which take into account potential future investments of the company (only in 27% of cases) in areas where the inclusion of a new skilled labour force could play an important role. In addition, only in 20% of cases was there co-construction and real collaboration between firms and the promoter of the internship, as might be expected and desirable considering the provision of the recent university reform and the new guidelines on internships.

This could encourage the perception of interns as normal human resources to be used in the management of routine activities rather than for challenging

tasks which could make full use of the human capital but risk losing sight of the aims of training which must characterize internships. This risk appears to be magnified by the fact that in almost half of cases, according to the declarations made by the companies in this survey, interns are not supported in concrete terms by a company tutor specified in the training programme (only in 35% of cases), but rather they are supported by the head of the office with whom they work (39%) or the person who manages the relationships between companies and universities (14%) or even by the HR Manager (1%), all figures with a high risk of functional overload or who may not be able to provide adequate support to interns in operational terms.

Fig. 1 – Firms Survey - “How are the contents of the training project processed?”



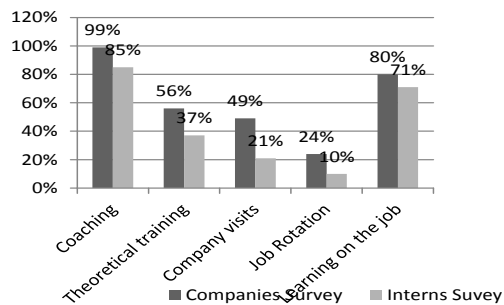
Source: C.O.F. Survey 2013, Author's Own Elaboration

Firms' investment in training activities for interns (fig. 2) appear to confirm the existence of such a risk: as well as the significant discrepancies between what is declared by companies and trainees in the two surveys, which in some cases is as much as 30 percentage points, 50% of interns declared that they did not do any training activities during their experience and it is clear that the space for theoretical training, company visits or other forms of job rotation in liminal or complementary functional areas, are vastly under-utilized compared to more traditional and cheaper (not only economically speaking) forms such as direct coaching or practice on the job. The acknowledged superiority of such forms of learning is certainly justifiable considering the practical meaning attributed to this working experience but this may also confirm the low amount of investment a company is prepared to make in interns and thus gives poor



recognition to and evaluation of the training purposes of this experience. In addition, almost half of the trainees had never been subjected to any periodic evaluations of their activities during the internship by a superior or a more experienced colleague.

Fig. 2 – Training activities during the internship

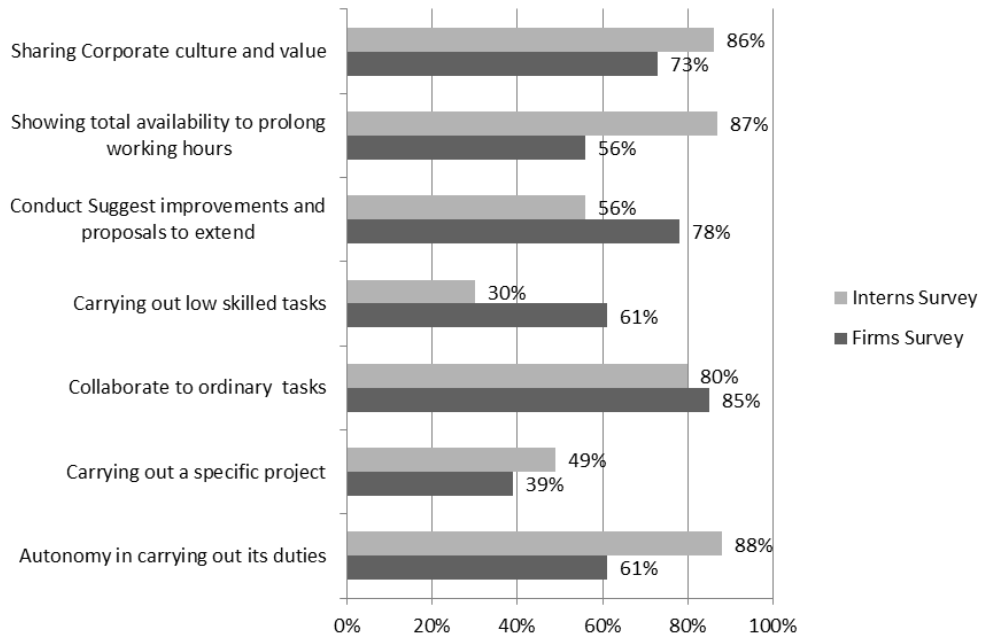


Source: C.O.F. Survey 2013, Author's Own Elaboration

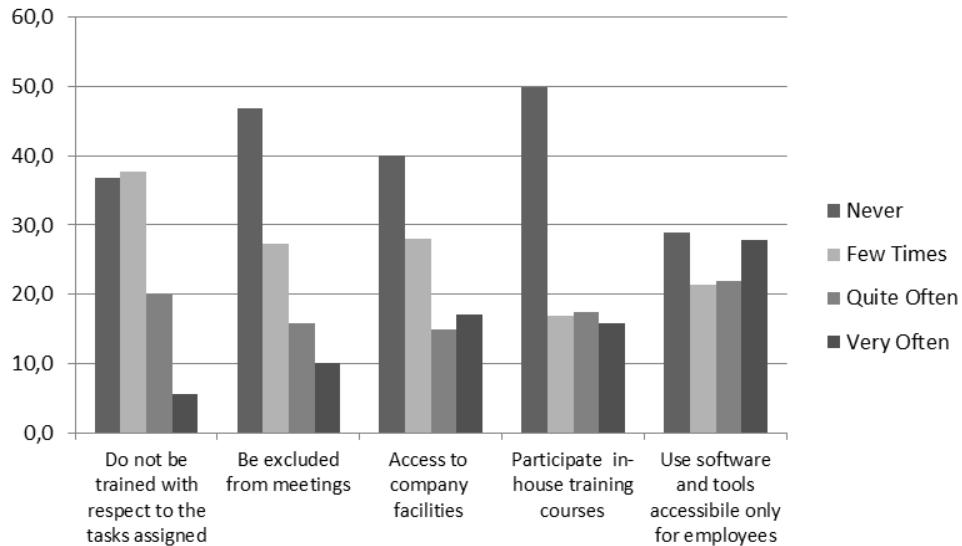
The comparative analysis between the companies' expectations of the interns and the real experience described by interns (fig. 6), shows that companies' expectations are very high. Firms expect graduates to be very autonomous, that they share company values, show a high level of availability, also to carry out low-skilled tasks. This high level of expectation, however, is not rewarded by companies in the real involvement of interns: 50% are not involved in any internal courses, 40% have no access to company facilities and more than one third are excluded from company meetings. As many labour psychologists have said, we can speak of an evident case of 'role conflict', a sort of mismatch between the expectations of company, which considers interns like all other human resources in terms of duties, but at the same time considers them as external subjects without the benefits of regular employees. This ambiguity seem to have its roots in the regulations as the legal framework for internships in Italy is ambiguous in its definition of whether an internship is training or work experience; in comparison the French model strictly links internships to a training path, and the Anglo-Saxon 'open market' model considers internships as an entry-level job. This ambiguity could affect the level of discomfort of

Italian interns, in turn influencing their motivation and satisfaction during the experience (fig 7).

Fig. 6 – Interns’ expectations of tasks and real conditions during the internship



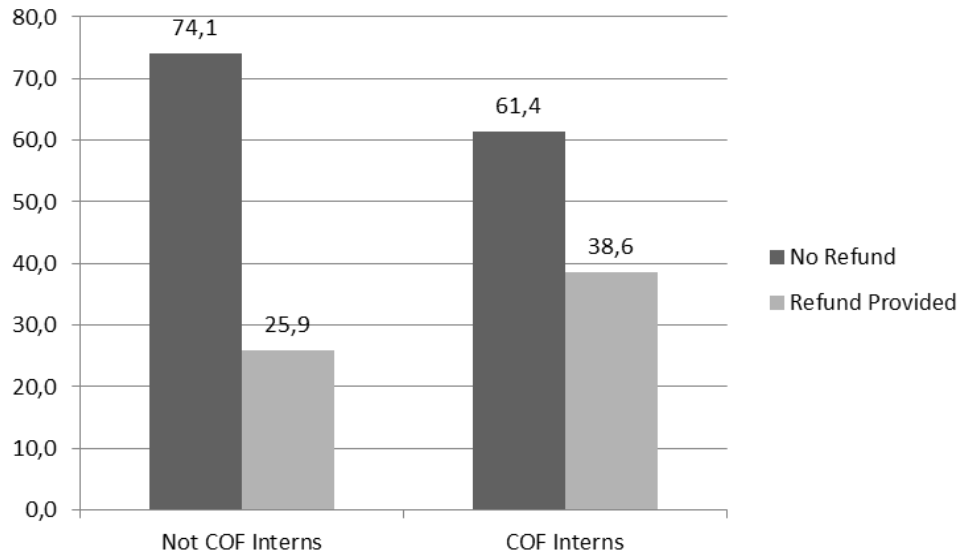
Source: C.O.F. Survey 2013, Author's Own Elaboration.

Fig.7- *Intern's Survey*-“During your internship how many times did you ...?”

Source: C.O.F. Survey 2013, Author's Own Elaboration

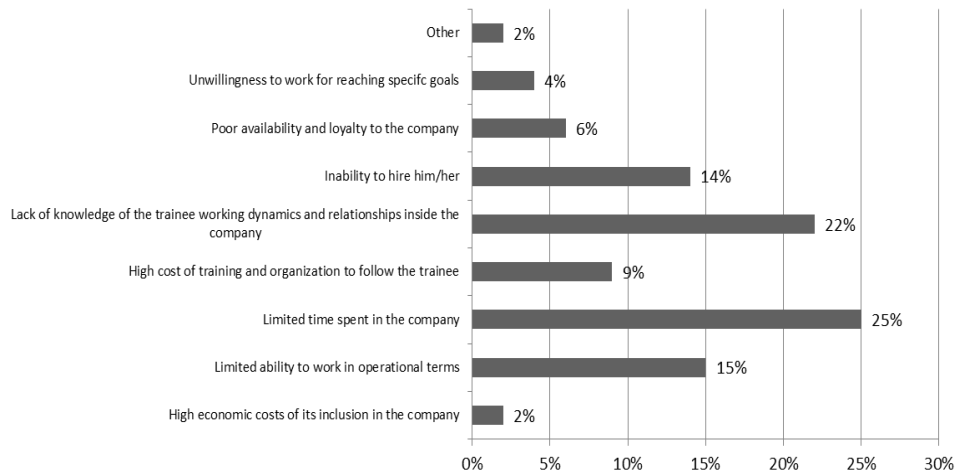
Finally, 71% were not entitled to any reimbursement of expenses for the activities carried out, although this percentage decreases when the training was found by the placement office of the university (fig. 8) where there are no significant differences considering the scale of this reimbursement which is 60% of €300, the current minimum stipulated by law. This is not a surprising result considering that these results relate to internships which were carried out before the Fornero Reform. Only 28% of companies surveyed stated that the imposition of a mandatory refund will limit their ability to host interns in the future. In addition, half of those interviewed said that they carried out an internship of more than six months which is now the legal limit of the internship period according to the Fornero Reform; almost 20% say state that they have done an internship for a period exceeding twelve months, with the addition of another 23% who did an internship for between seven and twelve months. These data are confirmed by companies who see the main disadvantage of having an intern as the limited period in which he or she is present in the company rather than the organizational and economic costs involved in having them there (fig. 9).

Fig. 8 – Interns’ Survey - Remuneration for interns



Source: C.O.F. Survey 2013, Author's Own Elaboration

Fig. 9 – Firms’ Survey - “What are the main disadvantages of hosting an intern?”



Source: C.O.F. Survey 2013, Author's Own Elaboration

#### 4. The Effects on Employability: Job Research and Career Opportunities after an Internship

Despite the problems identified in the previous paragraph, interns say they are generally satisfied with their experience (81%). They consider it to be very useful (fig. 10), both in terms of training and guidance for the construction of their professional path, although major problems are identified in terms of how useful an internship is in actually finding a job. On the other hand, 75% of companies state that less than 10% of interns receive a hiring proposal. This result cannot be principally attributed to the economic crisis as only 36% said that they had had to make staff reductions due to the current economic phase. The propensity to hire interns found in our survey is lower than that which has been found in national surveys, such as those carried out by GIDP / HRDA where companies declared the chance of hiring interns was around 30%. The data from our firms' survey, however, are confirmed by the interns surveyed, 85% of whom did not receive a hiring proposal at the end of their experience. The remaining 15% is composed of 12% who accepted a proposal and a 3% who refused it because it was for a less-skilled job respect to their educational credentials or because they were offered a job without a contract. The limited chances of an internship becoming a job are undoubtedly dependent on the fact that almost 50% of internships are done at small businesses (those with fewer than 15 employees) which mainly operate in the local market, and where nearly one third are public or non-profit organizations. The low return in terms of employability is therefore strongly linked to the vulnerability and the constraints of the specific socio-economic context, characterized by small firms with low margins and projection on national or international markets and where most internships are done in public organizations which cannot pursue the recruitment of interns, or in non-profit organizations which depend largely on public resources and where the terms of employment and career opportunities do not always satisfy highly educated people.<sup>11</sup> Therefore, the possibility for an internship to be the gateway to the world of work is hindered by the lack of dynamism of local labour markets which often fail to value the skills and expectations of the youngest and most educated workforce.<sup>12</sup> Moreover, only 11% of the interns surveyed have gone on to work in the industry of their internship while 4% of them work in an industry and a company which is completely different, with the addition of 2% who have

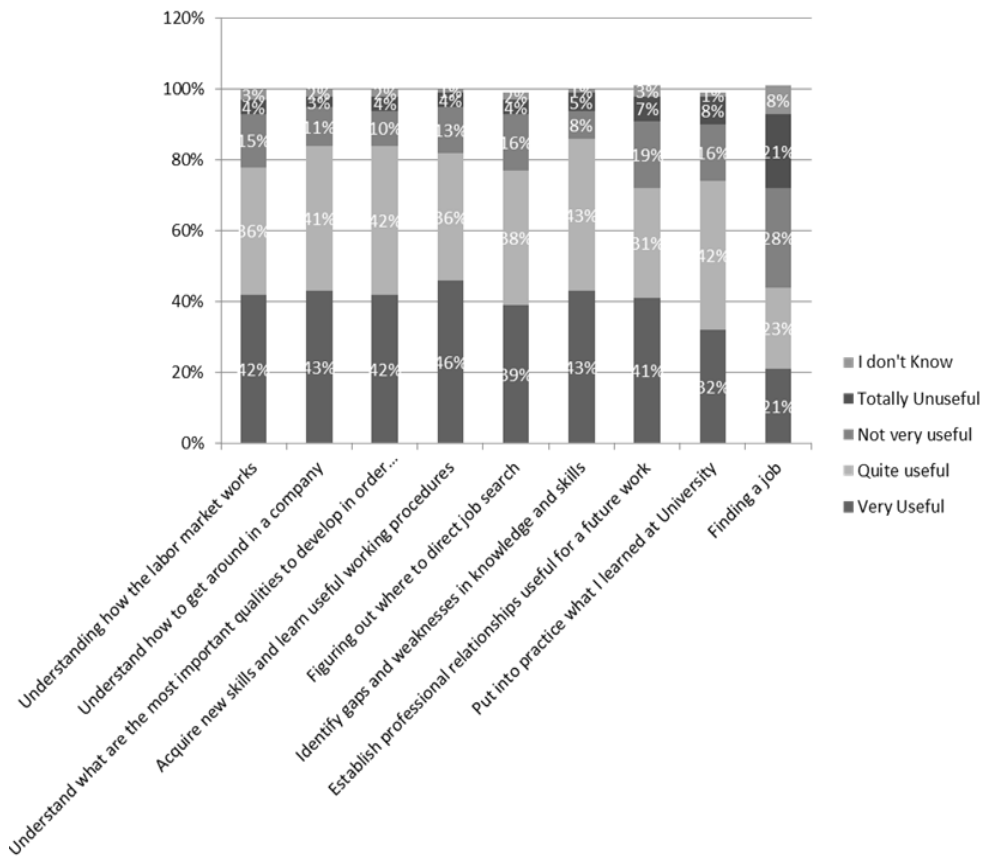
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<sup>11</sup> R. Musumeci, *Tempi e traiettorie delle transizioni al lavoro nei servizi socio-assistenziali*, in A. Cortese (ed.) *Carriere Mobili. Percorsi lavorativi di giovani istruiti nel Mezzogiorno*, Franco Angeli, Milano, 2012, 173-202.

<sup>12</sup> M. Avola, *Percorsi di lavoro e rischi occupazionali in un mercato asfittico*, in A. Cortese (ed.) *Carriere Mobili. Percorsi lavorativi di giovani istruiti nel Mezzogiorno*, Franco Angeli, Milano, 2012, 57-89.

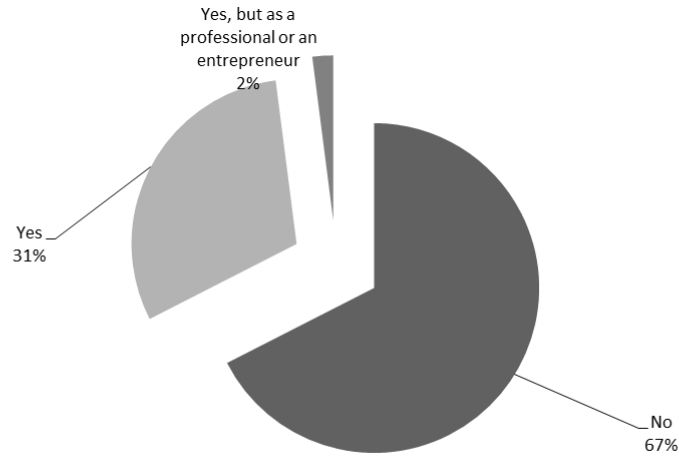
chosen the path of self-employment (fig. 11). Considering the weak influence on employability, the majority of respondents chose to continue their studies, although when we compare the choices of those who carried out a post-graduate internship and those who did not not, we find that the former seem to show a greater desire to get involved in the labour market than the latter, and for this reason they would be less likely to continue their studies (54.3% versus 62.3%) (fig. 12).

Fig. 10- *Interns' Survey* - "How useful was the experience of the training by considering the following aspects?"



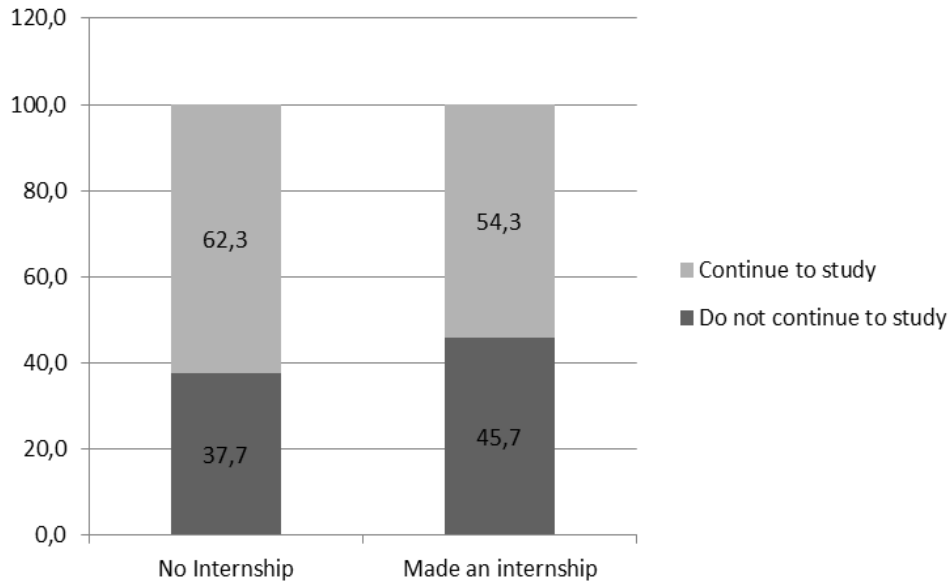
Source: C.O.F. Survey 2013, Author's Own Elaboration

Fig. 11 – *Interns' Survey* - "Did you actually get a job?"



Source: C.O.F. Survey 2013, Author's Own Elaboration

Fig. 12 – *Interns' Survey* - Continue to study and do internships



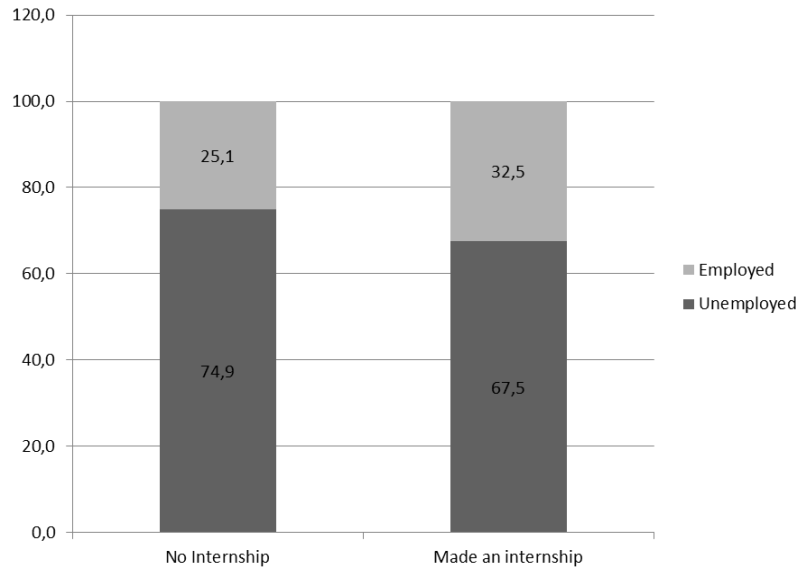
Source: C.O.F. Survey 2013, Author's Own Elaboration

Nonetheless, former interns do have a small but significant advantage in their chances of finding employment over those who did do any type of internship: 32.5% of those who have taken part in a traineeship are currently employed compared to 25.1% of those who did no traineeship, a difference of 7.4 percentage points (fig. 13). This confirms what has already been shown at a national level by AlmaLaurea data regarding a potential link between internships and the employability of graduates. These results therefore confirm the value of an internship as an indication of competence that companies do not seem to ignore during recruitment.<sup>13</sup> However, if we compare data concerning the quality of ex-interns' current jobs we notice some striking differences (fig. 14): if almost half of those who claim to work today, however, admit to working without a regular contract, this percentage is even higher in those who have done a post-graduate internship. This result is linked to the importance of moonlighting jobs and the informal economy also for skilled jobs in the local market. According to the data analyzed, these graduates also work with much more precarious and unstable labour contracts than those who have never done an internship. This would seem to confirm the idea that despite increasing one's employability, those who have done an internship face a greater risk of job precariousness, while those who have not done an internship enjoy much more stable and protected jobs.

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<sup>13</sup> M. Spence, *Job Market Signaling*, in *The Quarterly Journal of Economics*, 1973, n. 87, vol. 3, 355-374.



Fig. 13 – *Interns' Survey*-Employment status and postgraduate internship

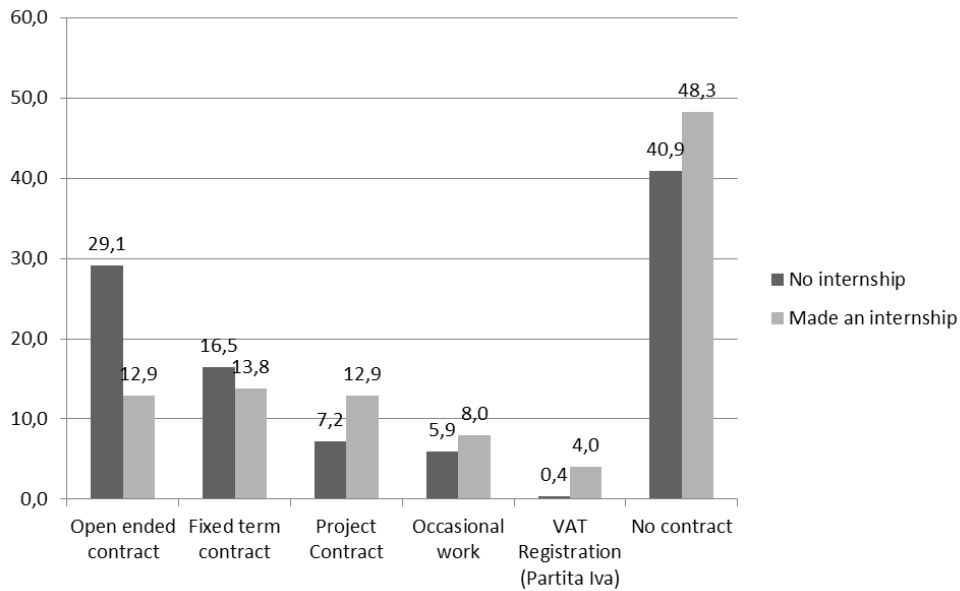
Source: C.O.F. Survey 2013, Author's Own Elaboration

This entails obvious and important consequences on actual income per month (fig. 15). The vast majority of those who currently work appear to be in the lowest income classes (about 70%), declaring earnings of less than €1000 per month, which also confirms the Almalaurea data which sees graduates in southern Italy earning less than those in the centre and north of the country.<sup>14</sup> Those who have done a post-graduate internship outnumber those who have never done an internship in the lower income groups. However, this apparent paradox between the two types of graduates is explained only if, in addition to the conditions of their current jobs, we also focus on the content and quality of the job. In this way, all the differences between interns and non-interns can be revealed and explained (fig. 16): if the non-ex-interns enjoy better working conditions, the ex-interns have a higher level of congruence with their studies. In fact, 46.6% of those who have completed an internship believe that they do a job which is congruent with their studies versus 43% of those who have not carried out any internship. Almost 36% of those who claim that their work is obviously incongruent with their studies have never done an internship, compared to 26% of ex-interns. This appears to indicate that although those who have done an internship after graduation tend not to enjoy favourable

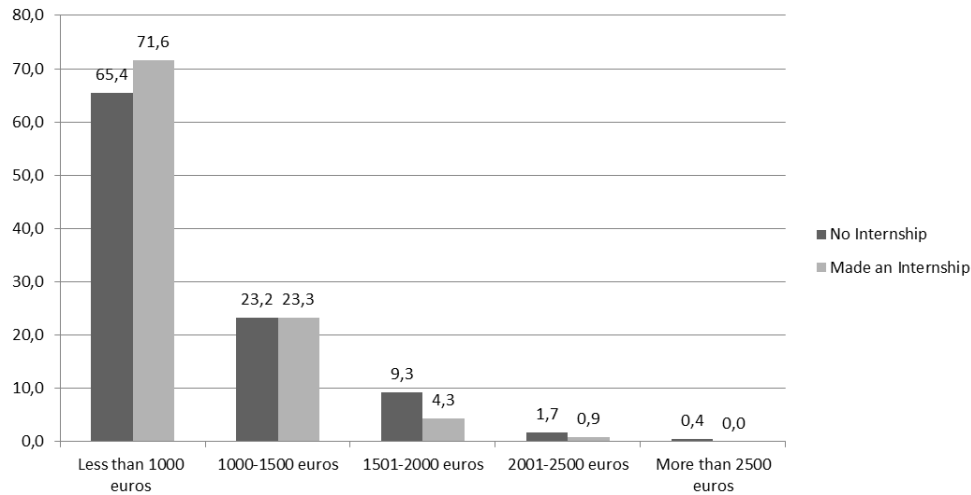
<sup>14</sup> Almalaurea. 2012. Op. cit.

working conditions, they have developed a less instrumental attitude towards work, and a more pronounced sense of their professional self and the value of their human capital, attaching more importance to the contents and profile of their future job than to the contract and income offered. Therefore, doing an internship does not have a positive influence on employability in the *strictu sensu* or on conditions of employment, but does help achieve a more targeted and proper allocation of the qualified workforce, with less risk of cases of over-education.

