

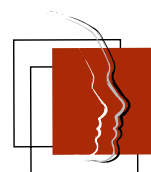
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Geneva



Moving from Precarious Employment to Decent Work

John Evans
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**John Evans
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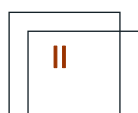


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PREFACE

It is increasingly clear that one of the most challenging and threatening features of the new global economy has been the rise of precarious employment. The economic crisis that plunged the global economy into one of the most serious recessions in history in 2008 may well have exacerbated this problem, as employers continue to pursue strategies that “flexibilize” employment and undermine the very concept of job security. In countries such as Japan, which historically placed tremendous value on the security of employment, a large percentage of the workforce now struggles in uncertain, temporary, short term, and part time employment. The social costs of this pattern are very high, trade union bargaining strength is undermined and the economy is also weakened.

The first text that follows is a TUAC policy paper that reflects our effort to come to terms with precarious employment under its many guises, labels, and forms. The second, longer document is a comprehensive overview of the emerging academic and trade union literature examining this concept. The proposal to commission this review arose out of an ongoing debate among trade unionists about the ‘reform’ of labour markets as advocated by international organisations such as the World Bank and the OECD as well as about the related transformation of labour relations that has produced increasingly precarious – and unorganized – workforces.

Trade unions around the globe have realized that insecure forms of work are not simply a short term response of employers to temporary economic problems, but instead have become an entrenched feature of many firms’ human resource strategies. We hope that the publication of this paper will contribute to the Global Union Federations’ campaign on precarious work as well as to extend and deepen the discussion of this issue and stimulate the further research work that has clearly been identified.

I would like to acknowledge the work of Euan Gibb, who worked as a consultant, and Roland Schneider in the TUAC Secretariat in the preparation of this paper, as well as our Japanese affiliate RENGO, for their energetic organizational and financial support of further work in this area.

John Evans
General Secretary
TUAC

I. TUAC POLICY PAPER - NECESSARY POLICY RESPONSES BY GOVERNMENTS, THE OECD AND TRADE UNIONS

I. Executive Summary

1. This policy paper is an output of a TUAC/RENGO/Global Unions Project on precarious work that was established in order to analyse the drivers and impacts of precarious work and to identify policy recommendations on tackling precarious work for governments, the OECD and trade unions.

2. The policy paper draws on the findings of a literature review, set out in *Part II* of this report, which explores the linkages between forms of non-standard employment and precariousness and the implications for labour market outcomes. It analyses trends in precarious work in five OECD countries – Canada, Germany, Japan, the UK and the U.S – and assesses the social and economic implications of growing levels of precarity. It also explores the drivers of precarious work, including the positions and policies of the OECD and the World Bank.

3. Precarious work refers to forms of work characterised by atypical employment contracts, limited or no social benefits and statutory entitlements, high degrees of job insecurity, low job tenure, low wages and high risks of occupational injury and disease. From a workers' point of view, precarious work is related to uncertain, unpredictable and risky employment.

4. The country case studies¹ illustrate that women are disproportionately represented in precarious work – the wider literature confirms that this is a global trend. Around the world, women face the risks of short hours, low pay and limited access to benefits. Precarious work is a key factor contributing to the global pay gap between men and women. Policy responses for combating precarious work need to focus on gender.

5. Precarious work shifts social risks away from employers and governments and on to individual workers and their families – those who can least bear them: *[I]f the costs are too high for employers and the state, what makes us think the vulnerable workers themselves are any more capable of bearing these costs?*² These risks affect not only vulnerable workers, but their families and society at large. Precarious work is, in short, creating “*greater economic inequality, insecurity, and instability*”³

6. Governments must take immediate and effective action to combat precarious work, in view of its detrimental and widespread effects.

¹ Cf. *PART II, Trends and Evidence*.

² Law Commission of Canada. 2004: 36; cf. *Part II*.

³ Kalleberg 2009: 8, ILO 2008.

7. Moreover, the OECD, which has responded to the growth in irregular work by recommending the lowering of employment protection for workers in several country economic surveys, must change its position and policies, and:

- Revisit its policy recommendations for labour market reforms that have been based on problematic but highly influential indicators such as the Employment Protection Legislation (EPL) indicator;
- Revisit those labour market and social policies, which have promoted deregulation and welfare retrenchment, thereby facilitating the growth in precarious work;
- Encourage a strategic labour market policy to be implemented, which has the creation of good jobs and the improvement of the quality of work as its core objective. Labour markets must be well regulated with strong labour inspection, in order to reduce precarious employment. There must be clear, verifiable specifications for part-time work, fixed-term work and temporary work covering: minimum wages, working time, dismissal protection, and wage replacement provisions during unemployment. There must also be preventive and active labour market measures;
- Encourage governments to give particular attention to the need for more and better jobs. This was a key message of the 2006 reassessment of the 1994 OECD Jobs Strategy;
- Encourage firms to make the shift from the 'low-road' approach to production and employment towards a 'high-road' approach, creating highly paid and highly productive jobs, based on a comprehensive design concept for jobs and the production of high quality goods and services, rather than on a low-cost, low-wage concept.

8. Trade unions are using a range of strategies to combat precarious work⁴: organising precarious workers, including non-members; collective bargaining on terms, conditions and status; capacity-building of trade unions at work-place level; and campaigning on legal reforms on issues ranging from minimum pay, precarity pay and definitions of employment. Trade unions are also using International Framework Agreements (IFAs)⁵ and raising cases under the OECD Guidelines for Multinational Enterprises to combat precarious work.

⁴ Cf. *TABLE 1, p. 10 and Part II, Strategy Building, p. 45.*

⁵ An international (or global) framework agreement (IFA) is an instrument negotiated between a Multinational Enterprise (MNE) and a Global Union Federation (GUF) in order to establish an ongoing relationship between the parties and ensure that the company respects the same standards in all the countries where it operates.

II. Precarious Work and Vulnerable Workers – Causes and Drivers

9. Gainful employment has become, and continues to be, a core activity in our societies. Work is a key ingredient of social recognition, self-esteem, personal identity and participation in society. It is central to individual identity, links individuals to each other and helps to locate people within the system of social structures. Over long periods in the past, work has meant a stable, full-time job, representing substantial progress over an earlier age when labour was treated little differently to products. Work was, to a large extent, related to the standard employment model under which a worker had one employer, worked full year and full-time without a pre-determined end date, mostly on the employer's premises, and was entitled to benefits either directly provided by the employer or through the social security system.

10. The work process and the standard employment model have been changing in important ways. In part this is due to the process of globalisation, intensified global competition, technological change and corporate restructuring. 'Flexibility' has been pursued in ways that are selective and with adverse effects on workers, with corporate managers pushing to erode employment standards, thereby shifting risks away from firms and on to workers. Governments, through policies aimed at increasing deregulation of labour markets, have played their part in transforming the employment relationship and thus significantly contributing to the emergence and growth of precarious work over the past decades.

11. Precarious work refers to forms of work characterised by atypical employment contracts, limited or no social benefits and statutory entitlements, high degrees of job insecurity, low job tenure, low wages and high risks of occupational injury and disease. From a workers' point of view, precarious work is related to uncertain, unpredictable and risky employment.

12. The main drivers of precarious work are:

- 'Low-road'⁶ approaches to competition whereby cost-cutting is achieved at the expense of product and job quality, wages and a clean environment;
- New forms of subcontracting and outsourcing, facilitated by falling costs of coordination and transportation afforded by new information and communication technologies;

⁶ 'Low road' and high road' are terms used throughout the employment literature. A recent conference '21st Century Work: High Road or Low Road?' describes the 'high road' as "highly skilled and highly paid jobs that are safe, secure and satisfying in highly profitable industries and the 'low road' as 'low-skill, low-pay jobs that are unsafe, insecure and unsatisfying in marginally profitable industries'.

- New management and contractual forms, which loosen the traditional ties between workers and employers, as indicated by the increase in low-wage jobs, temporary employment and self-employment, often taking the form of disguised employment.

13. Precarious work related to wage labour is not by any means a new challenge. Indeed, levels of precarious work and secondary labour markets have been successfully reduced in the past as a result of expanded social protection, the encouragement of collective bargaining and secure employment, which were introduced to address the adverse social and economic effects of unregulated markets. What is new is the 'great risk shift' that has occurred in recent years, whereby key social risks are increasingly transferred away from governments and employers and on to the individual. This, together with corporate and public policies giving a greater role to market forces within the workplace, has been a key determinant in the erosion of the standard employment relationship.

III. The Costs of Precarious Work

14. The growth of precarious work has severe consequences for workers. Besides the loss of protection and increase in employment insecurity, workers in precarious employment lose influence, individually and collectively, over working conditions, the pace of work and wages.

15. Moreover, the shift away from the standard employment relationship affects men and women differently. Despite progress made in breaking down the traditional gender divisions of employment and work, the kinds of jobs held by women are still disproportionately precarious, carrying a higher than average risk of short hours, low pay and limited access to benefits. Precarious work makes a major contribution to the persistent pay gap between men and women.

16. Precarious work also affects individuals outside the world of work. It creates insecurity and leads to increases in inequality and poverty. Uncertainty about the future of employment and earnings affects a range of family decisions from whether to start a family, enrol in higher education, or attend training courses. In short, precarious work adversely affects society as a whole.

The Economic Crisis and the Recovery

17. The employment effects of the economic crisis have been both rapid and severe for workers engaged in precarious work. Very few of those workers who have lost their jobs in this crisis were consulted or provided with alternatives.

18. In turn, the prevalence of precarious work is likely to have exacerbated and accelerated the employment effects of the recession. Precarious work acts as an 'automatic destabiliser' in the context of the current recession. It is also the reason for the disproportionately high impact on young workers. The bottom rungs of the ladder – the traditional entry point for young workers, as well as for women and migrant workers – have become detached as a result of new forms of work organisation that have either contracted out and transferred responsibilities

to private employment agencies, or created 'self-employment'. With no connection to the career ladder or, in many cases, the enterprise, young people have become trapped in precarious work, finding it increasingly difficult to move to more secure and better paid jobs.

19. In order for economic recovery to be real and sustained, there is a need to go far beyond the regulation of risky practices in the employment of money so as to create stable financial markets. Governments should also address risky practices in the employment of people and take steps to create more stable and equitable employment, strengthen employment security and generate good jobs rather than precarious work.

20. A severe economic crisis, such as the current one, requires strong policy responses, in particular through labour market and social policies. Beyond the need to scale-up financial resources for active labour market policy, it is also important to protect workers and their families through unemployment benefits. Workers in precarious employment are often not, or are insufficiently, covered by unemployment insurance. Moreover, they may fail to satisfy the eligibility criteria for receiving unemployment benefit. Governments must extend coverage, as well as the duration of benefits in order to provide an adequate social safety net.

IV. Labour Market Deregulation – A Foe of Decent Work

21. In the ILO's Philadelphia Declaration, it is written that "labour is not a commodity". A wide range of economic analysis is based on the flawed assumption that labour markets are just like any other market and that workers are indeed commodities. While labour markets function through the interaction of workers and employers, they are fundamentally different from other markets for a number of reasons and in particular regarding the unequal distribution of bargaining power between individual workers and employers. As such, labour markets are anything but perfectly competitive markets.

22. The growth of precarious work indicates that labour markets are not homogeneous. This is in contradiction to orthodox economic reasoning, which posits the existence of a unified and competitive market for labour, consisting of buyers and sellers in open competition with each other. Irrespective of labour market segmentation, it is often argued that the rise in non-standard and precarious employment is primarily caused by employers trying to circumvent existing labour market regulation, in particular employment protection legislation. By the same token, it is argued that labour market regulations and related labour market institutions are distorting otherwise efficient markets, making them rigid and causing unemployment.

23. The debate over the relationship between labour market regulations and institutions on the one hand, and employment, productivity and growth on the other, has caused economists, along with the International Monetary Fund (IMF), the OECD and the World Bank, to call on governments to deregulate labour markets and to reform protective labour market institutions. In particular,

countries with high unemployment have been repeatedly urged to reduce 'labor market rigidities' such as 'generous' unemployment insurance schemes; high employment protection, (allegedly causing high firing costs); 'high' minimum wages; non-competitive wage-setting mechanisms; and severe tax distortions. For example:

- The 1994 OECD Jobs Strategy⁷ recommended reforms aimed at weakening the bargaining power of alleged 'rent-seeking insiders';
- The OECD's 2008 economic survey of Korea, identified as a priority the need "to liberalise employment protection for regular workers so that firms can achieve the necessary flexibility without depending as much on non-regular workers";
- The OECD's 2008 economic survey of Japan, similarly, urged the government to lower the high degree of employment protection for regular workers in order to reverse the upward trend in non-regular employment.

24. Despite improvements in data and model specification, the evidence remains fragile, failing to support the orthodox case for labour market deregulation. As such, it should no longer be used as the basis for calling on governments to do away with labour regulations in order to facilitate the transition towards more flexible and competitive labour markets and deliver more jobs. This applies in particular to indicators, such as the World Bank's Employing Workers Index (EWI)⁸ and the OECD Employment Protection Legislation (EPL) index, which have been used to promote labour market deregulation. Both have had significant influence on research in labour economics and debates on labour market reform, but are increasingly challenged as being problematic. Key points of criticism include:⁹

- Insufficient recognition of how labour markets and related institutions work and interact;
- Perception of regulation as a mere cost to business without taking into account the positive externalities of labour market regulation;
- Underlying assumption that labour market regulation is the outcome of successfully acting 'insiders' and the absence of any focus on the relationship between workers and employers;

⁷ The first OECD Jobs Strategy was issued in 1994 with the second revised version published in June 2006. The Jobs Strategy provided the OECD's blueprint for the reform process of member countries over the decade.

⁸ The Employing Workers Index (EWI) was developed as part of the highly influential World Bank's Doing Business project, which was launched in 2003 with the aim of "providing an objective basis for "understanding and improving the regulatory environment for business": <http://www.doingbusiness.org/ExploreTopics/EmployingWorkers>

⁹ See for example Berg, J., Cazes, S. (2007); The Doing Business Indicators: Measurement issues and political implications; ILO Economic and Labour Market Paper 2007/6; Geneva. See also: Howell, David., Baker, Dean., Glyn, Andrew and Schmitt, John (2006) 'Are Protective Labor Market Institutions Really at the Root of Unemployment? A Critical Perspective on the Statistical Evidence', CEPR Working Paper, July

- Failure to understand the social goals of labour market regulation. The most fundamental reason for existing labour legislation and its enforcement is the unequal distribution of bargaining power between individual workers and employers;
- Failure to acknowledge that workers as well as firms need a certain degree of stability and security – increasing flexibility alone will not improve labour market efficiency;
- Primary focus on measuring *de jure* regulations, which prevents the indicators from taking into account workplace practices;
- Lack of compelling evidence to support the view that flexible labour markets are a recipe for the creation of good jobs.

25. These, together with the fact that ‘improvements’ in country-specific indicators do not seem to be correlated with improved performances in employment and GDP growth, support the conclusion that the current understanding of the impact of labour market regulations is an insufficient basis on which to develop universally applicable guidelines for labour market ‘reform’. Moreover, the current state of knowledge does not support the assertion that the deregulation of labour law and labour markets will enable countries to improve their growth and employment performance.

26. It is essential that the OECD and the World Bank revisit their policy recommendations for labour market reforms that have been based on these poorly constructed indicators and insufficient data. The objection lies not in the use of indicators *per se*, but in the design and use of indicators that fail to adequately reflect provisions on termination of employment, minimum wages and working time arrangements, as set out in the relevant ILO Conventions. Compliance with ILO Conventions should not worsen the score assigned to countries. On the contrary, well-designed indicators must, as the World Bank recently noted in the context of the revision of its EWI indicator, “*assign favorable scores to worker protection policies that comply with the letter and spirit of relevant ILO Conventions, recognizing that well-designed worker protections are a benefit to the society as a whole*”.

27. The World Bank’s recent announcement that it will substantively revise its EWI and introduce a new worker protection indicator is welcome, as is the recommendation of the OECD Employment, Labour and Social Affairs Committee (ELSAC) that an updated EPL index should not be included as a chapter in the forthcoming OECD Employment Outlook 2009. The OECD should now follow the example of the World Bank and revise its EPL indicators in accordance with the ILO’s concept of decent work: namely to ensure respect of labour rights, to offer social protection, to provide an adequate income and to include social dialogue, trade union freedom, collective bargaining and participation.

V. Governments Must Close the ‘Low Road’ and Pave the ‘High Road’

28. While the growth of precarious work poses a specific challenge for workers – union and non-union members alike – it also presents risks for all our societies and their members creating as it does “*greater economic inequality, insecurity, and instability*”¹⁰. As such precarious work presents a major challenge for governments.

29. Governments and international organisations, such as the IMF, the OECD and the World Bank, must go much further than reversing their policies of promoting labour market deregulation. They should promote inclusive and fair societies based on decent work. This means revisiting those labour market and social policies, which have promoted deregulation and welfare retrenchment, thereby facilitated the growth in precarious work.

30. Above all, implement a strategic labour market policy, which has the creation of good jobs and the improvement of the quality of work as its core objective. Labour markets must be well regulated with strong labour inspection, in order to reduce precarious employment. There must be clear, verifiable specifications for part-time work, fixed-term work and temporary work covering: minimum wages, working time, dismissal protection, and wage replacement provisions during unemployment. There must also be preventive and active labour market measures. Improving job quality is critical for reducing poverty, supporting families, rewarding effort and expanding opportunity for all.

31. Governments must give particular attention to the need for more and better jobs. This is the key message of the 2006 reassessment of the 1994 OECD Jobs Strategy. They must recognize that labour market and employment policies guided by the standard free market prescription – resulting in lowering wages for less skilled workers, weakening labour unions, pushing for greater decentralization in bargaining, lowering unemployment benefits, and lowering job security – have failed to achieve good employment performance. Free market reforms have not led to success stories; rather, they have been outperformed by approaches which effectively coordinated macroeconomic and social policies with the wage bargaining system, relying on strong employers’ associations and trade unions, as well as on a rather stable and consensus oriented political environment.

32. Governments must also give particular attention to the implementation of decent work. As defined by the ILO, decent work has an intrinsic value; but it also has instrumental significance as an important prerequisite for companies and national economies to be innovative and competitive on the ‘high road’.

¹⁰ Kalleberg 2009: 8, ILO 2008.

