

Vulnerable Workers and Precarious Working

ADAPT LABOUR STUDIES BOOK-SERIES

International School of Higher Education in Labour and Industrial Relations

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**CAMBRIDGE
SCHOLARS**

P U B L I S H I N G

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INTRODUCTION

MARTINA ORI AND MALCOLM SARGEANT

The papers presented here originated at a wonderful conference held at Middlesex University in London attended by experts on the subject of vulnerable workers and precarious work from all over the world. As an introduction to those papers we wish to expand on what is meant by the terms vulnerable and precarious.

Precarious Work and Vulnerable Workers

The terms “vulnerable workers” or “vulnerable work” and “precarious workers” or “precarious work” are often used interchangeably. There is nothing intrinsically wrong with this except that when talking of occupational, health and safety (OHS) issues the distinction between vulnerability and precariousness can be important. A distinction should be made between the precariousness of work attributable to particular types of contractual relationships, and the vulnerability of the people carrying out the work. Although precarious work often leads to increased vulnerability for workers and the two terms are inextricably linked, it is important to distinguish between the two from an OHS perspective. There are clearly OHS concerns attached to all work with particular reference to some types of work which are less safe. The workers who occupy these jobs can add to or, indeed, lessen OHS concerns as a result of being vulnerable workers.

Precarious Work

Precarious work is often classified as contingent working or non-standard working.¹ The term has been around a long time and has been used quite regularly for hundreds of years. For example, in the nineteenth century, in the UK, references are made to the precarious nature of the

¹ Standard working here means being employed on a full time open ended contract of employment.

employment of dockworkers who were employed on a casual daily basis and to the seasonal nature of work endured by workers in the Australian agricultural sector.² Precarious or contingent work is generally performed for more than one employer, it is not “full-time” and is limited in duration,³ with employment relationships that may be part time, fixed-term or temporary in nature. It does not necessarily follow that this type of precarious work leads to negative OHS outcomes. Part-time work and work of limited duration may be selected by the worker as meeting their needs at a particular time, although there is evidence that the current recession has forced many people into this type of work because of the lack of full-time alternatives. Figures in the UK show that some 37 per cent of those doing temporary work and some 15 per cent of those doing part-time work were doing so because they could not find a full time job.⁴ This amounts to about one million people working part time who would like to work full time and some 426,000 people in temporary work because they could not find permanent jobs.⁵

There are a number of employment relationships which have been described as coming within the term “precarious work”. Quinlan et al.⁶ categorised them into five groups. These were:

1. Temporary workers; including short fixed-term contracts and casual workers;
2. Workers subject to organisational change; including re-structuring, downsizing and privatisation;

² Quinlan, M. “The Pre-Invention of Precarious Employment: The Changing World of Work in Context,” *The Economic and Labour Relations Review* 23, No. 4:1-22

³ See Feldman, D. C. “Toward a New Taxonomy for Understanding the Nature and Consequences of Contingent Employment,” *Career Dev. Int.* 11 No. 1:28-47, 2006; cited in Bohle, P., C. Pitts, and M. Quinlan. 2010. “Time to Call it Quits? The Safety and Health of Older Workers,” *International Journal of Health Services* 40, No. 1:23-41.

⁴ Office for National Statistics “Labour Market Statistics: December 2012,”; the figures are for October 2012; <http://www.ons.gov.uk/ons/rel/lms/labour-market-statistics/december-2012/statistical-bulletin.html>.

⁵ See *Flexible Working: Working for Families, Working for Business* A report by the Family Friendly Working Hours Taskforce; www.dwp.gov.uk/docs/family-friendly-task-force-report.pdf

⁶ Quinlan, M. C. Mayhew, and P. Bohle. 2001. “The Global Expansion of Precarious Employment, Work Disorganization, and Consequences for Occupational Health: A Review of Recent Research,” *International Journal of Health Services* 31, No. 2:335-414

3. Outsourcing; including home working;
4. Part-time working;
5. Workers in small businesses; including self-employment.

In a similar vein, a further study in the UK identified twelve different forms. These were self-employment, part-time work, temporary work, fixed-term contract work, zero hours contracts of employment, seasonal work, home working, teleworking, term time only working, Sunday working and job sharing.⁷