Fig. 14 – *Interns' Survey* - Current Contract



Source: C.O.F. Survey 2013, Author's Own Elaboration

Fig. 15 – *Interns' Survey* – Current income (per month) and internship

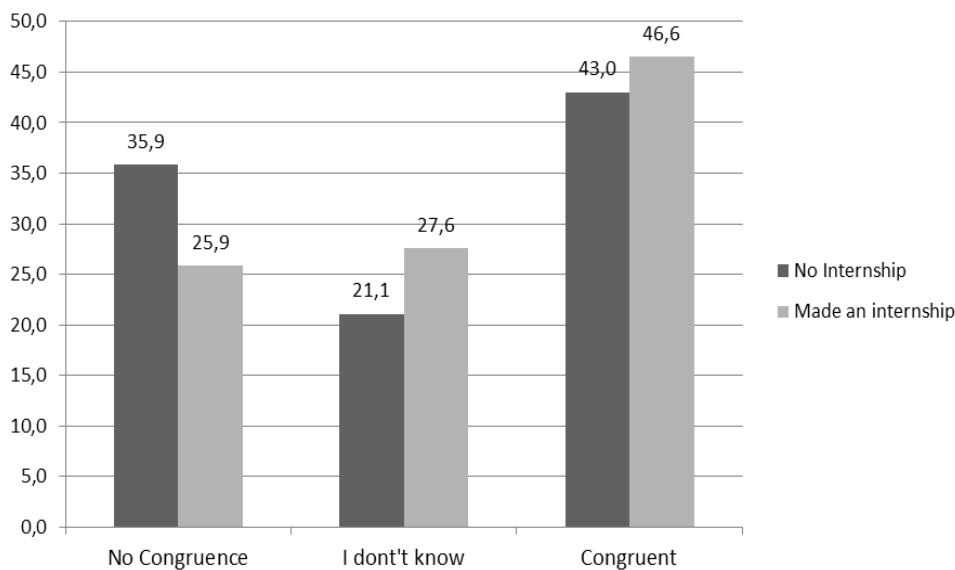
Source: C.O.F. Survey 2013, Author's Own Elaboration

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<sup>15</sup> AlmaLaurea. 2012. Op. cit.

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Fig. 16 – *Interns' Survey* – “Do you think your present job is congruent with your university degree?”

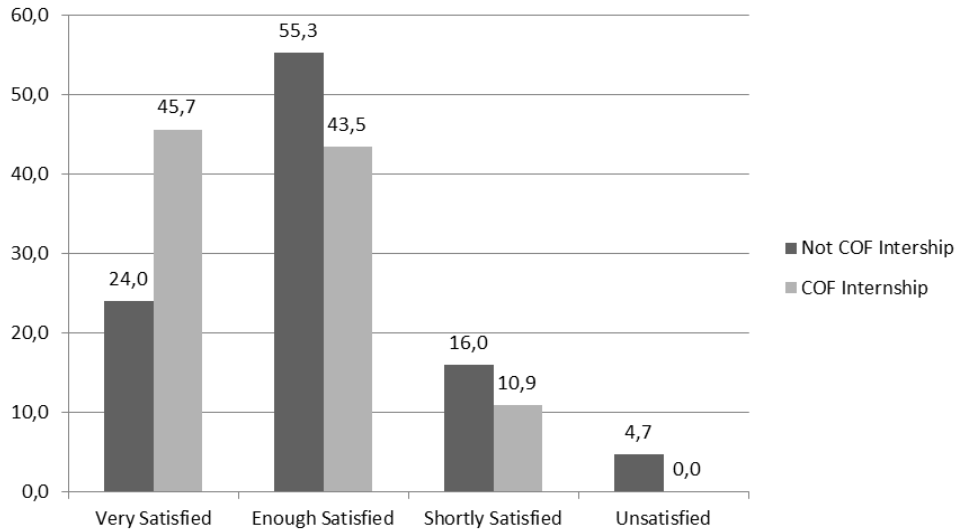


Source: C.O.F. Survey 2013, Author's Own Elaboration

## 5. The Critical Role of the University Placement Office (COF) and Potential Improvements

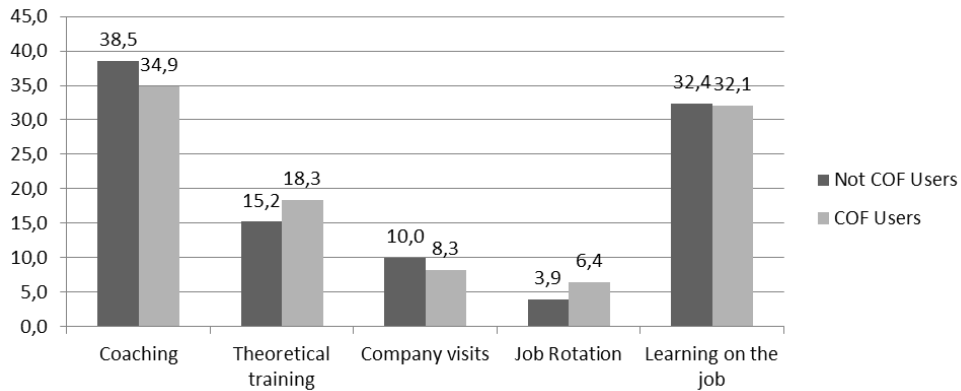
In order to complete this analysis we need to determine whether internships found with the help of the University Placement Office (COF) are able to provide greater satisfaction and better employment opportunities than internships found with the support of other bodies. If we compare the levels of overall satisfaction of the internship experience, those who turned to the COF show a higher level of satisfaction than those who started an internship through alternative agencies/offices (fig. 17). The advantages of doing an internship with the support of the COF is, in part, linked to a better learning environment.

Fig. 17- *Interns' Survey*- General satisfaction with the internship experience



Source: C.O.F. Survey 2013, Author's Own Elaboration

Fig. 18 – *Interns Survey* -Training activities during the internship and use of the Placement Office (COF)

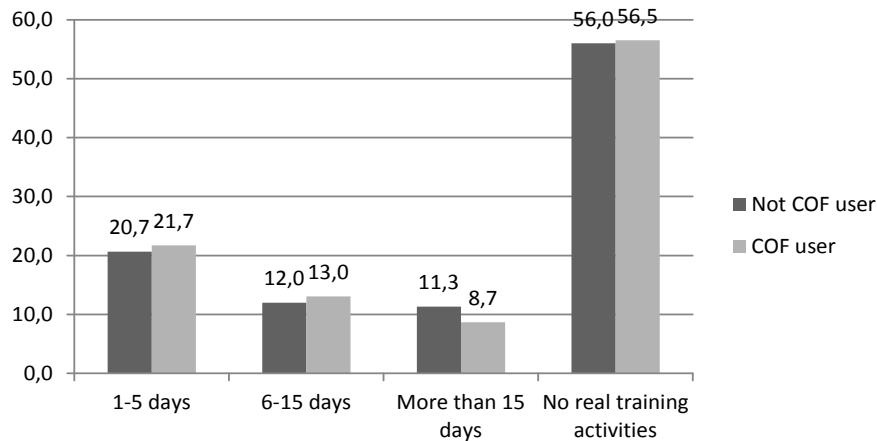


Source: C.O.F. Survey 2013, Author's Own Elaboration

However, if we compare the internships found through the COF with those initiated through other channels (fig. 18), we can see that a total of 56% of trainees interviewed declared that there were no training activities during their

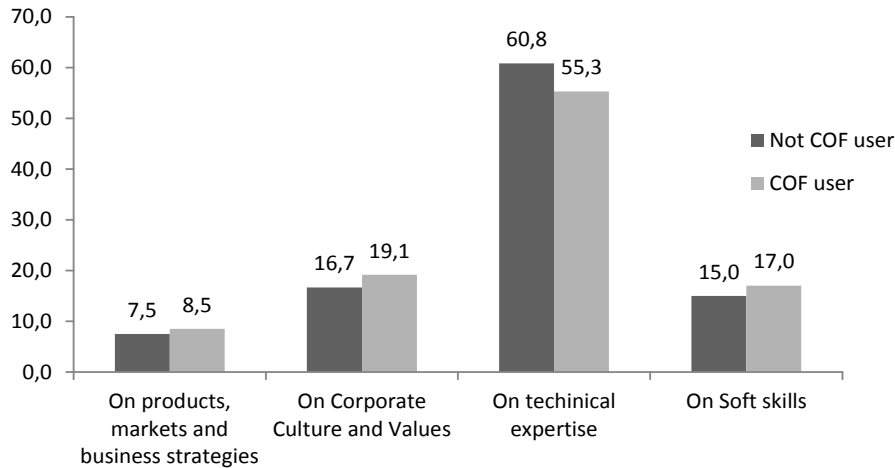
internship and here there are no significant differences between internships found with the COF and those found with other bodies.

Fig. 19 – *Interns' Survey* - Time of training during the internship



Source: C.O.F. Survey 2013, Author's Own Elaboration

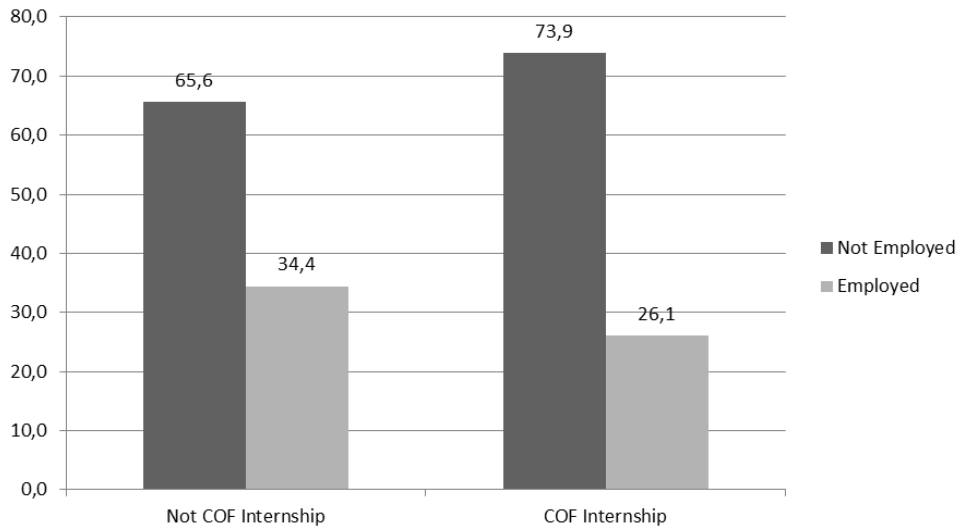
However, in COF internships there is a greater proportion of classroom training (18.3% compared to 15.2%) and a greater incidence of job rotation (6.4% compared to 3.9%). There do not appear to be significant differences regarding the amount of training activities during the internships (fig.19) and in both cases the contents (fig. 20) focused on learning technical skills strictly related to the tasks assigned, although those initiated through the COF have a slightly higher percentage of training activities aimed at increasing general knowledge of the business reality and about company culture and values. This may enable interns to work with greater security and efficacy during their internship, as it is also essential to help the interns understand the level of commitment expected by the company. Furthermore, training regarding skills and abilities which are useful outside the operational context of the internship or the company (soft or life skills) are more commonly found in COF internships.

Fig. 20– *Interns' Survey* - Contents of training activities during the internship

Source: C.O.F. Survey 2013, Author's Own Elaboration

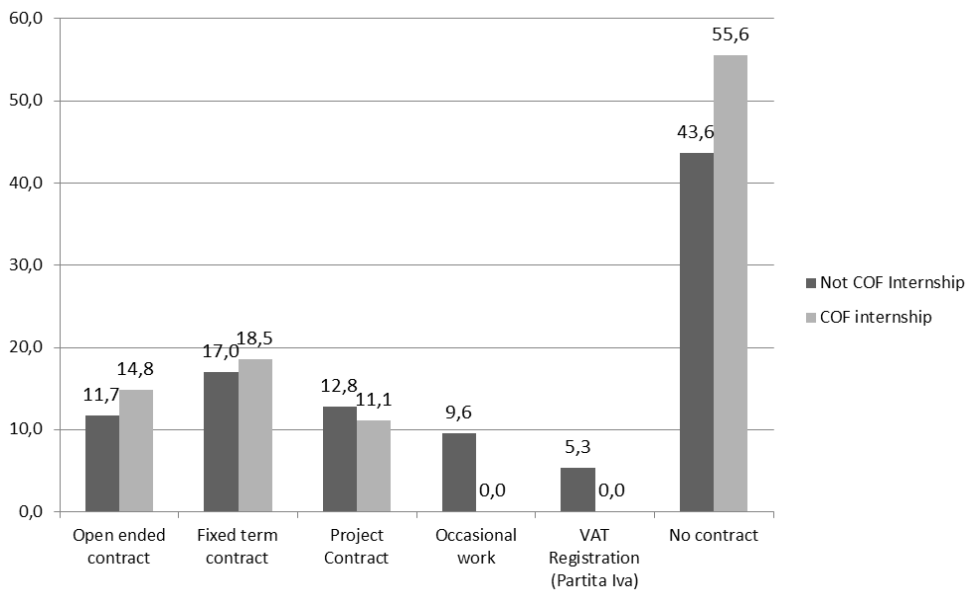
However, the higher levels of satisfaction recorded cannot be due to the greater chances of employability afforded by these internships (fig. 21) as only 26.1% of those who turned to the university placement office are currently working compared to the 34.4% of those who turned to other bodies. Nor can satisfaction be linked to better working conditions as the current occupations of COF interns are slightly more insecure and less stable than those jobs found by non-COF interns (fig. 22). Once again, the major advantages of using the university placement office is a greater congruence between the job and the interns' studies (fig. 23). In fact, those who have done an internship with the COF claim to do a job more congruent with their internship and with their qualifications. In conclusion, it can be said that university placement offices play a vital role not so much in terms of employability as in terms of achieving a proper allocation of human capital, providing a better guide for graduates' careers.

Fig. 21 – *Interns' Survey* - Employment status and type of internship



Source: C.O.F. Survey 2013, Author's Own Elaboration

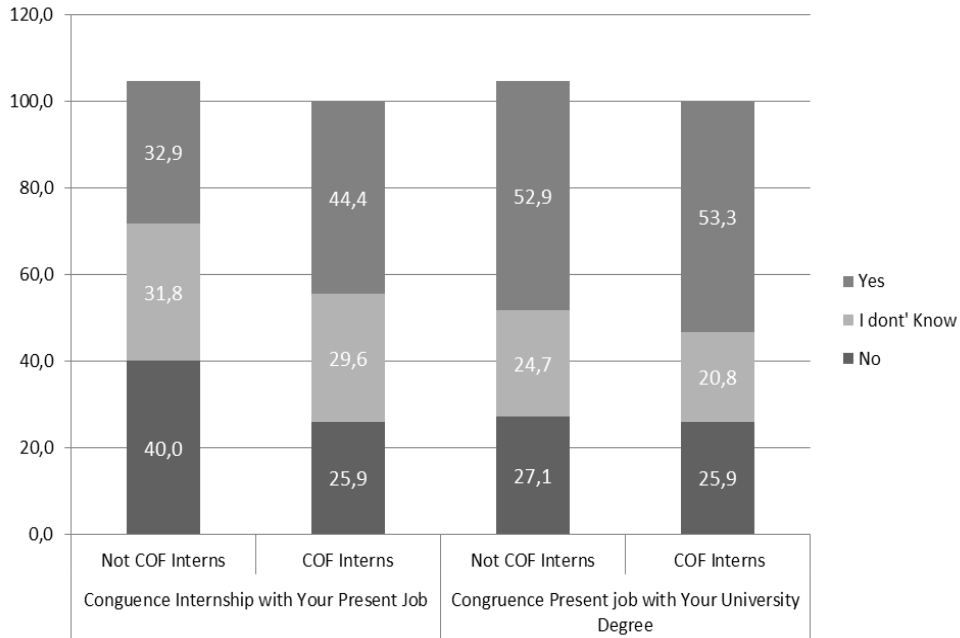
Fig. 22 – *Interns' Survey* - Actual Contract and Type of Internship



Source: C.O.F. Survey 2013, Author's Own Elaboration



Fig. 23 – *Interns' Survey* - Congruence internship and present job

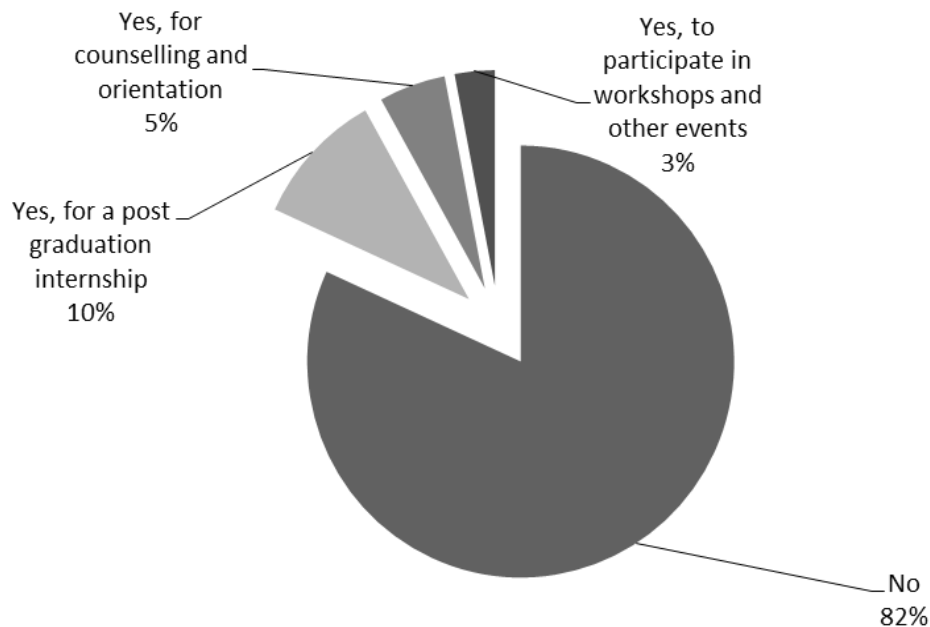


Source: C.O.F. Survey 2013, Author's Own Elaboration

Notwithstanding the advantages of using the university placement services described above, their apparent under-utilization is still resounding, particularly in light of recent organizational efforts to extend their activities and promote the visibility of the service through a newsletter and social networks such as Facebook. Indeed, the data of the survey leave no room for doubt. As much as 80% of the graduates interviewed do not use the COF, and only 10% went there to find a post-graduate internship (fig. 24). This situation seems to be due to a lack of communication and educational activities regarding the important role that these placement offices can play in job-matching, considering that 69% of students say they were not even aware of the services offered (fig. 25). In addition, 76% of the companies contacted said that they are more than sufficiently satisfied with the services and support provided by the placement office of the University of Catania. Conversely, graduates tend to seek post-graduate internships mostly through spontaneous applications (46%) or through their friendships and personal relationships. This figure is not surprising in a southern context which is strongly characterized by a low use of, often ineffective, formal recruitment channels and a micro-

entrepreneurship that bases its recruitment strategies on its own social capital. It is also true that most of those who went to the COF office even just to ask questions or to ask for guidance had a better chance of finding a post-graduate internship: among those who did not carry out an internship, the percentage of those who went to the COF was about 15%, while for those who have carried out an internship the percentage was almost double, rising to 30.6%.

Fig.24 - *Interns' Survey* –“At the end of your studies, did you turn to the placement office (COF) of your university?”



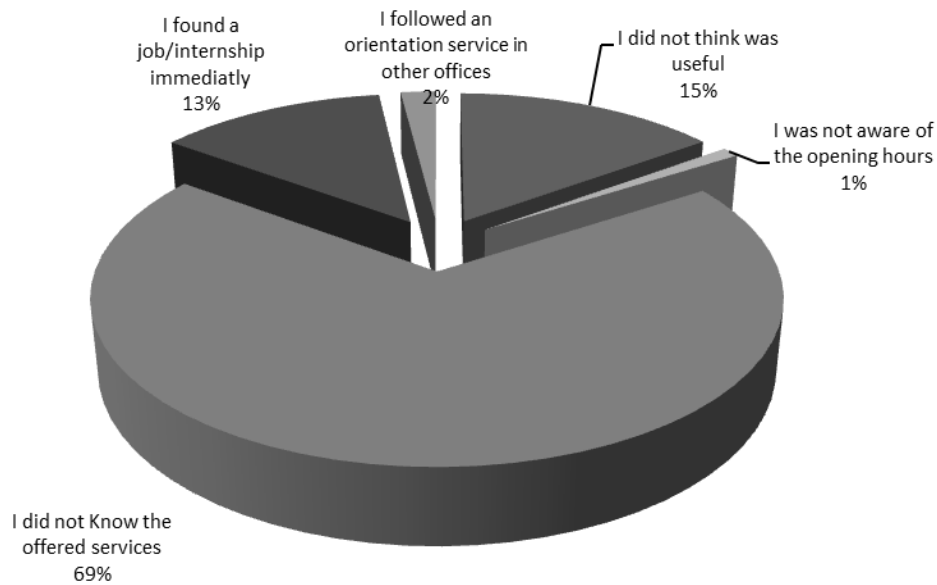
Source: C.O.F. Survey 2013, Author's Own Elaboration

Comparing the opinions of COF users, both companies and trainees, (fig. 26 and 27) of the major difficulties in communicating with the office, we find similar problems. Excessive bureaucracy is considered to be the main problem by both graduates (26%) and companies (36%). This is a classic problem in the relationship between public administration and users which features notably in all international surveys on work and the economy in Italy.<sup>16</sup> Considering the

<sup>16</sup> OECD, *Employment Outlook. Employment Protection Regulation and Labour Market Performance*, Paris, 2012; Banca D'Italia, *Concorrenza e regolamentazione in Italia. Occasional Papers 123*, Roma,

issue of internships, this problem has already been noted in the wake of the Fornero Reform and the National Guidelines, as legislation appears fragmented in different regional provisions. In addition to this complexity one also encounters the further fragmentation of the provisions and procedures in different universities, creating a confusing and barely intelligible framework.

Fig. 25 – *Interns' Survey* – “Why did you not go to the COF?”

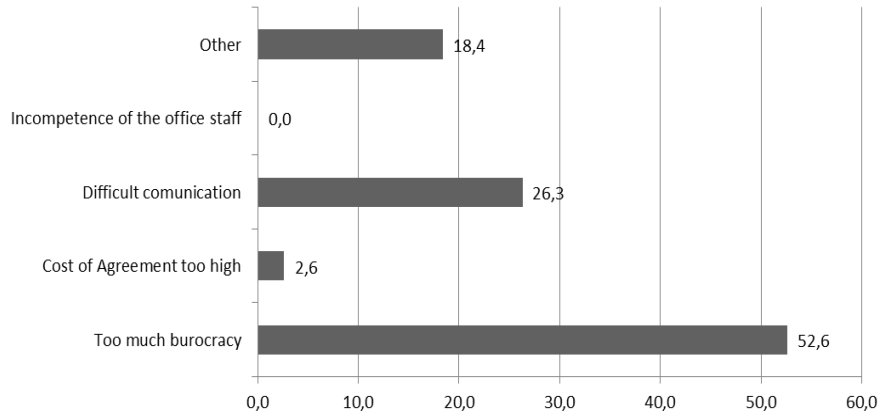


Source: C.O.F. Survey 2013, Author's Own Elaboration

Other major problems are related to communication: companies find communication with the COF difficult (13%), especially regarding the procedures involved in setting up and managing placements, and the office's limited opening hours (most afternoons the office is closed), while graduates (17%) complain once again of a lack of knowledge of internships available and services offered. In addition, graduates also complain of a lack of attractiveness of job/internship proposals, which suggests that placement offices ought to play a more active role in their relationship with the territory and with the business system as is indeed required by the university reform.

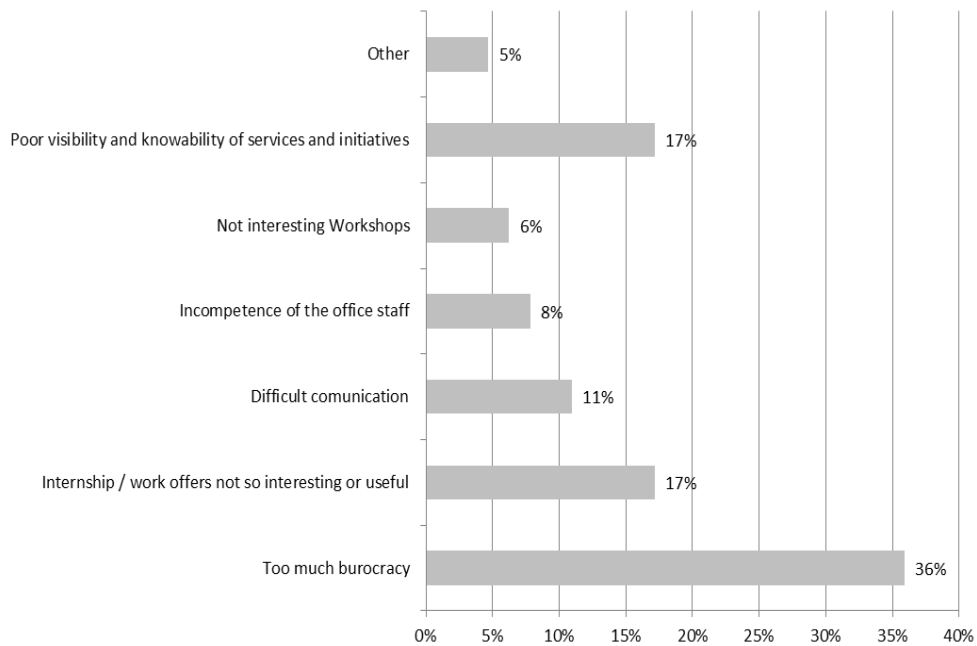
2012; World Bank, *Doing Business. Smarter regulation for small and medium size enterprises*. Washington, 2013.

