Reducing Precarious Work
Protective gaps and the role of social dialogue in Europe

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DEBATING PRECARIOUS WORK

1) The **standard employment relationship** (SER) is still a valuable benchmark for well protected employment
   - country varieties of standards & direction of change
   - form of regulation (legal regulations & collective bargaining)
2) Precarious work can extend across all employment forms.
3) Analysing precarious work through ‘Protective Gaps’

- Other studies focus on non-standard employment and on objective and subjective job quality measures (Broughton et al. 2016, EuroFound 2015)

- Our institutional analysis is complementary: Detailed focus on precarious work arising from 4 Protective Gaps:
  - Employment rights gaps, Social protection gaps, Representation gaps, Enforcement gaps
  - Protective gaps are inter-connected and institutionally embedded
  - Widening of gaps makes labour markets more exclusive; Closing gaps makes labour markets more inclusive (Rubery 2015)
INTER-CONNECTING PROTECTIVE GAPS

- Low minimum standards
- Exclusive eligibility
- Irregular upgrading
- Weak integration

Employment rights gaps

Social protection & integration gaps

Enforcement gaps

Representation gaps

Represent -
Enforcement gaps

Social protection & integration gaps

Employment rights gaps

Low minimum standards

Exclusive eligibility

Irregular upgrading

Weak integration
INTER-CONNECTING PROTECTIVE GAPS

- Employment rights gaps
- Social protection & integration gaps
- Enforcement gaps
- Representation gaps

- Hours/pay/job continuity thresholds
- Unequal contributions
Weak institutions
• Exclusive eligibility
• Unequal involvement

Employment rights gaps

Social protection & integration gaps

Enforcement gaps

Representation gaps

INTER-CONNECTING PROTECTIVE GAPS
INTER-CONNECTING PROTECTIVE GAPS

- Employment rights gaps
- Social protection & integration gaps
- Representation gaps
- Enforcement gaps

- Awareness gaps
- Power/ Fear
- Resources/ Coverage
DEBATING PRECARIOUS WORK

4) A societal specific approach
   • Varieties of gaps = Varieties of precariousness (Barbier 2011; Paugam 2000)
   • Interaction between regulatory forms (collective bargaining and legislation); EU directives important
   • How to assess precarious conditions?
     • Precarious work in Country A versus Countries B, C
     • Precarious work in Country A versus ‘standards’ in Country A

5) Employer strategies shape the form and extent of precarious work
   • Employers are key architects in labour markets (Wilkinson 1981)
   • Uneven development of sectors/supply chains shapes employers’ capacity to improve standards
6) Social dialogue and policy reforms are needed to reduce precarious work

- Multiple roles of social dialogue in making labour markets more inclusive

- Aligns with EU’s New Start for Social Dialogue

SD is ‘a prerequisite for the functioning of Europe’s social market economy’
### Table 3.1. Locating six countries across institutional types – Pre-crisis

<table>
<thead>
<tr>
<th>Country</th>
<th>Variety of capitalism</th>
<th>Industrial relations regime</th>
<th>Welfare state regime</th>
<th>Gender regime and dominant household forms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Denmark</td>
<td>CME</td>
<td>Nordic corporatism</td>
<td>Social democratic</td>
<td>Dual-earner model/ Weak MBW</td>
</tr>
<tr>
<td>France</td>
<td>CME/state-led</td>
<td>Polarised/state-centred</td>
<td>Conservative</td>
<td>One-and-three-quarters earner/ Modified MBW</td>
</tr>
<tr>
<td>Germany</td>
<td>CME</td>
<td>Social partnership</td>
<td>Conservative</td>
<td>One-and-a-half earner/ Strong MBW</td>
</tr>
<tr>
<td>Slovenia</td>
<td>Post-transition</td>
<td>Social partnership</td>
<td>Conservative/Social democratic</td>
<td>Dual-earner model/ Weak MBW</td>
</tr>
<tr>
<td>Spain</td>
<td>CME</td>
<td>Polarised/state-centred</td>
<td>Familialist</td>
<td>Dual-earner/ Strong MBW</td>
</tr>
<tr>
<td>UK</td>
<td>LME</td>
<td>Liberal pluralism</td>
<td>Residual</td>
<td>One-and-a-half earner/ Modified MBW</td>
</tr>
</tbody>
</table>

Notes: CME = coordinated market economy, LME = liberal market economy; MBW = male breadwinner.