33. Governments must not be neutral regarding choices between 'high road' and 'low road' approaches. Poor, low-quality jobs impose substantial costs on workers, families, government programs and society. Many countries no longer allow companies to externalise or reduce costs by polluting the air and water. Likewise, they must not be permitted to provide sub-standard jobs, leaving it to workers, families and communities to pay the price. Governments should be prepared to offer support – in the form of information sharing, training, and technical assistance – to help companies make the needed transition to 'high-road' practices.

34. Public procurement and labour inspection are important tools to prevent further increases of precarious work and to hold employers accountable for creating good jobs. These tools can be used effectively to promote compliance with labour standards and to enforce occupational health and safety, legal minimum wage and hour standards for both suppliers and subsidy recipients. Labour inspectorates and enforcement agencies are often, however, under-resourced and without the necessary powers. Committed staff cannot compensate for these deficiencies.

35. Project labour agreements are of particular importance for industrial structures in which large companies play a role as coordinators of production that entails large numbers of workers and of which only few are directly employed by the coordinators. Project labour agreements can facilitate the process of setting standards on wages and benefits, as well as on training, health and safety issues, for all contractors and subcontractors working on a project.

36. Governments should re-examine the notion that some of the assumptions underlying employment and workplace regulation still hold. In a growing number of industries, networks of employers have replaced a formerly single employer or a fixed organisation. Often the employer of record is not the one ultimately responsible for workplace conditions.

Access to Vocational Training Contributes to Decent Work

37. Access by workers, including those in precarious work, to vocational education and training is a right. Although there are many similarities, nationally and globally, in the problems experienced by precarious workers (i.e., high risks of insecurity, poverty, unemployment and social exclusion), no blueprint exists for alleviating these problems. Skills development targeted at precarious workers can be a particularly effective strategy to provide empowerment and to propel them into better jobs and regular and adequately protected employment in the productive sectors of the economy. The need to improve access to training and to provide high quality training must be a priority of governments and employers, as well as trade unions.

38. Vocational education and training does not only contribute to the shaping of decent work. It is a formative element in people's lives, and, like all education, can be a tool for the enrichment, self-fulfillment and development of individuals, and through them, of society at large. Education, including vocational education, in global society, contributes to citizenship, the exercise of rights, self fulfillment and the quality of life.

VI. Towards Successful Organising and Reinforcement of Trade Unionism

39. Trade unions are strongly committed to combating the rise in precarious work and defending the rights of irregular workers. They are engaged in a broad range of strategies ranging from: representing irregular workers, to providing education and training on their rights; to undertaking capacity-building on precarious work issues at the workplace level; and campaigning for legal and regulatory reform to extend and protect rights. Moreover, at international level they are building cross-border networks, using International Framework Agreements (IFAs) and raising cases under the OECD Guidelines for Multinational Enterprises. Priorities and strategies are discussed in detail in *Part II* of this report¹¹, with examples highlighted in *BOX 1* and *TABLE 1* overleaf, alongside measures to be taken by governments.

VII. Conclusions

40. There is an urgent need to combat the rising incidence of precarious work. The overarching objective is to ensure that precarious work does not become the dominant feature of the relationship between workers and employers at the start of the 21st century.

41. Trade unions understand that they face an uphill battle. Workers are often reluctant to form or join trade a union, principally for reasons of fear. Precarious status only increases that fear. In far too many workplaces, workers feel, often correctly, that forming or joining trade unions means that they will be fired, not have their contracts renewed, or find it difficult to obtain another job. This is even true in countries with legislation that conforms to the ILO trade union rights conventions and have decent enforcement mechanisms.

42. Trade unions recognize that theirs and other private initiatives will not be enough – there is a need for strong government action. Regulation is indispensable, together with supportive labour market policies. Governments and international organisations, including the OECD and the World Bank, must take up this challenge by reversing their policies of labour market deregulation that have facilitated the growth of precarious work and promoting policies that have at their core, creating good jobs and improving the quality of work (see *TABLE 1*).

¹¹ Cf. *TABLE 1* overleaf and *Part II*, *Strategy Building*, p. 45.

BOX 1: PRECARIOUS WORK: SAFEGUARDING RIGHTS

Extend Rights: Many precariously employed workers suffer because they do not legally count as ‘employees’ with a contract of employment. Those considered simply as ‘workers’ working through an agency or who have been forced into bogus self-employment not only have few rights, but lack any security, meaning that employers can sack them easily.

Enforce Rights: Many employers and labour market intermediaries, such as temporary employment agencies, which make use of precarious employment and vulnerable workers, violate law and regulations... and get away with it.

Right to Recourse: Workers who do not receive their wages, are not provided with paid holiday or sickness leave, or are refused their legal entitlements to maternity or paternity pay, should have recourse to a simple, effective and timely way to enforce their rights. All statutory rights should be enforced by a state agency, as well as by employment tribunals.

TABLE 1: COMBATING PRECARIOUS WORK: SELECTED MEASURES¹²

ISSUE	EXAMPLE SOURCE ¹³	INTERVENTION TYPE
Reverse government policies of promoting labour market deregulation		Policy
Revise labour market and social policies that have promoted deregulation and welfare retrenchment and facilitated the growth in precarious work		Policy
Implement strategic labour market policy, which has the creation of good jobs and the improvement of the quality of work as its core objective – i.e., decent work		Policy
Provide support in the form of information sharing, training, and technical assistance to help companies make the transition to ‘high-road’ employment practices		Policy
Create incentives and requirements for employers to make permanent positions for precarious workers	/	Policy
Use public procurement to hold employers accountable for creating good jobs		Policy
Support project labour agreements that sets standards on wages and benefit		Policy
Introduce measures to discourage firms from hiring temporary agency workers	Canada	Policy
Establish public or private sector ‘benefits banks’ for irregular workers otherwise denied access to benefits	Canada	Policy
Support provision of education and training for irregular workers to help them into better jobs		Policy
Guarantee equal treatment with respect to wages and conditions of employment for workers engaged in substantially similar work	Canada	Law
Extend labour law to cover the increasing variety of employment relationships so that all workers are covered	Canada	Law
Expand coverage of social protection to all types of workers	Trade Union (RENGO/Japan)	Law
Legal minimum standards should apply to everyone regardless of immigration status	Canada/UK	Law
Introduce a legal minimum wage	Canada/UK	Law
Introduce precarity pay to take into account the insecure nature of temporary work	Canada	Law

¹² These are drawn from recommendations contained in *Part I*, and in *Part II*, the country case studies and ‘Precarious Employment Strategies’; p49.

¹³ These include either actual or recommended policies, laws or practices: recommendations have been made by governments, trade unions or independent commissions/experts.

<i>ISSUE</i>	<i>EXAMPLE SOURCE¹³</i>	<i>INTERVENTION TYPE</i>
Raise the level of the minimum wage for non-regular workers	Trade Union (Japan/RENGO)	Law
Broaden legal definition of 'workers' in order to eliminate bogus 'self-employment'	UK	Law
Clarification of the employment relationship		Law
Clarify the employment relationship: that when a temporary employee is assigned work by the temporary help agency, that agency is the persons employer and this person is an employee of that agency	Canada	Law
Require agencies to have a written contract between the agency and user enterprise; workers must receive a document setting out the key terms and conditions of their employment.	Germany	Law
Make it illegal for temporary agencies to charge buy-out fees	Canada	Law
Ban specific forms of non-standard work organisation: e.g., day labourer dispatches	Trade Union (RENGO/JAPAN)	Law
Improve anti-discrimination laws and their enforcement to prevent false representations and other abuses committed against immigrant and migrant workers	Canada	Law/Enforcement
Introduce harsher penalties for temporary agencies that violate legal requirements	UK/Japan	Enforcement
Increase enforcement of legal rights and increased power for inspectors	UK	Enforcement
Scale up bargaining wherever possible: employer, sectoral, national, international	/	Collective bargaining
Close the pay and benefit gaps – even for non-union members	/	Collective bargaining
Negotiate a 'status transfer' process giving precarious workers priority in hiring	/	Collective bargaining
Negotiate cross-sector collective agreements on pay, working hours, employment benefits with temporary agencies	Germany	Collective bargaining
Challenge employment relationship status choice by employers		Collective bargaining

II. PRECARIOUS EMPLOYMENT – CAUSES, DRIVERS, CHALLENGES & RESPONSES; A LITERATURE REVIEW -- BY EUAN GIBB

1. Introduction

There is broad recognition that involuntary part-time, temporary, contract and agency mediated work has spread throughout diverse economies and geographical regions. It appears that there is a growing international convergence of employment strategies. 'Contingent' work is becoming more common. In this case contingent means contingent on the immediate needs of an employer. A small number of workers who have employment relationships that fit within these categories maintain these types of relationships voluntarily and often benefit greatly as a result. These are not the workers that will be discussed here. Rather, the purpose of this literature review is to explore the employment relationships of workers that have employment 'insecurity' imposed upon them involuntarily. In broad terms, these workers have statuses that are precarious.

Labour market regulation in OECD countries was intensified in the context of post-war economic growth with the aim of improving protection for workers. Gains made by unionized workers were generalized in some form through legislation. This period of increasing regulation was quickly followed by tightened profit margins, deregulation, the rise of neoliberalism and the dangerously narrow focus of employers on short-term goals and shareholder value. Government decisions increasingly forced by capital flight (and the threat of capital flight – regardless of the reality) and organized demands from the business community as well as international organizations including the OECD have provided the necessary catalysts and context for the rapid growth of precarious employment relationships across economic, political and geographic borders.

This review will begin with a broad attempt to establish a conceptual framework for a definition of precarious employment. It will then move to outline some of the major trends and evidence from five OECD countries; Canada, the US, the UK, Germany and Japan. Next, the strategies of employers as drivers of precarious employment will be explored. The health and safety implications of precarious work and the importance of laws and regulations will then be outlined. The positions and policies advocated by international organizations are documented in the next section. Finally, trade union strategies and demands are formulated.

2. Coming towards a definition of Precarious Employment

Precarious employment is increasingly a defining feature of many national economies yet there is not a focus on it that it deserves. There is an increasing misfit between law, policy and reality. Precarious employment is not new but it does have different expressions in different times. Common definitions, measures of extent, and impacts of precariousness remain elusive despite dramatic increases in the number of workers who are in precarious relationships with employers. This makes sense given the differences in labour markets, political/economic compromises within different industrial relations contexts and analytical approaches to studying the issue. The result is that a large diversity of concepts and definitions is preserved. This diversity should not be used as evidence that a study of 'precariousness' that establishes common understandings and has explanatory power that reaches across national borders and economies is impossible.

It is possible to build common understandings for analytical as well as political purposes. For the purposes of this review, precariousness refers to, "employment that is uncertain, unpredictable, and risky from the point of view of the worker." (Kalleberg 2009: 2) Upon exploring literature related to precarious employment it quickly becomes clear that each article begins by framing and defining the barriers of inclusion and exclusion for exactly what kind of work and workers will be dealt with. This results in a great deal of difference in terms of reference and a consequent difficulty directly comparing findings across studies. However, as Supiot has argued, there is a need for more than this because, "the emergence of new spheres of production calls for other instruments with which to measure not only work but also the subordination it involves and the insecurity it creates." (Supiot 1999) There remains an intuitive appeal to reduce study of the issue to a few shared variables, the most common being 'employment status'. This would keep comparison across diverse contexts easy and simple. The problem with this approach is that precarious work may be structured across every employment status category, including permanent full-time, permanent part-time, temporary part-time, temporary full-time, and self-employment. A clear need exists to get at what Supiot is proposing; the study of insecurity, or precariousness that goes beyond simple employment status comparisons.

It is important to engage precarious work in a nuanced manner because its growth has contributed to greater economic inequality, insecurity, and instability. (Kalleberg 2009: 8, ILO 2008) Further, workers in precarious situations are less likely to know their rights, may be excluded from legal coverage completely and may be fired for exercising the rights they do have; despite this being illegal, they have limited or no access to social benefits including health and pension benefits and they are exposed to more health and safety risks (Lewchuk et.al 2006). They also maintain a much lower probability of entitlement to state benefits and workplace training. (Standing 2008) Young workers, women, workers with fewer skills and racialized workers are disproportionately impacted (Vosko 2006). There

is also the psychic cost of feeling unwanted (Standing 2008: 26) and the increased risk of being seen as an undesirable husband or wife with the consequence of delayed or terminated opportunities to have children. (Ishiguro 2008: 13) It's important to look at this critically and not simply leave it to social scientists because we need to know what strategies to mobilize. Are they workplace based, industry wide, national/legislative or international strategies? A deeper understanding of the problem of precariousness will inevitably lead to a more substantive discussion and debate about strategies.

As noted above, most articles offer some kind of limitations or parameters in order to clearly define a specific group of workers and exclude others. For example, authors choose to include only workers on temporary contracts or only workers that were hired through employment agencies. This approach to limiting the boundaries of who's included typically uses 'employment form' as the determining variable (full-time permanent, full-time temporary, part-time permanent, part-time temporary). This approach is inherently limiting and unavoidably excludes many workers or even categories of workers in precarious situations. Resultantly, both the descriptive and explanatory power of these articles is reduced. If the goal is to deepen understanding in order to better explain the reasons that precarious work has grown in such dramatic fashion and to build policy responses, a deeper and multi-dimensional approach will be required. The most comprehensive and inclusive approach to describing the situation of precariousness is detailed below in a model constructed by Vosko (2006).

Vosko argues that accepted definitions and measures focus too narrowly on the categories of form of employment and work arrangement. This approach is centred on the historic 'standard employment relationship' or SER. The SER is based on a 'male breadwinner', 'female caregiver' model. Thus, it is gendered but also indicates full-time, full-year employment, a single employer, access to social wage benefits and other state provided benefits that grew up around the SER. The SER is based on workers conceding dependency for a secure livelihood. (Supiot 1999: 33) The terminology around precariousness is different in different political and economic contexts. 'Flexible' is most common in the UK, 'contingent' in the US, and 'atypical' is used in the EU. Often these categories indicate that the work or workers being examined do not fit into the SER category or have 'non-standard' employment.

The problem with using this typology is that 'non-standard' is heterogeneous. Due to the fact that precarious employment is multi-dimensional, shaped by race, gender as well as occupation (Vosko 2006) there is a need to widen the analysis beyond the SER and 'employment status' as a proxy for precariousness. Dimensions that need to be considered include:

- Form of Employment
 - Full-time permanent / Full-time temporary
 - Part-time permanent / Part-time temporary
- Indicators of Precariousness
 - Earnings – stable, long-term vs. insufficient
 - Social wage – extended medical, dental, pension, insurance
 - Regulatory protection – unions or law
 - Contingency – degree of certainty of continuing employment, tenure, company uncertainty
- Social Locations
 - Visible minority women /men
- Occupational Context
 - Management
 - Health
 - Sales & service
 - Trades, transport & equipment
 - Primary industry

Precarious employment encompasses forms of work involving job insecurity, low income, limited social benefits and statutory entitlements, and high risks of ill-health. It is shaped by employment status (i.e., self-employment or paid employment, bilateral employment relationships or triangular employment relationships), form of employment (i.e., temporary or permanent, part-time or full-time), and dimensions of labor market insecurity, as well as social context and social location. (Vosko 2006)

It is possible to identify and catalogue all of the variables listed above. Vosko offers a map of precariousness that includes these variables in order to show that it is possible to explain precarious employment in a deeper manner. A couple of examples of these are included below:

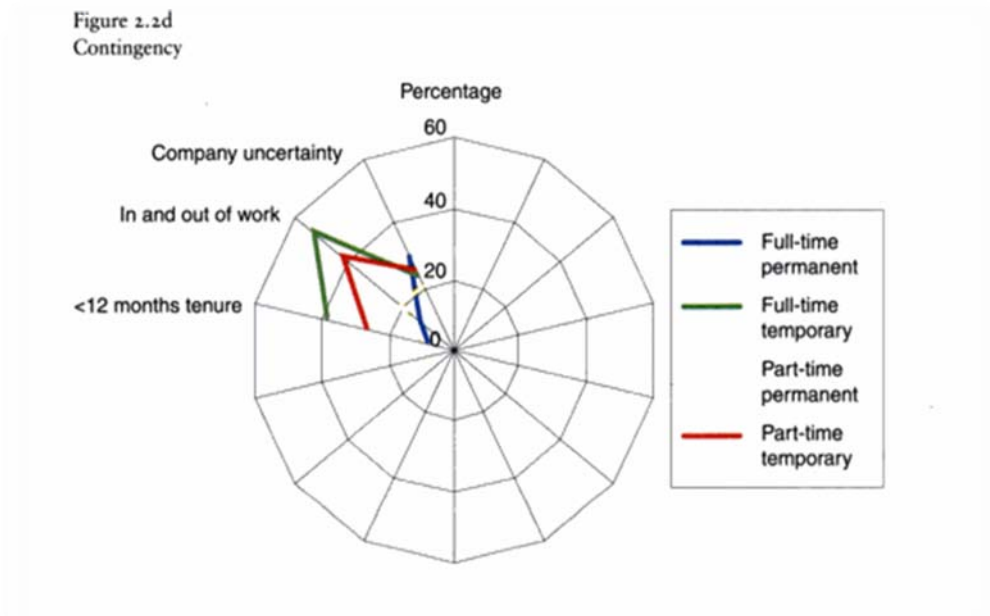
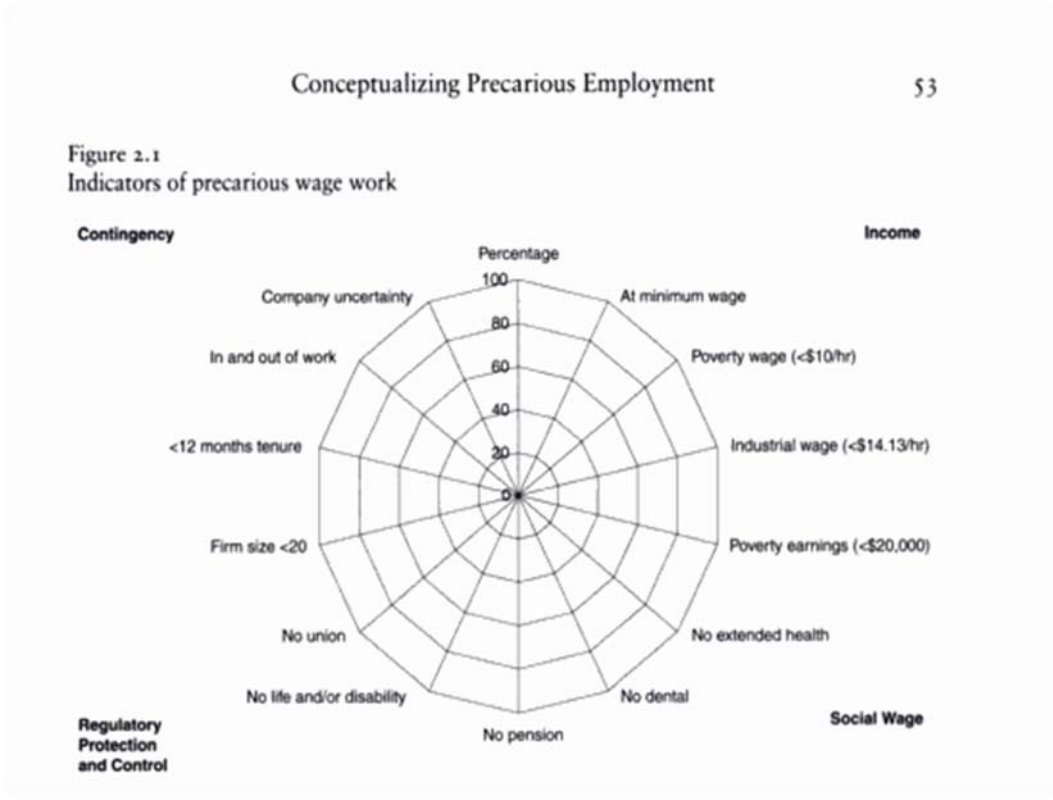