Fig. 26—*Firms' Survey* - “What is the main problem you had in dealing with the placement office (COF)?”



Source: C.O.F. Survey 2013, Author's Own Elaboration

Fig. 27—*Interns' Survey* - “What is the main problem you had in dealing with the placement office (COF)?”



Source: C.O.F. Survey 2013, Author's Own Elaboration

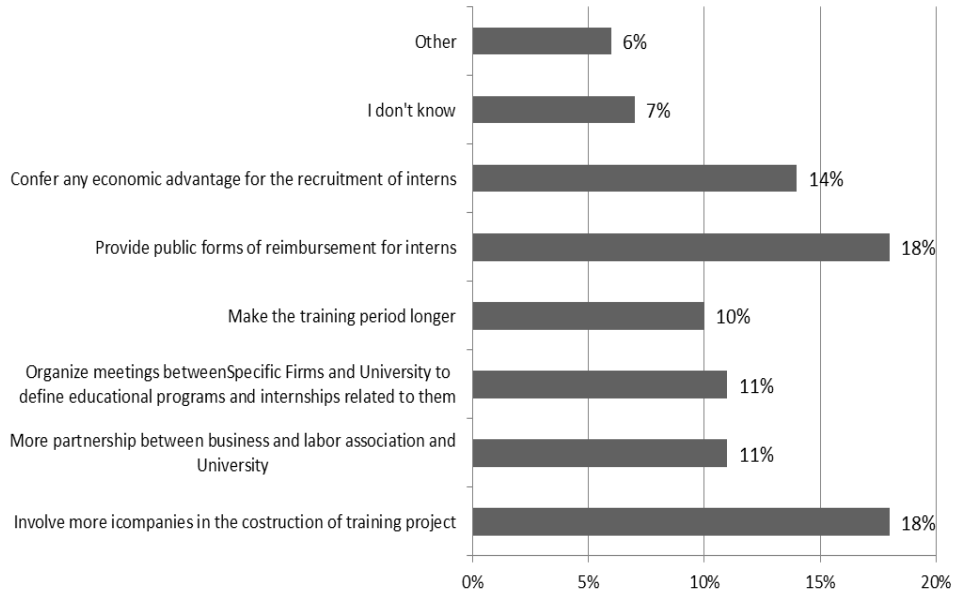
In order to identify possible strategies for improving university placement services we directly asked users what they think ought to be done. Once again the views of companies and trainees seem quite convergent: they both demand greater involvement in the drafting of training projects or a joint construction of the content of the internships which would increase the educational value of this experience for interns, who consider this a priority in 18% of cases, as well as for firms, who emphasize the importance of this aspect in 22% of cases. The need for a greater involvement of companies is also part of other answers to the question, such as the need to have more frequent meetings between the university and business associations as well as the need to strengthen possible partnerships between the two. Companies tend to agree with the spirit of the recent university reform which calls upon universities to achieve their full potential. University placement offices should take advantage of such openness and availability in order to strengthen their role in job matching. Following on from this, both users see the introduction of public forms of reimbursement for interns as a priority; 18% of graduates surveyed and 21% of firms. For companies this may appear to be at odds with the obligation to refund interns introduced by the Fornero Reform. This requirement may also represent a need for public recognition of the value and social utility of the decision to take charge of completing the training process of new graduates, thus helping to protect public investment in the creation of the country's human capital. Finally, such a requirement also represents a material incentive which is not only a mechanism useful for subsistence and hedging costs in the classical type of organizational analysis as Herzberg said, but is also a condition of health and job satisfaction which affects the motivational aspect of work.<sup>17</sup> Despite the risks expressed by Tiraboschi<sup>18</sup> on the transformation of internships in a new 'contractual' form, the recent decision of the Italian Minister of Labour, Giovannini, to set aside certain resources for the reimbursement of interns, although neither systemic nor strategic but motivated more by urgent reasons, will certainly find consensus among both companies and graduates.

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<sup>17</sup> F. I. Herzberg, *Work and the Nature of Man*, World Publishing Company, Cleveland, 1966.

<sup>18</sup> M. Tiraboschi, *Il testo unico dell'apprendistato e le nuove regole sui tirocini*, Giuffrè, Milano, 2011

Fig. 28–*Firms Survey* –“What are your proposals for improving University Placement Services?”



Source: C.O.F. Survey 2013, Author's Own Elaboration

Fig. 26– *Interns Survey* –“What are your proposals for improving University Placement Services?”



Source: C.O.F. Survey 2013, Author's Own Elaboration

## 6. Final Discussion

It is important to remember that these analyses require further tests before confirming the hypothesis outlined above with a multivariate statistical model, capable of grasping the complexity of the variables examined in order to provide more concrete indications of policy. The data presented thus far, purely descriptive in the study of the phenomenon, however, suggest some points to consider.

Firstly, the data highlight that interns are in a condition of *role ambiguity* in which there is an evident mismatch between the conditions in which interns operate and the expectations of bosses and colleagues about the tasks they are there to perform.<sup>19</sup> On the one hand, interns are expected to behave in all aspects as an internal resource of the company but the conditions in which they operate seem to underline their status as an ‘outsider’, which consequently affects the quality of their experience and defines their limits. In particular, the data analyzed show that companies expect interns to be fully committed to the values and corporate culture of the company, a total willingness to extend the time or the content of their job as well as the ability to work independently. This appears similar in all aspects to what you would expect from an employee, according to a mutual exchange of obligations and prerogatives which are defined in the legal and ‘psychological’ contract.<sup>20</sup> In practice, however, interns do not receive adequate training, instead remaining confined to specific aspects of the job, and neither do they gain an overall knowledge of the how the business operates which could, to a certain extent, limit their operational capacity and understanding of the ‘production’ processes in the company. This lack of training and supervision, combined with the exclusion from meetings, events or corporate training, as well as the lack of access to tools and facilities reserved for the staff, may well reinforce the discomfort of interns, weakening their commitment and their capacity to learn. Furthermore, the absence of any form of refund, though this may pose a problem in legal terms, is another sign of the weakness of interns which increases the ambiguity of their status. Even the companies seem to be aware of this problem and both they and interns believe that this refund should be

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<sup>19</sup> R.L. Kahn, D.M. Wolfe, R.P. Quinn, J.D. Snoek, R.A., *Organizational Stress. Studies on Role Conflict and Ambiguity*, Wiley and Son, New York, 1994; G. Favretto, 1996. *Lo stress nelle organizzazioni*, Il Mulino, Bologna, 1995.

<sup>20</sup> D. Rousseau, A. Sneh, *Assessing psychological contracts: issues, alternatives and measures*, in *Journal of Organizational Behavior*, 1998, vol. 19, n. 2, 679-695.

public as the firms involved cooperate with the education system in order to increase graduates' human capital.<sup>21</sup>

Despite the fact that operating conditions are not always easy, interns stress their overall satisfaction with the experience, both in itself and for its training contents, confirming the importance of this activity in learning both technical-operational skills and soft skills (understanding the relational dynamics of a working environment, the distinction between formal and informal, problem solving and the ability to work to targets).

More problematic, however, is the impact of internships on employability. Although it is difficult to make comparisons with national data, our survey confirms that those who have done an internship are more likely (about + 8%) to find a job, although only rarely in the company where they did their internship. This result is also linked to the critical aspects observed by many analysts regarding the lack of 'recognition' in the labour market of the bachelor degree which actually prompts most graduates to decide to continue their studies. Moreover, the weak capacity of post-graduate internships to improve employability, above all in Sicily, respect to the data gathered at the national level still has to be contextualized considering the peculiarities of the local labour market which is mostly characterized by micro- entrepreneurship, above all in the service sector, with low added value and with a high tendency to use informal work. In fact, more than half of former interns who are currently employed work without a regular contract. Considering the low number of interns who find employment with their host companies, it must be noted that in Catania these companies operate above all in the public or no-profit sector, with several, evident limitations in taking on this labour force, especially in this economic phase. However, internships seem to play a useful role in orientation and job matching; that is to say that those who have done an internship tend to have jobs which are more congruent with their qualifications compared to those who have never done an internship. Furthermore, this congruency increases if the internship was carried out with the support of the university placement office which seems to play a more effective role in job matching and in orientation for future job seekers rather than in the promotion of better quality working conditions in internships. Indeed, those who turn to the COF do not work more than others or have better current employment conditions, but they do more frequently find work which is more congruent with their internship activities or their qualifications. Carrying out an internship, particularly with the mediation the university placement office, makes

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<sup>21</sup> In this sense, it is necessary pointing out how in the anglo-saxon experience, paid internships are the majority but not mandatory, even if who made it will get a better salary when he get a job.



graduates more selective in searching their future job, with a lower risk of problems of over-education.

That said, the university placement offices is still under-used in Catania, and doing a post-graduate internship is not as common as one might expect (less than half of the graduates surveyed was an intern). The limits of the COF depend greatly on the lack of communication about and explanation of services provided, but also on the poor quality of placements offered. This suggests the need for these offices to communicate better with local socio-economic industries in order to aim for the co-construction with stakeholders of internships with more specific contents targeting the needs of the local labour market. This requires greater investment of universities in the field of placement services which are expected to carry out an extremely difficult and complex task, especially in a not very dynamic job market such as that in Catania. The strategic value of placement services in terms of employment policies and in the promotion of the development of a local area requires greater efforts in terms of communication, qualifications of personnel and the ability to dialogue with the socio-economic context also in an extra-local way. The new guidelines on internships may well pose a limitation in this regard for the willingness of companies to host interns due to restrictions on their duration or mandatory refunds, while aspects like training and monitoring internship activities are not addressed, also considering the greater involvement of the internship promoter as a guarantor of the quality of its learning value. In fact, the conditions of internships and their training value should be guaranteed both through an increased attention towards the choice and skills possessed by the company tutor to whom the intern is entrusted, providing guidelines on the choice of tutors as occurs in Ireland, but also through a greater power of inspection and monitoring by the promoter, which in cases of misuse may decide to suspend or not to renew the agreement with the company. The Italian legislator should intervene in this aspect, providing a detailed description of a quality standard for internships and a system for the evaluation of this experience (through, for example, a final interview or drafting a letter of reference, typical of the Anglo-Saxon model, or through the preparation of a certificate of competence, as in the French case, or a final exam that tests how much you really learned as a trainee, as in the German case).

## **Learn & Earn: Career Pathways for Youth in the 21st Century**

Anthony P. Carnevale and Andrew R. Hanson \*

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The U.S. postsecondary education and training system features four major components of career pathways: formal postsecondary education programs, industry-based certifications, internships, and employer-based training. In theory, the components of these pathways are followed in a linear fashion as in the following scenario:

A young student graduates from high school, enrolls in a postsecondary institution such as a university or community college, completes an internship and passes a certification exam during a course of study, and graduates with a postsecondary credential. The student enters the labor market and becomes employed—her employer provides a six-month training regimen that teaches her the career-specific skills she needs to thrive in the workplace.

In practice, it is rare for individuals to follow this particular pathway. Instead, they complete multiple formal postsecondary programs in different fields, earn certifications and partake in employer-based training before getting formal postsecondary education, and complete internships after holding mid-level jobs. There are few rules that govern the way individuals mix and match the various components of career pathways and there is no single, linear track. Although this model is a simplification, it is the clearest way to understand the role that industry-based certifications and internships play in the U.S. education and training system.

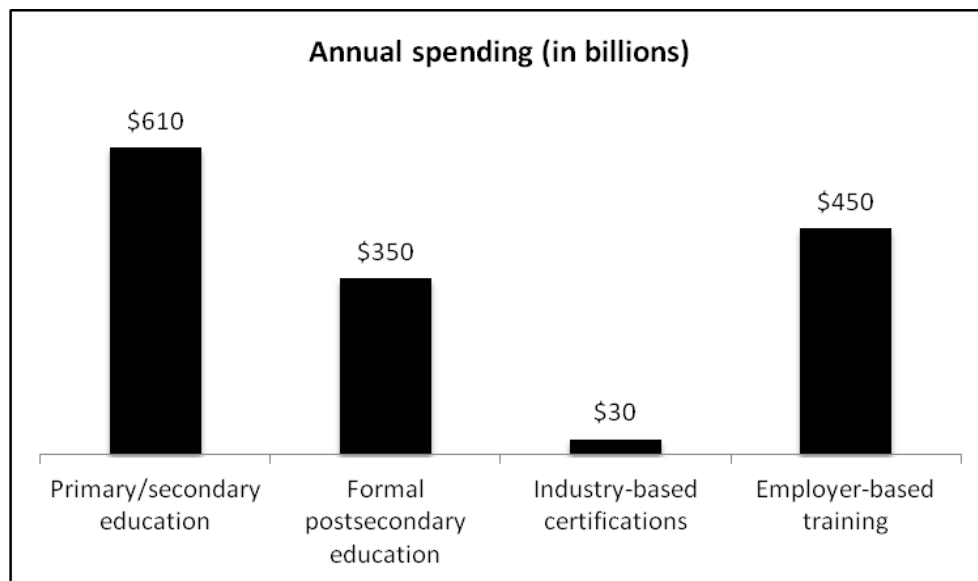
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## 1. U.S. Annual Spending On Education And Training

Altogether, education and training comprises \$1.5 trillion in spending each year, roughly equivalent to 9 percent of the United States' gross domestic product (GDP). As shown in Figure 2, \$610 billion of this spending is on primary and secondary education at elementary, middle, and high schools. This spending is almost entirely financed by state and local governments, primarily through property taxes. Employer-based training is the second largest component of education and training spending at \$450 billion per year, followed by formal postsecondary programs (\$350 billion), and industry-based certifications (\$30 billion). To date, there is no good estimate of spending on internships, though new research is arising that explores their cost.<sup>1</sup> These costs are frequently divided between employers and postsecondary institutions, such as four-year colleges and universities.

Figure 1. The United States spends roughly \$1.5 trillion on education and training each year



Source: Georgetown University Center on Education and the Workforce analysis of data from U.S. Department of Education's Integrated Postsecondary Education Data System (IPEDS), the U.S. Department of Labor's Employment and Training Administration (DOLETA), the American Association of Community Colleges (AACC), the U.S. Education Department's

<sup>1</sup> Tigas, Mike and Blair Hickman, "Calculating 'The Price of an Internship,'" *ProPublica*. December 2013. <http://www.propublica.org/nerds/item/calculating-the-price-of-an-internship>.

Office of Vocational and Adult Education (OVAE), Survey of Employer Provided Training (DOL), and Bureau of Labor Statistics (BLS).

## 2. Formal Postsecondary Programs of Study

Formal postsecondary programs include classroom-based programs at public and private four-year colleges and universities, as well as community colleges and vocational schools. There are three major kinds of formal programs of study: postsecondary certificate, associate's degree, and bachelor's degree. These programs are structured to award a postsecondary award, either a degree or certificate, upon the completion of required coursework, certified by regional accreditation bodies. They can feature either traditional, academic education or job training, but more frequently offer a combination of the two, though the relative amount of each varies across programs. Students who enroll in formal postsecondary programs concentrate in a field of study (or major) that is listed on their postsecondary award and serves as a signal of their specific knowledge and skills to employers.

Postsecondary certificates, associate's degrees, and bachelor's degrees are not exclusive and not linear, but they are hierarchical: A bachelor's degree is considered a higher level of attainment than an associate's degree, and an associate's degree is higher than a certificate. However, students enrolled in associate's degree programs can complete certificates on the way to an associate's degree and those in bachelor's degree transfer programs can and do earn associate's degrees on the way to completing bachelor's degrees. It is possible but rare for students in bachelor's degree transfer programs to complete certificates, however. Another possibility, which was rare until the recent economic downturn, is for bachelor's degree-holders to return to college to earn a certificate, particularly those interested in getting career-specific training they can leverage in the labor market.

The Organization for Economic Cooperation and Development (OECD) classifies postsecondary certificate programs as "postsecondary, non-tertiary education." These are the informal, market-based cousin to the European apprenticeship model, though less costly and more similar to traditional degree programs than the apprenticeship model. Postsecondary certificates are short-term; more than 90 percent take less than two years to complete, and they focus primarily on career preparation and occupational training, and less on traditional academic coursework.<sup>2</sup>

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<sup>2</sup> Carnevale, Anthony P., Stephen J. Rose and Andrew R. Hanson. 2012. *Certificates: Gateway to Gainful Employment and College Degrees*. Georgetown University Center on Education and the Workforce (Washington, D.C.). <http://cew.georgetown.edu/certificates>.

The OECD classifies associate's degree programs as "tertiary B education." Associate's degree programs require two years of full-time coursework. There are two primary types, which vary by purpose: (1) general, academic programs to prepare students to transfer into bachelor's degree programs at four-year colleges and universities and (2) terminal, career-focused degree programs that prepare students for a specific career field, so they are prepared to directly enter the labor market after graduating. Roughly two-thirds of the students currently enrolled in associate's degree programs in the United States are programs that prepare them to transfer to a four-year college, while one-third are enrolled in programs that are terminal and career-focused.<sup>3</sup>

The OECD classifies bachelor's degree programs as "tertiary A education." They are four-year degree programs that typically have a strong general education component. Most students enrolled in bachelor's degree programs in the United States are enrolled in regional open-access public colleges and universities, as opposed to selective, private, nonprofit colleges and universities or flagship state universities, which receive the majority of the public's attention. Among the three types of formal postsecondary programs, bachelor's degree programs are the most traveled by young adults in the United States.

### 3. The Relative Prevalence of Certificates, Associate's Degrees, And Bachelor's Degrees

- *Enrollment.* About 90 percent of undergraduate students are split evenly between associate's degree and bachelor's degree programs (42 percent and 46 percent, respectively), while 8 percent enroll in certificate programs. Recall that two-thirds of the 42 percent of students enrolled in associate's degree programs are preparing to transfer to a four-year college after completing their associate's degrees.<sup>4</sup>
- *Awards.* Four-year colleges and universities award 1.8 million bachelor's degrees each year, the most traveled form of formal postsecondary education in the United States.<sup>5</sup> While five times as many students are

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<sup>3</sup> Georgetown University Center on Education and the Workforce analysis of National Center for Education Statistics, Beginning Postsecondary Study 2004-09 using NCES DataLab. <http://nces.ed.gov/datalab>

<sup>4</sup>Ibid.

<sup>5</sup> Georgetown University Center on Education and the Workforce analysis of data from Integrated Postsecondary Education Data System (IPEDS) <http://nces.ed.gov/ipeds/datacenter/>.

enrolled in associate's degree programs as certificate programs, the number of awards granted by institutions differs by only 10 percent. These differences result for three primary reasons: (1) certificate programs take less time to complete than associate's degrees; (2) many students in associate's degree programs drop out after completing a certificate, but before completing an associate's degree; and (3) many students in associate's degree programs who plan to transfer into a bachelor's degree program do so before completing an associate's degree.

- *Workforce.* One-third of U.S. workers have a bachelor's degree, compared to 11 percent with an associate's degree, and 13 percent with a postsecondary certificate.<sup>6</sup> Postsecondary certificates, associate's degrees, and bachelor's degrees all offer substantial wage premiums (the relative difference in earnings) over a high school degree: 20 percent; 44 percent; and 86 percent respectively.<sup>7</sup> Historical data show that the wage premium of a bachelor's degree over a high school degree increased substantially in the 1980s and 1990s, 40 percent to 86 percent.<sup>8</sup> By comparison, the associate's degree-wage premium has remained relatively constant over the same time period.
- *Occupations.* Students who earn certificates most commonly work in blue-collar, manual labor occupations that have traditionally been filled by men.<sup>9</sup> Commercial drivers; heating, ventilation, and air conditioning repairpersons; and aircraft mechanics are three of the most common occupations for certificate holders.<sup>10</sup> Associate's degrees most frequently lead to mid-level professional occupations, such as registered nurses, veterinary technicians, and financial managers.

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<sup>6</sup> Carnevale, Anthony P., Stephen J. Rose and Andrew R. Hanson. 2012. *Certificates: Gateway to Gainful Employment and College Degrees*. Georgetown University Center on Education and the Workforce (Washington, D.C.). <http://cew.georgetown.edu/certificates>

<sup>7</sup> Georgetown University Center on Education and the Workforce analysis of data from U.S. Census Bureau, Survey of Income and Program Participation, 2004 and 2008 panels.

<sup>8</sup> See, for example, Carnevale, Anthony P. and Stephen J. Rose. 2011. *The Undereducated American*. Georgetown University Center on Education and the Workforce (Washington, D.C.). <http://cew.georgetown.edu/undereducated>

<sup>9</sup> Carnevale, Anthony P., Stephen J. Rose and Andrew R. Hanson. 2012. *Certificates: Gateway to Gainful Employment and College Degrees*. Georgetown University Center on Education and the Workforce (Washington, D.C.). <http://cew.georgetown.edu/certificates>

<sup>10</sup> Carnevale, Anthony P. and Nicole Smith. 2013. *Recovery: Job Growth and Education Requirements Through 2020*. Georgetown University Center on Education and the Workforce (Washington, D.C.). <http://cew.georgetown.edu/recovery2020/>

Bachelor's degree-holders are typically able to access to high-paying professional occupations, such as financial advisors, real-estate agents, and engineers.

#### 4. Industry-Based Certifications

Industry-based certifications are test-based credentials that, unlike certificates, associate's degrees, and bachelor's degrees, aren't tied to formal programs of study. They are highly specialized and are typically earned after an individual completes formal postsecondary education, though they do not always require a postsecondary certificate or degree. IBCs are administered and accredited by third-party, private sector firms and require little involvement from the public sector, though they are sometimes tied to public regulations at the state and local level. While administered outside of postsecondary institutions, IBCs drive curriculum decisions within formal postsecondary programs in some cases. For example, community colleges sometimes structure certificate programs to prepare students to master the content assessed by certification exams.

Industry-based certifications arose over the past decade as employers sought a more precise, reliable indicator of job candidates' skills, due in part to perceived grade inflation at postsecondary institutions. The advantage of IBCs relative to formal postsecondary education is that they are low-cost and flexible — they can be easily adjusted to reflect new industry standards. The U.S. Census Bureau only recently began to examine the prevalence of industry-based certifications and in its major surveys. The most recent wave of the Survey of Income and Program Participation (2008 panel) shows that 46 million adults (22%) have a certification or license<sup>11</sup>, and a back-of-the-envelope estimate by the Georgetown University Center on Education and the Workforce suggests that around 4 million certifications are awarded annually. While postsecondary certificates and degrees last a lifetime, certifications typically last a decade at most, so certifications consist of both new certifications and renewed certifications. While the available data on the labor market value of certifications is not yet very robust, real-time online job

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<sup>11</sup> Ewert, Stephanie and Robert Kominski. 2014. Measuring Alternative Educational Credentials: 2012. U.S. Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau. <http://www.census.gov/hhes/socdemo/education/data/files/p70-138.pdf>

advertisement data show a high prevalence of certifications listed as requirements on job advertisements, suggesting they have labor market value.<sup>12</sup>

### 5. Internships: Size and Scope

In the United States, internships refer to entry-level positions that function as an important form of vocational training and pre-employment screening. In theory, interns do not provide any significant level of productivity to their employer; instead, their main role is to learn on the job and gain relevant work experience that will prepare them for occupations in a particular industry or career field. Interns also acclimate themselves to a professional setting, acquire letters of recommendation for future entry-level jobs and graduate-level programs of study, and form professional networks they can potentially leverage into high-paying jobs later in their careers. Internships also serve as an opportunity to test whether particular career fields are of interest for them at minimal cost to themselves or their employers.

Internships are tailored mostly to four-year college goers while they are enrolled or shortly after they graduate and enter the full-time labor market. Colleges and universities typically award academic credit for internships and frequently match students to internships and provide oversight over the intern-employer relationship. Roughly half of college seniors nationally said they completed an internship while enrolled, suggesting that roughly one million college students are employed as interns.<sup>13</sup> The Economic Policy Institute estimates that there are one million more non-college students employed as interns.<sup>14</sup> Interns, therefore, represent 1.3 percent of the 155 million workers in the U.S. labor force.

### 6. Paid v. Unpaid Internships

There are substantial differences in the economic benefits of and public policy concerns about paid and unpaid internships. Roughly half of the internships in

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<sup>12</sup> Carnevale, Anthony P., Tamara Jayasundera and Andrew R. Hanson. 2012. *Career and Technical Education: Five Ways That Pay Along the Way to the B.A.* Georgetown University Center on Education and the Workforce (Washington, D.C.). <http://cew.georgetown.edu/ctefiveways>

<sup>13</sup> National Association of Colleges and Employers. 2013. *2013 Student Survey*. <http://www.nacweb.org/s05292013/paid-unpaid-interns-job-offer.aspx>

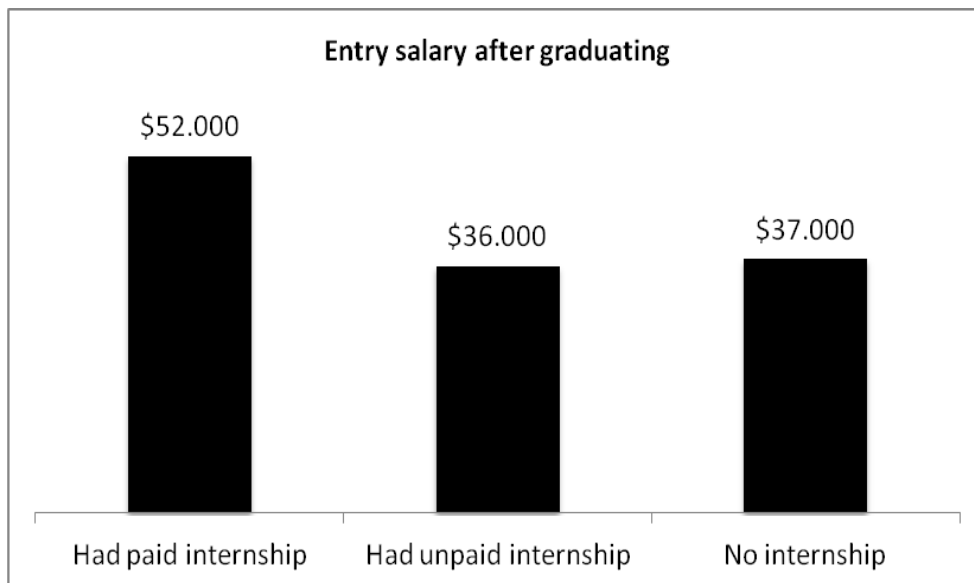
<sup>14</sup> Edwards, Kathym A. and Alexander Hertel-Fernandez. 2010. "Not-so-equal protection: Reforming the Regulation of Student Internships." Economic Policy Institute (Washington, D.C.).



the United States are paid and half are unpaid, but the distribution varies by economic sector. In the private for-profit sector, seven out of 10 internships are paid, compared to half of internships in the public sector, and one out of three internships in the private nonprofit sector.<sup>15</sup>

Paid internships are, on average, more beneficial than unpaid internships across fields of study. Surveys by the National Association of Colleges and Employers and consulting firm Intern Bridge show that college students who completed paid internships enter the labor market with substantially higher rates of receiving job offers and starting salaries than their peers, while there was no difference in the outcomes of students who completed unpaid internships and those who had no internship.<sup>16</sup> The same trend occurred across majors (fields of study).