RESEARCH DESIGN: MULTI-LEVEL, MIXED METHODS

Quantitative analysis of EU-level labour market statistics
Institutional regimes/ cluster analysis
Patterns/trends in standard & non standard employment forms

Interviews with expert informants (6-12 per country)
Senior policy-makers
Employer associations & trade unions
Civil society organisations

Critical analysis of ‘Protective Gaps’ (policy, expert and secondary data)
Employment rights gaps
Social protection gaps
Representation gaps
Enforcement gaps

Original case studies (144 manager & worker interviews)
Denmark x 3
France x 4
Germany x 4
Slovenia x 3
Spain x 3
UK x 4
FIRST RESEARCH QUESTION

What protective gaps do we find across countries for different employment forms?

- Full-time, permanent work
- Part-time and variable hours work
- Temporary work
- Subcontracted work

European Work and Employment Research Centre (EWERC), University of Manchester
**FULL-TIME, PERMANENT WORK: EROSION OF STANDARDS?**

<table>
<thead>
<tr>
<th>Employment rights gaps</th>
<th>More Inclusive</th>
<th>More Exclusive</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>E.g. Minimum wage</strong></td>
<td>-High level (DK, FR, SI)</td>
<td>-Low level (ES)</td>
</tr>
<tr>
<td></td>
<td>-Eligible from day one</td>
<td>-Excludes student interns (FR, SI, UK)</td>
</tr>
<tr>
<td><strong>E.g. Employment protection</strong></td>
<td>-Short tenure (DK, ES, SI)</td>
<td>-Long tenure (FR, UK)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-Public sector downsizing (except DK)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Social protection gaps</th>
<th>More Inclusive</th>
<th>More Exclusive</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>E.g. Unemployment benefits</strong></td>
<td>-High minimum (DK)</td>
<td>-No/low minimum (DE, UK)</td>
</tr>
<tr>
<td></td>
<td>-Long duration (DK)</td>
<td>-Short duration (SI, UK)</td>
</tr>
<tr>
<td></td>
<td>-Contributory benefits extended (ES, low level)</td>
<td>-Excludes voluntary quits (ES, SI)</td>
</tr>
<tr>
<td><strong>E.g Paid maternity leave</strong></td>
<td>-High level, long duration (SI)</td>
<td>-Low level (UK)</td>
</tr>
</tbody>
</table>
FULL-TIME, PERMANENT WORK: EROSION OF STANDARDS?

<table>
<thead>
<tr>
<th>Representation gaps</th>
<th>More Inclusive</th>
<th>More Exclusive</th>
</tr>
</thead>
<tbody>
<tr>
<td>Collective bargaining</td>
<td>High, relatively stable (DK, ES, FR)</td>
<td>Low (UK)</td>
</tr>
<tr>
<td>Workplace representation</td>
<td>High (DK, FR), Moderate (SI, ES)</td>
<td>Falling slowly (DE, ES), quickly (SI)</td>
</tr>
<tr>
<td>Enforcement gaps</td>
<td>Labour inspection</td>
<td>Low level resources (UK)</td>
</tr>
<tr>
<td>Social dialogue role</td>
<td>-High level resources (DK)</td>
<td>-Falling resources (DK, SI, UK)</td>
</tr>
<tr>
<td></td>
<td>-Strongly embedded (DK, DE, SI)</td>
<td>-Weak role (UK –highly individualised with fees also)</td>
</tr>
</tbody>
</table>
PART-TIME WORK: TRENDS?

- Overall relatively stable for women
- But **rising shares of involuntary part-time employment** (Spain, France, Slovenia) (Eurostat)
### PART-TIME & VARIABLE HOURS WORK:

<table>
<thead>
<tr>
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<th>More Exclusive</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Employment rights gaps</strong></td>
<td><strong>Earnings/hours protection</strong></td>
<td><strong>Integration with SER</strong></td>
</tr>
<tr>
<td></td>
<td>- Minimum hours (FR); some collective agreements (DE, DK)</td>
<td>- Overtime pay (FR)</td>
</tr>
<tr>
<td></td>
<td>- Worker notice on schedules (FR, DE, ES)</td>
<td>- Right to reduce hours (DE, ES, FR, SI)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Right to return to full-time (FR, DE, ES, SI)</td>
</tr>
<tr>
<td><strong>Social protection gaps</strong></td>
<td><strong>Unemployment benefits</strong></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- High minimum level</td>
<td>- Few opportunities in high-level jobs (UK, DE)</td>
</tr>
<tr>
<td></td>
<td>- No/low hours thresholds</td>
<td>- Only right to request (DK, UK)</td>
</tr>
<tr>
<td></td>
<td>- Voluntary opt-in (DE); can insure as FT (DK, FR); reduced hours for care work treated as FT (SI)</td>
<td>- No right to return to full-time (DK, UK)</td>
</tr>
<tr>
<td></td>
<td>- Low contributions (DK, FR); uprated (ES)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- No minimum benefit (DE)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Earnings threshold (DE, UK)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Short reference period/high contributions (DE, SI)</td>
</tr>
</tbody>
</table>
ENFORCEMENT GAP PROBLEMS: MINI JOBS IN GERMANY

- One in five (7.5 million) working Germans had a mini-job in 2014, 2/3 women
- Defined as earning up to €450 per month
- Average 11 hours per week; main job for 2 in 3

Table 11.5 Survey results on fundamental worker entitlements in mini-jobs

<table>
<thead>
<tr>
<th>Responses by</th>
<th>Paid Holidays</th>
<th>Sick Pay</th>
<th>Pay for Public Holidays</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Not Possible</td>
<td>No Answer</td>
<td>Not Possible</td>
</tr>
<tr>
<td>Employees</td>
<td>41.5%</td>
<td>26.1%</td>
<td>38.7%</td>
</tr>
<tr>
<td>Companies</td>
<td>31.3%</td>
<td>11.1%</td>
<td>25.6%</td>
</tr>
</tbody>
</table>


TEMPORARY WORK

Temporary work as ‘second choice’ work

% of temporary workers who ‘could not find permanent work’, 2015
# TEMPORARY WORK

## Employment rights gaps

**Employment protection**
- No tenure restrictions (None); ES 1m
- Targeted compensation (ES)

**Flexible working**
- No tenure restrictions

## Social protection gaps

**Unemployment benefits**
- Few contributions over long period (DK, FR, ES)
- High contributions over short period (DE, SI)
- Intermittent work penalised

**Paid maternity leave**
- Low/ flexible continuity requirements (all except UK)
- Long/rigid continuity requirements (UK)
TEMPORARY WORK: CHALLENGES OF ENFORCEMENT?

- Major improvements with EU Directives on equal treatment
  - But limited awareness of rights among workers and employers; weak transitions to open-ended contracts undermine lifecycle earnings growth
- Weak capacity to claim their rights (low union representation); exit preferable to voice
- High risk of low pay, in-work poverty:

*Share of workers in poverty by contract*

<table>
<thead>
<tr>
<th></th>
<th>Spain</th>
<th>Germany</th>
<th>France</th>
<th>Slovenia</th>
<th>Denmark</th>
<th>UK</th>
</tr>
</thead>
<tbody>
<tr>
<td>Workers with a temporary contract</td>
<td>23.3%</td>
<td>18.1%</td>
<td>13.2%</td>
<td>12.5%</td>
<td>9.8%</td>
<td>7.3%</td>
</tr>
<tr>
<td>Workers with a permanent contract</td>
<td>5.9%</td>
<td>7.5%</td>
<td>4.7%</td>
<td>4.5%</td>
<td>3.6%</td>
<td>5.1%</td>
</tr>
<tr>
<td>In-work poverty contract gap</td>
<td>17.4 pp</td>
<td>10.6pp</td>
<td>8.5pp</td>
<td>8.0pp</td>
<td>6.2pp</td>
<td>2.2pp</td>
</tr>
</tbody>
</table>

Source: Eurostat SILC 2015 data
## SUBCONTRACTED WORK

<table>
<thead>
<tr>
<th>Employment rights gaps</th>
<th>More Inclusive</th>
<th>More Exclusive</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment protection for subcontracted employees</td>
<td>- Protect transferring workers (extend collective agreements)</td>
<td>- Minimum scope of protections</td>
</tr>
<tr>
<td>- Social clause in procurement (DK, DE, UK); restricted use (ES)</td>
<td>- Ambiguous ‘employer’ status</td>
<td></td>
</tr>
<tr>
<td><strong>Protections for posted workers</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Equality with conditions for non-posted workers</td>
<td>- Directive privileges minimum statutory protections (all 6 countries)</td>
<td></td>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>Pensions for subcontracted employees</strong></td>
<td>- Continuity with change of employer</td>
<td>- Protections exclude pensions (Acquired Rights directive)</td>
</tr>
<tr>
<td><strong>Protections for posted workers</strong></td>
<td>- Equality with non-posted workers (none)</td>
<td>- Match conditions in sending country (Directive, all 6 countries)</td>
</tr>
</tbody>
</table>
SUBCONTRACTED WORK: PROBLEMS OF FALSE SELF EMPLOYMENT