FIGURE 2.2D: INDICATORS OF PRECARIOUS WAGE WORK BY FORM OF EMPLOYMENT, CANADA 2000 (AGES25-54). (VOSKO 2006: 54)

This diagram highlights one of the weaknesses of focusing narrowly on form of employment. It clearly illustrates that workers who maintain full-time permanent employment relationships may be more precarious than full-time temporary or

even part-time temporary workers and significantly more precarious than part-time permanent workers. This point would be missed by an analysis that self-limited to defining precariousness using employment status as a proxy. This is not to suggest that full-time permanent workers are more precarious in any category other than 'company uncertainty' but the diagram is extremely useful due to the possibility to identify and highlight some counter-intuitive facts about precarious wage work. It shows that precarious employment cannot be reduced to a form or status of employment although these may be important indicators. The rest of points on the diagram can be mapped and used for any group of workers for whom the listed variables are accessible. This should be the case for all OECD countries, thus allowing local, regional, sectoral, national and international comparisons. This type of research/analysis is one dimension of trade union work. It supports and informs the political, lobbying, organizing and popular education functions that involve members and potential members in a more direct manner.

Why can't Employment Status be used as a proxy for Precariousness?

Scenario 1: *Mini-jobs in Germany – many people have a second job that is a 'mini-job' and so have access to social security, pensions etc. through the first job, so they're not the same as someone that has a mini-job as their primary source of income. (Keller & Seifert 2005: 314) (Since the Hartz reforms of 2003-05 in Germany, the most important difference between working part-time and a mini-job is income level.)*

Scenario 2: *A highly paid worker on a temporary contract may be at high risk of layoff (i.e., no or low job security), whereas a low-paid worker may have a long-term employment relationship that is relatively secure because of seniority rights. (HRSDC Canada 2008)*

3. Trends and Evidence

3.1 Canada

Part-time, contract, and temporary work as well as self-employment, now corresponds to around one-third of the Canadian workforce nationally. (Chaykowski & Slotsve 2008, Costa & Tourigny 2004) This means that in Canada, about a third of the workforce engages in 'non-standard' work, "that deviates from the standard full-time, permanent employment contract with a single employer." (Law Commission of Canada. 2004) Canada's national statistics organization has reported that, "concerns about nonstandard work arise because workers in these jobs tend to have low earnings and are more likely to live in low-income families. They also face greater risk of unemployment and enjoy fewer employer- or government-sponsored benefits." (Costa & Tourigny 2004) Again, similar to other countries, the existing determining structures of the employment relationship are the reason that 'non-standard workers ultimately receive fewer benefits. "Eligibility for most labour- and employment-related rights, benefits and protections is still based almost exclusively on the standard employment relationship. (Law Commission of Canada. 2004) Therefore, workers who do not

fit that standard employment relationship (more than a third of Canadian workers) find themselves ineligible for benefits.

For contract and agency workers in particular, often the same work is being completed as permanent workers but for less pay. (Law Commission of Canada. 2004: 16) Importantly, contract workers are only paid while on assignment it is often difficult to maintain sufficient hours in order to earn a living wage. Additionally, employment agencies often charge fees to employers that hire temporary workers (Vosko 2006: 371) and charge fees to workers for 'resume preparation' and other employment related services. Many temporary workers are classified as self-employed workers or independent contractors for the purposes of labour and employment rights, benefits and protections. There is evidence this subcategory of temporary workers is particularly vulnerable (Law Commission of Canada. 2004: 14) due to the fact that arranging the employment relationship in this manner allows regulatory evasion. Almost 70% of the self-employed group can be considered 'disguised' employment. (Law Commission of Canada. 2004: 10)

Most labour law in Canada is administered at the provincial level. There is a broad lack of clarity in terms of defining the employer across Canadian jurisdictions. Although temporary and contract workers are generally covered by the basic employment standards legislation, uncertainty around the true employer means workers must often "engage in time-consuming and sometimes costly litigation to determine their real employer." (Law Commission of Canada. 2004: 16) This is not a realistic option for most workers. Temporary workers are also (effectively if not legislatively) excluded from general holidays, vacation leave, pension plans, disability plans, notice of termination, employment insurance (time-limited percentage of income replacement in the event of involuntary lay-off or termination) and severance pay.

After a lengthy study of these issues, the Law Commission of Canada came up with a list of recommendations aimed at improving the situation of temporary workers in 2004. These included:

- Clarify the employment-related responsibilities of each party to the contract;
- Create a comprehensive set of protections in areas such as occupational health and safety;
- Guarantee equal treatment with respect to wages and conditions of employment for workers engaged in substantially similar work whether they are permanent or temporary workers;
- Introduce some form of precarity pay to take into account the insecure nature of temporary work;
- Improve anti-discrimination laws and their enforcement to prevent false representations and other abuses committed against immigrant and migrant workers;

- Make it illegal for temporary agencies to charge buy-out fees (the practice whereby the agency charges the customer a fee to hire workers permanently) and to use other mechanisms to restrain firms from hiring temporary agency workers. (Law Commission of Canada. 2004: 49);
- Extend all dimensions of labour regulation to all workers defined as persons economically dependent on the sale of their capacity to work, unless there is a compelling reason for not doing so. (Law Commission of Canada. 2004: 53).

Implementation of these recommendations would go a long way to improving working conditions of temporary workers and facilitating their potential organizing and inclusion into existing unions. Clarity of employment relationship is one of the legal pre-requisites that allow organization to be attempted. In addition to the above recommendations, the Canadian Labour Congress has argued that the federal labour code (that only covers about 10% of Canadian workers) be changed so that “non-renewal of a contract after 1 year’s employment should be considered as grounds for unjust dismissal, if there is no just cause for non-renewal, and if work is being performed by a newly hired worker of another contractor” (quoted in: MacPhail & Bowles 2008: 113) This would offer some protection of tenure for temporary contract workers and also could allow them to qualify for some seniority –linked employment benefits.

Some positive news from Canada is the recent revisions that the province of Ontario made to the Employment Standards Act (Fonseca 2008), the basic minimum legislative standards in the province. The legislation provides some new protections for temporary agency workers. The following changes were included:

- Establishes that temporary employees are covered by the Employment Standards Act;
- When a temporary employee is assigned work by the temporary help agency, that agency is the persons employer and this person is an employee of that agency (clarity of employment relationship);
- Ensures temporary workers are aware of their rights under the Employment Standards Act
- Stops temporary help agencies from charging workers for resume writing and interview preparation
- Ensures temporary workers have all the information they need about their assignments, especially pay schedules and job descriptions
- Enables the government to enact future regulations so temporary employees have notice to termination and severance pay rights that align with the rights of permanent employees

- When offering a work assignment with a client, temporary work agencies will have to provide:
 - o The legal operating or business name of the client
 - o Client contact information including address, telephone number and at least one contact name
 - o The hourly or other wage rate or commission and benefits associated with each assignment
 - o The hours of work for the assignment
 - o A description of the work to be performed
 - o The pay period and or pay date established by the temporary help agency

These changes go some distance to establishing many of the legal requirements that the Law Commission of Canada had recommended four years prior. The number of workers directly impacted is not insignificant. Over 700,000 workers in Ontario are employed in temporary jobs that are mediated through more than 1000 temporary help employment agencies. (HRPA 2009) Questions about enforceability and regulatory evasion remain to be answered but at a minimum, some temporary agency workers will immediately benefit from this new legislation.

The federal government in Canada administers a Temporary Foreign Worker Program. This program brings in over 150 000 workers to Canada every year. Participation in the program has grown more than 100% over the last decade. (Flecker 2007) The vast majority of these workers are not eligible for permanent residency or Canadian citizenship. The Canadian government maintains their rejection of this possibility despite an in-house federal report recommending a path to permanent residency for temporary foreign workers.

The possible terrain of abuse for these workers is expansive. "Guest workers are fleeced by unscrupulous labour brokers who charge exorbitant 'processing fees' in exchange for work permits; workers are misled with false promises about wages and working conditions; they are exploited, intimidated and threatened with deportation by some employers unless they accept terms akin to indentured servitude; they are faced with social isolation and separation from their families and communities; and, additionally, they are sometimes exposed to sickening doses of racism and discrimination from the communities in which they work." (Flecker 2007) Many workers who participate in this program are not eligible to receive employment related benefits due to accumulated hours of work requirements. The structures under which these workers labour put them into particularly precarious positions.

Significantly, the provincial government of Manitoba recently introduced legislation aimed at reducing the risks of abuse of temporary foreign workers. The April 2009, 'Worker Recruitment and Protection Act' prohibits the employment agencies practice of charging fees to workers and requires all employment agencies or 'brokers' to register and be licensed with the provincial

government. Both employers and recruiters can be fined for failing to comply with the new regulations or disqualified altogether from future recruiting or hiring of foreign workers. Unions in Canada have argued that similar legislation should be introduced in every province across Canada because abuse of foreign workers does not stop at the Manitoba border.

A 2006 review of labour standards at the Federal level in Canada determined that the category of 'vulnerable workers' was both large enough and important enough to merit its own chapter. (Arthurs 2006) This report commissioned by the Canadian federal government acknowledged that 'work' has changed since the enactment of federal labour standards in 1965. Further, the report's authors reconfirmed that part-time, temporary, agency, and autonomous workers are more likely than other workers to receive very low wages and few benefits. A review of the related literature provoked several recommendations, including:

- Part-time and temporary workers should receive equal pay if they perform the same work as full-time and permanent workers;
- Temporary workers should be entitled to accumulate periods of service for the same employer so that they ultimately qualify for statutory benefits that are triggered by length of service, such as vacation leave or access to unjust dismissal. They should also be eligible to be considered for permanent employment after they have completed a year's service, or any longer period normally required by the employer for probationers. The temporary placement industry should develop, in consultation with the government, its own code of conduct laying down proper standards of treatment for temporary workers. Federally regulated employers, and the federal government itself, should deal only with those agencies that adhere to the industry code;
- If agencies fail to pay wages or benefits earned by workers while on assignment with client firms, those firms should be liable for any sums owing;
- Vulnerable workers — especially temporary, part-time, agency and autonomous workers — are often ineligible for the benefits (drug, dental or disability insurance, and pensions) provided by employers to the full-time, permanent workforce. Workers of all kinds employed by small firms are also unlikely to have access to such benefits, as are the proprietors of these firms themselves. The federal government should investigate the feasibility of establishing a public or private sector "benefits bank," which would assist vulnerable workers and small businesspersons to secure coverage." (Arthurs 2006)

Finally, the Federal Labour Standards Review provided a few pages outlining the (potential) benefits of 'flexicurity'. The report explicitly acknowledges that such a concept cannot be simply imported into a different political and economic context from which it was born but that the Canadian government should, "initiate a conversation with labour, management and the provincial

governments with a view to exploring “flexicurity” — a strategy to enhance labour market flexibility while protecting the long-term economic and social security of workers.” (Arthurs 2006: 256) Similar to the Law Commission’s recommendations around these issues, most of the specific policy and regulatory suggestions have not been implemented. The absence of regulation and protection for precarious workers is clearly not due to the absence of ideas and possible regulatory tools.

The Law Commission noted that “existing laws and policies dealing with work are still organized around the concept that “someone” (not the worker) provides the child-, elder- and home-care for the worker. In reality, most workers struggle to meet the increasing demands of work and family/home obligations with few resources and supports to assist them. The sacrifices being made may well undermine the short- and long-term well-being of Canadian workers and society as a whole.” (Law Commission of Canada. 2004: 2) This underlying premise is true of countries beyond Canada and the consequences of the maintenance of this approach are pervasive. Neo-liberal deregulation and restructuring has resulted in an erosion of the weak supports that did exist, further exacerbating the stresses on workers attempting to find private solutions in order to balance unpaid care work and paid work.

One example of a policy that goes in the opposite direction is the new Parental Leave program introduced in the province of Quebec in 2006. (Tremblay 2008) This program opens access to benefits for self-employed workers for the first time. A large number of part-time, temporary and student workers will also be able to access benefits. The change from hours-based qualifying criteria to an income based system (\$2000 per year minimum) has opened the benefit to many workers previously excluded due to lack of worked hours in the previous year. Additionally, roughly a month of the parental leave is reserved for fathers and mothers are offered the option of taking a longer leave with less money per week or a shorter leave at a higher rate.

3.2 USA

The United States has experienced similar trends in precarious employment as other developed countries. The US Government Accountability Office (GAO) has reported that the number of ‘contingent’ workers who are independent contractors, temporary workers, subcontracted and leased workers and part-time workers stood at approximately 31% of the total workforce (GAO 2006, quoted in Smith, 2008: 198) The GAO also reported that the absolute number of workers in these categories increased by three million (to 42.6 million workers) between 1995 and 2005 while their percentage of the total workforce remained stable. This means that contingent work continued to grow steadily along-side the rest of the economy. Workers in the underground economy and those paid in cash and who are ‘off the books’ are not included in these numbers. Similar to other countries, precarious work is both heavily gendered and racialized. (Carré & Heintz 2007) Interestingly, the US Bureau of Labor Statistics (BLS) didn’t begin to

collect information on nonstandard and contingent work until 1995. (Kalleberg 2009: 6) Thus, identifiable trends in the labour market must begin at 1995.

A worker with contingent status in the US is potentially in a worse position than workers with similar status in other countries due to the maintenance of an employer-based system of social protection and insurance. Nonstandard jobs in the US are systematically worse than standard jobs and are therefore the growth of these jobs more likely reflects the goals and aspirations of employers than workers. Low pay, lack of insurance, no pension. (Kalleberg et.al. 2000) Employers in the US stand to 'save' approximately 22% of wage and other costs through subcontracting and using temporary or other contingent workers. (Smith 2008: 198) These 'savings' that accrue to employers are social security and workers' compensation contributions, unemployment taxes, health and pension benefits. Employers are also able to avoid paying minimum wages and overtime pay to workers that are "nominally employed by someone else." (Ibid) The employer-based social protection system increases the incentive for employers to use available legal structures in their efforts to externalize costs. (Carré & Heintz 2007)

The US is alone in developed countries in terms of the rapid growth of 'calculated regulatory evasion'. "Specialist advice has been provided to some employers by legal firms and others about how to configure their organisation or their workforce in order to minimize their 'exposure' to a raft of statutory requirements (relating to taxation and industrial relations as well as OHS and workers compensation)." (Quinlan 2003) Calculated regulatory evasion may exist in other countries but the combination of an employer based system of social protection and an exceptionally litigious system in the US provide a recipe for the growth of this type of employer strategy. It is important to note that the 'costs' that employers are avoiding do not disappear, but instead are externalized then ultimately paid by workers and the broader public through the general health care and social security system.

An additional reason that a calculated regulatory evasion strategy works in the US is the lack of coherent and centralized legal protection for contingent workers. There is lack of clarity about the employment relationship. Consequently, workers must use the legal system in order to confirm that they are in fact an employee in a system where, "rampant misclassification of workers as independent contractors is occurring." (Smith 2008: 201) State legislatures may supersede national standards that have been set in the area of worker protection. This means that a patchwork of unevenly enforced standards exists from state to state across the US ensuring, "significant geographic variation in employment conditions across states and across workplaces." (Carré & Heintz 2007: 5) The US temporary help industry has won legal cases that defined them as a 'business service provider' that charges fees to their clients they immediately became exempt from any legislation that attempted to protect workers. (Ibid) This is worse than an absence of protection for workers; it is a clear example of an explicit exclusion.

While employers have devised many ways to avoid taking responsibility for workers who depend on them for employment, the United States legal system has not kept pace with changing economic structures. (Smith 2008: 212)

Many more firms in the US than some other developed countries took the 'low road' strategy of reducing labour costs through contingent work arrangements. (Smith 1997) Some firms have adopted a combination of strategies for different kinds of workers. " 'Coreperiphery' or 'flexible firms' use contingent workers to buffer their most valuable, core workers from fluctuations in supply and demand. (Kalleberg 2009: 13) The employer-based system of social protection has clearly facilitated these exceptional characteristics. An additional peculiar feature in the US is the "great limits on portability of key social protection across jobs and employers." (Carré & Heintz 2007: 3)

As a consequence, a couple of clear priorities exist in the US. First, portable health insurance, portable pensions and unemployment insurance, parental leave and child care options, and second, "re-establishing labour market standards (e.g. minimum wage) or providing tax credits to firms that invest in employee training." (Kalleberg 2009: 16) Progress on both of these priorities would immediately improve conditions for millions of precarious workers in the US.