Figure 2. The starting annual salary for college graduates who completed a paid internship was \$52,000, compared to \$36,000 for those who completed an unpaid internship and \$37,000 for those who did not complete an internship

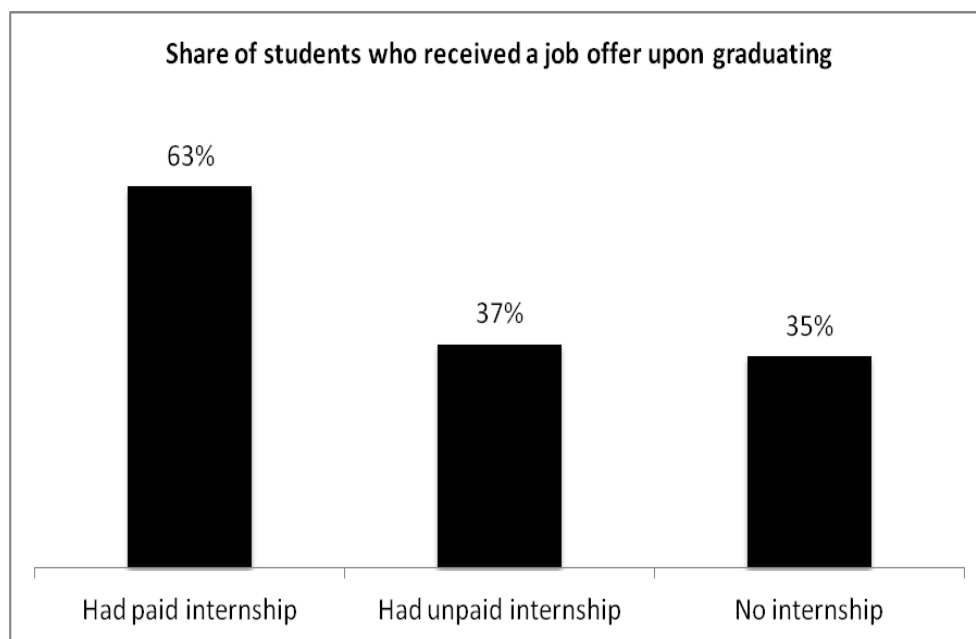


Source: Georgetown University Center on Education and the Workforce analysis of data from the National Association of Colleges and Employers, 2013

<sup>15</sup> Ibid.

<sup>16</sup> National Association of Colleges and Employers. 2013. *2013 Student Survey*. <http://www.naceweb.org/s05292013/paid-unpaid-interns-job-offer.aspx>

Figure 3. The share of college graduates who received a job offer was 63 percent for those who completed a paid internship, compared to 37 percent for those who completed an unpaid internship and 35 percent for those who did not complete an internship



Source: Georgetown University Center on Education and the Workforce analysis of data from the National Association of Colleges and Employers, 2013

This evidence does not necessarily demonstrate that college students do not benefit from unpaid internships. In some fields, such as politics, policy, arts, entertainment, and journalism, there is strong anecdotal evidence that unpaid internships are crucial to gaining traction. Instead, it suggests that there is a large range in the quality across unpaid internships, and that a significant share of unpaid internships are not better than alternative time investments in, for example, paid non-internship jobs, coursework, or extracurricular activities. Many critics of unpaid internships have alluded to the coinciding rise of internships alongside the so-called contingent workforce — which comprises interns, part-time, temporary and contract workers and now constitutes 30 percent of the U.S. workforce — to suggest that internships are an elegant name for unpaid temporary positions.

## 7. Internships and Public Policy

Almost all of the concerns about internships are about the governance of unpaid internships; paid internships are generally considered unproblematic as they are regulated the same as other employment relationships. Critics of unpaid internships believe that internships should be subject to the wage and employment regulations in the Fair Labor Standards Act of 1938, which established a minimum wage among other wage and employment regulations. As of 2009, the federal minimum wage was increased to \$7.25 per hour for hourly employees.

In response to public concerns about internships, the Department of Labor's Wage and Hour Division (DOLWHD) published Fact Sheet #71<sup>17</sup>, which includes six criteria that must be met for unpaid internships in the private for-profit sector to be considered legal. The six criteria are:

1. the internship resembles an experience that would be provided in an educational environment;
2. the internship primarily benefits the intern;
3. the internship does not displace regular employees;
4. the employer does not derive an immediate advantage from the intern's activities;
5. the intern is not necessarily entitled to a job at the end of the internships; and
6. both the intern and the employer understand that the intern is not entitled to wages.

The criteria in Fact Sheet #71 do not necessarily apply to other economic sectors. There is disagreement among legal experts over the question of whether unpaid internships at nonprofit organizations. Nonprofits are legally allowed to have volunteers, but courts have not yet established that the volunteer exception applies to unpaid internships. However, the existence of the volunteer exception makes regulating unpaid internships at nonprofit organizations more difficult. The Fair Labor Standards Act exempts government employees, and the Congressional Accountability Act, which regulates congressional employees, specifically exempts interns from wage regulations. The DOLWHD has publicly stated it is reviewing the need for additional guidance in these sectors, but has not had a director since the

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<sup>17</sup> U.S. Department of Labor, Wage and Hour Division. 2010. "Fact Sheet #71." Washington, D.C. <http://www.dol.gov/whd/regs/compliance/whdfs71.pdf>

beginning of the Obama administration in 2009, so action in the near-term is unlikely.

Based on the criteria in Fact Sheet #71, many unpaid internships in the United States are illegal, though it is unlikely that they will be curtailed due to the lack of a sufficient enforcement mechanism at the DOLWHD. The primary mechanism for curbing illegal internships is lawsuits filed by the interns themselves, though these are uncommon for several reasons. First, interns are mostly young entry-level workers who are unfamiliar with their rights as workers due to their lack of experience. Second, lawsuits can be prohibitively expensive for current and former interns and yield relatively small benefits. An intern who works over the summer at the minimum wage rate can make as little as \$1,000 to \$2,000, which many consider not worth the potential monetary costs as well as the risks to one's public reputation, which could damage the interns' future career prospects.

There is an additional question over whether the criteria listed on the fact sheet are sufficient for determining the legality of an internship. To date, this question has not been resolved by the courts. In *Glatt v. Fox Searchlight Pictures Inc.*, a federal judge ruled that the criteria were sufficient, while in *Xuedan Wang v. The Heart Corporation*, a different judge said both the criteria and other factors should be considered. Going forward, the direction that future rulings are headed toward is unclear, but it will be difficult to assess the future of internships in the United States until the courts clarify current regulations.

Further, because unpaid internships do not legally constitute an "employment relationship," they are not afforded workers' rights designated under the Civil Rights Act, enforced by the U.S. Equal Employment Opportunity Commission. This is particularly concerning because interns are typically young and entry-level workers, who are especially vulnerable to these offenses, as they are less familiar with their rights in the workplace. However, company policies as well as state and local laws do, in many cases, afford interns these rights, though federal law does not protect them. The state of Oregon, for example, passed a law extending protections to unpaid interns against sexual harassment as well as discrimination and wrongful termination based on race, religion, gender, disability, and sexual orientation.

Last, there are concerns about equal access to high quality unpaid internships in specific industries, such as politics, policy, arts, entertainment, and journalism. In these sectors, unpaid internships are a necessary right of passage for entry-level workers. However, there are strong allegations that these internships are prone to nepotism and that, because young adults from low-income family backgrounds cannot afford to take unpaid positions, their access to careers in these industries is limited. The Economic Policy Institute has

proposed to subsidize unpaid internships for students from low-income families through the Federal Work Study grant program to address these concerns.<sup>18</sup>

## 8. The Future of Internships in the United States

Despite the rarity of lawsuits filed by interns overall, many high-profile lawsuits were brought against firms such as The Hearst Corporation, Fox Searchlight, and The Nation Institute. The highest profile suit, brought against Fox Searchlight by former interns who worked on the set of the film *Black Swan*, was successful — the court ruled that the interns should have been paid the minimum wage.

The recent public scrutiny of unpaid internships has sufficed, in some cases, to encourage employers to either pay their interns, as the Nation Institute and Atlantic Media did, or end their internship programs altogether, as in the case of the mass media company Condé Nast. Under the assumption that internships are mutually beneficial employers, postsecondary institutions, and interns themselves, these new trends represent a cause for concern. However, recent evidence questioning the value of unpaid internships suggests their decline may not carry a significant negative impact.

Whether the decline of unpaid internships would be beneficial or harmful depends, to a large extent, on what replaces them. If they are replaced by paid internships, the costs will likely be minimal. However, if they are replaced by more classroom learning or higher barriers to entry in the labor market, their decline could be problematic. The U.S. education and training system spends a disproportionate amount of time on academic, classroom-based learning, while devoting less time to providing learners with meaningful work experiences. If unpaid internships are replaced by more classroom learning, which is frequently more expensive than internships in the United States, students may lose out on critical workplace knowledge. Given these risks, the best solution may be to build stronger connections between education and work at earlier stages in students' education and promote full employment, so that workers have more leverage in the labor market.

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<sup>18</sup> Edwards, Kathryn Anne, and Alexander Hertel-Fernandez. 2010. "Paving the Way through Paid Internships: A Proposal to Expand Educational and Economic Opportunities for Low-Income College Students." Washington, D.C.: Demos and The Economic Policy Institute.

## 9. Employer-Based Training

Even for individuals who complete formal postsecondary education, a certification, and an internship, human capital development doesn't end there. Employer-based training accounts for the most spending among the four major components of career pathways in the United States.

Labor economists classify EBT into two types: formal training that often features a curriculum and can last anywhere from a few weeks to up to two years and informal, on-the-job training that mostly consists of job shadowing and rarely last longer than a few months, and can often be completed in a few days or weeks.

Employer-based training is a complement, not a substitute, for other kinds of human capital development. The more educated an individuals are, the more likely they are to receive long-term, formal EBT because they are more likely to engage in complex work tasks. Conversely, high school graduates are typically limited to informal, on-the-job training.

Over the past few decades, employers in the United States have increasingly outsourced education and training to third parties and education institutions, as the old model where employees worked their way up the company ladder has been replaced. However, employer-based training remains an indispensable component of the U.S. education and training system.

## 10. Advantages and Disadvantages of the U.S. Education and Training System

The strengths of the U.S. education and training system are the decentralization provides institutions the flexibility to innovate and respond to change in the labor market and that, because pathways are not linear or uniform, students bring a diverse array of perspectives and fresh thinking into postsecondary programs and firms, which fosters an intellectually rich, creative, and innovative environment.

The weaknesses of the U.S. system are that, because young adults are not given clear guidance about what comes next, many get lost, change their minds, and find these systems difficult to navigate on their own. Consequently, it often takes longer for students to get through the education and training system with the skills necessary to find employment than if their choices were constrained or less flexible. Its other primary weakness is that it produces a great deal of racial and class inequality. These inequalities occur because of many factors,

such as racial and class stratification in postsecondary education<sup>19</sup>, but also because disadvantaged students lack the necessary support to help them navigate the complexities of the system.

## 11. Public Policy Reforms to U.S. Education and Training

Many young adults are being left behind in the U.S. labor market. Some are unable to find full-time work, while others are unable to find any kind of work at all. In the United States, contra Europe, there are not institutional mechanisms necessary to plan hardline occupational tracks, and such an approach is unlikely to gain political traction. Instead, four courses of reform are likely to be successful:

1. **Data Systems.** The development of robust data systems that track outcomes at the program level at postsecondary institutions to understand the economic value of the different components of education and training, such as college degrees, certificates, certifications, and internships.
2. **Transparency.** Using data systems to promote transparency through information campaigns and easy-to-use tools that inform students, families, educators, policymakers, and public officials about the value of different education and training programs, so they make informed choices about what and where to study.
3. **Outcome standards.** Tying public funding of education and training to outcome standards based on labor market value, so the public increases the real impact of its investments.
4. **Learn and earn.** Promoting models that allow students to participate in education and training programs while gaining work experience in fields that relate to their field of study, so the practical work skills they gain in the workplace aids the long-term acquisition of relevant career skills.

Building upon the strengths of U.S. education and training will accelerate the connection between education and careers and help young adults thrive in the 21st century.

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<sup>19</sup> Carnevale, Anthony P. and Jeff Strohl, *Separate and Unequal: How Racial Stratification in Higher Education Perpetuates Racial Inequality*. 2013. <http://cew.georgetown.edu/separateandunequal>

# Building Employability in Higher Education and Research Paths: Experimental Forms of Higher Apprenticeships and Industrial Doctorates in Italy

Lilli Casano\*

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## Introduction

The present paper discusses the experience of the International Doctoral School in Human Capital Formation and Labour Relations at the University of Bergamo (Italy), promoted by the Association of International and Comparative Studies in Labour and Industrial Relations (ADAPT) and the Center for Quality of Teaching and Learning (CQIA). Both organisations have shown commitment to the innovative nature of industrial PhDs, also in light of the newly-issued national provisions. Identifying the scope to conclude agreements with employers to fund industrial PhD programmes based on apprenticeships and doctoral research programmes more generally, the School has been a forerunner in providing such arrangements for four years now; that is well ahead of what was laid down recently in Italian Ministerial Decree No. 45 of 8 February 2013. The approach adopted by the School stood out since its establishment as being similar to that used in other European or non-European countries for a long time. For this reason, the School anticipated the move made by the Legislator and provided some innovative approaches which will be explained in the pages that follow. Some features call to mind those which are typical of professional doctorates, while others are in line with those laid down by the European Union, and then implemented by Italy, concerning the industrial PhDs. The line between the two models is blurred, mainly because of the different nature of the academic programmes and the scientific

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disciplinary sectors at the national level. Yet, the distinctive trait of professional doctorates,<sup>1</sup> which generally involve adult professionals, is their emphasis on applied research, in order to contribute to the development of skills in a certain sector. Instead, industrial PhDs target young graduates – yet this is not always the case – and have two distinctive features: the nature of research to be carried out and the way in which activities are planned. For most of their time, Doctoral students work on their research projects while operating at the premises of the funding company. Alternatively, doctoral students are employees working for the employer who funds their scholarship. This is done either to promote employees' career development or to take part in projects along with the university.<sup>2</sup>

There are reasons to support the unique nature of this type of Doctoral research programme – also if compared to that regulated by Ministerial Decree No. 45 of 8 February 2013 – for it is based on the alternation between work and training and the combination of research and work activities. In essence, this scheme draws on features which are common to both Doctoral research programmes discussed earlier.

### The Experience of ADAPT

The promotion of a Doctoral School featuring a close relationship between universities and employers on the part of ADAPT can be certainly regarded as innovative, for no other experience has been reported in Italy to date, yet a certain analogy emerges with the recent doctoral degree regulated by Italian legislation. The reasons for its establishment lie in the approach characterizing the ADAPT School of Higher Education, which can be summarized by its organisational motto on its [website](#) “Building the future of work together”. ADAPT is committed to building the future of work, fuelling the academic debate and contributing to steering the activity of policy-makers at different institutional levels.

This attempt translates into a willingness to monitor the ongoing changes in the world of work as well as their origins without waiting to read about such developments in books, through a close look at both the causes and the consequences of such changes. In addition, the groundbreaking approach to this doctoral program arises out of the necessity to satisfy the needs of employers – who are often already partners of ADAPT and are interested in

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<sup>1</sup> I. Lunt, *Professional Doctorates and their Contribution to Professional Development and Careers*, ESRC Full Research Report, 2005.

<sup>2</sup> F. Kitagawa, *Industrial Doctorates - Employer Engagement in Research and Skills Formation*, LAKES Research.

setting up innovative academic programmes in human resource management and labour relations – or to build stable and rewarding career paths for those who have opted to share their expertise and motivation in labour-related fields. A first attempt at this by ADAPT was made at the University of Modena and Reggio Emilia. The Doctoral School in Labour Relations, promoted in collaboration with the Marco Biagi Foundation, comprised of 99 students. ADAPT co-funded the programme and awarded scholarships amounting to €3,942,000. Later on in 2009, ADAPT and CQIA promoted the International Doctoral School in Human Capital Formation and Labour Relations at the University of Bergamo (Italy). The School intends to “move beyond the rigid separation which exists in Italy between education, Labour law and employment”<sup>3</sup> either in terms of research and policy, with the view of disseminating an all-encompassing approach which takes account of these different dimensions. To this end and since its very establishment, the School promotes the alternation between school and work and the recourse to internships and apprenticeships which result in a direct involvement of the employers and the main actors of the world of work in the learning process. Pursuant to the School Regulation, it is possible to conclude agreements with employers or other educational or research bodies allowing doctoral students to carry out external internships or work periods of research. It is also possible to make arrangements for the funding of scholarships or research projects on the part of external organizations.

Following the Memorandum of Understanding (MoU) of July 23, 2009 and a further agreement (Accordo di programma) of September 28, 2009 concluded between ADAPT, the University of Bergamo and the Ministry of Education, University and Research, the latter allocated funding for a number of bursaries equivalent to the number funded by external bodies, up to a maximum of 15 scholarships.

Over the years and thanks to the ADAPT partners, the School has established a dense network of employers and representative bodies, which are actively involved and contribute in a number of ways, for instance by providing bursaries so as to participate in the education of doctoral students taking part in internships. In their capacity as funding partners, they enjoy a privileged position within the initiatives set up by the Doctoral School and help bring the labour issues investigated while in class closer to the dynamics of the working world. The involvement of private bodies in accordance with the MoU allowed the funding of 94 bursaries in four years, amounting to €4,306,000. Currently,

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<sup>3</sup> Motivazioni per la costituzione della Scuola di Dottorato Internazionale in «Formazione della persona e mercato del lavoro», [http://www.unibg.it/struttura/struttura.asp?cerca=DOT-FPDLM\\_documento](http://www.unibg.it/struttura/struttura.asp?cerca=DOT-FPDLM_documento).

the International Doctoral School in Human Capital Formation and Labour Relations offers two tracks: one concerning topics related to education and pedagogy, and the other related to legal issues focusing on industrial relations and work regulation. The courses at the School do not differ significantly from those offered by traditional Doctoral research programmes, where students spend most of their time at the university. Yet, the innovative aspect lies in the fact that research is carried out in relation to a given work activity. This aspect is also emphasized in par. 3, Art. 1 of the School Regulation, pursuant to which the aim is to “train young researchers and enable them to operate in national and international firms through professional expertise in legal and pedagogical issues”. This feature is common to both the School and professional PhDs. Many Doctoral candidates are professional adults performing tasks of a predominantly intellectual character – either in the public or the private sector – in the fields of education and training or in the provision of services for people and businesses.

There is also the opportunity to carry out research at the funding partner’s premises. Besides being involved in the tasks traditionally required in Doctoral programmes – e.g. participating in classes, seminars, conferences, and research projects in order to draft dissertations – doctoral students whose bursary is funded by a private body can take part in internships which take place within a company. In this case, credits are assigned over the three-year period in consideration of the activities undertaken at the university and during external internships. This characteristic draws the School closer to the industrial PhDs implemented by the Legislator as the doctoral student is involved in a research project carried out in the funding partner’s establishment. It should be stressed that the training program put forward by the School places great emphasis upon on -the-job learning, envisioning an alternation between school and work and a close interdependence between research, teaching activities, and the fulfilment of special assignments within the company.

The courses offered at the School also include tasks which are particularly suited to university researchers, who join research projects, editorial work, and events organized by those promoting the School. All the activities, including those supplementing teaching, are assigned a number of credits – e.g. 1 to 120 credits for the internship, 1 to 90 credits for research and editorial activities, and support for the teaching. As a result, doctoral research programmes might vary considerably from one another; they share a common base – that is basic knowledge concerning education and labour market, yet they are tailored to each student and are characterized by high levels of professionalism. Individual training plans are envisaged in agreement with the academic tutor, the company supervisor, the School and the area coordinator, pursuant to the

School Regulation, based on an interdisciplinary approach and the progressive specialization of the main activities.

This state of play calls for innovation at the time of planning courses, considering the link between the research topic and the main aspects of the job requirements, an approach which marks a tendency away from the Italian experience concerning doctoral programmes.

In addition, the levels of harmonization between the research project and the goals, practices and the deadlines agreed upon in a company, or a working environment more generally, is remote from the traditional PhDs which predominate in Italy.

Aside from providing a specialization in education, employment, and industrial relations, the School is characterized by a range of teaching methods which go far beyond those offered by traditional doctoral research programmes. Along with teaching and research carried out either individually or through group work, much time is devoted to on-the-job training, and workshops which can be attended online. Students are supported by a tutor and are required to attend seminars and conferences. The management and dissemination of the main activities (publications, seminars, and assessment tests) take place through an online cooperative platform, an approach that is becoming a common practice in academic settings; the School is also experimenting with the use of social media in the working context. The complex organization and the ongoing effort in terms of planning and management of the activities and relations of the School make the ADAPT experience a unique one in the national scenario. This is also true if one looks at the numbers of the School, which are unprecedented, and likewise are the private funds allocated pursuant to the 2009 agreement with the Ministry of Education, for which an equivalent number of public bursaries are provided. In this sense, the School is innovative, considering that a very limited number of positions are available within the doctoral research programmes, particularly those for which a scholarship is assigned. Without financial support, applying for a Doctoral programme translates into prolonged reliance on one's family in economic terms. Disparities concerning access to doctoral programmes are evident and are further confirmed by a number of relevant studies.<sup>4</sup>

Evidently, this peculiarity affects selection procedures. The call for applications of the School is circulated through the ADAPT publicity materials (newsletters and publications) which reach more than 20,000 people consisting of students, professors, and labour practitioners and is therefore given much visibility. Accordingly, selection procedures are different from traditional ones and

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<sup>4</sup> G. Argentin, G. Ballarino, S. Colombo, Accessi ed esiti occupazionali a breve del dottorato di ricerca in Italia. Un'analisi dei dati Istat e Stella, in *Sociologia del Lavoro* n. 126/2012.

involve nationwide high-profile young scholars who apply for positions which have nothing to do with the patronage system which at times stymies academic job opportunities. The large number of bursaries, as well as the credibility of the ADAPT School of Higher Education, which made a reputation in placing well-educated young students, makes the School particularly appealing to candidates in Italy and elsewhere.

### **Doctoral Programs based on Apprenticeships**

The close cooperation between the School and external entities – employers and representative bodies – on the one hand and a wide range of young people willing to pursue higher education or high-quality jobs in the field of labour and industrial relations on the other hand allowed for the setting-up of doctoral programmes based on apprenticeships in order to issue a doctoral qualification. Pursuant to Art. 50 of Legislative Decree No. 276/2003 – as amended by Act No. 133/2008 and subsequently by par. 3, Art. 5 of Legislative Decree No. 167/2011, this arrangement is possible by virtue of a framework agreement providing higher apprenticeships, which is concluded by the School and the funding company. In the past, young people who passed the selection procedures then concluded higher apprenticeship contracts with employers who were interested in their job profile. Upon conclusion of the contract, doctoral students operate for the company which hired them, and they are entitled to take leave in order to take part in mandatory teaching activities, as laid down in the School Regulation. In addition, the School somewhat anticipated the contents of Art. 11 of Ministerial Decree No. 45 of February 8, 2013, which, in turn, makes reference to Art 5, of Legislative Decree No. 167 of September 14, 2011 in that it gives the opportunity to set up doctoral research programmes based on apprenticeships with external bodies or institutions. For the purposes of calculating the number of bursaries required by law to set up a Doctoral School, it is also specified that these apprenticeship schemes are to be regarded as equivalent to scholarships. Therefore, the experience of the School can be useful also on this score, particularly if replicated, in order to evaluate possible constraints, as well as opportunities and requirements. Students who enter the School by means of apprenticeship contracts enjoy some benefits in that the amount of work expected of them in terms of attendance of seminars and other events is limited. This is because there is a need to strike a balance between the teaching activities and the tasks they perform at the company, especially because a part of the credits are assigned on the basis of the latter.

In any event, all the activities carried out by the doctoral students at the School are registered in a booklet which is constantly upgraded. Doctoral students on apprenticeship contracts do not distance themselves from those who undertake internships in terms of tutoring, evaluation, and coordination between theoretical and practical learning.

Doctoral students on apprenticeship contracts attend courses which are planned considering a number of factors: their prior educational attainments and work experience, the skills acquired thus far and those required by the employer, the relative job requirements and the School courses, without disregarding the qualification and the employment grade to be obtained at the end of the apprenticeship contract. All this is done in compliance with the Individual Training Plan (*Piano Formativo Individuale*) which is an integral component of the higher apprenticeship contracts, pursuant to par. 3, Art. 5 of Legislative Decree No. 167/2011. Over the following three years, apprentices are involved in training and educational activities which are intended to pursue formal, non-formal, and informal learning, in line with the working activities carried out at the company.

The Individual Training Plan provides a general description of the activities which will help Doctoral students to gain the required skills in accordance with what is laid down in the School regulation on a one-year basis.

A credit-based system is in place for admission purposes. Failure to comply with it will result in exclusion from the School. Doctoral students must collect 60 credits each year, which are awarded by their supervisor on the basis of the different student's activities and certified by the Doctoral School board. Individual Training Plans also provide for a number of soft skills, which in this case include methodology, research, and planning skills, communication and linguistic abilities, and knowledge of innovative technology for research purposes.

Previous experience points to the need of strengthening the theoretical knowledge in relation to the creation of a language which is common to all Doctoral students. This is irrespective of whether they specialize in Labour Law or Pedagogy under higher apprenticeships, internships, or more traditional PhD programmes. Finally, the different specializations have been planned taking account of the relating job profile. Over the three-year period, Doctoral students' activities are supervised by a company tutor who is in charge of providing the necessary skills to perform a given task and easing the integration between internal and external training. Doctoral students are also assigned an academic supervisor, who is usually a member of the teaching faculty who helps them with their research project, educational, and training activities.

To date, the School hosts 15 Doctoral students on apprenticeship contracts. It would be premature to draw conclusions about their experience. Yet some

reflections made earlier to refer to successful industrial PhDs might also apply in this case. A summary of the benefits of both types of Doctoral programmes will be provided in the conclusions.