However, it is important of course not to necessarily regard the increase of non-standard working entirely negatively, as governments now actively encourage policies on flexible working. One report for the UK government⁸ stated

Flexibility in the workplace is about developing modern working practices to fit the needs of the 21st century. Both employers and employees can gain from flexible working opportunities as both parties have the flexibility to organise their working arrangements in a way that suits them. This can enable organisations to adapt to changing business conditions and individual employees to better balance their work and family life.⁹

There is, as one might expect, a strong gender bias in this “flexible working” pattern with women less likely than men to be in employment and, when employed, working shorter hours than men,¹⁰ but

Domestic responsibilities are not the only reason for women’s lower employment rates. Women have higher unemployment rates than men in many countries, and segregated employment patterns and lack of equal treatment means that once employed they have lower earnings, inferior employment conditions and poorer promotion prospects.¹¹

⁷ Dex, S., and A. McCulloch. 1995. *Flexible Employment in Britain: A Statistical Analysis*, Equal Opportunities Commission Research Discussion Series, Manchester.

⁸ Supra No. 4.

⁹ See also European Commission policies on encouraging flexicurity; <http://ec.europa.eu/social/main.jsp?catId=102&langId=en>.

¹⁰ Fagan, C., T. Warren, and I. McAllister. 2001. *Gender, Employment and Working Time Preferences in Europe*. European Foundation for the Improvement of Living and Working Conditions; <http://www.eurofound.europa.eu/publications/htmlfiles/ef0145.htm>.

¹¹ *Ibid.*

In a total of 76 studies, however, Quinlan et al.¹² found an association between precarious employment and a negative indicator on occupational health and safety. They concluded that:

On the basis of this review, we find sufficient grounds to argue that the introduction, presence, or growth of precarious employment commonly leads to more pressured work processes and more disorganised work settings and in so doing creates challenges for which existing regulatory regimes are ill prepared.

Vulnerable Workers

The UK Government produced a strategy paper called *Success at Work*¹³ which defined a vulnerable worker as

[...] someone working in an environment where the risk of being denied employment rights is high and who does not have the capacity or means to protect themselves from that abuse.

This is a useful starting point and, of course, one can immediately see the connection with precarious employment, as probably this definition is more likely to apply to those in precarious type contracts of employment such as temporary, casual and seasonal workers.

A Policy Studies Institute report found that one in five of the workforce was vulnerable.¹⁴ It drew on interviews with representatives from a range of affiliated unions and the Trades Union Congress (TUC) and was carried out in conjunction with the work of the TUC Commission. The TUC set up a Commission on Vulnerable Employment (CoVE) to carry out a major investigation of the causes of, and solutions to, “vulnerable employment”.¹⁵ The final report defined vulnerable employment¹⁶ as being at risk of continuous poverty and injustices

¹² Supra No. 6.

¹³ Department for Trade and Industry (now Department for Business and Innovation) 2006; <http://webarchive.nationalarchives.gov.uk/+http://www.dti.gov.uk/employment/employment-legislation/success-at-work/index.html>

¹⁴ Published in 2006 and available at:

http://www.psi.org.uk/news/pressrelease.asp?news_item_id=188.

¹⁵ A good example of the confusion between precarious employment and vulnerable work.

¹⁶ Hard Work Hidden Lives, available at:

http://www.vulnerableworkers.org.uk/files/CoVE_full_report.pdf.

resulting in an imbalance of power in the employer-worker relationship. The report found that:

Vulnerable work is insecure and low paid placing workers at high risk of employment rights abuse. It offers very little chance of progression and few opportunities of collective action to improve conditions. Those already facing the greatest disadvantage are more likely to be in such jobs and less likely to be able to move out of them. Vulnerable employment also places workers at greater risk of experiencing problems and mistreatment at work, though fear of dismissal by those in low-paid sectors with high levels of temporary work means they are often unable to challenge it.