3.3 UK

A comprehensive UK Trade Union Congress study of vulnerable workers conservatively estimated that around two million UK workers are in vulnerable circumstances. This TUC study defined vulnerable workers as those, "at risk of continuing poverty and injustice resulting from an imbalance of power in the employer-worker relationship." (CoVE 2008: 3) This report also highlighted the extent to which vulnerable work is gendered and racialized. (COVE 2008: 7) Similar to other countries, a stark lack of clarity concerning the employment relationship remains an ongoing problem for UK workers. Several researchers have indicated that UK evidence has shown that, "new modes of business organization involving interorganizational relationships led to a blurring of the notion of 'the employer', and, consequently, to tensions and conflicts in the employment relationship and inequalities between employees." (Earnshaw et al., 2002; Rubery et al., 2002, Quoted in Frade & Darmon 2005: 108) In addition to the lack of clarity around employment relationship, the OECD reports that the UK has the lowest EPL strictness in the EU. (CoVE 2008: 25)

Vulnerable workers were clear beneficiaries of the minimum wage implemented by the Labour government in 1997. (Green 2008: 150) This government introduced several pieces of 'minimum rights' legislation designed to protect all workers. This is a good strategy that has the potential to be inclusive of all workers. Despite this 'basic rights' based approach, many employers found it "easiest to cut costs through use of temporary labour contracts, even though their decisions were detrimental in the long run." (Green 2008: 153) Similar to the US and other countries, there remains a strong cost incentive for employers to use temporary workers in particular.

The UK has had licensing requirements for Employment Agencies in place since 1973. An enforcement and complaints mechanism was added in 1976. Further regulations introduced in 2003 extended restrictions on fees and established that employment agencies were responsible for health and safety in the user enterprise. These regulations also required the agencies to make details of term and conditions of employment explicit for workers. One of the clear weaknesses in these laws is the legal definition of the employment agency. Due to some legal, technical differentiation between a 'contract for services' and direct employment, most UK agencies are able to configure the employment relationship in order to prevent the employment of workers giving rise to an employment relationship in law. As a consequence of this legal definition, temporary workers may be excluded from such rights as those concerning statutory notice, unfair dismissal, redundancy, or return to work after maternity leave. Also, there is no statutory obligation to provide training to temporary workers. (Arrowsmith 2006) Holiday pay and working time are both left to individual contracts rather than being shaped at the legislative level. Importantly, in order to benefit from maternity leave, two years of continuous employment is required, excluding almost all temporary workers. (Clauwert 2000)

The main trade association of temporary agencies is the Recruitment and Employment Confederation (REC). The REC operates a 'Code of Good Practice' that includes voluntary audit schemes. Employment agencies making up roughly 67% of the industry are members of this confederation. (Arrowsmith 2006) "There are isolated examples of company agreements, notably a recognition agreement signed by Manpower and the Transport and General Workers' Union in 1988. The GMB general union has also reached national collective agreements with a number of agencies, including Montrose, Adecco and Apollo 2000, and reports various local and regional agreements with smaller TWAs." (Arrowsmith 2006: 30) While this seems like a very small amount of progress, it is greater than in some other countries. One of the contributing reasons for the lack of progress in bargaining is that, "in contrast to the continental European countries under review, the notion of precarious employment has not been invested with societal or collective significance but has rather been treated as a feature of individual working lives (and sometimes their consequences for families), susceptible to analysis of the opportunities facing and choices made by individual." (Barbier et.al. 2004: 7) This individualized understanding of employment relationships is similar in Canada and the US.

One study of temporary work and insecurity in the UK advocated two particular indicators of good policy for temporary workers. Policies should:

- Help ensure an optimal use of temporary contracts, especially not an over-use of them. The policy should try to ensure that temporary contracts are not used as an artificial means of worker control, which is exploitation of a weak section of the workforce and which is detrimental to the growth of human capital of the workforce.

- Prevent discrimination against temporary contract workers, either directly or indirectly, because such discrimination is unfair and possibly also detrimental to harmonious and therefore productive working conditions. (Green 2008: 154)

Policies that meet these goals would necessarily move away from the present focus on individual adaptation of workers and get towards “the heart of the matter – i.e. regulating business conduct and putting a brake on labour recommodification through legislative change and institutional action.” (Frade & Darmon 2005: 119). In other words, scaling regulation up in order to challenge the focus on vulnerable workers as individual workers and start to build an understanding of vulnerable work as being a result of and symptomatic of deregulation and neoliberal restructuring.

The British TUC put together a Commission on ‘vulnerable employment’ and came up with 60 specific recommendations aimed at reducing the vulnerability of workers in the UK. Some of the major recommendations included:

- Improving awareness of workers’ rights including providing advice and access to information about rights directly to vulnerable workers;
- Focussed organizing efforts by trade unions;
- Improve access to training for vulnerable worker;
- Increased enforcement of legal rights (and increased power for inspectors);
- Equal treatment legislation;
- Broadening legal definition of ‘workers’ in order to eliminate bogus ‘self-employment’;
- Legal minimum standards should apply to everyone regardless of immigration status.

These recommendations would not be out of place anywhere precarious work exists. In that sense, they are generalizable to different political contexts. International harmonization of regulatory and employer strategies has led to an increase in opportunities for cross-national strategy sharing and learning.

As an EU member, the UK will be implementing the EU directive on Temporary and Agency Workers that was passed in November 2008. The UK government had been blocking this Directive since 2002. Member states are obligated to modify national laws to meet the criteria outlined in the directive within three years (from November 2008). The main purpose of the legislation is to apply the principle of equal treatment for all workers regardless of employment status. This is a positive development for vulnerable workers in the UK.

3.4 Germany

Germany provides an example of a social market economy that provides more protection to workers than other advanced economies. There is a strong tradition of collective bargaining. In fact, some German trade unions have argued against the introduction of a minimum wage in the country due to the fact that this has historically been negotiated through bargaining and deferring this decision to the state would encroach into a jurisdiction historically held by unions. (Bosch & Kalina 2005: 61) A chronic and often long-term unemployment problem in Germany led to a multi-party consensus in parliament (importantly including many in the Social Democrats-SPD) that the development and expansion of a low-wage sector may help to reduce unemployment. The demand for greater wage differentiation is a key element in the programme for change in the system. (Ibid: 3) The so-called 'Hartz reforms' were the result. These reforms were named after the person that the SPD had charged with responsibility to introduce these reforms. Hartz was also the Director of Personnel for Volkswagen AG.

The Hartz reforms can be considered Germany's approach to deregulate the labour market and to restructure social welfare. Precarious employment has grown significantly as a result. "The core of this debate rests on the argument that in a sense more "precariousness" is needed and that people have to be "forced" into work. Thus, in contrast to the other countries' studies, the argument is supply-side driven rather than demand-side driven." (Barbier et.al. 2004: 82) In order to facilitate the growth of the sector, transfer payments to the unemployed are being reduced, the period of entitlement to benefits is being reduced and the criteria for deciding whether a job offer is reasonable are being tightened, as are mobility requirements. (Bosch & Kalina 2005: 22) Interestingly, the need for corporate 'flexibility' was never at the root of the debate in Germany. Instead, it was about persistent unemployment since the beginning. (Barbier et.al. 2004: 82)

The debates in Germany have started from a different point than other countries and consequently, the direction of policy and corporate strategy has also been different. 'Flexibility' in Germany has typically been understood to mean internal flexibility rather than temporary agency or contract (fixed-term) work (external flexibility). While the number of temporary workers in Germany has increased, it has not done so as quickly as other places and the absolute number of people in this kind of employment relationship is not high. (Keller & Seifert 2005: 316) This is not to suggest that precarious employment is not a problem in Germany. Precarious employment absolutely is a problem and poses challenges to unions but it does look different than in other places.

The Hartz reforms included the creation of 'mini' and 'midijobs' which are typically low quality part-time jobs and established small grants for entrepreneurs to build a group of self-employed workers. This category of self-employed workers came to be known as 'Ich AG', or 'Me inc.'. These two categories will be dealt with in turn. First, the percentage of part-time workers in Germany rose from 14 to 22.8% between 1991 and 2004. Similar to experiences in other

countries, this employment status is made up of 86% women (Ibid: 311) and “15% of part-time workers say they are only in part-time work because they have been unable to find full-time jobs.” (Ibid) Again, similar to results from other countries, part-time workers have less access to training, (Unabhängige Expertenkommission 2004, quoted in Keller & Seifert 2005) limited career advancement prospects or opportunities for promotion, (Bosch & Kalina 2005: 22) and the work is typically poorly paid and onerous. (Ibid) There is also evidence that the legal requirements to maintain equal treatment that have been in place since 2001 are being violated with respect to hourly pay rates, working time regulations, holiday and sick pay and other company benefits including bonuses. (Keller & Seifert 2005: 311) In contrast, full entitlement to health insurance has been maintained.

The growth of the self-employed category, or ‘Me inc.’ was facilitated through a series of employment grants to workers that diminished over three years. There is early evidence that a, “significant percentage of the people claiming the grant have already abandoned the goal of self-employment before the end of the three-year period. More than half have become unemployed again, and a third of them report that they now have debts resulting from their brief period of self-employment. (Wießner 2005, quoted in Keller & Seifert 2005: 319) A superficial analysis would conclude that workers engaged with this new structure due to a lack of alternatives and that workers’ commitment to an entrepreneurial employment strategy was weak.

The German temporary help industry is more regulated than in the other countries included in this review. Beginning with the 1972 Temporary Employment Act (Arbeitnehmerüberlassungsgesetz, AÜG), agencies were required to have a written contract between the agency and user enterprise and that workers must receive a document setting out the key terms and conditions of their employment. This simple requirement is more than exists in some other countries. The 1972 Act also originally limited the duration of an assignment to three months. This was later extended to two years by 2001. This duration restriction and some others were removed in a major revision in 2002. The principle of equal treatment for temporary workers with permanent staff in any user enterprise was obliged from 2004 on. German temporary work agencies are required to obtain a permit from the Federal Employment Service (Bundesagentur für Arbeit, BA).

Most German temporary work agencies are members of one of the several employer organizations. (Arrowsmith 2006). After a change in the law in 2002, a number of collective agreements have been negotiated. “The first were two national cross-sector collective agreements on pay, working hours and employment benefits, signed separately by the Confederation of German Trade Unions (Deutscher Gewerkschaftsbund, DGB) with the BZA and iGZ. New pay agreements between the bargaining parties were subsequently concluded at the end of 2004 and in February 2005. There are also a number of collective agreements made at company level with individual trade unions, e.g. between

ver.di and Randstad in 2000 (recently replaced by collective agreements made through the BZA), and between Adecco and six trade unions to cover the Expo exhibition in Hanover in 2000.” (Ibid: 33) Collective negotiations with unions have progressed further and have more durability than in other contexts.

However, some researchers have indicated that “the collective bargaining system no longer fulfils its former comprehensive protective function for employees on the fringes of the labour market. There are growing numbers of people working in peripheral employment and for a low wage.” (Bosch & Kalina 2005: 61) Many of the workers in all precarious categories including mini-jobs, self-employment and temporary employment remain outside of membership. “Recent figures issued in Germany by the Federal Employment Service show that temporary agency workers receive only 63.4% of the wage earned by comparable workers in other sectors.” (Clauwert 2000: 8) This stark discrepancy could not exist alongside high organization rates. Regional sectoral agreements are being bypassed at the local level. (Croucher & Brewster 1998: 449) Some German unions have rejected this form of employment outright and so have explicitly chosen not to engage or organize in the sector.

All of the above regulations combined with the different sources for the impetus of ‘flexible’ work arrangements help to explain why “external numerical flexibility (in the form of temporary agency workers and fixed-term employment) is on average less prevalent in Germany than in other countries.” (Storrie 2002; European Commission 2003) Temporary contracts are also used in Germany for different reasons. There is evidence that short-term contracts in Germany are being used less by employers to meet the goal of external flexibility and more in order to extend the probationary period defined by collective agreements or law. “Roughly half of those initially hired on a fixed-term contract continue on a permanent one.” (Bosch & Kalina 2005: 17) This suggests that the tool of fixed-term contracts that are so commonly associated with external flexibility are being used to carefully select workers to be included in an internal flexibility strategy.

Importantly, mini-jobs, supplementary jobs (subsidised), self-employment (me inc.), and temporary help agencies have all been growing since 2003. Inequality in Germany had been decreasing steadily until the mid-90s when it turned around and began to grow again. (Bosch & Kalina 2005) Efforts to improve the working terms and conditions of precarious workers in Germany can make a contribution to ensuring that the growth of inequality stops and the previous, long-standing trend of decreasing inequality is re-established.

3.5 Japan

Japan provides a starkly different case. While the forms of employment seem to be similar to workers’ experiences in other countries, both the causes and consequences of precarious employment look different. Similar to other countries, Japan started to see ‘nonstandard’ employment build in the 70s then rise rapidly in the 90s. (Keizer 2008: 17) The rise of precarious work in Japan has particularly severe gender, inequality and broader social implications that will be

outlined below. This has caused several authors, including OECD researchers to describe the situation in Japan as one of growing 'dualism' where some workers remain in 'standard' employment while a growing group find access to this status increasingly unlikely.

The consequences of precarious employment in Japan are particularly severe due to the combination of several key, interrelated variables. First, Japanese workers have suffered a long and drawn-out economic recession resulting in an extended period of economic stagnation. This has resulted in broad corporate restructuring that has brought a 'westernizing' pressure on existing structures. Specifically, the pressure to increase focus on short-term capital markets and shareholder value instead of longer-term planning in a more stable and predictable financial environment has grown. Much of this has been the 'conventional wisdom' neoliberal prescriptions.

The economic context throughout the 90s and into the early 2000s increased the demands on government for a response. In 2001, the Cabinet Office established the 'Council for Regulatory Reform' (Sōgō Kisei Kaikaku Kaigi) which has enthusiastically promoted deregulation in many areas of Japanese society. (Ishiguro 2008: 22) In that same year, the Ministry of Health, Labour and Welfare launched Pātotaimu Rōdō Kenkyūkai (Committee to Study Part-time Working). This committee articulated three clear proposals that all accept the expansion of precarious work as premise. The proposals included:

- Establishment of Japanese style equal treatment for part-time employees.
- Establishment of the system where full-time and part-time employees can change their status and ways of working to the other group more freely.
- Establishment of tax/social security system which is neutral, regardless of working style. (Ibid: 19)

Some progress has been reported on these three proposals. Interestingly, this committee was developing proposals to deal with the consequences of the deregulation that was simultaneously being promoted and implemented by the Cabinet Office.

In addition to a broad context of deregulation, Japanese companies have built and acted on an explicit strategy of creating different employment statuses. The Japan Federation of Employers' Association, or Nikkeiren, has popularized the notion of a 'multi-track personnel system'. There are three main tracks articulated: "(1) a core or 'elite' group of long-term employees, (2) a group of specialists for dealing with specific problems, and (3) a peripheral group for simple routine tasks." (Keizer 2008: 18) The third group is described as a 'flexible' workforce and corresponds to the rise in non-regular employment in Japan. (Ibid) The spread of this multi-track model has received continuous support from the Japanese Business Federation – Nippon Keidanren – and Japanese employers have "steadily pursued this initiative." (Ishiguro 2008: 7)

Business leaders primarily seek cost efficiency and flexibility of the employment market, i.e. they basically support deregulations; unions and the majority of media reports criticize deregulation and business leaders' intentions; politicians anticipate elections; the administration tries to adjust each actor's interest, trying to find the middle ground between cost efficiency of companies and the welfare of the people. (Ishiguro 2008: 23)

Next, pre-existing structures in Japanese society have exacerbated the negative consequences of precarious work for Japanese workers. In particular, the practice of 'lifetime employment' (which actually never functioned as the term suggests for most workers) for some workers has helped to make the rise of precarious employment structures starker when these structures are viewed side-by-side. In this context, workers with precarious status have been understood as, "an 'employment buffer' to protect the long-term employment of the regular employees in the internal labour market." (Keizer 2008: 4) The difference between workers with precarious status and the others who have maintained some measure of protection is great. Japanese employers have mobilized very specific strategies aimed at shifting away from internal/functional flexibility and towards external/numerical flexibility.

Also, the Japanese social security system has been largely company-based. "Hiroi (2006, 23) uses the metaphor of 'Welfare and Benefits Department of Japan Corporation' to describe the policies of the Japanese social security system." (Ishiguro 2008: 16) This employer-based system of social protection dramatically worsens the division between 'insiders' and 'outsiders' guaranteeing that some workers maintain much more protection than others.

The combination of a prolonged recession driving corporate restructuring towards a more western model; a clearly articulated and implemented deregulation on the part of government, an active push from the employers' side to popularize and implement differential statuses for workers; a pre-existing insider/outsider division at the level of the workplace and an employer-based system of social protection have offered a recipe for severe negative consequences resulting from the rise in precarious work in Japan.

The concept of 'lifetime employment' (as gendered and exclusive as this group was) remains important today. All employment statuses that do not meet the criteria for inclusion in this group are defined as 'non-regular'. These two groups make up the poles within what researchers refer to as the 'dualistic' Japanese labour market. Roughly a third of Japanese workers can be said to have 'non-standard' employment status. (Rengō 2008) This percentage has risen from 20% in 1994. (OECD 2008) Serious "equity and efficiency concerns" (Ibid: 11) are raised by this high percentage of workers being excluded from 'standard' employment. This significant section of the population works for substantially lower wages has short-term job experience, limited education and training opportunities, bears the brunt of cyclical changes in the economy and is "largely excluded from the social insurance system". (Ibid, OECD 2008: 172) The much lower remuneration of non-regular workers for similar work "is one of the main explanations for

increasing wage and income disparities in Japan.” (Bredgaard & Larsen 2006: 35) The “limited mobility between the regular and non-regular segments of the labour market has exacerbated the problem,” of rising inequality. (Ishiguro 2008: 12) The dramatic rise in inequality is inseparable from the concurrent rise in non-regular work. Lower remuneration is not the only driver of the increase in inequality. By measures of broader income security including, “entitlements to unemployment insurance, health insurance, and retirement allowances” (Bredgaard & Larsen 2006: 35) non-regular workers in Japan end up much poorer than their ‘regular’ peers.