### **Concluding Remarks**

The Industrial PhD has been favourably welcomed, and the same can be said, at least in principle, of higher apprenticeships. However, in order for them to provide opportunities for both young people and employers, some conditions need to be met. Among these conditions are a constructive spirit to foster cooperation between promoting institutions and economic actors in order to promote ad-hoc training plans; the involvement of experts in the planning of innovative and flexible courses which take account of different learning methods and competence; effective placement schemes which bring employers and young people closer striking a fine balance between the needs of the parties involved either in terms of training and career prospects.

To date, and in the absence of a regulatory framework laid down by the relevant authorities, the innovative cooperation between employers and universities is the result of the willingness and capability of certain institutions – which are rare to be found – to involve employers in ambitious training plans, thus overcoming cultural and bureaucratic constraints. In the context of the industrial PhDs outlined here, the experience of ADAPT in providing job placement services played a decisive role. The experience accrued over the years, which have been also certified by the Ministry of Labour, was then applied in the running of the Doctoral School as a way to guarantee the high-quality of the courses and their suitability with in-company training. As argued before, the establishment of industrial PhDs on a large scale might supply new opportunities and re-shape the boundaries of academic research in Italy.

Taking on this new challenge would allow Italian universities to further experiment with additional ways to enhance ties with employers – and the world of work more generally – by means of a close cooperation among those involved. This would translate into new career paths as an alternative to traditional research jobs. In addition, this new approach to research might be useful to fill high-profile positions, by means of a) the traditional doctoral research programme in order to enter the academic career b) the industrial PhDs, which are more tailored to positions in the private sector; c) the doctoral research programme based on apprenticeships or apprenticeships for research purposes, which gives prompt access to positions within companies and private research institutions. In all these cases, students are awarded a doctoral degree at the end of the three-year period. In order to make this

approach a practical and a reliable one, there is a need to dispel some ideological resistance on the part of the parties involved, i.e. universities and employers. The outcomes of this innovative approach to research cannot be evaluated yet. Rather, it is the need of some preconditions that need to be stressed here. In this sense, at the ADAPT School the scope for experimenting with new teaching methods is possible thanks to considerable forward planning, expertise, and cooperation with universities and employers that are responsive to innovation. All those involved were willing to invest in the planning of courses and access-to-work programmes, on account of their need to strike a balance between compliance with the university regulation and adaptation to ever-changing organizational issues within the companies. This was a necessary step to provide students with the necessary flexibility to fulfil their duties as students of a fully-fledged higher education system and as interns who cover high-level positions.

As far as employers are concerned, the first aspect that needs to be emphasized is the willingness on their part to cooperate with educational bodies in building-up an organizational strategy. Apart from economic benefits, the choice to allow students to undertake a PhD programme at their premises arises from the opportunity to innovate and review certain processes, functions, and services. As a lever for business development, the disciplinary domain of Industrial Relations has undergone many changes, being exposed more than other fields to economic instability. Yet, the number of employers who react to external forces by turning to innovative processes is still limited. This move is usually driven by high levels of expertise and qualifications among which are adequate facilities and networking arrangements with the social actors and institutions.

The other precondition is that the company has the necessary skills and latitude to decide over Doctoral students' educational programmes – through constant contact with the universities collaborating with, in order to understand their educational needs – and create forward planning abilities in order to deliver long-term career prospects. These are all qualities which by no means need to be taken for granted and require the help of professionals who possess the competence to promote a virtuous approach and highlight unexpressed needs. It is also worth pointing out the relevance of the students' expectations. They spend most of their time at the company and are trained in applied research. As a result, it is unlikely for them to seek employment in universities, considering the current state of Italian academic research. There are certainly more chances to be hired by the employer who funded their scholarships – since they are seen as a resource that should be retained – or by another company which might seek top candidates with a high-level of specialization. What is important here is to underline that, as likely as not, only



young people who are well aware of the different approach used to carry out research will benefit from this Doctoral research programme, for it moves away from a traditional doctoral degree. Whether this longed-for evolution will come about will depend on adequate promotional activities on the part of those in charge and on a move away from ideological resistance allowing for a better integration between training and work in tertiary education. In relation to well-educated young job seekers looking for high-qualified positions, such integration takes place at all levels through the widening and promotion of the grey area between higher education and employment, which consists of innovative actors, in the public and private sector, to be integrated into a local system of lifelong learning.

# Working in Informational Capitalism: The Case of the Argentinean Publishing Industry

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## 1. Introduction

As several authors have argued, we are moving through a stage of capitalism which has distinct features compared to previous periods of capitalism. This phase has been named ‘informational capitalism’, or ‘cognitive capitalism’, in allusion to the central position occupied by knowledge and technology in valorization and production processes, with all the corresponding effects on the behaviour of the various players in the process of formation in the field of culture. The analysis of capitalism in the 1990s and early twenty-first century has been concerned with the increase in financial and commercial internationalization and the latter’s link with ICTs as the key issue heralding the onset of the current era.

In order to analyze the history of capitalism, it is necessary to go back to pre-capitalist times: many authors agree on calling the first process of technological transformation that occurred in Britain in the second half of the 18th Century the *Industrial Revolution*. In fact, Freeman and Louçã<sup>1</sup> define a First Industrial Revolution, based on the changes in the percentage share of different sectors in the domestic product and the economy as a whole, and also taking into account social, organizational and cultural changes. In this regard, they highlight that in the case of Britain, the rationale for using the term ‘Industrial

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<sup>1</sup> See Chris Freeman and Francisco Louçã *As Time Goes By. From the Industrial Revolutions to the Information Revolution*. Oxford, Oxford University Press, 2002.

Revolution' is based on the fact that industry and construction had already overtaken agriculture in total employment and output by 1810.

According to a study by Rodríguez Vargas<sup>2</sup>, a group of historians, technologists and economists agree on making a distinction between an early industrial revolution and subsequent technological revolutions, vaguely denoting them 'ages': the age of steam power and railways (first), the age of electricity and steel (second), the age of mass production of automobiles and synthetic materials (third) and finally the (fourth) age of microelectronics and computer networks or, rather, the age of information and telecommunications.

Now, considering the centrality of information and communication technologies in the construction of economic value and therefore in production, it is interesting to explore exactly how this phenomenon occurs in specific cases. According to Martha Roldán, present-day capitalism makes use of the most genuine human skills — human thinking, imagination, taste — for its own benefit, that is to say, “21st century informational capitalism puts life itself to work, it takes possession of life”.<sup>3</sup>

Regarding the work of the cultural industry, Virno claims that “the crucial point lies in the fact that, while material production of objects is required to the automated machine system, living labour provisions, however, look increasingly more like linguistically virtuous performances”.<sup>4</sup> We believe that these perceptions might also be related to the fact that time and space dimensions have, in recent decades, undergone transformations which are correspondingly being transferred to the field of labour.

According to Dantas<sup>5</sup>, “information emerges as a decisive productive force” and this ‘flexible accumulation’ gives rise to changes in relationships and working practices. For this reason this paper will attempt to address the changes which are taking place in the publishing industry, at the same time analyzing the distribution of production at local, regional and global levels.

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<sup>2</sup> See Jesús Rodríguez Vargas, Jose (2010) *La nueva fase de desarrollo Económico y social del capitalismo mundial* (dissertation paper). Available at: <http://www.eumed.net/tesis/jrv/3c.htm> and Freeman, Chris and L. Soete *Economics of Industrial Innovation*. The MIT Press, 1997.

<sup>3</sup> See Roldán, Martha “Capitalismo Informacional, industrias de la comunicación y organización del trabajo en la producción de contenidos en la rama editorial. Reflexiones sobre su contribución al desarrollo en la Argentina 2000s”. In Susana Sel (Ed.). *Imágenes, palabras e industrias de la Comunicación. Estudios sobre el capitalismo informacional contemporáneo*. Buenos Aires: La Tinta ediciones. 2008, 13.

<sup>4</sup> Virno, Paolo, *Gramática de la multitud*, Buenos Aires Colihue, 2002.

<sup>5</sup> Dantas, Marcos ‘Informação e trabalho no capitalismo contemporâneo’. In Lua Nova: *Revista de Cultura e Política*, 60. São Paulo., 2003, 13.

Based on the above, we propose to resume the discussions and claims surrounding cognitive capitalism, and use them in a reflection on the publishing industry, focusing particularly on the developments in ICTs and their impact on this field. We aim to discover the extent to which these changes are affecting the publishing industry in Argentina and, therefore, to what degree this creates the need for new skills on the part of the publisher as a dominating figure in publishing houses.

Firstly, we shall put forward some definitions of cognitive capitalism before addressing the specific subject of this paper: we will examine the behaviour of the publishing industry both locally and globally, and then explore the changes brought about by ICTs in the organization of the industry. We will then look at three publishing enterprises operating at various levels in order to make some initial considerations of modifications which are being introduced to the organization of publishing houses and to the practices of several publishers. This is a transitional phase, where, in addition to the traditional practices and skills associated with traditional modes of carrying out publishing work, a significant transnational reality is gradually restricting autonomy in the field and increasingly creating the need for actions which allow publishers to find a place for themselves in the new reality of their sector.

## 2. The Seed of a New Type of Work

In *A Grammar of the Multitude*, Paolo Virno argues that when considering the operating mode of the cultural industry, it is necessary to think of it as a type of space which is "informal, not programmed, one which [is] open to the unforeseen spark, to communicative and creative improvisation: not in order to favour human creativity, naturally, but in order to achieve satisfactory levels of corporate productivity"<sup>6</sup>. The same author, however, states that, in the critical view of the Frankfurt School, these aspects were "uninfluential remnants, remains of the past, waste. What counted was the general *Fordization* of the culture industry". Virno believes that it was precisely these aspects of the work of the culture industry, those linked to the informal and the unforeseen, which were the seeds of what would become a new type of work.

It is first necessary to examine the profound transformations which occurred in this stage of capitalism, following Moulier Boutang, for example, who suggests that these significant mutations are primarily associated with a change in the nature of value and are being linked to knowledge in an innovative way. Knowledge is thus put to the service of production insofar as it controls nature

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<sup>6</sup> See Virno, Paolo, *op. cit.*

through technology. Enzo Rullani also argues that in modern capitalism knowledge is as important as labour or capital: in order to be valuable, capital must exploit living labour and knowledge. What is distinctive is that the valorization of knowledge responds to special laws and is different from the traditional capitalist formation of values. On the other hand, “virtualization processes separate knowledge from its material medium, and this creates inconsistencies in the valorization process (...) because the process of transforming knowledge into value is not linear or stable over time”.<sup>7</sup>

Knowledge may have no influence on the theory of value if it were little more than an example of ‘merchandise’ doing nothing other than preserving and transmitting the value of the capital and labour used to produce it: knowledge has value in its use but no referenced value of exchange. The cost of the production of knowledge is uncertain and radically different from the cost of its reproduction. The exchange value of knowledge is linked to the practical possibility to limit its free dissemination and to minimize the chances of it being copied by legal means. The knowledge economy is an economy of speed; values are not preserved in inventories but they decrease with the increasing speed of processes, and this has a significant influence on the production of cultural goods. Capital internalizes the laws of the valorization of knowledge, that is to say, the laws of diminishing returns over time.

Based on this, Moulier Boutang argues that it is increasingly difficult to justify property rights as they were created during early industrial capitalism. He also maintains the importance of recognizing the emergence of new forms of property rights such as free software.<sup>8</sup>

Moulier Boutang uses the term *cognitive capitalism* to refer to the current mutation of capitalism, considering that while there may be many designations (Information Society; net-economy; weightless economy), they are all intended to reflect a change, in his view essential, which is linked to the belief that the nature of value, shape, location and modes of extraction have changed completely, both in terms of changes in the capitalist regime of accumulation, and in production methods, a transition that also means modifications to the wage regime. The author also questions whether the laws in place are relevant to this new economy and notes that the ‘non-material’ economy is linked to the almost instant digitization and channeling of data and the reduction to almost zero of the cost of knowledge reproduction.

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<sup>7</sup> See Rullani, Enzo “El capitalismo cognitivo ¿un Deja-vu?”, en Moulier Boutang, *op. Cit.* 101.

<sup>8</sup> Moulier Boutang explains that the issue of free software is a useful element to think of this legal boundary. Boutang states that copyleft is not an open source code system, but a particular privately-owned right: the prohibition of privatizing products derived from software that can be copied freely for commercial use.

The major obstacle, from this author's perspective, is the difficulty in finding a way to establish new property rights which permit to some degree the regulation of human cognitive activity. These rights are linked to the appropriation and expropriation (a strict delimitation of how usage, valorization and alienation may constitute the essential prerequisite of market mechanisms and pricing). The issue of cognitive capitalism operating with ICTs lies in the current problems of the commercialization of and rights to private property, as well as in the resulting debates regarding the public nature of information goods.

Dantas also analyzes informational capitalism, arguing that the old institutional model of communications which was in place from the 1930s through to the 1980s has changed, causing a shift towards the Third Technological Revolution: text, images and sound are transformed into 'bits' and this digitization of information is the technical basis of social production. Working in informational capitalism is an exercise in gathering, compiling, processing and associating data.<sup>9</sup>

On the other hand, the values inherent to these products involve a value of usage which is not present in the material medium: for the value to be realized, the result has to be *communicated*: there is a mismatch of information between those who produce it and those who consume it which makes it impossible to draw comparisons between values of exchange.

According to Roldán, working time has also been intensified in order to overcome spatial obstacles which will result in the reduction of the total rotation time of capital. Furthermore, according to David Harvey<sup>10</sup>, this intense time is becoming the greatest source of valorization, accumulation and appropriation of informational income at national and international levels. In summary, a major change seems to be taking place; this change implies a certain degree of transformation as factory work loses its hegemony, and non-material labour, a type of labour which creates non-material goods such as knowledge, information, etc., emerges.

Roldán broadly defines communication industries as those industries based on the processing and communication of information, be it artistic or scientific. She also takes up Ramonet's<sup>11</sup> definition of CIs, stating that Cultural Industries are "those industries producing creations using the three major symbolic systems known: sounds, images and letters". Nowadays cultural industries are believed to strongly influence the country's GDP.<sup>12</sup>

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<sup>9</sup> See Dantas, Marcos, *op. Cit.*

<sup>10</sup> See Harvey, David *Spaces of Global Capitalism*. London, Verso, 2006.

<sup>11</sup> See Ramonet, I. (2004). El quinto poder. *Le monde diplomatique*, June 23, 2010.

<sup>12</sup> According to data published by the Argentinian Creative Industries Observatory (Observatorio de Industrias Creativas, OIC) in 2004 under "Cultural Industries in Argentina",

In this regard, the last few decades have seen efforts being made to define the scope and impact of cultural or creative activities within local economies and societies. This has inevitably given rise to the need to develop a new field of analysis which, according to the conceptual framework adopted, will be that of Cultural Economy<sup>13</sup> or Creative Economy. In both cases are these analyses intended to demonstrate that expressions, activities and products coming from the creative or cultural sphere are of remarkable importance in terms of economic magnitude beyond the symbolic value that can be accorded them. There has also been an attempt to fully recognize the symbolic versus the economic dimension in the analysis, by considering the effects of cultural production and consumption on the formation of identities and, ultimately, on the preservation of cultural diversity.

These arguments require empirical data for the analysis of these new realities and their social, political and economic implications, as well as for the definition of appropriate policies aiming to harmonize the various effects these factors can have on different sectors of society. Cultural industries harmonize economic and cultural levels and UNESCO defines cultural industry as those industries that:

combine the creation, production and commercialization of contents which are intangible and cultural in nature; these contents are typically protected by copyright and they can take the form of a good or a service. This twofold nature – both cultural and economic – builds up a distinctive profile for cultural industries<sup>14</sup>.

According to this view, Creative Industries cover and imply a broader set of activities where the product or service contains a “substantial artistic or creative element”.

In this regard, while the concept of Creative Economy is useful for the purposes of reflection, it must also serve for development considering the specific characteristics of each country and each culture. Re-appropriating this concept would mean that the creative economy is "related to the government,

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the sphere of cultural production has poor visibility in our country as a productive sector itself, even when it is of key economic and social importance. By 2000 CIs produced 2.9% of GDP (Gross Domestic Product). This equated them with the food and beverage industry, made them five times higher than the automotive industry product for that year and seven times higher than the textile industry product. In the City of Buenos Aires the economic impact of the sector has doubled, since these industries produce 6 per cent of GGP (Gross Geographic Product) for that city. As regards the contribution they made to employment generation nationally, it was barely over 2% until 2000. Similarly to what happens with the incidence of CIs on GDP, their contribution to employment generation in the city has doubled the nationwide index, reaching 4% of total employment in the city.

<sup>13</sup> See Du Gay, Paul *Production of culture / Cultures of production*. London, Sage, 1997.

<sup>14</sup> See UNESCO *Framework for Cultural Statistics*, UNESCO, 2007.

the private sector, and the civil society in a sustainable development program that makes use of creativity to inspire on the intangible cultural values of people to generate locally and to globally distribute goods and services, which hold both symbolic and economic value simultaneously.<sup>15</sup>

As a consequence, it can be said that there is no single definition of Creative Economy. It is a concept under construction which is involved in an ongoing debate that overlaps and extends the concept of Cultural Economy. As has been noted, in order to understand Creative Economy it is important to take into account the evolution of the concepts of 'Cultural Industries' and 'Creative Industries', including the importance of the latter term and its development over the past two decades as it "has broadened the scope of cultural industries beyond the arts and has marked a shift in approach to potential commercial activities that until recently were regarded purely or predominantly in non-economic terms".<sup>16</sup>

### 3. The Creative Economy in the City of Buenos Aires

The publishing industry is one of the key sectors in the creative industry. Thanks to its tangible attributes associated with its social imagery, the City of Buenos Aires claims the right to become a benchmark regional centre of excellence in terms of training and production of the content industries, where human resources and creativity are the distinctive features.<sup>17</sup>

In the City of Buenos Aires, the analysis of Cultural Industries is carried out by grouping publishing together with the phonographic industries. Under the heading Publishing, Graphic and Phonographic Industries we find "publishing and printing; the reproduction of recordings" and "the wholesale of books, magazines, newspapers" and their corresponding retail sales. It is notable that if we analyze the 2003-2007 period in the city's structure of the Cultural Industries, we can see that until 2006 they had the major share, 38.2%, which decreased to 32% in 2007, being overtaken by "related creative services", which represented a share of 35.5%. What has thus far been said regarding the evolution of the Related Creative Services and the Publishing, Graphic and Phonographic industries can be corroborated by studying their contributions

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<sup>15</sup> See Solanas, Facundo "La economía creativa y las posibilidades de desarrollo en Argentina". In Ana Fonseca Reis (Coord.) *Economía creativa como estrategia de desarrollo. Una visión de los países en desarrollo*, Observatorio Itau Cultural, Sao Paulo, 2008.

<sup>16</sup> See United Nations Conference on Trade and Development (UNCTAD). *Creative economy report*. New York: United Nations, 2008.

<sup>17</sup> See La economía creativa de la Ciudad de Buenos Aires [The creative economy of the City of Buenos Aires], OIC, Directorate of Creative Industries, 2008, 25.



to the growth of both sectors: Related Creative Services increased from 25% to 85.5%, while Publishing, Graphic and Phonographic industries decreased from 50.4% to -9.7%. This highlights the relatively dynamic nature of Related Creative Services, as they make a significant and growing contribution throughout the period in question, and the relatively unfavourable trend of the Publishing, Graphic and Phonographic industry, which falls into absolute decline towards the end of the period, notwithstanding its contribution to the overall growth of ICs between 2004 and 2007.

#### 4. The Publishing Industry from 1997 to 2010: Globally and Locally

Nestor García Canclini<sup>18</sup> implies that although the word globalization<sup>19</sup> tends to be understood as Americanization, the acquisition of Latin American publishing houses and production was initiated by Spanish companies. He argues that from 1940 to 1970 book publishing played a key role in national development and in the internationalization of culture in Latin America and its expansion into the world (which was also accompanied by the increasing professionalization of writers and an increase in the reading public). South America has had a dominant role in this area in the international movement of cultural goods which changed in recent decades due to the rising price of paper; the decline in consumption by the middle classes caused by a decrease in their purchasing power; low reading rates, poor literacy levels; poor regional and national distribution beyond the capital cities; the scarcity of state programs for the promotion of reading; and the protection of production. When international companies arrived in Latin America, as in the case of

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<sup>18</sup> See García Canclini, Néstor, *La globalización imaginada*, Buenos Aires, Paidós, 2008.

<sup>19</sup> As to the process known as globalization, we can say that its different aspects -economic, political and cultural - have been developing in the world since World War II and, with greater strength, since the fall of the Soviet Union. According to this view, until the mid-twentieth century the political organization of the world was marked by the emergence of many nation-states which were based on specific territorial space. This same position holds that the world might have suffered changes resulting from its passage to a global economic instance, in which various international organizations have started to become important, such as the World Bank and the International Monetary Fund, while rapid advances occurred in the field of communication, beginning with the rise and rapid development of the internet. When talking about globalization, it is often referred to as both the spread of capitalist international relations and a supposedly unified world. Especially in the economic sphere, globalization is about the trade and capital market liberalization processes, the internationalization of economic processes and the dominance of transnational corporations. See Ianni, Octavio, *Teorías de la globalización*, Buenos Aires, Fondo de cultura Económica, 1996 and Ortiz, Renato, *Mundialización y cultura*, Buenos Aires, Alianza, 1997.

Argentina, the markets of each country became subordinate and subjected to a policy of 'bestsellerism'.

## 5. Digitization in the Publishing Industry

The nature of work which valorizes capital in advanced capitalist economies should always be discussed in light of technical developments, since informational production is not an attribute of the object or the agent but the relationship between them. That is to say, informational work creates abstract goods, and this is strongly linked with the digitization of contents.

In the 'digital canon', Juan Mendoza<sup>20</sup> supports a scheme consisting of three stages, which would involve an initial period of hegemony of the literate culture, then the industrial culture and finally the cyber culture. The industrial culture would be marked by a quantitative leap in culture thanks to new media technology, radio, TV: expanding audiences make the difference between mass society and literate culture. Thus, as the cyber age arises from the twentieth century and integrates with previous ages, so this cyber culture, which is characterized by "eliminating hierarchical relationships between the high and the low", marks the beginning of a new type of publication.

In the same vein, several authors such as Castells<sup>21</sup> describe the current form of society as a "network society", referring to a profound change in communication systems, since a culture is not only contents, but also comprises transmission and the various means individuals can use to communicate. Indeed, the division of cultures into oral, typographic and electronic specifically concerns the various systems for the transmission of contents. 'Information Society' or 'Digital Society' is formed through the combination of two factors: information technology: data processing technology using computers as a central element; and communication networks: technology which enables the sharing of digitized information.<sup>22</sup>

The most significant feature of the digitization process is the possibility to convert elements previously subject to limited time-space conditions into information. This process had already been started through the use of mechanical, magnetic or chemical reproduction systems which allowed

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<sup>20</sup> See Mendoza, Juan. *El canon digital. La escuela y los libros en la cibercultura*, Buenos Aires, La Crujía, 2011.

<sup>21</sup> See Castells, Manuel. *Internet y la sociedad red*, Alianza Editorial, Madrid, 2001.

<sup>22</sup> See Aguirre, Joaquín. "La incidencia de las redes de comunicación en el sistema literario". In *Revista Espéculo*, 7, 1997. Available at: <http://pendientedemigración.ucm.es/info/especulo/numero7/sistemat.htm>.

ephemeral things to be converted to analogue media, but it became more radical with the arrival of the internet.

The publishing and writing industry is made up of several figures including writers, readers, critics, publishers and booksellers who operate at different points in time, or stages: the ‘creation or production’ stage, consisting of the intellectual production of texts; the ‘production-distribution’ stage, comprising those in charge of the material production of the texts, that is, their conversion into a specific medium; and the ‘consumption’ stage.

The first thing to discuss is the role of the book itself and the changes that that have occurred in the phase of a book’s creation. The first major change which has taken place since the advent of electronic media is the emerging gap between text and media, that is to say, the gap between the information and its format, since all the information included in the printed book can be digitized. This is a troublesome issue, because, if we consider that ‘texts’ can be shared in formats other than ‘book’, it follows that the publishing institution will no longer be necessary for all texts. A further major change concerns productive capacity: authors can be their own publishers, meaning that they can control the whole process of publishing their works. Information technology provides them with all kinds of production tools (e.g. word processors, graphic design software). In addition, there are other devices which enable them to reach the public directly through social networks.<sup>23</sup>

As regards the distribution/marketing phase, it should be noted that new printing systems will make a new publishing system possible: the on-demand printing of the amount of books required with minimal risks. All these changes linked to the digitization of literary works inevitably lead to issues of copyright due to the impossibility of controlling copies. If the reader were able to make multiple copies from a single original digital copy, the publishing business would be adversely affected.

From all of the above it follows that this new communication paradigm will have a significant impact on the publishing industry, either by diverting texts to digital publishing (which may be done by the authors themselves, by new businesses or by publishing houses); by using dual publishing systems (digital and print); or by the production of new types of multimedia ‘texts’.<sup>24</sup> The modality of intervention in the distribution sector will also undergo changes, as the possibility of digital intervention would diminish the supply of books to

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<sup>23</sup> See Szpilbarg, Daniela and Saferstein, Ezequiel “La incidencia de las TICs en la esfera de la cultura. Aproximaciones al caso del campo editorial y literario”. In *Avatares. Comunicación y Cultura*. 2, 1-14. 2011.

<sup>24</sup> See Aguirre, Joaquín, *op. Cit.*

bookshops — places that will no longer be absolutely necessary when it comes to buying a book.

## 6. Three Publishing Houses: from Artisanal Work to large-scale Publishing Groups

Although it is an ambiguous term<sup>25</sup>, when we speak of *Independent Publishers* we mean publishers who are mainly supported by domestic capital, and have a print run and a catalogue significantly smaller than those of leading multinational publishing companies. However, within this group there is a certain amount of variation: from publishers who are trying to compete in the publishing market, to artisanal publishers whose books are made at home, and who have a significantly more limited circulation. In this group we find independent publishers such as *Eloísa Cartonera*, *Tamarisco*, *Carne Argentina*, *Funesiana*, *Clase Turista*, *Nulú Bonsai*, *Milena Caserola*, *El Surí porfiado* and many others. This group of small-scale publishers publish writers and topics often ignored by the large- and medium-scale publishers of traditional associations (Argentina's Book Chamber and the Argentine Chamber of Publications), which is to say that they either do not fit in with the logic of the marketing departments of large publishing houses or that their topics or writers are unknown to publishers who are of the view that it is not worth investing in them. As with the field of drama or music, many of these 'marginal' writers often move on to work for large publishing houses if they are seen to have aroused the interest of consumers. Malena Botto describes these transformations as a *polarization of the publishing market* which has been taking place since the late 1990s. In an interesting article she argues that, despite it being a paradox of the 1990s, a period of liberal economic policy, in this decade the book industry experienced a growth that had no correlation with an actual recovery of the publishing and circulation of Argentinian writers<sup>26</sup>. She explains this as being a result of the acquisition of publishing companies by

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<sup>25</sup> See Szpilbarg, Daniela and Saferstein, Ezequiel, "La independencia en el espacio editorial porteño". In Ana Wortman (Ed.) *Mi Buenos Aires Querido. Entre la democratización cultural y la desigualdad educativa*. Buenos Aires, Prometeo. 2012.