Major risks of exclusion

- Civil law not employment law
- Loss of social protection rights caused by voluntary opt-in arrangements (e.g., 1 in 5 opt in to Spain’s unemployment fund)
- High risk of poverty (24% in Slovenia)
- Immigration rules place migrant workers at risk (conditions of entry and stay) (Cremers 2009)
- Growing employer use of ‘labour-only subcontracting’

Towards more inclusive arrangements?

- **Denmark**: universal social protections extended to self-employed
- **Slovenia**: clients contribute 9% of gross earnings in social security contributions (1/2 of standard level)
- **Spain’s** hybrid status (*TAED*) extends some employee protections (employment rights and social protection)
SECOND RESEARCH QUESTION

How can social dialogue reduce precarious work?

- Selection of 21 case studies across six countries
- ‘Purposive sampling’—chosen to:
  i. represent a type of precarious work
  ii. a form of social dialogue
  iii. an attempted improvement of conditions
CASE STUDIES: THE POWER OF SOCIAL DIALOGUE

- Social dialogue can be versatile and adaptable
  - Limited evidence of vested interests defending fixed positions
  - Effective union strategies involved:
    - Traditional union-employer channels and novel networks of collaboration (informal mobilisation – unions and employers acting ‘outside their standard frames of bargaining’ – Kornig et al 2016)
    - Alternative mechanisms for regulation (join with employers against clients; cross-class coalitions)
    - Targeted strategies (mobilise migrants; abolish zero hours)
    - Fix new standards in response to experience of workers in precarious work (housing conditions)
Figure 16.2. Targeted successes of social dialogue in reducing precarious work

- Formalise self employment
- Improve housing conditions
- Fix higher minimum hours
- Raise awareness of rights
- Limit or avoid chain subcontracting
- Limit or protect posted work
- Represent self employed
- Labour standards in public procurement
- Organise youth workers
- Organise migrant workers
- Longer, more social hours opportunities
- Mobility, upgrading
- Vocational training for part-timers
- Bridges for temp to perm
- Closing employment rights gaps
- Closing representation gaps
- Closing social protection gaps
- Closing enforcement gaps
CASE STUDIES:
SOCIAL DIALOGUE AT MULTIPLE LEVELS

• Not simply a patchwork of local, workplace level gains (contrary to Stone & Arthurs 2013)

  • Eg. Inter-sectoral CA, sector and local action – 1 example (FR retail part-timers)

  • Eg. National sector level change with local action – 5 examples (DK labour clauses, FR cleaning firm, ES chain subcontracting, Spain subcontracted catering, SI retail)

  • Eg. National sector level initiative/taskforce with local action – 4 examples (DK TWA, DE posted work meat industry, UK local govt procurement, UK higher education casualisation)
CASE STUDIES: 
THE LIMITS OF SOCIAL DIALOGUE

The recurring cycle of pressures, actions, inactions and social dialogue counter-actions:

- Social dialogue (e.g. awareness campaign)
- Statutory adjustments
- Employer practices
- Social dialogue (e.g. industrial action)

Inclusive effects:
- Changed business strategy
- Social protection reforms
Figure 16.1. Four paths towards re-regulating labour markets

- Polarisation
- Inclusive labour market
- Levelling down
- Harmonisation

Higher standards
Extension of protections
CONCLUDING THOUGHTS

• Europe has been active promoting flexible labour markets and the costs are becoming evident:
  • high demand for state support to counter in-work poverty
  • fewer job opportunities that can support life-stage transitions
  • poor fit with productive labour markets

• Allocative & distributive functions of Europe’s labour markets are failing

• Need to interrogate all regulations for their potential inclusive and exclusive effects

• Is a new targeted approach needed?

• How to ensure social partners are properly equipped to devise resolutions to problems of precarious work?