Part-time workers are by far the largest numerical group within the non-regular category. They make up roughly three-quarters of the non-regular group. The average hourly wage of part-time workers is 40% of what regular workers make. (OECD 2008: 21) Many of these workers are women, young people and older workers. Part-time workers in Japan do not fit with the conventional understanding of the concept of part-time. The definition of part-time is constructed around hours of work per week relative to full time workers. (Ishiguro 2008: 26) Any workers whose weekly hours of work fall below those of regular workers in the same establishment are given ‘part-time’ status. This manner of defining part-time has, “given rise to ‘full-time part-timers’ (Osawa 2001: 184) or ‘pseudo-part-timers’ (giji-paato).” (Ogura 2005: 19, quoted in Gottfried 2008: 184) Workers may be working hours that are close to full-time but are being remunerated at a significantly lower rate and excluded from many social protection programs.

Discrimination based on gender in employment and remuneration remains pervasive. (ITUC 2009) Women “account for about two-thirds of non-regular workers.” (OECD 2008 Economic Survey: 185) Similar to other political and economic contexts, an underlying assumption that women workers rely on income from other sources, typically a male-breadwinner, are reinforced by the low wages and lack of benefits. Fully two thirds of Japanese women workers with part-time status have reported that they “lived mainly on their spouses’ income, but only 20% on their own income.” (Gottfried 2008: 186) The lower wages of women workers has continued along-side an increase in the percentage of dispatched (temporary) and part-time workers who cited, “‘there was no company to offer me a full-time position’ as the reason for their working in current positions. Dispatched workers: 19.2% in 1994 40.0% in 2003; Part-time workers: 11.9% in 1994 21.6% in 2003.” (Ministry of Health, Labour and Welfare 2009: 6) This indicates that a substantial and growing number of workers would prefer to have more secure employment status but have been unable to secure it despite both their preferences and attempts.

It is intriguing that workers with inferior status do not report seeking ‘regular’ employment more frequently. However, many workers in Japan report not wanting to change to ‘regular’ employment. This is something not seen or possibly not asked in studies of other countries. It was asked in Japan because an early and common explanation for the rise of ‘non-regular’ work was to blame

young people and to argue that it was their own fault or choice. One causal explanation for this phenomenon may be the mandatory long hours that are linked to 'regular' employment. (Ishiguro 2008: 10) There must be additional explanations because the growing group of part-time youth workers (freeters) suffer a pervasive stigma and, "companies are still reluctant to hire people who have experienced a period as a freeter. (Ibid: 25) A broader social consequence of the prevalence of young workers maintaining 'non-regular' status is that many of them are postponing marriage and child rearing. (Ibid: 12) These kinds of decisions take on exaggerated importance in a country with a pre-existing low birth rate.

Temporary work in Japan is gendered to an even greater degree than part-time work. Women make up more than 80% of temporary staff. (Gottfried 2008: 187) Japan stands alone in the OECD by the total absence of any explicit articulations of equal treatment provisions for temporary workers. (Ibid: 192) A major problem in Japan that is becoming increasingly clear is that it is very difficult to maintain and guarantee internal job security (regular workers) without the steady economic growth that traditionally has characterised Japanese society. The 'buffers' of internal flexibility (working time, functional flexibility, wage flexibility) only go so far. External flexibility in the form of intensifying precarious work and externalizing of costs onto workers and the state are the increasingly popular recourse.

Japanese companies cite, "easy acquisition and easy termination as reasons for choosing part-time and temporary employees over regular workers." (Morishima 2001, quoted in Gottfried 2008: 188) Most of this is about the legal framework. Also, more than 7/10 Japanese firms (out of a survey of 9133) reported in 2006 that they hired part-time workers in order to 'reduce costs'. (OECD 2008: 41) This was by far the most important single reason identified by employers. Employers are also able to escape regulation "without violating either the implicit moral contract or the legal norms that underwrite the expectation of secure employment for standard workers." (Gottfried 2008: 188) The incentives for employers are clear.

Union density in Japan has shown similar contracting trends as other OECD countries. (Ishiguro 2008: 21) Similar to the experience of trade unions in Germany, it has taken some time for Japanese unions to reach a broad (and incomplete) consensus on the need to focus on organizing temporary and other irregular workers. For the first time in 2006, Rengō "included improvement of treatment for non-regular employees in its spring wage offensive..." (Ibid: 20) Non regular workers are receiving an increasing focus. Weathers reports that, "at this moment, organizing of paato [part-time, young workers] is one of the union movement's few relatively bright spots. The current organization rate is currently just 4.3%, but has been rising steadily for about three years." (Weathers 2007: 12) These are some early and positive results.

There is much at stake in all countries where precarious employment is rising but this is particularly true of Japan. The system of 'lifetime employment' has not disappeared but it is being actively destabilized. Some researchers and the OECD itself have advocated similar policies aimed at reducing the negative impacts of precarious employment:

- Adequate and public child care systems: A well-developed system of childcare is indispensable for creating security for working parents and thus for a flexible supply especially of younger women on the labour market;
- Building public vocational training systems: A comprehensive public system for adult education and training will make it easier to develop flexicurity arrangements, which involves employment security in the upgrading of skills of unemployed workers or workers at risk of unemployment. Public vocational training system provides transferable rather than firm-specific skills and competencies for both unemployed and employed persons, which will improve the functioning of the external labour market, and ensure a constant re-qualification of the workforce in the light of intensified global competition on the unskilled and labour-intensive parts of the labour market;
- Improving income and social security systems: Social security is a precondition of job mobility on the external labour market. High income replacement for unemployment increases the risk willingness of workers, and tends to increase job mobility on the labour market. (Bredgaard & Larsen 2006)

Precarious workers are typically excluded from all three of the above policy areas. The fact that access to these forms of social protection has been interwoven with the workplace and employment status in Japan has meant that an even greater number of workers have been excluded. They are usually left to find solutions to these problems as individuals. Clearly this is an unsustainable option. The consequences for inequality, social cohesion and ultimately economic growth are too grave to allow continuous postponement of progress in improvements for precarious workers.

The Japanese Trade Union Confederation – Rengo has taken clear positions on non-standard work. Their 12-page comprehensive 2008 'Policy Priorities' document calls for the outright ban on some forms of non-standard work organization including 'day labourer dispatches.' There is a simultaneous call to protect these workers whose present employment relationships would clearly be at risk. Further, Rengo calls for a clarification of the employment relationship, strengthening of the responsibilities of user companies where temporary workers are dispatched, stricter licensing requirements for dispatch businesses, backed up with harsher penalties for legal violations. Finally, Rengo makes a call for studies of effective ways to achieve equality (including wages) and balance treatment for dispatch workers. There is an explicit reference to using overseas legal systems as

reference, but it is not clear if there are any relevant models or frameworks. (Rengo 2008)

RENGO¹⁴ also calls for pulling up floor level of minimum wage of non-regular workers, registration of equal working condition between regular and non-regular workers, expanding coverage of social protection to all types of workers.

The number of atypical employees is increasing as a result of the decline in the number of regular employees, (1998) depending on the workplace, there are a striking number of cases in which the majority of workers are atypical employees and the core work is done by atypical employees. At the same time, since the decline in the number of regular employees means a decline in the number of male breadwinners, the number of workers who support their household budgets through atypical work is increasing as well.

In particular, as a result of the tectonic change since 1997, the road to regular employment has been closed for many young people, and it is feared that their continuation in atypical employment will lead to the entrenchment of social disparities in the future. The expression “expectancy gap” is becoming common. Meanwhile, the phenomenon of the “working poor,” including middle-aged and elderly workers and women workers who are forced to switch from regular jobs, is becoming a social problem. Moreover, the polarization of Japanese society, which used to be described as “100 million middle-class people,” is becoming increasingly serious.

¹⁴ The information in this section has been provided directly to the author by the Japanese Trade Union Confederation, RENGO.

4. Explaining the Growth of Precarious Employment: Interests & Strategies of Workers & Employers

4.1 Workers

A wide variety of explanations have been put forward in order to expose the drivers behind the growth of precarious employment. For analytical purposes these can be separated into 'supply side' (worker) and 'demand side' (employer) explanations.

Typical supply-side explanations offer rationalizations that workers are increasingly choosing autonomy, risk and greater potential rewards over the routine and security of full-time, permanent jobs. (Vosko 2006, Brodsky 1994) A small number of precarious workers belong to this group. They are largely male, highly educated and do not meet many of the criteria that would define their employment situations as 'precarious'. The rise of individual contracts and externalizing risks from companies onto workers can be sourced at least in part to the rise in ideology that individuals are responsible for managing their own risks and solving their own problems. These workers are well positioned to take advantage of the deregulation that follows the rise of this ideology. They are and shall continue to be greatly rewarded.

A few other potential benefits have been identified. These include an increase in perceived autonomy, increased ability to negotiate alternative work schedules (as distinct from a '9 to 5' schedule) and finally, a possible route from unemployment to regular employment. This last potential benefit is often described as the 'stepping stone' argument. Analysts have suggested that workers who take a number of temporary or agency mediated jobs may use these as stepping stones on the path to regular, more secure work. However, it needs to be noted that this path may lead to workers "building up a profile of instability, through a series of rolled-over short-term contracts that imparts an image to potential employers of behavioural instability." (Standing 2008) Young people engaged in schooling or training, workers balancing childcare responsibilities and older workers desiring a supplement to an inadequate pension or social involvement may all have reasons to seek out some form of casual work. (Standing 2008) However, there is a risk that a pattern of short-term, temporary employment relationships may lead to the opposite of a path to regular employment. This may lead to workers becoming 'type-cast' or trapped in an ongoing series or pattern of precarious employment relationships.

A 2008 study of precariously employed workers in British Columbia, Canada identified that:

The majority of casual workers would prefer to work full time and have more security. They either can't find a permanent job or hope that temp jobs will turn into full time. The remainder may be constrained by unpaid caregiving responsibilities for children or other relatives or have health problems themselves. A small minority can be seen as voluntarily working in casual employment. (Bowles & MacPhail 2008)

This study highlights the constraints that workers 'choosing' precarious employment are facing. Interestingly, motivations to engage in casual employment broke down along gender lines. The authors found that women typically used these jobs to supplement their incomes whereas men often explained their motivations as testing to see if they liked a particular job.

When considering supply side explanations the question needs to be asked: Have the political and economic conditions of the past 30 years enhanced or eroded the bargaining position of workers relative to employers? Given the broad erosion of bargaining positions, workers' ability to have their own needs met has been constrained. Workers may want more flexibility over time but they do not want more insecurity. (Burgess et al. 2008)

4.2 Employers

On the employers' side, or the demand side, the explanations for a rise in precarious employment are straight forward. First, companies save on hourly labour costs by hiring 'flexible' workers. Lower hourly labour costs accrue primarily because of the lower benefits offered to workers in precarious employment relationships. (Houseman 1997) Hourly labour costs are also lowered because of the reduction in 'experience rated pay'. Second, employers are able to layoff and dismiss workers whenever there is a decrease in the amount of work required. In this manner, fixed costs are reduced. Additionally, all of the non-wage labour costs are reduced. This includes paid leave, sick leave, healthcare coverage, and so on. "Exclusion of self-employed workers from protective regimes incentivises employers to move workers into this category." (Bernstein et al 2006: 214) The incentive to mobilize precarious structures are obviously increased in situations where the extent of firm-based rather than national or other more collective models of social security are present. All of these 'costs' are very directly about money.

This raises the question of whether mobilization of precarious employment relationships can be reduced to 'low road' strategies on the part of employers. The evidence on this is mixed due to the fact that many employers mobilize multiple strategies. What can be generalized is the principle that increasing precarious work arrangements is a, "pragmatic managerial response to a given set of circumstances." (Creagh & Brewster 1998: 491, Houseman 1997) (Ishiguro 2008) While some of the contextual circumstances are open to manipulation by

employers, they are largely operating in contexts that they do not directly control and will take advantage of whatever opportunities are before them.

A couple of other reasons for choosing precarious employment relationships have been highlighted by Guy Standing. “The primary indirect benefit for employers comes from the threat the presence of casual workers represents for regular workers. Not only are casual workers perceived as more amenable to real wage cuts, erosion of benefits, variations in working time and arbitrary penalties for errors, real or imagined. They are also likely to make other workers feel more resigned to such treatment themselves.” (Standing 2008: 26) In other words employers are able to intensify competitive pressures in a more direct way at the workplace. The visibility and proximity of competition is thus increased. Standing has also highlighted an ideological attractiveness of precarious employment for employers (particularly small-businessmen) due to the fact that they feel they have much more control over workers.

The employer can go home comfortable in the reflection: “I am the boss. If they do not do what I tell them, or as I expect, then I can get rid of the blighters.” (Standing 2008)

It is important to note that not all employers are in favour of wholesale casualization of employment relationships. Risks and downsides to precarious work have been highlighted by several authors. Guy Standing has highlighted the fact that precarious work may lead workers to maintain lower commitment and loyalty. It may also lead to lower skill acquisition, particularly for skills that are learned from co-workers. Employers’ non-wage costs at the workplace may be increased as precarious work arrangements tend to reduce workers’ care for equipment or raw-materials. Finally, high turnover and precarious status may result in fewer workplace innovations. (Standing 2008: 26)

The extent to which employers choose precarious categories of employment will be determined in part (and with varying emphasis) by the above considerations of costs (market pressures) and ideology. However, these demand side factors can only be mobilized if the regulations and laws that determine work organization structures facilitate or encourage the growth of precarious employment. Ultimately, the choice of employment practices will be determined by a combination of the demand-side factors and the extent and nature of state intervention. (Gunnigle et al. 1998) An examination of the choices that employers have before them directs the analysis towards the structures of regulation and the spread of ‘globalization’ and ‘neoliberalism’.

5. Health & Safety Implications of Precarious Work

One of the more dramatic implications of precarious work is that almost all precarious workers share an increased risk of higher work-related injury or illness. (Lewchuk et al. 2006: 144) In their broad survey of existing literature, Lewchuk et.al identified increased risks that included: ergonomic risks, heavier workload, greater exposure to toxic substances, back pain, muscular pain, fatigue and lower levels of job satisfaction. (Lewchuk et al. 2006: 144, Lewchuk et.al 2003) Another review completed in 2003 covered, “more than 90 studies (mostly undertaken in Europe, North America and Australasia though with some studies from Asia, Africa and South America), found a clear adverse association between precarious employment and OHS, with over 80% of studies finding these work arrangements were associated with inferior OHS outcomes. Later and more specialised reviews of available research on the OHS effects of job insecurity and the safety effects of contingent work largely served to confirm the initial findings.” (Quinlan 2003) “Of the remainder (159) 141 or 88.6% of determinate studies (& 77.9% of all studies) linked precarious employment to inferior OHS outcomes in terms of higher injury rates, hazard exposures, disease and work-related stress with over 90% linking precarious employment to worse stress outcomes.” (Quinlan 2003) The increased occupational health and safety risks for precarious workers are clear. The strategies to deal with these are less clear.

A few researchers have suggested ‘scaling up’ the manner in which we measure, analyze and (hopefully) reduce risks for precarious workers. This strategy fits well with what some commentators have argued needs to be done more broadly when it comes to regulation. Specifically for health and safety, a ‘job strain’ model has commonly been used for analyzing risks for workers. This model was developed by Karasek in the late 1970s and attempted to build predictive analytical power linked to poor health outcomes based on “the demands of a work situation and the range of decision-making freedom (discretion) available to the worker facing those demands.” (Karasek 1979)

More contemporary arguments have called for a broadening of the scope of research from Karasek’s ‘job strain’ model to ‘employment strain’ because there are precarious employment related variables that are not captured yet are associated with poorer health outcomes. Specifically Lewchuk et.al (2006) have added the following variables:

- Control: Employment relationship uncertainty and access to work;
- Employment relationship workload and difficulty finding new work;
- Employment relationship support and ease of finding help at work;
- Household insecurity and the importance of income to the entire household.

Inclusion and measurement of these variables would make a large contribution to understanding the increased health and safety risks associated with, and often unique to precarious work. This would facilitate the development of some concrete legislative/regulatory as well as collective bargaining demands. Obviously the problems highlighted here are multi-dimensional and so will require multi-dimensional strategies to improve conditions.

6. The Importance of Law & Regulation

Laws and regulations protecting and clarifying roles between employers and workers evolved as a product of post-war struggle. Arguably, employment relationship definitions required for legal clarity and recourse have been eroded (particularly in the US & UK). This has resulted in an increased commodification of labour and an intensification of exploitation.

When examining the legal framework and regulations related to precarious work the first question is whether there are any regulations. Second, some kind of measure of the extent to which regulation is effective must be undertaken. This would include analysis of enforcement, workers access to justice and recourse, legislative language (and whether legislation can easily be circumvented) and the resistance of employers.

Labour law protects some people and not others. Those others are becoming more common. (Standing 2008: 28)

There are two major types of law that are relevant here. The first is substantive law that includes specific requirements such as the minimum wage. The second is procedural, or process oriented law. Under procedural law the authority may be state, tripartite or it may be left to employers and workers and their organizations. In broad terms, the deregulation that has spread throughout diverse economies and political contexts has contributed to an erosion of substantive regulation. A reduction of substantive regulation in the context of power imbalances has led directly to increased precarious employment.

In a massive international review of literature related to health and safety and the growth of precarious employment, Quinlan found that: the "introduction, presence, or growth of precarious employment commonly leads to more pressured work processes and more disorganized work settings and in so doing creates challenges for which existing regulatory regimes are ill prepared." (Quinlan et.al. 2001: 367)

The consequences have been worse in some contexts than others. For example, bargaining plays a more important role in extending protection beyond legal minimum standards in Germany, than in the US, UK or Canada. (Jackson 2006: 283) Collective bargaining covers roughly 1/3 of Canadian workers (only 1/5 private sector) whereas there is close to 80% coverage in Germany. Consequently, the impact of a reduction in substantive law is greater for workers in the US, UK and Canada because a greater number of workers were relying on the state rather

than independent trade union structures for regulation. As the state deregulates, access to justice is thus directly reduced. This highlights the importance of the system of industrial relations in each country as important factors in explaining employment factors at the organizational level. (Gunnigle et al 1998: 440)

Not all of the deregulation that has occurred has been active elimination of laws or procedural requirements. Much of it has been 'passive deregulation'. An example of passive deregulation is the failure of a government to raise the minimum wage during periods when the cost of living is increasing. The result is that the real value of the minimum wage is eroded. Passive deregulation may be intentional or inadvertent. In terms of precarious work more directly, passive deregulation includes a failure to change work laws / definitions to "reflect the growing number of workers in non-standard employment arrangements who lack protections," (Law Commission of Canada. 2004: 34) and not to enforce the laws that do exist and apply. A failure to update and clarify language around employment relationships for workers in triangular (agency mediated) employment relationships is a stark example of passive deregulation. Workers who are unable to clearly identify who the 'employer' is are effectively shut out of any existing avenues of recourse. Supiot has argued that, "somewhere in between genuinely subordinated and genuinely independent is a third and growing category – legally independent but economically dependent. (Supiot 1999: 34) While workers may be defined as 'independent contractors' or lack legal definition all together (as this definition relates to the employment relationship), they remain dependent on an employer, possibly the same employer that historically hired workers directly and with legal clarity.