<sup>26</sup> In this way, there was a reversion of the process begun in 1930 and which extended until well into the 70s, which was led by a large group of Argentinian publishing houses and managed to develop –focusing on the local market a process that in the 50s pushed these publishers to hold the hegemony of Spanish-speaking markets. Claridad, Emecé, Losada, Peuser and Sudamericana – which disappeared or were sold to foreign capital – were the major publishing houses of that group. See Botto, Malena (2006) in *Editores y políticas editoriales en Argentina 1880-2000*, Buenos Aires, Fondo de Cultura Económica. 2006.

foreign capitals. Against these transnational conglomerates small publishing ventures – called ‘independent publishers’ – emerged, with publishing policies that differed from those of large-scale groups in cultural terms. In fact, in the 2005 report by the Centre of Production Studies (*Centro de Estudios para la Producción, CEP*), these ventures are classified as ‘cultural players’, rather than profit-seeking private firms. On the other hand, the author adds that the denationalization of the industry also caused a drop in wages and a reduced headcount. She also mentions the disappearance of a major player in the book distribution chain: the bookseller. Instead of the bookseller of the past who was familiar with the printed material received and worked as a liaison between the writers and buyers of books, the current scene is dominated by ‘book dispatchers’.<sup>27</sup>

The publisher of Editorial Funesiana (EF), ‘Funes’ Oliveira states that “we want to flatter the readers with good typography, great presentation, hardcover, something entirely for them, a way to thank them for their choice, and the search for writers has to do with this: that the mere fact of reading be stimulating, to embark on writing”. On the company’s website it can be seen that they prefer to publish books with extremely short print runs, 40 or 50 copies, and a highly personal binding and design. They define their books through a series of qualifiers: “handcrafted”, “bound by hand”, “numbered” and “unique”. In the same interview, the publisher recognizes that “not being able to publish made me bind my first short-story book myself”. The fact that it had been bound by the author endowed it with a very particular power while marking a break with the model of the writer as a sacred artist, distant from the material production of the book. One of the points of contact among these ‘self-managed’ publishing houses also arises from their involvement in the entire production of the book, from the conception of the idea to the moment of its materialization as an object with its own characteristics. At the same time, this publisher is also an organizer of a reading groups and book presentations where reading and friendship networks converge.

Another publisher analyzed is Eterna Cadencia (EC), a medium-size publishing house of local capital which employs ten people, including the owner-publisher, one editorial director, one executive editor, a secretary, a website manager, a press officer, another trade and export officer, editors and designers. It is a publishing house focused on literature and essays and seeks to position itself at local, regional and global levels, through actions such as participating in national and international book fairs along with other publishers.

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<sup>27</sup> A statement by Editor Raul Ordenavía, in an interview with Malena Botto, *op. cit.*

Finally, we considered Random House Mondadori (RHM), the owner of the Sudamericana imprint, among others. Its subsidiary in Argentina has a staff of more than one hundred people, and its organization evidences a high degree of specialization comprising several managing editors, publishing marketing departments, media employees, secretaries, designers, editors, readers, staff specialized in business matters, and so on. It is a company with a large structure similar to that of the large-scale transnational capital entertainment companies which control the global sector.

### **7. Differences in the Modes of Production and Work with ICTs**

It should first be noted that in all cases the organization of the company is formally regulated. It can be said that there are varying combinations of different ‘productive scenarios’. In the case of RHM, of course, we are talking about headquarters that belong to a transnational group, where different activities are carried out using a broad division of labour, as a large staff of employees work there to cover the different tasks. The final manuscript completed at the publishing house is turned into proofs which go to press before returning to the company to undergo a series of Press and Public Relations processes.

Content, however, is acquired by the companies in different ways. In most cases, there is an editorial planner who searches for books and authors which could become bestsellers. In this case, books are treated as bestsellers before they are put on the market, meaning that the marketing, media and editorial departments have an operational structure aimed at hiring certain authors and creating certain books according to potential demand. In other cases, collections are created under alternative imprints belonging to the same publisher but oriented towards literature. Here, the contents of books can reach the publisher with or without recommendation, but this always depends on the intellectual work exhibited by the author in other productive scenarios.

The economic relationship between authors and the company begins when the first contract is signed for a book, and it consists of the advance payment of a sum by way of ‘copyright’ which is linked to the print run (the number of copies printed), and the author is paid 10% of the value of book sales at varying periods which may be every three or six months.

These publishing companies – large-scale groups of transnational capital – have adopted parameters taken from their parent companies, and large publishing groups are managed according to the commercial parameters which guide their decisions: Fernando Estévez, Editorial Director of Alfaguara, from the Prisa Spanish Group, also owners of Santillana, Taurus, Aguilar and the

Fausto bookstores, stated that "the publisher does not decide what is to be read, but he or she is a more or less effective interpreter of demand". He also stated that the hiring of an author comes with a given name and a secured sale floor which, in order to be on the winning side, should be of two or three thousand copies over a short period of time. Rather than a book, what is proposed to the authors is a 'project'. That is to say, the book is signed up before it is written. The figure and role of the publisher has gradually been transformed: he or she is no longer an intellectual who discovers new authors and is at the forefront of the field, but somebody who studies market trends so as to become familiar with the preferences of the reading public. It is no longer the publisher who decides what to publish, but market experts, often denoted the 'Editorial Board'. Editorial departments have consequently undergone a process of reduction as sales and marketing departments have grown.<sup>28</sup> In fact, when asked about publishing activities, Paul Avelluto (General Editor at Random House Mondadori) put forward a vision of the book as a symbolic product to be placed on the market, a task requiring creative activity.

The job of the press staff has moved onto providing interviewers with a cut-and-dried interview by telling them: I have an author who can speak of such and such topic, you can put it together with something else... and increasingly, from what I saw in the United States, they work on the author's prior informal talk around the news: so for you to have a good sale you have to convert the author into something newsworthy. (Paul Avelluto, 2011 interview)

Capitalism across the company organizes the creative work for valorization, although it is true that *the author's work* valorizes capital and creates a product, as suggested by Roldán<sup>29</sup>, which is inseparable from the author's body and mind. It is transformed into a product with a brand that places its value in the market. These workers are usually self-employed in this activity and often have other revenues enabling them to obtain a full salary.

On the other hand, it should be noted that each of these publishing houses manage varying levels of randomness and redundancy which are part of the global value chain in the Cultural Industry. In another study, this author refers to some of Dantas' notions such as random and redundant labour. The notion of redundant labour refers to a type of work in which the agent is required to replicate something. Conversely, random labour makes reference to the search

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<sup>28</sup> See Schavelzon, Guillermo "Del autor al editor: los caminos del manuscrito". In De Sagastizabal, L. and Esteves, F. (Eds.) *El mundo de la edición de libros*, Buenos Aires, Paidós. 2002.

<sup>29</sup> See Roldán, Martha, 2008, *op. Cit.*

for information that is not provided immediately by the redundancy of the code.<sup>30</sup>

In the range of publishing houses we have analyzed, we can observe higher levels of randomness in the case of EF, in the sense that the goods are prepared by hand, they do not operate considering profit as a variable (not included in labour conventions), which allows for an organization of work which is practically unregulated, although this very situation poses the problem of long-term economic sustainability and requires workers to have other activities to ensure their income.

Conversely, EC and RHM work with lower levels of randomness, as they are involved in more regulated forms of labour governed by wages and pre-established working hours.

We must also analyze the role played by technology in the different publishing houses: it should be noted that EF is a small business where part of the work is done on the internet — a place where orders materialize and books are promoted. In addition, their higher level of ‘creativity’ may be evidenced by the lack of specified working hours, since the Publisher-Entrepreneur interviewed, Lucas Oliveira, handles work-rest schedules and regulates his own managerial activity, the maintenance of the project on the website and the construction of the book. In fact, this publishing house works with on-site book sales through buying and selling websites such as *Mercado Libre*, but it also releases its books in *ePub* format for download and preliminary reading.

EC, however, makes a much broader use of the internet than RHM, which shows that the lower the relative size of the business enterprise, the greater the use of the internet for a variety of purposes associated with management, advertising, sales and the creation of *reading communities*. This is linked to the fact that digitization is still evolving, and the concentrated large-scale publishers have not yet defined a clear business horizon for the eBook, due to the productive and profitable performance of the traditional book. It is the small and medium publishing projects which make a more rapid and appreciatory use of technological tools for the dissemination and circulation of their products.

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<sup>30</sup> Roldán, Martha. “Trabajo “Creativo” y Producción de Contenidos Televisivos en el marco del Capitalismo Informacional Contemporáneo. Reflexiones sobre el caso argentino en los 2000s. In Susana Sel (Coord.) *Políticas de Comunicación en el Capitalismo Contemporáneo*. Buenos Aires, CLACSO. 2010, 72.



## 8. Conclusions

Throughout this work, we have tried to show the trends of various authors which characterize modern capitalism as a new mode of accumulation, linked to information and so-called 'informational capitalism'. We have also seen the peculiarities of the publishing industry in Argentina, considering technological innovation in the three publishing houses analyzed, so as to evaluate to what extent symbolic productions affect both value formation and the skills that workers in these business enterprises require. Our findings, although preliminary, allow us to see that symbolic production and informational capitalism are essential to the production processes of Cultural Industries, as well as to work logic. The arrival of new technology has set new rhythms, activities, skills and practices which overlap with previous skills and can come into conflict with them. On the other hand, certain phenomena such as copyleft, put the very basis of the publishing industry at risk, threatening the copyright system, and thus the basic value of cultural goods, by ensuring the possibility to obtain free books through copyleft and 'Creative Commons' licenses.

We should return here to Virno's reflections and think about the new skills arising from the jobs of those who are involved in cultural productions. Virno assumes that the communication industry or the culture industry is an industry among others, with its specific techniques, and particular procedures; on the other hand, it also plays the role of an *industry of the means of production*. He argues this since, from his point of view, the industry of the means of production is traditionally the industry that produces machinery and other instruments to be used in the most varied sectors of production. However,

in a situation in which the means of production are not reducible to machines but consist of linguistic-cognitive competences inseparable from living labour, it is legitimate to assume that a conspicuous part of the so-called 'means of production' consists of techniques and communicative procedures<sup>31</sup>

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<sup>31</sup> According to Virno, the culture industry produces, regenerates and experiments with communicative procedures which are destined to function as means of production in the more traditional sectors of our contemporary economy. This is the role of the communication industry, once post-Fordism has become fully entrenched: an industry of the means of communication. When 'subjective' cooperation becomes the primary productive force, labour activities display a marked linguistic-communicative quality; they entail the presence of others. The monological feature of labour dies away: the relationship with others is a driving, basic element, not something accessory. Where labour moves to the side of the immediate productive process, instead of being one of its components, productive cooperation is a 'publicly organized space'. See Virno, Paolo, *op. cit.*

In conclusion, this is a transitional phase, where, in addition to traditional practices and competencies usually held by publishers, related to traditional ways of managing the publishing activity, there is also a strong transnational reality which is: reducing the autonomy of the field (as suggested by García Canclini, there is an incipient debate about the existence of 'fields or markets'); creating the need to do things that make them stand out in the new reality arising from technological innovations which affect the way publishing houses are traditionally regarded as part of the cultural industries. There is a change in the reader who, in Canclini's words, becomes a "netizen"<sup>32</sup>— a multimodal player who reads, watches, listens and combines various material which come from reading and entertainment.

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<sup>32</sup> García Canclini, Néstor, *Lectores, espectadores e internautas*, Barcelona, Gedisa. 2007.

# India's Outsourcing Industry and the Offshoring of Skilled Services Work: A Review Essay

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## 1. Introduction

In both the popular and scholarly discourses regarding the nature and impact of offshoring of knowledge work from the advanced to developing nations and regions, there are two main diverging views on the employment impacts of globalization. These perspectives are perhaps best expressed by Blinder<sup>1</sup> and Leamer<sup>2</sup> on the question of whether the world is becoming “flat.” On the one hand we have Blinder’s accounting of occupations based on the trade-ability of the work itself, suggesting that a significant portion of work done in the developed world could in principle be offshored, creating a new industrial revolution as the developed economies change toward one where in-person services dominate. Blinder finds that many occupations and resulting employment are susceptible across the spectrum of skill content, pay, and occupational status; Thomas Friedman’s<sup>3</sup> book *The World is Flat* provides the

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<sup>1</sup> A. Blinder, Alan S. “Offshoring: The next industrial revolution.” *Foreign affairs* 2006, 85(2):113–128.

<sup>2</sup> E. Leamer, “Review: A Flat World, a Level Playing Field, a Small World after All, or None of the above? A Review of Thomas L. Friedman’s ‘The World is Flat.’” *Journal of Economic Literature* 2007, 45(1):83–126.

<sup>3</sup> T. Friedman. *The World is Flat: A Brief History of the 21<sup>st</sup> Century*. New York: Farrar, Straus and Giroux, 2005.

most popular expressions of Blinder's viewpoint that offshoring presents a fundamental challenge to employability in developed nations, raising the possibility that only services which must be performed in-person are ultimately safe. Leamer, on the other hand, argues that education, innovation, and agglomeration economies will ultimately result in creative, complex, relationship based jobs being retained in the developed world while simple codifiable tasks go offshore. Analogizing from the original industrial revolution, he expresses the view that the work that can and will be offshored is likely to be mundane and will be performed by overseas helpers for the information age equivalent of craft workers in the developed world, and that such work constitutes a small and shrinking portion of jobs.

Thus, on the one side are those who view offshoring as a significant threat to the developed world, while on the other side are those who expect that the creative destruction of trade will create significant non-offshorable employment opportunities across the range of skill levels. In this review essay, we examine the premises of these divergent perspectives on offshoring, frame a series of fundamental questions on the phenomenon of intellectual services offshoring, and provide a preliminary framework for analyzing this type of offshoring. We consider the offshoring of computer services, an industry which involves a wide spectrum of work - from complex tasks that are difficult to offshore to simpler tasks - that allows for a nuanced examination of our questions of interest. This essay is also informed by 13 open-ended interviews with technology officers of US companies as well as the project managers of an Indian outsourcing company to which jobs have been offshored from these US firms; we use these to help develop the key questions going forward.

In reviewing the literature that has been published in the last decade, we see the debate as centered on the following questions: "what *can* be offshored<sup>4</sup>," "what *will* be offshored," and "what are the *limits* of offshoring<sup>5</sup>?" We therefore organize this essay around these questions. In addressing the question of what *can* be offshored, we examine the debate among researchers on what work can be done abroad, as well as raise new questions about the feasibility of offshoring. We examine the literature on work practices in the IT industry and contrast what is known in high skill offshoring of computer services to what is known about call centers and other areas of offshore work. We focus on

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<sup>4</sup> E.g. Blinder 2006, *op cit.* A. Blinder. "How many US jobs might be offshorable?" *World Economics* 2009, 10(2):41-78. Leamer 2007, *op cit.* M. Piore. "The Limits of the Division of Labor in Design and the Prospects for Off-Shore Software Development in Mexico." Pp. 20-22 in *The Software Industry in the Developing World Workshop, Yale University*, 2004.

<sup>5</sup> P. Jensen. "A learning perspective on the offshoring of advanced services." *Journal of International Management* 2009, 15(2):181-193.

disaggregation, or the breaking down of tasks into smaller components as a critical theme for this question.

In terms of what *will* be offshored, we propose a framework for understanding the type of work and processes involved in offshoring that treats skills and wages as separate dimensions, and seeks to understand the transformation of work through offshoring. In contrast to many researchers who see offshoring as a static substitution process, we emphasize changes in work processes, which help us advance an understanding of offshoring as a dynamic process that does not merely reflect a change in the location of work. These results push us to think about offshoring as a potential change in occupational and industrial organization, and the nature of the work being done itself.

To address the question of the *limits* of outsourcing, we use our interview data to consider the nature of knowledge transfer and functional collaboration across distances and cultures, as well as the strategic, practical, and regulatory constraints. We see fundamental questions here regarding the existence and maintenance of a non-offshorable corporate strategic “core” and whether the movement of offshoring up the value chain ultimately gravely threatens that “core.” This essay is organized as follows: after defining our terms within a discourse which is famously confused, we address each question in sequence, incorporating relevant literature and interviews. We conclude with a discussion of our findings, and raise some fundamental questions for future research.

### *1a. Definitions*

We follow others in viewing the debate as suffering from definitional problems related to “muddled” constructions and different uses of key terms<sup>6</sup>. Thus, we focus on trade in services that is arm’s-length, with buyer and seller remaining in separate physical locations not requiring geographical proximity, and call this offshoring where the separate locations are two different countries. We further restrict our focus to impersonally delivered and therefore tradable services, which Blinder<sup>7</sup> contrasts to those that are personally delivered<sup>8</sup>. We do not use the terms “outsourcing” and “offshoring” interchangeably. We use the term “offshoring” to refer to all arms-length cross-border trade in services, including when a firm offshores production to its own “captive” offshore arm,

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<sup>6</sup> J. Bhagwati, A. Panagariya, and T.N. Srinivasan. “The Muddles over Outsourcing.” *The Journal of Economic Perspectives* 2004, 18:93–114.

<sup>7</sup> Blinder 2009, *op cit*.

<sup>8</sup> We also discuss trade that involves the seller moving to the physical location of the buyer, as when workers engage in temporary migration, as this is often a pre-requisite and enabler of arms-length trade in the examples we use from the IT industry. This is commonly referred to as body-shopping.

and reserve the term “outsourcing” to the special case where a firm hires a secondary firm (an outsourcer) to perform the work. Our examples of the Indian IT industry are therefore examples of “offshore outsourcing,” which as used in this paper refers to the case where work has been outsourced to a secondary firm, which then performs the work overseas.

### *1b. Interview Methodology*

We met with executives from companies that were engaged in outsourcing and offshoring work to India. In Appendix A, we present the background of thirteen individuals at both U.S. firms engaged in outsourcing and Indian offshore outsourcing firms across all levels of the organizational hierarchy that we interviewed. The titles of our interviewees include Chief Administrative Officer, Chief Information Officer, and Chief Operating Officer, and are listed in Appendix A. We also spoke at length to others in top management who were directly involved in outsourcing activities such as Executive Vice-President and Associate Vice-President and others across organizational hierarchy levels such as Senior Director, Senior Manager Principal Diversity Officer, Team Lead and Module Lead. Our interviews lasted between sixty and ninety minutes. We used semi-structured interviews addressing the question of what can and cannot be outsourced in their organization’s specific context. We recorded and transcribed these interviews when we were given permission. For interviews in which the participants did not want to be recorded, we took extensive notes. We summarized these interviews after they were completed.

## **2. What can be Offshored?**

There is a strong division among those who have studied the potential impact of offshoring relatively high skill service-sector jobs from the U.S. to developing countries. On the one side are those who view it as a fundamental challenge to employability in developed nations, akin to the effects of globalization on manufacturing, where ultimately only services performed “in person” are safe from the offshoring threat (most notably, Blinder<sup>9</sup>). On the other side are those who see it as a more limited phenomenon, insignificant in terms of the volume of trade in the global economy, and easily understood in terms of traditional comparative advantage a la Smith and Ricardo.<sup>10</sup> Most

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<sup>9</sup> Blinder 2006, *op cit.* Blinder 2009, *op cit.*

<sup>10</sup> Bhagwati et al. 2004, *op cit.* Leamer 2007, *op cit.* G. Mankiw, and P. Swagel. “The politics and economics of offshore outsourcing.” *Journal of Monetary Economics* 2006, 53(5):1027–1056.

researchers tend to think of jobs that are being offshored as those that are routine and can be broken down into simple tasks (See for example Acemoglu and Autor; Autor, Levy, and Murnane; Leamer<sup>11</sup>). Piore<sup>12</sup> further suggests that there are limitations in the divisibility of complex services work such as software. But in contrast to the notion that only simple jobs can be offshored, Autor<sup>13</sup> suggests that even high level executive jobs, and creative jobs can be offshored i.e., that overseas workers can perform these functions as much as anyone else, although that is not what is taking place. Consistent with this view, Blinder<sup>14</sup> finds no correlation between skill levels and the offshorability of jobs in his highly cited study.

Blinder's decision rule about whether a job is offshorable or not is whether the service requires to be personally done at a U.S. work location (e.g., barber, nurse) or whether the service can be delivered electronically, and if so whether its quality is degraded when delivered electronically. Based on this definition, Blinder<sup>15</sup> finds that between 28 and 42 million jobs (30-40% of all jobs in the U.S.) are in principle offshorable. In a study using different methods, Blinder and Krueger<sup>16</sup> also find the concept of offshorability detached from skill and wage, estimate that 25% of U.S. jobs are offshorable, and find that 19% of workers say their jobs can be done from a remote work location. This research suggests that there is no connection between a job's "offshorability" and the skill level needed to perform it.

International trade researchers and organizational economists have emphasized additional factors that shape the decisions of firms to either vertically integrate or outsource functions. One focus has been on the transaction costs involved, including the number of vendors offering services, the difficulty of customizing relationships and contracts, the legal environment surrounding the enforceability of international service contracts, the size of firms and the ability to scale efforts<sup>17</sup>. Another indication of the importance of transaction costs is

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<sup>11</sup> D. Acemoglu, and D. Autor. "Chapter 12 - Skills, Tasks and Technologies: Implications for Employment and Earnings." Pp. 1043-1171 in *Handbook of Labor Economics*, 2011, vol. Volume 4, Part B, edited by A. Orley and D. Card. Elsevier. D. Autor, F. Levy, and R. Murnane. "The Skill Content of Recent Technological Change: An empirical exploration." *Quarterly journal of economics* 2003, 118(4):1279-1333. Leamer 2007, *op cit*.

<sup>12</sup> Piore 2004, *op cit*.

<sup>13</sup> D. Autor. *The Task Approach*. National Bureau of Economic Research, 2013. (<http://www.nber.org/papers/w18711>).

<sup>14</sup> Blinder 2009, *op cit*.

<sup>15</sup> Blinder 2006, *op cit*.

<sup>16</sup> A. Blinder, and A. Krueger. Alternative Measures of Offshorability: A Survey Approach. *Journal of Labor Economics*. 2013. Pp. 97-128.

<sup>17</sup> G. Grossman and E. Helpman. Outsourcing in a Global Economy. *The Review of Economic Studies*, 2005. Pp. 135-139. F. Merino and D. Rodríguez. Business Services Outsourcing by Manufacturing Firms. *Industrial and Corporate Change*, 2007. Pp. 1147-1173

that a significant reduction in information and communications technology (ICT) costs increased the willingness of firms to offshore, leading especially to increased offshoring by more ICT intensive firms<sup>18</sup>. In knowledge intensive industries, there is an additional concern about the ability to retain control over knowledge assets. While physical capital is often excludable in that control of its use can be maintained by a firm, even if located overseas, knowledge capital can more readily be captured by others (is non-excludable). Firms that rely more on non-excludable knowledge capital are more likely to concentrate overseas investments through foreign direct investment rather than outsourcing arrangements<sup>19</sup>.

Another perspective to understand the connection between skills and offshoring can be found in Leamer's<sup>20</sup> master-helper metaphor. Here, offshoring is akin to a master craft worker making all the decisions, and then parceling out simple and well-specified tasks to a variety of low skilled helpers<sup>21</sup>. This view suggests workers who possess the greatest skill will maintain their jobs and emerge well compensated from globalized trade in services due to their comparative advantage, not that jobs with any skill level are offshorable.

In evaluating these perspectives, it might be useful to hearken back to the first industrial revolution. We venture that if we had looked at the dictionary of occupational titles in the mid-19<sup>th</sup> century (if it had existed), we might have seen a lot of master craft workers, whose jobs we likely would have concluded could be replaced by craft workers in another location, consistent with Blinder's view of offshorability. But if one adopted Leamer's perspective, these workers would be less threatened than workers whose jobs were lower skill, routine, and most threatened by market forces. This latter view would certainly have held up under early industrialization conditions, as craft workers hired apprentices and lower-skilled helpers.

We found that the perception of those in the companies in the U.S firms engaging in offshoring we interviewed is that the jobs they send away are routine and low skilled. The Chief Administrative Officer of a Bank that had offshored tasks to India observed "*Either you do it because it is cheaper or do it fundamentally because you don't want to do it or you don't want think about it. It is so non-*

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<sup>18</sup> L. Abramosky and R. Griffith. Outsourcing and Offshoring of Business Services: How Important Is ICT? *Journal of the European Economic Association*, 2006. Pp. 594-601.

<sup>19</sup> Y. Chen, I. Horstmann, and J. Markusen. Physical capital, knowledge capital, and the choice between FDI and outsourcing. *Canadian Journal of Economics*, 2012. Pp. 1-15.

<sup>20</sup> Leamer 2007, *op cit*.

<sup>21</sup> Leamer also discusses wide-ranging limitations on offshoring such as agglomeration economies, transportation costs (broadly defined), and a broadened definition of the concept of "in-person."



*core to your business that it is a management distraction.*" (Interview 1, Appendix A). Similarly, the routine-creative distinction was also embraced by the Chief Information officer of a US based online network company, who suggested: *"Business leaders will decide what to outsource autonomously. IT people will step in to decide what is better to do onshore and what is better to outsource offshore. It is a very ad-hoc decision and no rigid decision rules exist. One of the factors we look at is the extent to which routine or creative."* (Interview 2, Appendix A)

The Executive Vice President and Chief Operations Officer of a health care organization based on the U.S. offered support for Leamer's view: *"The jobs that we are looking to outsource for us fall into 2 categories may be 3 categories. One is just purely transactional, adjudicating and processing claims from the provider. They don't touch they don't talk on the phone; they are doing their work at the back or ensuring that the claim is processed correctly or enrolling the members... The second is application development... If you are really good about defining the requirements, defining it and giving it someone else who has actually established really good quality standards as some of the really good offshoring companies, they will program what you tell them to program with a very high level of accuracy. It puts the onus back on the companies to be really good about their requirements... you have to be much more clearer about your requirements."* (Interview 3, Appendix A)

To be sure, a lot of work that is offshored is consistent with this picture. For example, the offshoring of call center work, billing services, accounting, coding of legal documents and so forth are examples of simple routine tasks that have gone to India (see Kuruvilla and Ranganathan<sup>22</sup> for a more detailed list of such jobs). Offshoring of call center work is often on the lower end of customer service support, with little employee discretion and tight monitoring overhead<sup>23</sup>. Following call centers, the computer programmer occupation and the IT industry have seen a large amount of offshoring as well. Research on the Indian IT industry found that Indian IT companies in the late 1990s were "providing relatively simple software programming and coding services, exploiting its superior access to a supply of cheap software programmers, and with only limited degree of technical and managerial contribution<sup>24</sup>." Arora et al. concluded that Indian firms needed to move into higher value services and products, and improve their software development methodologies to realize their potential. Managers at U.S. firms reported, "the type of work outsourced

<sup>22</sup> S. Kuruvilla, and A. Ranganathan. "Economic Development Strategies and Macro and Micro-Level Human Resource Policies: The Case of India's Outsourcing Industry." *Industrial and Labor Relations Review* 2008, 62:39.