The report, drawing extensively on other published research and literature, suggests the following reasons for the increase in workers in vulnerable employment: (a) jobs available are changing. While there is still a demand for low skilled jobs, these are increasingly in service work. It has been suggested that there is a polarisation of jobs;¹⁷ (b) more workers are employed by small businesses. Over 40% of the workforce is now employed in a business that employs less than 100 workers; (c) the increasing proportion of agency work; as a proportion of all temporary work; agency work comprised 17.1 per cent of all temporary work in autumn 2007 as compared to 13 per cent in 1997;¹⁸ (d) the informal cash in hand economy; it is suggested this involves billions of pounds;¹⁹ (e) an increased reliance on migrant workers; (f) the employment of women who, on average, are being paid 17.2 per cent less than men²⁰ and about 40 per cent of women are in part-time employment.²¹ Women working part-time earn about 60 per cent of the average hourly earnings of men working full time;²² (g) there is a relationship between low income and job insecurity;²³

¹⁷ The report notes: Goos M., Manning A. 2007. "Lousy and Lovely Jobs; The Rising Polarization of Work in Britain," *The Review of Economics and Statistics*, MIP Press, 89, No. 1 pp. 118-133 and Kaplanis, I. 2007. *The Geography of Employment Polarisation in Britain*. London: Institute for Public Policy Research.

¹⁸ Labour Force Survey Autumn 2007 and Autumn 1997.

¹⁹ HMT. 2000. *The Informal Economy: A Report by Lord Grabiner QC*. London: HMT

²⁰ Press release, "TUC Response to the ONS Hours and Earnings Survey," 7th November 2007.

²¹ Equal Opportunities Commission. 2006. *Facts About Women and Men in Great Britain*. London EOC, 15.

²² Fredman, S. 2004. "Women at Work: The Broken Promise of Flexicurity," *Industrial Law Journal* 33, No. 4: 302.

²³ Evans A., A. Rossiter, K. Mueller, and V. Menne. 2008. *Anglo-Flexicurity: A Safety Net for UK Workers*. London: Social Market Foundation.

(h) working long hours—whilst women may only be part-time in paid employment they often have additional responsibilities as carers. Men tend to work long hours even when they have family responsibilities.

The report also stated that failure to comply with health and safety legislation is extensive, and cites the UK Health and Safety Executive (HSE) as authority for the statement that “most legally reportable workplace accidents, including major injuries, are not being reported.”²⁴

In addition, the TUC Commissioners had also seen evidence of low health and safety compliance amongst private contractors such as employment agencies and gangmasters.²⁵ They found that although the work might be risky, there was no clear understanding who had responsibility for health and safety issues. They point out that when the HSE gave evidence to the Parliamentary Select Committee on Work and Pensions, they highlighted the difficulties employment agencies create for health and safety enforcement. Its Chief Executive said that, although the HSE was trying to make it clear that health and safety responsibilities could not be delegated out to employment agencies, as the workforce became more fragmented, it could be harder to enforce health and safety policy and to keep control over its implementation.²⁶ The report also noted evidence that employers in small firms were not fulfilling their obligations to undertake a formal risk assessment for their pregnant staff, either because they were unaware of the duty or because they felt that it was common sense.²⁷ During the course of their research, the TUC Commission identified a poll of young workers by a trade union (UNITE). This had found that 17 per cent of all young workers had worked in unsafe workplaces whilst 22 per cent of all young workers polled had their wages docked when they were ill.²⁸

In the light of the above, the chapters that follow examine different aspects of issues with respect to vulnerable workers and precarious work and show the need for developing research on the subject.

²⁴ University of Liverpool. 2007. *An Investigation of Reporting of Workplace Accidents under RIDDOR using the Merseyside Accident Information Model*. London: HSE. The researchers interviewed patients in hospital and found only 30% of the injuries suffered had been reported.

²⁵ At pp. 127/8.

²⁶ House of Commons Select Committee on Work and Pensions, Uncorrected Oral Evidence, One-off Evidence Session with Ms Judith Hackitt, the Chair of HSC, and Mr. Geoffrey Podger, the Chief Executive of HSE 28th November 2007.

²⁷ ACAS. 2004. *Pregnancy at Work: Research to Explore Experience of Employers in Small Firms*. London: ACAS, 6.

²⁸ <http://www.vulnerableworkersproject.org.uk/>.