The importance of the regulatory role of the state should not be understated. In the case of British Columbia, Canada, precarious employment rapidly increased despite low unemployment and economic growth above the national average in the early 2000s. This is counter to typical expectations. Historically, when unemployment was low, security and bargaining power for workers increased. (Bowles & MacPhail 2008) Precarious employment generally displays anti-cyclical behaviour. It is usually during economic downturns when unemployment increases that precarious employment relationships increase. In this case, the determinative variable was a massive and thorough deregulation, thus highlighting the importance of the role of the state in terms of regulating the employment relationship. While this case provides a clear counter-argument to the position that precarious employment is strictly a result of economic conditions, it does not establish a rule. In particular, the BC case highlights the possible significance of regulation but does not offer evidence that (de)regulation will prove determinative to this degree in other cases.

In contrast to the BC example, the role of policy changes in Sweden in the late 90s and early 2000s is argued not to be of importance in explaining the increase in temporary employment there. For example, Storrie (2003: 103) argues that "the increase in limited duration contracts in Sweden during the 1990s is not due to changes in statutory regulation or changes in individual preferences." Instead, he

argues that macroeconomic conditions were a crucial explanation and that “a significant part of the increase [in limited duration contracts] is related to the increase in unemployment.” While the role of government and regulatory capacity in general remains important, it will always be in balance with the broader economy.

6.1 The Role of the OECD & World Bank

The role of the OECD in particular has had a negative effect in terms of precarious employment and regulation more broadly. Beginning with the 1994 OECD Jobs Study which made the case that, “regulation limits employment growth and labour market adaptation,” (Bernstein et.al 2006: 211) and that increased regulation leads to increased unemployment, (Jackson 2006: 279) the OECD has largely maintained this approach to regulation. In Western Europe in particular, the case was made that deregulation of ‘rigid’ social protections would allow economies to grow and employment to increase. The overly-simple economic arguments driving this political position became the ‘conventional wisdom.’ It is important to note that labour markets were not wholesale deregulated in response to the political conventional wisdom but instead were re-regulated.

One alleged cause of unemployment, slow economic growth and labour market ‘rigidities’ is the employment protection system built up in the pre-globalisation era. Accordingly, country after country has weakened it. (Standing 2008: 19)

The gradual re-regulation has strongly favoured employers. (Standing 2008: 19) The re-regulation has included, “policy measures to increase labour market flexibility such as the reduction of taxes on labour, reform of employment security, such as ‘loosen[ing] mandatory restrictions on dismissals’ and ‘permit[ting] fixed-term contracts’, reform of unemployment and related benefit systems through restriction of UI benefit duration and ‘impos[ing] restrictive conditions on indefinite-duration assistance benefits for employable people.’ ” (MacPhail & Bowles 2008: 563) This is not a legislative approach that is ‘leaving it to the market’ to determine what kind of employment relationships are preferred by workers and employers.

The OECD has recognized and reported on the growing problem of labour market ‘duality’ where some workers are protected by unions and the law and an increasing numbers of others are not. There are clear consequences for rising inequality resulting from this ‘duality’. The OECD Economic Surveys and Employment Outlooks consistently present a lowering of the standards and reduction of employment protection legislation (EPL) for workers who have protection in order to bring them closer to those that are presently excluded. In other words, the problem of growing inequality may be solved by continuing to forcefully advocate for a lowering of existing standards.

The OECD’s pervasive conventional wisdom that the link between ‘labour market rigidities’ or EPL and unemployment has been weak since it first became popular. Some researchers have made the case that “almost no empirical evidence

supports the notion that employment protection affects the equilibrium employment level or that labor market adjustments can be improved by weakening such programs.” (Brodsky 1994: 56) MacPhail and Bowles (2008) report similar findings in their review of the evidence between increasing employment and weakening EPL. There are many cases of successful reduction of unemployment that do not fit well with the conventional wisdom of ‘re-regulation’. (Baker et al. 2004) These cases offer evidence that “low wages and precarious jobs are not a necessary condition for high levels of employment,” (Jackson 2006: 277) and that there are various paths to increasing employment. The link between strong EPL and unemployment is far from clear, but as the ETUC has pointed out, “a link that is clear is that between weak job protection and high and rising inequality.” (ETUC 2007)

In short, the econometric evidence on this issue is at best inconclusive. It is certainly not the sort of evidence that governments should use for making public policy. (Baker et al. 2004)

The World Bank has been using this conventional wisdom for policy purposes since October 2003. They have published an annual ‘Doing Business’ report that includes a comparative index and ranking of national regulations related to hiring and firing workers. It has been used directly to put countries into competition with each other in order to mobilize pressure to reduce EPL. (Bakvis 2006) In the context of the fundamental methodological weaknesses in the Doing Business reports (Standing 2008) and the absence of evidence supporting the link between EPL and employment these reports, it was announced in April 2009 that the World Bank instructed staff to stop using the ‘Employing Workers Indicator’ in its Doing Business reports. It is unclear what kind of alternative measure will be used in future reports.

The OECD has established its own in-house version of the World Bank report, presenting direct comparisons of EPL within the Employment Outlook publications. The OECD comparisons take a slightly more nuanced methodological approach than the World Bank reports.

If the costs are too high for employers and the state, what makes us think the vulnerable workers themselves are any more capable of bearing these costs? (Law Commission of Canada. 2004: 36)

In contradiction with the conventional wisdom underlying these reports, a 2004 report produced by The Law Commission of Canada highlighted that, “there is considerable support for the notion that enhanced labour protections may increase productivity and competitiveness, because healthy, secure workers are generally absent less, are more motivated, make fewer mistakes, have fewer accidents and perform better.” (Law Commission of Canada. 2004: 35) There are several benefits of improved EPL identified here that are not included in either the World Bank or OECD reports. The Law Commission went on to show that investment is attracted to adherence with core labour standards.

Using the logic underlying the OECD and World Bank approach to EPL, employment security would presumably increase the financial costs linked to dismissing workers, thus raising the costs that are anticipated when making hiring decisions. This is the assumed disincentive to hiring. Morgan and Mourougane (2005) have pointed out the other side to this equation: “since employment security is also a disincentive to firing the net effects on labour demand is ambiguous.” (Morgan & Mourougane 2005: 78) This other side to the supposed disincentive to hire could balance out the equation but is not included in any meaningful way in the OECD or World Bank model.

The arguments above about the benefits of EPL and employment security are examples of broadening the analysis in order to include more variables and put precarious employment in a larger context. The narrow arguments provided by the OECD and World Bank don’t have nearly the same logical appeal when the analysis is broadened, causing the reductionist simplicity of the arguments to evaporate.

In order to improve labour law and regulation it needs to be ‘scaled up’ so that it can be adapted to cope with the increasing variety of employment relationships (Supiot 1999: 35) instead of allowing the passive (intentional or otherwise) deregulation to continue spreading. An example of ‘scaling up’ is to include workers under labour law regardless of the form of their employment relationship. If this approach was practiced self-employed and directly employed workers would maintain access to the same system of legal recourse and have the same rights to organize and collectively bargain. They would also share coverage under the same basic substantive and procedural laws. This approach would move closer to guaranteeing equality of treatment and narrow the terrain of competition in terms of precariousness.

It is important to note that precarious work is ‘policy sensitive,’ meaning that other policies will impact the level of precarious work existing at different times. Thus, a larger and wider focus in terms of scale is necessary to deal with the growth of precarious work. Changes to regulatory policy have facilitated the growth of precarious work. Regulatory policy can be changed again.

7. Positions and Policies Advocated by International Actors

7.1 Employers & the European Commission

On flexicurity specifically:

European Business

At a recent conference entitled “A New Foundation for Europe,” the Secretary General of EuropeanBusiness, Philippe de Buck recommended that, “the reforms of European labour markets should be based on the flexicurity approach. Flexicurity is key to modernise the European social model because it is about moving away from a job preservation mindset into a job creation mindset, helping workers to maximise their chances on the labour market and helping

companies to face the challenge of global competition and the need to change. He goes on to state that, "Together with the trade unions, we have agreed that an effective flexicurity approach should consist of the following components: flexible labour law, effective active labour market policies, comprehensive lifelong learning and employment-friendly social protection systems. In addition, we accept the fact that an effective social dialogue according to the national custom will contribute to smooth functioning of labour markets." (de Buck 2008)

The European Association of Craft, Small and Medium-sized Enterprises – UAEPME

This European small and medium enterprise association takes the position that, "combining flexibility and security in a mutually reinforcing way is the main challenge ahead." This is an easy statement to make without any substance attached to either concept. The UAEPME only goes as far as to state that, "legal uncertainties and burdensome costs should be avoided. All types of flexibility must be duly taken into account: internal flexibility on issues such as working time, external flexibility on the type of contract, and numerical flexibility to adapt the company's staff to changes in demand." Specific policy proposals or suggestions are lacking but the predictable goals of the UAEPME are to maintain maximum flexibility exclusively for employers. More specifically, the potential benefits of workers having some kind of input or control of flexible work schedules or flexible production methods (as put forward by the ETUC) is not considered in this type of position. Finally, the UAEPME argues that unemployment benefits are important but there should always be obligations attached to access. (UAEPME 2007)

Eurochambres: The Association of European Chambers of Commerce

Eurochambres presents a view of flexicurity as a step in the right direction, but articulate a few questions concerning the practical implementation of a flexicurity regime in European countries other than the Netherlands.

Specifically, Eurochambres expresses concern, "that open-ended contracts should be the overall reference norm. Non-standard contracts should not be considered abnormal by definition as they offer real opportunities and the possibility to bring "outsiders" back into the labour market." In other words, there is a concern that the semantic typology of employment contracts could contribute to a belief that 'nonstandard' work arrangements are abnormal. An implicit desire to 'normalize' types of employment contracts described as nonstandard is implicit in this concern.

Second, Eurochambres expresses a concern that flexicurity is expensive in international terms when measured as percentage of GDP and therefore raises the question of how a flexicurity approach could be financed in other countries.

Finally, Eurochambres articulates a desire to see the introduction of some clear benchmarks that could be used to point the way forward and measure the progress of a flexicurity agenda in a variety of international contexts. (Eurochambres 2007)

International Confederation of Private Employment Agencies – Ciett

Ciett has a particularly important position and stake in the debate about flexicurity. Much of the information produced by Ciett is aimed at asserting that private employment agencies (presumably only those that are part of the confederation) are 'legitimate' labour market actors offering exclusively positive contributions to labour market flexibility as well as the rights, working conditions and security of workers. In fact, the Ciett argues that, "international bodies and actors involved in the flexicurity debate should take the positive contribution of private employment agencies more proactively into account, when addressing the flexicurity topic." In other words, those engaging in debates about flexicurity should accept as a premise that private employment agencies make positive contributions. Ciett positions itself as a protector of the rights and working conditions of agency workers by:

1. "Being a well-regulated form of flexible labour, which is covered by a mix of national and international legislation, collective labour agreements and self-regulation.
2. Providing an essential stepping stone to the labour markets and to permanent employment, especially for current outsiders of the labour market.
3. Creating new employment opportunities that would not exist otherwise.
4. Providing Agency workers with a social status that no other worker in a flexible contract or employment relationship enjoys."

It is interesting to see this type of positioning on the part of a private employment agency confederation. There is an acknowledgement that workers may need 'protected'. Eurociett claims that they and their, "members refuse to compete to the detriment of workers' rights and working conditions. Therefore, private employment agencies' services should be promoted as an appropriate way to implement a flexicurity approach." Again, the premise for this type of statement is illuminating. It recognizes that there is some terrain for competition between agencies that would be detrimental for workers' rights and working conditions.

European Commission

The European Commission has fully embraced the rhetoric and approach of flexicurity. It has produced a detailed document that attempts to define the concept and its parameters. The Commission's document states that, "The rationale for an integrated flexicurity approach is the need to achieve the objectives of the renewed Lisbon Strategy, in particular more and better jobs, and

at the same time to modernise the European social models. This requires policies that address simultaneously the flexibility of labour markets, work organisation and labour relations, and security - employment security and social security.” (European Commission 2007) The document is strong on statements but weak on specific strategies.

To a degree this is to be expected as the EC is setting a framework that will ideally maintain space for national variations within a common framework. The flexicurity document restates earlier EC research claiming that strict Employment Protective Legislation (EPL) encourages recourse to temporary contracts with low protection – disproportionately affecting women, young people and minorities. This squarely places responsibility for the increase in precarious work onto strong EPL. Thus, the document takes much the same positions as the available OECD papers.

7.2 2008 OECD ‘Economic Surveys’ & ‘Going for Growth’ recommendations related to labour market reforms and precarious work:

Canada:

The only relevant recommendation concerning Canada in the 2008 OECD ‘Economic Survey’ is to scale back access to unemployment insurance for seasonal and temporary workers. (OECD 2008: 38) Presumably this scaling back would provide an increased push for workers to take up any work available under any circumstances as other supports are systematically eroded. A similar recommendation is offered in ‘Going for Growth’.

United States:

The 2008 Survey and ‘Going for Growth’ do not include any labour market recommendations for the United States. The ongoing financial crisis and health care reform dominate the Survey.

UK:

The OECD’s 2007 Policy Brief on the UK notes that, “Compared with most other OECD countries, the United Kingdom has relatively few distorting labour market regulations. As a result, job-to-job mobility between similar industries is relatively high, suggesting that resources shift quite smoothly. The labour market is also better at getting the unemployed back into work than labour markets in the country’s large European neighbours.” (OECD 2007: 7) The UK is generally held up as a good example of a country with low EPL. However, two policy areas have received recent attention. First, the OECD has recommended policies that would result in a reduction in the number of disability-related benefit recipients. (OECD 2008: 59) Second, the same report advocates the development of policies to, “improve incentives for lone parents to work longer hours or to up-skill.” (Ibid) These same recommendations form the core of the UK section in ‘Going for Growth’.

Germany:

Presently, many women who work part-time access health benefits through their spouses. Therefore, in order to boost women's participation in full-time work, the OECD 'Economic Survey' recommends that access to healthcare through spouses should be phased out so that women could only access it through full-time employment. This is an individual based 'supply side' argument that assumes there are full-time jobs available and that workers are able to do these jobs. It is an attempt to 'push' people into full time work by removing another reason that allows workers to 'choose' part time employment.

The OECD Survey goes on to argue that the HartzIV reforms were a step in the right direction, particularly the increased work incentives created with the lowering of the unemployment benefit and shortening its duration. There is a statement that these changes should not be rolled back and that there is evidence to support the case that unemployment will be reduced by around half of one percentage point. Unfortunately there isn't a reference to the international evidence.

Next, the Survey recommends some demand side changes as well. Specifically, the employment protection legislation for regular job contracts should be eased in order to prevent a dual labour market with temporary workers on one side and those with regular job contracts on the other. The Survey acknowledges that the risk of a dual labour market leads to well-understood problems. However, in order to bring the different types of contracts closer together, the solution recommended is to lower the protection for those with regular contracts instead of raising the standards for those working in a temporary situation.

Finally, the Survey recommends the ending of the subsidisation of the part-time employment scheme for persons above 55 years of age earlier than its 2010 planned end. The point here is to 'raise the work incentives for older workers,' and to 'increase the age at which early retirement is possible.' Again, this policy recommendation is about eliminating alternatives so that workers are increasingly faced with no choice but to take whatever kind of work is on offer.

'Going for Growth' recommends that a conditionality for access to benefits for the unemployed be attached to workers' willingness to take any type of job and that benefit levels should be 'revisited'.

Japan:

Japan receives the largest coverage in the 2008 Economic Surveys. The entire sixth chapter is dedicated to labour market reforms. The Survey reports that there are serious equity problems developing in Japan as a result of the fact that the difference in productivity between regular and non-regular workers is small compared to the wage gap. Also, workers opportunities to move between these two categories are few. The recommendations to solve this problem include, "enhancing the flexibility of regular employment, increasing the coverage of

temporary workers by social security insurance schemes and upgrading training programmes to enhance the employment prospects of non-regular workers.”

The Survey suggests that the first route to increasing equality is the lowering of the standards of those higher rather than the strengthening of the position of those in a weaker labour market position. The second two recommendations to include more non-regular workers in social security schemes and increase access to training are helpful and make sense given Japan’s strong focus on workplace based benefits which non-standard workers have difficulty accessing.

The final section of the Survey focuses on the labour force participation rate of women. The core recommendations aimed at increasing women’s participation are:

1. Reform aspects of the tax and social security system that reduce work incentives for secondary earners.
2. Encourage greater use of performance assessment in pay and promotion decisions.
3. Expand the availability of childcare, while avoiding generous child-related transfers that may weaken work incentives.
4. Encourage better work-life balance, in part by better enforcing the Labour Standards Act.

Again, with the first recommendation, the Survey is suggesting the elimination of supports that may allow workers to make choices in order that they will be left with the choice to engage in full-time work. The second recommendation is aimed at reducing the component of pay and promotion decisions that are seniority based or ‘automatic’ as workers progress through the internal labour markets of employers. Third, the expansion of child care is good as long as workers maintain choice and autonomy over care of children. The second half of this recommendation is to reduce scope for choice. Finally, the increased enforcement of the Labour Standards Act recommendation is based on the unstated understanding that there is a common expectation to work long and often unpaid overtime hours in many workplaces and these expectations are not in accordance with the ability to combine work and family responsibilities.

‘Going for Growth’ continues along the same route as the ‘Economic Survey’. It specifically recommends that “employment protection for regular workers be relaxed.” Thus, the path to reducing ‘duality’ in the labour market is the same for both OECD publications – reduce the standards and protections for regular workers.