<sup>23</sup> R. Batt, U. Holtgrewe, and D. Holman. "The Global Call Center Report: International Perspectives on Management and Employment." *Research Studies and Reports* 2007. Retrieved (<http://digitalcommons.ilr.cornell.edu/reports/13>).

<sup>24</sup> A. Arora, V.S. Arunachalam, J. Asundi, and R. Fernandes. "The Indian software services industry." *Research Policy* 2001, 30(8):1267-1287.

was neither technologically very sophisticated nor critical to their business.” Parthasarathy<sup>25</sup> writes that Indian firms continue to do lower value-added work, with few signs of innovation exemplified by Silicon Valley.

To return to the industrial revolution metaphor, there is some evidence that supports the view that work inside India’s software factories increasingly resembles factories during the industrialization and proto-industrialization periods. Detailed case studies of the current labor processes in place in India’s IT industry suggest that Indian IT firms utilize neo-Tayloristic management techniques that place a focus on measured productivity, implement quality processes that place an emphasis on documentation and process adherence, and “excel” at dividing work into small pieces<sup>26</sup>. Thus, even though the work is more circumscribed, the possibility exists that a new “industrial revolution” in services is also taking place<sup>27</sup>. This kind of industrial revolution, one brought about by changes in production and the nature of work, could lead to rapid increases in productivity as did the previous one, as the tools people used shifted away from craft and toward Fordist mass production.

Yet, there is some nuance here. Perhaps not surprisingly, rather than taking the view that they are providers of low skill services merely performing cost arbitrage, the perception of the outsourcing companies in India was very different. Not only are they cheaper, Indian IT firms and the offshore industry tend to believe that they provide a superior product through higher quality and greater predictability, as well as developing the ability to break down complex tasks into simpler components. Thus, in addition to taking on already well-specified methodologies, the Indian IT companies also see themselves as playing a role akin to industrial engineers, breaking down the complex functions of the client companies into ever simpler tasks that can be reasonably offshored. Their workers perform both the tasks of the master and the craft worker, the industrial designer and the factory producer. A senior manager at an Indian Offshoring company told us “[IT is] the first of the so-called

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<sup>25</sup> B. Parthasarathy. “India’s Silicon Valley or Silicon Valley’s India? Socially Embedding the Computer Software Industry in Bangalore.” *International Journal of Urban and Regional Research* 2004, 28(3):664–685.

<sup>26</sup> C. Upadhyaya. “Controlling offshore knowledge workers: Power and agency in India’s software outsourcing industry.” *New Technology, Work and Employment* 2009, 24(1):2–18.

<sup>27</sup> Our discussion here of a potential services industrial revolution brought about by changes in management practices and technology related to information (e.g. (U. Karmarkar. “The Industrialization of Information Services.” Pp. 419–435 in *Handbook of Service Science*, 2010.) is distinct from Blinder’s discussion of industrial revolution brought about by offshoring of services work. Blinder 2006, *op cit.* more broadly refers to a “third industrial revolution” whereby the scope of tradable services expands due to advances in information transmission per se. Our definition has more to do with the changes in management practices of services workers enabled by technology.

*services which is very similar to manufacturing. You send out a spec, somebody makes it as per spec, you compare with spec, quality is cleared, you inspect it, you ship it. Same process is followed in IT, just that it's not physical. Therefore it's much faster, much more iterative, and much more real time.*" (Interview 4, Appendix A).

The idea that routinization is replacing the craft worker can also be found in this observation by the Director of a large Indian Offshoring company "[We have an] automated, factory approach, the same thing as an assembly line. And that is increasing quality and delivery. ... I mean why is it that they [software development projects] go wrong so many times? It is because they are not focused on engineering, they are focused on individuals who are brilliant in doing coding. But here it has become a science of engineering. Engineering makes it much more predictable, maybe removes the fun, but it becomes much more predictable." (Interview 5, Appendix A). Finally, the idea that these type of jobs can be broken down into its smallest component parts and shipped overseas can be seen in the response of an Associate Vice President of Transportation & Services in a large IT offshoring firm. "I believe that you have to break down the project into pieces. Today we are good at breaking down, okay this has to happen onsite and this can go offshore. If you follow this breakdown of the work into smaller pieces what requires client interaction, client approval, client review do that on-site. Once the sign off is done then take it to offshore. I always relate this to civil engineering. If the client wants a house, discuss the house with him. Once the design is discussed you don't need the client. We can do everything without the client." (Interview 6, Appendix A).

To return to the historical metaphor, the movement to the factory in later periods of industrialization led to increased production and efficiencies through fully breaking down the tasks of the master craft worker, who was highly skilled and knew how to perform every stage of the production process, into much simpler, deskilled tasks which could be doled out to the less skilled workers. The ultimate outcome was the fully developed Fordist factory in the U.S., with many unskilled jobs, and a few industrial engineers who designed the work and broke down the tasks – but few skilled craft workers. The historical factory also increased the scale of production to allow a single plant to serve customers in national and international markets, separating the craft worker from the local community. In the context of offshoring, then, we might ask whether the breaking down of tasks and development of software factories similarly undermines the role of the craft worker / artisanal software programmer?

But if one looks at the offshoring landscape today, there is enough evidence to suggest that a range of jobs are being offshored (it is worth noting that there is very little reliable data regarding the number of jobs offshored). Not only are more complex jobs offshored, but the range of occupations and professions

involved is multiplying rapidly. As Sako<sup>28</sup> points out “Tasks requiring high levels of skill that were formerly considered the sole province of the advanced economies are being performed offshore on behalf of corporate and individual consumers in advanced economies. These tasks involve reading X-rays, carrying out lab experiments for new drug discovery, developing engineering design, administering payroll for companies and preparing documents for filing patents.” Thus, it is common to see offshoring in many industries and occupations: video special effects and gaming, financial analysis, accounting and compliance, engineering services, and pharmaceutical research and development jobs. Other fields such as radiology are in very early stages or have been blocked by professional and quality concerns.<sup>29</sup>

There is also evidence that the nature of the work gets transformed in the offshoring process. In their case study of pharmaceutical R&D offshoring, Finegold, Erhardt, and Sako<sup>30</sup> find that the nature of the task is alterable in the course of offshoring. These studies suggest that offshoring is a dynamic activity. Thus although the dominant portrait is one of lower-skilled activities being offshored, there has been an acceleration in the offshoring of more highly-skilled activities including R&D, design, and data analysis to the Indian IT companies, which have grown their services to include much more than programming<sup>31</sup>. Jensen<sup>32</sup> found in his case studies that offshoring of advanced tasks was initially founded on the exchange of technical knowledge, but very soon moved to an exchange at strategic and systemic levels that stimulated changes in the client firm’s strategy: the client firm went to India initially to access cheaper engineering and software talent but stayed for using offshoring as a tool for strategic transformation. Once technical knowledge is shared between client and subcontractor, the next step is the externalization of the tacit knowledge (judgments and other higher level tasks) that truly distinguishes advanced work from routine work.

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<sup>28</sup> M. Sako. “SASE Annual Meeting 2012, MIT, USA Professionals Between Market and Hierarchy: a Comparative Political Economy Perspective.” *Socio-Economic Review* 2013, 11(1):185–212.

<sup>29</sup> K.H. Yu, and F. Levy. “Offshoring Professional Services: Institutions and Professional Control.” *British Journal of Industrial Relations* 2010, 48(4):758–783.

<sup>30</sup> D. Finegold, N. Erhardt, and M. Sako. “Outsourcing of Knowledge Work: How Far Will it Go? Evidence from Drug R and D.” in *Outsourcing, Team Work and Business Management*. Nova Science Publishers, Incorporated, 2009.

<sup>31</sup> R. Dossani, and M. Kenney. “The Next Wave of Globalization: Relocating Service Provision to India.” *World Development* 2007, 35(5):772–791. R. Dossani, and M. Kenney. “Service Provision for the Global Economy: The Evolving Indian Experience.” *Review of Policy Research* 2009, 26(1-2):77–104.

<sup>32</sup> Jensen 2009, *op cit*.

What conclusions can we draw from the two perspectives discussed here about what can be offshored? The key missing element in the current debate, and an arena for future research is the disaggregation of jobs that occurs through the process of offshoring. If one had gone to a master craftsman (let's take Smith's pin maker) on the eve of the first industrial revolution and asked him about the advantages of lower-skilled helpers and the division of labor, he might well have said something like "sharpening the end of the needle is easy but somewhat dangerous, so not cost effective for me to do; I'll instruct my new unskilled helpers to do that." But the accumulation of such decisions eventually broke down the work of the skilled craftsman to the collection of unskilled jobs in the Fordist factory. So, might the ongoing division of tasks in intellectual services eventually threaten the role of far more knowledge workers in the developed countries? When viewed in this way, it is clear that the question of what jobs can be offshored is still largely unanswered, that the view that only routine jobs are offshorable does not fully take into account the implications of stripping away the routine aspects of existing jobs.

### 3. What will be Offshored?

Clearly, any answer to the question of what will be offshored must take into account the transformation in the work itself during the process, which we see as the dynamic process of separating skills and wages through the re-engineering of work. The interviews and the findings above suggest that what is being offshored includes both high wage and low wage work, both high skill and low skill work. We have become used to equating skill with wage: "High Wage-High Skill" and "Low Wage-Low Skill" have become standard in our lexicon. Offshore work in advanced IT services is an example of this. The work being done in IT is high wage by U.S. standards, and the skill level, as best as it can be ascertained, seems to be high, even by U.S. standards. Similarly, anecdotal evidence of jobs in the life sciences that have been offshored suggests that many of these are also high wage and high skill. A person with a Masters degree in chemistry working at a pharmaceutical company involved in the discovery of new drugs, for example, commands a salary of over \$100K annually. In U.S. terms, this is a high skill high wage job. Yet how does the analysis change if we allow the possibility that not all high wage jobs require high skill levels?

Table 1 presents an attempt to consider skill and wages as separate dimensions, and to recognize how dynamic forces at the intersection of skill and cost affect the ability and willingness to offshore any particular piece of work. We believe that this framework provides a way of understanding what jobs – or the

component tasks currently within any job – are most likely to actually be offshored in the future. High wage work is often difficult to offshore, because of skill requirements and agglomerations such as cultural geography, and this is recognized in the upper-right hand quadrant of Table 1. While there can be geographic shifts in the location of these jobs, the amount and the speed at which these shifts can take place is limited because moving work with this level of tacit knowledge often also requires the physical movement of the human resources in possession of that knowledge. So work in this quadrant has a lower likelihood of being offshored. A classic example of such an activity is the work entailed in preparing a motion to dismiss a case before U.S. courts. For example, there is an instance where the comedian Sacha Baron Cohen engaged an India-based Legal process offshoring company to prepare a motion to dismiss (he was sued for defamation in California courts for an episode in the *Ali G* show). The India based LPO firm prepared the motion for a U.S. based lawyer to present in court. However, the lawyers in the LPO were trained by lawyers from the U.S. hired by the LPO for training purposes. Thus, high-skill high-wage work, like most jobs, can be offshored and is being offshored.

However, we posit that there also exists high wage work that does not carry the trait of being high skill, and it is precisely these jobs where offshoring is most likely to be growing fastest, as indicated in the top left quadrant of Table 1. Often, high wage work carries a mix of tasks of various skill levels, and there is potential that skilled work can be disaggregated into smaller unskilled tasks if forethought is given to the production process<sup>33</sup>. The quadrant in the top left corner of Table 1 illustrates high wage, low skill tasks that are undergoing rapid offshoring in the present. Several highly paid jobs have large elements of low skill work in them, and as firms move aggressively to cut costs, these elements are increasingly offshorable.

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<sup>33</sup> For example, lawyers (especially first and second year associates) who do mostly routine tasks. There may be good reasons for not disaggregating such high skill work e.g. institutionalized norms, impact of training systems, belief in combining more and less complex work to provide high quality outcomes (avoid burnout), the nature of the interdependence, etc. One central question is the extent to which globalization will break down these constraints, whether structural or psychological.

Table 1: Offshorability of Services Work<sup>34</sup>

	<b>Low Skill</b>	<b>High Skill</b>
High Wage	<p>Fastest growth areas for offshoring: these jobs are often seen as high skill because of high wages, but this will change as a learning process necessary to understand and break work down into less-skilled components begins. The process is complete when the maximum amount possible is done offshore and the job is likely to no longer be high wage – even in the destination country.</p> <p>Examples: Financial managers and analysts, budget analysts, insurance underwriters, credit authorizers, checkers, and clerks, technical writers, auditors and accountants.</p>	<p>Unlikely to be offshored: these jobs require de-mystifying and transforming the work process before they can be shifted to the upper left quadrant. It is possible, however, that the offshoring cycle begins with this work being done “onsite” by nationals or temporary migrants, and that the work can then shift “offshore” through expatriate assignments or reverse migration.</p> <p>Examples: Chief executives, Biomedical, aerospace, chemical, sales, and civil Engineers. public relations managers, marketing and sales managers, lawyers.</p>
Low Wage	<p>Mature areas for offshoring: these jobs are easy to offshore and commonly are, but there are lower returns to offshoring and firms decide purely based on cost-benefit where to source.</p> <p>Examples: Telemarketers, customer service representatives, library assistants and technicians, bill and account collectors, secretaries and administrative assistants, travel agents, computer operators.</p>	<p>Least likely to be offshored: these jobs require de-mystification as well as a rigorous cost-benefit evaluation. They are least threatened.</p> <p>Examples: Writers and authors, editors, librarians, wholesale and retail buyers, logisticians, advertising sales, insurance sales, architects.</p>

<sup>34</sup> Table 1 is based on an analysis of the O\*NET 17.0 skills database, which contains detailed information on the tasks, abilities, and skills required of 974 occupations included in the Standard Occupational Classification's 2010 taxonomy. We build skill constructs for each occupational category and merge SOC 2010 codes to Census 2000 following D. Autor and D. Dorn. The Growth of Low Skill Service Jobs and the Polarization of the U.S. Labor Market. *American Economic Review*, 103(5), 1553-1597, 2013. (2010). The skill construct we use reflects a general factor for skill level, and combines many sub-items from the O-NET skills database into a single construct that is mean centered at zero. Occupations are “low skill” if they are below the mean, and vice versa. The residuals of a regression of wage on skill are used to assign occupations into wage categories, such that low/high wage refers to wages given the level of skill required.

Therefore jobs that today are in the top left quadrant, we predict, are likely to be split up and parts of those jobs will belong in the bottom left category in the future: low skill, and low wage. In theory, any job or work process can undergo a transformation from the top right quadrant to the bottom left. To refer again to an example from the IT industry, a possible re-interpretation of the master-helper analogy is that the corporate IT department's production function is progressively broken down into component parts, to be done more efficiently separately and elsewhere. Starting in the top right quadrant, jobs in the computer occupations – or significant portions of the work of the IT department – have moved from their high wage and high skill position into the top left quadrant over the last decade, effectively becoming less skilled in the process. In the future, we would predict these jobs are going to move firmly into the lower left quadrant. This is not to say all computer programmers will be low wage, but only that programmers in developed nations will continue to face direct competition, and will need to move up the value chain to retain high wages as previously rare knowledge and skills become widespread and routine. Finally, the low wage and high skill quadrant at the bottom right of Table 1 include complex call centers such as travel reservations agents, statistical clerks and financial specialists. These jobs are less likely to be offshored except where cost considerations move them back toward high wage.

The framework presented above provides a logical rubric, taking into account the transformative powers of the offshoring process, to analyze the likelihood of work going offshore. Because it relies so heavily on understanding the nature of work, which requires a qualitative grasp of the work itself, one limitation is that it does not allow us to say specifically which occupations are most at risk. Every occupation in the dictionary of occupational titles includes both high and low skill work – for now. For example, most academics must both perform the research and triple-check the citations. Moreover, every individual within an occupation will face unique bundles of work with pieces that fall in different quadrants within the framework. Nevertheless, we believe this is a valuable guide for anyone who wants to begin to get a sense of whether it is likely that work will move offshore in the future. That said, as with all forecasting tools, this framework will work best if everything continues as at present and is simply a linear projection based on the trends we see today. There are a number of potential roadblocks to this process, and below we cover what we see as possible limits to the future of offshoring.



#### 4. What are the Limits of Offshoring?

There are several possible limits to offshoring discussed below, all arising from the variety of substantial frictions in the movement of work from the high wage and high skill quadrant of the framework to the low wage low skill quadrant: i.e., knowledge transfer. How, then, is knowledge, both explicit and tacit, transferred in offshore intellectual services? The knowledge transfer process has always been a weak point in the movement of programming work, even when done domestically and long before outsourcing to India became a phenomenon<sup>35</sup>.

As in the industrial factory, one of the key potential limits involves the question of whether workers are willing to collaborate in the process of eliminating their own jobs through efficiency improvements. Along these lines, the outsourcing companies tend to express concern about the effect on cooperation and morale of the potential elimination of jobs through the outsourcing process. We found in our fieldwork that offshoring companies clearly think about – and push the clients to specify up-front – whether and how the employees whose jobs are eliminated will be redeployed. As an Associate Vice President of an Indian Software company told us: *“I need to understand first how the application works, the technology and the architecture of the application, understand the working so that I can maintain, that is -make changes, make enhancements etc. This is possible only if the existing team tells me how they coded the existing program, what is design of the application all that. Sometimes these 10 people they are worried about their future. They want to know what happens to me once I give away all my knowledge to these folks what will happen to me. Will I lose my job? Will I move to something else within this company or will they ask me to leave? So that is – we tell the client that before we engage any outsourcing vendor make your plans very clear to your employees. This is so that they are aware. The uncertainty within employee community will create lot of problems for us.”* (Interview 7, Appendix A).

But lack of cooperation can derive from the client companies as well. As the COO of the Health Care Company in the U.S. indicated *“Someone, a person making that decision, might say that it is the one thing that tips them on the negative side because they may say that I don’t believe in companies that take jobs out of the country... A lot of companies we cover insurance have union and non-union populations and we are*

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<sup>35</sup> One of the challenges to the original concept of the “software factory,” notably at a California IBM facility in 1975, was getting cooperation in knowledge transfer. That particular effort failed because managers at customer locations were reluctant to relinquish control over projects or give resources to the offsite location, while workers at the customer sites also felt threatened or dismissed the benefits of working with the offsite (not even offshore) location. M. Cusumano. “The Software Factory: a Historical Interpretation.” *IEEE Software* 1989, 6(2):23–30.

*providing health insurance to the company not to the union or non-union workers but to the extent that the unions find out about that, it will be a bad thing for us. They would make sense why they would not want to do it with us.”* (Interview 8, Appendix A)

In some cases, local firms were able to articulate with a greater degree of specificity regarding what work will be done here. The CIO of an IT company told us “*Creative/ Prototyping more will be done here [in the U.S.]. The reason it will be done here is because user groups will test things, product managers will back to engineering and it will be an iterative design process that requires lots of interactions and answers to questions. It is difficult to send this offshore wait for 12 hours before getting a response due to time zone difference... it therefore boils down to the amount of communication required for a project. The vaguer that is – that is, higher the communication required and harder (more complex) the project – more is the interaction required.*” (Interview 10, Appendix A). Thus, practical limits on the effectiveness of communication across time zones also come into play.

And, while the divisibility of software projects is controversial in the literature on software engineering<sup>36</sup>, there are clearly limitations on the ability to divide and then offshore the work, some of which were discussed above. Piore<sup>37</sup>, for example, focuses on the technological limits of offshoring in terms of the division of labor in software design, and what cannot be done at a distance. He finds that the division of labor is very different in design as compared to manufacturing, insofar as software integration requires close, in-person contact, what Piore calls “organic growth.”<sup>38</sup> Another possibility is the interdependence between the tasks and the inherent complexity of the design: the higher the interdependence and complexity, the less likely is the possibility that these tasks can be successfully offshored. These considerations suggest the possibility of inherent technological limits on the extent of offshoring.

Some of these problems of cooperation, divisibility, and communication have been addressed in offshoring through considerable interaction between client and subcontractor, an interaction that results in the development of trust, often through a language community based on conversation. Jensen<sup>39</sup>, for example,

<sup>36</sup> F. Brooks. “No Silver Bullet Essence and Accidents of Software Engineering.” *Computer* 1987, 20(4):10–19. J. Greenbaum. *In the name of efficiency: management theory and shopfloor practice in data-processing work*. Philadelphia: Temple University Press, 1979. P. Kraft. *Programmers and managers: the routinization of computer programming in the United States*. New York: Springer-Verlag, 1977.

<sup>37</sup> Piore 2004, *op cit.*

<sup>38</sup> He notes that designing software invariably has some division of labor (separate pieces of code can be written in different places), but also has an integration and coordination dimension, (the codes have to be combined together to create a program that works, and this process of integration often reveals bugs). He suggests, then, substantial technological limits to what can be outsourced, based on the technology of design.

<sup>39</sup> Jensen 2009, *op cit.*

highlights in his study the need for interaction and coordination in knowledge work, noting that the employees of the Indian subcontractor had to work at the client company in Denmark for a considerable period in order to make later coordination easier. In the context of U.S. customers and Indian IT firms, both client and vendor interviews reveal that long term relations between vendors and clients lead to the vendor becoming “embedded” in the client organization and can thereby lead to sophisticated knowledge transfer that can be more subtle and indirect than directly asking workers to break down their own jobs<sup>40</sup>. Kumar, Fenema and Von Glinow<sup>41</sup>, for example, found that the traditional typology<sup>42</sup> was not enough to explain the nature of such work because it could not describe intense and repeated interaction between actors and work sites in both transactional (sequential and reciprocal) and parallel work found in globally distributed knowledge intensive work environments in offshoring.

Thus, institutional practices such as “embeddedness” have developed in the IT offshoring industry so as to facilitate the transfer of knowledge from workers to other workers both within their own firms and across contractors. This transfer of knowledge engages not only the workers in a one-to-one literal transfer of information, but they are gaining an understanding too of the nature of the problem as seen by the customer, in order to later be able to take autonomous action to resolve issues.

In sum, a key question as regards cooperation, divisibility, and communication is the extent to which these limitations might be overcome given the intensity of offshore firms’ presence onsite, and the development of more practical tools for distance meeting. The extent to which this process can minimize cultural geographic distance is clearly also a crucial unanswered question; to what extent can the gap between the human tasks that can be performed by a computer program and those that require constant literal in-person contact be bridged?

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<sup>40</sup> For example an Associate Vice President (Transportation & Services) at an Indian Software company said: “What we try to do is to rotate people from both the sides. A guy from here goes onsite stays for some months and comes back. An onsite spends some time here works with the team and goes back. Even today even clients are willing to come here and stay with us for 3 months, in one of our clients in Hyderabad three people came to India stayed with us for 3 months, answered the questions, trained the team and a lot of clients are willing to come here. We try to send people to client sites and have people from client sites come here...we rotate people. Lot[s] of people go and come.”

<sup>41</sup> K. Kumar, P. van Fenema, and M. von Glinow. “Offshoring and the Global Distribution of Work: Implications for Task Interdependence Theory and Practice.” *Journal of International Business Studies* 2008, 40(4):642–67.

<sup>42</sup> A. Van De Ven, A. Delbecq, and R. Koenig. “Determinants of Coordination Modes Within Organizations.” *American Sociological Review* 1976, 41(2):322–38.

When we asked our interview subjects directly about the limits of offshoring, we received a wide range of responses beyond cooperation, trust and communication or practical limits such as language, culture, politics or the need to be close to the same time zone; these responses essentially boiled down to (1) the existence of a meaningful “core” within a corporation that cannot or will not be outsourced, and is therefore unlikely to be offshored (at least by contractor firms) and (2) formal regulations such as those related to government security.

The concept of a corporate “core” seems central to the conceptions of outsourcing among those in the US based companies we interviewed. The Chief Administrative Officer of a U.S. based Bank suggests: *“As you look to what to outsource you don’t outsource your core competencies. You outsource those things which you can do but you don’t do as well as somebody else and if you find a vendor that has those competencies better than you, you know you are going to get lower costs”* (Interview 9, Appendix A).

It seems that “core” typically relates to corporate mission and the basic essence of how firms derive value, and that what gets outsourced is a strategic decision on which information to disclose and on who contributes to decision making. One key question is whether this strategic core can in fact be maintained as the offshoring process moves up the value chain. At what point then is the line drawn to stop this process from moving up into the core, if it in fact can?

Another significant limit to offshoring, is of course regulation. Several U.S. states have passed legislating limiting offshoring. Ohio passed in 2010 a “made in America Bill” to ensure that all products and services for the legislative branch be made in the U.S. or supplied from within the U.S. And federal regulations also clearly play an important role in many industries; as the CIO of a health care company indicated: *“The DOD will not allow us to offshore any jobs. So in that book of business we are just not allowed to. They will not allow anyone with access to computer but not a U.S. citizen... you need to have security checks and ... that business is also sort of off limits”* (Interview 11, Appendix A).

In sum, there seem to be a variety of apparent limits to the ultimate reach of offshoring, ranging from comparative advantage, to the inherent limitations on the divisibility of tasks in software development, to the politics and incentives of knowledge transfer, to other practical limits such as language and culture, to the existence and maintenance of a strategic “core,” to formal regulations<sup>43</sup>. Any serious examination of the question of the extent of the growth of offshoring going forward would have to take into account these

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<sup>43</sup> Questions have been raised regarding whether restrictions on offshoring are legal in the context of non-discrimination and “lowest-bidder” requirements on government contracting. M. Zuckerman. “The Offshoring of American Government.” *Cornell Law Review* 2008, 94:165.

limits, as against the view of some of the offshoring companies that “we can offshore anything.” As the scope of work being outsourced extends to ever more complex and high-level tasks, the larger question is whether the most essential knowledge ultimately will be transferred to India or other destinations, similar to manufacturing to China and engineering knowledge to Singapore, making technological/skills advantages of client companies irrelevant?