8. Trade Unions & Social Actors

On flexicurity:

8.1 European Trade Union Confederation – ETUC

The European Trade Union Confederation (ETUC) has intervened into the debate on flexicurity. In a 2007 document entitled, “The Flexicurity Debate and the Challenges for the Trade Union Movement” the ETUC argues that: there is already a high degree of flexibility for employers; excessive flexibility disproportionately impacts women, immigrants, young people and the less skilled in Europe; workers motivation and attachment to their workplaces is reduced under excessive flexible regimes; low job protection goes hand in hand with increased inequality and finally; European businesses trying to get a ‘free lunch’ by externalizing costs of social security systems, training and lifelong learning. Deriving from these positions, the ETUC has developed a list of seven concrete principles:

1. Fight precarious jobs and promote the quality of work
2. Focus on upwards instead of downwards flexibility and improve work organisation
3. Safeguard employment protection legislation and complementing it with labour market policies promoting upward mobility
4. Maintain a broad approach to balancing flexibility with security
5. Improve social welfare systems
6. Integrate flexicurity policy with macro-economic policy (it doesn’t work on its own)
7. “Our objective is to have more and better jobs, not to have workers compete more with each other for the same amount of jobs and resulting in poorer wage condition”
8. Improve social dialogue and collective bargaining

The ETUC positions implicitly recognize that the concept of flexicurity has grown in popularity and is not something that is going away. Further, the ETUC positions are based on an understanding that flexicurity is not that different than any other industrial relations concept in that the most important focus is the impact on workers. Finally, the ETUC states that, “the goal here is to have firms competing on the basis of productivity instead of wage competition.” (ETUC 2007) Flexicurity has the possibility to offer substantive improvements in both flexibility and security for workers but clearly the manner in which policies are constructed are key for the ETUC.

8.2 SocialPlatform – European Social NGOs

The European social NGO's (as represented by SocialPlatform) make a clear and explicit attempt to define flexicurity and not to leave this to others. In ten distinct points, SocialPlatform states clearly that:

- Flexicurity aims to create more and better jobs, strengthen social cohesion and fight poverty and exclusion
- Flexicurity is a democratically negotiated system
- Flexicurity means flexibility for employees as well as for employers
- Flexicurity is an integrated system that relies on solid social infrastructures
- Flexicurity needs equal opportunities and equality between women and men
- Flexicurity requires respect and reinforcement of existing labour legislation
- Flexicurity guarantees full pension rights for flexible careers
- Flexicurity relies on supportive activation policies
- Flexicurity guarantees adequate income protection
- Flexicurity means investing in education and lifelong learning (Social Platform 2006)

8.3 Global Unions

The Global Unions have put together a remarkable amount of information on precarious employment. In particular, the IMF, IUF, ICEM and UNI stand out. These Global Unions have put together comprehensive, analytical and strategic documents on contract and agency employment on their web sites. They include guides, case studies, best practices and practical strategies for dealing with precarious work. A few of these are worth highlighting in more detail.

The Metalworkers' Federation has been building strategy and organizing around precarious employment for several years now. They have developed and authored a number of publications that are of use to workers in any sector. Examples include a list of proposals and recommendations to deal with precarious work that were created by the IMF's affiliates then compiled by the IMF. There are also several campaign related materials available.

Additionally, the IMF has published detailed survey results from a comprehensive survey of affiliates. The survey reports on the extent and nature of precarious work, the challenges facing precarious workers and relevant trade union responses. All of these resources are available from the IMF web site.

The IUF has assembled a 70-page 'organizing manual' focussed directly on outsourcing and casualization of work. The manual builds from direct experience to success stories. The real-world cases that are included guarantee a high level of practical usefulness for this manual. The cases that are included directly confront some of the seeming contradictions presented when confronting precarious employment relationships. Specifically, this includes strategies to deal with the protectionist impulse of workers with more secure status and negotiating the right to intervene in hiring processes. Finally, the manual includes a variety of examples of specific language in collective agreements that deal directly with precarious work.

9. Strategy Building & Conclusions

Scaling up labour law, regulation and health & safety coverage would go a long way towards reducing both the extent and intensity of precariousness. Additionally, there is no substitute for traditional organizing. Bringing precarious workers into existing unions and workplace structures is the most effective strategy for reducing the terrain of competition between workers. However, precarious employment structures present particular challenges to traditional organizing models. A couple of other strategies that confront the problems arising from precariousness also involve a direct and active role for trade unions. These are flexicurity and community unionism. These strategies have evolved in different geographical, political and economic contexts but are both aimed at dealing with the same set of problems.

The concept of flexicurity evolved in a European context. It is a combination of flexibility and security. Flexicurity aims at maintaining labour market and firm based flexibility while diminishing the precariousness that is too often associated with it. The policies that contribute to the broad concept of flexicurity are negotiated compromises.

The attraction of flexicurity policies arguably originated in Denmark. A combination of flexible labour markets, generous welfare systems and active labour market policies formed what came to be known as a 'golden triangle.' (Madsen 2002) The triangle was 'golden' because a combination of these three elements seemed to be the recipe that delivered Denmark strong economic growth and low unemployment in the mid-90s. Flexicurity seemed to offer a path that was neither the liberal market economy nor the Scandinavian strong ('rigid?') welfare state model. Despite the apparent success of these policies in Denmark, two qualifications are required.

First, the set of policies that evolved in Denmark are the product of a long historical struggle within Denmark. For this reason, they are not easily transportable and so utilization of identical policies in differing political and economic contexts will deliver outcomes that are also different. Second, the success of flexicurity policies in Denmark has been dependent on 'old fashioned' increases in demand. As one Danish commentator has remarked, "labour market policies cannot generate ordinary jobs by themselves. Sufficient pressure from

the demand side is a prerequisite.” (Madsen 2002: 13) If demand is insufficient, there is no amount of active labour market policies that will solve unemployment and the problem of economic growth. In order to evaluate the potential benefits of flexicurity policies for workers, the underlying concepts of flexibility and security require closer inspection.

First, flexibility can be divided between internal flexibility and external flexibility. “Internal flexibility (within a company) relies mainly on changes in working time (overtime, short-time working, working time accounts), leaving headcount largely untouched. External flexibility, on the other hand, uses the traditional approach of varying the number of employees in accordance with the company’s needs (hiring and firing), and increasingly also resorting to fixed-term contracts and temporary agency workers.” (Keller & Seifert 2005: 307) Precarious or flexicurity work arrangements may impose both internal and external flexibility on workers with emphasis being on one or the other in differing circumstances.

The degree to which employers can shift risks to employees depends on workers’ relative power and control (Kalleberg 2009: 15)

Next, the ‘security’ side of flexicurity can be defined narrowly as, “working conditions that are safe and promote workers’ well-being.” (ILO 2004: 165) The ILO’s 2004 Economic Security for a Better World has broken down and defined multiple concepts of security that may be used to analyze whether or not particular work arrangements deliver on security in a broader way for workers. This could be as simple as a presence/absence analysis of the following ‘security concepts’:

- **Job security** in terms of the “sense of attachment to a particular job or range of tasks” (ILO 2004: 221) as differentiated from the broader concept of employment security.
- **Skill security** refers to “a wide range of opportunities for training, apprenticeship and education to acquire and refine knowledge and competencies” (ILO 2004: 191) Components of skills security include access to schooling, access to training, utilization of training, perceived adequacy of skills, and, perceived need for training (ILO 2004: Ch.8)
- **Representational security** may be individual or collective – as in representation before the law as an individual or collective through trade unions. (ILO 2004: 247)
- **Income security** is defined by the ILO as, “an adequate level of income, a reasonable assurance that such an income will continue” (ILO 2004: 55) In addition, Social income – company and state benefits

MacPhail & Bowles (2008) have provided a good example of how this broad framework can be used measure security for casual workers in British Columbia, Canada. In order to better understand issues faced by casual workers in the province, the authors added the concept of ‘time security.’ Time security refers to, “the myriad of ways in which casual workers experience the insecurity of their

time such as short notice for work, short minimum call-in periods, the dependence of shift length on the volume of work at any given time, and the length of contract if one is present.” (MacPhail & Bowles 2008: 108) Time security was added in response to the prevalence of survey responses indicating that issues around time were of key significance for workers. Other researchers have added, “employment security: security to remain in employment, but not necessarily in the same job or with the same employer,” and, “combination security: the possibility to combine working life with private life (e.g. child-care leave). (Bredgaard & Larsen 2006)

Any flexicurity policies should be analyzed with the above definitions of flexibility and security in mind. This is a particularly useful framework to analyze flexicurity policies due to the growing international popularity and proliferation of the concept. Flexicurity policies suffer the same ambiguities and inconsistencies as any other set of policies that are transported across national borders into diverse political and economic contexts. Resultantly, there is a lack of clarity around exactly what policies and ideas should be included under the title of ‘flexicurity’. This is contested terrain. It is precisely this ambiguity that the clear definitions of flexibility and security above help to clear up.

The potential benefits of flexicurity for individual workers include improvements to all of the measures of security outlined above. Also, workers may prefer more flexibility – in working time (Gunnigle et al 1998, ETUC 2007) and flexibility at work in terms of control of work (ETUC 2007) because neither mitigates job security. According to the European Council, potential benefits of flexicurity include, “improved adaptability of workers and enterprises, more open and responsive labour markets, more productive workplaces, and positive interdependencies of competitiveness, employment and social security.” (Quoted in: Bredgaard & Flemming 2006: 2) Individual and wider social benefits are potentially great with the adoption of flexicurity policies. The reason for the broad appeal is clear.

From a trade union perspective it makes sense to engage with flexicurity and to push individual firms to, “compete on the basis of productivity instead of wage competition.” (ETUC 2007) In order to advance this goal, a focus needs to be maintained on popularizing and mobilizing internal flexibility structures (overtime, short-time working, working time accounts) instead of temporary, agency or fixed-term contract work being the first recourse. Second, flexicurity policies should be used to, “reduce the precariousness associated with atypical forms of employment.” (Keller & Seifert 2005: 320) The way to reduce the precariousness using flexicurity policies points towards the active labour market policies corner of the ‘golden triangle.’ Broader policies that are required to ensure protection have been articulated by the authors of a comparative

European study of precarious employment:

fair monetary and non-monetary job guarantees, extending to every long-term worker economic safeguards as to the income, the production time, mobility, training, insurance and social security aspects, with particular reference to health, maternity, industrial accidents, the exercise of rights of association, or collective representation and information. (Barbier et.al 2004: 82)

The list of requirements is broad and expansive. It highlights the fact that flexicurity polices require a similar 'scaling up' of strategy that improvements in labour law, regulation in general and occupational health and safety also call for. In the Dutch example, it is not simply the employment relationship that is regulated, but also the context for these relationships. (Kalleberg 2009: 16) For the implementation of flexicurity policies, the context at the higher scale must be understood as inseparable from the various forms that employment relationships take and ultimately the degree to which they are precarious.

The second strategy that has provided some benefits to precarious workers is community unionism. This model of organizing evolved in a North American context. Kim Moody has described this model as, "...deeply democratic...militant in collective bargaining...fights for power and organization in the workplace...independent of the retreating parties of liberalism and social democracy...multiplies its political and social power by reaching out to other sectors of the class, be they other unions, neighbourhood-based organizations, or other social movements. It fights for all the oppressed and enhances its own power by doing so." (Moody 1997: 4)

Canadian researcher, Chris Schenk has detailed some gains that precariously employed hotel workers in Toronto were able to gain as a result of using this model of organizing. After months of organizing, picketing, meetings and strike preparations, the largely women and immigrant workers were able to get management to the bargaining table and ultimately won sick leave, dental coverage, topped-up paternity leave, increased wages and paid overtime, reduced workload. (Schenk 2006: 347) These gains translate into substantive gains in all of the 'security' measures detailed above. Unfortunately the global outbreak of SARS hit the Ontario (and others) hotel industry very hard. These significant inroads that workers had been able to make in terms of security were negated by the broader employment insecurity and layoffs generated by the rapid drop across the industry.

Additionally, clothing workers in New South Wales (NSW), Australia gained an innovative, enforceable tracking mechanism as a result of broad-based community organizing. As a result of community pressure, the "NSW government responded to the risks to and exploitation of home-based clothing workers (who far outnumber factory based workers) by introducing an integrated legislative and policy package." (Quinlan 2003)

The regulatory framework that was eventually introduced mobilized multiple government agencies (industrial relations, occupation health and safety and workers compensation) to track workplaces, register workers and, “ensure that the top of the supply (mostly fashion houses and retailers) could not escape their legislative responsibilities.” (Quinlan 2003) This NSW example shows the possibilities of ‘scaling-up’ regulation to deal with precarious structures.

In both examples social movement unionism was successful in cases where exploitation and marginalization are more severe than in other sectors. Additionally, many of the workers involved in these struggles found themselves outside of regulation and both groups maintained dignity as one their core goals. Other researchers have highlighted workers’ increased propensity to become involved in organizing when basic demands for dignity (as well as increased compensation and security) are being put forward. (Weathers 2007)

Workers cannot indefinitely be expected to show increasing commitment to an enterprise that offers them no prospects whatsoever, whether internally or externally. (Supiot 1999: 36)

In many OECD countries there has been a scaling down of trade union collective agreements in terms of absolute numbers as well as number of workers covered by collective agreements. This has occurred at precisely the moment when a scaling up would be most helpful from a structural perspective in order to take wages and conditions out of competition. The model of community unionism has the advantage of matching the scale of workers in terms of their (potentially imposed) mobility as precarious workers. A need to take wages out of competition at the city, industry or occupational level is required. (Cranford. 360) The rigid workplace-based model of trade unionism may prove insufficient to meet their needs. Although the role and influence of trade unions in Europe remains substantial in limiting the extent and shape of precarious employment structures, (Gunnigle et al 1998) the challenges of precarious work eroding membership and inclusion remain.

In addition to flexicurity and community unionism, several commentators have highlighted other possible strategic interventions including negotiating with both employers and government in order to build portability or benefits and ‘non-discrimination’ clauses protecting workers with different status. However, this can be problematic in cases where clear comparators don’t exist, resulting in unequal outcomes. The Law Commission of Canada (2004) suggested the introduction of ‘precarity pay’, something that already exists in some other countries. The table below contains a summarized list of strategies, including those detailed above. These strategies have been found from both academic and union sources. Many of the trade union strategies have been included in both the ICEM and IUF documents on contract and agency labour and outsourcing respectively.

Precarious Employment Strategies
Organize, Organize, Organize
Global Unions
Internal Structures & Practices aimed at including precarious workers regardless of employment relationship status
Build the research internally in the union– workplace practices/ employer strategies and workplace mapping by employment relationship and then ongoing monitoring
Scale up bargaining wherever possible: employer, sectoral, national, international
Close the pay and benefit gaps – even if workers aren't union members
Start doing representation type work even if casual workers aren't members yet
Member Education & making the case about precarious workers to those with more secure status
Create separate unions if law blocks direct membership
Negotiate directly with employer to intervene before contracts are awarded – spelling out conditions for taking on temporary staff, caps (number of workers & hours) and consultation rights
Negotiate a 'status transfer' process giving precarious workers priority when there is hiring to be done
Challenge employment relationship status choice by employers – IUF example: seasonal to permanent part-time status– averaging wages across the year facilitated workers' access to credit & mortgages for the first time
Precarity pay
Improve access to training for vulnerable workers – Establish a sectoral training fund for vulnerable workers
Create incentives and requirements for employers to make permanent positions for precarious workers
Raise the minimum wage level and create policies aimed at promotion of full employment (Minimum guaranteed income)
Study efficacy of law and misfits between law, legislation, policy and realities of labour market (many workers are unprotected)
Labour law needs to be scaled up too so that it can be adapted to cope with an increasing variety of employment relationships. Everyone should be covered regardless of employment status
Increased enforcement of legal rights and increased power for inspectors
Broadening legal definition of 'workers' in order to eliminate bogus 'self-employment'
Legal minimum standards should apply to everyone regardless of immigration status
Portability of benefits, 'Non-discrimination' & Equal Treatment
Ensure access to non-wage benefits and move towards 'social rights'
Employment security instead of job security: This means protecting workers during the transitions, not only at work

A central element of the post-war settlement at the workplace in most OECD countries was the exchange of autonomy for a secure livelihood. Freedom was the price for security for many workers. The secure livelihood side of the bargain

was always severely gendered and racialized in its composition and remained incomplete. However, many workers were able to achieve varying degrees of protection and insulation from the 'market' for labour and the potentially arbitrary power of employers during the post-war period. Despite the gaps and weaknesses, the evolution of what came to be known as the 'standard employment relationship' grew rapidly in the post-war boom years.

No significant problem of employment precariousness exists in countries which combine two characteristics: a relatively general egalitarian orientation (wages, incomes, statuses) and a generous social protection system. (Barbier et.al 2003: 65)

It now seems that the secure livelihood or stability side has of the historic bargain has been abandoned. (Supiot 1999: 35) Businesses in diverse geographic, political, and economic contexts have attempted to reduce 'costs' by rapidly expanding their use of categories of employment that increase precariousness for workers. Labour 'costs' don't get eliminated through reduction of employment protective legislation and labour market deregulation (or reregulation). They simply get shifted away from the state or employers and onto workers.

Employers and the state make claims that the costs are too great and so should be externalized onto those with the least capacity to endure those costs. (Law Commission of Canada. 2004: 36) A key difference between European workplaces where employers attempted to transfer risks and costs onto workers instead of seeking greater flexibility with the help of permanently employed staff (typically through modified hours of work and scheduling) was the presence of a trade union with influence to protect permanent contracts of employment. (Barbier et.al 2003: 65) There are no substitutes for a strong, independent union. Indeed, as long as employers are able to effectively shift costs to workers or the public sector and make profits doing so, there is little incentive for them to adopt new employment practices or move onto the 'quality road.' (Barbier et.al 2004: 79)

The task of dealing strategically and effectively with the spread of precarious work is urgent. The variety of risks that precarious workers are involuntarily subject to is outrageous. Confronted with a broad and deepening economic crisis, risks are increasing dramatically for workers with precarious status. The short term expansion of precarious work categories is also going to have longer term effects. Obviously, the lack of access to pension plans combined with the reduced capacity of precarious workers to make provision for their own retirement will demand a public response in the longer term. (Keller & Seifert 2005: 320) It is important not to overstate the scale of transformation, particularly in a changing world. (Supiot 1999: 33) However, we are experiencing the wholesale destruction and the creation of new and evolving relationships with employers. The task is to ensure workers and their organizations have some influence and control over the conditions under which they must work.

10. References

- A Commitment to Training and Employment for Women (ACTEW). 2007. "Employment Facts from ACTEW." Accessed February 2009 at: http://www.actew.org/projects/pwpsite/snapshots/contingentwork_ACTEW_Apr07.pdf
- Arrowsmith, J. 2006. "Temporary Agency Work in an Enlarged European Union." European Foundation for the Improvement of Living and Working Conditions. Accessed February 2009 at: <http://www.eurofound.europa.eu/publications/htmlfiles/ef05139.htm>.
- Arthurs, Harry W. 2006. Fairness at Work: Federal Labour Standards for the 21st Century. Federal Labour Standards Review. Accessed February 2009 at: (http://www.hrsdc.gc.ca/eng/labour/employment_standards/arthur_report/toc.s.html)
- Barbier, Jean-Claude, Isabelle Darmon, Nicola Düll, Carlos Frade, Luigi Frey, Robert Lindley & Kurt Vogler-Ludwig. 2004. "Managing labour market related risks in Europe: Policy implications." ESOPE Project: Precarious Employment in Europe: A Comparative Study of Labour Market related Risks in Flexible Economies. Accessed February 2009 at: <http://www.labourline.org/Record.htm?idlist=1&record=19174073124919922559>
- Baker, Dean, Andrew Glyn, David Howell, & John Schmitt. 2004. Unemployment and Labor Market Institutions: The Failure of the Empirical Case for Deregulation SCEPA. Working Paper 2004-4. Accessed, February 2008 at: <http://www.newschool.edu/cepa/publications/workingpapers/index.htm>
- Bakvis, Peter, 2006. "How the World Bank & IMF use the Doing Business Report to Promote Labour Market Deregulation in Developing Countries." ICFTU-Washington Office. Accessed on-line February 2008 at: <http://www.icftu.org/displaydocument.asp?Index=991224958&Language=EN>
- Bernstein, Stephanie, Katherine Lippel, Eric Tucker, & Leah F. Vosko. 2006. "Precarious Employment and the Law's Flaws: Identifying Regulatory Failure and Securing Effective Protection for Workers." In Leah F. Vosko, ed., Precarious Employment: Understanding Labour Market Insecurity in Canada. 203-220. Canada: McGill-Queens University Press.
- Bredgaard, Thomas & Flemming Larsen 2006. "Comparing Flexicurity in Denmark and Japan." The Japan Institute for Labour Policy and Training. Accessed February 2009 at: http://www.jil.go.jp/profile/documents/Denmark_final.pdf
- Booth, Alison L., Marco Francesconi & Jeff Frank. 2002. "Temporary Jobs: Stepping Stones or Dead Ends?" The Economic Journal, Royal Economic Society. 112: F189-F213.

Bosch, Gerhard & Thorsten Kalina. 2005. Low Wage Work in Germany: Overview Paper: Second Draft. Dynamo Working Papers. Accessed February 2009 at: http://www.dynamoproject.eu/papers/bosch_kalina_abstract.pdf

Bowles, Paul & Fiona MacPhail. 2008. "Introduction to the Special Issue on Pathways from Casual Work to Economic Security: Canadian and International Perspectives." *Social Indicators Research*. 88: 1–13

Brodsky, Melvin M. 1994. "Labor Market Flexibility: A Changing International Perspective." *Monthly Labor Review*. 117.

Carré, Françoise & James Heintz. 2007. "Dimensions of Employment "Precarity" and Gender in the United States." For workshop: Comparative Perspectives on Precarious Employment: Developing Common Understandings across Space, Scale, and Social Location." York University, York, Ontario, November 1-3, 2007.

Chaykowski, Richard P. & George A. Slotsve. 2008. "The Extent of Economic Vulnerability in the Canadian Labour Market and Federal Jurisdiction: Is There a Role for Labour Standards?" *Social Indicators Research*. 88: 75–96.

Clauwaert, Stefan. 2000. "Report 65. Survey of Legislation on Temporary Agency Work." European Trade Union Institute (ETUI). Brussels. Accessed February 2009 at: <http://www.labourline.org/Record.htm?idlist=1&record=19105299124919234719>

Cranford, Cynthia J., Tania Das Gupta, Deena Ladd & Leah F. Vosko. 2006. "Thinking Through Community Unionism." In Leah F. Vosko, ed., *Precarious Employment: Understanding Labour Market Insecurity in Canada*. 353-377. Canada: McGill-Queens University Press.

Creagh, Mary & Chris Brewster. 1998. "Identifying Good Practice in Flexible Working." *Employee Relations*. 20, 5: 490-503.

Croucher, Richard & Chris Brewster. 1998. "Flexible Working Practices and the Trade Unions." *Employee Relations*. 20, 5: 443-452.

Crow, Dan. 2008. "Precarious Employment and the Struggle for Good Jobs in the University Sector." *The Bullet: Socialist Project*. E-Bulletin. 160. Accessed February 2009 at: <http://www.socialistproject.ca/bullet/bullet160.html>

de Buck, Philippe. 2008. Speech: "A New Foundation for Europe." Accessed February 2009 at: <http://212.3.246.117/Common/GetFile.asp?DocID=20022&logonname=guest&mfid=off>

de Wolff, Alice. 2006. "Privatizing Public Employment Assistance and Precarious Employment in Toronto." In Leah F. Vosko, ed., *Precarious Employment: Understanding Labour Market Insecurity in Canada*. 182-199. Canada: McGill-Queens University Press.

Eurochambres. 2007. "Flexicurity: a step in the right direction, but beware of definition of abnormality." Accessed February 2009 at: http://www.eurochambres.be/PDF/pdf_press_2007/32-Flexicurity27Jun07.pdf

European Commission. 2007. "Towards Common Principles of Flexicurity: More and better jobs through flexibility and security." Accessed February 2009 at: http://ec.europa.eu/employment_social/news/2007/jun/flexicurity_en.pdf

European Foundation for the Improvement of Living Standards – Eurofound. (2008) Temporary Agency Work and Collective Bargaining in the EU. Accessed February 2009 at: <http://www.eurofound.europa.eu/eiro/studies/tn0807019s/tn0807019s.htm>

European Trade Union Confederation (ETUC). 2007. The Flexicurity Debate and the Challenges for the Trade Union Movement. Accessed February 2009 at: http://www.etuc.org/IMG/pdf/Depliant_Flexicurity_EN.pdf

Flecker, Karl. 2007. "Building 'The World's Most Flexible Workforce': The Harper government's 'double-doubling' of the Foreign Worker Program." Briarpatch 36, 7: 6-9.

Fonseca, Peter. 2008. "Bill 139: An Act to Amend the Employment Standards Act, 2000 in Relation to Temporary Help Agencies and Certain Other Matters." 1st Session, 39th Legislature, Ontario 57 Elizabeth II, 2008. Accessed March 2009 at: http://www.ontla.on.ca/bills/bills-files/39_Parliament/Session1/b139.pdf

Frade, Carlos & Isabelle Darmon. 2005. "New Modes of Business Organization and Precarious Employment: Towards the Recommodification of Labour?" Journal of European Social Policy. 15: 10.

Fuller, Sylvia & Leah F. Vosko. 2008. "Employment and Social Inequality in Canada: Exploring Intersections of Gender, Race and Immigration Status." Social Indicators Research. 88: 31–50.

Gottfried, Heidi. 2008. "Pathways to Economic Security: Gender and Nonstandard Employment in Contemporary Japan." Social Indicators Research. 88: 179–196.

Green, Francis. 2008. "Temp workers benefited from the increase of the minimum wage. Temporary Work and Insecurity in Britain: A Problem Solved?" Social Indicators Research. 88: 147–160.

Gunnigle Patrick, Thomas Turner & Michael Morley. 1998. "Employment Flexibility and Industrial Relations Arrangements at Organisation Level: A Comparison of Five European Countries." Employee Relations. 20, 5: 430-442.

Houseman, Susan N. 1997. "Temporary, Part-Time, and Contract Employment in the United States: A Report on the W.E. Upjohn Institute's Employer Survey on Flexible Staffing Policies Employment Research." Accessed February 2009 at: <http://www.upjohninstitute.org/publications/otherpubs.html>

Human Resources Professional Association (HRPA). 2009. "Bill 139 - New Rules for Temp Workers." Accessed May 2009 at:

<http://www.hrpao.org/HRPA/GovernmentRelations/Bill139.htm>

Human Resources and Skills Development Canada (HRSDC) "Temporary Foreign Worker Program." Accessed May 2009 at:

http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/index.shtml

International Confederation of Private Employment Agencies – Ciett. (undated) "The contribution of private employment agencies to flexicurity and a better functioning labour market in Europe." Accessed February 2009 at: (http://www.ciett.org/fileadmin/templates/ciett/docs/Leaflet_Contribution_of_PrEAs_to_Flexicurity.pdf)

International Labour Organization (ILO). 2008. World of Work Report 2008: Income Inequalities in the Age of Financial Globalization. International Labour Office. Geneva.

International Trade Union Confederation (ITUC). 2009. "Internationally Recognised Core Labour Standards in Japan: Report for the WTO General Council Review of the Trade Policies of Japan." Accessed February 2009 at: (http://www.ituc-csi.org/IMG/pdf/20090216163313-Microsoft_Word_-_Japan_draft_report_2009_final.pdf)

Ishiguro, Kuniko. 2008. "Japanese Employment in Transformation: The Growing Number of Non-Regular Workers." Electronic Journal of Contemporary Japanese Studies. 10. Accessed February 2009 at: <http://www.japanesestudies.org.uk/articles/2008/Ishiguro.html>

Jackson, Andrew. 2006. "Regulating Precarious Labour Markets: What Can We Learn from New European Models?" In Leah F. Vosko, ed., Precarious Employment: Understanding Labour Market Insecurity in Canada. 277-298. Canada: McGill-Queens University Press.

Kalleberg, Arne L. 2009. "2008 Presidential Address: Precarious Work, Insecure Workers: Employment Relations in Transition." American Sociological Review. 74, 1-22.

Kalleberg, Arne L. Barbara F. Reskin & Ken Hudson. 2000. "Bad Jobs in America: Standard and Nonstandard Employment Relations and Job Quality in the United States." American Sociological Review. 65, 2: 256-278.

Kandel, Eugene & Neil D. Pearson. 2001. "Flexibility versus Commitment in Personnel Management." Journal of the Japanese and International Economies. 15: 515-556.

Kapsalis, Costa & Pierre Tourigny. 2004. "Duration of Non-Standard Employment." Perspectives. Statistics Canada- Catalogue no. 75-001-XIE.

Karasek, Robert A. Jr. 1979. "Job Demands, Job Decision Latitude, and Mental Strain: Implications for Job Redesign." *Administrative Science Quarterly*. 24, 2: 285-308.

Kato, Takao. 2001. "The End of Lifetime Employment in Japan?: Evidence from National Surveys and Field Research." *Journal of the Japanese and International Economies*. 15: 489-514.

Keizer, Arjan B. 2008. "The Dynamics Between Regular and Non-Regular Employment: Labour Market Institutionalisation in Japan and the Netherlands." The Japan Institute for Labour Policy and Training. Accessed February 2009 at: <http://www.jil.go.jp/profile/documents/Keizer.pdf>

Keller, Berndt and Hartmut Seifert. 2005. "Atypical Employment and Flexicurity." *Management Revue*. 16, 3: 304-323.

Law Commission of Canada. 2004. *Is Work Working? Work Laws that do a Better Job: Discussion Paper*. Canada. Accessed February 2009 at: <http://dalspace1.library.dal.ca/dspace/handle/10222/10307>

Lewchuk, Wayne, Alice de Wolff, Andy King, Michael Polanyi. 2003. "From Job Strain to Employment Strain: Health Effects of Precarious Employment." *Just Labour*. 3: 23-35.

Lewchuk, Wayne, Alice di Wolff, Andrew King & Michael Polanyi. 2006. "The Hidden Costs of Precarious Employment: Health and the Employment Relationship." In Leah F. Vosko, ed., *Precarious Employment: Understanding Labour Market Insecurity in Canada*. 141-162. Canada: McGill-Queens University Press.

MacPhail, Fiona & Paul Bowles. 2008. "Temporary work and neoliberal government policy: evidence from British Columbia, Canada." *International Review of Applied Economics*. 22:5 545-563.

MacPhail, Fiona & Paul Bowles. 2008. "From Casual Work to Economic Security: The Case of British Columbia." *Social Indicators Research*. 88: 97-114.

Madsen, Per Kongshøj. 2002. "The Danish Model of 'Flexicurity' – A Paradise with some Snakes." *European Foundation for the Improvement of Living and Working Conditions*.

Ministry of Health, Labour and Welfare. 2009. "Employment Measures in Post Financial Crisis Japan." Accessed April 2009 at: <http://www.mhlw.go.jp/english/policy/affairs/dl/02.pdf>

Moody, Kim. 1997. *Workers in a Lean World*. London, New York. Verso.

Morgan, Julian & Annabelle Mourougane. 2005. "What Can Changes in Structural Factors tell us About Unemployment in Europe?" *Scottish Journal of Political Economy*. 52: 1.

OECD. 2009. "OECD Economic Surveys – Euro Area, 2009." OECD Publications and Information Centre.

OECD. 2008. "Economic Policy Reforms: Going for Growth." OECD Publications and Information Centre.

OECD. 2008. "Going for Growth 2008." OECD Publications and Information Centre.

OECD. 2008. "OECD Economic Surveys - Canada, 2008." OECD Publications and Information Centre.

OECD. 2008. "OECD Economic Surveys - Germany, 2008." OECD Publications and Information Centre.

OECD. 2008. "OECD Economic Surveys - Japan, 2008." OECD Publications and Information Centre.

OECD. 2007. "OECD Economic Surveys - United Kingdom, 2007." OECD Publications and Information Centre.

OECD. 2007. "OECD Policy Brief – Economic Survey of the United Kingdom, 2007." OECD Publications and Information Centre.

OECD. 2006. "Boosting Jobs and Incomes: Policy Lessons from Reassessing the OECD Jobs Strategy." OECD Publications and Information Centre.

Polivka, Anne E. 1996. "Contingent and Alternative Work Arrangements Defined." Monthly Labor Review. October 1996: 3-9.

Quinlan, Michael. 2003. "The Global Expansion of Precarious Employment: Meeting the Regulatory Challenge." Accessed February 2009 at: <http://www.actu.asn.au/public/ohs/quinlan.html>

Quinlan, Michael, Claire Mayhew & Philip Bohle. 2001. "Globalization and Occupational Health: The Global Expansion of Precarious Employment, Work Disorganization, and Consequences for Occupational Health: A Review of Recent Research." International Journal of Health Services. 31, 2: 335-414.

Rani, Uma. 2008. Impact of Changing Work Patterns on Income Inequality." International Institute for Labour Studies. Geneva. DP/193/2008.

Japanese Trade Union Confederation – Rengo. 2008. "Overtures from RENGO: Priority Policies '08 – '09." Accessed February 2009 at: <http://www.jtuc-rengo.org/specialtopics/data/prioritypolicies08-09.pdf>

Schenk, Chris. 2006. "Union Renewal and Precarious Employment." In Leah F. Vosko, ed., Precarious Employment: Understanding Labour Market Insecurity in Canada. 335-352. Canada: McGill-Queens University Press.

Smith, Rebecca. "Legal Protections and Advocacy for Contingent or "Casual" Workers in the United States: A Case Study in Day Labor." Social Indicators Research. 88: 197-213.

Social Platform. 2006. "Using Flexicurity as a Chance to Create Trust in Change by Investing in Social Protection Infrastructures and Using Participatory Forms of Democracy: Ten principles of Social NGOs for the Heads of State and Government." Accessed February 2009 at:

<http://www.socialplatform.org/News.asp?news=13928>

Standing, Guy. 2008. "Economic Insecurity and Global Casualisation: Threat or Promise?" *Social Indicators Research*. 88: 15-30.

Supiot, Alain. 1999. "The Transformation of Work and the Future of Labour Law in Europe: A Multidisciplinary Perspective." *International Labour Review*. 138, 1: 31-46.

Tremblay, Diane-Gabrielle. 2008. "From Casual Work to Economic Security; The Paradoxical Case of Self-Employment." *Social Indicators Research*. 88: 115-130.

Trade Union Advisory Committee (TUAC) to the OECD. 2006. "Reassessment of the 1994 OECD Jobs Strategy." Submission by TUAC to OECD High-Level Policy Conference: 'Boosting Jobs and Incomes: Lessons from OECD Country Experiences.' Toronto, 15-16 June 2006. Accessed February 2009 at: www.oecd.org/dataoecd/42/7/36948913.pdf

TUC Commission on Vulnerable Employment. 2008. "Hard Work, Hidden Lives: The Full Report of the Commission on Vulnerable Employment. Accessed March 2009 at: <http://www.vulnerableworkers.org.uk/>

UAE PME. 2007. "Flexicurity communication a good starting point for Member States' action." Accessed February 2009 at: http://www.ueapme.com/docs/press_releases/pr_2007/070627_flexicurity.pdf

UNI Global Union, CIETT Corporate Members. (2008). Memorandum of Understanding between CIETT Corporate Members and UNI Global Union on Temporary Agency Work.

Vosko, Leah F. 2008. "Temporary Work in Transnational Labor Regulation: SER-Centrism and the Risk of Exacerbating Gendered Precariousness." *Social Indicators Research*. 88: 131-145.

Vosko, Leah F. 2006. "What is to be Done? Harnessing Knowledge to Mitigate Precarious Employment." In Leah F. Vosko, ed., *Precarious Employment: Understanding Labour Market Insecurity in Canada*. 379-388. Canada: McGill-Queens University Press.

Vosko, Leah F. & Nancy Zukewich. 2006. "Precarious by Choice? Gender and Self-Employment." In Leah F. Vosko, ed., *Precarious Employment: Understanding Labour Market Insecurity in Canada*. 67-89. Canada: McGill-Queens University Press.

Weathers, Charles. 2007. "Organizing Marginalized and Non-Regular Workers – A US-Japan Comparison." Center for Research on Economic Inequality (CREI). Discussion Paper Series. Osaka City University. Accessed February 2009 at: http://www.econ.osaka-cu.ac.jp/CREI/index_e.html

World Bank. 2009. "Doing Business: Measuring Business Regulations: Employing Workers." World Bank. Accessed February 2009 at: <http://www.doingbusiness.org/ExploreTopics/EmployingWorkers>

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