## 5. Discussion and Questions for Research

As noted by Sako<sup>44</sup> and others, the proliferation of global value chains away from manufacturing to the services sector has not attracted as much research attention as it should. Additionally, those researchers who have analyzed the offshoring of services work have taken divergent approaches to the subject of offshoring that revolve around the questions we have considered here: “what *can* be offshored,” “what *will* be offshored,” and “what are the *limits* of offshoring?” This essay provides a review of major work in this area, reports from industry participants, and a preliminary framework for analyzing the future of this emerging phenomenon, and suggests some provocative questions for researchers to consider going forward.

The future extent of offshoring of services and the consequences for the advanced economies clearly remain open questions; our consideration of the phenomenon leads us to the following central questions. Can limits to offshoring related to the issue of knowledge transfer – what people are willing and able to transfer based on corporate and government views toward knowledge transfer and the effect of factors such as cultural geography on the process - be overcome? Will work seen as safely high skill / high wage today be susceptible to offshoring in the future, as jobs are broken into simpler component pieces? And, ultimately will the process of creative destruction associated with offshoring produce enough skilled yet non-offshorable jobs to sustain a significant middle class in the developed world rather than exacerbate the ongoing growth in income and wealth inequality?

Having full faith in the offshore methodology and the ability to perform work wherever cost is lowest, IT services companies are ambitious to replicate their success in further domains and to increase their profit margins and speed their growth through the movement of more work offshore. For example, IT companies have moved into other “business process outsourcing” (BPO) and “knowledge process outsourcing” (KPO) services, offering back office support

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<sup>44</sup> Sako 2012, *op cit.*

such as call center, accounting, document review, research, and other knowledge-based services work. We see organizations that are already vendors to the largest corporations playing a disproportionately large role in the services offshoring phenomenon. Functions and processes that corporations are already accustomed to outsourcing, it seems, are more likely to go offshore, but where and how does this process stop? Some of the interviews suggest that this is all akin to peeling away an onion, where we can either define and defend an arbitrary core, or else peel it away to nothing. Does the “core” of the corporation ultimately exist, or will it peel away?

In looking toward what functions will be offshored, other frequently outsourced business processes already include finance and accounting, legal, marketing, public relations, payroll and so on. Many organizations have already decided that these processes are “non-core” or have found outside organizations that better manage the process. Consultancies and other partnerships such as law firms are historically known for an “up or out” model of HR management with fundamentally pyramidal vacancy chains, fewer opportunities at the top and many low-level “helpers” below. This raises the question of how people in the developed world will rise when the lower rungs of the career ladders that are necessary for skill acquisition, talent recognition and advancement move offshore. With a shrinking number of lower-level helper jobs from the developed nations, where many people who have historically risen in to higher management get their start, how will workers in developed nations acquire the experience and knowledge and how will firms discover the potential human resources if workers are no longer “embedded” in firms.

Another set of key questions involves the affects of technology and social development on the limiting influences of cultural geography. To what extent do existing and emerging jobs require literal and constant in-person contact among culturally similar people for reasons such as efficiency of knowledge transfer and development of trust? One would think that any functional educational system in developing countries in particular will aim to flatten cultural geography in a globalizing world to complement what is happening more organically; does, for example, some combination of teleconferencing technology, comfort with the concept of trust-based communities online, homogenization of culture and the development of common shorthand electronic communication of acronyms and idioms through the use of Facebook and other “flattening” technologies ultimately loosen the limits on functional collaboration among people far apart geographically and (for now) culturally?

If routine jobs in fact exist at all levels of the labor market and if many of the more complex jobs contain routine aspects, what will come of the middle

managers and professionals whose main skill/attribute is either a credential or unique knowledge of how things hold together (knowledge of the component parts of a complicated process, those whose self-definition is based on their knowledge of a particular process)? Are there enough jobs for craft workers to sustain the developed world side of the equation? Might the disaggregation of work, the stripping away of jobs that are entirely routine as well as the routine aspects of more complex jobs, both eliminate a large portion of the master craftsmen, as well as worsen prospects and shorten the employment relationship for everyone else? Will the impact on wealth and craft/creative job creation of intellectual and cultural globalization of developed world products outweigh the loss of more routine work? And ultimately, will the interaction of globalization and technological advance concentrate wealth and employment among the creative few, or allow for broader growth in the post-industrial future?

We began this essay by offering two divergent views on what types of work can be offshored. Our analysis reveals that there are many layers to understanding the nature of work that can be offshored, given the limits of what can be offshored, and what organizations are willing to offshore. We hope that these insights will help to stimulate and re-frame the debate on these fundamental questions.

## Appendix A

### List of Interviewees

Interview Number	Description of the Interviewee	Description of the Organization
1, 9	Chief Administrative Officer	Savings and Loan Bank
2, 10	Chief Information Officer	Online network of websites for real estate, finance, moving and for home related information
3, 8, 11	Executive Vice President & Chief Operating Officer	Managed Health Care Company
4	Senior Manager	Indian Software Company
5	Director	Indian Software Company
6, 7	Associate Vice President (Transportation & Services)	Indian Software Company

Additional Interviews	Description of the Interviewee	Description of the Organization
A	Senior Director, Project Management	Specialty biopharmaceutical company
B	Senior Manager- Human Resources	Indian Software Company
C	Vice President	Indian Software Company
D	Module Lead (Telecommunication Sector)	Indian Software Company
E	Team Lead (Transportation & Services)	Indian Software Company
F	Associate VP (Human Resources)	Indian Software Company
G	Principal Diversity Officer	Indian Software Company

Note: Interviews A- G do not feature in the text but informed our understanding of our phenomenon. Some interviewees are quoted multiple times.



# Ethiopia and the Surge of Wage Labour

Samuel Andreas Admasie \*

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Ethiopia is currently going through a phase of rapid capitalist growth. A substantial amount of scholarship has been forthcoming on this process. Yet, precious little has been said about one of its most deeply transformative aspects: the rapid expansion of wage labour and the social transformation this entails.

### 1. Trajectory of Expansion

Since the modern Ethiopian state embarked on a sustained strategy of socio-economic modernization in the aftermath of Italian occupation, much faith has been put in the ability of the modern sector to generate economic growth, technological development and socio-economic transformation away from subsistence production and – eventually – self-employment<sup>1</sup>. Capitalist growth – whether under state or private auspices – sought by three consecutive regimes has, however, been elusive<sup>2</sup>. Wage employment, as a result, has failed to reach the importance envisioned by the drafters of successive strategies for economic development<sup>3</sup>.

By the mid-1960s, in the heyday of the modernization push of the imperial regime, the modern wage employing sectors employed less than 300,000

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<sup>1</sup> See, for instance, Imperial Ethiopian Government (1968) and Provisional Military Government of Socialist Ethiopia (1984).

<sup>2</sup> See Eshetu (2004) for a detailed and historically grounded discussion of this.

<sup>3</sup> Mulat, Fantu and Ferede (2006: 43-46), for instance, show the level of stagnation of employment in the manufacturing sector over the past decades, contrasting with the above cited plans.

people<sup>4</sup>. Outside of a temporary expansion of military personnel and layers added by unsuccessful experiments in bureaucratic management of the economy, growth rate was sluggish and as a result these numbers remained fairly stagnant throughout the rule of the *Derg*<sup>5</sup>. As the incoming government of the Ethiopian People's Revolutionary Democratic Front liberalised the economy in the early 1990s the bloated statal sectors were trimmed down, and the trajectory reverted to one solidly dominated by household/self-employment.

Economic growth rates have been relatively high for much of the 21<sup>st</sup> century, but much of this growth has failed to fundamentally transform the structure of employment<sup>6</sup>. But as of recently, something substantial seems to be happening. In the most recent National Labour Force Survey commissioned by the Central Statistical Agency, paid employment was up at a historic high of 4,253,000, which amount to just below 10 percent of the total working population<sup>7</sup>. This is of course a figure much lower than that of the number of people dependent on the incomes of wage labour in the country, and there are significant numbers of wage workers that remain hidden from the statistics<sup>8</sup>. Yet, when compared to the corresponding number of 2,478,000 in the previous survey it reveals a trajectory of rapid expansion<sup>9</sup>. This figure, moreover, is set to accelerate further in the near years to come. The following examples may serve to illustrate this point.

Although expansion generated by Ethiopian private capital remains elusive, foreign capital – mostly from emerging economies – has begun to find its way to Ethiopia's employment generating sectors. The horticultural sector – where Indian capital is dominant – was an early sign of this. Statistics on the growth

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<sup>4</sup> The sectors comprising the modern economy are listed as industrial agriculture, mining, manufacturing, construction, trade, banking and insurance, transportation, utilities, government, social services, and other services. Stutz (1967: 11-12) argues that the estimate of 294,000 given by the US Department of Labor is too low, and indeed lists non-agricultural sectors as employing 940,000 (ibid: 11). However, while the modern sectors listed in the former are such that wage employment can be assumed to account for the overwhelming majority, it is not certain that the same applies to all employees listed in the latter estimate.

<sup>5</sup> *Derg* – meaning committee – is the Amharic name by which the military-led government that ruled Ethiopia between 1974 and 1991 is usually referred to.

<sup>6</sup> M. Pedro, *Structural Change in Ethiopia: An Employment Perspective*, Policy Research working paper WPS 6749, World Bank Group, Washington, DC, 2014.

<sup>7</sup> Central Statistical Agency, *Statistical Report on the 2013 National Labour Force Survey*, Addis Ababa, 2014, p. 266.

<sup>8</sup> M. Rizzo, *Rural Wage Employment in Rwanda and Ethiopia: A Review of the Current Policy Neglect and a Framework to Begin Addressing it*, Working Paper 103, Policy Integration Department, International Labour Office, Geneva, 2011, p. 3-7.

<sup>9</sup> Central Statistical Agency, *Statistical Report on the 2005 National Labour Force Survey*, Addis Ababa, 2006, p. 215.

trajectory are incomplete, but data from the Ethiopian Horticultural Development Agency indicates that the number of employees within the sector more than doubled to a total number of 200,000 between 2008 and 2011 alone<sup>10</sup>. The emergent shoe and leather industry, where Chinese capital is dominant, is another case in point. In one telling example, Chinese footwear giant Huajin Group is planning to develop a 'shoe-city' that is to generate employment for between 100,000 and 200,000 people at its Addis Ababa cluster<sup>11</sup>, and another zone under development in Modjo, 73 kilometres south of Addis Ababa, is meant to cluster factories and tanneries that may employ up to 65,000 workers<sup>12</sup>. Several other industrial zones are being developed with Chinese assistance to exploit the availability of cheap labour, and, among others, the potentials of nascent leather and textile industries.

While major infrastructural projects and the expansion of the civil service are set to continue to generate employment opportunities, several large state conglomerates have recently entered the fray. The Metals and Engineering Corporation, established in 2010, is currently running no less than 75 factories, while several more are in the pipelines<sup>13</sup>. But the best example of the vigour with which the state is currently driving the expansion of wage employment is probably the Sugar Corporation. Although a smaller precursor had existed since the time of the *Derg*, the recently re-established corporation has embarked on a course of multi-fold expansion. A moderate calculation based on information from the corporation's website<sup>14</sup> would indicate that above 250,000 people are planned to be employed on sites currently under development, with 70,000 to take up employment within this budget year alone – and this figure only covers the immediate employees of the corporation. The number of people depending on wage labour is more daunting. Above 50,000 residential blocks are being constructed to house employees and family members, and this is not taking into account the employment opportunities offered by the emergence of these towns.

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<sup>10</sup> Ethiopian Horticulture Development Agency, *Ethiopian Horticulture Sector Statistical Bulletin 1*, Addis Ababa, 2012.

<sup>11</sup> E. Jobson, *Ethiopia Could Be Shoemaker of the World*, Business Day, April 4, 2013. <http://www.bdlive.co.za/africa/africanbusiness/2013/04/04/ethiopia-could-be-shoemaker-to-the-world> (accessed June 13, 2014).

<sup>12</sup> 'George Shoe takes 15,000 Unit Export Baby Steps', *Fortune* Vol. 15 No 737, June 15, 2014.

<sup>13</sup> W. Davison, *Ethiopian Military-Run Corporation Seeks More Foreign Partners*, Bloomberg, February 13, 2013. <http://www.bloomberg.com/news/2013-02-18/ethiopian-military-run-corporation-seeks-more-foreign-partners.html> (accessed on June 16, 2014).

<sup>14</sup> <http://www.etsugar.gov.et/en/projects.html> (accessed on September 16, 2014). The planned employment figures for the listed projects are Tendaho 50,000; Beles 50,199; Wolkaity 33,466; Kuraz 117,131 respectively. The Kessem and Arjo Dediessa projects have no employment estimates listed, but their size is lesser than the former four.

Meanwhile, large scale land acquisitions – concomitant enclosures and the establishment of commercial plantations – showcase both the push and pull factors of proletarianisation<sup>15</sup>.

## 2. Questions

The contemporary expansion of wage labour potentially constitutes the biggest transformation in Ethiopian labour and class relations since the land reform of 1975 did away with landlordism and tenancy. Yet, very little is known about the details of this process, and little research is forthcoming on its consequences.

There are indications that working conditions in at least some of the emerging sectors mentioned above remain wanting on a number of aspects<sup>16</sup>. Wages, meanwhile, are depressed<sup>17</sup>. The government boasts being able to supply some of Africa's cheapest labour<sup>18</sup>, and the ability to continue to supply cheap labour is a premise on which current industrial development efforts are based<sup>19</sup>. The ability of workers to organise freely, furthermore, is severely restricted<sup>20</sup>. But beyond such obvious concerns, the picture is far from complete.

A number of questions require immediate attention: What are the conditions under which the masses of new wage employees labour and how do they differ? How are these labouring masses constituted: who are they and where do they come from? How are the surpluses generated by their labour divided and appropriated? What will the surge of wage labour mean for broader social relations? How will transforming class relations affect the political configuration?

These are questions that still may be open, but their settlement holds the potential of establishing the social contours of development for the coming

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<sup>15</sup> See Fouad (2014) for an excellent exposition on this process.

<sup>16</sup> International Labour Organization, *365th Report of the Committee on Freedom of Association*, Geneva, 2012.

<sup>17</sup> Ethiopia's current labour law includes no minimum wage provisions. A new labour law, however, is under discussion.

<sup>18</sup> Ethiopian Investment Agency, *An Investment Guide to Ethiopia: Opportunities and Conditions 2013*, Addis Ababa, 2013, p. 13.

<sup>19</sup> T. Altenburg, *Industrial Policy in Ethiopia*, Discussion Paper 2/2010, German Development Institute, 2010, p. 19; Ministry of Labour and Social Affairs, *National Employment Policy and Strategy of Ethiopia*, Addis Ababa, 2009, p. 21.

<sup>20</sup> Although the right to unionize is upheld in the Ethiopian labour legislation International Labour Organization (2012: 1, 668-692), Tewodros (2010), Praeg (2006: 185-196) and Dessaiegn (2002: 114) describe some manners in which this right is curtailed in practice. Certain categories of state employees, furthermore, are prohibited from unionizing.

decades<sup>21</sup>. The surge of wage labour and the concomitant class relations that are emerging can no longer sustainably be ignored by the scholarly community.

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## Book Reviews

### ***Workforce Development and Skill Formation in Asia* by John Benson, Howard Gospel and Ying Zhu. A Review**

Ian Hampson \*

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This edited collection is well positioned in a significant gap in the literature. While there are many accounts of Asian economic development, there have been few if any attempts to look systematically at the role of workforce development and training in the development of particular countries, much less of the region as a whole. This book is a systematic exploration of this set of issues in eight economies, which vary as to their stage of development. They also spend differing amounts on education and training, and have differing rates of economic growth and labour market participation. The developed ones are Japan, South Korea and Taiwan, along with Singapore and Hong Kong. Developing economies are India and China. Malaysia is an 'intermediate' case, with some aspects of both. The book enlists an impressive array of specialists to address these issues. By focusing on a manageable set of countries, it hopes to reach insights that apply to the literature on comparative training as a whole. Investigating the role of skill formation and workforce development in any particular economy is difficult enough, but comparisons across countries have been particularly tough to do well. The systematic approach adopted by this book goes a long way to facilitate these comparisons. First, confining the analysis to one region where there is an underlying similarity across countries makes the task more manageable than if, say, comparison with a European country and an Asian one was attempted. Second, the book asks specific research questions of the countries individually and as a whole.

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- What are the forms of training and skill development in various Asian economies?
- How does training take place, and who provides it?
- How does training differ across groups, such as managers, professionals, technical staff, white-collar workers, and production workers?
- How does such training and skill development contribute to the economic success of companies and economies?

Third, presenting the findings in a shared structure in each chapter eases identification of ‘similarities and differences in their approach to workforce development and skill formation’ (p. 10). Each chapter has a brief introduction, an outline of the main relevant characteristic of each economy, an overview of the broad national political, economic and social contexts and an outline of the education and VET systems, and detailed discussion of how the training affects different groups – managers, professional and technical staff, production and white collar workers.

The book’s second chapter by Howard Gospel is a very useful overview of the ‘theory and practice’ of comparative training, and sets the tone for the rest of the book. It discusses the difficulties and pitfalls of comparative methods, and surveys approaches to the field. This survey is comprehensive, starting with human capital theory, and moving through ‘left’ and ‘right’ perspectives on the dimensions of skill development and forms of learning. It identifies the ‘locales’ where skill development can take place – families, markets, organisations, and associations. The ‘varieties of capitalism’ literature provides a backdrop and practices in the ‘model’ economies of the US, Germany, France, and Japan are briefly sketched. ‘Stylised facts’ illustrate how diverse training practices affect different groups of workers. The chapter then identifies trends in workforce development and skill formation. Governments see skills as instruments for national competitiveness and moving up the value chain to the ‘knowledge economy’. Employers’ needs for skills and training are changing – they both make and buy skills, and seek higher levels of qualifications. This in part reflects ‘skill biased’ technological change; a better supply of skills; and in part credentialism. Employers look for higher levels of ‘hard’, technical skills, as well as ‘soft’ skills. Individuals expect more out of their training, as indeed do employers now expect more from individuals – especially in the so-called ‘soft skills’ department.

This crucial chapter also tracks some major trends on the supply side. First, the supply of people with higher qualifications will increase. But, second, there will still be skills shortages in the external labour market, particularly in ‘middle vocational’ levels, and skills ‘gaps’ in terms of filling key appointments within

internal labour markets. Young people will still stay on at school, while the numbers of older people are growing – indicating the importance of ‘lifelong learning’. Overall, there is a trend towards ‘upskilling’, and a polarization of skills. What could have been discussed here is the work which finds that while the demands of work in terms of competence have increased, levels of autonomy have decreased. Autonomy, after all, is a dimension of skill – as the foundational work of Spenner insists. The chapter concludes with a discussion of the outcomes of skill formation – there are returns for individuals and employers from vocational training, but these are mediated by the way ‘skill’ is inserted in ‘bundles’ of workplace practices.

Japan is the most economically developed of the economies, and training has played a key role – but why this does not show up in educational expenditure? Training is predominantly enterprise-based in a context of lifetime employment, and its cost is met by firms and individuals. The advantages of the Japanese system are well known – workers become broadly trained within one firm, and ‘flexibility’ aids technological change and work reorganisation, while the firm retains skills as an asset. Yet the ‘stylised’ Japanese model has changed (partly as a result of a long period of slow growth), and is now characterized by increasing employment insecurity in the ‘secondary’ labour market – evident in the increasing numbers of ‘freeters’, or young people who seek to avoid the salaryman’s permanent attachment to a workplace. Partly in consequence government has to take a more active role in the provision of training and education, and this has seen a growth of training opportunities outside the firm. Benson argues this enterprise-based system with an ‘abstentionist’ state has inhibited the overall capacity for innovation by limiting inter-firm mobility and transfer of skills, and the denying access to training to those in the secondary labour market.

Training and education has played a key role in the development of South Korea’s quest to become a technologically advanced nation. With few natural resources, the government has emphasized vocational training, while education has strong roots in Korean culture and is highly valued. The State in South Korea has also been more ‘interventionist’ than in Japan (with which South Korea is often compared), for example by implementing various levies to support education and training. Vocational high schools play a greater role in the training of production workers than in Japan. The government has also made broad competence development a condition for the receipt of unemployment insurance, but has taken a more market-oriented approach to training since democratization in 1987. However, Rowley and Yoo point to an imbalance in the system, in that large companies tend to benefit from it more than small ones. In addition, there are other challenges – the role of Universities is becoming increasingly important, to some extent at the expense

of vocational training. There is a comparatively low investment in lifelong learning as opposed to 'front end' training, and there needs to be closer links between the management of unemployment and workforce development. These are minor matters: Rowley and Yoo conclude that a well-designed workforce development strategy is combined with an enthusiasm for education and this has contributed greatly to South Korean economic development.

Chris Leggett's chapter describes how workforce development has also played a strong role in the City State of Singapore, and in a highly coordinated fashion. The distinguishing political economic feature of Singapore is its 'corporatist' nature, which Leggett dubs 'corporatist paternalism' (as an alternative to the commonly used concept of 'authoritarian corporatism'). Strong informal linkages exist across well-integrated and 'complementary' institutions of training, skill formation and economic development, all beneath a tripartite framework. The chapter sketches the features of Singaporean economic development – commencing with its emergence as a sovereign city state in 1965, and moving through successive 'industrial revolutions, and up the value chain, to the 'knowledge economy'. Distinctive challenges include the need to manage employer commitment to training when many significant employers are MNCs. Payroll levies and training grants administered centrally aided in this task – employers had to pay into a central fund, and make a case to receive a grant for training which had to be well specified in terms of training objectives, and the assessment of their attainment. A stronger contrast with Australia's approach to a training 'market' could hardly be imagined – indeed, a watered down version of such a scheme was tried in Australia, but dropped due to ineffectiveness in the early 1990s. A complicating feature of Singaporean development is the reliance on low skilled immigrant labour, and the need to manage tensions with the local community. The distinctive feature of the role of skills development in Singapore is its highly planned and coordinated nature – even down to including within 'skills' training the development of specified attributes, such as motivation and attitudes.

By contrast, Hong Kong's approach to workforce development is more decentralized and voluntaristic, reflecting its history, first as a British colony, and second, as a Special Administrative Region of China from 1997. Thus, as Ng and Ip argue, Hong Kong has derived its stock of human capital assets 'not by design but more by default' – in response to a history of politico-social crises and responses to them. The British influenced higher education institutions and, to a limited extent, apprenticeships. State intervention was limited, reflecting the 'voluntarist' heritage. Indeed, attempts by the state to regulate apprenticeships engendered low take up, and the development of production workers' skills was haphazard, while the British tradition of professional education served the development of technicians and professions

well. The waves of immigrants from China bore their own entrepreneurialism and familial networks, and the limited resources small businesses could allocate to training ensured that workforce development would be haphazard. Ng and Ip argue that the country is now at a crossroads, as it seeks to reposition itself in the global economy particularly in relation to the Pearl River Delta. A more purposeful approach is needed than that of the current market-oriented liberalism which pervades the society, and this chapter suggests that there may be a movement towards a more corporatist arrangement, like that of Singapore.

The first of the developing countries to be studied is China, which has had an 'uneven' and 'patchy' history of skill development. Education is traditionally highly valued, according to Confucian precepts, and there is a long tradition of craft skills and learning 'from which the apprenticeship system is most likely derived' (p. 142). The Chinese system has been influenced by colonialists from a number of countries, and the Soviet Russian approach was influential up to and beyond modernization. Accordingly the State is highly influential, and the new system spans higher education and shop-floor skills development, where master craftsmen train apprentices. Management training in US-style business schools has become dominant and quite successful, while skills training on the shop floor is 'less than satisfactory', with severe shortages emerging of skilled workers and technicians. The country is seeking to learn from a number of overseas sources, but this chapter's overall assessment of the Chinese system is not favourable – generally much more remains to be done and 'inputs are not really sufficient'.

India is similar in that the sheer size of the country makes coordination difficult; there is a legacy of colonialism, and a history of, shall we say, 'trade restrictive' government intervention in all aspects of the economy, including training. The country has emphasized elite education, but the education system produces a shortage of high-school educated labour with basic literacy and numeracy skills. The Constitutional obligation to provide free and compulsory education to all children is simply unable to be fulfilled, and poverty moves education down the list of priorities. There are signs of serious government action to fix the skills shortages, including setting up a National Vocational Framework with competence-based training, one presumes modeled on the British system. This chapter comes complete with a set of policy prescriptions to fix the problem of skills 'shortage amidst surplus'.

By contrast, Taiwan is perhaps the standout success story, having reached an advanced stage of development on its path to the 'knowledge economy' in large measure due to having harnessed education and training to this end. Like China, Taiwan followed the Japanese enterprise training model and lately the

US business school model in the training of managers. But unlike both China and Hong Kong, the government is very active in promoting and funding training, including within enterprises. It is notable how the government is actively involved in both long term planning of labour power needs, as well as the management of overall quality and standards of training programs. This level and kind of government involvement to ensure quality of training is something of a lesson for Australia.

Similarly, government intervention is playing a key role in Malaysia's transition to the 'knowledge economy'. There is a tradition of apprenticeship training since British colonization, but skills training is being seen as increasingly important, if the government is to attain its goal of moving into the ranks of developed countries by 2020. To this end, the government has set up a grant/levy system, and in the mid 2000s it legislated a national skills certification system, and moved towards 'dual' training on the German model. 'K-workers' are expected to have technical competence, 'human and social' competence, as well as 'learning competence' – or learning how to learn. In Malaysia, surveys found deficiencies in 'soft' skills, 'related to the management of people and self, such as presentation, communication and languages, etiquette and ethics skills' (p. 221) as well as oral and written communication skills. Also, employers urge universities to do more to develop 'key', 'core', 'transferable', 'soft', 'employable' and 'generic' skills and complain that graduates do not meet the needs of business, not only in terms of technical know-how but also in 'generic' skills' (p. 222). This difficulty in defining skills is common in the training literature. Ramasamy and Rowley argue that Malaysia needs more and better partnership between the private sector and government – this is probably true of most training systems.

The book argues that skills policy in Asia can best be described as 'state led'. Although this is what one would expect, this book is an important step forward in tracing the details of the skills policy environment in Asia in general, and in the case study economies in particular. The systematic approach to comparison makes it a useful corrective to much of what passes for comparative scholarship in training policy. In their final chapter, Zhu, Benson and Gospel affirm that there are clear benefits for the individuals, economies and firms in the development of skills, and that this is why most of the case study countries (particularly Taiwan and South Korea) make this a priority – although there is further to go in some cases than others. This book should be of interest, not just to scholars of Asian economic development, or comparative training policy specialists, but also to Australian policymakers and academics looking for policy ideas from overseas to enliven their discussions beyond market fetishism.



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